

PLANNING BOARD
27 School Street
HILLSBOROUGH, NH
November 3, 2021

DATE APPROVED: 11/17/21

TIME: 7:00 p.m. – 8:46 p.m.

MEMBERS: Gary Sparks- Chairman, Susanne White-Vice Chair, Adam Charrette, Ed Sauer, Melinda Gehris, Nancy Egner

EX-OFFICIO: James Bailey III

PLANNING DIRECTOR: Robyn Payson

ALTERNATES: Bob Hansen

Excused: Adam Charrette, Bob Hansen

Public: Leigh Bosse, Tammy Davison, Mark Lawson, Audrey Lawson, Richard Head (Conservation Commission), Ronald Buzzell, Arthur Thibault, Terrance Coleman, Paul Plater, May Egner, Bruce Egner, Kevin McCauley, Tom Carr (Meridian Land Services), Earnie Butler (Highway Director).

Chairman Gary Sparks called the meeting to order at 7:00 PM.

Meeting Minutes 10/20/21

Site Walk Minutes 10/30/21 Susanne White made a motion to approve both sets of minutes. Melinda Gehris seconded the motion. The motion carried with Ed Sauer abstaining.

Subdivision -Public Hearing

216 Bible Hill Rd (Map 11I Lot 50)

Brett M. Davison

Tom Carr of Meridian Land Services updated the Board on the changes to the plan.

Mr. Carr said it was recognized on the Site Walk that a portion of Moore Road had been discontinued. The discontinued section of Moor Road has been split down the middle and annexed to the properties on either side.

Mr. Carr said there was a new note on the plan (#13) pertaining to the Shoreland Protection and Alteration of Terrain issues.

Changes to sheet 2 include corrections to the Right of Way. The restrictive edge of the wetlands has been mapped, and they also located and showed a wetland that had been previously missed on the plan.

The lots have been changed; there was a lot in the middle that couldn't work with the Shoreland Protection Act regulations, so they had to remove it and revise the lot lines.

Mr. Carr moved on to reviewing the Grading Plan. He said Hillsborough does not have any Driveway Regulations, but realistically you know when something is not reasonable.

None of the proposed driveways are over 12% at any given section. The driveways are 10ft wide with 2ft shoulders on each side. There is a 2:1 grading to reduce impacts. He pointed out one driveway that was “super elevated” which means it doesn’t have a crown on it so the driveway will sheet flow off one side. That eliminates having a ditch line on the other side. He said they are demonstrating that these lots meet the subdivision regulations and the zoning ordinance.

He said whatever somebody does to these lots still has to meet the zoning ordinance, but they could do something different than what the applicant is showing. Mr. Carr explained how the houses and septic systems could be moved on the lots. He said they were trying to show the Town what they are proposing is within the confines of the zoning and regulations.

Gary Sparks asked if the Board members had any questions or comments. There being none at that time he opened up the hearing for public comment.

Gary asked Highway Director Earnie Butler if he had any comments. He said he did.

He said he had a question about Moore Rd. He said 8 or 10 years ago they had to line it with “rip rap” because the water comes out of there so fast that it took part of the road out. He pointed out one of the driveways (Lot 2) and said if something isn’t done it will be washed out. The other concern was on the Beard Road lots, the driveways will require 20’ long culverts. He or they were going to have to put in catch basins at the top of the road to catch the water and send it down. He said he didn’t want people down the road getting that big flow of water. He asked if there was something that could be done to turn it toward the woods more. He said once you get the water in a culvert it is going to flow even quicker.

Tom Carr said he did understand water comes down that road. He said they would talk to Mr. Butler to determine what to do. He said that was not something he could commit to without the owner present because this was major infrastructure. Mr. Carr said he would meet with the Highway Director to address the issues.

Gary asked Richard Head if he had any comments.

Mr. Head referred to his letter to the Planning Board. (Attached). He said that the Conservation Commission in the past has made recommendations as to conditions to a plan under consideration. He said that this was the first time since he was Chair that the Commission has recommended against the approval of a plan as submitted. He said they are not saying that there should not be a project on the property, they are just against the plan that has been proposed.

He said if the Planning Board moves forward to approve the development there are significant conditions that should be attached to the approval. Some of the conditions are listed in their letter. There are other conditions that the Conservation Commission is thinking about, but they haven’t met to discuss the site walk yet.

He reviewed the lots on the plan and described the physical challenges the lots presented. He also said there were additional permits that those who purchased the lots would have to obtain. Those could include wetlands and Alteration of Terrain.

He said that developing the property would require tree cutting, moving boulders, and excavating that would cause detrimental impact to the property and put Beard Brook at risk.

He said that the Conservation Commission would like to review any future versions of the plan, but does not feel that this plan is in the best interest of the property.

Melinda Gehris asked about the Alteration of Terrain Permit. She said if she understood it correctly it is “cumulative” so if five people buy the lots they have to work together on the 50,000 sq ft. Richard Head said he was not sure about that.

Tom Carr said there was a “grey area” between developing a subdivision with a roadway with one developer building them. Those would likely fall under the Alteration of Terrain Permit.

What they are not sure about is if someone were to buy three lots and between the three of them the impact was more than 50,000 sq ft. if it would fall under the Alteration of Terrain Permit. He is not sure about that but is looking into it and is discussing it with Ridgely Mauck, P.E. of the Alteration of Terrain Bureau to make sure. What he said he knows is that people buying individual lots, (unless they disturb more than 50,000 sq. ft.) would not fall under Alteration of Terrain.

Melinda said Richard interpreted it differently that it was noted on the plan. Mr. Carr said he believed what was noted on the plan was correct.

Melinda said since there is a very significant difference of opinion and a grey area the Board is going to have to have an Environmental Engineer look at this or talk to Mr. Mauck.

Tom Carr said he would be working with Mr. Mauck on clarifying these thresholds and would be happy to copy Robyn on those discussions. Mr. Head said he would be willing to participate in that as well.

Melinda asked if the portions of the lots that are in the shoreland protection area are excluded from the buildable are of the lot. Mr. Carr said no. Richard Head pointed out that there are significant limitations on building in the shoreland protection area.

Susanne White asked what is excluded from the buildable area. Mr. Carr said steep slopes and wetlands.

Gary Sparks said he noticed on the grading plan the slope on one of the properties is 15%-35% and very stony.

Mr. Carr said the NRCS soils were mapped at a scale of 1-20,000 the scale of mapping on the NRCS map is not intended for this purpose. It's done on a very broad scale and this is why soil scientists have the requirement to do a site specific soil map on any project that needs an Alteration of Terrain permit. He said they have to do an on site soil map with a digital slope analysis and they classify the soils so there would be a lot more soil lines on this map if this was

a site specific soil map. The use of NRCS soil maps is a requirement of DES Subsurface Systems Bureau that goes back to the 70's. It's a carryover that is not a very good rule to carry over.

Gary said 15%-35% slopes caught his attention. If stones or trees are disturbed during development that's a 35% slope for every hundred feet. You are rising 35ft every 100ft.

Mr. Carr said that is not mapped at the right scale.

Susy White said on the site walk, they had discussed having the buildable areas on the map colored in. She asked if Mr. Carr had an opportunity to do that.

Tom Carr said he hasn't because everything on the map that is white is buildable. He said he could color in the steep slopes.

Richard Head said unbuildable steep slopes by the ordinance are determined to be 25%. Slopes 24% - 15% slopes are still pretty steep. He would be identifying what is considered steep slopes according to the ordinance. He pointed out there would be a lot of soil moving on a 12% slope. So the wetlands have been shown, but that doesn't end the conversation.

Tom Carr said he hadn't seen the letter from the Conservation Commission. Robyn made a copy for him and said she would e-mail it to him too.

Mr. Carr said he understands the concerns of the Conservation Commission, but this subdivision meets the requirements of the subdivision regulations and zoning. What they can do is put a note on the plan that each of the lots at the time the septic plan comes in that a stormwater management plan and erosion control plan be submitted. If that was acceptable to the Conservation Commission, they would be happy to put that note on the plan.

Gary Sparks opened the Public Hearing.

Paul Plater asked if on the first lot (corner lot Bible Hill and Moore Road) was wetlands or if its buildable or not buildable?

Tom Carr pointed out the wetlands which were highlighted in green and the location of a culvert. He asserted the lot was buildable.

Mr. Plater said he was not concerned except he wondered if he would need to get shades for his windows.

Bruce Egner asked if the center line on Moore Road was going to be the property line?

Mr. Carr said it was.

Mr. Egner said he thought the property line was the stone wall. Mr. Carr said no, that they own to the center of the road.

Terrence Coleman said the development will affect three sides of his property. He was concerned about where a septic system could end up relative to his property line. He said he is getting his property surveyed because he is concerned about where the line is. He said he has a pipe on his property that outlets at what looks very close to the property line. He asked if water flows on to someone's yard if they could come after him. He was also concerned about the culvert on Bible Hill.

Mr. Carr said he did look at the culvert across his driveway with the Road Agent. It is a stormwater management pipe and there aren't wetlands off it. Water is soaking into the ground and staying on his property, so he doesn't have to worry about it crossing over.

May Egner said asked when the center of Moore Road became their property line.

Mr. Carr said in 1892.

Ms. Egner said that the plan didn't say they owned to the middle of the road, it just said it was discontinued.

Peter Mellen said the old town roads that were laid out in the 1700's and 1800's are easements. The town laid out a road and they had the right to do certain things within the stone walls. Typically, they had the width of the road whether it was 2 or 3 rods. When the town discontinues a road it gives up that easement but the town never owned the land so when the land was subdivided the land under the road probably had one owner. When it was subdivided the road was called for as the lot line. Each owner would own to the middle subject to the Town's easement. When the town gives up that easement the lot line does not change there is just no more easement.

Riche' Colcombe asked for the definition of a Steep Slope. Melinda Gehris read from the regulations that it was a slope greater than 25%.

There being no further comment Gary closed the public hearing.

The hearing was continued to November 17th.

Lot Line Adjustment-Public Hearing

25 & 31 Carr Road

Kevin McCauley

Robyn Payson said there was a waiver letter that needed to be approved in order to accept the application as complete.

Jim Bailey made a motion to grant the waivers in the letter as presented. Ed Sauer seconded the motion. The motion carried unanimously, and the waiver letter was accepted.

Robyn Payson said the application was complete and ready to be accepted.

Jim Bailey made a motion to accept the application. Melinda Gehris seconded the motion. The

motion carried unanimously. The application was accepted.

Peter Mellen presented the application that adjusts the lines of lot 21-1 lines to locate the entire RV Park on one lot.

Ed Sauer asked if the changes would increase the taxes on the property. Mr. McCauley said he had spoken with the assessor, and it would.

There being no other questions from the Board Gary asked for a vote.

Susanne White made a motion to approve the application. Melinda Gehris seconded the motion. The motion carried unanimously.

Subdivision-Re-schedule

Map 12 Lot 152

232 Bear Hill Road

Dan Higginson for Pierre Chabot

Robyn said she had a request from the applicant's representative to move the application consideration to December 1st.

Melinda Gehris made a motion to re-schedule the hearing to December 1st. Jim Bailey seconded the motion. The motion carried unanimously. The application was re-scheduled to December 1st.

WORK MEETING

CNHRPC-Gateway Zone Project

Robyn described the project proposed by the Central NH Planning Commission (see attached) to develop a Gateway Zone. The cost of the project will be \$5000.00.

Melinda Gehris said she was in favor of it but expressed concern about the time the Board would have to work on the project considering the other projects on the Board's plate in 2022. The Board will be working on the "Dark Skies" ordinance, there will be a Wetland's Ordinance and other projects. She was concerned about the Board spreading itself to thin especially with the number of applications that have been before the Board.

Gary said the Board has been busy but said the Planning Commission would be working with the Board and they will not leave the Board hanging.

Susanne White said it is true the Board has been busy, but she thinks this is the time to do the Gateway Zone.

Ed Sauer made a motion that the Board accept the Gateway zoning planning project with CNHRPC. Susanne White seconded the motion. The motion carried unanimously. The Planning Board will work with the Planning Commission to develop a Gateway Zone.

Robyn said the Land Use and Economic Development budget had been accepted by the Selectmen. The \$5000.00 for the Gateway project was included. Also in the budget were the funds for recording decisions. This will be paid for by the applicant.

Town Engineer Scott Bourcier of Gale Associates will be meeting with the Board December 1st at 6:30pm to discuss the review process and fee development.

Cell Tower Application-Procedural Discussion

Robyn distributed to the Board copies of the Conditional Use Permit and Waiver sections of the Telecommunications Ordinance for the Board's use.

She reviewed the application process without discussion about the merits of the proposal. The application will be on the agenda November 17th.

Gary Sparks asked about the possibility of a site walk. Melinda Gehris said that question should wait until the meeting of the 17th.

Susie White made a motion to adjourn. Nancy Egner seconded the motion.

Meeting Adjourned 8:46

Respectfully Submitted,

Robyn L. Payson, Planning Director



**Hillsborough Conservation
Commission**
P.O. Box 7
Hillsborough, New
Hampshire
03244-0007

October 12, 2021

Gary Sparks, Chairman
Hillsborough Planning
Board Town of
Hillsborough, NH 27
School Street
P.O. Box 7
Hillsborough, NH
03244
(via email only to Robyn Payson)

Re: Brett Davidson Subdivision
Application Map 11I, Lot 50

Dear Chairman Sparks:

I am writing on behalf of the Hillsborough Conservation Commission to provide our comments to the subdivision plan submitted by Brett Davidson. As is described in more detail below, the Conservation Commission recommends the project be denied as submitted. This letter is being submitted at this time in light of the October 13, 2021 deadline we were given for comments. If the Applicant submits a revised proposal, the Conservation Commission would like the opportunity to review any such modification and submit any further recommendations based on the updated plans.

The proposed subdivision raises significant concerns regarding (1) the potential for pollution of Beard Brook from stormwater runoff associated with the development within the proposed subdivision and (2) the loss of wetland functions and values due to direct and indirect impacts. The loss of wetland functions and values would further exacerbate the potential for impacts to Beard Brook associated with stormwater runoff.

I Town Subdivision Regulations

A Purpose

This application is governed by Chapter 201 of the Town Code. These regulations have the stated purpose “of protecting the health, safety and general welfare and to provide for the

harmonious development of the Town of Hillsborough and its environs.” §201-1. The regulations also state that “[t]he purpose of these regulations is *to foster the development of an economically and environmentally sound and stable community* and to safeguard and protect the people of the Town of Hillsborough, the taxpayers, and the public from the consequences of improper subdivision, planless growth and haphazard development by:... (b) Protecting abutting and neighborhood land uses, interests, values and concerns through harmonious development of

the Town *and its environs*; ...*(d) Promoting and protecting the amenities of the Town through provisions for parks, playgrounds and other recreation areas and the preservation of the environment, natural beauty, trees, wetlands, lakes, ponds, bogs, streams and rivers, wildlife habitat and other natural and historic resources, values and features.*” §201-1, emphasis added.

Because the pending application is limited to a subdivision plan without any plan of development, the Conservation Commission assumes each lot will be sold to individual landowners, who will themselves be responsible for obtaining all permits and approvals for development on a lot-by-lot basis. It is, therefore, imperative that the Planning Board review this application with those future landowners in mind, and what limitations those new landowners may face as they attempt to develop their individual lots. Each lot is affected by some combination of legal restrictions and features which the Board should consider when considering the subdivision application. Those legal restrictions and features include the Shoreland Protection Act; the Wetlands Act; Alteration of Terrain regulations; flood zone limitations; and the slope of each lot. It is unusual to see such an array of environmental issues in a single application. This diversity of issues should give the Board pause. As such, the Conservation Commission recommends the Board obtain the services of experts who can help the Board understand the potential impacts development of each of these lots would cause, and work with the landowner to implement a less impacting subdivision design.

B Site Plan Violates Definition of Buildable Area

Section 201-2 defines “Buildable Area” as follows:

BUILDABLE AREA -- A contiguous area within a lot exclusive of road rights-of way and other easements, surface waters, wetlands, areas of steep slope exceeding 25%, and areas within a federally designated one-hundred-year floodplain. The buildable area is the portion of a lot upon which any building may be placed, in conformance with the Hillsborough Zoning Ordinance

Proposed lots 50-3, 50-5, 50-6, 50-7, and perhaps 50-2 have space designated on the plan as buildable but are not contiguous, being separated by wetlands which are not considered buildable. As such, the subdivision plan as currently proposed does not comply with the Town’s subdivision rules.

I Site Conditions

The Site has four dominant features that could impact environmental and ecological conditions on the site: (1) wetlands; (2) shoreland protection zones; (3) slope; and (4) lot size. Each is discussed in more detail.

Each of these factors presents a compounding risk to the ecology and environment of the site and presents a risk of negative impacts to Beard Brook, a culturally and environmentally significant resource. The proposed lots along Beard Road are all, in part, within the Beard Brook Protected Shoreland. There is a complex network of wetlands on all eight of the proposed lots. Impacts to these wetlands will reduce the ability of the land to absorb rainwater and filter pollutants and reduce their ecological value. The lots also are located on the side of a steep slope. While the Town regulations exclude from the definition of Buildable Area land on slopes exceeding 25%

(§201-2), slopes that approach 25%, when disturbed, present an increasing risk of erosion and contamination of surface waters and wetlands. Finally, the small lot sizes increases the density of development on those steep slopes, further increasing the risk to Beard Brook and the wetlands throughout the lots.

A Wetlands

All eight of the proposed lots have significant wetland coverage. Wetlands are essential components of a healthy ecosystem and provide improve the quality of life for residents. As described by the New Hampshire Department of Environmental Services (“NHDES”):¹

In addition to their economic value, New Hampshire’s wetland resources are of great importance for flood control, water quality, water storage and recharge for both groundwater and surface waters. These functions are more valuable with the expected increase in frequency and severity of storm events associated with climate change. Wetlands also support the food chain, providing food and habitat for a variety of aquatic and upland plants and wildlife....

It is found to be for the public good and welfare of the State of New Hampshire to protect and preserve both tidal and fresh waters and its wetlands (including lakes, ponds, rivers, streams, marshes, forested wetlands and peatlands) from unregulated despoliation because of the important functions and values that these aquatic resources provide, such as:

- Absorbing flood waters.
- Treating stormwater.
- Recharging groundwater supplies.
- Providing habitat for fish and wildlife.
- Providing economic and recreational value.

Each of the lots, as proposed, have wetlands that could be directly and/or indirectly impacted by future lot development. Although the applicant has not presented a development plan, the subdivision is being proposed for residential development. Thus, features that will eventually dominate these lots include driveways, houses and lawns. Those features will either directly impact wetland functions and values by virtue of construction that directly impacts wetlands, or indirectly through the flow of sediment and, after development, the flow of fertilizers and chemicals into the wetlands and, ultimately, impacting Beard Brook.

Because this application is a subdivision only, with no construction proposed at this phase, there will be no NHDES Wetlands Bureau review of this application. Thus, it is imperative that the Planning Board consider potential impacts to wetlands in its evaluation of the plan and, if approved, place conditions on any future development of these lots to protect wetland functions and values. The Applicant has not made any effort to show that the lot locations and sizes have

¹ See <https://www.des.nh.gov/water/wetlands#:~:text=In%20addition%20to%20their%20economic%20value%2C%20New%20Hampshire%E2%80%99s,severity%20of%20storm%20events%20associated%20with%20climate%20change.>

been designed in such a way as to minimize impacts to wetlands when they are ultimately developed for housing.

NHDES has published guidance on Wetlands Best Management Techniques for Avoidance and Minimization (“Wetlands BMP”).² The first step to avoidance and minimization comes with the design and layout of the subdivision. Chapter 3 of the Wetlands BMP discusses the subdivision stage of wetlands protection. A copy of Chapter 3 is attached to this letter. The guidance states, in part, that NHDES recommends that the following items are considered when determining how to best avoid and minimize wetlands impacts through alternative designs.

- Configure the lots to completely avoid wetland encroachment.
- Reduce the number of lots to avoid wetland disturbance.
- Provide adequate yard space for future homeowners to add a deck, shed or pool to their property without impacts to adjacent wetlands.

The Conservation Commission recommends that the applicant provide alternative subdivision layouts that are designed to minimize impacts to wetlands. Should the Board ultimately approve the application, however, the Conservation Commission recommends explicit conditions be placed on the approval in order to give notice to all future purchasers of the lots of the conditions that the Board would like to see on lot development. The Conservation Commission’s recommended conditions are described at the end of this letter.

B Shoreland Protection

As is shown in the Applicant’s site plan, proposed Lots 4 through 9 all have a portion located within the 250’ shoreland buffer and proposed Lots 4 through 8 each have a portion located within the 150’ shoreland buffer.

RSA 483-B:8, V(b) describes the 150’ shoreland buffer as the “Woodland Buffer.” Within the Woodland Buffer, the statute provides as follows:

The woodland buffer shall be those protected shorelands within 150 feet of the reference line. The purpose of the woodland buffer shall be to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland. ...

(2)(A) On a given lot, at least 25 percent of the woodland buffer area located between 50 feet and 150 feet from the reference line shall be maintained as natural woodland. The vegetation, exclusive of lawn, within the natural woodland shall be maintained in an unaltered state or improved with additional vegetation.... The percentage of the woodland buffer area maintained as natural woodland on nonconforming lots shall not be decreased. In addition, the commissioner of the department of natural and cultural resources may order vegetation on lands or properties owned by, leased to, or otherwise under the control of the department of natural and cultural resources within the protected shoreland to be cut when overgrowth of vegetation impairs law enforcement activities

² Available at <http://neiwppc.org/wp-content/uploads/2019/03/Wetlands-BMP-Manual-2019.pdf>.

and endangers public safety. If such cutting will exceed that which is allowed under this subparagraph, the commissioner of the department of natural and cultural resources shall provide written notification to the department of environmental services identifying the areas to be cut and an explanation of the need for the cutting at least 2 weeks prior to the undertaking.

NHDES requires that “no person shall commence construction, excavation, or filling activities within the protected shoreland without obtaining a permit from [NHDES] to ensure compliance with RSA 483-B” unless subject to the exceptions under the Act. A permit by notification can be filed if the project meets the requirements of RSA 483-B:5-b.

While it is likely that construction within the Protected Shoreland will be limited to driveway construction, the impervious surfaces associated with those driveways will likely trigger a shoreland permit requirement.

Should the Board decide to grant the application, the Conservation Commission recommends that the plan include a notation that the lots within the Protected Shoreland may require a Shoreland Protection Act permit from NHDES. This is to ensure that future purchasers are fully appraised of what may be required as they perform their due diligence before making a lot purchase.

C Slope

The site plan submitted with the subdivision application depicts those slopes that exceed 25% with shadings. The Town’s subdivision regulations excluded from the definition of Buildable Area those slopes that exceed 25%. §201-2. That does not mean, however, that the Board should ignore the slopes that are 25% or less. While the Conservation Commission does not have the internal expertise to provide the Planning Board with advice as to the risks presented by the soil type and slope of the proposed lots, the Conservation Commission recommends that the Planning Board consult with an engineer to get a better understanding of the risks presented by the development of these eight lots.

D Lot Size

The proposed lots comply with the minimum lots sizes within the Residential Zone. That, however, is not the end of the analysis by the Board. The New Hampshire Supreme Court has rejected the argument that a planning board has no power to disapprove a subdivision plan when lot sizes in the plan conform to zoning requirements. *See Patenaude v. Town of Meredith*, 118 N.H. 616, 621 (1978) (“In the present case the board properly looked beyond the issue of zoning compliance and considered both the community’s future need of open recreational space and the current and future fitness of the land for building purposes.”).

The small lot sizes with steep slopes simply compounds the risks to wetlands and water quality in Beard Brook. Small lot sizes results in higher density development. The small lot sizes simply compounds the risks created by the steep slopes to the extensive wetland network and Beard Brook.

In addition, the 75’ water well protective radius of four of the lots would cross property lines and wetland boundaries. Attached is a copy of NHDES’s 2021 Fact Sheet *Site Selection for Private Drinking Water Wells* which includes a water well setback chart, reproduced below:

| RESIDENTIAL DRINKING WATER WELL LOCATION SETBACKS | | Notes: |
|--|------------------------|---|
| Entity | Setback (ft.) | |
| Effluent Disposal Area (leach field/bed) | 75 ¹ | ¹ NHDES site visit and approval required for wells within 25 feet of an effluent disposal area. |
| Septic Tank | 75 ² | |
| Property Boundary | 75 | ² Setback can be 50 feet if SDR 26 pipe is used and the tank is plastic or coated with a sealant to prevent infiltration and exfiltration. |
| Livestock Pen | 75 (100 for dug wells) | |
| Automobile Salvage Yard | 75 | ³ The burial of on-site tree stumps is not considered solid waste if greater than 75 feet from a well. As such, wells must be 75 feet from stump burial sites. |
| Underground Storage Tanks (containing gas or diesel fuel) | 250 | |
| Storage of Regulated Substance (except gas or diesel fuel) | 75 | ⁴ A well that is constructed within 50 feet from a state highway right-of-way or in a location that does not allow or provide for adequate surface drainage is not eligible for DOTs well replacement program. |
| Solid Waste Disposal Site | 75 | |
| Bulk Storage of Material (ex. fertilizer, manure, salt) | 75 | ⁵ Under certain conditions the distance to septic system components to water supply lines may less than 50 feet. Contact NHDES for site-specific information. |
| Stump Dump | 75 ³ | |
| State Highway Right-of-Way | 50 ⁴ | ⁶ 50-foot setback required from all surface waters including inundated wetlands, bogs, and swamps. |
| Sewer Component | 50 ⁵ | |
| Surface Water / Swamp | 50 ⁶ | ⁷ Setback reduction requirements must be followed if a road surface is within 75 feet of the well. |
| Public Road Surface | 75 ⁷ | |
| Other Sources of Contamination | 75 | |

It is well within the Board’s authority to evaluate whether these lots, as proposed, are fit for development. The Conservation Commission does not believe that the applicant has taken steps to minimize potential impacts or maximize the fitness of the subdivision for development within the Town.

Alteration of Terrain

Another consideration for the Board is whether the development of the proposed lots would trigger review by NHDES under its Alteration of Terrain (“AOT”) program. NHDES Rule Env-Wq 1502.58 defines “*significantly alter the characteristics of the terrain*” to mean “an area that, over a 10 year period, cumulatively exceeds ... 50,000 square feet of contiguous area if any portion of the disturbance is within the protected shoreland as defined in RSA 483-B.” Since, at a minimum, driveways will be developed within the Protected Shoreland, the 50,000 square foot rule could come into play as these lots are developed. Further inquiry should be made with NHDES regarding the effect the AOT regulations may have on future lot owners as they undertake development of the lots. If the AOT program is triggered, the cumulative cost of development to future owners would be significant.

Conditions

Should the Planning Board approve the application, the Conservation Commission recommends that the Board explicitly state the conditions any future lot development would be subject to.

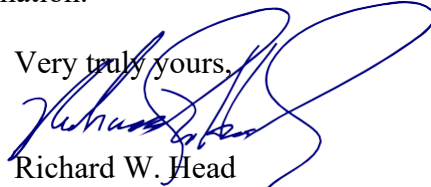
These conditions are designed to foster the development of an economically and environmental sound and stable community, and to promote the preservation of the environment. The conditions should provide future lot owners with a roadmap of what is and is not allowed on these properties. The conditions recommended by the Conservation Commission include:

- No impacts to wetlands.
- Preservation of existing features. Suitable steps shall be taken to preserve and protect features, such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks. §201-3(C).
- No lawn fertilizer use on the lots.
- No more than X% of each lot can be cleared (percentage to be developed on each lot in consultation with an engineer to maximize protection to wetlands and surface waters and to minimize sediment flow).
- Utilization of appropriate sediment barriers to prevent sediment flow into wetlands during construction and to prevent sediment flow off each lot during development.

In light of the relatively limited period of time the Conservation Commission has had to review the proposed subdivision design, the Conservation Commission reserves the right to submit further comments as the project is reviewed by the Planning Board.

Thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions or require any further information.

Very truly yours,



Richard W. Head
Chair, Hillsborough
Conservation Commission

Attachments: Chs. 1-3, Wetlands BMP

NHDES's 2021 Fact Sheet *Site Selection for Private Drinking Water Wells*

Central New Hampshire Regional Planning Commission
28 Commercial Street Concord, NH 03301
Telephone: (603) 226-6020 Fax: (603) 226-6023 www.cnhrpc.org

October 25, 2021

Ms. Robyn Payson, Planning Director Town of Hillsborough
P.O. Box 7, 27 School Street Hillsborough, New Hampshire 03244

Subject: Gateway Zoning District Planning Process Dear Rob yn:

To follow up our previous discussions related to implementation of the 2018 Master Plan, the following is a proposal for CNHRPC staff assistance related to the potential establishment of a Gateway Mixed-Use District along NH Route 9. As you know, the Master Plan's Implementation Chapter included the consideration of a Gateway Mixed-Use District as a High Priority with a timeframe of 2-5 years from the Master Plan's 2018 adoption. Specifically, the Implementation Chapter includes the following description:

Establish a Gateway Mixed-Use District, spanning from the Historic District west to the wetland and stream opposite of Marina Road, to emphasize high-quality, attractive, and relatively dense development determined by the ability to extend municipal water and sewer service to this area.

We have learned from past experience that the consideration of new zoning districts such as a Gateway Zone require a great deal of public outreach and ample time for the Planning Board to consider and discuss potential uses, boundaries and other issues. To do so, we would recommend a project start in April 2022 in preparation for Town Meeting 2023.

The overall budget for the project is \$7,500. We propose to utilize a \$2,500 match to lower the Town's overall cost of the project to \$5,000. CNHRPC staff would be responsible for developing draft and final ordinance language, preparing all mapping, and supporting the public process.

I would be happy to meet with the Planning Board to discuss the project further. Please call me with any questions.

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Michael Tardiff Executive Director