



Planning Board – November 27, 2017, 6:30PM
City Hall Council Chambers – 3 Washington Street, 2nd floor

AGENDA

- I. **Call to Order** – Roll Call
- II. **Minutes of Previous Meeting** – October 23, 2017 Meeting
- III. **Continued Public Hearings**
 1. **SPR-11-17 – Water & Grove Streets – Site Plan** – Applicant Wendy Pelletier of Cardinal Surveying & Land Planning, on behalf owners, Jeanette Wright and Michael Lynch, proposes a commercial parking lot. The site is 4,635 SF in size and located in the High Density Zoning District (TMP# 028-03-011). The Applicant is requesting a Waiver from Development Standard #8 “Screening.”
 2. **SPR-13-17 – Emerald Street Substation – Site Plan** – Applicant VHB on behalf owner Public Service of NH dba Eversource proposes to rebuild the existing substation at the west end of Emerald Street. A Surface Water Protection Conditional Use Permit Application is included in this submission (SWP-CUP-2017-01). The site is 2.52 acres in size and located in the Commerce & SEED Zoning Districts (TMP# 047-03-009). The Applicant is requesting a waiver from Planning Board Development Standard #19, “Architecture and Visual Appearance.”
- IV. **Public Hearings**
 1. **S-10-17 – 37-39 Prospect Street – Subdivision** – Applicant Fieldstone Land Consultants on behalf of owner Michael and Fern Geraghty proposes a 2-lot subdivision. The site is 0.523 acres in size and located in the Medium Density Zoning District (TMP# 008-03-022).
- V. **New Business**
 1. Discussion – Site Plan Regulations and Review for Agricultural Developments
- VI. **Director Reports**
 1. DRAFT 2018 Planning Board calendar adoption
 2. Move December 25th meeting to December 18th
- VII. **Upcoming Dates of Interest – December 2017**

Planning Board Meeting – December 25, 6:30 PM
Planning Board Steering Committee – December 12, 12:00 PM
Joint PB/PLD Committee – Monday, December 11, 6:30 PM
Planning Board Site Visits – December 20, 8:00 AM – To Be Confirmed

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**CITY OF KEENE
NEW HAMPSHIRE**

**PLANNING BOARD
MEETING MINUTES**

Monday, October 23, 2017

6:30 PM

Council Chambers

Members Present

Gary Spykman, Chairman
Douglas Barrett, Vice-Chair
Mayor Kendall Lane
Andrew Bohannon
Martha Landry
Councilor George Hansel
Pamela Russell Slack
Chris Cusack
Nathaniel Stout

Members Not Present:

Tammy Adams, Alternate
David Webb, Alternate

Staff:

Rhett Lamb, Asst. City Manager/Planning
Director
Tara Kessler, Planner
Michele Chalice, Planner

I. Call to order – Roll Call

Chair Spykman called the meeting to order at 6:30 PM and roll call was taken.

II. Minutes of previous meeting – September 25, 2017

Planning Board Meeting

A motion was made by Mayor Kendall Lane to accept the September 25, 2017 meeting minutes. The motion was seconded by Councilor George Hansel and was unanimously approved.

III. Advice & Comment

1. **Monadnock Food Co-Op, Phase 2 – To discuss plans for the expansion of the building owned by Cypress Street Development, LLC at 34 Cypress Street and leased to the Monadnock Food Co-Op.**

Mr. Jack Dugan of Monadnock Economic Development (MEDC), Mr. Michael Faber, Manager of the Food Co-op and Katie Sutherland architect were the presenters.

Mr. Dugan stated the Food Co-op, since its inception, has been very successful. To that end, they are now in need of more retail space and office space. What the applicant is looking for is a 4,900 square foot building addition but this requires parking accommodations to be made to the Railroad land to accommodate this type of expansion.

Mr. Dugan referred to a plan and referred to the Clark Mortenson parking spaces, city spaces, Food Co-op and Cheshire Medical Center spaces, which are located to the south of the Food Co-op building. The expansion to the north cannot happen because of the bike path, and it can't happen to the west because they are right up against the property line. Expanding towards the south would cut into the driveway and parking area. Hence, the only rational way to expand would be to the east.

A larger building would also require more parking. Mr. Dugan explained that they are planning on relocating parking by moving the Cheshire Medical Spaces that run north and south along the east side of the parking lot (20 spaces) onto a new lot they would build on the east end of the

condominium lot. This would provide the Food Co-op with more contiguous parking area in front of their site. This option could be accomplished right now, as the medical center and food co-op are both open to this idea.

However, the preferable option would be not to relocate Cheshire Medical's parking but to rent spaces from the City at the Wells Street Parking Garage (2nd floor south end). This would provide for the Food Co-op to do something nice with their outdoor space. Mr. Dugan went on to say part of this development would also include constructing the fourth wall and the amphitheater.

Mr. Faber then addressed the Board and stated when the Food Co-op was initially looking to site its existing store, what inspired them to locate at this site was being close to the downtown. What excites the Co-op about this site is that it allows them to grow where it currently exists and could be a good solution for the long term. Mr. Dugan added the Co-op is also in need of office space so this addition would accommodate some office space.

Mayor Lane asked with option 2 what accommodations would be made for handicap access. Mr. Dugan stated outside 51 Railroad Street there are handicap accessible spaces.

Ms. Landry asked for explanation for the medical center parking. Mr. Dugan explained the spaces in front of the Co-op belong to the Food Co-op; spaces on both sides of the center isle and the west isle belong to the Co-op. The spaces on the southern end (approximately 12) are being leased out by the city, further down the spaces are owned by Clark Mortenson, the Medical Center has three spaces next to the covered parking as well as an entire row across from that area. Ms. Landry asked who would be displaced from the deck. Mr. Dugan stated no one would be displaced as these are unused spaces.

Mr. Bohannon asked whether the request for these spaces is before the Council anytime soon. Mr. Dugan stated he has not started the formal process for these spaces but the City Manager and parking staff are aware of it.

Vice-Chair Barrett asked whether Mr. Dugan has a rendering for option B which is the smaller parking area. Mr. Dugan stated the site engineer has a drawing but he is not present today. He explained there would be about nine or ten spaces.

Mr. Lamb stated the reason this item is before the Board is because there is an application pending for temporary parking east of the Food Co-op. In the last few weeks, MEDC has pursued the final construction of curbing and pavement for the plan that was originally approved by this Board in 2012. The recent work that was completed to fulfill the requirements of the original plan includes a curb opening to the vacant lot east of the Food Co-op. However, the plan approved by the Board did not have a curb cut in this location. Hence, staff felt it would be prudent for the applicant to explain to the Board what their long term plan was for this lot. Mr. Dugan stated that with respect to the permanent use of this site, the first step is to apply for the block grant, which should be approved by next spring / summer. After this time, construction will begin on site. As far as the curb cut to the vacant lot is concerned, they could put in a curb and next month, if temporary access is approved, the curb can be put back. The plan also is for the Food Co-op to use the dirt lot until construction is complete.

Vice-Chair Barrett asked whether there have there been any other procedural issues from what was approved in August. Mr. Lamb stated when the additional spaces were constructed next to

the Head Start building; a good portion of the work was done before the site plan was signed. The applicant was made aware of that and was asked to stop work. With this issue the applicant was not issued a cease and desist order but was advised there would be some bearing on the next application.

Chair Spykman felt this puts the Planning Board in an uncomfortable position as the Board's purview is not enforcement. Mr. Lamb stated at this time what staff would suggest is for City staff to continue working with the applicant and try to fix the inconsistencies with the plan and bring it back before the Board. At that time, the Board can decide if temporary parking should exist in the interim period.

Chair Spykman felt relocating these 20 parking spaces (used by the medical center) to the upper deck and turning those spaces to the Co-op will eliminate the temporary parking needs of the co-op and the need to park on the temporary lot will be eliminated. Mr. Dugan stated without an addition, the Co-op would not be able to pay for the extra parking spaces.

Councilor Hansel stated he was uncomfortable indicating one way or the other a decision on the temporary parking without complete information. He stated he was not willing to give an indication either way without a complete application in front of him. Vice-Chair Barrett stated he was excited about the amphitheater being completed.

Ms. Russell Slack asked as a member of the Co-op, if this matter goes to a vote, whether members would have to be recused from the vote. Chair Spykman stated ultimately this would be a question for legal staff, but it has always been the Board's policy to ask that members use their judgment on issues such as this. Mayor Lane stated in the past when there were issues surrounding the Co-op, members of the Co-op who serve on the Board have always recused themselves. Mr. Lamb stated for minor modifications there was no conflict but for substantial changes and for the original approval, this is when potential for conflict would be considered. This is something staff will need to look into when there is a substantial change being considered.

IV. **Boundary Line Adjustment**

1. **S-09-17 – 74 & 86 Nims Road – Boundary Line Adjustment** – Applicant, Wendy Pelletier of Cardinal Surveying and Land Planning LLC, on behalf of owner, Gary and Susan Tochtermann Living Trust, proposes to adjust the boundary line between the property at 74 Nims Road (TMP# 903-19-027-0100) and the neighboring property at 86 Nims Road (TMP# 903-19-027-0200) owned by Jacob and Nancy Weststrate. The proposed adjustment will decrease the size of the existing 11.08 parcel at 74 Nims Road to 5.44 acres, and will increase the size of the parcel at 86 Nims Road from 28.6 acres to 34.2 acres. Both parcels are located in the Rural Zoning District.

A. **Board Determination of Completeness.**

Planner Tara Kessler stated the applicant requested exemptions for having to provide lighting, grading, landscaping and proposed conditions plan. As there is no new development being proposed, staff recommends to the Board that Application S-09-17 was complete. A motion was made by Mayor Kendall Lane that the Board accept this application as complete. The motion was seconded by Councilor George Hansel and was unanimously approved.

B. Public Hearing

Chair Spykman stated because this item is a boundary line adjustment it is not a public hearing but the policy of this Board is to take public comment.

Wendy Pelletier of Cardinal Surveying presented to the Board. She referred to an eleven acre lot which is going to be subdivided; the applicant's proposal is to leave five acres on their lot and give 5.6 acres to the back lot which would be put into conservation.

Mayor Lane asked why the applicant was doing this. Ms. Pelletier stated it was just an agreement between the neighbors.

Ms. Russell Slack stated the packet indicates 5.64 acres but the agenda says 5.44 acres. Ms. Pelletier stated 5.64 is what is going to the neighbor and 5.44 acres is what will remain.

Staff comments were next. Planner Tara Kessler stated the only development standard that pertains to this application would be flooding. Even though the lots are not within the 100-year flood plain, the Army Corp. of Engineers has an easement across the east portion of this lot. This easement gives the Army Corps the right to decide whether a structure can be constructed in the easement area. She indicated she was not aware of a conservation easement and asked that this be recorded as part of the plan if there is one present, as indicated by Ms. Pelletier. Ms. Kessler noted that there are no precautionary or prohibitive slopes identified on the property, which was a characteristic for the land area adjacent to this property to the north. The lot, which would be reduced to 5.44 acres, meets the minimum lot size in the Rural Zoning District, which is 5 acres. This lot size also accounts for the small surface water area on the site, which cannot be included in the calculation for minimum lot size. This concluded Ms. Kessler's presentation.

The Chairman asked for public comment next.

Mr. Jacob Westrate of 86 Nims Road stated that currently they do not have a conservation easement on 85 Nims Road. The Monadnock Conservancy has visited the site and this is something that will be pursued but has not been done yet. The property however, is in current use at the present time.

With no further comment, the Chair closed the public hearing.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve S-09-17 as shown on the plan identified as "Boundary Line Adjustment Plan 903-19-027-0100 & 903-19-027-0200 74&86 Nims Road Keene, NH 03431" prepared on 9/13/17 by Cardinal Surveying and Land Planning a scale of 1"=100' with the following condition:

1. Prior to signature by Chair both property owners' signatures must appear on the plan

The motion was seconded by Councilor George Hansel.

Mr. Stout stated staff had asked for the motion to include language about the conservation easement and asked for clarification. Ms. Kessler stated this was in the event there was an easement on the property but there is clarification from the property owner that there is no conservation easement on the property at the present time.

The motion made by the Mayor was unanimously approved.

V. **Public Hearings**

1. **SPR-11-17 – Water & Grove Streets – Site Plan** – Applicant Wendy Pelletier of Cardinal Surveying & Land Planning, on behalf owners, Jeanette Wright and Michael Lynch, proposes a commercial parking lot. The site is 4,635 SF in size and located in the High Density Zoning District (TMP# 028-03-011). The Applicant is requesting a Waiver from Development Standard #8 “Screening.”

A. **Board Determination of Completeness.**

Planner Tara Kessler recommended to the Board that the Application SPR-11-17 was complete. A motion was made by Mayor Kendall Lane that the Board accept this application as complete. The motion was seconded by Councilor George Hansel and was unanimously approved.

B. **Public Hearing**

Ms. Pelletier addressed the Board again with reference to a plan. The application is regarding a parking lot on the corner of Water Street and Grove Street for 11 parking spaces, which will be used by tenants from abutting properties in the area. Right now the lot is paved. Ms. Pelletier referred to the proposed planter boxes (pressure treated wood boxes, three-foot high) that will be used to block off the entrance to the lot from Water Street so that the only entrance and exit will be from Grove Street. The applicant has asked for a waiver from screening requirements for vehicle headlights. The adjacent building to the west has windows, which are about six to seven feet from the ground.

Ms. Pelletier went on to say that there will be a post and chain fence system around the lot to avoid cut through traffic. Snow storage will be on the southern side. There are four street lights in the area (1.25 and 1.2 foot candles). This concluded Ms. Pelletier’s comments.

Dr. Cusack asked for the applicant’s reasoning for seeking a waiver from screening. Ms. Pelletier stated the applicant had proposed a vinyl fence along the western boundary line of property, but the Police Department felt this would be a graffiti hazard, hence the post and chain fence. Chair Spykman asked how substantial this fence would be. Ms. Pelletier stated it would be similar to what exists at the Athens Pizza site. They would be metal posts secured to the ground. Mayor Lane asked about the landscaping being proposed and why the applicant was not suggesting plantings in the ground. Ms. Pelletier stated because the area is paved and the planter boxes is what the client is requesting.

Mr. Bohannon asked whether the applicant has looked for alternatives to the planter boxes to avoid being damaged by plowing. Ms. Pelletier stated this is an issue and agreed it is a difficult spot and asked for suggestions. The Chair suggested fewer spaces to add more plantings.

Staff comments were next. Ms. Kessler stated the applicant received approval from the ZBA to use this lot as a parking lot. As of last week, this lot has been zoned Residential Preservation where parking lots are not permitted. The applicant also received a variance for pavement setback and lot coverage as this is a paved lot. This is a change of use and hence the reason it is coming before the Board today.

Ms. Kessler then went over some of the Board’s development standards:

Drainage – the applicant is not proposing to add drainage as this is currently a paved lot.

Snow storage – there is space in the southeast corner of the site for snow storage. There was an abutter to the south, who had expressed concern about snow spilling over onto their site. The applicant has proposed to construct a post and chain fence as a barrier.

Landscaping – Ms. Kessler stated the Board’s packet includes the sections of the Zoning Ordinance that refer to landscaping parking lots that abut public rights of way (page 19 of 67). The applicant is proposing to install a planter box on the east to screen the four parking spaces facing east and these planters would be about two feet off the ground, the same planters would be installed on the northern side of the parcel. Most headlights are about 2 feet to about 4.5 feet so these planters might provide some screening. Public Works has asked the applicant to make sure the plantings don’t cause visual barriers, specifically at the corner of Grove Street and Water Street. The applicant has requested a waiver from screening, specifically to address parking along the western side of the lot where headlights would shine on the adjacent property, where there is a residential structure. The applicant is correct in that there are no windows at ground level but there is an image included in the packet which shows there are windows on that side of the property and the Board’s standard does indicate vehicular glare needs to be screened.

Lighting – Staff just today received the lighting levels provided by the applicant (copy has been provided to the Board). The information provided by the applicant shows there would be moderate levels of light 0.2 foot candles on the northern end of the property. There is however, no information for the interior of the lot and there are 0 foot candles of light available at the southwest corner of the lot. The Board’s standard for low activity lots, which this would be, call for an average of 0.5 foot candles and a minimum of 0.13 foot candles. Ms. Kessler stated the applicant might not be meeting the required light levels for parking lots.

Comprehensive Access Management Plan – Currently, the lot has two driveways; one that goes to Water Street and the other onto Grove Street. Staff raised concern about maintain both of these driveways and suggested that the Applicant close one of these driveways. The driveway at Grove Street requires vehicles to cross three lanes of traffic when making left hand turns. Turning right onto Water Street from the lot is difficult without having to turn into the opposing travel lane. The applicant has proposed closing off the Water Street access, which staff view as an improvement to safe access to the site. Ms. Kessler added because there are only 11 spaces, there will only be a minimum increase to traffic volume.

Councilor Hansel stated the applicant’s paperwork refers to 30” plastic planters and asked if the Board was to approve this plan, whether it would be an issue that the Board approved something different. Ms. Keller stated there were a number of iterations to this application; one of the first plans displayed plastic planters. It has now been modified to be wooden planters. She went on to say, staff is concerned these planter boxes will be resting on top of the surface and won’t have a connection to the soil underneath. She noted concerns about the viability of the landscaping and the assurance the city has that this landscaping is maintained. Ms. Landry asked whether the landscaping has to be permanent. Ms. Kessler stated that to meet the Board’s standard it has to be permanent. Ms. Landry stated when she visited Montreal this summer she had seen planter boxes with a combination of vegetables and annuals (off the ground) and they looked beautiful. She felt this was an interesting way to bring green to an urban environment.

Dr. Cusack asked about screening for the southern side. Ms. Kessler stated there are two standards with respect to screening; the first is landscaping along the public right of way, and this portion will not have any parking along the public right of way. The other is vehicular headlights and preventing that glare, the way the parking is oriented, there won’t be any lights

shining onto the southern portion of the site. Dr. Cusack felt the picture provided by staff makes the windows look lower and closer on the south side. Ms. Kessler stated even though the cars are not facing that side, this might be something the Board should consider as vehicles will be driving into and out of the site. Ms. Kessler stated the applicant is looking to seek a waiver from screening and if the Board grants the applicant this waiver, the Board is granting the applicant a waiver from screening vehicular headlights.

Chair Spykman referred to the southwest corner where there are 0 light foot candles, which would not meet the Board's standard for minimum foot candles. Ms. Kessler stated because the applicant is not proposing new lighting for this application they did not provide a photometric plan. They did provide some measure of ambient light levels by providing light level readings in different corners at the site. She agreed zero would not meet the minimum standard which is 0.134 foot candles. Another component of the development standard with lighting is a 4:1 uniformity ratio.

Mr. Stout felt the foot candle need for this type of use would be different to that of a commercial lot. Ms. Kessler referred to foot candle standards under the Board's development standards: there are two types of parking areas listed here – pedestrian and vehicle only. Vehicle only the average is 0.5 and the lowest is 0.134 foot candles.

Chair Spykman asked whether the applicant was proposing to eliminate the curb cut on Water Street or just adding a planter. Ms. Kessler stated her understanding is that the curb cut will stay but a planter will act as a physical barrier.

Ms. Russell Slack asked why Grove Street was changed to three lanes. Mayor Lane stated the change was made by the Engineering Department of the City to improve the intersection, but felt the design was not working well. The City did talk to the abutters before the change was made but the conversation happened with the renters not the property owners. Ms. Russell Slack stated her concern is the intersection, which she felt is not safe at the present time. She indicated she is concerned about adding a parking lot in a very busy intersection. She noted there are two crosswalks right in front of this intersection and a housing development right across the street and more traffic coming out of Community Way.

Ms. Landry asked staff whether this proposal is an improvement over the existing conditions. Ms. Kessler stated she has provided the information as it pertains to the Board's standards and it is up to the Board to decide whether this is an acceptable site plan or not.

The Chairman closed the public hearing.

Mayor Lane suggested continuing this item to the next meeting giving the applicant time to deal with the lighting issue as well as address the issue with this lot being located right next to a busy intersection. Councilor Hansel agreed with everything the Mayor said but also expressed concern about the planter boxes, which won't do well in the winter and will be used as trash receptacles and are likely to fall apart. Dr. Cusack noted this area is now part of the Residential Preservation District, for which too much has been invested and we need to get it right. Mr. Stout referred to light exposure to the south side and did not feel it was resolved. Ms. Landry felt the planters can be used in interesting ways as long as someone can be responsible for them. She noted this has been a parking lot for many years and felt this proposal is an improvement to what exists but was ok to continuing it.

Chair Spykman asked whether this lot and the lot next to it could be combined into one lot so it won't be that crowded, which would allow for more landscaping.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board continue SPR-11-17 to the November Planning Board meeting. The motion was seconded by Councilor Hansel and was unanimously approved.

2. SPR-12-17 – 183 Arch Street – Archway Farm – Site Plan –

Applicant/owner Mark Florenz proposes to construct a new 54' x 60' three-sided single-story fabric structure for the purpose of winter housing for hogs, and storage of related agricultural equipment. This building will replace multiple small portable structures that we currently use for winter housing. The site is 56 acres in size and located in the Agriculture Zoning District (TMP # 917-11-028). The Applicant is requesting a waiver from Development Standard #19 "Architecture and Visual Appearance.

A. Board Determination of Completeness.

Planner Michele Chalice stated the applicant has a new stamped survey for the Board and has requested exemptions from a separate existing conditions plan (landscaping, lighting, traffic, drainage plans and technical and soils reports). She indicated the Board might want to decide if this application is complete based on the agricultural zoning district of the parcel, the agricultural intent of the site and agricultural exemptions. Chair Spykman asked for further guidance. He added he does understand for the applicant to comply with all the required reports would be a financial hardship and staff is asking the Board to decide whether this application could be called complete without those items. Ms. Chalice added what she failed to say was that staff was only provided with a draft survey but as of tonight they have been provided with a complete stamped survey in relation to the surface water elements which were of concern. Since being provided with this document, staff is much more comfortable with the completeness aspect.

A motion was made by Mayor Kendall Lane that the Planning Board accept this application as complete. He stated the Board is aware this is an agricultural use, the Board is aware of the distance from Hurricane Brook to the area of construction and these are the aspects the Board needs to be aware of. The motion was seconded by Councilor George Hansel and was unanimously approved.

B. Public Hearing

Mr. Mark Florenz of Archway Farms addressed the Board. Mr. Florenz stated they raise pigs and nine months out of the year they are raised on the pasture on the north and southside of Arch Street. The structure being proposed is a winter shelter for the pigs; it is an agricultural structure, opened on one side, there is no heat in the building. It will be used for the pigs in the winter and during the rest of the year for equipment storage. He noted they will be 123 feet from Hurricane Brook, which is within the required 75-foot buffer. This new barn will replace the old one on site, which is much more suitable for modern agricultural uses. Mr. Florenz stated they have worked with code enforcement – they will not be pouring any concrete.

Mayor Lane asked whether there will be any plan for manure disposal during the winter. Mr. Florenz stated with their operation they will not be getting rid of any manure; he explained during the start of the winter they start with about 12 inches of hay (deep bedding system) and when the pigs are taken out for the spring, the hay will be removed off the farm. The Mayor asked whether there was no danger of hoof disease. Mr. Florenz stated this is a large enough area

(3600 square feet in size) and pigs unlike cattle and horses don't sleep in the same area where there is manure. Manure will build up but there won't be any runoff issues.

Staff comments were next. Ms. Chalice stated the engineering department did have concerns about the bedding but the City Engineer is familiar with this type of deep bedding system, hence was comfortable with what is being proposed. Staff had also asked to applicant to move the structure to be at least 100 feet from the brook which the applicant has done. She noted the site survey will be serving as the site plan which the Board will be approving and signing tonight.

Councilor Hansel asked whether staff is comfortable this structure will be safe for animals and people. Ms. Chalice stated the architectural design was submitted to Code Enforcement and it was an engineer's stamped plan. She added the Board's standards do not have an exemption for a service structure such as what is being proposed so as a technicality the applicant is applying for a waiver from standard 19.

The Chairman asked for public comment. With no comments from the public, the Chairman closed the public hearing.

Mayor Lane felt this is an activity the Board should encourage and support. Chair Spykman and Ms. Russell Slack agreed with the Mayor.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board approve SPR-12-17 with a waiver request from Standard 19 as shown on the plan entitled "Site Plan Survey" with Proposed Hoop Structure, Tax Map 917-11-028, 183 Arch Street, Keene, Cheshire County, NH, dated October 09, 2017, drawn by "David A. Mann Survey at a scale of 1" = 20'; with the following conditions:

Prior to signature by Planning Board Chair with Owner's signature on plan.

The motion was seconded by Pamela Russell Slack and was unanimously approved.

Ms. Russell Slack thanked city staff for their work with this plan.

3. **SPR-13-17 – Emerald Street Substation – Site Plan** – Applicant Vanasse Hangen Brustlin, Inc. (VHB) on behalf owner Eversource proposes to rebuild the existing substation at the west end of Emerald Street. Surface Water Protection Application is included in this submission (SWP-CUP-2017-01). The site is 2.52 acres in size and located in the Commerce & SEED Zoning District (TMP# 047-03-009). The Applicant is requesting a waiver from Development Standard #19 "Architecture and Visual Appearance."

A. Board Determination of Completeness.

Planner Michele Chalice recommended to the Board that Application SPR-13-7 was complete. A motion was made by Mayor Kendall Lane that the Board accept this application as complete. The motion was seconded by Councilor George Hansel and was unanimously approved.

B. Public Hearing

Laurel Boivin, Eversource Community Relations, Alan Roe, Project Manager, Sherry Trefry of BHP, Kurt Nelson, Licensing Group, Mark Fraser, Engineer and Ashley Ruprecht, Siting and Construction Services were present today. Ms. Boivin stated in the last few years Eversource has made an effort to improving infrastructure and making investment to improve reliability in the

City of Keene (25 million in the last five years). In 2012, a study was done to look at substations and how to manage distribution and out of that study came the North Keene Sub-Station, which went into service last year. This sub-station together with the Emerald Street sub-station, serve about 16,000 customers in 12 towns. Emerald Street has been in operation for about 60 years but does not have "state of the art" equipment. After the rebuild it would have enhanced capacity and meet the region's needs. Ms. Boivin talked about some of the cleanup being planned for this site.

The schedule to start this project will be in spring 2018 and would be a year-long project but during the construction there are no outages being planned. The question is how to protect public safety during construction; this would necessitate the closing down the end of Emerald Street, City Council approval is required for this, as well re-routing the Cheshire Rail Trail along Emerald Street. Ms. Boivin stated they have contact information for customers to contact Eversource during this construction period. With that, Ms. Boivin turned the presentation over to Mr. Roe.

Mr. Roe stated he was also the project manager for the North Keene project. Mr. Roe stated the main reason for this project is the age and condition of the equipment – new transformers are going to be brought in (they would be same as the ones located in North Keene). The fence at the site is going to be expanded and the reason for this is so that equipment could be brought in piece by piece by still being able to maintain power to customers. Once construction is complete, most of the equipment located across the street in the brick building will be moved across the street to this building; some equipment will still remain in the building.

Sherry Trefry was the next presenter. She referred to a plan and noted where the sub-station is located (yellow), Mill Creek located on the left side and bike path on the north side. This site is located in the Commerce zoning district so the surface water buffer is reduced to 30 feet. The pink line shown is the 100-year flood plain at an elevation of 471.3 feet. The white area is the substation footprint and referred to where the fence-line would be expanded. There are two existing driveways; one will be maintained and one will be re-vegetated and restored. There is no storm water retention area currently on the site so there is a drywell being proposed to capture the increased runoff from the site.

There is a gravel pad expansion also being proposed. Ten arborvitae shrubs are being proposed next to the expanded fence area for screening. Ms. Trefry referred to the new fence being replaced and the sedimentation control measures being proposed during the fence replacement at the front of the site. She referred to the wetland area where there is dense landscaping (invasive species) which is going to be removed. This concluded Ms. Trefry's presentation.

Mr. Stout asked about the screening along the east side. Mr. Roe stated they did get a request from the owner of the building on that side, and the applicant would like to accommodate this request but there a couple of reasons for not being able to do so; the police don't like the idea and the second is because of wind loading which could compromise the foundation of the fence.

Councilor Hansel asked about alternatives for re-routing the pedestrian path. Ms. Boivin explained the closure would happen between Ashuelot Trail and Emerald Street and Ashuelot Trail and Island Street with a detour that will go from Emerald Street to School Street and then to West Street back to Island Street. Ms. Boivin stated they have had a recent conversation with Brady Sullivan who at the present time do not permit unauthorized pedestrian access on their property; they won't be doing anything to change that because of their own construction schedule. She added they had thought about going from Ashuelot Trail to Winchester Street and

then to Island Street, but the bridge on Island Street is also going to be rebuilt. Ms. Boivin noted their communication and outreach will focus on about a dozen stakeholders and working with city departments to let people know about the closure. There will be communication done via email before the closure happens and communication a few months prior to construction being complete and once construction is complete as well.

Mr. Stout referred to the propane tank site on the abutting property and asked whether there would be any implications as to how they would continue with their operations. Mr. Roe stated the closure of the street would happen beyond this site's entrance and they would not be parking anywhere on Emerald Street except on their own property. Hence, the propane facility should not have any disruptions.

Ms. Russell Slack asked communication also happen with Keene State College. Ms. Boivin stated they are on her list of stakeholders.

Chair Spykman asked about the two-story building across the street. Mr. Roe stated this is the Control Building which houses telecommunication equipment. Chair Spykman asked whether there is any plan to upgrade this building; windows for instance that now have plywood over it. Mr. Roe stated they could look into this.

Staff comments were next. Ms. Chalice noted that nearly half of this parcel is in the 100-year flood plain; about a third is within a delineated wetland, the western boundary is next to the Mill Creek (15 feet within the creek's buffer in two locations). However, the expansion is minimum (0.55 acres). The other positive aspect is the driveway is being moved away from the brook and the noise level is being proposed to be reduced because of new technology. Ms. Chalice stated even though the Comprehensive Access Management Standard talks about trails, closing of the trails is not within the Board's purview. The applicant will meet with Council and Public Works on this issue.

Ms. Chalice pointed out however; the Board is missing some data, such as the soil percolation test to make sure this drywell will take the water in. The Board is also missing the seasonal groundwater data. Both of these items will either confirm or dispute the way to handle the impacts which are going to happen with the project. Another item not mentioned today is that oil is required to operate this equipment. The engineering department has also noted that the project is violating one of the Board's standards; slight runoff into Mill Creek and the applicant has referred to this as deminimus impact but the Board's standard does not have deminimus exclusion.

Chair Spykman asked how the change from hard pack dirt to gravel would affect runoff. Ms. Chalice referred this question to the applicant.

The Chair asked for public comment. With no comment from the public, the Chairman closed the public hearing.

Mayor Lane felt this public hearing should be continued until the hydrology issue has been properly addressed. He noted construction does not start until spring so a month delay wouldn't be too burdensome to the applicant. He felt it was important for the Board to review this item.

The Chairman reopened the public hearing to hear from the applicant. Ms. Trefry stated they are in the process of collecting this data and was agreeable to a continuance.

C. Board Discussion and Action

A motion was made by Mayor Kendall Lane that the Planning Board continue this application to the November 27 Planning Board meeting. The motion was seconded by Councilor George Hansel and was unanimously approved.

VI. New Business

Mayor Lane asked for a discussion on the Board's standards as it relates to agricultural uses.

VII. Director Reports

Mr. Lamb stated the City has a new ADU Ordinance as well as adopted Marlboro Street Ordinance for three new zoning districts which was a culmination of lot of work from a lot of people.

Mr. Lamb stated this is also the time for CIP review and the Board should be hearing about this sometime next year. He added the Planning Department has submitted for FY21 and 22 funding to update the 2010 Comprehensive Master Plan.

VIII. Upcoming Dates of Interest – November 2017

Planning Board Meeting – November 27, 6:30 PM

Planning Board Steering Committee – November 14, 12:00 PM

Joint PB/PLD Committee – Monday, November 13, 6:30 PM

Planning Board Site Visits – November 22, 8:00 AM – To Be Confirmed

Mayor Lane noted November 13 is when the City celebrates Veterans Day. Mr. Lamb stated the meeting will then happen on November 14.

The meeting adjourned at 8:55 pm.

Respectfully submitted,

Krishni Pahl
Minute Taker

Reviewed by: Rhett Lamb, Planning Director
Edits by T. Kessler, M. Chalice & L. Langella

November 12, 2017

To- City of Keene Planning Board
From- Tim Symonds, Owner of 13 Grove St, Keene NH
Re- SPR 11-17 Parking lot proposal at the Corner of Grove and Water Streets

Being the property owner of 13 Grove Street, which directly abuts the proposed parking lot on the corner of Grove and Water Streets, and after watching the City of Keene Planning Board discussion of the project on Monday October 23, 2017, I have the following concerns:

13 Grove Street is directly to the south of the parking lot. This house is physically located closer to the parking lot than the house to the west on Water Street.

- The screening issue/fence is critical to protect the property lines on all sides. It will also help to screen headlights from shining into the three windows located on that side of the house (as a planning board member pointed out). Although I feel the fence may be problematic as pedestrian traffic might "cut-thru" yards now instead of the parking lot.
- The height of the proposed fencing/screening should be at least 3-4+ feet to help prevent headlight shining into the property and retaining the snow storage banks on the parking lot property side.
- I like the planter box(s) idea, but also agree these are problematic for maintenance, trash collection and visibility.
- The Water and Grove St intersection is a very busy at all times. Yes, adding more flow out onto Grove St could be a problem.
- I would be very opposed to adding any additional lighting, especially at the SW corner as it would directly shine into the windows at the house. Not to mention to added cost for the owners to do this.
- As the Mayor pointed out the Water/Grove Street intersection was not engineered well. For the record, I was never approached by any City of Keene official for input regarding the addition of a turn lane at the corner.
- Remember that when Beaver Brook floods, so does this lot. It will have water going through it as I've witness three times in the past 20 years.

Respectfully submitted,

Tim Symonds
210 Holdings LLC
Keene NH

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SUPPLEMENTAL STAFF REPORT

SPR-13-17 SITE PLAN REVIEW

– Eversource
Substation, 0
Emerald St.

Request:

Property owner PSNH, Public Service of New Hampshire, is proposing a renovation to the substation on a 2.52 acre parcel at 0 Emerald Street in Keene NH, TMP 047-03-009. The project scope includes the replacement, removal and upgrade of existing electrical equipment, the replacement and addition of security fences and the construction of a 1,440 SF switch gear building.

Background:

This supplemental staff report addresses questions from the application's first public hearing at the October 23, 2017 Planning Board meeting. Questions were raised regarding the potential impacts of utilizing the adjacent Eversource parking lot on the north side of Emerald Street as a construction staging site. These concerns included potential siltation of sand and/or silt into Mill Creek from the repeated movement of sand and gravel over Emerald Street as well as potential closures of the Cheshire Rail Trail and Emerald Street due to the passage of construction equipment and materials. A previous staff report on this application is available in this same meeting's planning board packet at: https://ci.keene.nh.us/sites/default/files/2017-10/2017_10_23_pb_agenda_packet.pdf

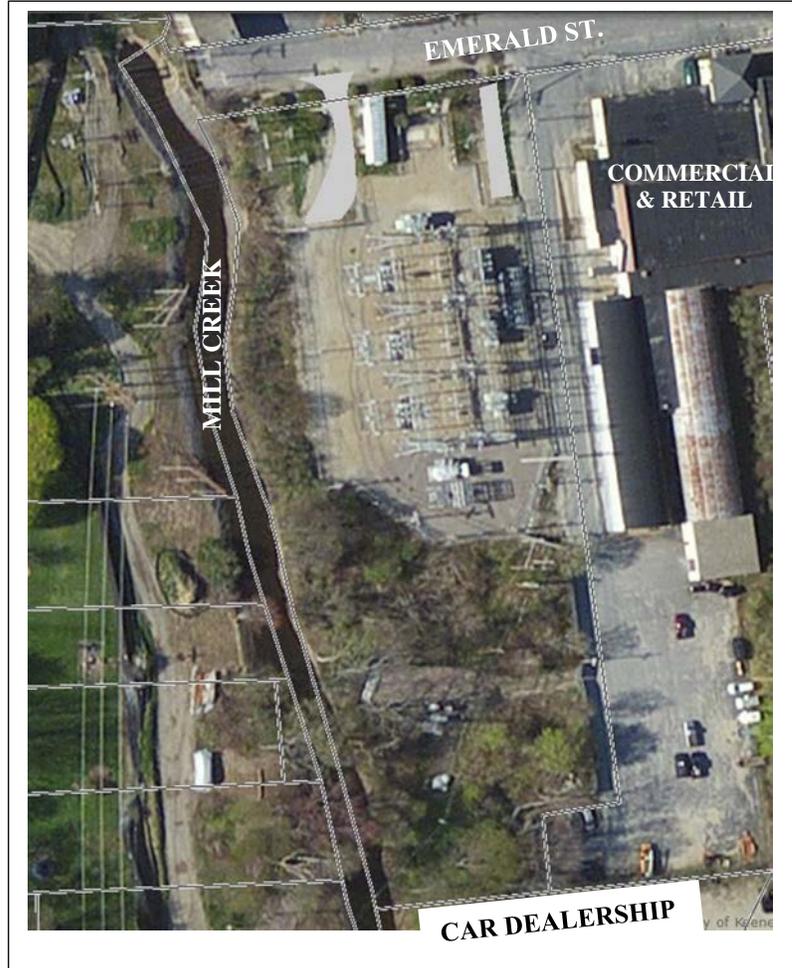


Figure 1: Existing Conditions - PSNH Substation at 0 Emerald Street

Completeness:

The Planning Board accepted the application as complete at the October 23, 2017 Planning Board meeting.

Departmental Comments:

Engineering Dept.:

1. *“The applicant reduced the size of proposed impervious area in order match pre-development runoff/peak volume, which eliminates the need for perc-tests.”*

SUPPLEMENTAL STAFF REPORT

2. *“I looked at the drainage report and the applicant is not taking credit for a grass block paver driveway. It appears that they are proposing to keep the driveway infiltration rate as is, but making it (more) aesthetically appealing.”*

Application Analysis:

The following is a review of the Board’s relevant standards in relation to the proposed application:

1. Drainage:

- a) Per Planning Board Development Standard 1.a. “the development of a site shall not result in increased runoff onto adjacent properties or surface water bodies ...”

A reduction to the size of the project’s impervious area has removed the increase in proposed stormwater runoff from the expanded site into both the interior wetland as well as the adjacent Mill Creek. This standard has now been met.

- b) Per Planning Board Development Standard 1.b. “Low Impact Design systems” In addition the previously reviewed dry well, the applicant proposes to add grassed, cell paving to the existing, second gravel driveway. This measure will not improve infiltration but will improve the site’s visual appeal.

- c) Per Planning Board Development Standard 1.b.3. “Seasonally high groundwater table...” The applicant has provided data from the two Water Quality Monitoring wells, one on the adjacent northern property and one to in the southwest corner of the project area. These wells state groundwater elevations from the year 2014 to 2017 with an average depth to water table of 6.15 and 6.9’ respectively. This depth has been determined to be sufficient for adequate infiltration capacity. This standard has now been met.

2. Sedimentation and Erosion Control: Per Planning Board Development Standard 2.a.3. Protect receiving water bodies, wetlands... “

Further discussions clarified the specifics of the proposed use of the adjacent Eversource-owned parking lot across Emerald Street as a construction staging site. Per the October 30, 2017 email from the Eversource project manager, Alan Roe, the anticipated activities at this site follow with the caveat that not all of these uses will be needed at all times:

1. “One construction office trailer – for site superintendent and commissioning engineer (typical size 44’ x 10’).
2. One job site trailer – for construction staff, changing and eating, etc. (typical size 28’ x 8’).
3. One 20’ x 8’ storage container for miscellaneous materials / tools.
4. One / two portapotty(s) – for obvious needs.
5. Parking for say half-a-dozen personal vehicles and contractor vehicles during construction.
6. Open storage area for larger items such as fabricated steel, transformer radiators, bushings, etc.
7. Area for concrete washout – away from the water.
8. Area for soil and concrete storage prior to removal and disposal.
9. Storage and containment location for diesel / gasoline – away from the water.
10. Location for portable generator.”

SUPPLEMENTAL STAFF REPORT

The applicant states that a future, Soil Containment Plan will specify the details of the management and containment of the sand/gravel construction materials and their movement between the substation and the staging site.

Given the area's proximity to the creek's embankment, see Figure 2, the Planning Board may wish to discuss with the applicant, protective measures for the immediately adjacent Mill Creek water resource, such as an extension of the proposed silt fence north past the property corner, along the top of the creek embankment to meet the fence post of the Cheshire Rail Trail bridge, preventing a heavy rain event from washing sand, silt and/or gravel from the path of travel outside the property parcel, particularly the Emerald Street pavement, into the creek. A condition is included to review the future Soil Containment Plan and other protective measures for the adjacent creek to be reviewed and approved by the City Engineer.



Figure 2: South side of Emerald Street shoulder looking into the Mill Creek Crossing of the Cheshire Rail Trail

RECOMMENDATION FOR APPLICATION:

If the Board is inclined to approve this application, the following motion is recommended:

Approve SPR-13-17 with a waiver request from Standard 19, as shown within the plan set entitled "Emerald Street Substation, Emerald Street, Keene New Hampshire, Cheshire County", Tax Map 47-03-009, prepared for Eversource and PSNH by VHB of Bedford, NH, dated August 14, 2017, received September 15, 2017 and revised October 30, 2017 at various scales; with the following conditions:

- 1. Submittal of the applicant's Soil Containment Plan and other protective construction details to prevent siltation into Mill Creek due to the movement of construction materials across Emerald Street for review and approval by the City Engineer.*
- 2. Owner's signature on the plan set.*
- 3. Submittal of a security for landscaping and an "as-built" plan in a form and amount acceptable to the Planning Director and City Engineer.*
- 4. Signature by Planning Board Chair.*



Memorandum

To: Ms. Michele Chalice
City of Keene - Planner
3 Washington Street, 4th Floor
Keene, New Hampshire 03431

Date: November 10, 2017

Project #: 13563.33

From: David Fenstermacher, PE

Re: Revised Stormwater Management
Emerald Street Substation

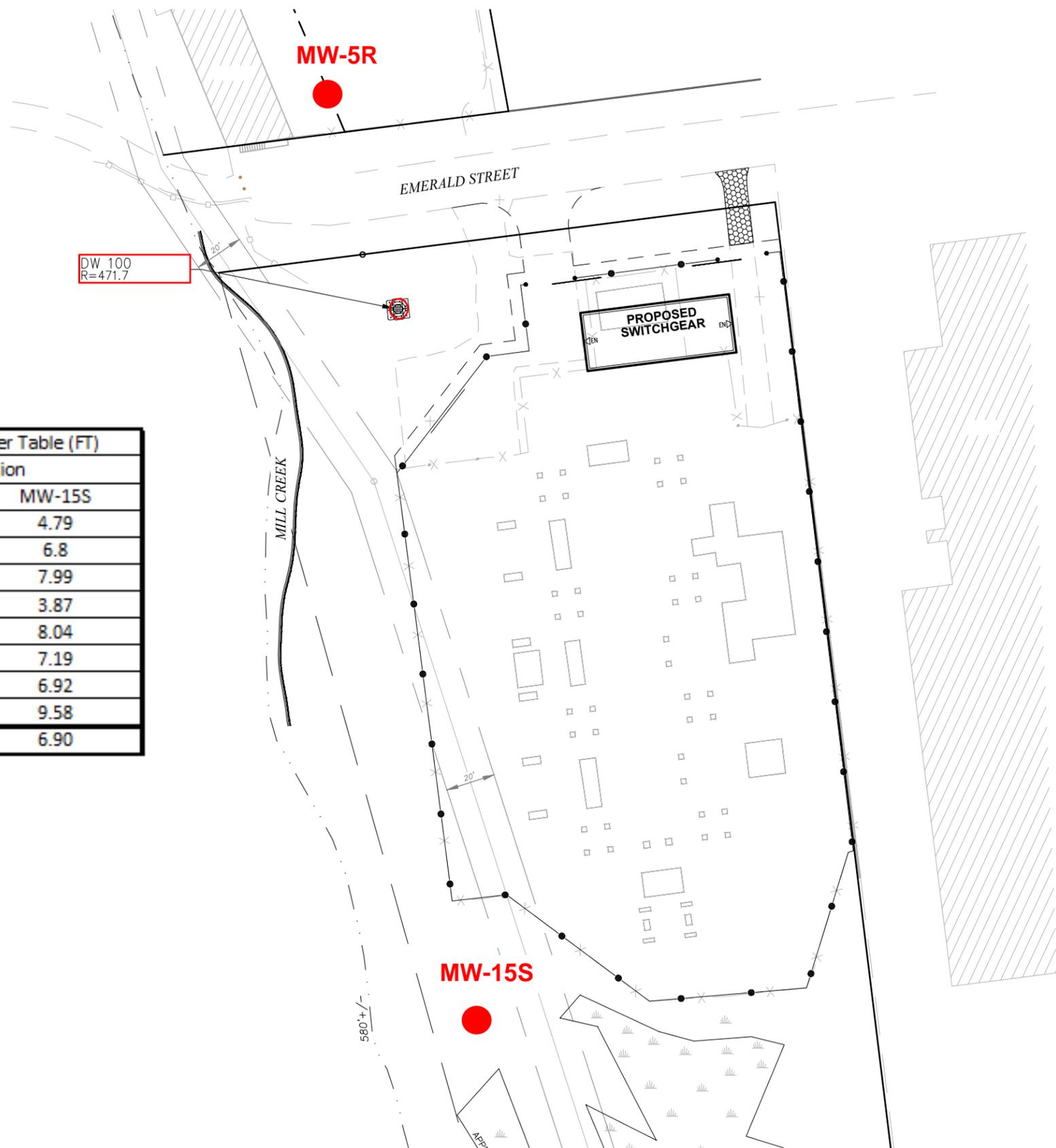
VHB has prepared the following memorandum to summarize the changes to the stormwater management related to the Emerald Street Substation Site Plan Application. As noted during the review of the initial Site Plan materials, the following items were requested to support the stormwater design:

- Improvements to meet the net zero stormwater discharge.
- Seasonal high groundwater table elevation.
- Location and results of soil percolation tests.

Based on the comments, the applicant has provided the following information and proposed changes in order to comply the City's requirements.

- Improvements to Net Zero - As highlighted in the original submittal, the project resulted in a net increase of 0.022 ac of gravel and 0.033 ac of roof impervious surfaces for a total of 0.055 ac (approximately 2,400 SF). In order to reduce the increase of flow, the applicant modified the layout of substation to remove 800 SF of proposed gravel. In addition, the secondary entrance to the site, which is for emergency access, will be converted to a reinforced grass, to reduce the impervious by an additional an additional 400 SF. As such, the new impervious has been reduced by 50% over the previous design. Based on the new numbers, the model was rerun and demonstrated that the minor net increase in impervious did not impact the peak flows to the three discharge points. The stormwater memo previously submitted has been revised and attached with the updated results.
- Seasonal High Groundwater Table Elevation - There are a number of monitoring wells in the vicinity of the project with historical ground water elevations observed over the last 12 years. Attached is a figure highlighting the location of the wells and the depth to ground water over the last 3 years (consistent with the previous year's numbers). In order to minimize disturbance to the active substation, the significant collected data provide appropriate guidance on the estimated seasonal high-water table. Based on the data, the water table is approximately 6-ft below the surface. As such, the dry well structure proposed shall be 4-ft deep providing sufficient separation.
- Soil Percolation Tests – Based on the redesign of the site, the project no longer will rely on infiltration in order to match the peak flow rates. As such, a field percolation rate was not required. However, the applicant is proposing to keep the dry well in the overall design to provide improvements in sediment control. Though not accounted for, the dry well will also provide unaccounted for infiltration, which will be an additional benefit to the stormwater management of the project.

2 Bedford Farms Drive
Suite 200
Bedford, NH 03110-6532
P 603.391.3900



Date	Depth to Water Table (FT)	
	MW-5R	MW-15S
4/21/2014	4.67	4.79
7/8/2014	6.2	6.8
10/14/2014	7.13	7.99
4/15/2015	5.17	3.87
7/16/2015	6.67	8.04
10/15/2015	6.74	7.19
4/11/2016	4.9	6.92
10/12/2016	7.7	9.58
Average Depth	6.15	6.90



Memorandum

To: Ms. Michele Chalice
City of Keene - Planner
3 Washington Street, 4th Floor
Keene, New Hampshire 03431

Date: November 10, 2017

Project #: 13563.33

From: David Fenstermacher
Alan Roe (Eversource)

Re: Construction Activities
Emerald St. Substation

The following memorandum has been prepared to highlight the activities associated with the Eversource owner parking lot across Emerald Street during construction.

Additional Planning Board Narrative

During construction, the substation and laydown area will be kept in a neat and orderly condition. All garbage, debris, and foreign matter shall be removed to an established sanitary landfill or other recognized disposal facility.

The Contractor will be required to exercise care to preserve the natural landscape in the construction area as well as areas outside the Site. Construction operations shall be conducted to prevent any unnecessary construction, scarring, or defacing of the natural vegetation and surroundings near the site. All land-disturbing activities shall be planned and designed to be compatible with the natural land forms and not detract from them. Construction methods shall be designed to limit, so far as reasonable, erosion or subsidence.

The Contractor will be instructed to conduct all construction activities in a manner that will avoid or minimize degradation of air, land, and water quality. Toxic material shall not be released into any water course or water drainage. All construction work will be consistent with applicable federal, state, and local standards relating to safety, environmental quality, and public health.

Construction activities shall be conducted to minimize the creation of dust. The Contractor will enforce a maximum permitted speed on the Emerald Street. Water, straw, wood chips, dust oil, dust reducer, gravel, combinations of these, or similar control measures may be implemented.

Crankcase oil or other petroleum products shall be containerized and stored away from water courses and drains. No drainage onto the ground or into streams will be allowed.

Site electrical power needs during construction would be provided using a temporary portable generator which will be kept out of the water courses or flood zones and away from drains. Crankcase oil and fuel will be containerized and stored away from water courses and drains. Refueling will be done such that no spillage onto the ground or into streams will occur.

2 Bedford Farms Drive
Suite 200
Bedford, NH 03110-6532
P 603.391.3900

When the Work is completed, all Contractor-furnished temporary structures and facilities will be removed from the Site and the area will be restored to its original condition to the maximum extent practicable.

Concrete washout

After concrete is poured at a construction site, the chutes of ready mixed concrete trucks and hoppers of concrete pump trucks must be washed out to remove the remaining concrete before it hardens. Equipment such as wheelbarrows and hand tools also need to be washed down. The resulting watery slurry constitutes an environmental hazard and concrete washout pollutants must be safely contained.

The Contractor will be required to follow EPA best management practices for collecting and retaining all the concrete washout water and solids so that caustic material does not reach the soil surface and migrate to surface waters or into the ground water. Concrete washout facilities, such as washout pits and vinyl or metal washout containers, will be placed in locations that provide convenient access to concrete trucks, preferably near the area where concrete is being poured. Concrete washout facilities will not be placed within 50 feet of storm drains, open ditches, or waterbodies. In addition, sediment silt sacks will be installed in the catch basins within the property and located in close vicinity within Emerald Street to provide additional sediment control.

Construction trailers

One construction office trailer – for site superintendent and commissioning engineer (typical size 44' x 10') and one job site trailer – for construction staff, changing and eating, etc. (typical size 28' x 8') will be required. The construction office trailer requires no foundation or structural assembly. The job site trailers would typically have insulated windows, ceilings and floors with aluminum or wood siding and fitted with lockable doors. The unit would be fitted with heating and ventilation. It is anticipated the construction contractor would request a temporary construction power from Eversource to supply the construction office trailers. No temporary or ongoing environmental impacts would be expected.

Material storage

One 20' x 8' storage container for miscellaneous materials / tools will be required. The steel storage container requires no foundations or structural assembly. The storage containers are durable, weather-resistant, and secure. They are typically built with 16 gauge vertically corrugated galvanized steel including double, asymmetrical steel doors with ground-level entry, heavy-duty, marine-grade wood flooring and a die-stamped steel roof. Open storage area for larger items such as fabricated steel, transformer radiators, bushings, etc. will also be required. Materials such as steel, cable drums, etc. would be stored either directly on the paved surface or on wooden shipping pallets as necessary. No temporary or ongoing environmental impacts would be expected.

Sanitary facilities

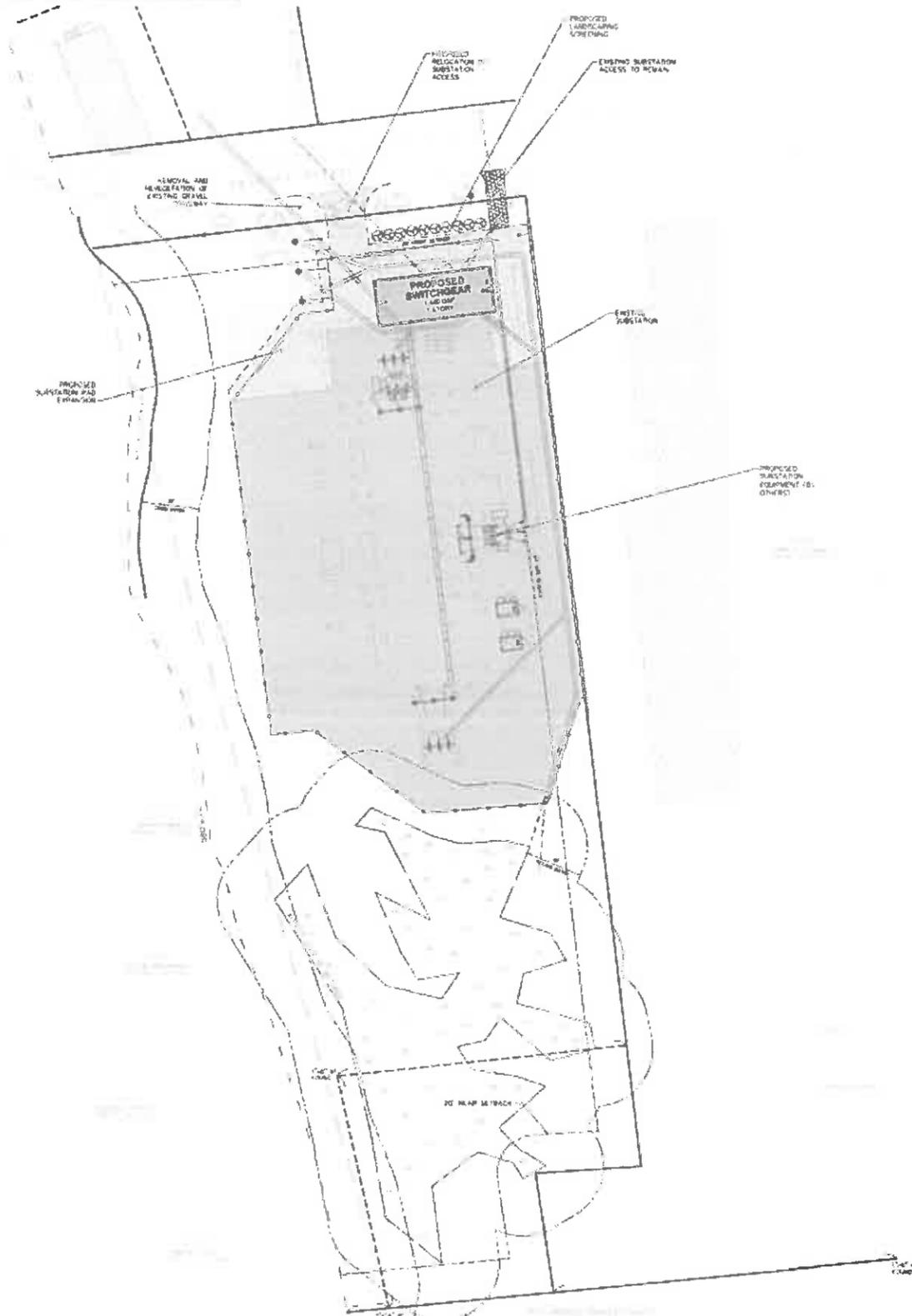
The Contractor shall furnish and maintain an adequate number of sanitary facilities, including chemical toilets, for the use of its own personnel, subcontractors and other authorized personnel. The Contractor will make all necessary arrangements for emptying and disposal of chemical toilet contents.

Vehicle parking

Parking for personal vehicles and contractor vehicles will be needed during construction. Vehicles would be parked on the already existing paved lot. No parking would be allowed on Emerald Street. No temporary or ongoing environmental impacts would be expected.

Area for soil and concrete storage prior to removal and disposal.

The applicant will prepare a document for the Contractor to follow, which will specify storage procedures for soil stockpiles. The soil will be placed on and covered with nylon-reinforced polyethylene (NRPE) or 20-mil (minimum) polyethylene sheeting, or use of leak-proof metal containers (with liners as needed). The sheeting cover would be secured with sand bags or equivalent weighted items, and hay bales would also be placed around stockpiles to control runoff. Contract to monitor sediment tracking within the roadway. Sediment shall be swept, shoveled, vacuumed or removed by similar means immediately upon inspection. If appropriate, a tracking pad shall be installed.



Zoning Summary Chart

Zoning District	Compliance (COM)	
	Required	Provided
PROPOSED SWITCHGEAR	13 Feet	27 Feet
MAX. HEIGHT	25 Feet	25 Feet
SEAL HEIGHT	10 Feet	10 Feet
MAX. NO. OF LIGHT FIXTURES PER AREA (sq. ft.)	10	10
PAVING (PAVED PARKING & DRIVE)	25 Feet	25 Feet
PAVED DRIVEWAY PARKING & TRAILER	13 Feet	13 Feet (PROVIDED)
PAVING (PAVED PARKING & TRAILER)	13 Feet	13 Feet
PAVING (PAVED PARKING & TRAILER)	13 Feet	13 Feet
PAVING (PAVED PARKING & TRAILER)	13 Feet	13 Feet

Plant List

Qty	Botanical Name	Common Name	Size
1

Emerald Street Substation
Emerald Street
Keene, New Hampshire

Map No. 04, 2017

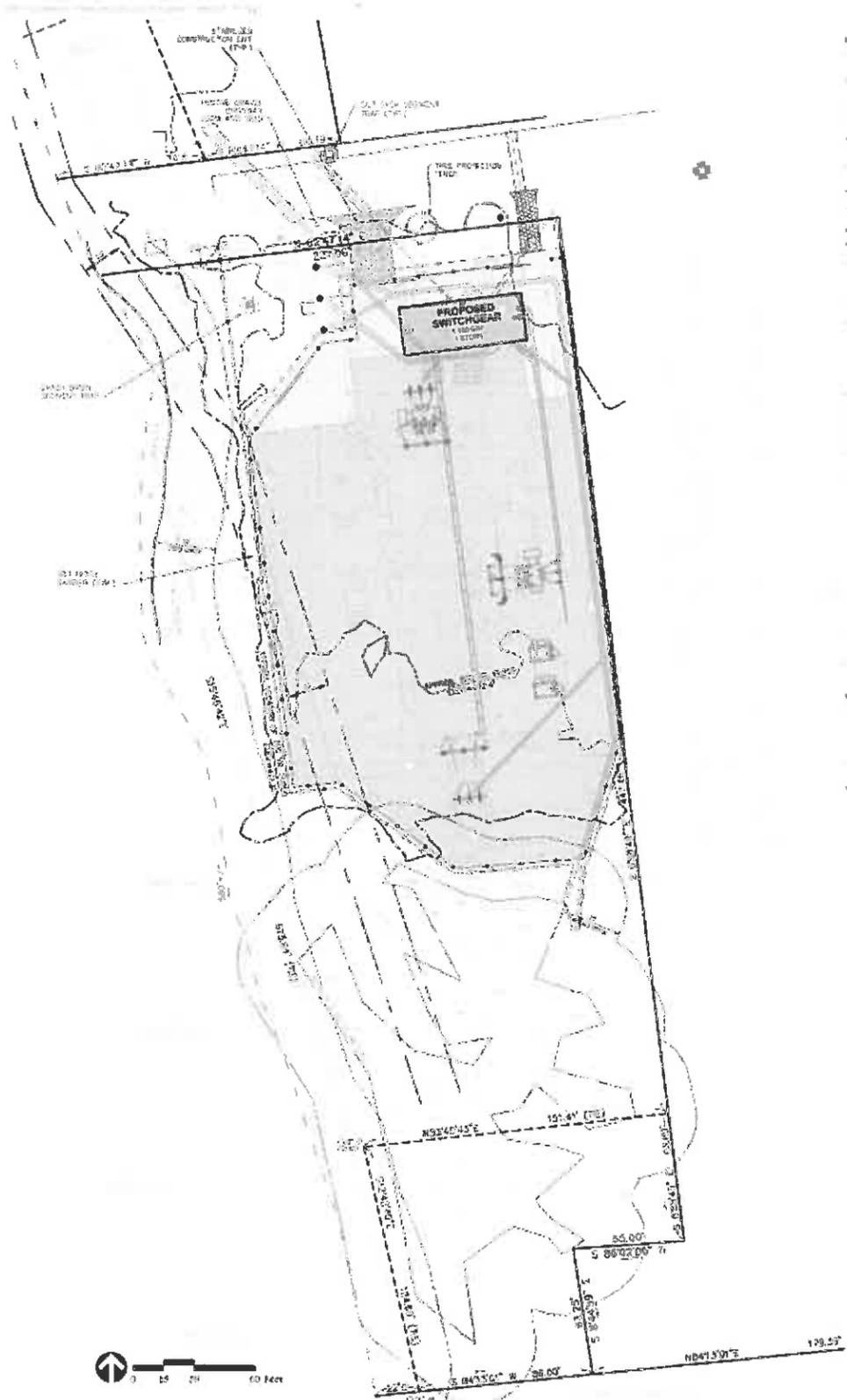
Not Approved for Construction
Overall Site Plan



C-2

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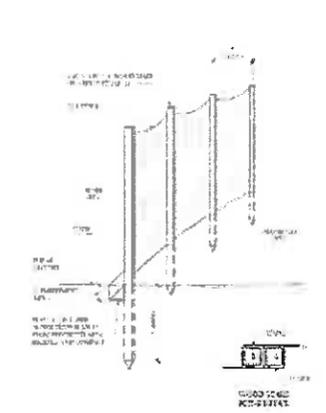


Notes:

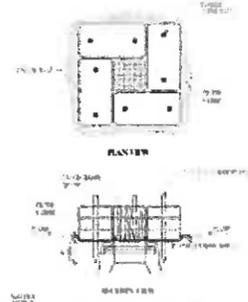
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. EXISTING UTILITIES ARE SHOWN AS DASHED LINES. ALL UTILITIES SHALL BE DELETED AND REINSTALLED AT THE SAME DEPTH AND LOCATION AS SHOWN ON THIS PLAN.
3. ALL UTILITIES SHALL BE PROTECTED BY A MINIMUM OF 18\"/>

Proposed Switchgear

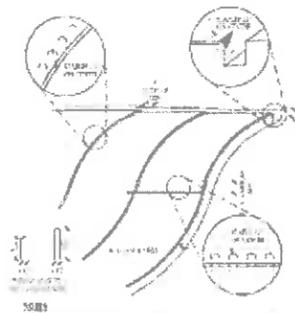
Item	Quantity	Unit	Notes
1. PROPOSED SWITCHGEAR	1	AREA	SEE PLAN
2. EXISTING UTILITIES	AS SHOWN	AS SHOWN	SEE PLAN



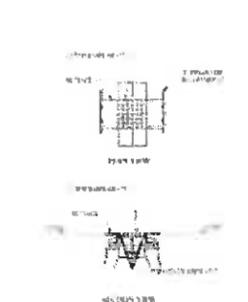
Silt Fence Barrier
Sheet 1 of 2



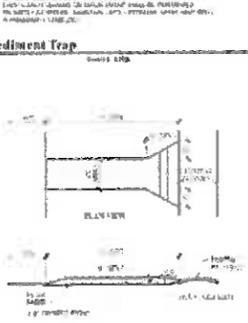
Latch Basin Sediment Trap
Sheet 1 of 2



Erosion Control Blanket Slope Installation
Sheet 1 of 2



Siltcatch Sediment Trap
Sheet 1 of 2



Stabilized Construction Fall
Sheet 1 of 2



Emerald Street Substation
Emerald Street
Keene, New Hampshire

NOT APPROVED FOR CONSTRUCTION

EMERALD STREET SUBSTATION
EROSION CONTROL PLAN

SEP 14, 2017

Not Approved for Construction

Erosion Control Plan

C-4

4 5

1346232

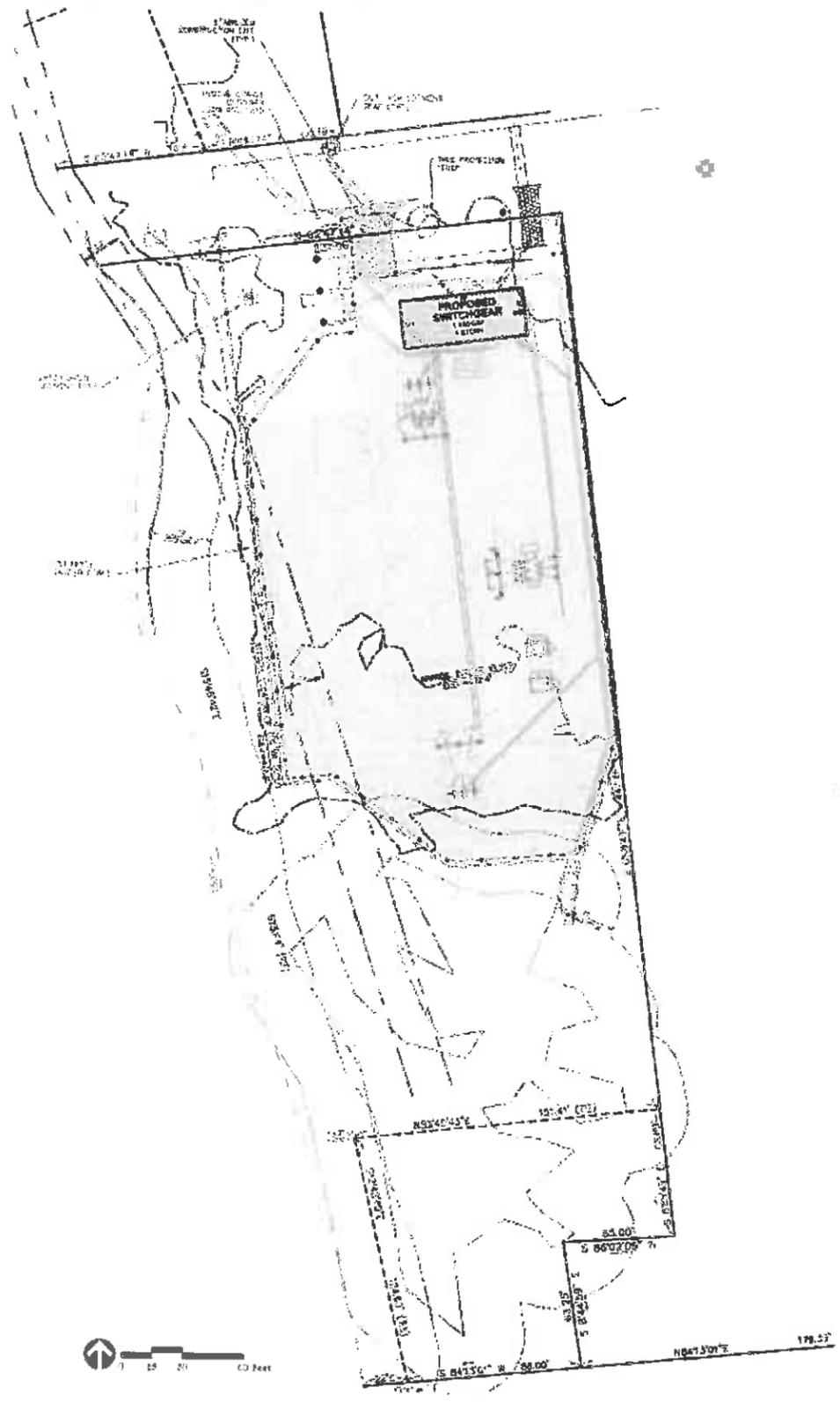


Figure 2 - 10.1

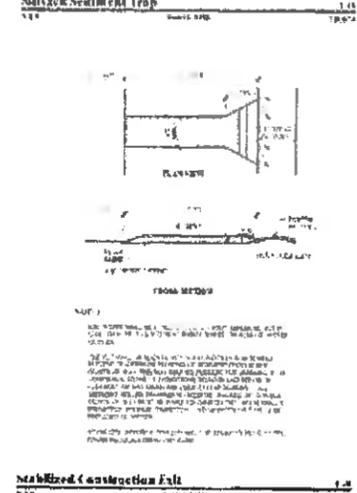
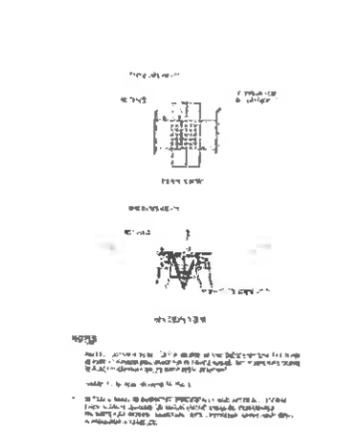
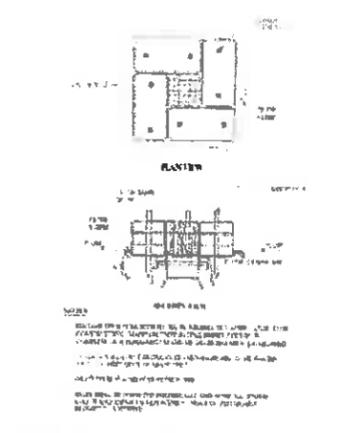
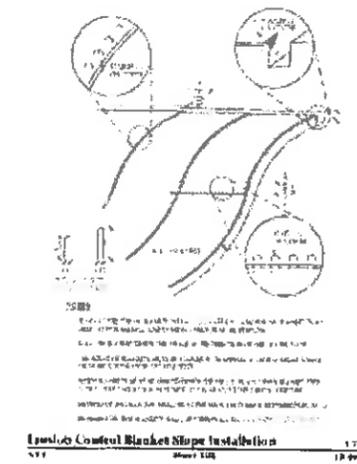
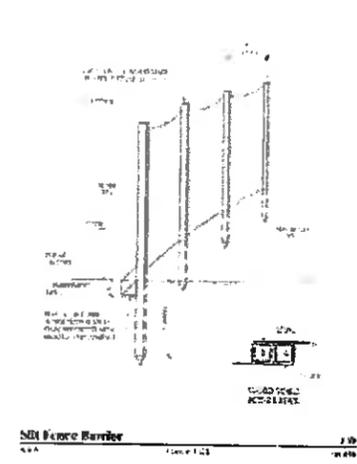
1. The proposed switchgear layout is shown in the plan view. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long.

2. The proposed switchgear layout is shown in the plan view. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long.

3. The proposed switchgear layout is shown in the plan view. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long.

4. The proposed switchgear layout is shown in the plan view. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long.

5. The proposed switchgear layout is shown in the plan view. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long. The switchgear is to be installed in a concrete pad. The pad is to be 10 feet wide and 20 feet long.



Emerald Street Substation
Emerald Street
Keene, New Hampshire

NOT APPROVED FOR CONSTRUCTION

Erosion Control Plan

C-4

1540332

STAFF REPORT

S-10-17 **2-Lot Subdivision –37-39 Prospect Street**

Request:

Fieldstone Land Consultants, PLLC, on behalf of owners Michael F. and Fern E. Geraghty proposes a 2-lot subdivision. This proposal would subdivide the existing 0.518 acre lot (TMP# 008-03-022) into one 0.308 acre lot and one 0.211 acre lot. The site is located in the Medium Density Zone.

Background:

The parcel is approximately 3/4 mile north of downtown Keene, 1/2 mile south of the Cheshire Medical Center/Dartmouth–Hitchcock and ¼ mile south of the Court Street entrance to Keene’s Appel Way walking/biking trail. The project proposes to subdivide the original lot into two for an additional single family house site. The lot is flanked by Prospect and Spruce Streets. The new lot would be oriented toward Spruce Street. The current property is serviced by City water and sewer though an easement will be required for the existing lot’s sewer connection to pass through the new lot.

Completeness: The Applicant has supplied two drawings prepared by Fieldstone Land Consultants, PLLC:

1. Sheet 1 of 2: “Existing Conditions Plan, Tax Map 8, Lot 3-22, 37-39 Prospect Street, Keene, NH, Prepared for and land of Michael F. & Fern E. Geraghty, 1” = 20’, dated November 16, 2017
2. Sheet 2 of 2: “Subdivision Plan, Tax Map 8, Lot 3-22, 37-39 Prospect Street, Keene, NH, Prepared for and land of Michael F. & Fern E. Geraghty, 1” = 20’, dated November 16, 2017

In addition, the Applicant has requested site-specific exemptions from the Existing and Proposed Conditions Plan requirements for site features that are not present on the property. These exemptions are proposed contours at minimum intervals of five feet, wooded areas and vegetated areas for the Proposed Conditions Plan, as well as the entire Grading Plan, the entire Landscaping Plan, the entire Lighting Plan and the Technical Reports.

After reviewing the requested exemptions, staff recommends that the Board grant all exemptions and open the public hearing for **S-10-17**. As a reminder, the Board has 65 days to make a decision on an application once the Public Hearing has been opened.

Departmental Comments:

Engineering – Due to the proposed driveway:

Site Plan:

1. Provide erosion and sediment control plan.
2. Show the location of temporary construction entrance into the site.
3. Provide a grading plan for proposed development.
4. There is an existing tree at the proposed drive way, which requires cutting of the tree. Applicant needs to obtain a separate permit to cut a tree within the right-of-way.

Stormwater Management:

- 1) Under the existing conditions, surface runoff flows onto the adjacent property and the proposed development will divert the flow path. Applicant needs to demonstrate there will be not impact on abutting properties.

STAFF REPORT

- 2) Provide a drainage report to demonstrate no net change in runoff. Specifically, calculations should account for impervious areas, such as roof and driveway.
- 3) A licensed engineer in the State of New Hampshire must stamp the drainage report.

Staff Response: The initial application included both a house site and a driveway location. Per Driveway Standard 70-135.c.1. a. “The City Engineer may refer a (single family) driveway...application to the planning board for review if, in his sole discretion, the City Engineer determines that the facts and circumstances warrant such referral.” However, due to the site’s circumstances triggering the drainage considerations noted above by the Engineering Department as well as the circumstance of a 12” Maple tree on the property line which conflicted with the location of the proposed driveway (triggering additional review and approval requirements per Driveway Standard Per Driveway Standard 70-135.e.14.), the applicant has chosen to not pursue having the driveway be part of this subdivision application.

Police: Reviewed with no comment.

Fire: No issues

Code: No issues.

Application Analysis - Development Standards:

The subdivided parcel is, within existing regulations, developable. Many of the Planning Board Development Standards are not relevant due to the project not including a site design. Therefore the following is a review of the Board’s limited relevant standards in relation to the proposed application:

1. **Drainage:** Per Planning Board (PB) Regulation III.C.1.a.2, the site, is a viable building site and allows for the creation of the proposed single family house and a driveway curb cut that can comply with these standards.
2. **Sedimentation & Erosion Control:** Per this PB standard as well as Planning Board Regulation III.C.1.a.2, the site, which has an approximate overall slope of 5%, allows for the creation of the proposed single family house and a driveway curb cut that can comply with these standards.
3. **Sewer & Water:** The original parcel is served by City water and sewer. However, an easement is needed to provide permanent access for the sewer line serving the existing home as it passes through the proposed new parcel. The easement shown will require specific legal language that is not part of this approval.

RECOMMENDATION FOR APPLICATION:

If the Board is inclined to approve the Application, the following motion is recommended:

Approve S-10-17, as shown on the plan set identified as “Tax Map 8, Lot 3-22, 37-39 Prospect Street, Keene, NH, Prepared for and land of Michael F. & Fern E. Geraghty, 1” = 20’, dated November 16, 2017 with the following conditions:

1. *Owner’s signature on plan prior to approval.*

CITY OF KEENE
NEW HAMPSHIRE

Public Works Department

Date: November 16, 2017

To: Michele Chalice, Planner

Through: Donald R. Lussier, P.E., City Engineer

From: Yelma Desseta, Civil Engineer

Subject: 37-39 Prospect Street (S-10-17)

Background:

The Department of Public Works, Engineering Division received the following documents in our office on November 13, 2017 for review and comments.

- Survey Plan entitled “Subdivision Plan” prepared by Fieldstone Land Consultants, PLLC, revision date November 7, 2017.

The Engineering Division reviewed the above documents and made comments in conformance with standard engineering practice and compliance with City of Keene Subdivision Rules and Regulations (Sec. 70-121. Lot monuments, Sec. 102 -791 Basic Zone Dimension Requirement, Sec.70-122 Utility right-of-way, Sec.70-123 Street right-of-way, Sec. 70-124 Streets, Sec. 54-98 Drainage and Sec. 70-125 Grading,).

Survey Plan:

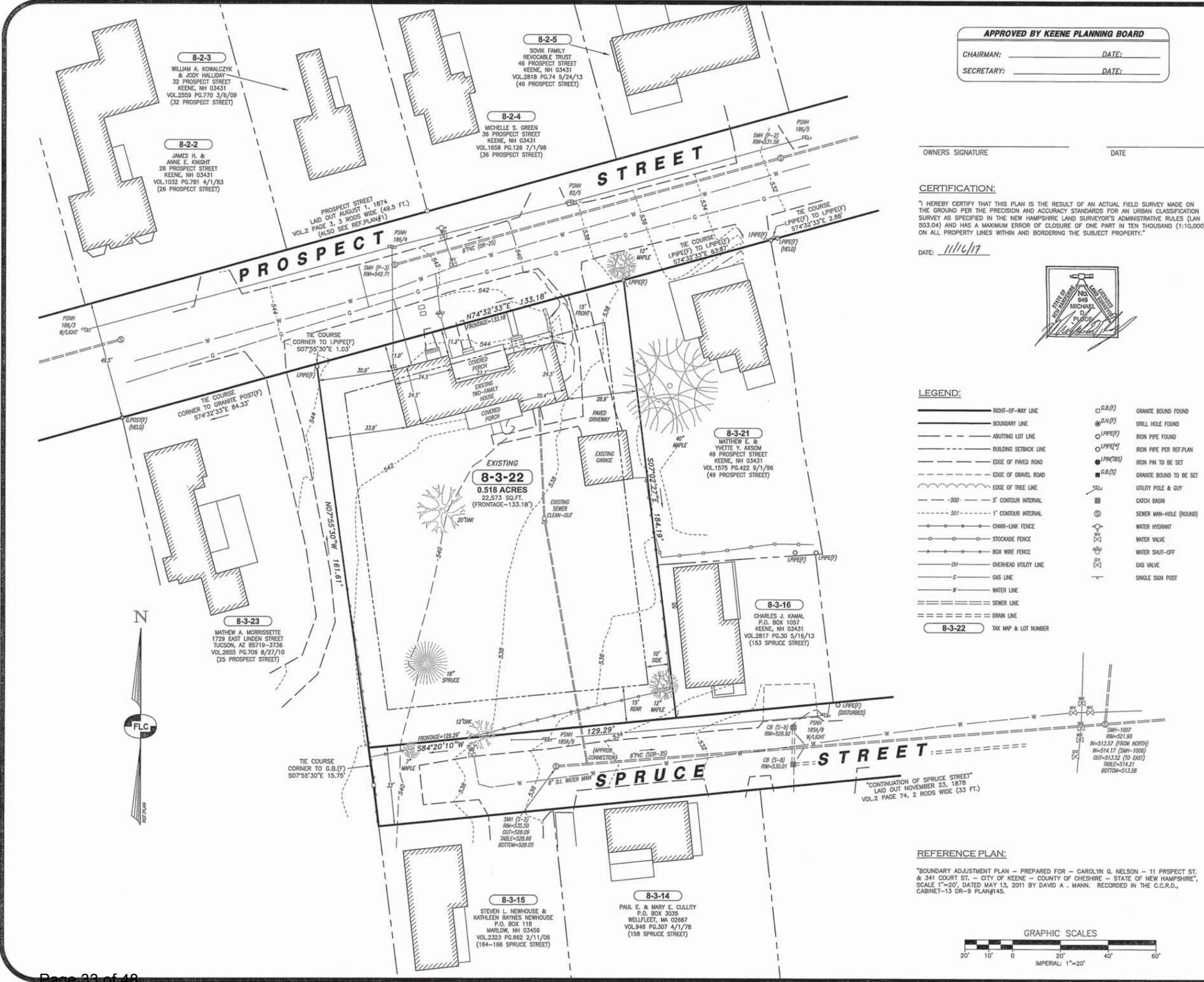
1. Show existing conditions on proposed subdivision plan (For example, contours and trees).
2. Confirm that all lines and symbology used in the drawings is defined in the legend (for example trees).

Site Plan:

1. Provide erosion and sediment control plan.
2. Show the location of temporary construction entrance into the site.
3. Provide a grading plan for proposed development.
4. There is an existing tree at the proposed drive way, which requires cutting of the tree. Applicant needs to obtain a separate permit to cut a tree within the right-of-way.

Stormwater Management:

5. Under the existing conditions, surface runoff flows onto the adjacent property and the proposed development will divert the flow path. Applicant needs to demonstrate there will be not impact on abutting properties.
6. Provide a drainage report to demonstrate no net change in runoff. Specifically, calculations should account for impervious areas, such as roof and driveway.
7. A licensed engineer in the State of New Hampshire must stamp the drainage report.



APPROVED BY KEENE PLANNING BOARD

CHAIRMAN: _____ DATE: _____

SECRETARY: _____ DATE: _____

OWNERS SIGNATURE _____ DATE _____

CERTIFICATION:

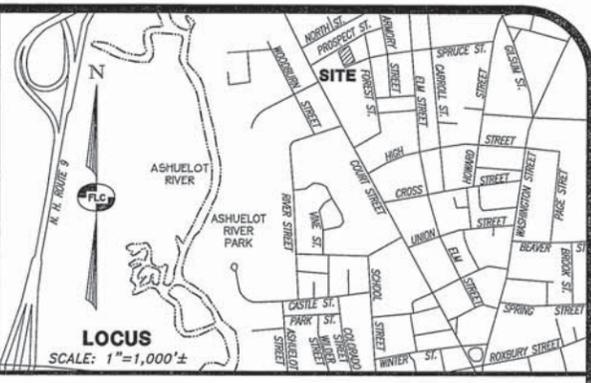
"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND PER THE PRECISION AND ACCURACY STANDARDS FOR AN URBAN CLASSIFICATION SURVEY AS SPECIFIED IN THE NEW HAMPSHIRE LAND SURVEYOR'S ADMINISTRATIVE RULES (LAN 503.04) AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND (1:10,000) ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY."

DATE: 11/16/17



LEGEND:

—	RIGHT-OF-WAY LINE	□ G.B.(F)	GRANITE BOUND FOUND
—	BOUNDARY LINE	⊙ D.H.(F)	DRILL HOLE FOUND
—	ABUTTING LOT LINE	○ LPIPE(F)	IRON PIPE FOUND
—	BUILDING SETBACK LINE	○ LPIPE(F)	IRON PIPE PER REF.PLAN
—	EDGE OF PAVED ROAD	● LFM(TES)	IRON PIN TO BE SET
—	EDGE OF GRAVEL ROAD	■ G.B.(S)	GRANITE BOUND TO BE SET
—	EDGE OF TREE LINE	⊙	UTILITY POLE & GUY
-500-	5' CONTOUR INTERVAL	■	CATCH BASIN
-501-	1' CONTOUR INTERVAL	⊙	SEWER MAN-HOLE (ROUND)
—	CHAIN-LINK FENCE	⊙	WATER HYDRANT
—	STOCKADE FENCE	⊙	WATER VALVE
—	BOX WIRE FENCE	⊙	WATER SHUT-OFF
—	OVERHEAD UTILITY LINE	⊙	GAS VALVE
G	GAS LINE	⊙	SINGLE SIGN POST
W	WATER LINE		
—	SEWER LINE		
—	DRAIN LINE		
8-3-22	TAX MAP & LOT NUMBER		



- NOTES:**
- THE APPLICANTS AND THE OWNERS OF RECORD FOR TAX MAP 8 LOT 3-22 IS MICHAEL F. AND FERN E. GERAGHTY, 55 KENDALL ROAD, KEENE, NH 03431. THE DEED REFERENCE FOR THE PARCEL IS VOL.2997 PG.1189 DATED AUGUST 22, 2017 IN THE CHESHIRE REGISTRY OF DEEDS.
 - THE PURPOSE OF THIS PLAN IS TO DEPICT THE EXISTING CONDITIONS FOR EXISTING TAX MAP LOT 8-3-22.
 - THE TOTAL AREA OF EXISTING TAX MAP PARCEL 8-3-22 IS 0.518 ACRES OR 22,573 SQ.FT. TOTAL FRONTAGE ALONG PROSPECT STREET IS 133.18' AND TOTAL FRONTAGE ALONG SPRUCE STREET IS 129.29'.
 - LOT NUMBERS REFER TO THE CITY OF KEENE ASSESSORS MAP B.
 - ZONING FOR THE PARCEL IS THE "MEDIUM DENSITY" DISTRICT (MD).

MD ZONE: CONVENTIONAL	REQUIRED	8-3-22
MIN LOT AREA	8,000 SF	22,573 SF
MIN LOT WIDTH	60 FT	132.95 FT
MIN LOT FRONTAGE	50 FT	133.18 FT
MIN LOT DEPTH	NONE FT	172.9 FT±
MIN FRONT SETBACK	15 FT	11.0 FT
MIN SIDE SETBACK	10 FT	28.9 FT
MIN REAR SETBACK	15 FT	131.5 FT
MAX. BUILDING HEIGHT	35 FT	20 FT±
MAX. STORIES	2.0 ST	2.0
OPEN SPACE FOR EACH LOT	40%	85.9%
 - THE SURFACE FEATURES AND BOUNDARY INFORMATION SHOWN WERE DEVELOPED FROM THE REFERENCE PLAN CITED AND A PRECISE FIELD SURVEY BY THIS OFFICE DURING THE MONTH OF SEPTEMBER 2017. HORIZONTAL ORIENTATION IS BASED ON REFERENCE PLAN #1. VERTICAL DATUM IS BASED ON THE CITY OF KEENE'S SEWER PLAN FOR SPRUCE STREET. THE REFERENCE BENCHMARK IS THE RIM ELEVATION FOR SEWER MANHOLE "S-1", ELEV=535.50'.
 - JURISDICTIONAL WETLANDS WERE NOT FOUND ON THE SUBJECT PARCEL PER AN ON SITE FIELD INVESTIGATION BY CHRISTOPHER A. GUIDA, C.E.S., IN SEPTEMBER 2017 IN ACCORDANCE WITH THE "CORPS OF ENGINEERS WETLAND DELINEATION MANUAL, TECHNICAL REPORT Y-87-1, DATED JANUARY 1987".
 - THE SITE IS CURRENTLY SERVICED BY OVERHEAD UTILITIES AND BY MUNICIPAL SEWER, WATER AND GAS.
 - THE SUBJECT PARCEL IS NOT LOCATED IN A FLOOD HAZARD AREA AS DETERMINED FROM THE FLOOD INSURANCE STUDY (FIRM), CHESHIRE COUNTY, CITY OF KEENE, NEW HAMPSHIRE, COMMUNITY NO. 330023, PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, MAP NUMBER: 33005C0258E, DATED: MAY 23, 2006.
 - SOIL TYPE FOR THE ENTIRE SITE IS 143C - MONADNOCK FINE SANDY LOAM, VERY STONY, WITH SLOPES FROM 8%-15%.
 - TO THE BEST OF MY KNOWLEDGE AND BELIEF, THERE ARE NO KNOWN EASEMENTS, RESTRICTIONS OR ENCUMBRANCES ON THE PROPERTY OTHER THAN THAT SHOWN IF ANY.

C	11/16/17	REMOVE DRIVEWAY & DPW COMMENTS	MDP	MDP
B	11/13/17	REVISE DRIVEWAY & POTENTIAL BLDG LOCATION	MDP	MDP
A	11/07/17	REVISE PER PLANNING DEPT. REVIEW	TJB	MDP
REV.	DATE	DESCRIPTION	C/O	DR

EXISTING CONDITIONS PLAN
TAX MAP 8 LOT 3-22
37-39 PROSPECT STREET
KEENE, NEW HAMPSHIRE
 PREPARED FOR AND LAND OF:
MICHAEL F. & FERN E. GERAGHTY
 55 KENDALL ROAD, KEENE, NH 03431

SCALE: 1" = 20' OCTOBER 10, 2017

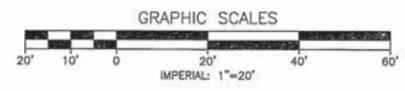
Surveying ♦ Engineering ♦ Land Planning ♦ Permitting ♦ Septic Designs

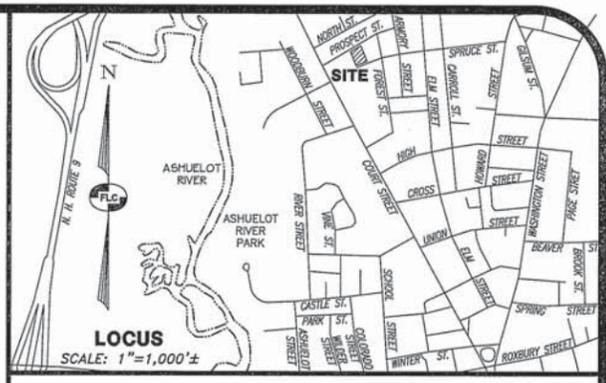
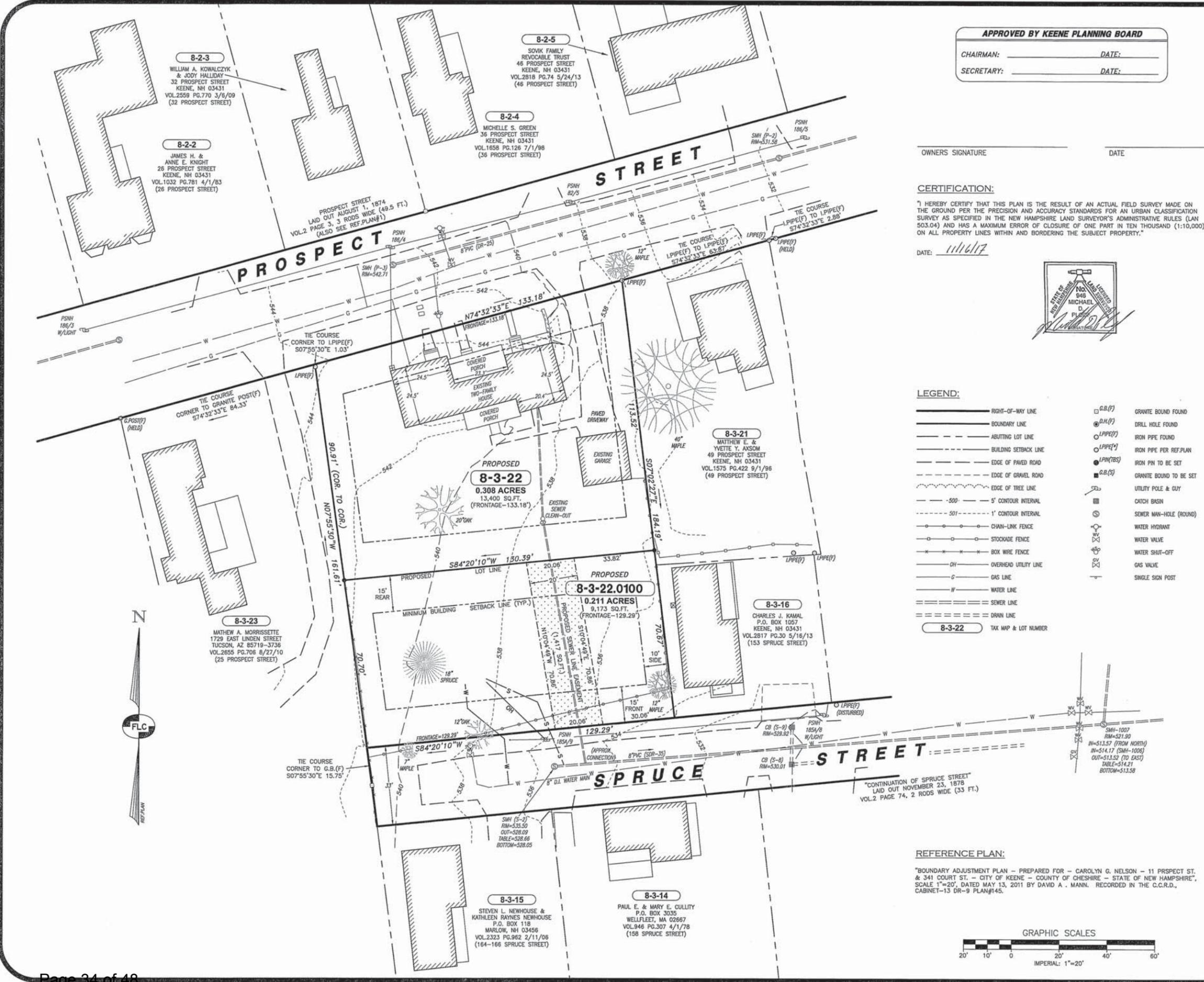
FIELDSTONE
LAND CONSULTANTS, PLLC

206 Elm Street, Milford, NH 03055
 Phone: (603) 672-5456 Fax: (603) 413-5456
 www.FieldstoneLandConsultants.com

REFERENCE PLAN:

"BOUNDARY ADJUSTMENT PLAN - PREPARED FOR - CAROLYN G. NELSON - 11 PRSPECT ST. & 341 COURT ST. - CITY OF KEENE - COUNTY OF CHESHIRE - STATE OF NEW HAMPSHIRE, SCALE 1"=20', DATED MAY 13, 2011 BY DAVID A. MANN. RECORDED IN THE C.C.R.D., CABINET-13 DR-9 PLAN#145.





REV.	DATE	DESCRIPTION	C/O	DR	CK
C	11/16/17	REMOVE DRIVEWAY & DPW COMMENTS		MDP	MDP
B	11/13/17	REVISE DRIVEWAY & POTENTIAL BLDG LOCATION		MDP	MDP
A	11/07/17	REVISE PER PLANNING BOARD REVIEW		TJB	MDP
REV.					

SUBDIVISION PLAN
TAX MAP 8 LOT 3-22
37-39 PROSPECT STREET
KEENE, NEW HAMPSHIRE
 PREPARED FOR AND LAND OF:
MICHAEL F. & FERN E. GERAGHTY
 55 KENDALL ROAD, KEENE, NH 03431

SCALE: 1" = 20' OCTOBER 20, 2017

Surveying ♦ Engineering ♦ Land Planning ♦ Permitting ♦ Septic Designs

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FILE: 16775800C.dwg PROJ. NO. 1677.00 SHEET: SB-1 PAGE NO. 2 OF 2

Memo

Date: November 17, 2017
TO: Planning Board Members
FROM: Michele Chalice, Planner
RE: Planning Board Site Plan Regulations regarding Agricultural Structures.

At the October 23, 2017 Planning Board meeting the Board asked for a discussion regarding the “Planning Board standards as they relate to agricultural uses.” There was also a request to explore “easing of the process where appropriate.”

The following request to the NH Planner’s Link resulted in one response:

“Our Planning Board would like to find a way to have our Planning Board regulations and site plan review process be less onerous for local farmers. Has anyone worked on this or might someone have an example of their community’s effort to assist local farmers getting through the development process with less time and cost?”

A single response was offered:

Site plan approval is not required for agricultural activities or structures that do not involve the onsite retail sale of products or services to the general public, or for seasonal roadside farm stands limited to the sale of the agricultural products produced on the farm on which it is located or other agricultural properties owned or leased by the same agricultural enterprise.”

While appealing on several levels, I suspect that Planning Board members are able to see the potential risks to such a blanket provision given the Planning Board’s recent review of the new Archway Farms hoop house immediately adjacent to Hurricane Brook.

Very fortunately, I attended a very recent NH Municipal Association conference session titled “A Toolkit for Local Regulation of Agriculture” presented by Amy Manzelli, Managing Attorney for BCM Environmental & Land Law, PLLC and Theresa Walker, Consultant Environmental Planner, Rockingham Planning Commission on behalf of the NH Coalition for Sustaining Agriculture. This group is an ad hoc, loose organization that meets infrequently but was able to find grant funding to create this toolkit. A draft version of the working document is attached.

In summary, protections currently exist to limit over-regulation, in particular, Section 67:32-b states “(only) some farming expansions...may be made subject to special exception, building permit or site plan approval:

- Livestock, poultry, or other animals or a retail farm stand.
- Farm stand/retail operation, to prevent traffic and parking from adversely impacting adjacent property, street and sidewalks or public safety.”

A working version (draft) graphic showing this particular regulation in the broader context of NH’s applicable agricultural regulatory structure is attached (look for clouds). In conversation at this session, the approach of working with the applicant to propose requesting exemptions from expensive aspects of the current regulations was deemed a solid approach for the time being. The great news is that NH communities’ interest in supporting local agriculture is driving a thorough analysis by this particular group of NH’s regulatory structure intent on protecting the broader interests of the public. The challenging aspect is that no NH community has yet progressed to the point of creating a more user-friendly checklist that could enable farmers to go through the required public and resource protective regulations in a more user-friendly manner.

Please see the attached materials for your review and discussion.

LOCAL REGULATION OF AGRICULTURE TOOLKIT

DRAFT



IS YOUR TOWN FARM FRIENDLY?

2nd Edition

A checklist for municipal planning for agriculture

Farms are thriving and expanding across New Hampshire in new and exciting ways as farmers capitalize on consumer interest in fresh, locally grown and produced food. Farm stands, community gardens, community farms, and summer and winter farmers' markets provide access to New Hampshire grown agricultural products year round, creating opportunities for farmers to build their businesses.

To support this economic development, municipalities can do more to ensure farms are successful. Agricultural land use is often overlooked in local plans and regulations, with emphasis given to residential and commercial activity, transportation networks, and recreation. As a result, farmers can be hindered by uncertainty regarding how state and local regulations are applied to their operations. Municipal plans, regulations and policies that are flexible and clearly promote and support farming can help ensure New Hampshire's traditional working landscape of farms and forests can continue to work in the future.

This checklist, originally developed by the New Hampshire Coalition for Sustaining Agriculture in (year), has been updated to reflect municipal interest in creating economically and environmentally sustainable and resilient communities that recognize the importance of a local and regional food supply, as well as the recognition by local officials that agricultural land in all our communities provides more than food and forest products and rural character, but also water supply protection, flood storage, and wildlife habitat.

Practical Land Use Ordinances and Regulations

Does your town:

Have an Agricultural Resources chapter in the Town Master Plan?

The Master Plan is the vision of what land uses are encouraged, protected, or excluded within a town. To support farms and farming, the Master Plan should include a chapter dedicated to agricultural resources, including an inventory of current agricultural activity, an analysis of the impacts of existing regulations on farming, and goals and recommendations to support agriculture.

Allow

Allow uses in most zones?

Farms are interwoven throughout our communities, operating in areas zoned for residential, commercial, and industrial activity. Farms are often hybrids of all these different kinds of land uses, and ordinances and regulations should provide flexibility for the dynamic nature of farming.

Use the State's definition of agriculture, detailed in NH RSA 21:34-a?

The State of New Hampshire has an official definition of a farm, agriculture, and farming – it's all included in NH RSA 21:34-a. Local adoption of this definition provides consistency with the State's definition and the many references to agriculture in State laws and programs.

GLOSSARY OF TERMS*

Abandon or Abandonment

There is no statutory definition of abandonment for purposes of laws concerning agricultural use. Absent a state definition, the definition provided in the applicable municipal ordinance will govern. Generally these ordinances will define that abandonment as an event that occurs when there is a stated intention or otherwise apparent action to discontinue an agricultural operation, such as by the removal of characteristic equipment or furnishings used in the performance of the operation, without its replacement by similar equipment or furnishings, or the replacement of the operation with a different non-agricultural operation. Cf. Town of Auburn, New Hampshire, Zoning Ordinance, § 2.02 (Mar. 2014) (discussing definition of abandonment in the analogous context of non-conforming uses).

Absent a municipal definition, the meaning is less clear. New Hampshire state law provides that an undefined word shall be given its “common and approved usage.”* Beyond this, the case law suggests that abandonment occurs “upon the concurrence of two factors: (1) an intention to abandon or relinquish the use, and (2) some overt act or failure to act which carries the implication that the owner neither claims nor retains any interest in the use.” *Lawlow v. Town of Salem*, 116 N.H. 61, 62 (1976). The decisive test is “whether the circumstances surrounding such cessation of use are indicative of an intention to abandon the use and the vested rights therein.” *Id.*

Agriculture

The words “agriculture” and “farming” mean all operations of a farm, including:

- (a)
 - (1) The cultivation, conservation, and tillage of the soil.
 - (2) The storage, use of, and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.
 - (3) The use of and application of agricultural chemicals.
 - (4) The raising and sale of livestock which shall include but not be limited to all beef and dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).
 - (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
 - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.

- (7) The raising, breeding, or sale of poultry or game birds.
- (8) The raising of bees.
- (9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.
- (10) The production of greenhouse crops.
- (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence.

(b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
- (2) The transportation to the farm of supplies and materials.
- (3) The transportation of farm workers.
- (4) Forestry or lumbering operations.
- (5) The marketing or selling at wholesale or retail, of any products from the farm, on-site and off-site, where not prohibited by local regulations. Marketing includes agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, or active involvement in the activity of the farm.
- (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
- (7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a)(4).
- (8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.
Agritourism [“][A]gritourism[”]. . . means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, or active involvement in the activity of the farm. RSA 2:34-a, II(b)(5).

Farm Stands

A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner. RSA 21:34-a, III

Local Land Use Board

“Local land use board” means a planning board, historic district commission, inspector of buildings, building code board of appeals, zoning board of adjustment, or other board or commission authorized under RSA 673 established by a local legislative body. RSA 672:7.

Municipality

“Municipality” or “municipal” means, includes and relates to cities, towns, village districts, and counties in which there are located unincorporated towns or unorganized places. RSA 672:10.

Town

The word “town” shall extend and be applied to any place incorporated, or whose inhabitants are required to pay any tax, and shall mean that city, town, ward, or place in which the subject-matter referred to is situate, or in which the persons referred to are resident, unless from the context, a different intention is manifest. RSA 21:5.

* The definitions contained in this Glossary of Terms are the verbatim statutory definitions of terms found in the Infographic that have a specific statutory definition under New Hampshire law. Beyond these specific definitions, “[w]ords and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed and understood according to such peculiar and appropriate meaning.” RSA 21:2. This means that the many words used in these laws that are not specifically defined, such as “significant” expansion, would have their “common” meaning, and unfortunately the common meaning is not entirely clear.

Allow simpler design standards for Site Plan Review regulations on agricultural businesses limited to seasonal use?

Simpler standards for certain aspects of Site Plan Review regulations make sense for agricultural uses, such as parking, lighting, and signage requirements for seasonal retailing or events. When agricultural uses are limited in scope an impact, they need not be treated as if they were year-round permanent businesses.

Allow flexibility in regulations to accommodate the unusual needs of agricultural businesses?

Both the land use impact and the off-site impact of a seasonal farm business is much less than that of a full-time business. Pick-your-own fruit or Christmas tree farm businesses can't be viable in a town that treats farms like other retailers. Do your town regulations provide for reduced restrictions such as expanded hours of business operation, temporary signs, parking near pick-your-own fields, or on street parking?

Require buffer zones between farmland and residential uses?

The old saying "good fences make good neighbors" has a modern corollary that says "good buffer zones make new neighbors good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential uses. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.

Provide for the agricultural use of open space land created by innovative residential subdivisions, including community gardens?

Many towns have adopted innovative subdivision regulations like cluster housing, which provide for setting aside open space land within the subdivision. Ideally, such land should be the most valuable agricultural land, be big enough for commercial agricultural purposes, and specifically allow long term agricultural use to provide consistent resource management. Smaller plots of land could accommodate community gardens. Land set aside for open space can stay productive agricultural and at the same time contribute to the ecological health and scenic quality of the area, instead of growing up with brush, which is often invasive species.

Allow off-site signs to attract and direct farm stand customers?

Farm stands are often seasonal businesses that need to capture potential sales at harvest time. Signs that give directions to the farm stand and let customers know what's available (such as strawberries, corn, apples) are vitally important.

Allow uses related to agriculture?

Remember, it's not just the farmland that makes farming possible: businesses related to agriculture (veterinarians, equipment and supply dealers, custom farm service providers, feed milling and delivery, etc.) have to be close enough to serve farmers' needs.

Reference Best Management Practices (BMPs) for agriculture in regulations?

Most people, including Planning Board and Conservation Commission members, may be unfamiliar with Best Management Practices (BMPs) for agriculture. The University of New Hampshire Cooperative

Extension Service and the NH Department of Agriculture Markets and Food have developed guidelines for a variety of agricultural practices and these guidelines should be referenced in local regulations impacting agriculture.

Fair Enforcement of Local Regulations

Does your town:

Have a consistent policy approach for local land use procedures that deal with agriculture?

Planning Boards, Zoning Boards, and Conservation Commissions have different responsibilities, but a common regulatory outlook is possible. Update your Master Plan to express the value agriculture contributes to your town's quality of life through open space, wildlife habitat, water quality protection, natural resource preservation, and preservation of rural character. Establish a policy presumption that agriculture is of beneficial use to your town, and fairness will follow.

Have a good idea of how much agriculture there is in town?

Complete an inventory of farms and other agricultural activity in town to demonstrate the economic, cultural, and resource stewardship value of agriculture in your town. People often carry the misperception that "there's no agriculture in our town" if they don't see cows and red barns. Agriculture in New Hampshire stretches from apples and bees to yaks and zinnias!

Allow roadside stand or pick-your-own operations by right?

Zoning ordinances that provide flexibility for certain agricultural operations can be critical to farm success. Write flexibility into ordinances or regulations that may apply to agricultural land uses so the intent is clearly to promote such use, not to deny because the rules don't fit the unique situations that frequently arise with agricultural businesses.

Use zoning definitions such as "agricultural accessory uses" in a broad and inclusive manner?

"Agricultural accessory uses" refers to everything from machinery sheds to housing for seasonal workers. Various agricultural businesses have very different needs that can test the balance of rules and exceptions. Flexibility written into the ordinances and regulations can prevent many denials of the sort where "the rules don't fit".

Allow farms stands to resell produce purchased elsewhere?

Many towns have rules that a certain percentage of farm stand produce be grown on the farm. The unintended consequence of such regulation is to penalize farm operators who have a crop failure! The rational basis for allowing a farm stand shouldn't be only how much is grown on the farm, but what benefit the farm provides to the town from the open space, wildlife habitat, water supply protection, and natural resource preservation it accomplishes.

Properly assess specialize agricultural structures?

Specialized structures such as silos, milking parlors, and permanent greenhouses depreciate in value over time. Providing assessors with depreciation schedules may enable more accurate valuations, which can lead to lower assessments. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.

Allow non-traditional or retail-based farm businesses in an agricultural zoning district?

Agricultural businesses don't all look alike. Trying to decide what constitutes an agricultural business can involve splitting hairs to make unfamiliar distinctions between what is "commercial" and what is "agricultural". Ordinances defining agriculture based on state law may be accurate, yet need local interpretation. Your town should recognize that newer types of farm businesses such as horse arenas, landscape nurseries, or greenhouses are more intensive in land use, but still carry valuable elements of rural character that benefit the town.

Address agricultural structures in building and safety codes?

Building practices that are state of the art for a specialized use in agriculture may not fit the specifics of codes meant for housing or commercial structures. Bringing up to code agricultural buildings that are historic structures may destroy the very qualities that make them special.

Understanding and Encouraging Farming

Does your town:

Established an Agricultural Commission?

As prescribed by NH RSA 674:44-e, municipalities may establish an Agricultural Commission in order to advise town boards and staff and advocate for the interests and needs of agriculture in the community. Citizens can use an Agricultural Commission to ensure the concerns and interests of farmers are better understood in local decision-making, essentially providing farmers with a seat at the table. An Agricultural Commission has no regulatory or enforcement powers but can play an important role in educating the public on matters relating to farming and agriculture.

Consider farmland a natural resource and encourage conservation easements, discretionary easements, and purchase of farmland?

There are other ways for resource preservation besides easement or outright purchase of farmland. But once a town has considered easements, the costs and benefits of keeping farmland in private ownership can be more clearly appreciated. By understanding and allowing for the peculiarities of agricultural land use, towns can encourage working farms that contribute to the town's well being at no cost to the taxpayers.

Use conservation easement language that specifically allows agricultural activities and enables flexibility for farming to continue on the property?

Often in our desire to preserve the open space associated with undeveloped farmland we draft conservation easement language that restricts activities normally associated with the working landscape, such as haying, tilling, and the raising of livestock. If the intent of a conservation easement is to preserve farmland, it is important that the easement language enable farming.

Have any visible demonstration of the value of agriculture?

Does your town have an annual fair, an apple festival, or an Old Home Day parade? Making agriculture visible to the general public helps establish the economic, cultural and resource stewardship value of having active farms in a town.

Respect the state Right to Farm law, which has specific exemptions for odor and noise?

Local control is an important tradition for New Hampshire towns. The State Right to Farm law provides a backstop for farmers if local officials overreach their regulatory authority. Conflicts between agriculture and other land uses can be reduced when town officials are informed about Best Management Practices (BMPs) that may alleviate nuisance complaints. University of New Hampshire's Cooperative Extension has developed BMPs for various agricultural practices based on sound scientific research.

Have farmers serving on local land use Planning and Zoning Boards, Conservation Commissions, and Heritage Commissions?

There are few better ways to incorporate agricultural concerns into local land use ordinance, regulations, and decisions than having farmers serve. Help your town's land use boards keep a broad perspective by asking, "Have you thought of the consequences...?"

Have farmers serving on the local Economic Development Committee?

Agricultural businesses are frequently undervalued in terms of their effect on the community. Most of the economic activity generated by farms stays within the community. Negative impressions about the strength of New Hampshire agriculture may have a similar impact on the availability of credit to viable farm operations. Having successful farmers on Economic Development Committees can change these misperceptions.

Encourage farmers to use the Soil Productivity Index (SPI) calculations to reduce Current Use tax burdens?

Using Soil Productivity Index (SPI) information may reduce the Current Use assessment on less productive agricultural land. By reducing the tax burden on the agricultural land, towns can encourage the maintenance of open space at a relatively low cost.

Know where to go to get advice and assistance on farm questions?

Make the connection to resources such as the Department of Agriculture, Markets and Food (industry regulator, statewide perspective); University of New Hampshire Cooperative Extension (technical questions, Best Management Practices); New Hampshire Farm Bureau (non-governmental farm lobby, broad experience).

INFOGRAPHIC COMPANION

Purpose of RSA 674:32-a through c:

These sections of RSA 674:32 became law in 2001 as a result of House Bill 97 from 1999. Their purpose is to clarify “that farming and agriculture, as defined in RSA 21:34-a, shall not be unreasonably limited by the use of municipal planning and zoning powers.” This purpose should guide interpretation and use of these laws.

As a backdrop to the laws discussed here, note that RSA 672:1, III-b declares that: “Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers.”

Also note that RSA 674:17, I(i) includes as one of the purposes of zoning ordinances “to encourage the preservation of agricultural lands and buildings and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and buildings.”

Permissive or Mandatory: It is very important to note that the laws use both the words “shall” and “may.” For example, in certain circumstances, municipalities “may require special exception” or other approval processes. RSA 674:32-b, I-II. This means the municipality has discretion; it may decide to impose such requirements or it may decide to not impose them. So, when certain triggering activities occur, such as “significant expansion” of certain agricultural operations (RSA 674:32-b, I-II), the municipality has discretion to opt to regulate the farm or opt to not regulate the farm. In other sections of the law, the word “shall” is used. For example, the applicable town board “shall grant a waiver” from certain municipal requirements in certain circumstances. When these circumstances are present, the municipality has no discretion; it has to grant the waiver because the law says it “shall.” In light of the mandatory requirement to grant waivers in certain circumstances, when deciding whether to opt to impose requirements or opt to not impose requirements, it is prudent for municipalities to consider whether opting to impose requirements is likely to trigger the requirement to waive certain or all of those requirements.

Animal Cruelty: Municipalities can receive complaints and inquiries from the general public about animals at farms, sometimes with concerns that animals are being abused or neglected. Municipalities should refer these concerns to the police because animal cruelty is part of the Criminal Code. In particular, RSA 644:8 defines animal cruelty and sets forth the penalties for it. The police work with the state veterinarian to investigate such concerns pursuant to RSA 436:8. The laws governing the municipal regulation of agriculture, RSA 674:32, are not designed to address concerns of animal cruelty or neglect. Instead, municipalities should refer these concerns to the police because animal cruelty is part of the

Criminal Code. RSA 436:8. The local police can then decide whether to involve the Division of Animal Industry, which is part of the N.H. Department of Agriculture, Markets & Food.

Manure: Municipalities can also receive complaints and inquiries from the general public about manure or other waste at farms. Municipalities should refer these concerns to the N.H. Department of Agriculture, Markets & Food. State law RSA 431:33 requires the department to respond to complaints involving the mismanagement of manure, agricultural compost and chemical fertilizer. Further information is available the department's webpage: <https://www.agriculture.nh.gov/divisions/regulatory-services/nutrient-management.htm>.

Proof: At the end of RSA 674:32-c, II, there are a lot of hoops to potentially jump through. This raises the question: who has to prove the criteria to jump through the hoops?

First, if a municipality has opted to impose certain requirements, the municipality shall waive any requirement if its literal application would effectively prohibit or unreasonably limit an agricultural use. For this part of the law, the person advocating that the waiver that shall be granted, typically a farmer or a farmer's representative, should be the one to put forward the evidence to show that the requirement would either prohibit or be an unreasonable limit on an agricultural use. If the person seeking the waiver puts forward sufficient (a preponderance) credible evidence and no one challenges that, the municipality shall grant the waiver.

The next part of the analysis requires determining whether the waiver would have a demonstrated adverse effect on: public health or safety, or the value of adjacent property. If so, the municipality is not required to grant the waiver. For this part of the law, the one advocating such demonstrated adverse effect should be the one to put forward the evidence to show that. Typically, this would be a neighbor opposed to the agricultural use in question.

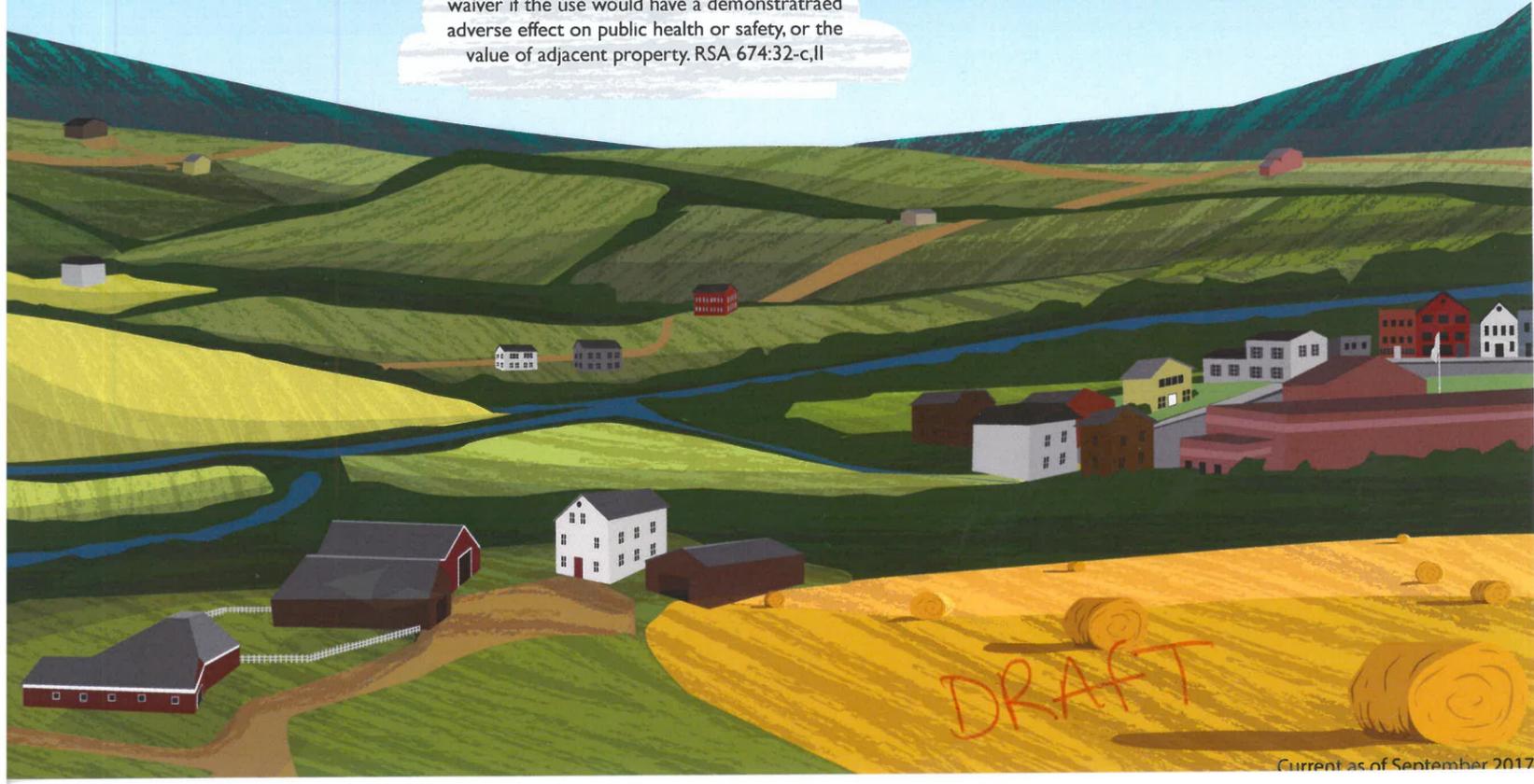
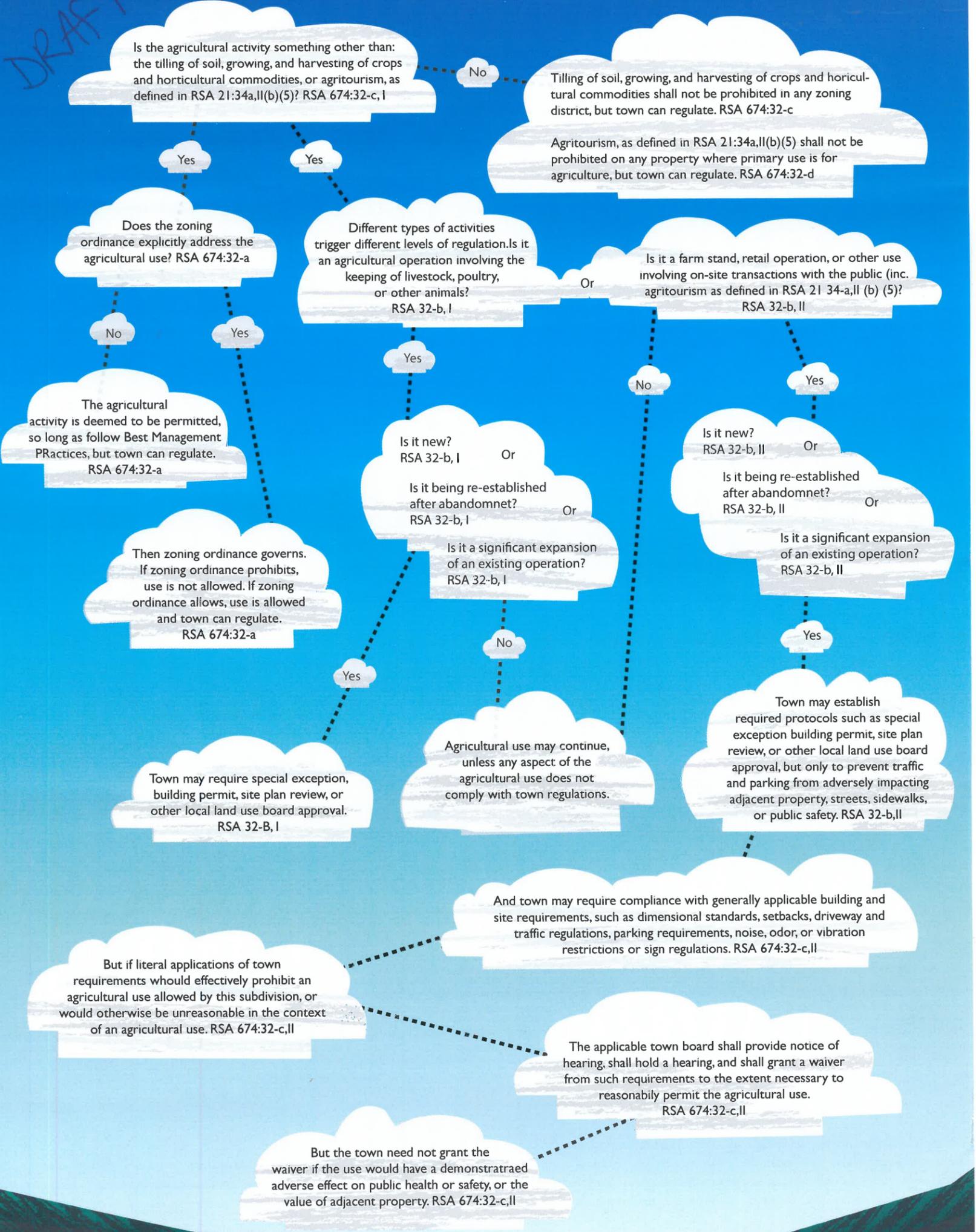
However, for both of these parts of the law, if the municipality desired to, it may hire its own experts and otherwise put forward its own evidence.

Right to Farm: Like every other state, New Hampshire provides a certain amount of protection against lawsuits based in nuisance. In essence, certain farms are immune to lawsuits for nuisance. This does not prevent a farmer from being sued. Instead, it provides a defense and legal grounds for getting rid of a lawsuit early on instead of having to go all the way through to having a trial. RSA 432:33 provides the protections as follows: "No agricultural operation shall be found a public or private nuisance as a result of changed conditions in or around the locality of the agricultural operation, if such agricultural operation has been in operation for one year or more and if it was not a nuisance at the time it began operation. This section shall not apply when any aspect of the agricultural operation is determined to be injurious to public health or safety under RSA 147:1 or RSA 147:2." Note that the protection does not apply if the farm is newer than one year, if the farm was a nuisance when it began, or if the farm is not in compliance with health and safety laws of RSA 147:1 or RSA 147:2.

Current as of September 2017.

NEW HAMPSHIRE RIGHT TO FARM FLOWCHART

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Current as of September 2017