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## MEMORANDUM

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**VIA:** First class mail/Certified/Facsimile/**Hand Delivery**/Overnight/E-mail

**TO:** Mr. David Sharples, Town Planner  
Ms. Kristen Murphy, Conservation Agent

**FROM:** Marc Jacobs, CWS, PWS, CSS, CPESC  
*M.E.J.*

**DATE:** June 29, 2018

**SUBJECT:** Exeter Rose Farm, LLC

**RE:** Wetlands Conservation Overlay District Waiver

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The following information is intended to support the request for waivers of aspects of the Wetland Conservation Overlay District regulations in specific locations of the proposed project according to Section 9.9.3 of the Exeter Site and Subdivision Regulations. Refer to the Town of Exeter Wetland Conservation District Area & Impacts Plan dated February 20, 2018 with revision dated June 29, 2018 for a graphic depiction of proposed impacts. The plan is included herein by reference and as attached. Where proposed, restoration of temporary wetland buffer impacts is described below for each wetland.

There are 355,638 square feet (SF) or 8.16 acres of local and state jurisdictional wetlands on the subject property, some of which are geographically isolated and some of which are contiguous to other wetlands located off site. The redevelopment of the site will directly and permanently impact 3,606 SF (0.08 acres) of locally jurisdictional wetland, which represents 1 percent of the total wetland acreage on site. (Of that total, 3,163 SF or 86 percent represents the unavoidable impact associated with construction of Rose Farm Lane as needed to provide access to buildable areas outside the various buffer zones.) Wetland impacts are described in greater detail below by impact area.

### SUMMARY OF REQUIRED BUFFERS

Table 1 below from Exeter's Site Plan and Subdivision Regulations (§ 9.9.2) summarizes the required buffers to wetlands. Note that there are no prime or exemplary wetlands on site. The project is proposing to permanently alter 51,998 SF and temporarily alter 29,713 SF of wetland buffer. Tabulation of the total wetland buffer area on site not been calculated but if it were it is expected that the resulting ratio of total buffer on site to permanent buffer impacts would yield a similar ratio (1%) as total wetlands on site versus proposed direct wetland impacts. Wetland buffer impacts are described in greater detail below by impact area.

**TABLE 1**

Wetlands categories and setbacks:

Wetland Category	No cut / No Disturbance Setback (1)	Parking Setback (2) Waste Water Systems Structural Setback
Prime Wetland	100' no cut/no disturb	125'
Exemplary Wetlands	50' no cut/no disturb buffer	75'
Vernal Pool (V.P. >= 200 sf)	75' no cut/ no disturb buffer	100'
Wetlands with Very Poorly Drained (VPD) Soils	50' no cut/ no disturb buffer	75'
Wetlands with Poorly Drained	40' no cut/ no disturb buffer	75'
Inland Streams (incl. intermittent)	25' no cut/ no disturb buffer	75' (1)

**IMPACT AREA DESCRIPTIONS**

Wetland areas are labeled alphabetically A – N on the attached plans. Impacts are proposed to Wetland and Buffer Areas B, J, K, and M and are described below in alphabetical order as are impacts to the inland stream (IS). No direct or indirect / wetland buffer impacts are proposed to wetland areas A, I, L or N. Impacts are proposed to man-made geographically isolated Wetland Areas C – H, however these wetlands are not locally jurisdictional under zoning section 9.1.3.D. Wetland Areas C – H are jurisdictional under state regulations (as we have assumed they were not legally created or permitted as required or were created out of uplands and have become jurisdictional) and impacts to these areas will therefore be included in the state wetland permit application. Impacts are also summarized in Table 2 below.

Impact Area B

There are three temporary but no permanent impact areas proposed in Wetland Area B. The three temporary areas are associated with the remediation of coal ash / clinker and solid waste on the slopes overlooking and adjacent to the intermittent stream upstream (north) of Norris Brook and west of Oak Street Extension. Temporary Impact Area B1 (TIA B1) is 338 SF in size. Temporary Impact Area B2 (TIA B2) is 11 SF. Temporary Impact Area B3 (TIA B3) is 731 SF for a total of 1,080 SF. These areas will be restored post-remediation. The areas will loamed, sown with typical conservation seed mix and mulched. These areas will not be mowed or maintained, unless otherwise directed by NH Department of Environmental Services (NHDES) and required by the remedial action plan approval.

There will be four (4) areas of associated buffer impact totaling 26,150± SF. Three of the temporary wetland buffer impact areas, totaling 22,216± SF, are associated with the remediation of the coal ash / clinker and solid waste. The fourth area, 3,061± SF, is permanent and associated with the realignment

and improvement of a section of existing Oak Street Extension near where it will tie into Rose Farm Lane. There is also a small portion of permanent buffer impact (473 SF) associated with the construction of Gravel Wetland 1. The temporary buffer impacts outside of the gravel wetland are proposed to be restored post-construction.

#### Impact Area J

Impact Area J involves 531 SF of permanent impact to the buffer associated with regrading for the improvement of existing parking and turn-around area providing continued access to the spring. This wetland buffer impact is necessitated to a degree by the need to install a gate as required by the planning board to prohibit through-traffic from using Oak Street Extension.

#### Impact Area K

Wetland Area K is proposed for a total of five (5) direct impact areas, three of which are permanent and two of which are temporary, totaling 4,933 SF. The primary wetland and stream crossing at Norris Brook, Permanent Impact Area K (PIA K), associated with the proposed construction of Rose Fam Lane, which provides the sole access to otherwise buildable areas of the property under the zoning and subdivision regulations, will directly impact approximately 4,627 square feet (SF) of wetlands. PIA K results in approximately 3,163 SF of the impact. There are two associated Temporary Impact Areas (TIA K1 and TIA K2) totaling approximately 1,464 SF at this crossing. TIA K1 results in 749 SF of impact and TIA K2 results in 715 SF of impact as needed to provide temporary access for construction of the proposed retaining walls. TIA K1 and K2 will be restored in place post-construction). Restoration will involve seeding with a typical wetland seed mix.

Permanent Impact Area K1 (PIA K1) involves 286 SF of direct permanent impact associated with construction of the sewer pump station. Permanent Impact Area K2 (PIA K2) involves 20 SF of direct permanent impact associated with construction of the gravel wetland 4. (There are a total of four (4) gravel wetlands being proposed for management and treatment of stormwater.)

There will be five (5) areas of associated wetland buffer impact in Wetland K totaling 45,616± SF. Approximately 41,829± SF will be permanent and 3,787± SF will be temporary. The largest area of wetland buffer impact is associated with the crossing of Norris Brook as well as the construction of Gravel Wetlands 2, 3 and 4 on either side of Norris Brook. The permanent impact areas need to be maintained (including mowing) in perpetuity, so no restoration of the proposed wetland buffer is proposed beyond stabilizing the area with dense grassy vegetation to minimize erosion. The temporary buffer impact areas, outside of the right-of-way and easements, are to be restored post-construction. Restoration will involve loam, seeding with conservation seed mix according to the manufacturer's recommended rate and mulching. These areas will not be mowed or maintained otherwise.

Other areas of permanent buffer impact, 3,568± SF in size, are associated with the reconstruction, (slight) realignment and improvement of a section of existing Oak Street Extension near where it will tie into Rose Farm Lane. As this access will need to be maintained no wetland buffer restoration is proposed. (The remainder of Oak Street Extension will also be improved and resurfaced but it is our understanding that this work does not constitute buffer impact because the work is confined to the existing footprint.)

Finally, two small areas of wetland buffer impact, 633± SF and 1,019± SF in size, are associated with regrading for the improvement of the existing parking and turn-around areas providing continued access to the spring. No wetland buffer restoration is therefore proposed.

Impact Area M

Impact Area M involves one area of direct impact. Permanent Impact Area M (PIA M) involves 137± SF of impact to Wetland Area M for grading associated with construction of Gravel Wetland 4. There will be three (3) areas of associated wetland buffer impact totaling 8,700± SF. The largest area of wetland buffer impact (7,959 SF) is associated with the construction of Gravel Wetland 4. Approximately 5,390± SF will be permanent and 2,569± SF will be temporary. Drainage facilities within the permanent impact areas will need to be maintained (including mowing) in perpetuity, no restoration of the proposed wetland buffer is proposed beyond stabilizing the area with dense grassy vegetation to minimize erosion. The temporary buffer impact areas, outside of the right-of-way and easements, are to be restored post-construction. Restoration will involve loam, seeding with conservation seed mix according to the manufacturer’s recommended rate and mulching. These areas will not be mowed or maintained.

There will be 466± SF of temporary wetland buffer impact associated with grading for the construction of Rose Farm Lane. There will be 275± SF of temporary wetland buffer impact associated with grading for the construction of the driveway as needed for access to the dwelling on Lot 2. Both temporary buffer impact areas are to be restored post-construction. Restoration will involve loam, seeding with conservation seed mix according to the manufacturer’s recommended rate and mulching. These areas will not be mowed or maintained otherwise.

Inland Stream (IS) Impact Area

There is 373 linear feet (LF) of channel that confines an intermittent stream which discharges from Wetland Area M. Approximately 100 LF of that channel will be permanently impacted for construction of Rose Farm Lane. This section of the inland stream will be captured by the drainage system and piped beneath the road, discharging to a riprap apron below the road. There is 714 SF of associated buffer that will be permanently impacted by the construction of Rose Farm Lane. We have included the inland stream and buffer impacts in our application but this stream is not depicted on the USGS map as required by Exeter Zoning so it is technically not locally jurisdictional.

**TABLE 2**

TOWN OF EXETER WETLAND CONSERVATION DISTRICT WETLAND & 40’/50’ NO CUT/NO DISTURBANCE BUFFER AREAS & IMPACTS TABLE

WETLAND	WETLAND AREA	TEMPORARY IMPACT	PERMANENT IMPACT	TEMPORARY BUFFER IMPACT	PERMANENT BUFFER IMPACT
A	11,857 S.F.	0 S.F.	0 S.F.	0 S.F.	0 S.F.
B	100,049 S.F.	1,080 S.F.	0 S.F.	22,616 S.F.	3,534 S.F.
I	668 S.F.	0 S.F.	0 S.F.	0 S.F.	0 S.F.
J	15 S.F.	0 S.F.	0 S.F.	0 S.F.	531 S.F.
K	185,163 S.F.	1,464 S.F.	3,469 S.F.	3,787 S.F.	41,829 S.F.
L	23,073 S.F.	0 S.F.	0 S.F.	0 S.F.	0 S.F.
M	12,359 S.F.	0 S.F.	137 S.F.	3,310 S.F.	5,390 S.F.
IS	(373 LF.)	0 S.F.	(100 LF.)	0 S.F.	714 S.F.
TOTAL:	333,184 S.F.	2,544 S.F.	3,606 S.F.	29,713 S.F.	51,998 S.F.

## **WETLAND WAIVER GUIDELINES**

As per Exeter Site and Subdivision Regulations (§9.3.3) the following guidelines should be considered by the Planning Board if relief is requested. (It should be noted that the applicants were directed to apply for the wetland waiver; not applying for the waiver was not an option.)

- 1. The relative “value” of the wetland, including its ecological sensitivity, as well as its function within the greater hydrologic landscape shall be compared to the proposed impact.**

A Wetland Functional Evaluation of the Exeter Rose Farm, LLC property was previously conducted by this office and a revised copy, one that elaborates on impact analysis and compensatory mitigation, is included with this filing. As compared to other wetlands on the site, the Rose Farm Lane wetland crossing will impact wetlands of relatively high value. This value is derived from groundwater discharge, floodflow alteration, sediment removal, wildlife habitat and uniqueness functions. The construction of Rose Farm Lane will likely impact the periphery of a floodplain forest as identified in the Exeter Natural Resources Inventory.

Several man-made isolated wetlands will also be altered during construction of the project, especially to remove hazardous materials and solid waste. These wetlands are not locally jurisdictional and are functioning at a very low level and therefore provide significantly less value as compared to other wetlands on site.

The construction of Rose Farm Lane will result in impacts to an inland channel that conveys a stream which flows intermittently from Wetland M. The channel is man-made by erosion that resulted from the clearing of trees as needed to create the field on Assessors Lot 205 off Forest Street which was used to stable horses for a period of time. The change in vegetative cover from forest to field resulted in an increase in the rate of runoff which scoured the current channel. The stream flows in direct response to storm events owing to the slowly permeable soils found in the field. The value of the stream is low as compared to other natural intermittent and perennial streams at this location.

- 2. A wetland scientist has conducted a “function and values” study of the wetlands and deemed that the wetlands under consideration will not be negatively impacted by the development.**

The aforementioned Wetland Functional Analysis was used, in part, to prepare the Impact Analysis section of the Natural Resources Plan for the Exeter Rose Farm, LLC project. The wetlands beneath the proposed crossing of Norris Brook will be permanently impacted. While the wetlands complex along Norris Brook functions at a relatively high value overall, especially as compared to other wetlands on this site, it is noteworthy that groundwater discharge functions are performed minimally at the actual crossing location due to adjacent topography. Additionally, floodflow alteration and sediment removal functions will be maintained by the proposed box culvert as will wildlife migration capacity for smaller mammals and other wildlife by incorporating upland banks within the box culvert. Uniqueness functions are generally associated with the presence of the Jailhouse Spring, which is considered part of this wetland complex but will not actually be directly involved or impacted by the wetland crossing construction at Norris Brook. For these reasons adverse negative impacts are not expected. The

incidental wetland impacts associated with construction of the sewer pump station and gravel wetland 4 are outweighed by the overall benefits which will be provided by these improvements.

The isolated man-made wetland areas described above have been inspected and observed in a flooded condition on numerous occasions during the appropriate season to ascertain if they are providing habitat for species customarily associated with vernal pools and no evidence of use by breeding populations of reptiles or amphibians has been observed. Since these areas are not providing important wildlife habitat and are functioning at a very low level otherwise, negative impacts are not expected.

**3. The Applicant has demonstrated that the use cannot be reasonably carried out on a portion or portions of the lot which are outside of the buffer.**

The property is zoned for the proposed use. Norris Brook and associated wetlands bisect the Rose Farm property. As a result, there is no other access to the large area of otherwise buildable uplands on the north side of Norris Brook without a wetland crossing. Wetlands that are contaminated by hazardous materials which are proposed for remediation cannot or should not be avoided during cleanup.

**4. The applicant has made a substantial effort to minimize the impacts to the buffer.**

The applicant has designed the stream crossing to meet the current standards and regulations regarding stream crossings. The project will provide a box culvert that is 1.2 times bank full width with stream simulation. The project design minimizes unavoidable impacts by crossing Norris Brook and adjacent wetlands where topography is most suitable and at the narrowest location. The design also utilizes retaining walls to minimize side slope grading and the footprint that results, thus further minimizing wetland impacts. Finally, the project proposes no home construction or associated grading in the wetland buffer. Alterations to the wetland buffer are associated with other unavoidable work which includes remediation of hazardous wastes, construction of facilities to manage stormwater, construction of sewer infrastructure, construction of road access that meets town road design standards and improvement of existing road access.

**5. Consideration of waivers requested for constructed drainage facilities within the no-disturbance buffer should be determined by all of the following:**

- a) Assurance that the drainage facility has the most current water quality features that would provide measured reductions in potential pollutants typical to the proposed development,**

The project is proposing stormwater drainage facilities as influenced by the results of on-site soil testing conducted by a Certified Soil Scientist. Based upon the result of those soil tests, proposed drainage facilities include gravel wetlands which are accepted by the NH Department of Environmental Services for their ability to properly treat stormwater prior to release and in so doing protect the quality of downstream water resources.

- b) That a reasonable effort has been made to keep the disturbance to a minimum,**

**c) Not more than 50% of the drainage structures are within the required buffer.**

Regarding b) and c) above, stormwater drainage facilities are located adjacent to existing waterways to which treated stormwater is proposed to be released. This minimizes opportunities for erosion and sedimentation caused by long travel distances for stormwater discharge and is important on this site due to the typical slopes overlooking to Norris Brook as well as dominant soil types and textures. The project has been designed so that no more than 50% of drainage facilities are located within the required wetland buffer. Naturally occurring streams, channels, and wetlands are being used for the conveyance of runoff leaving the site as per §9.5.1.7 of Exeter's Site and Subdivision Regulations.

**6. Recommendations from Exeter's Conservation Commission should be reviewed and considered.**

The applicants intend to meet with the Exeter Conservation Commission (ECC) on July 10 for their input regarding this request for a waiver and we expect that the ECC will communicate their findings to the Exeter Planning Board.

**7. The applicant has prepared a mitigation proposal, including revegetating any disturbed area within the buffer to mimic preconstruction conditions or better. The applicant may also propose an increase in wetland buffers elsewhere on the site that surround a wetland of equal or greater size, and of equal or greater functional value than the impacted wetland.**

Temporary impact to the buffer will be restored as appropriate and as described above. Buffer zones to be restored generally involve the remediation area such as the former boiler and packing building area and areas graded outside of the right-of-way and easements for the construction of the road and drainage features. These areas will be sown with a conservation seed mix (at the manufacturer's recommended rate) and allowed to grow naturally with no mowing. The absence of mowing will permit the areas to quickly develop a shrub community and eventually a dense tree canopy. The applicants look forward to discussing other compensatory mitigation opportunities, as appropriate, with the Exeter Conservation Commission.

