

2019 Zoning Amendments

Zoning Amendment #1: Are you in favor of the adoption of Amendment #1 as proposed by the Planning Board for the town zoning ordinance, as follows: Removing the definition of fertilizer in Article 2, and adding it under Articles 9.2 Aquifer Protection and 9.3 Shoreland District for ease of access. Setting type, rate and annual fertilizer limits in the Aquifer Protection and Shoreland Districts, providing temporary waiver provisions for heavy use turf, restoration and the establishment of new landscaping. The intent of this amendment is to set standards for fertilizer use, with limited flexibility for heavy use turf and plant establishment while minimizing the potential for nitrogen and phosphorus runoff.

Zoning Amendment #2: Are you in favor of the adoption of Amendment #2 as proposed by the Planning Board for the town zoning ordinance, as follows: To amend the Shoreland District Use Regulations removing striked language and adding language in italics as indicated below:

9.3.4. B. Use Regulations:

Maximum Lot Coverage: Impervious surfaces, shall not cover more than ten percent (10%) of any lot or portion thereof within the Shoreland Protection District ~~adjacent to the shoreline of the Exeter River, Squamscott River, Dearborn Brook, Water Works Pond, and Fresh River~~ *as defined in 9.3.3*, unless a Conditional Use Permit is granted by the Planning Board under the terms of Article 9.3.4.G.2 Exeter Shoreland Protection District Ordinance – Conditional Use.

The intent of this amendment is to eliminate ambiguity in the language and align the ordinance with the way it has been applied to projects by the Planning Board historically.

Zoning Amendment #3: Are you in favor of the adoption of Amendment #3 as proposed by the Planning Board for the town zoning ordinance, as follows: To rezone the Professional/Technology Park (PP) zoning district to Corporate Technology Park (CT). The intent of this ordinance is to change the PP zoning district to CT to allow additional commercial uses in this area to encourage the commercial development of this area.

Zoning Amendment #4: Are you in favor of the adoption of Amendment #4 as proposed by the Planning Board for the town zoning ordinance, as follows: Deleting “Assisted Living Facility” from the Permitted Principal use column in Table 4.2 Schedule I: Permitted Uses in the C-3 Epping Road Highway Commercial zoning district? The intent of this ordinance is to prohibit Assisted Living facilities in the C-3 Epping Road Highway Commercial zoning district. Assisted Living facilities would still be allowed in four other zoning districts in Exeter.

**TOWN OF EXETER
PLANNING DEPARTMENT MEMORANDUM**

Date: November 28th, 2018
To: Dave Sharples and Exeter Planning Board Members
From: Kristen Murphy, Natural Resource Planner
Subject: Proposed Zoning Amendment

I. Proposed Amendment:

See attached language.

II. Purpose and Justification:

In 2016, the Town adopted a zoning amendment that added a definition for fertilizer and imposed a prohibition to the use of fertilizer in the Shoreland and Aquifer Protection districts. Since that time two things have become clear: 1) The intent was to limit the movement of water soluble fertilizer into our rivers and groundwater but the definition of fertilizer we adopted prohibited the use of all fertilizers, including those that are water insoluble (such as organic fertilizers) and therefore are less likely to run-off and reach our water resources. 2) Heavy use turf is often managed different than lawns. Additional nutrient input is often recommended in order to sustain the level of use they are exposed and our ordinance may benefit defining separate heavy use turf requirements.

For the past 2 years we worked with Phillips Exeter Academy to learn of their concerns and turf management needs, sought advice from Chip Osborne our advisor for organic turf management, and reviewed regional guidelines for turf management. This amendment is a compilation of that effort.

II. Application Impacts:

Adoption of this modification will allow more flexibility for fertilizer application but still retains limits to its application. Fertilizer that is phosphate free (or no more than 2% phosphate if a soil test indicates a deficiency) and a minimum of 50% slow release nitrogen fertilizer will be able to be applied in areas greater than 100' from the shoreline of regulated waterbodies. Both the application rate (0.5lb total N/1000ft²) and annual maximum application (1.5lb total N /1000ft²) have been limited to reduce the likelihood of excess nutrient runoff. This amendment would also permit areas of heavy use turf to apply fertilizer at a greater application rate (1lb total N /1000ft²) and a greater annual maximum (3 lb total N /1000ft²) provided they submit a turf management plan to the Board or their designee that shows adherence to other fertilizer restrictions defined. The amendment also retains the ability for waivers to be granted for the establishment of new landscaping and restoration.

2.2.30. Omit in its entirety, definition is added within each district below.

~~2.2.30. **Fertilizer:** Any substance containing one or more recognized plant nutrients which is designed for use in promoting plant growth such as nitrogen, phosphorus and potassium. Fertilizer as defined shall not include vegetable compost, lime, limestone, wood ashes, or any nitrogen-free horticultural medium (e.g. vermiculite).~~

9.2 **AQUIFER PROTECTION DISTRICT**

9.2.3K.12. Replace in its entirety with the following:

12. The use of fertilizer is restricted to the following conditions:

- a. **Application follows best management practices, limiting the potential for nutrient runoff or groundwater infiltration.**
- b. **Fertilizer use is restricted to a minimum of 50% slow release nitrogen.**
- c. **Fertilizer must be phosphorus-free unless a recent (within 12 months) soil test indicates a deficiency. In those situations, fertilizer is limited to $\leq 2\%$ phosphorus.**
- d. **Application rates may not exceed 0.5 lb total nitrogen/1,000ft², with an annual maximum application of 1.5 lb. of nitrogen/1,000ft².**
- e. **Fertilizer restrictions may be waived by the Planning Board or their designee for circumstances indicated, provided the following conditions are met:**
 - i. **Heavy-Use Turf (ie. athletic fields or high priority areas of golf courses such as greens): Upon submission of a turf management plan documenting adherence to all other criteria above, the Board or their designee may increase application rate limits established in 12d. to a maximum rate of 1 lb. total nitrogen/1,000ft², with an annual maximum application of 3.0 lb. of nitrogen/1,000ft². Waivers granted shall provide for temporary allowance, not to exceed 3 years.**
 - ii. **Restoration or Establishment of New Landscaping: With the exception of 12a, the restrictions above may be waived by the Board or their designee upon submission of written justification addressing the need and the specific location(s) within the property where the request applies and their relationship to the district boundary. Waivers granted will provide for temporary allowance, not to exceed 1 year.**

9.2.4. **Definitions. Add the following definition.**

C. Fertilizer: Any substance containing one or more recognized plant nutrients which are designed for use in promoting plant growth such as nitrogen, phosphorus or potassium. Fertilizer as defined shall not include nitrogen-free soil-building products such as molasses, humic acid, kelp, soil biological stimulants, secondary macro-nutrients, micronutrients, and biological inoculums

Renumber remaining list.

9.3 EXETER SHORELAND PROTECTION DISTRICT ORDINANCE

9.3.2 Definitions: Add the following definition.

C. **Fertilizer:** Any substance containing one or more recognized plant nutrients which are designed for use in promoting plant growth such as nitrogen, phosphorus or potassium. Fertilizer as defined shall not include nitrogen-free soil-building products such as molasses, humic acid, kelp, soil biological stimulants, secondary macro-nutrients, micronutrients, and biological inoculums

Renumber remaining list.

9.3.4.F.12. Replace in its entirety with the following:

12. The use of fertilizer is restricted to the following conditions:

- a. Fertilizer may not be applied within 100 feet of the shoreline of all regulated waterbodies in the Shoreland Protection District.
- b. Between 100 feet from the shoreline of all regulated waterbodies to the extent of the District, fertilizer application must meet the following criteria:
 - i. Application follows best management practices limiting the potential for nutrient runoff or groundwater infiltration.
 - ii. Fertilizer must contain a minimum of 50% slow release nitrogen.
 - iii. Fertilizer must be phosphorus-free unless a recent (within 12 months) soil test indicates a deficiency. In those situations, fertilizer is limited to $\leq 2\%$ phosphorus.
 - iv. Application rates may not exceed 0.5 lb total nitrogen/1,000ft², with an annual maximum application of 1.5 lb. of nitrogen/1,000ft².
- c. Fertilizer restrictions may be waived by the Planning Board or their designee for circumstances indicated, provided the following conditions are met:
 - i. Heavy-Use Turf (ie. athletic fields or high priority areas of golf courses such as greens): Upon submission of a turf management plan adhering to all other criteria above, the Board or their designee may increase application rate limits established in 12.b.iv. to a maximum rate of 1 lb. total nitrogen/1,000ft², with an annual maximum application of 3.0 lb. of nitrogen/1,000ft². Waivers granted shall provide for temporary allowance, not to exceed 3 years.
 - ii. Restoration or Establishment of New Landscaping: With the exception of 12.b.i, above restrictions 12.a. and 12.b. above may be waived by the Board or their designee upon submission of written justification addressing the need and the specific location(s) within the property where the request applies and their relationship to the district boundary. Waivers granted will provide for temporary allowance, not to exceed one year.

**TOWN OF EXETER
PLANNING DEPARTMENT MEMORANDUM**

Date: November 27th, 2018
To: Dave Sharples and Exeter Planning Board Members
From: Kristen Murphy, Natural Resource Planner
Subject: Proposed Zoning Amendment

I. Proposed Amendment:

9.3 Exeter Shoreland Protection District

9.3.4. B. Use Regulations:

Maximum Lot Coverage: Impervious surfaces, shall not cover more than ten percent (10%) of any lot or portion thereof within the Shoreland Protection District ~~adjacent to the shoreline of the Exeter River, Squamscott River, Dearborn Brook, Water Works Pond, and Fresh River as defined in 9.3.3,~~ unless a Conditional Use Permit is granted by the Planning Board under the terms of Article 9.3.4.G.2 Exeter Shoreland Protection District Ordinance – Conditional Use.

II. Purpose and Justification:

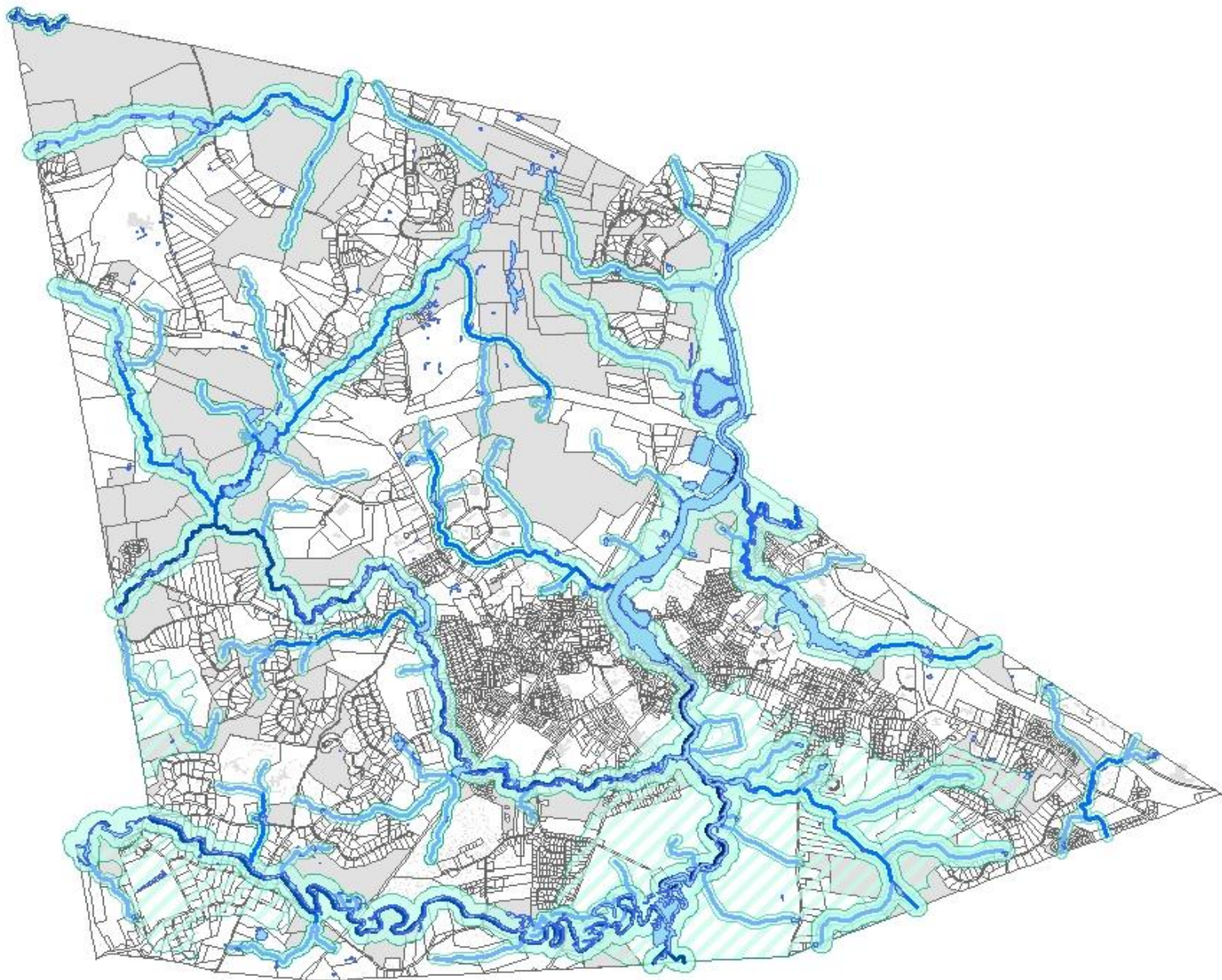
When development exceeds 10% impervious cover, water quality is impacted if run-off is left untreated. The intent of this section is to ensure when that threshold is exceeded, the project must demonstrate the use will not “detrimentally affect surface water quality” (Conditional Use Permit (CUP) criteria #9.3.4.G.2.a). We have historically applied the 10% threshold to the entire district, requiring applicants to apply for a CUP if the limit within the district is exceeded. The specific listing of individualized water bodies in the current language does not make sense when considering the intent of this section. For example, the Fresh River would never exceed a 10% impervious threshold because it is surrounded by conservation land. It appears this may be leftover language resulting from partial amendments added over time (1996, 1999, 2001). Further, the current language applies “adjacent to the shoreline” which is undefined. How close do you need to get to the river’s edge before it is considered adjacent to the shoreline?

This amendment would ensure consistent application that follows the ordinance intent and historic interpretation, and would defer to the clearer definition of the district boundary itself.

II. Application Impacts:

Adoption of this modification will defer to the clearly defined boundary (9.3.3) for where a maximum of 10% impervious cover limit applies avoiding the vague “adjacent to” language. It will also reduce the chance of applying this ordinance differently than we have in the past.

It will not add undue burden as there is an ability to exceed this limit through a CUP provided they demonstrate they meet the CUP criteria which includes 9.3.4.G.2.a “the proposed development would not detrimentally affect surface water quality..”.



Approximate Boundary for Fertilizer Prohibition Area

This map represents Exeter's fertilizer prohibition areas as defined in the Shoreland and Aquifer Protection Districts of the Zoning Ordinance as accurately as data will allow. In some areas, the depicted buffer may actually extend further from the river or stream because the definition of the shoreland district includes the width of rivers and streams with consideration for the seasonal high water and any contiguous wetland. Please refer to Zoning Ordinance Article 9.3 for boundary definition of Shoreland Protection District.

Fertilizer
Prohibition Area





TOWN OF EXETER

Planning and Building Department

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

www.exeternh.gov

Date: November 29, 2018

To: Planning Board

From: Dave Sharples, Town Planner

Re: Zoning Amendment regarding the Professional/Technology Park (PP) zoning district

In conversations with Darren Winham, the Economic Development Director, he indicated that prospective developers of this area have mentioned that development of this zone would be enhanced if there were additional permitted uses that could occur in this area. After further discussion, if this area were rezoned, it made sense to suggest making it Corporate Technology Park (CT) that abuts the Professional/Technology Park (PP) zone and is a bit less restrictive than the PP in the uses allowed. I have attached the use table from the Zoning Ordinance showing the permitted principal uses, accessory uses and uses via Special Exception that shows the differences between the two zones.

The Master Plan Oversight Committee (MPOC) discussed this proposal and supported bringing it to the board for discussion. The attached map illustrates the proposed change. I would ask that the board hold a public hearing at the December 20th meeting on this in the event you want to have further discussion.

Thank you.

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	Accessory Uses customarily incidental to a permitted principal use	Essential Services	Heliports	Business, professional and medical offices	Child Day Care	Laboratories, research and development uses	Light Industry	Hotels/Motels	15%of GFA can be used for retail	20%of GFA can be used for retail	Prototype Production	Amusemnet Centers	Medical Rehab Facilities
Profesional Technology Park (PP)	Allowed	SE	SE	PP	PA	SE	X	X	PP	X - 15% max	SE	X	X
Corporate Technology Park (CT)	Allowed	SE	SE	PP	PP	PP	PP	PP	PP	PP	X	SE	SE
	PP = Permitted Principal SE = Special Exception PA = Permitted Accessory X = Prohibited												

Assisted Living facilities talking points:

Describe the proposal.

This will remove Assisted Living Facilities from the Permitted uses in the C-3 District.

Assisted Living facilities are defined in our Zoning ordinance as: See ZO

The use is currently allowed in the R4, R5, R6, NP, and C3. Show them these areas.

The Master Plan states “Review zoning ordinances to identify recommended changes that will create a balance of housing types to meet projected future needs” and lists the HAC as the Town Support.

The HAC became aware of a pending project in the C3 for a large assisted living facility and was concerned that this use is residential but being proposed in a commercial zone, albeit an allowed use. They discussed the appropriateness of allowing a residential use in the Epping Road corridor as there were past attempts to construct residential along this corridor in the C-3 district that were defeated. ZBA denied a variance and a petitioned zoning amendment warrant article to allow residential uses in this district in 2016 failed.

Exeter has four Assisted Living facilities, Three at Riverwoods and Langdon Place totaling about 100 units. The C3 zoning district is one of just a few areas where vacant commercial land exists to provide true commercial opportunities. The HAC does recognize that these types of facilities do create some jobs but it is more residential in nature and assisted living facilities can vary based on the care they provide and where that care is provided.

This amendment would also allow the HAC time to examine this use more closely in the context of the entire Town and possibly examine the allowance of other types of residential if that is a goal of the Town to have residential use in this area.

It is important to note that this amendment would not immediately affect the proposal that recently went before the Planning board for Design Review as that proposal is vested for a year to return to the Board regardless if this amendment was adopted.



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Date: November 29, 2018
To: Planning Board
From: Dave Sharples, Town Planner
Re: Zoning Amendment regarding Assisted Living Facilities

Over the last several months, the Housing Advisory Committee (HAC) discussed the attached potential zoning amendment that would prohibit Assisted Living Facilities in the C-3 Epping Road Highway Commercial District. After discussion, the HAC voted to forward the zoning amendment to the Planning Board for consideration. The Master Plan Oversight Committee also discussed the amendment and did not oppose moving the amendment forward to the Planning Board for further discussion.

Members of the HAC will attend the hearing at the Planning Board to speak on this potential amendment. I would respectfully suggest that this item, and the other potential zoning amendments, be placed on the Planning Board agenda for December 20th meeting for a public hearing should the board decide to hold a hearing on the amendment.

Thank you.