

Date: May 13, 2021

To: Newmarket Town Council

CC: Diane Hardy, Newmarket Town Planner

From: Newmarket Conservation Commission

Re: Building Permit Request off Class VI Neal Mill Road (Tax Map R7 Lot 1; 75 Neal Mill Road)

A prospective buyer of a privately owned parcel of land off the Class VI portion of Neal Mill Road is asking for approval to build a driveway over 700+ feet of the Class VI portion of Neal Mill Road to reach a property where they want to build a single-family home. The Plan was presented to the Planning Board on February 9, 2021. At that meeting, the Planning requested a public hearing and site walk for March/April. At subsequent meetings in March, April, and May, the Planning Board discussed their process and received input from interested parties, but did not schedule a site walk, did not discuss the issues raised by abutters and the public, and did not request additional information. The Planning Board has now sent this building permit request back to the Town Council without any new information provided by the applicant.

The Conservation Commission is providing the following comments and recommendations to the Town Council as part of our role under RSA 36-A "...for the proper utilization and protection of the natural resources and for the protection of watershed resources..." in Newmarket. We feel it is imperative that we provide this guidance given the significant ecological, cultural, drinking water, and recreational resources that exist in this location. In addition, the Town holds interest in land that abuts this proposed project (the Silverman and Schmeer conservation easements), for which the Town has a responsibility to ensure those interests are not impacted by this proposal.

The limited amount of detail provided thus far by the applicant is not sufficient to assess the potential for extensive negative impacts on community resources. Many issues have yet to be addressed, including:

- An engineered grading plan for the driveway across the Class VI Road, which is a public way, to show drainage, tree removal, grading, material removal, tread surface, and related issues. This is particularly important because the Town holds easements on the abutting land along the Class VI Road.
- How will recreational access across this public way be accommodated, given that it has become a significant recreational trailhead for year-round public access.
- How will off-road vehicles be controlled from accessing the trail network in this region.
- How will the ecologically significant Piscassic River and associated prime wetlands be protected in perpetuity, not just by this landowner, but future owners of this property. The current applicant cannot guarantee what future owners might do. This location is also just upstream of the Town's Tucker Well.

We provide the following documentation to highlight the potential impact to our community from this current proposal.

Newmarket Master Plan (2001)

The Vision Statement contains the following statements:

- *New development is focused in areas that already have infrastructure and is intelligently designed to reduce negative environmental impacts to the Great Bay and surrounding watershed.*
- *Newmarket's valuable natural resources and open spaces are well protected and offer outdoor enthusiasts a variety of water and land-based recreational opportunities.*

Newmarket's Vision for the Future includes the following statements:

- *Newmarket's valuable natural resources continue to support a variety of habitats and crucial ecosystems that play an essential role in the environmental health and long-term sustainability of the Great Bay estuary.*
- *Newmarket continues substantial efforts to preserve natural resources in a thoughtful manner through conservation and the promotion of compatible infill development.*
- *Newmarket's residents enjoy outstanding water and land-based recreational resources. Newmarket is a destination site for outdoor enthusiasts visiting the Seacoast. Visitors enjoy walking trails, use the playing fields and other recreation facilities, along with conservation lands and open space.*

The Water Resources Chapter contains the following:

- *The protection and use of water resources are critical concerns to the Town of Newmarket. With virtually all residents dependent upon wells for domestic use, the quantity and quality of available groundwater must be protected from depletion and contamination. Other Town water resources, such as swamps, ponds, streams, and wetlands are important because they are hydrologically related to groundwater, and provide ecological, scenic, and recreational value to residents. In general, there is a direct relationship between land use and water quality. It is the responsibility of the Town to take reasonable and prudent precautions to protect all water resources from incompatible uses, thus protecting the health and general welfare of the community. Appropriate steps should be taken by the Town to ensure that enough water supply exists for use by Newmarket residents, as well as native wildlife and plant communities. The Town needs to examine and address water supply issues, watershed management, pollution, and potential aquifers/gravel areas.*
- *One of the objectives in this chapter is: Direct development to environmentally suitable areas*

Open Space Chapter:

The Town adopted the 2007 Open Space Plan as a Chapter in the Master Plan. The Open Space Plan identifies the Piscassic River corridor in this region as one of six priority areas for conservation in Newmarket. The following features are highlighted in the Plan: *The Piscassic River corridor contains a diversity of natural communities, rare plants, and high quality wildlife habitat and is relatively intact considering the pace of development in the region. This area is especially significant to wildlife because of the mosaic of open fields, beaver-influenced ponds and wetlands interspersed with intact river corridor, vernal pools, floodplains, and upland forest.*

Summary:

⇒ The Master Plan guides community decision-making. Based on the vision and statements in the Master Plan, it is clear that the proposed home construction on the Class VI portion of Neal Mill Road is within a highly significant region of Newmarket. The Master Plan documents this region as important to our community for conserving and protecting critical resources and not as a site for expanded development. This is not "infill" development, but rather "scattered" development, given the proposal for a 700+ foot driveway down a Class VI Road into an unfragmented, ecologically and recreationally significant region.

Silverman and Schmeer Conservation Easements

The Town of Newmarket holds the “Silverman” and “Schmeer” conservation easements on the properties as shown on the attached map. The current owners of these properties are Joffree Barnett (“Silverman Easement”) and Jean Silverman (“Schmeer Easement”), respectively. As you can see, these properties have significant frontage on the Class VI Road, which will be impacted by the proposed development. The Conservation Commission is responsible for the annual monitoring of these easements and ensuring that there are no violations of the easement deed by the landowner or by a third party.

These conservation easements were acquired with funding from the Newmarket Public Water Supply Land Protection Fund and from the U.S. Fish and Wildlife Service (USFWS) North American Wetlands Conservation Act (NAWCA) funding. In addition to the Conservation Easement deed provisions, the Town of Newmarket signed a grant agreement for both the Silverman and Schmeer easements with the USFWS “to ensure the long-term conservation of the Property” and which requires “obtaining the consent of the USFWS prior to the transfer of Easements (or any interest therein, together or individually) to anyone other than a member of the GBRPP.” [GBRPP=Great Bay Resource Protection Partnership]

⇒ Summary:

The conservation easements and the grant agreements underscore the significance of these properties and the Town’s role in protecting those values. The current application (lack of a proper engineering plan) before the Town Council for a driveway across the Class VI Road is not sufficient to determine if there will be impacts to these properties.

Other Conservation Lands

The Silverman and Schmeer conservation easements are part of a large network of conserved lands in this area, most of which are part of the Piscassic Greenway, which is owned and managed by the Southeast Land Trust of NH (SELT). The Towns of Newmarket and Newfields are important partners of SELT; both communities have provided funding to help conserve some of these lands. In 2020, the Newmarket Conservation Commission contributed \$100,000 from the Conservation Fund to help conserve the “Tucker Tract II” (the northerly parcel), which added another 16.11 acres to the Piscassic Greenway. In addition, the Town of Newmarket acquired other nearby land for a new drinking water well.

⇒ Summary:

The Town has contributed significant financial resources to protect lands in this region, because of its importance to protecting drinking water, wetlands, wildlife habitat, and recreational opportunities. A proposed single-family home, 700+ foot-driveway, and associated impacts that would degrade or cause future harm to these values must be considered as part of decision-making. If permitted, these impacts are in perpetuity.

Class VI Neal Mill Road, Halls Mill Road, and Old Lee Road

The Class VI portion of Neal Mill Road in Newmarket extends from the gate to the Town boundary with Newfields. This stretch of Neal Mill Road is historic, very scenic--bounded by stone walls and large trees, and serves as a popular year-round trail for hiking, mountain biking, skiing, snowshoeing, running, dog walking, and nature observation. Due to the increasing popularity of recreational access to the Piscassic Greenway via Neal Mill Road, in 2020, the Town of Newmarket created parking spaces along the Class V portion of the road. The Class VI Neal Mill Road is a significant public recreational resource for our community and the region, offering a unique experience as it lies in one of the most remote and undeveloped areas of Newmarket. Although not officially designated as such, it has the features of a "scenic road" and a "trail."

From the Newfields side, the same road is called Halls Mill Road. At the Newfields Town Meeting on March 12, 2019, voters approved two warrant articles that reclassified the Class VI portions of Halls Mill Road and Old Lee Road as Class A Trails. Those warrant articles passed 365-75 and 365-77, respectively. These trail designations further highlight the recreational significance of the Neal Mill/Halls Mill region.

Neal Mill Road (starting at the gate) is a significant recreational resource and serves as one of the major trailheads into the Piscassic Greenway. Old Lee Road also brings recreationists onto this section of Neal Mill Road, adding to the importance of Neal Mill Road as a major recreational trail. The Old Lee and Neal Mill Class VI Roads are also used by snowmobilers in winter. A driveway across Neal Mill Road that is plowed in winter would impact all of these winter activities.

Ecological Significance of this Location

The Class VI portion of Neal Mill Road and the abutting properties are in one of the most ecologically significant areas in Newmarket:

The property at 75 Neal Mill Road lies entirely within the Lower Piscassic River Conservation Focus Area as identified in the Land Conservation Plan for New Hampshire's Coastal Watersheds (Zankel et al. 2006). See http://www.nhep.unh.edu/resources/pdf/the_land_conservation-tnc-06.pdf

The property at 75 Neal Mill Road lies entirely within a "prioritized habitat block," one of the places identified across New Hampshire's coastal watershed that will maintain opportunities for wildlife to move across the landscape, both now and into the future (Connect the Coast, Steckler and Brickner-Wood 2019). See <https://www.nature.org/content/dam/tnc/nature/en/documents/nh-connect-the-coast-report.pdf> and <https://tnc.app.box.com/s/d3er3w64bbo46y7dojtdzw1fly30obqh>

The Newmarket Open Space Plan identified this region as a Priority Area for Conservation (Snyder 2007). See http://www.nhep.unh.edu/resources/pdf/newmarket_open_space-ibc-07.pdf. The Planning Board adopted the Open Space Plan as an amendment (Chapter 2) to the Newmarket Master Plan on May 15, 2007. See <https://www.newmarketnh.gov/planning-board/pages/newmarket-master-plan>

The property at 75 Neal Mill Road includes 1,700 feet of frontage on the Piscassic River, a prime wetland as designated by the Town of Newmarket. See

https://www.newmarketnh.gov/sites/g/files/vyhlif3536/f/u101/prime_wetlands_map4.pdf

In addition to the prime wetlands, a report dated March 22, 2006 from West Environmental Inc that was commissioned by the Town evaluated and mapped wetlands on land along Neal Mill Road as part of the

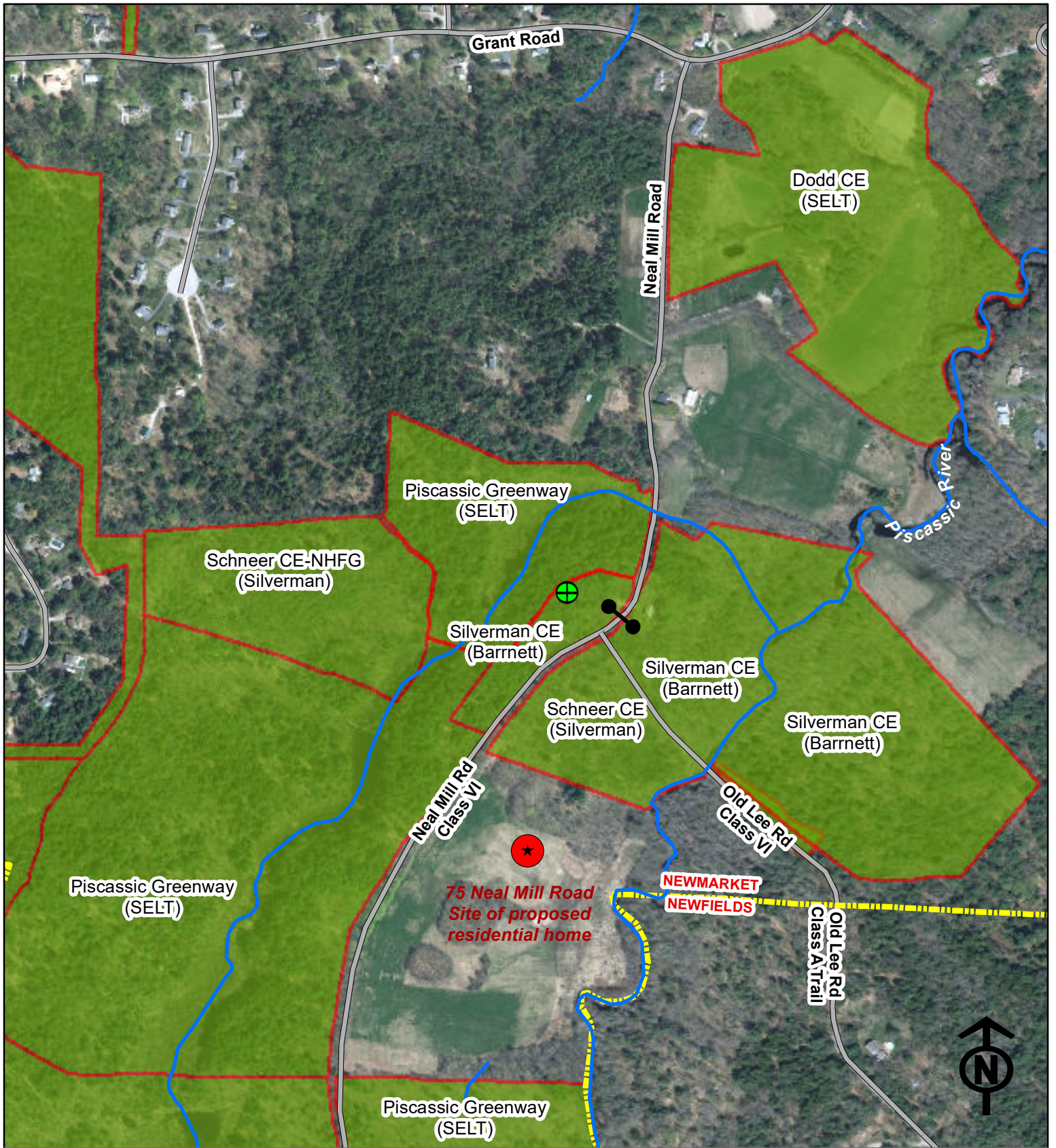
town's search for drinking water supplies. The property at 75 Neal Mill Road was included and additional wetlands were mapped.

In conclusion,


Given the significance of this region (as described above) to the Town of Newmarket, the designation by the Town of Newfields of Class A Trails, and the lack of sufficient information from the applicant to assess potential for negative impacts to Town resources, we recommend that the Town of Newmarket deny this permit request and instead pursue designation of the Class VI portion of Neal Mill Road as a Class A Trail.

Respectfully Submitted by the Newmarket Conservation Commission:


David Bell
Cris Blackstone
Samuel Kenny
Patrick Reynolds
Melissa Sharples
Ellen Snyder
Jeff Goldknopf (Planning Board Representative)
Melissa Brogle (Alternate)
Megan Brabec (Town Council Ex-Officio)



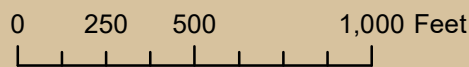
 Conservation Land

 Roads

 Streams

 Cemetery

 Gate



Conservation Land Neal Mill Road Newmarket, NH

Boundaries and features are approximate. Feb 2021