



Meeting Minutes
North Hampton Planning Board
Tuesday, January 3, 2023 at 6:00pm
Town Hall, 231 Atlantic Avenue

These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription.

In attendance: Tim Harned, Chair; Nancy Monaghan, Vice Chair; Members Phil Wilson, Shep Kroner, and Lauri Etela; and Rick Milner, Recording Secretary.

Chair Harned called the meeting to order at 6:00pm.

I. Public Hearing

Town of North Hampton, NH review of amendments to zoning ordinances for inclusion on the 2023 Town Warrant.

Town of North Hampton, NH: Section 603 Conservation Subdivision Design. The intent of the proposed revision is to clarify the following items:

- a. guidelines for allowing single family or duplex dwelling units within a Conservation Subdivision Design,
- b. yard and lot requirements for single family and duplex dwelling units within a Conservation Subdivision Design,
- c. establishes a minimum width for open space within a Conservation Subdivision,
- d. modifies the process for establishing the maximum density of lots allowed on a Conservation Subdivision Plan,
- e. calculation of the allowed maximum density for a Conservation Subdivision Design,
- f. definition of unbuildable land within a Conservation Subdivision Design, and
- g. purpose and objective of a Conservation Subdivision Design.

Mr. Harned presented proposed revised zoning ordinance language regarding the interpretation of concepts within Section 603 Conservation Subdivision Design. Mr. Harned explained that the following changes were made to the proposed language based on Planning Board discussions at the last meeting:

- a. Timing of conservation subdivision application submittal changed to conform to the accepted Planning Board meeting schedule deadlines.
- b. Current zoning ordinance language regarding the calculation used to determine the allowed maximum density for a proposed conservation subdivision on a particular lot did not consider the potential unique size or shape of that lot. As a result, maximum density calculation language has been removed from the proposed zoning amendment. A yield plan showing a feasible and realistic Conventional Subdivision Plan conforming to all requirements of the specific underlying zoning district in which the property is located is the only criteria to be used to determine the allowed maximum density for a proposed conservation subdivision.
- c. Yard and lot requirements for duplex units within a proposed conservation subdivision created.

The Board discussed under what circumstances duplex units would be allowed within a conservation subdivision. Mr. Wilson stated that the Planning Board would have discretion to determine if duplex units would be allowed within a conservation subdivision based on the unique characteristics of a particular lot or proposal. The Board came to a consensus to make no changes to the proposed Conservation Subdivision Design zoning amendment language.

Mr. Kroner stated that the proposed zoning amendment language does a good job recognizing the weaknesses of the current conservation subdivision design language and making appropriate corrections. However, he had a concern with the Planning Board proposing the zoning changes at the same time as a conservation subdivision application is being considered by the Board.

Mr. Harned opened the public hearing at 6:16pm. No comments were made. Mr. Harned closed the public hearing at 6:17pm.

Mr. Wilson moved that the proposed revisions language to the Town of North Hampton Zoning Ordinance Section 603 Conservation Subdivision Design appears on the 2023 Town Warrant as presented. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (5-0).

The revised language is attached as Appendix A to these minutes.

Mr. Harned called a recess at 6:19pm.

Mr. Harned called the meeting back to order at 6:35pm.

In attendance: Tim Harned, Chair; Nancy Monaghan, Vice Chair; Members Phil Wilson, Shep Kroner, and Lauri Etela; Jennifer Rowden, RPC Circuit Rider; and Rick Milner, Recording Secretary.

II. Old Business

1. Case #22:24 – Applicant: Route One Convenience Store, LLC, 39 Freetown Road, Unit 1, Raymond, NH 03077. The Applicant requests a Site Plan Review for proposed demolition of two existing buildings and construction of a 4,350 square foot convenience store building, motor vehicle refueling service facility, and other site improvements within 62,200 square foot area at front of 180 Lafayette Road multi-use commercial property. The Applicant also requests a Conditional Use Permit to allow convenience store and motor vehicle refueling facility uses within the Aquifer Protection District. The Applicant also requests a Conditional Use Permit to allow some lighting fixtures to exceed the maximum height allowed by the zoning ordinance. Property Owners: Arlene A. Jewett, Trustee, The Arlene A. Jewett Revocable Trust of 2002; Edward Jewett, Trustee, The Edward Jewett Revocable Trust of 2002; Kellie A. Jewett, Trustee, The Kellie A. Jewett Living Trust; Timothy J. Wallace, Trustee, The Timothy J. Wallace Living Trust; Twilight Years, LLC; All owners above c/o 39 Freetown Road, Unit 1, Raymond, NH 03077. David E. Howard, Trustee, The David E. Howard Revocable Trust, c/o P.O. Box 3385, Concord, NH 03302; Property Location: 180 Lafayette Road, North Hampton, NH 03862; M/L: 017-086-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Kellie A. Jewett, property owner; Curt Neufeld, engineer; Brandon Cummings, consultant.

Mr. Neufeld addressed the Board. Mr. Neufeld explained the following changes made to the site plan since the last Planning Board meeting and site walk:

- a. refueling area canopy and sign changes shown in photo renderings,
- b. landscaping and plantings added to the back section of the proposed construction area
- c. grass turf added over proposed septic system area,
- d. septic system has been approved by the Town of North Hampton Septic System Examiner and is awaiting State of NH approval,

- e. access and egress traffic flow changes suggested by NHDOT during its review of the proposed construction and uses for the site –northerly drive to be enter only, center drive to be exit only, southerly drive to remain both enter and exit,
- f. curbing along Lafayette Road side of the site added,
- g. State of NH drainage features along Lafayette Road, but not connected to the site, added,
- h. two light fixtures at the front and rear northerly corners of the proposed construction area added,
- i. a conditional use permit is needed to allow the height of the two proposed light fixtures,
- j. proposed leach field has slightly increased in size from previous proposal,
- k. plantings added along northerly lot line,
- l. artistic renderings of proposed site aesthetics presented, and
- m. proposed sign will be externally lit in conformance with the sign ordinance.

Mr. Neufeld also noted that responses to Town Engineer overall site plan comments and Planning Board member underground storage tank comments and comprehensive information regarding NHDES underground tank rules and monitoring process have been added to the application materials. Mr. Neufeld explained the following:

- a. In response to Planning Board questions about the longevity of the existing underground storage tanks on the site, the current tanks have no legal expiration dates. However, the technological upgrades included with the proposed installation of new underground storage tanks will be a good insurance plan to avoid possible contamination of groundwater.
- b. Leak sensors will be connected to all of the tank filling ports of the new underground tanks.
- c. NHDES has no specific rules associated with underground tanks within an aquifer protection district due to the stringent rules established for all sites throughout New Hampshire.

Mr. Kroner asked for clarification regarding whether or not the entire lot, not just the proposed construction area, meets the ordinance standards that the amount of impervious surface on the entire lot not exceed 20 percent of the total surface area and the lot can handle the stormwater runoff conditions associated with a 100 year storm event.

Ms. Rowden stated that the site plan meets all of the Aquifer Protection District standards. The Town Engineer verified in his review comments that the stormwater management regulations standards will be satisfied by the proposed site features.

Mr. Kroner asked how the Board can approve the underground fuel storage tank use which is prohibited by the Aquifer Protection District Ordinance language.

Ms. Rowden explained that the ordinance provides an option for a use that does not conform to the ordinance standards to be allowed though the issuance of a Conditional Use Permit. The applicant has submitted a Conditional Use Permit request for the proposed use. The Planning Board could allow the prohibited use if the Board is satisfied that the Conditional Use Permit criteria have been met and the purpose of the ordinance to protect groundwater will be achieved by the technological features of the proposed plan.

Mr. Neufeld stated that the proposed fuel storage tanks will be an upgrade to the existing tanks and will comply with State of NH and EPA regulations.

Ms. Monaghan asked for clarification regarding the capacity of the proposed fuel storage tanks compared to the current fuel storage tanks.

Mr. Neufeld stated that the proposed plan indicates that two tanks totaling 40,000 gallons of fuel will be installed underground in the same location as the two current tanks which hold 24,000 gallons of fuel.

Ms. Monaghan asked for clarification regarding the amount of impervious surface on the lot and how the application meets the impervious surface standard of the aquifer protection district ordinance.

Mr. Neufeld stated that the current amount of impervious surface on the lot is approximately 62 percent of the total land area. The proposed changes in the plan which eliminate impervious surface and replace it with pervious landscaping will reduce the amount of impervious surface on the lot. The ordinance allows for a site to exceed the 20 percent impervious surface limit if the project has a stormwater management plan which can handle the stormwater runoff conditions associated with a 100 year storm event and treats the water runoff. The proposed plan satisfies this criteria.

Ms. Monaghan asked why an expansion to eight refueling stations is necessary.

Mr. Cummings addressed the Board. Mr. Cummings explained that the proposed business model has a goal to sell three million gallons of fuel within a year. Based on business projections, eight refueling stations would help the business attain this goal.

Ms. Monaghan asked how soon someone responds to a leak if it occurs.

Mr. Neufeld stated that the leak sensing equipment notifies the State of NH immediately. He is not sure of the actual response time to the leak site. However, the technology associated with the underground fuel storage tanks makes a tank rupture or leak unlikely.

Mr. Harned asked for clarification regarding the leak sensing alarm operation.

Mr. Cummings explained that the underground fuel tanks are double walled. There is a brine solution located between the two walls. If the level of the brine solution changes, an alarm signal is sent to NHDES.

Mr. Kroner stated his opinion that the groundwater in the area of the Town of North Hampton where the proposed construction site is located is already compromised by contamination associated with the Coakley Landfill near the site. The technology associated with the proposed underground fuel storage tanks appears to be adequate to protect the groundwater against contamination. In his opinion, the reality of the situation is that there is a low possibility of further contamination of the aquifer beyond the current conditions.

Mr. Wilson stated that, as shown on the proposed site plan, the tank refill area is in the middle of a drive aisle from the front to the rear of the northerly side of the site.

Mr. Neufeld stated that this proposed tank refill situation/location is not uncommon for motor vehicle refueling facilities. The proposed location is the same as the current location. The fuel refilling activities

will only occur for approximately one-half hour once or twice per week and be flagged with traffic cones to alert traffic entering or leaving the site.

Mr. Wilson stated that the proposed site plan creates a secondary drive aisle to and from the larger lot connected to the proposed retail store/motor vehicle refueling site. This situation invites traffic to pass through the storage tank refilling area and increases the chances of a traffic accident during refilling activities. In his opinion, the slightest chance of even one accident which could create a contamination of the aquifer is not acceptable.

Mr. Neufeld stated that the operating procedures that will be used for the proposed business are similar to standard operating procedures and safety codes established across the entire country.

Mr. Wilson stated that an Irving refueling facility at the corner of Lafayette Road and Atlantic Avenue placed its tank refilling area in a corner of the site away from the drive aisle and usual traffic pattern for safety reasons. The proposed site plan does the opposite and places the refilling area in the worst possible location as it relates to traffic safety.

Mr. Neufeld stated that the proposed tank refilling location is not uncommon in the motor vehicle refueling facility industry.

Mr. Harned suggested the following to improve the traffic safety situation associated with the tank refilling area:

- a. northerly drive be changed to be exit only,
- b. center drive to be enter only, and
- c. move refilling area closer to northerly lot line.

Mr. Wilson stated he preferred that the proposed drive area at the rear of the construction site be closed off or make the rear access drive be an exit only way for fuel delivery vehicles only.

Mr. Neufeld stated that the applicant can explore new traffic patterns and delivery options for fuel delivery trucks.

Mr. Wilson asked if the rear access drive area is necessary for site activities.

Ms. Jewett addressed the Board. Ms. Jewett stated that the applicant would like to retain the rear access drive area because this rear area has been used for entering and exiting the site by many customers driving larger trucks in the past.

Ms. Monaghan stated her opinion that any possible chance of groundwater contamination in an Aquifer Protection District area must be considered by the Board as it reviews the proposed expansion of a non-conforming use in the Aquifer Protection District. The application requires significant exceptions to the ordinance criteria.

Mr. Neufeld stated that NHDES and federal government agency rules and regulations ensure that the proposed underground fuel storage tank technologies are safe.

Ms. Monaghan stated that the Aquifer Protection District Conditional Use Permit criteria indicates that a proposed use can pose no threat to the aquifer. In her opinion, there is no bigger threat to the aquifer than an underground fuel storage tank. Unless the applicant can present some authority to the Board which can state that there is never a chance of an accident or leak which could contaminate the aquifer, she would find it difficult to approve the Conditional Use Permit to allow the applicant's proposed use in the Aquifer Protection District.

Mr. Kroner stated that there have been other instances of expansion of non-conforming uses in the Aquifer Protection District throughout the Town of North Hampton in the past. There should be a balance between allowing businesses to develop and protecting the aquifer. Modern technology associated with the proposed construction minimizes the risk of aquifer contamination. There are many other aquifer contamination sources in the area surrounding the proposed site. The risk of aquifer contamination posed by the operation of the proposed motor vehicle refueling facility is minimal compared to these other sources of contamination.

Mr. Neufeld stated that, in his opinion, the technology and equipment associated with the proposed use and the state and federal agency review and oversight of the installation and operation of the facility demonstrates that the proposed motor vehicle refueling facility use will be safe. Ensuring absolutely no risk of aquifer contamination is not a reasonable standard for determining if the proposed use is allowable. In his opinion, the convenience store/motor vehicle refueling facility is a good project for serving the needs of the local community. Mr. Neufeld asked what documentation or expert testimony the applicant could submit to the Planning Board to overcome the concerns of some Board members.

Mr. Wilson stated that he would like an actuary testify as to the possibility of aquifer contamination from the proposed use and what amount of insurance would be needed to cover costs associated with leaking 1 cup of MTBE into the aquifer. Even if the possibility of aquifer contamination may be small, the consequences of aquifer contamination are great. The purpose of the zoning ordinance is not to allow proliferation of motor vehicle refueling facilities. The applicant's proposal is a proliferation of this use. The proposed expansion increases the risk of aquifer contamination.

Mr. Harned stated that he would like to see historical data from NHDES and a manufacturer representative regarding the number of underground storage fuel tank failures and details associated with these tank failures. Mr. Harned also stated that he has a safety concern with the proposed fuel tank refilling location.

Mr. Neufeld requested that the Board continue the case to allow the applicant time to prepare information for the Board's consideration. Mr. Neufeld asked if there was any other application details that the Board would like clarified prior to the next meeting.

Mr. Wilson stated the following:

- a. Sign approvals will be necessary for the extra signage on the refueling station canopy.
- b. The proposed refueling station canopy is not in line with the site plan regulations architectural standards. He prefers a design similar to the Irving refueling facility canopy at the corner of Lafayette Road and Atlantic Avenue.
- c. He has concerns regarding the drive aisle to the back of the lot.

Ms. Monaghan moved that the Planning Board continue Case #22:24 to the February 7, 2022 meeting date at the request of the applicant. Second by Mr. Etela. The vote was unanimous in favor of the motion (5-0).

III. New Business

1. Case #23:01 – Applicant: Kutt Property Management, LLC, 229 Atlantic Avenue, North Hampton, NH 03862. The Applicant requests a Site Plan Review to amend previous site plan approval with construction of new building addition and addition of previously constructed structures to the site plan. Property Owner: Kutt Property Management, LLC, 229 Atlantic Avenue, North Hampton, NH 03862. Property Location: 229 Atlantic Avenue, North Hampton, NH 03862; M/L: 007-148-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:

Jennifer Kutt, property owner; Joe Coronati, engineer.

Mr. Coronati addressed the Board. Mr. Coronati presented a site plan for the mixed use commercial-residential property at 229 Atlantic Avenue which included the following:

- a. an existing 51,503 square foot building with a first floor convenience store and food shop and a second floor dwelling unit,
- b. an existing outdoor seating area deck connected to the front of the building,
- c. an existing 220 square foot wood frame covered seating area at the southeasterly rear corner of the lot,
- d. an existing second floor outdoor wood frame deck connected to the dwelling unit with a wood frame set of stairs leading to the ground, and
- e. an existing ground level, slightly raised deck directly under the upper deck supporting an addition off the rear of the building for use as a walk-in cooler for the retail store and food shop business.

Mr. Coronati acknowledged that the front deck seating area was added to the site several years ago and the rear covered seating area was added to the site in the last couple years. The applicant was seeking after the fact site plan approval for these structures. The applicant received a building permit for the second floor deck and stairs. After completing the upper deck and stairs, the applicant began construction on the lower deck and cooler addition without permission. The addition construction was stopped by the Building Inspector due to lack of site plan and building permit approvals. The applicant is also seeking site plan approval for the lower deck and building addition.

Mr. Coronati also explained that a 50 foot wetlands setback applies to the site as allowed by the zoning ordinance wetlands criteria. All of the structures added to the site are outside of the 50 foot setback from wetlands to the rear of the property. There is an existing grease dumpster located on the 50 foot wetlands setback line. The grease dumpster and other dumpsters will be moved to a location outside of the 50 foot wetlands setback near the northwesterly rear corner of the site.

Mr. Harned asked Mr. Milner to explain the construction and permitting history of the site.

Mr. Milner explained the construction and permitting history of the site. The structures added to the site and highlighted in the application have received ZBA structure setback variance approvals.

Ms. Monaghan asked if an increase in parking spaces was necessary as a result of the structures and seating areas added to the site.

Ms. Rowden stated that no additional parking spaces were required as a result of the structures and seating areas added to the site. The site plan regulations parking requirements are satisfied by the number of existing on-site parking spaces.

Mr. Wilson moved that the Planning Board find that the application is complete and take jurisdiction of the Site Plan Review application to amend previous site plan approval with construction of new building addition and addition of previously constructed structures to the site plan. Second by Ms. Monaghan. The vote was unanimous in favor of the motion (5-0).

Mr. Harned opened the public hearing at 8:22pm. No comments were made. Mr. Harned closed the public hearing at 8:23pm.

Mr. Wilson moved that the Planning Board approve the Site Plan Review application to amend previous site plan approval with construction of new building addition and addition of previously constructed structures to the site plan as represented in the amended site plan presented to the Board subject to the following conditions:

1. Grease dumpster indicated on site plan shall be moved outside of the 50 foot wetlands setback and new location of all dumpsters shall be indicated on the amended site plan as approved by the Board at the January 3, 2023 Planning Board meeting.

2. Applicant shall submit a recordable Mylar of the approved plan with signatures and seals affixed of all licensed professionals whose names appear on the plan. All conditions of approval shall be listed on the Mylar pursuant to NH RSA 676:3.III.

3. Applicant shall submit a Certificate of Monumentation, stamped and signed by a NH Licensed Land Surveyor, certifying that all monuments depicted on the plan have been properly set.

4. Applicant shall submit evidence of receipt of all required federal, state, and local permits including, but not limited to, NHDOT driveway and NHDES subsurface system approvals and shall note their numbers, as appropriate, on the recorded page of the plan.

5. Applicant shall submit checks made payable to the Rockingham County Registry of Deeds for required Land and Community Heritage Investment Program (LCHIP) and recording fees.

6. All fees incurred by the Planning Board including, but not limited to, consulting, engineering, and legal fees, have been paid by the applicant.

7. There shall be no changes to the approved site plan on the recordable mylar except to meet these conditions of approval.

Second by Ms. Monaghan. The vote was unanimous in favor of the motion (5-0).

Case #23:02 – Applicants: David and Kimberly Glendon, 41 Chapel Road, North Hampton, NH 03862.

The Applicants request Conditional Use Permits to allow construction of the following surfaces or structures within the Wetlands Conservation District buffer areas:

- a. a driveway approximately 20 feet from the wetlands,
- b. a single family home with garage approximately 50 feet from the wetlands,
- c. a raised septic system mound structure approximately 36 feet from the wetlands, and
- d. a septic system leach field area approximately 51 feet from the wetlands.

Property Owner: Kimberly A. Glendon, Trustee, Kimberly A. Glendon Revocable Trust, 41 Chapel Road, North Hampton, NH 03862. Property Location: 43 Chapel Road, North Hampton, NH 03862; M/L: 005-064-001; Zoning District: R-2, Medium Density District.

In attendance for this application:

David Glendon, applicant; Doug Macdonald, attorney; Micah Denner, septic system designer.

Mr. Macdonald addressed the Board. Mr. Macdonald stated that, in his opinion, there is some question as to whether M/L 005-041-000 was legally created in 2001; or created in 2003 after the current wetlands zoning ordinance regulations became effective. This information is relevant in that the applicant would need less relief from the wetlands zoning ordinance requirements due to the fact that the lot conditions and the proposed single family home and garage construction would comply with the 2001 zoning ordinance regulations. Mr. Macdonald submitted plans and documents with historical data that he believed supported the fact that the lot was created in 2001 and approved for single family home construction following the less stringent 2001 zoning ordinance wetlands setback requirements.

The Board discussed the history of the creation of M/L 005-041-000 and the unique wetlands conditions and configuration of the lot with Mr. Macdonald and Mr. Glendon. During this discussion, it was determined that the creation of the lot with a proposed single family home was approved by both the Town of North Hampton and the Village District of Little Boar's Head Planning Boards in 2001. However, for a reason that could not be determined, the plan was not recorded until August 2003 after the current wetlands zoning ordinance regulations became effective.

Ms. Rowden explained to the Board that, in order for the less stringent wetlands setback requirements to be applicable, a lot must be a lot of record prior to the adoption of the current wetlands regulations on March 11, 2003. M/L 005-041-000 did not become a lot of record until it was recorded in August 2003. Since M/L 005-041-000 was not a lot of record until August 2003, the current wetlands setback requirements must be applied to the proposed construction of the single family home, garage, septic system, and driveway. Any non-conformance to the current wetlands regulations indicated in the proposed plans must be approved through the issuance of a Conditional Use Permit.

The Board came to a consensus that:

- a. M/L 005-041-000 did not become a lot of record until it was recorded in August 2003.
- b. The current regulations associated with Section 501 Wetlands Conservation District apply to the case.

Mr. Macdonald stated that the applicant would proceed with the case. However, the applicant reserves the right to challenge the determination regarding the lot's history.

Mr. Macdonald presented a site plan for the proposed construction of a single family home with an attached garage, raised septic system in the front yard, and a driveway. Mr. Macdonald stated that the applicant was requesting Planning Board approval of Conditional Use Permits to allow:

- a. a driveway approximately 20 feet from the wetlands,
- b. a single family home with garage approximately 50 feet from the wetlands,
- c. a raised septic system mound structure approximately 36 feet from the wetlands, and
- d. a septic system leach field area approximately 51 feet from the wetlands.

Mr. Macdonald addressed the criteria for granting a conditional use permit to allow the proposed structures, surfaces, and activities within the Wetlands Conservation District buffer zone.

a. Section 501.9.A.1 – The house, garage, septic system and driveway are all essential to the productive use of the land as necessary elements of a residential use.

b. Section 501.9.A.2 – The location of the structures and the driveway will minimize detrimental impact on the wetlands. The impact of the septic system will be minimized due to the use of a technological design that pretreats waste prior to entering the leaching area. This reduces the amount of waste processing in the leaching area.

c. Section 501.9.A.3 – Due to the configuration of the wetlands and other lot conditions, no alternative with less detrimental impact on the wetlands is feasible.

d. Section 501.9.A.4 – The proposed design and construction methods of the home, garage, septic system, and driveway are allowed in the underlying zoning district. Construction methods employed for the proposed project will comply with applicable codes. Contamination prevention methods such as the use of silt fences will be used during construction.

e. Section 501.9.A.5 – The proposed activity will result in no diminution of value of abutting properties. The applicant owns and resides in the home closest to and behind the subject lot. The proposed home will be a significant distance from the homes on either side of the property. The proposed project will likely enhance neighboring property values.

f. Section 501.9.A.6 – The necessary permits from state and local authorities will be obtained prior to construction.

g. Section 501.9.B.3.a – There are unique conditions of the parcel that distinguish it from other parcels. The size of the property, along with the location of the wetlands and ledge, limit the practical buildable area on the property. Based on the size and configuration of the property and the location of wetlands and ledge, the proposed construction of a home was approved in 2001 and satisfied the regulations at that time.

h. Section 501.9.B.3.b – Due to the proximity of the wetlands and ledge, the proposed project cannot be feasibly carried out on a portion of the parcel outside of the Wetlands Conservation District.

i. Section 501.9.B.3.c – The proposed use meets the requirements of the Wetlands Conservation District except for the construction and uses for which relief is being requested.

j. Section 501.9.B.3.d – The design and construction of the proposed use do not appreciably diminish natural resource values of the Wetlands Conservation District and are consistent with the intent and purpose of the Wetlands Conservation District Ordinance in that the septic system is located in the best location to minimize impacts on the buffer and uses innovative technology to provide better treatment of waste effluent.

Ms. Monaghan stated her opinion that M/L 005-041-000 is currently being productively used as a privacy border and screening for the abutting lot. Building a home on the property is not essential to the productive use of the land.

Mr. Macdonald stated his opinion that a vacant lot is not a productive use of land. In order to be productive, a lot of record should be buildable.

Ms. Monaghan stated that the proposal is a significant intrusion on the wetlands buffer. The purpose of this buffer is to provide an area for the cleansing of toxins or other contaminants from water run-off prior to the water reaching the wetlands. Building structures as close to the wetlands as proposed in the application goes against this purpose.

Mr. Kroner stated that the purpose of the original 2001 Planning Board approval was to create a more regular, buildable lot. The lot was created in good faith as a buildable lot. The lot has been valued by the Town of North Hampton as a buildable lot for many years. Mr. Kroner also stated that every definition of productive use of land that he has seen does not include an empty sitting lot.

Ms. Monaghan moved that the Planning Board find that the application is complete and take jurisdiction of the Conditional Use Permit application for Case #23:02 to allow construction of structures and surfaces within the Wetlands Conservation District buffer zone. Second by Mr. Wilson. The vote was unanimous in favor of the motion (5-0).

Mr. Harned asked if there were other options for the location of the septic system.

Mr. Denner explained that the only other area outside of the 50 foot wetlands buffer on the property is to the right of the proposed garage. This area is actually smaller in size than the area proposed for the septic system installation. Impact on the buffer would be greater in this area. The proposed innovative septic system with pretreatment feature will allow for a smaller septic system to be installed. This will help reduce the impact on the wetlands buffer area.

Mr. Harned asked how the applicant's request for relief would change if the 2001 wetlands regulations applied to this case.

Mr. Macdonald replied that, in his opinion, if the 2001 wetlands regulations applied to this case, then:

- a. The house and garage construction would not need relief.
- b. The septic system tank would not need relief.
- c. The mound associated with the leach field construction would still need relief.
- d. The driveway would still need relief.

Mr. Wilson stated that this case is unique due to the original lot approval and recording history. In his opinion, a home and driveway should not be built on the property. However, the purpose of the Board is to determine what is fair and reasonable according to the facts of the case. The Board should understand the Town's role in creating the unique situation by approving a buildable lot in 2001. The owner bought the property in good faith and has assumed that the lot is buildable for many years. In the interest of balancing the competing values of the Town and the applicant, Mr. Wilson stated that he is in favor of approving the application with the condition that a pervious driveway is constructed and assurance that the innovative septic system design will minimize detrimental impact on the wetlands and have longevity.

Mr. Denner explained how the pretreatment septic system exceeds State of NH standards and regulations. Mr. Denner explained the operation of the innovative septic system in detail to the Board.

Ms. Monaghan stated her opinion that the proposal is difficult to approve.

Mr. Kroner asked for more information regarding the functions and values of the wetlands on the property. Mr. Harned asked for clarification regarding the current conditions of the lot.

Mr. Glendon stated the lot is essentially in its natural state. The middle of the lot was clear cut approximately 15 years ago. The lot has since filled in with vegetation.

Mr. Denner explained that the wetlands are classified as poorly drained soils which are saturated soils and drainage areas. However, it is not so wet that trees cannot grow there. There are trees growing in this area. The type of wetlands is not stunting the growth of vegetation.

Mr. Harned opened the public hearing at 9:38pm. No comments were made. Mr. Harned closed the public hearing at 9:39pm.

Mr. Wilson moved that the Planning Board approve Conditional Use Permits associated with Section 501 Wetlands Conservation District as represented in the application and plans presented to the Board to allow the following:

- 1. A driveway to be constructed 20 feet from the wetlands at its closest point where a 100 foot structure and impervious surface setback and a 25 foot vegetative buffer setback from wetlands are required,**
- 2. A single family residence with an attached garage to be constructed 50 feet from the wetlands at its closest point where a 100 foot structure and impervious surface setback from wetlands is required, and**
- 3. A septic system to be constructed with an effluent disposal area 51 feet from the wetlands at its closest point where a 75 foot setback from wetlands is required and a raised slope 36 feet from the wetlands at its closest point where a 100 foot structure and impervious surface setback from wetlands is required.**

The Conditional Use Permit approvals are subject to the following conditions:

- 1. The driveway shall be constructed with a pervious surface.**
- 2. The septic system shall be constructed as an innovative septic system with performance features equal to or better than the septic system indicated in the application and plans presented to the Board as determined by the Town of North Hampton Septic System Examiner.**
- 3. Applicant shall submit evidence of receipt of all required federal, state, and local permits including, but not limited to, driveway and subsurface system approvals.**
- 4. All fees incurred by the Planning Board including, but not limited to, consulting, engineering, and legal fees, have been paid by the applicant.**
- 5. There shall be no changes to the approved plan except to meet these conditions of approval.**

Second by Mr. Kroner. The vote was 4-1 in favor of the motion with Ms. Monaghan opposed.

IV. Other Business.

1. Minutes.

Mr. Harned presented the minutes of the December 20, 2022 meeting.

Mr. Milner stated that the approval of the December 15 site walk minutes was not included in the December 20 minutes. He requested that the minutes be amended to correct this omission.

Ms. Monaghan moved that the Planning Board accept the minutes of the December 20, 2022 meeting as amended by Mr. Milner. Second by Mr. Wilson.

The vote was unanimous in favor of the motion (5-0).

The meeting was adjourned at 9:52pm without objection.

Respectfully submitted,

Rick Milner
Recording Secretary

APPENDIX A

2023 PROPOSED ZONING ORDINANCE AMENDMENTS Changes in RED or STRUCK OUT

SECTION 603 CONSERVATION SUBDIVISION DESIGN *3/11/2008, 3/14/2023

603.1 Authority

A. This ordinance is adopted pursuant to RSA 674:21.II which states that an innovative land use control ordinance may provide for administration of the ordinance, including the granting of conditional or special use permits, by the Planning Board.

B. All subdivisions governed by this ordinance shall require the issuance of a Conditional Use Permit by the Planning Board. The conditions that must be satisfied in order for the permit to be issued are all of the individual provisions of this ordinance. Requests for waivers from individual provisions of this ordinance must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.

C. Any person aggrieved by a Planning Board decision on a Conditional Use Permit may appeal that decision to the Superior Court, as provided for in RSA 677:15 or to the Housing Appeals Board as provided by State of NH RSA 679:5. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

603.2 Purpose and Objectives

The purpose of this regulation is to permit the implementation of innovative land use controls that preserve North Hampton's rural character and environmentally sensitive elements and that allow Conservation Subdivision design. The purpose of this Article is to:

A. Sustain the scenic quality and visual character of the town;

B. Promote the conservation, protection and sound management of the natural resource base; provide flexibility, creativity and efficiency in the location and design of residential developments, roads, facilities and infrastructure;

C. Encourage the permanent preservation of open space, agricultural and forested land, other natural resources including water bodies and wetlands, and historical and archeological resources;

D. Reduce sprawl by requiring a more efficient form of development that consumes less open land and conforms better than a conventional or grid subdivision to existing topography and natural features;

E. Enhance the quality of life by ~~increasing~~ preserving open space and the public's access to land for walking and aesthetic enjoyment;

F. Promote a natural system of storm water management to minimize erosion and encourage aquifer recharge;

G. Implement the first General Principle of "A Vision for North Hampton" in the Master Plan of the Town of North Hampton: ~~"As the state and region develop in the future, North Hampton should maintain its rural New England seacoast character and heritage."~~ "Maintain and protect rural New England seacoast character, heritage, and natural resources."

603.3 Applicability

A. This article represents an alternative development option for residential subdivisions. An applicant may choose to follow the provisions of this article instead of submitting an application for residential subdivision development that would be governed by Section 203.1-12, Yard and Lot Requirements, for the Town of North Hampton Zoning Ordinance.

B. This Article may be ~~utilized~~ used in all zoning districts in the Town of North Hampton, including the

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I-B/R District, but this Article only applies to **single family** residential **dwelling** subdivisions. **At the sole discretion of the Planning Board, the Planning Board may approve the use of duplexes for some or all of the residential units in the Conservation Subdivision provided the resulting Conservation Subdivision is found to be consistent with the spirit and intent of this Article, as expressed in Section 603.2 Purpose and Objectives. # This Article** does not apply to applications for site plan review for commercial, industrial, or retail development.

603.4 Subdivision approval required

A Conservation Subdivision shall require Planning Board approval. If an applicant chooses to utilize this optional residential subdivision development ordinance, then the application for approval shall comply with the Planning Board's subdivision regulations and procedures and the following requirements:

A. Preliminary Consultation: The Planning Board shall require a Preliminary Conceptual Consultation. ~~At or prior to this meeting~~ **In accordance with the Planning Board schedule**, the applicant shall submit a Sketch Plan. This should be done before any engineering needed for preliminary or final plans is begun. During the preliminary consultation, the Board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan and basic requirements for the submission of a subdivision application.

B. Design Review: The Planning Board shall require a Design Review. ~~At or prior to this meeting~~ **In accordance with the Planning Board schedule**, the applicant shall submit a site analysis showing the surrounding area and the physical features and character of the site as specified by step one of the four-step design process. The design review may include more specific design and engineering details than the Preliminary Consultation and should include the four-step design process described in Section 603.10 below. Design review requires notice to abutters and other parties as identified in RSA 676:4, I(d). The Preliminary Consultation and the Design Review shall be separate and apart from formal consideration of the plan, and the time limits for the Board to act on a plan shall not apply until the formal application is submitted.

C. Density: ~~The To determine the number of single family dwelling and/or duplex dwelling lots allowed in a Conservation Subdivision, the applicant shall submit a Yield Plan or Density Calculation, which shall be evaluated by and acceptable to the Planning Board. In addition to meeting all the requirements of a Conventional Subdivision, see Section 603.11.U Yield Plan, the Planning Board, at its sole discretion shall determine that the Yield Plan is a realistic concept and meets the spirit and intent of the Conventional Subdivision Regulations for the underlying zoning district.~~

D. Maximum Density: ~~"Maximum Density" means the total number of dwelling units permitted on the Parent Lot after subdivision.~~ The Maximum Density, or maximum number of lots, in a subdivision under this ordinance shall not exceed the density for a **Conventional Subdivision** permitted in the underlying zoning district. The Planning Board may approve a Conservation Subdivision Design with the number of ~~house~~ **single family dwelling and/or duplex dwelling lots** allowed pursuant to the determination of Maximum Density, provided that the number of resulting ~~house~~ **single family dwelling and/or duplex dwelling** lots can be established on the Parent Lot **according to the requirements of a Conventional Subdivision.** The allowable **Conservation Subdivision** density shall never exceed the ~~permitted Conventional Subdivision~~ density in the underlying zoning district.

603.5 Criteria

In evaluating the acceptability of proposed Conservation Open Space area(s), the Planning Board shall consider the extent to which the location and design of the area achieves these objectives:

A. Master Plan. The proposed development will be consistent with, and comply with, the general purpose, principles, goals, objectives, standards and provisions of the North Hampton Master Plan.

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B. Accessibility of Open Space. The suitability of all Conservation Open Space shall be determined by the size, shape, topography and location for the proposed purpose, and shall be accessible to all intended users. Undivided Conservation Open Space shall be directly accessible to the largest practicable number of lots within the conservation subdivision.

C. Ecosystem Function and Habitat Integrity. Subdivisions shall be designed around both the Primary and Secondary Conservation Areas to conserve large enough contiguous blocks of land to retain ecosystem function and habitat integrity.

D. Minimize Alteration of Natural Features. The individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural, cultural and/or historic site features, and shall take those features into account in the placement of all structures.

E. Narrow open-space strips shall not be permitted unless the incorporation of the open-space strips provides a logical and practical link to, or expansion of, either existing or planned adjacent preserved open space, water bodies, watercourses, or trails, or serves to provide protection for natural resources. **For the purposes of this Ordinance, “narrow” shall be defined as any parcel that has any dimension of less than 100 feet.**

F. Avoid Fragmentation. Efforts shall be made to minimize fragmentation of habitats and to provide corridors for wildlife movement among habitats.

G. Interconnected Open Space. Preserved Open Spaces shall be interconnected wherever possible to provide a continuous network of open-space lands within and adjoining the development. This includes connecting with preserved open space adjacent to the property.

H. Common Open Space shall be free of all structures except those permitted by the Planning Board as appropriate to the objectives of this ordinance and the welfare of the inhabitants of the subdivision.

603.6 Flexibility

A. Although this ordinance is designed to encourage flexibility and creativity consistent with the Conservation Subdivision Design concept, the following minimum standards shall apply.

1. **For single family dwelling units,** the minimum frontage required shall be 100 feet. The minimum lot width shall be 60 feet. No two single-family dwellings may be closer than 30 feet apart. Side setbacks shall be a minimum of 15 feet, and rear setbacks shall be a minimum of 10 feet. Front setbacks shall be a minimum of 30 feet.

2. **For duplex dwelling units, if approved by the Planning Board (cf., 603.3.B above), the minimum frontage required shall be 150 feet. The minimum lot width shall be 90 feet. No two duplex dwelling units may be closer than 45 feet apart. Side setbacks shall be a minimum of 20 feet, and rear setbacks shall be a minimum of 15 feet. Front setbacks shall be a minimum of 30 feet.**

3. The subdivision shall meet all other dimensional criteria of the zoning ordinance and subdivision regulations except as specified in this Article.

B. No lot shall be permitted that will not provide adequate water supply or support a septic system, including a recharge area, except in a Conservation Subdivision for which a community water and/or septic system has been approved and approved by all agencies and boards with jurisdiction.

C. Upon written request by the applicant, the Planning Board may grant a waiver of one or more of the provisions of this Article as it deems appropriate, providing the Planning Board first shall determine the

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following:

1. The waiver is related to unique physical conditions peculiar to the proposed subdivision;
2. Granting the waiver will not be contrary to the purposes and objectives of this Article; and
3. Granting the waiver will not adversely affect the public good.

603.7 Conservation Open Space Requirements

A. A minimum of 50% of the Buildable Area of the Parent Lot shall be included as Conservation Open Space.

B. Conservation Open Space land shall not be further subdivided or developed.

C. Except for easements for utilities, Conservation Open Space land shall not be used other than for Low Impact Recreation, conservation or agricultural purposes.

D. Notwithstanding the preceding paragraph, other uses or structures may be permitted by the Planning Board if it finds the uses in accord with this Article, its Purpose and Objectives.

603.8 Ownership of Conservation Open Space Areas

Permanent provisions for the use, ownership, and maintenance of the Conservation Open Space shall be required by the Planning Board as a condition of approval in accordance with the Subdivision Regulations.

603.9 Protection of Conservation Open Space Areas

A. All Conservation Open Space and included facilities shall be permanently protected by covenants, conservation easements, and/or deed restrictions running with the land. All such instruments shall be reviewed by Town Counsel and reviewed and approved by the Planning Board before any conveyance of individual lots to landowner(s). The Town shall hold an Executory Interest in any such easements.

B. Pursuant to RSA 674:21-a, the open space conservation area designation required by this ordinance shall be deemed to create a conservation restriction as defined in RSA 477:45.I which shall run with the land, and shall be enforceable by the municipality, or by the owner of any property which would be specially damaged by the violation of such restriction, regardless of whether any deed or other instrument conveying such restriction has been executed or recorded. An applicant's statement of intent to restrict development, submitted with or contained in an application that is subsequently approved shall be deemed a condition of the approval. The requirement for this statement is in addition to the requirements stated above in this ordinance for a recorded easement and deed.

603.10 Four-Step Design Process

The applicant shall follow the four step design process, described below, when submitting the design for the subdivision. This four-step process shall be initiated at the design review stage and continued through the formal submission and review of an application with a full plan set.

The four-step design process includes the following elements:

A. Step One: Identify Natural Resource Areas and methods to protect these areas

1. Identify natural resource areas including wetlands, floodplains, steep slopes greater than 15 percent, surface water areas and groundwater resources including aquifers and wells, and existing conservation lands owned by the town or by a state or local conservation organization or a private entity.

2. Reference the ~~"Conservation Audit and Stewardship Plan" by Christopher Kane, March 2007, NH Estuaries Project,~~ 2021 Town of North Hampton "Natural Resource Inventory." and or subsequent amendments as it pertains to the parcel being developed and abutting parcels.

3. Identify methods such as erosion and sediment control measures, riparian buffers, and protection of

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trees during the construction process to protect these resources from the impacts of development.

4. Where possible, ~~utilize use~~ on-site infiltration of storm water to minimize runoff to abutting properties.

B. Step Two: Locate the ~~House Sites~~ Building Areas

Locate potential building areas that take into account areas identified in step one and information on topography and soils.

C. Step Three: Design Street Layout and Trails or Sidewalks

1. Locate proposed streets and proposed trails or sidewalks in the development.
2. Incorporate wildlife-suitable culverts such as square or box culverts with a natural surface bottom to minimally disrupt wildlife habitat and passage.
3. Locate trails to connect with existing trail systems and provide sidewalks when necessary to connect with existing sidewalks and ensure pedestrian safety.

D. Step Four: Draw Lot Lines

Lot lines shall delineate boundaries of individual lots and shall be reasonably configured to provide clarity of ownership and ample space for the location of wells, septic systems, and other utilities as well as a building envelope for a single family ~~home dwelling and/or duplex dwelling units~~ and a driveway ~~or driveways~~. Driveway locations shall be shown on all plans.

603.11 Definitions

A. Adjusted Tract Acreage: The area of a parcel of land that remains after the Primary Conservation Areas have been subtracted. Note that it may contain Unbuildable Land – that is, land, for example, that was not buildable in the Parent Lot and that was not included in Conservation Open Space Areas.

B. Buildable Area or Buildable Land: The land area remaining from the Adjusted Tract Acreage when all Unbuildable Land is subtracted. It is the acreage on which density shall be based for both conventional and Conservation Subdivisions.

C. Common Open Space: Land within or related to a Conservation Subdivision development that is not individually owned, but may be fractionally owned by individual members of the development, and that is designed and intended for the common use or enjoyment of residents of the development or the public. Common Open Space is distinct from and does not include Conservation Open Space.

D. Conceptual Consultation: Non-binding discussions between a project developer and the Planning Board as provided in RSA 676:4 II. Conceptual consultation allows Board members to voice their concerns and suggestions about a proposed project without the necessity of providing formal public notice and is not subject to the normal time limitations on Planning Board review and approval of subdivision applications.

E. Conservation Open Space: Land in a Conservation Subdivision development site that is permanently set aside for public or private uses and shall never be developed. All lands within Conservation Open Space are required to be protected by both a permanent conservation easement and deed restrictions that prohibit further subdivision and development and that set other standards safeguarding the site's special resources from changes that are not consistent with the permanent conservation purposes of this Conservation Subdivision ordinance. Primary Conservation Areas are not included in the term "Conservation Open Space." Conservation Open Space in a Conservation Subdivision shall equal at least 50% of the Buildable Area or Buildable Land of the Parent Lot being subdivided under this Article.

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F. Conventional Subdivision Plan: Residential subdivision in which the Parent Lot is divided into ~~house~~ **single family dwelling and/or duplex dwelling** lots and streets, with the only open space being **Unbuildable Land**, typically being undevelopable wetlands, steep slopes, floodplains, and stormwater management areas.

G. Density or Maximum Density: The maximum number of ~~house~~ **single family dwelling and/or duplex dwelling lots** into which a parcel may realistically be subdivided under restrictions in the underlying zoning district. For purposes of ~~calculating determining~~ Maximum Density under a Conventional Subdivision Plan, applicant shall prepare, and the Planning Board shall ~~decide whether to accept results of, either:~~ **approve a Yield Plan with the same number of single family dwelling and/or duplex dwelling lots as the proposed Conservation Subdivision.**

~~1. a Yield Plan or~~

~~2. a Maximum Density Calculation.~~

H. Design Review: As provided in RSA 676:4 II, non-binding discussions beyond conceptual and general discussions that involve more specific design and engineering details than Conceptual Consultation. Design Review may take the form of a visit to the site. The applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, the public, every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat submitted to the Planning Board shall be notified by certified mail, mailed at least 10 days prior to Design Review.

I. Homeowners Association: A private nonprofit association that is established by the developer to manage and support activities of the Conservation Subdivision. Membership in the association shall be mandatory for property owners in the Conservation Subdivision. Individual owners share common interests in open space and/or facilities and are responsible for preserving, managing and maintaining the common property, Common Open Space, and for enforcing certain covenants and restrictions. Articles of Association or Incorporation or any amendments thereto shall be subject to review by Town Counsel and review and approval by the Planning Board. As a condition of approval, the Town of North Hampton shall be granted an Executory Interest in all conservation easements burdening Conservation Open Space in Conservation Subdivisions approved under this ordinance.

J. Low-Impact Recreation: For the purposes of this regulation, this shall include but is not limited to activities such as hiking or birding. It shall not include the creation of formal recreation fields or structures intended for year-round use. For example, ice-skating on a natural pond is permitted, but a year-round ice-skating rink is not.

K. Major Subdivision: A parcel that is subdivided into four or more lots.

~~**L. Maximum Density Calculation:** The following mathematical method of determining the maximum number of house lots that could realistically be created on a Parent Lot:~~

~~1. Deduct from the Adjusted Tract Acreage all Unbuildable Land.~~

~~2. Reduce the resulting acreage by 10% to allow for land required for new streets.~~

~~3. Round to the nearest whole number (0.5 rounds to 1).~~

~~4. Divide this figure by the minimum lot size allowed in the underlying zoning district.~~

~~5. Dividend of "4" above equals the Maximum Density of the Parent Lot for the purposes of Conservation Subdivision.~~

L. Parent Lot: Any lot of record that existed prior to March 11, 2008, the date on which this ordinance went into effect.

M. Preserved Open Space: Open space protected by conservation easement.

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N. Primary Conservation Areas: Land that may not be built on or developed pursuant to Federal, State or local law, which generally includes sensitive areas whose locations are predetermined by the boundaries of wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.); land within the 100-year floodplain; land that is excessively steep (that is, slopes exceeding 15%); or soils subject to slumping.

O. Protected Natural Resource Areas: Shall be consistent with the policies contained in the Open Space, Recreation, and Environmental Resources elements of North Hampton's Master Plan, and shall include areas identified by North Hampton's Conservation Audit and Stewardship Plan, such as, but not limited to: prominent ridgelines, important streams, mature woodlands, aquifer recharge areas, areas with highly permeable ('excessively drained') soil, significant wildlife habitat areas, important upland forest, meadows, pastures, farm fields, archaeological or cultural assets, water quality protection areas, and sections of an ecologically connected matrix of natural areas significant for wildlife habitat.

P. Sketch Plan: A ~~lightly~~ drawn conceptual sketch provided by the applicant at the earliest possible time, well before formally engineered plans are drawn up.

Q. Secondary Conservation Areas: A broad category of open space determined by the Planning Board that may include mature woodlands, prime farmlands, sites of historic, archaeological or cultural interest, or connections to greenways or trails. In delineating Secondary Conservation Areas, priorities shall involve determining more special, unique, irreplaceable, environmentally valuable, historic, or scenic characteristics of the site.

R. Stream Corridors: Areas of land alongside streams designated for public or private access.

S. Tract: An area, parcel, site, piece of land, or property, which is the subject of a subdivision or development proposal and application.

T. Unbuildable Land: Any land area, in addition to a Primary Conservation Area, that is unsuitable for building such as, but not limited to, wetlands, excessively steep slopes (that is, slopes exceeding 15%), rock outcroppings, pre-existing septic fields, pre-existing rights-of-way and utility easements, land under pre-existing permanent easement that prohibits future development, ~~land to be placed under permanent easements (other than a Conservation easement) that prohibit future development and are necessary due to the Conservation Subdivision,~~ and footprints of common recreational facilities.

U. Yield Plan: A plan submitted by the applicant showing a feasible ~~and realistic~~ Conventional Subdivision Plan conforming to all requirements of the specific underlying zoning district in which the property is located. Such plans shall be conceptual in nature and are not intended to require significant engineering costs – that is, engineering costs that are customary for preparing a formal application for subdivision review by the Planning Board. They shall consist of conventional lot and street layouts, shall conform to the Town's regulations governing lot dimensions, buildable land, street design and, if appropriate, parking. The yield plan shall contain information about soil types as well as steep slopes that would limit development. The purpose of the Yield Plan is to determine the maximum number of ~~house single family dwelling and/or duplex dwelling~~ lots that could realistically be created on a tract. ~~*3/11/2008~~

603.12 Existing Ordinances

Nothing contained in this ordinance shall be construed as repealing or modifying any other ordinance or regulation of this Town, except such as may be specifically repealed or modified by this ordinance, but shall be in addition thereto. Nor shall anything in this ordinance be construed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto. Whenever

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provisions of this ordinance differ from those prescribed by any statute, other ordinance or other regulation or restriction, that provision which imposes the greater restriction or the higher standard shall govern.

603.13 Penalty

Every person, firm or corporation violating any of the provisions of this ordinance shall be subject to all penalties and remedies available under applicable law, including but not limited to RSA 676:17 as same may be amended from time to time.

603.14 Saving Clause

If any Article, section, sub-section, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations.