

Letter of Intent  
Conditional Use Permit  
For Construction in Wetlands Conservation Overlay District  
Tax Map 1, Lot 15-0  
County Line Holdings, LLC

January 31, 2015

### **Overview of Proposal**

The subject 14 acre property has met Town soil standards for the development of 21 total dwelling units.

The developer understands the concerns of abutters and the neighborhood in general, and has included these concerns in the final proposal.

In consideration of neighborhood concerns about new road construction and other detrimental impacts from full development of the property- including loss of open space and visual buffers, and creation of storm water and excess traffic- the owner has decided to propose a minimalist development including the addition of only three new dwelling units. The proposal includes the creation of no new town roads or infrastructure, providing only those upgrades necessary for safe and convenient access to the lots.

The proposal voluntarily creates permanent forested buffer zones along the perimeter of the property, limits to future subdivision, restrictions to single family residential use without allowance for accessory dwelling units, and limits on clearing and disturbance of existing vegetation- all of which are to become deed restrictions on the property running in perpetuity.

A small wetland crossing in a heavily forested area is required to access building areas on the three new lots proposed. This crossing is subject to review and approval by NH DES Wetlands Bureau to which final approval of the proposal is subject. The wetland crossing area is limited to a maximum of thirty feet in width. The crossing area is shown on the project plans.

The following will address the specific criteria for granting the required Conditional Use Permit for this proposal.

### **Authority: Section 175-61, Durham Zoning Ordinance**

The authorizing section allows for construction of access ways, utilities, pipelines, power lines and similar structures in the W.C.O. District provided that a Conditional Use Permit is granted by the Planning Board.

Section 175-61 B. Includes four specific requirements which must be met for such Planning Board approval in wetland zones, stating that the Planning Board, with the advice of the Conservation Commission, shall approve such a request if the listed conditions are met.

In addition to the general standards for Conditional Use Permit outlined elsewhere, the following specific requirements for proposals in the W.C.O District must be met.

1. **No feasible location outside the District is available....** *In this case, the only access to the developable upland areas of the property is through the W.C.O. District.*
2. **The amount of soil disturbance will be the minimum necessary....** *The design for the driveway crossing was done under the direction of the project wetland consultant and places the new drive in the narrowest portion of the wetland.*
3. **Detrimental impacts will be minimized and mitigation activities will be undertaken....** *The crossing is to be located according to DES recommendations in the narrowest possible part of the wetlands. Erosion control measures, both pre and post construction, will be implemented as evidenced in final Wetlands Bureau approval. Significant portions of the site including upland, and wetland areas are to be set aside as open space to remain densely forested.*
4. **Restoration will leave site as close to original condition and grade as possible...** *Final grading, seeding and storm water management will leave the site in a stable condition. Only required fill and disturbance within a narrow thirty foot corridor will be permitted. Re-grading beyond that required for safe access will be limited to contour changes necessary for storm water management.*

In addition, Section 175-23 of the Zoning Ordinance outlines general criteria for Planning Board approval of Conditional Use Permits as follows. (Note that most of these criteria apply more broadly to an overall type of land use being proposed in a zone where such use would otherwise not be allowed rather than to a more narrow request such as is proposed here. Many of these criteria have no direct relevance to consideration of wetland impact alone, but they are addressed here in support of the permit as required, and they help to reinforce the value of the overall project as proposed):

**Site Suitability** including the following: vehicular and pedestrian access, the availability of public services including emergency services, pedestrian services, schools and other municipal services, absence of environmental constraints, the availability of appropriate utilities include water, sewerage disposal, storm water disposal, electricity and similar utilities.

This very minor project with voluntary reduction in total permitted units (a density of one dwelling unit per every three and a half acres is proposed in a zone where

one dwelling unit per one half acre is allowed) can be easily absorbed into existing pedestrian and traffic patterns. The property is served by two main streets and is proximate to the sidewalk network. There are no known constraints on the applicable schools or municipal services, and none were noted by Town officials during hearings or technical review meetings for the project. The land has been proven, according to the soil standards promulgated by the Town, to have the capacity to support up to twenty one dwelling units. A total of only four is proposed. Public sewer lines have been extended to the site frontage already, and capacity is known to exist to support the low increase in proposed flows. Likewise, water supply, whether from wells or Town lines adjacent to the property, are more than adequate to support the small requirement. Electricity and other utilities are available adjacent to the site. A hydrant is also located at the edge of the site.

The low density, and limited road and drive improvements contribute to a correspondingly low storm water impact. The less that is created, the less that must be managed. Utilization of pre-existing roadways means no additional storm water is created for road access. Drive design and treatment structures will manage any additional run off that will be created on the site. This plan will require rain gardens to manage runoff created by house construction.

The suitability of a very low density conservation-based infill development which provides significant open space and visual buffering in the Town's densest single family residential district is difficult to dispute on the basis of its overall impact, as compared with otherwise-permitted development options- which could include elderly housing with density as high as 63 units.

**External Impacts such as traffic, noise, odors, etc....on abutting properties shall be no greater than the impacts of adjacent existing uses.** The adjacent uses are single family residences which often include student-occupied accessory apartments. By forever limiting the three new lots to single family residences at very low density with no allowance for accessory apartments, this condition is not only met, but easily exceeded. Buffer zones will limit visual impact in excess of zoning standards. Limited road improvement will reduce required clearing and paving, retaining original neighborhood character more than is otherwise required.

**Character of Site Development...** this standard is very easily met by the low density and exceptional buffer zones provided. The new homes will be virtually invisible to the neighborhood. The open space and reduced land clearing for road construction are permanent benefits provided to the neighbors at large. Formal agreements for road and drive maintenance are being provided. They are likely to include existing neighborhood homes not currently so protected. Fire consultants have designed safe access to new lots and improved vehicular access for existing users of the road.

**Character of the Buildings and Structures...** new high quality single family residences without the potential for student apartments will be consistent with the

best of the existing neighborhood structures and uses. They will be superior in quality but similar in general character to the rest.

**Preservation of natural, cultural, historic and scenic resources...** the only identified resources of this nature on the site are the scenic buffers, wildlife habitat and open space. Through limits on clearing and development density, this proposal conserves and protects the majority of the site providing significant benefits for neighborhood scenic views, as well as the more regionally important views from Route 4. Wetlands are protected to the greatest extent possible, after providing essential site access, by preserving surrounding trees and vegetation forever. Limitations on cutting along Edgewood Road, specifically requested by abutters, will preserve the scenic character of the road and have long term positive benefits to the neighborhood. This permanent set-aside of significant acreage in the Town's developed core is of significant benefit to the neighborhood and the community at large. This goal is widely recognized and encouraged by Town ordinances. In this case it is a development option voluntarily chosen in light of these known values.

**Impact on Property Values...** The low density, conservation-oriented approach with limits on accessory apartments and improvements to management of common roads will ensure a high quality single family project that will enhance the value of abutting properties and the neighborhood in general.

**Availability of Public Services and Facilities...** Public water and sewer are available at the edge of the proposed lots. Water may be provided by wells if geothermal heating is to be employed. Wells on large lots can easily meet single family domestic requirements in this area. Drainage requirements are minimized by low density development without expansion of town road system, allowing storm water to be easily treated and managed onsite. Other utilities are adjacent to the site and in ample supply. The Police Department has indicated that it is prepared to service the project as proposed. The Fire Department has sufficient capacity to service the project and is working with our fire protection engineers to design optimal safe access. Final design will include a Fire Department-authorized access and maintenance plan. Fire sprinklers will be included in the three new house lots as suggested by the Fire Department. ORSD school population is in decline, and we have heard no reason to believe that schools are not able to provide services to three new homes.

**Fiscal Impacts...** As compared to otherwise zoning-permitted potential residential development on the site, the current limited development proposal presents a superior fiscal alternative by limiting forever the total impact on Town services and schools to a maximum of three new units. By choosing this limited development plan and thus avoiding the need for extension of town infrastructure (such as roads, and water and sewer lines) the long term maintenance impacts on the Town are next to nil. Ongoing maintenance costs for access to the proposed lots will be borne by the residents rather than the Town. Elimination of the possibility of new student-occupied accessory apartment units further limits town enforcement and police

costs over the long term. Positive permanent community benefits of forested open space and buffer zones are impossible to dispute.

This proposal clearly exceeds minimum requirements for granting of a Conditional Use Permit for access and utility construction in the Wetlands Conservation Overlay District.