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Town of Durham

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Planning, Assessing
and Zoning

July 2, 2014

Durham Planning Board
C/O Michael Behrendt
Director of Planning and Community Development
14 Newmarket Road
Durham, NH 03824

RE: Minor Subdivision and Boundary Line Adjustment Application
Edgewood/Emerson Subdivision
Tax Map 1, Lots 15-0 and 14-5

Dear Mr. Behrendt:

Please accept this application for formal consideration by the Planning Board for a four-lot subdivision of Lot 15-0, and a Boundary Line Adjustment to add land from Lot 15-0 to Lot 14-5.

Lot 15-0 comprises a total of 14.01 acres with over 1,400 feet of frontage on Route 4, 50 feet of frontage on Emerson Road, and over 700 feet of frontage on the Class V Public Right of Way portion of Edgewood Road. All of this frontage meets the Ordinance definition of street frontage.

The proposal has received a variance from the Zoning Board of Adjustment to allow an exemption from consideration as a Conservation Subdivision. This exemption requires a number of waiver requests from the Subdivision regulations, since most of the application requirements pertain to Conservation Subdivisions.

I have also presented the plan to the Staff Technical Review Committee, where there were no major problems identified. Suggestions from this review meeting have been incorporated into the plan and proposed approval conditions.

The Conservation Commission has also favorably reviewed the proposal.

Project Description

The proposal would create a total of four lots, all of which would be subject to the conditions outline below. We are including significant setbacks and buffer zones, as well as use restrictions intended to insure that the property is not further developed and limited to single family residential use in perpetuity. Significant amounts of open space are preserved in this proposal. All of the four lots exceed the minimum lot size and frontage requirements by a wide margin.

Access to the large lot would be from Emerson Road along a forty-foot access strip. Access to the three smaller lots would be via the existing paved portion of Edgewood Road and then from a common drive to be constructed. A common road maintenance agreement would be provided to cover the common drive and the common portions of Edgewood Road, which are not town-maintained. We propose to include the neighboring properties, which also use this portion of Edgewood Road in a formalized common maintenance agreement.

No new town infrastructure or maintenance requirements are being proposed by this plan. The lots will be served by existing Town water and sewer, which is readily available. Fire protection is adequately provided by existing hydrants located within the required 3,000 feet. We propose a widening of the privately maintained portion of Edgewood Road at the common drive entrance to accommodate emergency vehicles.

While this large in town parcel can support a much larger development of a variety of residential uses, I feel that this minor project will be best for the community. A H.I.S.S was conducted in 2012 by Gove Environmental Services of Exeter, which indicated a total Usable Area on the property of 436,015 square feet out of a total parcel area of 610,053 square feet. This calculation would allow up to 21 total single-family units, or up to 63 elderly housing units. Such a development would require a major through road and would have substantial impacts on the neighborhood while creating a large amount of new infrastructure for the Town to maintain.

The modest proposed plan has most of the benefits of a Conservation Subdivision and will constitute a reasonable development and use of the property without creating significant new utility loads, storm water volumes or negative impacts to the neighborhood. It provides significant buffer zones in the neighborhood and along Route 4 and will not place any new maintenance burdens on the Public Works Department budget.

Conditional Use Permit Request

The project will require a Conditional Use permit under the Wetlands Conservation Overlay District Provisions in Ordinance Section 175-61 to allow construction of utilities, driveway and drainage facilities in the District. Section 175-61 B. outlines four standards required for issuance of the Conditional Use Permit, all of which will be met. I propose to make application to the NH-DES Wetlands Bureau following acceptance of this application by the Planning Board and to provide the design details of this crossing to the Planning Board as part of the public hearing process.

Waiver Requests

As earlier discussed this plan will require a number of waivers from the Subdivision Regulations due primarily to the exemption from Conservation Subdivision consideration. These waivers also seem quite reasonable in light of the limited and permanent nature of this development.

Waivers are requested from the following sections of The Subdivision Regulations: 7.01, 7.02, 7.03 and 9.08 for the above-outlined reasons. This allows us to move to a final application, eliminating the need for the multi-step approval process.

A waiver is also requested from Section 9.03 to allow the common driveway to serve three lots, where the standard is up to two. This waiver helps to minimize the wetland impact and is consistent with the ordinance goals to reduce storm water and wetland impacts. It should be noted that common drives are encouraged in the Conservation Subdivision rules and in the Pork Chop section of the Zoning Ordinance.

A waiver is also requested from Section 9.06 for storm water design. This provision applies primarily to projects where roadways are to be built. The wetland crossing design will provide for storm water management as will the proposed condition that homes be served by rain gardens to manage storm water. It is proposed that driveways and rain gardens be designed in consultation with the Town Engineer in conjunction with issuance of building and driveway permits at the time of home construction.

Proposed Conditions

We proposed the following conditions in support of the variance request for exemption from the Conservation Subdivision process. The Zoning Board adopted these conditions as part of the variance granting, and we proposed that they become part of the Planning Board approval:

“In order to mitigate the impact of development of the property on the neighborhood, the need for municipal services, and to minimize storm water runoff, establish forested buffer zones along Route 4 and the property’s perimeter, as well as to provide other conservation benefits by limiting further development on the property in perpetuity, it is our intention to develop the property subject to the following restrictions, all of which are to be made permanent restrictions on the property. These conditions were described in general to the Director during talks regarding the property’s development, and they are assumed to be made conditions of any decision in the matter:

- The property shall be limited to four single-family house lots (one of which presently exists) by planning board conditions, deed restrictions and/or

easements to provide a perpetual limit on future development of the property. No further development of any of the lots shall be permitted.

- Proposed Lots 15-1, 15-2 and 15-3 shall be accessed by a shared driveway from the Class V Public Right of Way portion of Edgewood Road. This shared driveway shall utilize a single crossing of the narrowest portion of the wetland as shown on the attached plan. No further wetland impact shall be allowed for these three lots. With the exception of the driveway and related construction required for access, clearing and building activities on these lots shall be limited to the building envelope areas shown on the plan, with the remainder being set aside as forested open space in which only selective cutting shall be allowed.
- The remaining portion of the original Lot 15-0 shall have access from Emerson Road as shown on the plan, but such access shall be reduced to forty feet in width to preclude construction of a municipal roadway.
- The remaining portion of Lot 15-0 shall be restricted from further subdivision, and its use shall be limited to a single-family residential use. Wetland impact on this portion of the property shall be limited to a single crossing to provide access to uplands in the center of the property. No more than five acres of this property shall be cleared or developed, with the remainder being set aside as forested open space in which only selective cutting shall be allowed.
- Buffer zones shall be established along the perimeter of the property in which no building shall be allowed, except as required for access to the property as described and limited above. The buffer zones shall prohibit removal of trees and vegetation to provide a visual buffer. This zone shall be for a width of 75 feet from the property lines along in all cases, except for the zone between Lots 15-1,2 and 3 and U.S. Route 4, in which case it shall be fifty feet in width.

These conditions meet or exceed the requirements of the Conservation Subdivision sections of the Ordinance.”

In addition, the Zoning Board required that we demonstrate to the Planning Board potential for additional development beyond that proposed by this plan. The Usable Area calculation mentioned above has been included on the plan, which would allow at least 17 more dwelling units than what is proposed.

Also, Plan Notes 7 and 10 address conditions relating to sewer connections, rain gardens, and common utility and access agreements. We propose that these

conditions be required prior to the issuance of building permits to allow design flexibility to address specific home designs.

Finally, we propose a condition that driveway design and approval by the Town Engineer is a condition to be met prior to issuance of a building permit, for the reasons outlined in the prior proposed condition.

Proposed Boundary Line Adjustment

As part of this approval we are requesting that adjustments be made to two property lines between Lot 15-0 and Lot 14-5 as shown on the plan. These are intended to improve the value and utility of Lot 14-5, and to forever limit the access to Emerson Road to forty feet as added insurance that a public roadway will never be built to serve Lot 15-0. These changes do not have significant impact on the larger lot, which will exceed all minimum standards following this change.

Conclusion

This property has significantly greater development potential than that being proposed here. The clear benefits to protecting the quality of the neighborhood by limiting the development of this parcel as described here represent an option which is consistent with the principles of conservation and preservation of resources that are an important part of the Zoning Ordinance. In order to achieve these goals a trade off is made by allowing the shared drives and use of the privately maintained sections of Edgewood Road without significant upgrades. If these trade offs are not allowed, the economics will require a different development proposal with much greater impacts.

I have reviewed this plan in detail with the Town Engineer, the TRC, the Conservation Commission and the Zoning Board of Adjustment and I believe that we are in agreement on this approach so far. I am hopeful that the Planning Board will concur, and I look forward to its review.

Sincerely,



John H. Farrell, Manager
County Line Holdings, LLC