



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION MONDAY, MARCH 13, 2023 MEETING MINUTES

CALL TO ORDER -

A Meeting of the Conservation Commission was called to order on Monday March 13, 2023 at 6:30 pm in the Matthew Thornton Room.

Steve Perkins, Chair, presided:

Members of the Commission Present:

Michael Boisvert, Vice-Chair
Ellen Kolb
Michael Drouin, Alternate Member
Eric Starr
Gage Perry

Members of the Commission Absent:

Cindy Glenn
Andy Hunter, Town Councilor
Gina Rosati, Alternate Member
David Trippett, Alternate Member

Also Participating:

- Lori Crowe, 8 Tomasian Drive
- Tim Tenhave, 5 Windy Hollow Circle
- Joseph Annutto, 4 Tomasian Drive
- Chris Fortin, 7 Windy Hollow Circle
- Andrew Duane, 10 Dwyer Street
- Jen Liba, 6 Tomasian Drive
- José Flores, 3 Windy Hollow Circle
- Mark Gabree, 2 Windy Hollow Circle
- Brittany Fortin, 7 Windy Hollow Circle

Chair Perkins designated Commissioner Drouin to sit in as a voting member for Commissioner Glenn.

PUBLIC HEARINGS - None

NEW BUSINESS – None

OTHER BUSINESS –

- Update on the 22nd annual seedling giveaway – *Submitted by Gage Perry*

Commissioner Perry shared that although \$500.00 was already approved by the Commission for the 2023 seedling purchase, the last few events to purchase at this price were missed. He received a quote for a seedling order for this spring: \$550.00 for 375 seedlings of 9 assorted varieties. Additional shipping charges are likely. In order to move forward, the Commission would need to change the value of the vote to reflect the additional \$50.00 needed to make the purchase. Chair Perkins asked if Commissioner Perry knew which plant species would be purchased.

Commissioner Perry stated that he had a list of what he intended to purchase, but needed to make sure that they were still available to purchase once the order was placed. Chair Perkins noted he would ask Commissioner Rosati to create cards listing the plant species for the seedling giveaway event. He also asked Commissioner Kolb to post information regarding the event. Commissioner Kolb agreed to post information online and on bulletin boards as needed.

Chair Perkins asked if Commissioner Perry could pick up the seedlings once the order arrived. Commissioner Perry confirmed pick-up arrangements were all set. Discussion touched on other supplies that may be needed for the event.

Motion by Vice-Chair Boisvert, to increase authorized expenditure from Fund 53 for the seedling giveaway from \$500.00 to a total of \$570.00.

Seconded by Commissioner Drouin

Motion Carried

6-0-0.

- Update on Fields Farm access – *Submitted by Steve Perkins*

Chair Perkins explained this topic had been brought up at a few recent meetings. Development of the Fields Farm property under Conservation Commission supervision has been delayed for several years due to uncertainty over a parcel of open space for which ownership has been unclear. The Commission has recently received guidance from Town legal counsel on next steps.

Chair Perkins read which items were included in Commissioner meeting packets. He stated that the portion of highlighting on each of the minutes included in packets was the part of the discussion concerning Fields Farm and the transfer of portions of that property. He also noted that the advice given to the Commission from Town legal

counsel was included in packets. Commissioner Perkins then read the letter from Attorney Keriann Roman into record. This letter was in reference to a parcel of land in the Tomasian Drive Subdivision Tax Map 4B Lot 9-1.

Please see the letter from legal counsel and previous meeting minutes referenced in the discussion attached below.

Ms. Crowe stated she was one of the residents who had the common space issue. She asked what an “easement” was. Chair Perkins stated it wasn’t a transfer and wouldn’t affect the title. Commissioner Perry replied that it would be recorded in the title. He explained that an easement is allowing open space access. It is permission to use that specific section of property, with ownership remaining unchanged. Ms. Crowe clarified if she would still own the property while allowing strangers to access the easement.

Chair Perkins and Commissioner Perry noted again it would only be allowing public use through that specific portion that was part of the easement. She questioned how she would give the Town the liability if someone got injured on the property if she accepted the easement. Commissioner Perry stated the Commission would own the easement, not the whole property, and would therefore become liable in the event of an incident on the easement. Chair Perkins noted that none of the Commissioners is an attorney but that the Town’s attorney would be able to answer questions in more depth. Commissioner Perry said he wasn’t sure, but was assuming the common land had been divided amongst the six owners.

Commissioner Kolb said that in her understanding, the Town could not initiate a conversation with the property owners without passage of the motion proposed in the Town’s attorney letter (attached below). Chair Perkins replied that they would need to take a vote on what they would like to do. He confirmed their goal would be to use this land to open up access to the Fields Farm parcel which they have been unable to do for many years. Commissioner Drouin asked Mr. Tenhave if the public would be allowed on the open space if Northview Homes transferred their land rights to the Commission but the other owners retained their rights. Mr. Tenhave replied that the property owners would have to agree on rules. Since it is common ownership between seven entities, all seven would need to agree to the property restrictions. By enacting a conservation easement, you set rules.

Ms. Crowe said she had some concerns that she knows are shared by her neighbors: cost of developing trails; ADA accessibility; parking for users of the open space; effect on property values; effect on wildlife. She noted that a Fields Farm walk is scheduled for March 26, 2023 by a private group that is not Conservation Commission sponsored; she will be there. She asked how she could be sure that if she relinquishes her property that no parking would be allowed. She is concerned about the proximity of the open space to a school bus stop. Pedestrians using Amherst Road or crossing Amherst Road from Horse Hill to get to Fields Farm poses a safety risk.

She expressed concern that open space and trail development invited vandalism, theft, fires, and occupancy of the open space by unhoused individuals. She expressed concern that trail development might push wildlife from open land into the neighborhood, and that if hunting were to be restricted, the increase in wildlife population would pose an increased threat of rabies and Lyme disease transmission.

In reply to Ms. Crowe, Chair Perkins said that fires and camping on Conservation Commissions properties were both addressed in the recently-updated Chapter 111 of the Town Code. He also spoke about hunting restrictions and noted Fields Farm is a property where hunting is allowed. There are some other properties where it made more sense to prohibit hunting, for example some Conservation properties in close proximity to schools.

Ms. Crowe said it was mentioned that Horse Hill Nature Preserve and Fields Farm are connected. Chair Perkins and Commissioner Perry replied no, you have to walk across the street to access Fields Farm. She rebutted that someone had mentioned the property was connected and questioned how this could be when they were separated by half a mile, unless they misspoke. Chair Perkins said they had been misspoken. Often times people cross the road and use the Fields Farm property after leaving Horse Hill Nature Preserve.

Ms. Crowe stated she knows the Conservation Commission takes good care of its properties but feels the property owners need more reassurance that the property won't get misused. She said that nothing she has heard tonight alleviates concerns that she and her neighbors have about parking related to the common land. She's concerned that there are too many issues to be overcome. She emphasized that property owners were never apprised before now of the open land situation. She said she is not sure why another property is needed when Horse Hill Nature Preserve is already so close by.

Mr. Tenhave said that the Town's attorney had discovered there were seven individuals with an interest in the Tomasian Drive common land. They all own an undivided share which means it's not a 1/7 split, they all own the land. One of the owners, Northview Homes, retained the rights to more potential parcels, however it is still an undivided share between owners. Town legal counsel suggested that Northview Homes sign over their ownership to the Conservation Commission. They have also suggested that the other six land owners provide a Conservation easement to allow uses of that property and assume some of the responsibilities and liabilities of that property. He stated if the Conservation Commission were to be given ownership by Northview Homes, the Town would be taking on liability.

If the other six property owners own their parcels completely, they could sign over their interests because they would have completely control over their property if there is not a mortgage or other encumbrance on the property. If there is a mortgage, they

would need to work something out with their mortgage company to make sure they could sign it over.

A conservation easement would be easiest for the homeowners, and would provide them an opportunity to say what would be done with the property. Mr. Tenhave said he is not an attorney, but was speaking from his own experience. He stated the land has very little value because it is open space that is not developable. Considering that land owners would also be partial owners, all seven of them would need to come to an agreement in order to do anything with the land. He noted you can see the value of the property is low because the Town hasn't assessed a tax on it to his knowledge.

Ideally, the Conservation Commission's interest is to keep the land as open space and manage the open space and Fields Farm land with similar property restrictions. He said that property owners could put restrictions on their easements which would carry on in perpetuity when a current owner decides to sell. He believes that ideally, the Commission would like to allow usage of the property as a passive property. He explained passive meant non-motorized uses. Discussion continued on examples of some possible restrictions.

The Commission has been reluctant to over-restrict any properties. Chair Perkins explained that their goal is to have properties that can be enjoyed while still protecting the land, wetlands, and wildlife. If the Commission were to move forward with Fields Farm development, there would be a subcommittee of volunteers to guide development and use of the property, as is the case with other large Conservation Commission properties. He also briefly spoke about ADA accessibility and stated that some are not able to be ADA accessible. Vice-Chair Boisvert noted that he lives on property abutting Grater Woods, and said that problems don't happen often.

Commissioner Perry said that Fields Farm is already being used by members of the public, and that opening this new parcel of common land wouldn't push animals into the neighborhood. Regarding unhoused individuals seeking shelter, the Commission has not seen that occurring on any of the 1,600 acres of Conservation property. As for parking, the Commission has a responsibility to provide it for Fields Farm; a subcommittee could work on that. Ms. Crowe said parking along local roads by people going to Fields Farm is already a problem; Commissioner Perry advised calling police to address that.

Mr. Annutto said he is one of the six property owners to whom the open space was inadvertently conveyed. He stated strongly that he will never sign an easement or deed, and he wants to save the Town some money by not pursuing a conservation easement. He is concerned about wetlands, erosion, parking, and access. He disputed what the Town attorney said in her letter about a conservation easement relieving property owners of liability, saying that with an easement, people become "invited guests."

Mr. Fortin said that the conservation area was an attraction when he and his wife bought their home. They would like to have a buffer between their property and any trail system. He asked if there was a proposed map of the trail system at Fields Farm property. Commissioner Perry stated there is no proposed trail system for Fields Farm or the property in question currently. He said the trails currently at Fields Farm were made by mountain bikers, not by the Commission. Mr. Fortin asked if the Commission anticipated a drop in the value of his property or neighborhood if an easement were granted. Commissioner Perry replied that this has not been a trend or concern with any similar properties.

Mr. Fortin reiterated his concern that the land would become a liability and ultimately be misused. He feels property values in the neighborhood could also decrease.

Mr. Duane said that he's a member of the Wildcat Falls subcommittee. He described some of his subcommittee's work, to give an example of how volunteers work on Conservation properties: trail cutting, erosion control, and respecting the privacy of abutters.

Ms. Liba shared concerns about parking and excess traffic. She asked if a parking plan had been developed. Commissioner Perry said the Commission hadn't created one yet.

Mr. Flores said he was concerned for the safety of the children in the neighborhood, including his own. He said he has seen people cutting through the neighborhood, and he doesn't want to see more of that. He described an incident from last Fourth of July with a man wandering through the neighborhood whose presence prompted a call to police. He is concerned that an easement would "open a can of worms" for the neighborhood, causing congestion and lack of privacy which would affect the safety of residents.

Commissioner Perry asked Mr. Flores if he had been aware of the open space under discussion here when he bought his property; Mr. Flores said no. Commissioner Perry said that as the Town attorney's letter affirmed, the conveyance of the open space to the Commission had been planned at the time the housing development was before the Planning Board in 2014. Vice-Chair Boisvert said that living near Grater Woods has been a positive thing overall. You can meet people on the trails with similar interests and can be a pleasant way to spend a day. It is not always negative to have the trails close by.

Mr. Flores brought up a question regarding Watson Park and why there was fencing put up around the property. Vice-Chair Boisvert stated this is a Town owned property. Discussion continued on regarding unwanted activity potentially occurring on the Tomaisain Drive common land if a Conservation easement were put into place. Concerns regarding use of open space and liability were briefly covered as well.

Mr. Gabree said Horse Hill Nature Preserve is already close by and is an extensive trail system. He questioned why they would want to add another trail system in such close proximity when Horse Hill is already set up for use and has a nice parking area. He also shared safety and traffic concerns.

Ms. Fortin then asked if there was an answer to Mr. Gabree's question. Chair Perkins said there were a few reasons. The property is right along the Souhegan River, so protecting the wetlands is an interest in this particular area. Many of the Conservation properties do connect and there is a strategic value to this. It allows for easier use between the properties. By having several Conservation properties, there is less chance of one being overused.

Commissioner Kolb noted Fields Farm itself is already a Conservation property. She noted they've been waiting a long time for a resolution regarding ownership of the property. She reiterated that Fields Farm already exists, this discussion is whether to move forward with the undivided common land, which was intended to go to the Town but never did. The more control the Conservation Commission has over the property, the more input the community will have in what happens next. Commissioner Perry added that if you read deeds for current Conservation properties, they are quite restrictive. They also try to connect as many parcels together as possible. This is what's known as a Greenway which allows animals to travel over land with more ease.

Discussion continued on whether or not property owners knew about the plan for Fields Farm when they purchased their homes. Consensus was that owners were told the common land was Conservation land. Commissioner Perry noted this was the issue, the land is common land not Conservation land.

Commissioner Drouin said that the Sklar property had been a dumping ground when first acquired by the Conservation Commission but was now clean and maintained by the volunteers on the Sklar subcommittee - a case of Conservation Commission oversight improving the condition of a property.

Commissioner Perry said he would like to hear about other options from the Town's attorney. Chair Perkins will follow up, and the matter will go on a future agenda. No motion was made regarding the open land.

- Update on State owned parcel Tax Map 5C Lot 659 – *Submitted by Tim Tenhave*

Tim Tenhave, former Conservation Commission member, presented information on the state-owned parcel of land between Wildcat Falls and the Everett Turnpike. He said that the original vision for Wildcat Falls (previously named 80 acres) was to at least double the size of the property, to include the Wildcat Falls property and two

state-owned parcels, including the one at Tax Map 5C Lot 659. This would add up to a total of somewhere between 160 and 180 acres.

The Everett Turnpike widening project managed by NHDOT has several phases to it, outlined in a graphic provided by Mr. Tenhave that comes from NHDOT's wetlands permit application to NHDES for the project. The Town in the past has had discussions with NHDOT about using state parcels for wetlands mitigation purposes during turnpike projects. The mitigation narrative in the Everett Turnpike wetlands permit application refers to meetings between NHDOT and the Town in 2016 and 2018. NHDOT does not mention in its application that the Tax Map 5C Lot 659 parcel was mentioned as a possible mitigation site several years ago.

Recently, the Town Manager proposed to NHDOT that in lieu of a payment to the town to mitigate the loss of wetlands for a certain segment of the turnpike project, NHDOT do a land swap, conveying parcel 5C/659 to the town. NHDOT replied in the negative.

Mr. Tenhave intends to remind NHDOT about the 2016-2018 discussions with Town officials about conveying land to the Town for wetlands mitigation. He is urging the Conservation Commission to write to NHDES regarding the use of state parcels in Merrimack to mitigate loss of wetlands to the turnpike project. Because there are still more phases to the turnpike widening project, and therefore more deadlines in the future, NHDOT's "no" to the Town's recent proposal need not be final. The vision for a larger Wildcat Falls property can still be attained and conservation interests can be served if the Commission and the Town persist with NHDOT.

Mr. Tenhave urged the Commission to act. Chair Perkins said that the Town Manager can work on a joint letter with the Commission about the desirability of conveying state-owned parcels of land to the Town instead of cash payments passing between state agencies in the name of "mitigation." Consensus of the Commission is that the letter should go to the wetlands bureau at NHDES rather than to NHDOT. Commissioner Perry will confirm the name of the current bureau chief so that the Commission can stay in contact about upcoming wetlands applications related to the project and potential options.

Mr. Tenhave and Commissioner Perry noted that GZA had prepared a report in 2020 for the Commission listing land parcels in Town that are good potential targets for acquisition in wetlands mitigation cases.

APPROVAL OF MINUTES –

Motion by Commissioner Kolb to approve the February 27, 2023 Conservation Commission minutes without amendment.

Motion Seconded by Commissioner Drouin

Motion Carried

6-0-0

ADJOURNMENT –

Motion to Adjourn by Vice-Chair Boisvert

Motion Seconded by Commissioner Perry

Motion Carried

6-0-0

The March 13, 2023 meeting of the Conservation Commission was adjourned at 8:17pm.

March 1, 2023

Steve Perkins, Chair
Merrimack Conservation Commission
6 Baboosic Lake Road
Merrimack, NH 03054

RE: Tomasian Drive Subdivision - Open Space

Dear Steve and Commissioners:

I am one of the Town's attorneys. I have been working with Robert Price in the Community Development Department, and prior to that with Tim Tenhave, your former Chair, regarding a large parcel of open space at Tax Map/Lot 4B/9-1 in the Tomasian Drive, LLC subdivision. Please see the attached plan for reference, **Exhibit A**.

When the Planning Board conditionally approved this subdivision in December 2014, the 25.19 acre open space parcel, which abuts Tax Map/Lot 4A/2 (the "Fields Farm Property"), was intended to be conveyed in fee, or by conservation easement, to the Conservation Commission. **See Exhibit B, 12/16/14 PB Minutes; Exhibit C, 9/23/14 PB Minutes.** This, however, was inadvertently never made a condition of approval. However, the Town's Zoning Ordinance does require that open space be created in these types of "Cluster Subdivisions" and that the open space is "protected by recreation and conservation easements" and "conveyed to the property owners to be maintained as permanent open space" or "permanently protected in other suitable ways . . . to guarantee continuity of proper maintenance for those portions of open space land requiring maintenance." Zoning Ordinance, Section 3.08. One of the Developers, John Tenhave, as well as the Community Development office tell me this project was never intended to have an HOA maintaining the open space. In order to ensure perpetual conservation and maintenance, therefore, the Conservation Commission is the likely candidate to hold that role.

The Town/Conservation Commission waited, appropriately, to take title to the Property until the development was completed. The open space conveyance than was inadvertently overlooked until November of 2020, when the Conservation Commission, through Tim Tenhave sought to close the loop on this and obtain the property as initially planned.

This resulted in me working with Tim, and Robert Price in Community Development to review the plans, approvals, and titles of the individuals lots to ensure clear title could be conveyed to the Conservation Commission. My review of the titles of the individual lots revealed that the developer, Tomasian Drive, LLC, mistakenly conveyed an undivided common interest in the open

March 1, 2023

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space land to 6¹ of the 19 lot owners in the development. North View Homes also retains an undivided common interest in the open space land.² This is all contrary to what was intended; what was intended was for Tomasian Drive LLC to convey the open space land to the Conservation Commission. They can't do that now because there are 7 owners who now have an interest in the common land (6 plus North View).

To resolve this issue, and to place control and management of the open space land with the Conservation Commission, all of these 6 lot owners, plus North View, *have to convey their interest* in the open space to the Conservation Commission. The best option to do this at this time is an easement, rather than a fee conveyance (outright ownership). This is because many of these lot owners have mortgages which will not allow for a fee transfer as it will affect the title to their properties. An easement conveyance covering their interest in the open space will likely still require mortgage company approval but it will likely be given freely – still it will take time to get these approvals.

John Tenhave, one of the original developers, is working with us to accomplish this goal. If the Commission is in agreement with the above proposal – to acquire a conservation easement over the 25.19 acre open space land – I will proceed working with John, Tim Tenhave and Robert Price to approach these 6 lot owners with an explanatory letter, and a proposed easement for them to review and ideally sign. The incentive for these lot owners is that at the moment they have liability as owners of this open space for any damages or injury that occurs on it. They are also likely getting taxed a small amount for it. We are hopeful that with Tim's help, we can get this 6 lot owners on board. We will also have North View Homes convey in fee their interest to the Conservation Commission.

Please put this on your next agenda. You can read and discuss this letter in public session (since there is nothing confidential) and discuss what you want to do and take a vote. If the Commission agrees, please vote as follows: **“Move that the Town should move forward to attempt to acquire a Conservation Easement for the Conservation Commission for the open space land at Map/Lot 4B/9-1 in the Tomasian Drive subdivision.”** If the Commission does not agree, the 6 owners plus North View will retain ownership of and liability and responsibility for the open space; unless we can find another entity willing to take a conservation easement.

Please feel free to email or call me with any questions. KRoman@dwmlaw.com; 603-792-7419.

Sincerely,

/s/ Keriann Roman
Keriann Roman

cc: Robert Price, Community Development
Tim Tenhave
John Tenhave

¹ Lots 9-1-1, 9-1-3, 9-1-5, 9-1-8, 9-1-12, 9-1-17

² As a result of Tomasian Drive LLC conveying this interest to North View for Lots 9-1-6, 9-1-9, 9-1-11 and 9-1-16

REFERENCE PLANS:

- "FINAL - SUBDIVISION - PLAN OF LAND SURVEYED FOR - MRS. STEPHANIE TOMASIAN - 35 FULLER MILL ROAD, MERRIMACK, NH", SCALE 1"=100' DATED AUGUST 5, 1992 BY DAVID M. O'HARA & ASSOCIATES (H.C.R.D. PLAN #26050).
- "RESIDENTIAL - MINOR SUBDIVISION PLAN - MAP 4B, LOT 12 - TOMASIAN DRIVE - MERRIMACK, NH - HILLSBOROUGH COUNTY", SCALE 1"=100' DATED NOVEMBER 6, 2013 AND LAST REVISED 2/26/14 BY DAVID M. O'HARA ASSOCIATES (H.C.R.D. PLAN #38009).
- "TOMASIAN DRIVE UPGRADE - PLAN AND PROFILE - STA 50+00 TO 64+50+/-", SCALE: 1"=50' DATED JUNE 25, 2014 AND LAST REVISED 9/15/14 BY THIS OFFICE (ON FILE AT THIS OFFICE).
- "EASEMENT PLAN - PREPARED FOR - DUCAL DEVELOPMENT, LLC - TAX MAP 4B LOTS 12 & 12-1 - MERRIMACK, NEW HAMPSHIRE", SCALE: 1"=50' DATED SEPTEMBER 22, 2014 BY THIS OFFICE (TO BE RECORDED).

ABUTTER LIST

4B/9-1 THE STEPHANIE TOMASIAN REV. TRUST 35 TOMASIAN DRIVE MERRIMACK, N.H. 03054 BK.6359 PG.416 2/8/01	4A/2 TOWN OF MERRIMACK 6 BABOOSIC LAKE ROAD MERRIMACK, NH 03054 BK.7207 PG.2727 2/18/04
4B/12-1 BRUCE & MAUREEN MOORE P.O. BOX 1639 MERRIMACK, NH 03054 BK.8650 PG.1290 4/2/14	4B/167 ADAM GILMER KRISTINA PASS 7 FULLER MILL ROAD MERRIMACK, NH 03054 BK.8140 PG.1297 4/23/09
4B/12 & 12-2 DUCAL DEVELOPMENT, LLC 2 SKY MEADOW DRIVE NASHUA, NH 03062 BK.8690 PG.266 9/18/14	4B/167-1 TIMOTHY & LISA ALLEN 1 FULLER MILL ROAD MERRIMACK, NH 03054 BK.6023 PG.461 11/17/98
4B/10 WARREN V. & ANGELA G. TOMASIAN 22 TOMASIAN DRIVE MERRIMACK, NH 03054 BK.7614 PG.1680 3/4/04	4B/153-1 THOMAS & KELLIE ALLEN 2 FULLER MILL ROAD MERRIMACK, NH 03054 BK.8182 PG.1102 2/25/10
4B/9 THE LYNDIA TOMASIAN REV. TRUST 35 TOMASIAN DRIVE MERRIMACK, NH 03054 BK.8303 PG.784 3/17/11	4B/114-6 CHRISTOPHER CONDON 130 AMHERST ROAD MERRIMACK, NH 03054 BK.8303 PG.2164 4/18/11

SHEET INDEX

- COVER SHEET *
- EXISTING CONDITIONS BOUNDARY SHEET *
- EXISTING CONDITIONS TOPOGRAPHY SHEET
- 5 SUBDIVISION SHEETS *
- PROPOSED ROAD PROFILE
- DETAILED GRADING AND DRAINAGE PLAN
- UTILITIES PLAN
- 10. CROSS SECTION
- 14. DETAIL SHEETS

* TO BE RECORDED AT THE H.C.R.D.

WINDY HOLLOW

CLUSTER SUBDIVISION PLAN
PREPARED FOR:

TOMASIAN DRIVE, LLC

LAND OF:

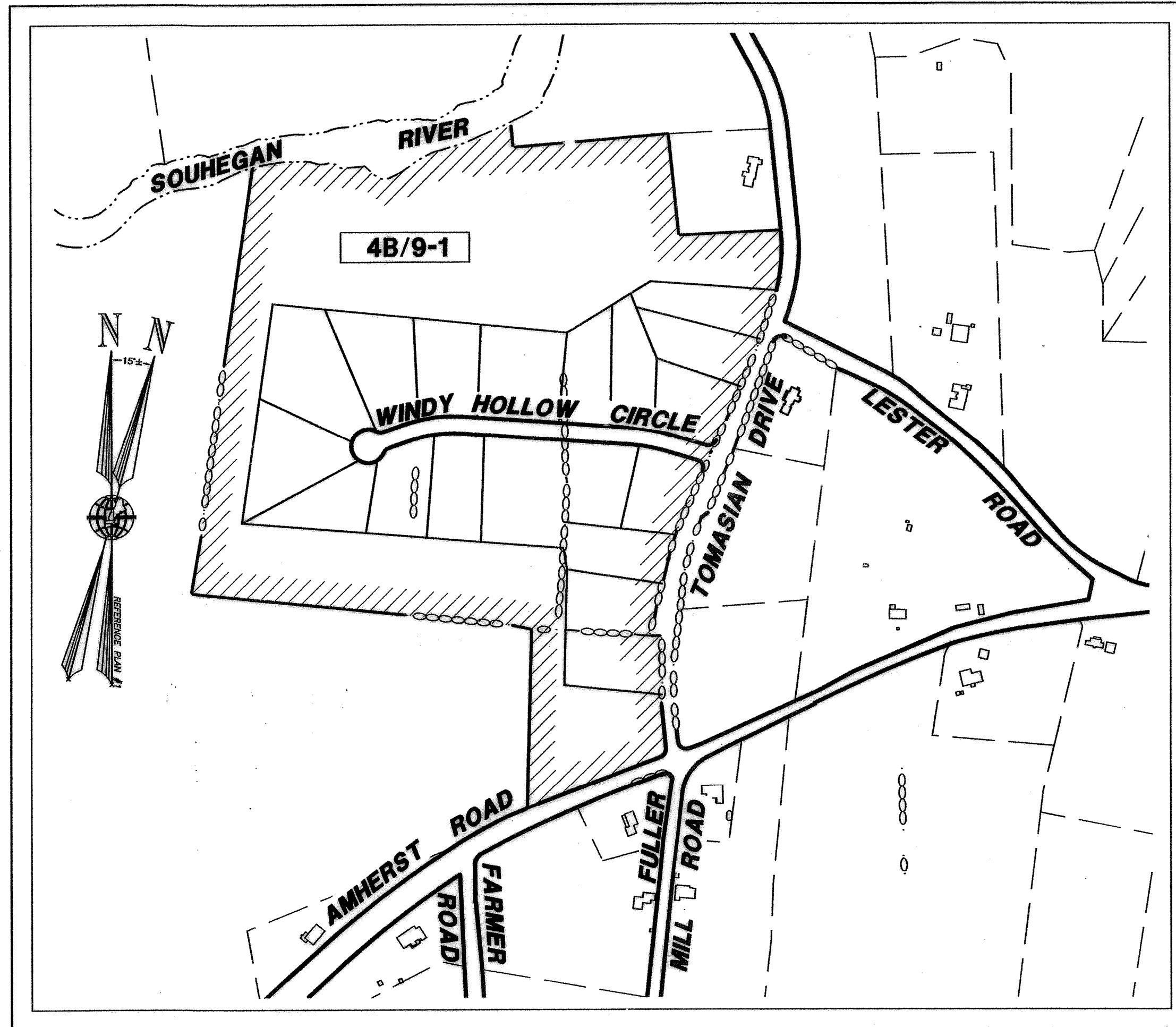
**THE STEPHANIE TOMASIAN
REVOCABLE TRUST**

TAX MAP 4B LOT 9-1

MERRIMACK, NEW HAMPSHIRE

SCALE: 1" = 300'

SEPTEMBER 2, 2014



NOTES:

- THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE TAX MAP 4B LOT 9-1 INTO 19 CLUSTER RESIDENTIAL LOTS WITH OPEN SPACE SERVICED BY PUBLIC ROADS.
- THE OWNER OF RECORD OF LOT 4B/9-1 IS THE STEPHANIE TOMASIAN REVOCABLE TRUST OF 2001, 35 TOMASIAN DRIVE, MERRIMACK, NH 03054. SEE HCRD REFERENCE BK.6359, PG.416 DATED: FEBRUARY 8, 2001.
- THIS PLAN WAS PREPARED FOR TOMASIAN DRIVE, LLC, 2 SKY MEADOW DRIVE, NASHUA, NH 03082.
- BOUNDARY AND TOPOGRAPHIC INFORMATION IS BASED UPON A FIELD SURVEY PERFORMED BY THIS OFFICE DURING THE MONTHS OF DECEMBER 2013, JANUARY AND FEBRUARY 2014. HORIZONTAL ORIENTATION IS PER REFERENCE PLAN #1. VERTICAL DATUM IS N.A.V.D.1988 PER OPUS SOLUTION OF GPS OBSERVATION TAKEN ON 4-29-14.
- AN ON SITE WETLAND INVESTIGATION IN ACCORDANCE WITH THE ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, TECHNICAL REPORT Y-87-1, AND THE NORTH EAST REGIONAL SUPPLEMENT WAS CONDUCTED BY TIMOTHY J. FERWERDA C.W.S. OF THIS OFFICE IN OCTOBER OF 2013.
- SITE SPECIFIC SOIL MAPPING WAS PERFORMED ON FEBRUARY 20, 2014 BY TIMOTHY J. FERWERDA, CSS OF THIS OFFICE.
- TEST PITS WERE INSPECTED ON FEBRUARY 27, 2014 BY TIMOTHY J. FERWERDA, PERMITTED SEPTIC DESIGNER, OF THIS OFFICE.
- THIS SITE LIES WITHIN THE RESIDENTIAL DISTRICT (R-1) BY SOILS MINIMUM LOT SIZE IS 100,000 SQUARE FEET CONTIGUOUS UPLAND AREA WITH 250 FEET OF ROAD FRONTAGE AND A MINIMUM DEPTH OF 300 FEET. BUILDING SETBACKS ARE 50 FEET FRONT, 30 FEET SIDE, 60' REAR AND 40 FEET TO WETLANDS GREATER THAN 3,000 SQUARE FEET IN SIZE (OF WHICH THERE IS ALSO A 25 FOOT NO DISTURB BUFFER). PORTIONS OF LOT 4B / 9-1 ARE SUBJECT TO THE FOLLOWING OVERLAY DISTRICTS: WETLAND CONSERVATION, AQUIFER CONSERVATION, FLOOD HAZARD CONSERVATION DISTRICT, AND SHORELAND PROTECTION.

CLUSTER RESIDENTIAL DEVELOPMENT SPECIFICATIONS:

THE LOT CONTAINS A GROSS AREA OF 49.54+/- ACRES. THE 38.82 ACRE NET AREA (NON-WET, NON-FLOOD, <25% SLOPES, EXCLUSIVE OF PUBLIC RIGHTS OF WAY) RESULTS IN A MAXIMUM YIELD OF 20 CLUSTER LOTS.

GROSS AREA:	2,154,531	SOFT OR 49.50	ACRES
FLOOD ZONE AREA:	31,426	SOFT OR 0.72	ACRES
SLOPES >25%:	9,415	SOFT OR 0.22	ACRES
NET R-1 AREA:	1,556,091	SOFT OR 35.72	ACRES
NET R-3 AREA:	126,587	SOFT OR 2.90	ACRES

CONVENTIONAL SUBDIVISION YIELD VALUES:

1,677,084 SQFT OF NET R-1 SOILS AREA
120,983 SQFT OF POTENTIAL ROW
1,556,091 SQFT / 100,000 PER LOT = 15 R-1 LOTS
126,587 SQFT OF NET R-1 & R-3 SOILS AREA
RESULTS IN 5 MULTIPLE SOIL LOTS (PER SEC. 3.02.5)
MAXIMUM TOTAL CONVENTIONAL LOT YIELD IS 20 LOTS. CONCEPT DEPICTS 19 LOTS

- A 25.19 ACRE OPEN SPACE LOT IS PROPOSED, WHERE 24.75 ACRES (50% OF GROSS AREA) IS REQUIRED.
- ON MARCH 26 2014 THE TOWN OF MERRIMACK ZBA GRANTED VARIANCES FROM SECTION 3.8.02 OF THE ZONING ORDINANCE TO ALLOW A CLUSTER DEVELOPMENT IN THE R-1 ZONE AND FROM SECTION 3.08.8 TO ALLOW THE SUBDIVISION TO BE SERVICED BY INDIVIDUAL SEPTIC SYSTEMS. SEE CASE #2014-13.
- THERE ARE NO MINIMUM FRONTAGE OR LOT SIZE REQUIREMENTS.
- NEW HOMES SHALL HAVE A MINIMUM SETBACK TO ALL PROPERTY LINES OF FIVE FEET.
- LOTS ARE TO BE SERVICED BY MVD WATER AND ON SITE EFFLUENT DISPOSAL SYSTEMS. ELECTRIC AND TELEPHONE UTILITIES ARE TO BE UNDERGROUND.
- A PORTION OF THE SITE DOES LIE WITHIN THE SPECIAL FLOOD HAZARD AREA PER FIRM FLOOD INSURANCE RATE MAP #33011C0481D PANEL 481 OF 701 EFFECTIVE DATE SEPTEMBER 25, 2009. BASE FLOOD ELEVATION IS VARIABLE ALONG THE SOUHEGAN RIVER STARTING AT APPROXIMATELY 204' AND ENDING AT APPROXIMATELY 198'.
- "THE SUBDIVISION REGULATIONS OF THE TOWN OF MERRIMACK ARE A PART OF THIS PLAT, AND APPROVAL OF THIS PLAT IS CONTINGENT ON COMPLETION OF ALL THE REQUIREMENTS OF SAID SUBDIVISION REGULATIONS, EXCEPTING ONLY ANY VARIANCES OR MODIFICATIONS MADE IN WRITING BY THE BOARD OR ANY VARIANCES GRANTED BY THE ZONING BOARD OF ADJUSTMENTS AND ATTACHED HERETO"
- PROPOSED DRIVEWAY LOCATIONS TO BE REVIEWED AND APPROVED BY THE MERRIMACK DEPARTMENT OF PUBLIC WORKS PRIOR TO CONSTRUCTION. PRIOR TO COMMENCEMENT OF ANY WORK WITHIN THE PUBLIC RIGHT-OF-WAY, A RIGHT-OF-WAY PERMIT SHALL BE ISSUED BY THE DEPARTMENT OF PUBLIC WORKS.
- SITE DISTANCE FOR THE PROPOSED ROAD IS IN COMPLIANCE WITH THE RECOMMENDATIONS SET FORTH IN THE AASHTO PUBLICATION; "A POLICY OF GEOMETRIC DESIGN OF HIGHWAYS AND STREETS, 2004".
- THE NEW SINGLE FAMILY HOMES WILL HAVE PAVED OFF STREET PARKING.
- ALL DRAINAGE PIPES INSTALLED SHALL BE VIDEO INSPECTED IN ACCORDANCE WITH 603.3.7. VIDEOS AND REPORTS SHALL BE DELIVERED TO MERRIMACK PUBLIC WORKS DEPARTMENT TOWN ENGINEER.
- UPON FINAL APPROVAL A COMPLETE SET OF PLANS IS ON FILE WITH THE TOWN OF MERRIMACK, COMMUNITY DEVELOPMENT DEPARTMENT.
- THE FOLLOWING PERMITS / APPROVALS ARE REQUIRED:
NHDES SUBDIVISION APPROVAL # 242015010644
NHDES ALTERATION OF TERRAIN PERMIT # 150126-009
NHDES WETLAND PERMIT # 2014-02889
- THIS PROJECT IS SUBJECT TO THE REQUIREMENTS OF THE TOWN OF MERRIMACK STORMWATER MANAGEMENT STANDARDS (CHAPTER 167 OF THE TOWN CODE).
- NO BUILDING PERMITS MAY BE GRANTED FOR THE PROJECT UNTIL TOMASIAN DRIVE IS UPGRADED TO MEET CURRENT STANDARDS AND THE UPGRADE IS ACCEPTED BY THE DIRECTOR OF PUBLIC WORKS.
- THE LOT 9/1-11 DRIVEWAY CULVERT SHALL BE INSTALLED IN CONJUNCTION WITH THE ROAD DRAINAGE IMPROVEMENTS.
- THE MERRIMACK PLANNING BOARD GRANTED A WAIVER FROM SECTION 4.12.d TO ALLOW FOR THE INTERSECTION GRADE TO BE -2.37% WHERE -2.0% MAXIMUM IS ALLOWED.

APPROVED BY MERRIMACK PLANNING BOARD

ON: 7-2-15 CERTIFIED BY
CHAIRMAN: [Signature] AND
SECRETARY: [Signature]

OWNER SIGNATURE:

OWNER OF TAX MAP LOT 4B/9-1

7/6/15
DATE

IMPROVEMENT STATEMENT:

WHEN THIS PLAN IS IMPLEMENTED, THE OWNER OR APPLICANT AGREES TO MAKE ALL IMPROVEMENTS AS MAY BE APPROVED BY THE PLANNING BOARD AND SHOWN ON THIS PLAN. THIS INCLUDES ALL IMPROVEMENTS SHOWN AS GRAPHICS OR CALLED OUT AS NOTES ON THIS PLAN. I UNDERSTAND THAT FAILURE TO IMPLEMENT ALL IMPROVEMENTS MAY RESULT IN THE WITHHOLDING OF THE CERTIFICATE OF OCCUPANCY AT THIS SITE.

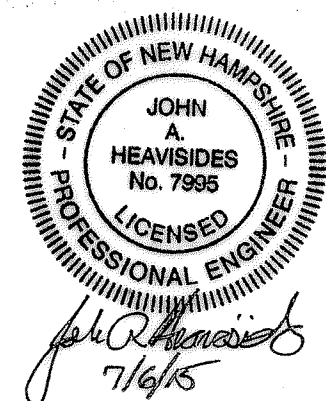
TOMASIAN DRIVE, LLC

7/6/15
DATE

PE CERTIFICATION:

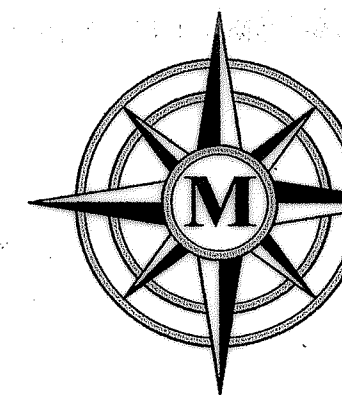
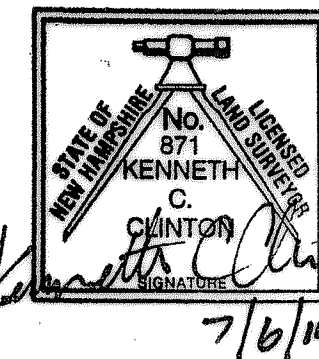
"I CERTIFY THAT I HAVE FOLLOWED THE TOWN OF MERRIMACK'S SUBDIVISION REGULATIONS AS SET FORTH IN SECTION 4.16 STORM DRAINAGE SYSTEM. FURTHERMORE, IN MY PROFESSIONAL OPINION, ANY RUNOFF INCIDENT TO THE DEVELOPMENT ON THIS SITE SHALL HAVE NO ADVERSE EFFECTS ON ANY OPEN OR CLOSED, PUBLIC OR PRIVATE, DOWNSIDE DRAINAGE FACILITIES, NOR SHALL IT HAVE ADVERSE EFFECTS ON DOWNSIDE PROPERTIES."

MERIDIAN DESIGN PROFESSIONALS:



LLS CERTIFICATION:

"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND 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."



MERIDIAN

LAND SERVICES, INC.
ENGINEERING | SURVEYING | PERMITTING
SOIL & WETLAND MAPPING | SEPTIC DESIGN
31 OLD NASHUA ROAD, AMHERST, NH 03031 TEL. 603-673-1441
MERRIDIANLANDSERVICES.COM FAX 603-673-1584

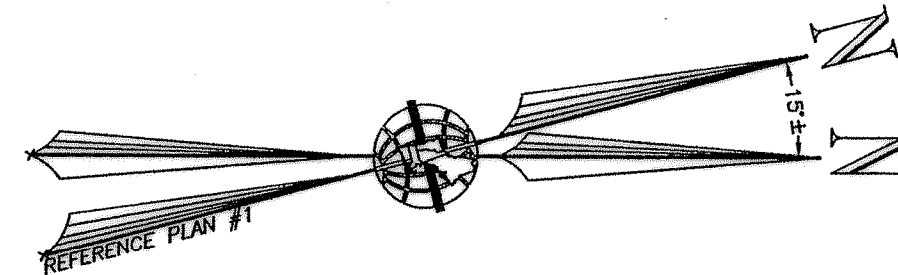
FILE:9051D02B.dwg

PROJECT NO. 9051.02

SHEET NO. 1 OF 14

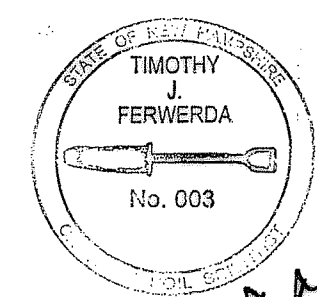
LEGEND:

- RIGHT-OF-WAY LINE
- BOUNDARY LINE
- ABUTTING LOT LINE
- EDGE OF WETLANDS
- WETLAND BUFFER LINE
- BUILDING SETBACK LINE
- EXISTING EASEMENT LINE
- LIMIT OF SCS SOILS
- EDGE OF PAVED ROAD
- EDGE OF GRAVEL ROAD
- 10' CONTOUR INTERVAL
- 2' CONTOUR INTERVAL
- PROPOSED EASEMENT LINE
- CSPA SHORELAND ZONE LINE
- AQUIFER ZONE LINE
- WIRE FENCE
- FLOOD ZONE LINE
- EXISTING TREE LINE
- EXISTING CULVERT
- STONE WALL
- I.P.I.P.E.(F) IRON PIPE FOUND
- I.P.I.P.E.(PRP) IRON PIPE PER REFERENCE PLAN
- I.P.I.P.E.(F) IRON PIN FOUND
- D.H.(F) DRILL HOLE FOUND
- G.B.(F) GRANITE BOUND FOUND
- D.H.(S) DRILL HOLE SET
- I.P.I.P.E.(F) I.P.I.P.E. TO BE SET
- G.B.(F) GRANITE BOUND TO BE SET
- UTILITY POLE AND GUY WIRE
- WELL
- TEST PIT
- EXISTING BUILDING
- PROPOSED 4000 SQ.FT. SEPTIC RESERVE AREA
- PROPOSED SLOPE, & DRAINAGE EASEMENT
- PROPOSED STUMP DISPOSAL AREA
- EXISTING CATCH BASIN SQUARE
- EXISTING CATCH BASIN ROUND
- EXISTING SINGLE POST SIGN
- EXISTING WATER HYDRANT
- EXISTING WATER VALVE
- EXISTING SHUT-OFF
- EXISTING MAILBOX



SCS AND SITE SPECIFIC SOILS LEGEND:

- 42B - CANTON - WELL DRAINED
- 446 - SCITUATE-NEWFIELDS - MODERATELY WELL DRAINED
- 657 - RIDGEBURY - POORLY DRAINED
- 926 - RIDGEBURY - SOMEWHAT POORLY DRAINED
- 500 - UDORTHENT LOAMY - MODERATELY WELL DRAINED



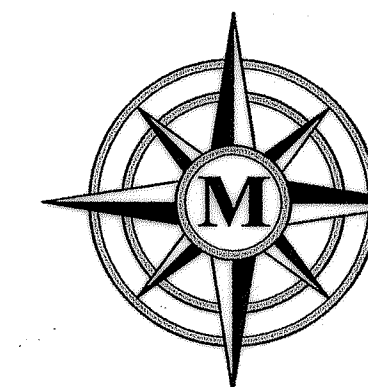
7/6/16

TOPOGRAPHIC PLAN
PREPARED FOR:

TOMASIAN DRIVE, LLC
LAND OF:
THE STEPHANIE TOMASIAN REVOCABLE TRUST
TAX MAP 4B LOT 9-1
MERRIMACK, NEW HAMPSHIRE

SCALE: 1" = 100'

SEPTEMBER 2, 2014



MERIDIAN
LAND SERVICES, INC.
ENGINEERING | SURVEYING | PERMITTING
SOIL & WETLAND MAPPING | SEPTIC DESIGN
31 OLD NASHUA ROAD, AMHERST, NH 03031 TEL: 603-673-1441
MERIDIANLANDSERVICES.COM FAX: 603-673-1584

FILE:9051D02B.dwg

PROJECT NO. 9051.02

SHEET NO. 3 OF 14

REV.	DATE	DESCRIPTION	C/O	DR	CK
B	12/09/14	OLD REVIEW COMMENTS	---	DBH	KCC
A	9/17/14	REVISIONS FOR PLANNING BOARD MEETING	---	DBH	KCC
REV.	DATE	DESCRIPTION	C/O	DR	CK

THOMAS G. &
KELLIE J. ALLEN

4B/12
DUCAL DEVELOPMENT, LLC

4B/12-1
DUCAL DEVELOPMENT, LLC

4B/12-2
BRUCE &
MAUREEN MOORE

4B/9
LYNDA TOMASIAN
REV. TRUST

4B/10
WARREN V. &
ANGELA G. TOMASIAN

4B/9
LYNDA TOMASIAN
REV. TRUST

4B/167
ADAM GILMER &
KRISTINA PASS

4B/167-1
TIMOTHY &
LISA ALLEN

AMHERST ROAD
FULLER MILL ROAD

TOMASIAN DRIVE

WINDY HOLLOW CIRCLE

SOUHEGAN RIVER

4A/2
TOWN OF MERRIMACK

4A/2
TOWN OF MERRIMACK

TBM IS DRILL HOLE IN
FIELD STONE BOUND
ELEV. 282.11

TBM IS
IRON PIN
ELEV. 257.60

ROW EASEMENT
SEE REF. PLAN #1

ROW EASEMENT
H.C.R.D.
VOL. 8650 PG. 1280

PSN 12
NE 1/2

PSN 11
NE 1/2

PSN 10
NE 1/2

PSN 9
NE 1/2

PSN 8
NE 1/2

PSN 7
NE 1/2

PSN 6
NE 1/2

PSN 5
NE 1/2

PSN 4
NE 1/2

PSN 3
NE 1/2

PSN 2
NE 1/2

PSN 1
NE 1/2

PSN 0
NE 1/2

PSN 0
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Printed: 7/6/2015 11:34 AM By: DBH
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Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

603 424-3531

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, DECEMBER 16, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Desirea Falt, and Alternate Nelson Disco.

Staff present: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. and designated Nelson Disco to sit for the vacant seat.

2. Planning & Zoning Administrator's Report

None.

3. Discussion of Capital Improvement Program for Town of Merrimack & School Administrative Unit # 26.

Business Administrator Matt Shevenell explained the rationale for each item in the School CIP. Four items are proposed as "Necessary" for 2015-2016: 1) Replace HVAC Equipment in the High School cafeteria and kitchen that are 24 years old and can no longer be repaired with an upgrade that will utilize natural gas. 2) Replace sections of built-up roofing system in the High School that are not on warranty and with a system that is insulated, multi-layered, ballasted, and comes with a 35-year guarantee. 3) The Superintendent's 2,400 square foot office was built in 1979. The offices are too small to accommodate the building's operations. A conference room and storage would comprise 1,700 square feet of the proposed 8,800 square foot consolidated Special Services/SAU office space to be built on land donated by the Town. 4) Upgrade computer network infrastructure, build a network replacement plan and extend wireless access system-wide as outlined in the District Technology Plan. Student information and accounting systems are backed up twice daily to prevent system failure.

Town Manager Eileen Cabanel explained the items in the Town CIP. Most are bridges, 80% of whose repair cost is paid by the State or by the Federal Government. Over the last 11 years, the Town paid \$2+ million out of the \$16+ million cost for bridge repair. More than \$1 million is put in the Reserve Fund annually; this year the amount will be \$1.4 million. The study of how the Fire Department would look in the future is still in progress. Although the need is great, Highway Garage Renovation and Replacement was put off by Town Council another year to 2016-2017.

Public Works Department Deputy Director/Town Engineer Kyle Fox explained the Stormwater Drainage Improvements, and bridge construction and materials.

4. Tomasian Drive LLC. (applicant) and The Stephanie Tomasian Revocable Trust (owner) – Review for acceptance and consideration of Final Approval of an application for a 19-lot cluster subdivision located at Tomasian Drive in the R-1 (Residential), Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 4B, Lot 009-01. ***This item is continued from the September 23, 2014 and November 18, 2014, Planning Board meetings.***

Ken Clinton President, Meridian Land Services, Inc., said he made many revisions to address Town, staff and CLD comments, submitted a Wetland Permit application to the Department of Environmental Services (DES) and modified the waiver request. He proposed either to donate the open space to the Town or to give the Town an easement.

The Planning Board agreed to eliminate the four subsections of Condition #4 (Fire Department comments), since they do not pertain to this application. The Board also eliminated wording about no-salt use in Condition #6, since it does not belong in a deed. Ken Clinton read a December 12, 2014, memo from Fire Chief John Manuele expressing the suitability of the street name, hydrant location, etc.

Nelson Disco wanted the open space to become MCC property because it abuts the Fields property. Tim Thompson said it would be appropriate for the Planning Board to write a letter to that effect to the MCC.

Public comment

Pete Gagnon, 130 Bedford Road, said the application reasonably and substantially conforms to the spirit of the R-1 District Zoning Ordinance. He thanked the Planning Board, staff, developer, and soil scientist for working to overcome the hurdles. Chairman Best agreed.

Ken Clinton said that, on September 23, 2014, the Planning Board granted a waiver for 2:1 rather than 3:1 side slopes at the wetland crossing. Instead the applicant now seeks a waiver to allow the intersection approach grade to be -2.37% rather than the required maximum of -2.0%. The road at the slightly steeper grade coming off Tomasian Drive into the subdivision will have a shorter height separation from the wetland crossing to the top of the pavement. It will keep the fill over the culvert at station 5+06 to a minimum, thus reducing the side slopes, limiting the wetlands impact and eliminating the need for a guard rail. Kyle Fox approved the “appropriate trade-off for reduced wetland impacts”.

Desirea Falt cited specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 4.12.d of the Subdivision Regulations - Intersection Approach Grade - on a motion made by Nelson Disco and seconded by Desirea Falt.

Ken Clinton stated that the power lines on the new lots and on existing houses on Tomasian Drive would be underground.

Staff recommends that the Board vote to grant conditional Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

The Board voted 7-0-0 to grant Final Approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen.

Precedent conditions to be fulfilled within six months and prior to signing of the plan, unless otherwise specified:

1. Final plans and mylars to be signed by all property owners. The Licensed Land Surveyor, Certified Wetland Scientist, and Certified Soil Scientist shall also sign and seal final plans and mylars;
2. A draft copy of any easements or deed language to be submitted to the Community Development Department for review and approval by the town's Legal Counsel (legal review shall be performed at the applicant's expense);
3. The plan shall be revised (if applicable) to list and fully describe any waivers granted by the Planning Board;
4. Applicant to address comments from the Fire Department;
5. Applicant to address the following comments from MVD:
 - a. Tomasian Drive plan shows a 6" water main which should be 8"; the proposed road should also have a 8" main;
 - b. Add hydrants at stations 5+00 and 11+00;
6. Applicant to address comments from Merrimack Conservation Commission (as applicable);
 - a. Any forthcoming comments regarding the NHDES wetland permit;
 - b. The Commission believes that the donation of the open space (50.9%) would positively impact our ability to protect the Souhegan as well as the Fields Farm open space to the west;
7. Applicant to address applicable comments from the Town's peer-review consultant, CLD;
8. Applicant to address any forthcoming comments (including a second CLD review if deemed necessary by the Community Development Department) from Public Works Department;
9. The applicant shall obtain NH DES Subdivision approval and any other applicable state permits including NHDES Wetland permit, note permit approval numbers on the plan and provide Community Development a copy of each permit;
10. Unless the applicant secures a waiver from Section 4.06.1(i) of the Subdivision Regulations, the applicant shall revise the plan so as to satisfy the provisions of Section 4.06.1 and provide locations of all monuments to be set at front property boundaries and lot corners (including angle points) (Granite bound missing from

northeast corner of 4B/9-1-6, pin missing from northwest corner of 4B/9-1, bound missing from northeast corner of 4B/9-1;

11. Address the following planning staff technical comments:

- a. The applicant shall verify that all recordable sheets of the subdivision plan meet the requirements of the Hillsborough County Registry of Deeds;
- b. Provide the Book and Page number for all easements to be added to the recordable plan sheet;
- c. After consultation with the Fire Department and Assessing Department, provide final lot numbering and addressing to the plan set.

General and subsequent conditions:

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. All proposed easements and any applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.

5. Public Service of New Hampshire, Eagle Substation Expansion – Review for acceptance and consideration of Final Approval of an application for a site plan to expand the Eagle Substation. The parcel is located at 23 Star Drive in the I-1 (Industrial), Aquifer Conservation, and Flood Hazard Districts. Tax Map 3D-1, Lot 005. ***This item is re-opened from the October 21, 2014 Planning Board meeting.***

Tim Thompson explained that this item was re-noticed because abutter Kalika was not properly notified of the October 21, 2014, public hearing.

The Board voted 7-0-0 to accept the application for review, on a motion made by Lynn Christensen and seconded by Nelson Disco.

There was no public comment.

Tim Thompson said the Lower Merrimack River Advisory Committee (LAC) comments were incorporated into the file. Staff will see that they are properly addressed.

Responding to a question from Nelson Disco, Deborah Zarta Gier, Senior Project Manager, GZA GeoEnvironmental Inc., explained the elevations.

Dana C. Lynch, P.E., Haight Engineering, said that lights are only for safe access into the site. He will submit a new lighting plan, which Tim Thompson will review to see that it accords with regulations.

Staff recommends the site plan be approved with the same conditions as previously.

The Board voted 6-0-1 to waive Section 4.06.2 – Road Plan and Profile, Section 4.12(a) – Street Design, Sections 4.12(c)(2) and Section 4.12(c)(3) – Dead End Cul-de-sac Streets, Section 7.05.D.18 – Landscaped Area Between the Site and All Adjacent Parcels, and Section 7.05.D.19 – Sidewalks – of the Subdivision and Site



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, SEPTEMBER 23, 2014

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Stanley Bonislowski, Desirea Falt, and Alternate Nelson Disco.

Board members absent: Lynn Christensen and Michael Redding.

Community Development staff present: Assistant Planner Donna Pohli and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:30 p.m. and designated Nelson Disco to sit for Michael Redding.

2. Planning & Zoning Administrator's Report

None.

- 3. Boomer McCloud Car Audio (applicant) and GFI Merrimack LLC. (owner)** – Review for acceptance and consideration of Final Approval of an application for a site plan to construct a 7,500 s.f., two-story car audio/electronics retail sales and service building. The parcel is located at 5 Executive Park Drive in the C-2 (Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 073.

Withdrawn by the applicant.

- 4. Tomasian Drive LLC. (applicant) and The Stephanie Tomasian Revocable Trust (owner)** – Review for acceptance and consideration of Final Approval of an application for a 19-lot cluster subdivision located at Tomasian Drive in the R-1 (Residential), Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 4B, Lot 009-01.

Donna Pohli explained that there are no CLD comments yet because the escrow has not been received.

Ken Clinton, President, Meridian Land Services, the parcel is predominantly wooded with Town-owned conservation land (Ireland parcel) on the west. The applicant has received comments from Town departments, but is awaiting the results of this meeting before submitting the escrow funds. There will be no more construction this season.

Ken Clinton distributed his September 23, 2014, letter responding to staff comments:

By lengthening the road and widening the lots, he might have fallen below the 50% open space threshold. However even after extending the road 150', he will still have 50.9% of open space. **An Open Space Easement will be necessary.**

Because of the specific circumstances of the parcel, a waiver from the requirements of Section 4.18.b. - Right-of-Way Work - of the Subdivision Regulations - is sought to allow a 150' portion of the road grading to be at 2:1 slope where the regulations allow a maximum of 3:1. This portion of the road is at a wetland crossing. The design slope is intended to minimize the area of wetland and environmental impact. The side slopes will be stabilized with matting and grass and will include a guardrail and 8' of fill and a sidewalk on the north side for safety. There will be 2,700' of impact with a 2:1 slope vs. 3,300' of impact with a 3:1 slope. According to Ken Clinton, the NHDES (Department of Environmental Services) prefers the 2:1 slope, but Kyle Fox, Deputy Director of the Public Works Department (PWD), prefers the 3:1 slope because, as Town Engineer, he must uphold Town standards. If denied, Ken Clinton will tell DES it is the Town's decision and should not prevent granting a permit. Chairman Best and Stanley Bonislawski stated that the Planning Board tends to give much weight to a Town department such as PWD. Ken Clinton stated that maintenance would consist of periodic mowing and clearing the inlet of tree branches. There will be a 30" culvert with an inlet on the south. Water will flow from Amherst Street to the Ireland property to the culvert, to rip rap, to the Souhegan River. There may be spotted, wood, or Blandings turtles crossing the wetland. The Fish and Game Department requested increasing the pipe size to 36" of CCP pipe reinforced concrete to help the turtles cross. A 30" pipe would have been plastic. The culvert size will not change the design. 3:1 slopes will require longer pipe and more rip rap, which makes more of a net impact. Ken Clinton said the fill apron with a 2:1 slope would be 10' wide, whereas it would be 15' wide with a 3:1 slope. Tom Koenig did not hear that Kyle Fox had any objections except for maintaining Town standards. The side slopes will create stability and safety. The area in question is very small where the wetland crosses the road and flows only at some times of the year. A waiver is reasonable for a limited portion of the road that crosses wetlands. Chairman Best added that pedestrians would not be walking on the slope because there would be sidewalks. Ken Clinton stated that a guardrail might not be necessary with a 3:1 slope. Donna Pohli noted that Kyle Fox objects to the 2:1 slope because there are other ways to meet the regulation. Ken Clinton said the suggested retaining wall is not worth the added construction and maintenance costs. He will add approximately 13' to the 60' pipe length. He can create an impediment to prevent children from playing in the pipes.

The houses will be designed to avoid a foundation drain (Condition 8.i.)

NH Fish and Game recommends an **Open Space Conservation Easement**. Any easements with neighbors would be on private property and would be required no matter what size the slope would be. Ken Clinton met with the **Merrimack Conservation Commission (MCC)**, who did not comment on whether they would oversee an easement. Ken Clinton wants an Open Space Conservation Easement because the DES and Fish and Game Department want more open space protection. **The applicant wants an active use of the wetland. He will use the same language that is in the Ireland property deed that requires maintaining the parcel in its natural state, low impact educational and recreational uses, and banning motorized vehicles.** Chairman Best said the MCC did not

address the open space issue in its letter to the Planning Board, which he read into the record. The MCC has no issue with the crossing location, but it cannot comment on permits that have not yet been filed. It has no comment regarding turtles. MCC recommends only low phosphate fertilizers and limited snow de-icers. 50.9% of donated open space will have a positive impact on protecting the Souhegan River and open fields to the west. Ken Clinton prefers the Town own it outright, but Chairman Best prefers that the owners do not have shared property. Ken Clinton explained that the National Heritage Bureau has a database of turtle sightings and showed where they had been seen in the past.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

The Board voted 6-0-0 to accept the application for review, on a motion made by Alastair Millns and seconded by Stanley Bonislowski.

Alastair Millns asked whether the original three houses to the south would have underground electricity and no utility poles. Ken Clinton said approving the three lots is a separate issue. His clients have begun road upgrades and intend to put utilities underground.

Public comment

Pete Gagnon, 130 Bedford Road, suggested that the Board look at the revised Sewer Master Plan, which lists priorities for drainage areas where the Town will install sewers. Although this area is #29 on the list, it will be under pressure from development in the nearby area. He noted that the Town does not have money for sewers, so it must be careful about how land is used in the future. Ken Clinton said a certified soil scientist would stamp the plan.

Regarding the waiver from the 3:1 slope, Chairman Best said that less wetland impact is better. Robert Best, Alastair Millns, Tom Koenig, and Nelson Disco agreed that minimizing wetland impact is a good plan. The waiver is for a very short distance and there will be a guardrail and a 24'-wide sidewalk. Alastair Millns stated that specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 6-0-0 to grant a waiver from the requirements of Section 4.18.b. - Right-of-Way Work - of the Subdivision Regulations – on a motion made by Alastair Millns and seconded by Desirea Falt.

It was the Planning Board's consensus to convey the open space to the Town with a Conservation Easement similar to the one on the abutting Ireland property. Ken Clinton said the peripheral road would remain a walking trail.

At the applicant's request, the Board voted 6-0-0 to continue this item to October 21, 2014, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Desirea Falt.

5. John J. Flatley Company (applicant/owner) – Review for acceptance and consideration of Final Approval of an application for a Conditional Use Permit to