

Exeter Conservation Commission
January 14, 2025
Nowak Room
10 Front Street
7:00 PM
Draft Minutes

Call to Order

1. Introduction of Members Present (by Roll Call)

Present at tonight’s meeting were: Chair Dave Short, Vice-Chair Conor Madison, Andrew Koff, Trevor Mattera, Keith Whitehouse, Valorie Fanger, Alternate Kyle Welch, Alternate Bill Campbell, Alternate Michele Crepeau, Alternate Sean Torrez, Alternate Don Clement (remotely) and Select Board Representative Dan Chartrand

Staff Present: Kristen Murphy, Conservation and Sustainability Planner

Chair Short called the meeting to order at 7:00 PM and introduced the members. Alternate Kyle Welch was activated.

2. Public Comment

Chair Short asked if there were any public comment outside of agenda items and there was none.

Action Items

1. Site Plan Review and Wetland Conditional Use Permit for a Mixed-Use Neighborhood Development project at 76 Portsmouth Ave (and Haven Ln.) at Tax Map 65, Lot 118. (Paige Libbey, Jones and Beach

Paige Libbey of Jones & Beach Engineers presented the application on behalf of the applicant for site plan review and wetland conditional use permit for a mixed-unit neighborhood development project at the 6.7-acre parcel on 76 Portsmouth Ave which was the former site of Fisher Auto. She noted that Jenna Green from Green & Company, John O’Neill and Jim Gove were also present.

Ms. Libby described manmade drainage and ditches which bisect the property and plans for two phases of development, beginning with the 36-townhouse unit phase in the back of the property and then the 36 one-bedroom apartments in a four-story building.

Ms. Libby noted the plans had changed after the Technical Review Committee review and review by DPW, the Planning Board and Fire Department. She noted a second access was added off Haven Lane and two wetland crossings and a pedestrian crossing from the rear of the parcel to the front and connectivity for the water line from Haven Lane to Portsmouth Ave required by the DPW. She indicated

44 this would keep the function of the wetlands and adhere to NHDES and town stormwater drainage with
45 drainage using porous pavement, underground filtration and retention which will be treated before
46 outlet to the wetlands.

47
48 Ms. Libby described buffer impacts for the parking and structure and limited use impacts. Ms. Fanger
49 asked the square feet of buffer impact and Ms. Libby indicated the limited use impacts to be 18,800 SF
50 and the parking and structure to be 22,400 SF. Ms. Fanger noted the impacts were larger to the buffers
51 than compared to the design at the conceptual meeting. Ms. Libbey explained that the previous
52 proposal had larger buildings, and the state doesn't allow as much fill, and they wouldn't be able to fill
53 the central ditch. There is less wetland impact. Ms. Fanger noted the upper right portion of the
54 property drains to Wheelwright Creek.

55
56 Ms. Libby noted there was a landscaping plan along the edge to provide a buffer.

57
58 Mr. Koff asked to clarify the reason why a significant portion of upland, buildable area, was not being
59 utilized and this design spreads impact to buffers right up to the wetland boundary. He noted the
60 upland should be buildable. Mr. Gove explained that NH DES does not allow, in residential
61 development, to do anything other than cross wetlands. There was a time we could argue that point
62 and now it's just about square feet of their jurisdiction and avoidance and minimization. If it were
63 commercial, then the approach is to minimize what you're going to hit. He referenced their booklet on
64 avoidance and minimization. He agreed it might not seem rational, but he has been trying to make the
65 same argument with them for a long time. Mr. Gove reviewed his report and noted the low function of
66 the wetland buffers and no wildlife habitat and man-made ditch. He reviewed flood flow rates and
67 seasonal runoff.

68
69 Mr. Koff referenced the upland area to the north of that and asked why not try to fit a few units there
70 and Ms. Libbey noted since the previous proposal the layout had the building shifted over along with the
71 driveway. At the TRC meeting they wanted two access points on Haven Lane. Ms. Libbey noted a pond
72 in the corner, off the property, which she noted impacts this property. The wetland drains to the pond.
73 She noted 15" and 48" culvert which outlets to Portsmouth Ave. She noted the natural flow of the site
74 and high points.

75
76 Mr. Koff noted that porous pavement needs well drained soil and asked about snow removal, and Ms.
77 Libbey noted the infiltration rates were checked and the pavement drains to the porous pavement.

78
79 Ms. Fanger noted the amount of buffer impact is worrisome, it is too much of an impact.

80
81 Mr. Clement asked how much buffer is being lost with this development and Ms. Libbey repeated the
82 square feet of impact for parking and structure and limited use impacts and referenced Sheet C-3. Mr.
83 Clement noted there is 40-50,000 SF of buffer impacts on seven acres. Mr. Clement noted that the
84 buffers were not created to be thrown away like they don't matter, and noted he had a lot of trouble
85 with those. Ms. Libbey responded that there is a large area not developed that receives stormwater
86 runoff and will be a vegetative buffer and that they were adding stormwater management.

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88 Mr. Koff asked if there were places that were not impacted and noted he would never approve of all the
89 buffer on this site being impacted.

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91 Mr. Whitehouse noted he was concerned with residents having water in their basements. Ms. Libbey
92 reviewed the stormwater analysis, peak flow volume leaving the site and a blocked 15” culvert that
93 needs to be resolved which is not on their property – there is nothing coming out of it when it is full and
94 it will be resolved as part of this project. It may be blocked with sediment. Mr. Koff noted it could be
95 causing backup onto wetland A. Mr. Whitehouse asked if it would be replaced, if needed. Ms. Libbey
96 noted it is not on their property only the inlet is on their side. Chair Short asked if there was any
97 discussion with the property owner and she indicated not yet but felt like it would drain if it were
98 cleaned out. Chair Short indicated it would be helpful to know you have the property owner’s
99 permission to make the culvert functional again.

100

101 Mr. Koff noted he was concerned with the level of buffer impacts and having buildings right up against
102 the wetland boundaries and with how people living there will control that. He noted it was not practical
103 for a wetland to be maintained with people needing space around their homes that isn’t already
104 provided. He noted one deck extends onto the wetland boundary. Mr. Koff explained that impacts are
105 greater in real life than shown here. He noted there is no stopping people from cutting and filling
106 around those and wetland B connects to Wheelwright Creek and Squamscott River making an impact to
107 wetland and wildlife. He noted grading impacts were significant and not reasonable in the real world of
108 how people live. He noted he was least comfortable with #4, #5 and #6. He noted if those went away it
109 would seem more reasonable to preserve the highest quality wetland and buffers. He noted that the
110 slopes and grading into the wetland is a lot.

111

112 Mr. Mattera noted the slopes seem extreme and asked how they are held back. Ms. Libbey indicated by
113 the wall of the building which will act as a retaining wall. Building 5 and 6 are graded as walk out
114 basements. She noted on #4 the furthest left unit is like that, but others are not.

115

116 Mr. Whitehouse asked the size of the decks and Ms. Libbey indicated 6’ deep and 10’x12 depending on
117 which building.

118

119 Mr. Madison asked about the bottom right buffer and existing parking lot and tree line between the
120 buildings. Ms. Libbey referenced sheet C-1 and noted that the tree line is on the abutting property so
121 she assumes it will stay. Mr. Madison echoed the concerns of the buffer impact concerning wetland B.
122 He noted if they could minimize it even further it would be ideal. He asked if the plans had been
123 submitted to the state yet and Ms. Libbey indicated no. Mr. Madison noted he had concerns with the
124 sheer amount of buffer impact.

125

126 Mr. Mattera asked why the switch from porous, and Ms. Libbey noted the separation to the water table.
127 She noted they put it in areas where it will work.

128

129 Chair Short opened the hearing to the public for comments and questions at 7:47 PM.

130

131 Michael Hauck and Danielle Frank of 31 Haven Lane indicated their property abutted the parcel on two
132 sides. He provided a handout with emails of other residential abutters who were all in opposition to the
133 project and the wetland conditional use permit. Chair Short noted these were received and distributed
134 to the Commission this afternoon. Mr. Hauck expressed concerns with the impact to his property and
135 the environment and requested the Commission deny the wetland CUP.

136
137 Ms. Frank read a statement which she noted she adjusted her comments to what she has learned
138 tonight. She expressed concerns with the importance of the wetland for flood control, etc. and how
139 climate change is increasing flooding. She expressed concerns with wildlife habitat and resources,
140 treating stormwater. She disagreed with the report which said there was no appreciable impact. She
141 noted impacts to air, animal habitat, and light and noise reduction. She opined the project would
142 contribute to heat build up on the Jady Hill neighborhood and that the neighborhood already
143 experiences flooding. She asked who takes responsibility for the negative impacts where there is
144 already a problem. She asked where was the buffer between this project and our properties? She
145 noted they considered the presence of these mature trees and plants when they purchased their home.
146 She requested the CUP be denied.

147
148 Ryan O'Brien of 20 Haven Lane stated that he had a couple of letters to read written by abutters who
149 couldn't be here, the first from Catherine and Craig Boudreau of 11 Bonny Drive concerning
150 environmental impact and wildlife, the water table, removal of natural drainage and flooding. The
151 second was from Tania Lampey and Timothy Real of 7 Bonny Drive who had concerns with groundwater,
152 wetlands and flooding. They recounted speaking with the town engineer and believed underground
153 springs had been exposed. A generator and two-tiered pump system were installed. There is still an
154 abundance of water year-round and substantial wildlife. They felt there was a corridor that stretched
155 between Haven and Bonny and the project will negatively impact the character of the neighborhood and
156 diminish a woodland in their "tree city." Mr. O'Brien provided photos and indicated he was opposed to
157 the CUP and there was no hardship. He expressed concern with 50% of the units in the wetland buffer
158 and complete disregard of the regulations. He noted the animals, wetlands and stormwater
159 conveyance. He provided video of bobcat in a fenced area in August of 2023. He showed coyotes at 11
160 Bonny Drive on 1/10 and 1/13 and noted there were large predators. He noted turkeys, deer herds, fox
161 birds and other small animals. He stated that Gove said it will not cut off any wildlife corridor provided
162 that exists, the two wetlands A and B are connected by a small piece of land. The whole property is a
163 cohesive system of animals and water. He addressed the channel and drainage to Wheelwright Creek
164 and the ocean and the partially "crushed" 15" culvert. He noted buffers exist to help with the effect of
165 human interference there and you can't build this close without negative effects. He did not want to
166 see additional water problems created in their neighborhood and asked not to create a problem in the
167 first place.

168
169 Diane Sam of 5 Bonny Drive agreed with wildlife including racoon and possum and expressed concerns
170 with flooding and did not see that improving with this development going in.

171
172 Len Medlock of 11 Haven Lane noted there were frogs and other amphibians and must be a vernal pool
173 somewhere.

174

175 Steve Taylor of 30 Haven Lane noted the project started as MUND (mixed use neighborhood
176 development) but is now two projects with a five-year waiting period. He noted this plan pushes the
177 houses further into the wetlands.

178
179 Jim Gove responded that perhaps he needed to go back and look at the analysis and that the photos and
180 comments were great. He explained that the animals photographed were upland species and he was
181 tasked with analysis of animals associated with wetlands, protected species such as Blandings Turtles,
182 Spotted Salamander and certain species of snakes found in a wetland edge in a wetland habitat, species
183 that are on a list that they are to consider provided by the Army Corp of Engineers. They aren't to
184 consider deer and coyotes which are everywhere but what the wetland is doing as a wetland. He
185 explained the hydrology of wetland A and the blocked culvert possibly contributing to wetland habitat in
186 the area. He reviewed the volume of wetland B which cuts through the manmade ditch which has been
187 stabilized with everything including tires tied together. He noted the hydrology of the significant
188 channel which is now 3' deeper than it normally was.

189
190 Ms. Fanger asked what the Commission's purview was with respect to the application and Ms. Murphy
191 indicated this was a local application. The Planning Board will address the MUND and while the
192 Commission isn't expected to be experts, they hire out a consulting engineering firm, water quality can
193 be part of the discussion. Ms. Murphy asked Mr. Gove about the wetland scientist who delineated the
194 plan in April which was John Hayes and any effort to look for vernal pools because that might change the
195 buffers considerably. Mr. Gove noted that Mr. Hayes was hired before he got involved to look at soil
196 map and test pits for the AoT (Alteration of Terrain) application and looked at his flagging and found it
197 to be spot on. Mr. Gove noted that his function and values assessment was done at a separate time.
198 Mr. Gove noted he was not out there in the months that you would need to be to confirm a vernal pool
199 is present, March, April and May. He did not see any depressional areas (18") that hold water for two
200 months of the growing season. The blocked culvert may have situationally pooled in the past and
201 drained.

202
203 Mr. Koff recommended reviewing the CUP criteria. Chair Short reviewed no. 1 whether permitted in the
204 district and the response that MUND is permitted in C-2. Chair Short reviewed no. 2 alternate design
205 that is less impactful and the response concerning the plan revision and beneficial drainage and
206 vegetation of disturbed areas. Mr. Torrez noted the drainage rate is a huge function being lost and
207 questioned whether it could be contributing to the flooding people experience. Mr. Mattera referenced
208 wetland B and the significant channel. Mr. Clement felt there was an interconnection between wetland
209 and buffers and expressed concern with eliminating the buffers and rendering the wetlands themselves
210 useless. Chair Short reviewed no. 3 functions and values and the response that stormwater storage and
211 flood flow were not compromised and water quality degradation mitigated. Mr. Clement noted all
212 wetlands have value and did not feel the application met the requirements. Mr. Koff expressed
213 concerns with the creep of development over time into the wetlands although there are ways the
214 development can restrict that creeping and operation and maintenance plans but with zero buffer it is
215 just too much. Chair Short questioned the ability to monitor compliance over any length of time.

216
217 Chair Short reviewed no. 4 design that minimizes impact to the wetland and buffer and the response.
218 Ms. Fanger stated that she did not believe the design minimizes impact to the wetland and buffer.

219
220 Chair Short reviewed no. 5 public health safety and welfare and the response that the stormwater was
221 treated before discharge and peak flows controlled to not increase flooding to other properties.
222
223 Chair Short reviewed no. 6 buffers elsewhere on the site of equal or greater value and the response
224 noting the vegetated area which will be undeveloped green space. Mr. Mattera asked if the eastern
225 portion was being put into conservation and Ms. Libbey indicated no it will remain undeveloped. Mr.
226 Mattera noted there will be no permanent protection.
227
228 Chair Short reviewed no. 7 temporary disturbance and restoration and the response including the
229 restoration plan shown on sheet L-1.
230
231 Chair Short noted the permits under DES, RSA 485-A:17 and 483-A and US Army Corp 404 of Clean
232 Water Act and response that they will be applying for AoT and wastewater.
233
234 MOTION: Ms. Fanger motioned that the Commission is not in support of the CUP application because of
235 alternate designs and concerns with no. 2, 3 and 4 and water quality concerns and flow to Wheelwright
236 Creek.
237
238 Ms. Libbey requested a continuation to revise the plan and decrease impact to wetland B.
239
240 Ms. Fanger withdrew her motion.
241
242 MOTION: Ms. Fanger motioned to continue the application to the Commission's next meeting when
243 they are ready. Chair Short seconded the motion. A vote was taken, all were in favor, the motion
244 passed unanimously.
245
246 Ms. Murphy indicated she would like to have statements from John Hayes work concerning presence of
247 vernal pools because that could change the buffers.
248
249 Daniel Frank asked about the Planning Board meeting next week and Ms. Murphy noted they could
250 continue to meet and may want to hear their comments as well on the redesign.
251
252 2. Land Use Change Tax Research
253
254 Ms. Crepeau provided a map of other towns and cities who either had or did not have a percentage of
255 the Land Use Change Tax coming to their Conservation Commission. She proposed 50% or \$50,000 but
256 noted the town was always generous with funding the Commission's requests and noted they gave
257 more than they would get with the change tax. Mr. Koff noted both mechanisms could be in place. Mr.
258 Clement noted a bond could also be used. Mr. Clement noted 15 years ago the warrant article to give
259 50% of land use change tax was defeated. Chair Short noted it was too late to do it this year and Mr.
260 Chartrand agreed this was not something they would want to put through at the last minute and
261 recommended going before the Select Board to discuss it.
262

263 Ms. Murphy noted the Commission looked at undeveloped parcels in 2018 and 2019 and sent out a
264 letter, and it may be worth reaching out again. She referenced the Aquatic Resource Mitigation Fund as
265 another grant the town could apply for. Chair Short agreed the Commission needed to have funds to
266 strike when property became available for purchase. He agreed the demographic has changed.

267

268 Mr. Koff explained the LUCT and current use with ten acres and how property taxes are reduced when a
269 minimum of ten acres is put in current use and the penalty when it is taken out to be developed.

270

271 Mr. O'Brien opined that he wouldn't consider the past as a guarantee of the future but agreed having
272 funds is absolute vital but to consider impact on taxes and taking money from general expenses.

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274 3. Committee Reports

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276 a. Property Management

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278 Ms. Murphy indicated there had been a large brush fire off Pine Road which blew into a portion of
279 Exeter conservation land and thanked Justin Pizon and the Fire Department for responding and the
280 passerby who reported it. She thanked Justin for help with cleaning up. She noted that they will
281 have access to the gate keys.

282

283 MOTION: Mr. Mattera authorized Chair Short to sign a letter expressing the Commission's gratitude
284 to the Fire Department. Mr. Koff seconded the motion. A vote was taken, all were in favor, the
285 motion passed unanimously.

286

287 Ms. Murphy noted Dave O'Hearn had retired from mowing the property and Breen Land Works
288 from the Tree Committee expressed an interest in doing it. The budget is \$1,825 and their estimate
289 is \$2,200. They would need to shift funds to cover that.

290

291 Ms. Murphy noted that they could also help with the oriental bittersweet (invasive) removal at the
292 Irvine property which would cost \$1,750. Mr. Mattera noted there were stewardship grants from
293 Great Bay that could help with that. S. Murphy noted Fish and Game has some grants also.

294

295 b. Outreach Events

296

297 i. Winter Solstice Celebration at Raynes – Saturday 12/21

298

299 Mr. Whitehouse reported the barn was decorated with lights and the bonfire was far from the
300 barn. He noted the event went well and there were about 30 people. He noted the barn is ready
301 to be used and they are waiting on L-Chip to start with the concrete work. Ms. Murphy will
302 follow up with them tomorrow.

303

304

305 ii. Full Moon Snowshoe February Hike – February 12

306

307 Mr. Koff proposed a hike at Raynes with snowshoes optional. He will coordinate if anyone is
308 interested. He noted the Recreation Department rents snowshoes.

309

310 iii. Hike Exeter Challenge – Kyle Welch

311

312 Mr. Welch reported that the Facebook page has 50 members and started only yesterday. He
313 noted the membership question is the name of the river that runs through Exeter which is the
314 Exeter River. The first hike released was Henderson Swasey and one will be released each week.

315 Ms. Murphy reported that Travel and Nature offered to help with discounts and hikes.

316

317 c. Other Committee Reports (River Study, Sustainability, Energy/CPAC, Tree, CC Roundtable)

318

319 Ms. Murphy noted that the Tree Committee would like to come into a meeting when the agenda is
320 light and give an update. They recently applied for the growth award for going over and above.

321 There were 23 trees planted with Unifund funds along Holland Way and Elm Trees (Liberty) were
322 donated by the Chair of Pairpoint Park.

323 Ms. Murphy reported on the Sustainability Committee’s Styrofoam Collection event. Styrofoam was
324 collected and hauled to Guilford who has a densifier and sells it as a commodity. She noted the
325 Town of Exeter has one on its warrant this year and will be presenting at the Select Board on
326 Tuesday the 21st and at Deliberative Session. She thanked Keith and Dan for help with transport and
327 reported 11 cubic yards of Styrofoam was transported. She thanked Wayne Allmond at Public
328 Works for his help.]

329 4. Approval of Minutes

330 December 11, 2024 Minutes

331

332 Mr. Campbell recommended edits.

333

334 MOTION: Chair Short motioned to approve the December 11, 2024 minutes, as amended.

335 Mr. Whitehouse seconded the motion. A vote was taken, all were in favor, the motion passed
336 unanimously.

337

338 5. Correspondence

339

340 **Other Business**

341

342 Next Meeting: 2/11/25, Submission Deadline: 1/31/25

343

344

345 6. Adjournment

346

347 Mr. Koff motioned to adjourn the meeting at 9:41 PM. Chair Short seconded the motion. All were in
348 favor, so moved.

349

350 Respectfully submitted,

351 Daniel Hoijer, Recording Secretary

352 Via Exeter TV

353

354 Zoom Webinar ID: 813 5974 0364