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June 14, 2024

Town of Newfields Conservation Commission
65 Main Street
Newfields, NH 03856

**Via Email: dr.chrisgriffith@gmail.com/
FEDEX to Follow**

Re: Vernon Family Farm

Dear Dr. Griffith and Members of the Conservation Commission:

PURPOSE

The purpose of this letter is to request an opportunity to speak with you under the “New Business” section of the agenda for your meeting on Monday, June 17, concerning the above-referenced matter. We seek to present concerns on behalf of our clients, three families who abut or live close to the Vernon Family Farm:

- Ruth Patterson and Gerald Cox
295 Piscassic Road
- The Girard Family/Pioneer Farm
298 Piscassic Road
- Scott Wachsmuth
306 Piscassic Road

Our office is relatively new to this matter. We understand from the limited records review we have completed to date that the Conservation Commission has been intersecting with the Vernon Family Farm property for some time, as you monitor the conservation easement (“CE”) which encumbers the majority of the Vernon property.

CONCERNS

At this time, our clients’ concerns can be summarized briefly, as follows:

1. **Legal Opinion.** As far back as a Select Board meeting on February 20, 2018, we have seen references to a legal opinion which the Conservation Commission obtained prior to that time concerning parking in the conservation easement area of the Vernon property. We would like to see that legal opinion. At the present time, our concern is that whatever

level of activity was described to the attorney who provided the opinion bears little resemblance to the level of activity that has grown in the years since then on the Vernon property. The current level and diversity of activity might yield a different opinion. Moreover – and no matter the level of activity – there are several provisions of the CE which appear to prohibit parking within the CE area for any purpose. The several years old legal opinion should be brought forward for new review and cross examination.

2. **Latest Monitoring Report.** Similar to the foregoing, we note the concern expressed by NCC’s outside conservation consultant, Sarah Callaghan, following her latest review of the conservation area on the property. Ms. Callaghan’s findings were reported to the Conservation Commission in: (i) a Conservation Easement Monitoring Report dated December 5, 2022; (ii) a parking analysis Memo dated December 1, 2022; and (iii) and a Memo Addendum, also focusing on parking within the conservation area, dated December 5, 2022.

In that last document, Ms. Callaghan notes as follows:

In that [12/01/2022] memo, I wrote that I believed Vernon Family Farm’s use of the agricultural fields was allowed [for parking] under the terms of the conservation easement. After completing a more rigorous review of their website and ticket pricing structure, I am concerned that Vernon Family Farm’s pricing for their Music Events may not be considered Commercial Agriculture.

Previously I wrote that the “the primary product advertised (chicken dinners), and income generated by these events are from the farm operations, and thus are consistent with easement’s provisions regarding commercial agriculture.” This scenario is true for the community events where purchased tickets pay for a chicken meal from the Vernon Kitchen.

Unfortunately, the primary product sold and advertised for the Summer Community Music Events (every Friday and one Sat. each month) is not in fact chicken dinners, but a live music venue. For additional fees, drinks and meals may be purchased.

There is a difference between paying for a ticket to see a live music event and having the option to purchase food at the event (which is more consistent with a concert venue) and attending a community chicken dinner where you pay for the meal and music is provided as incentive to draw people to the event. The former is a commercial event that takes place on a farm and the latter is a value-added tourism event. (Emphasis added.)

While we are not subscribing fully to Ms. Callaghan's interpretation, we do share her general concern that the activities which are occurring at the Vernon Family Farm have strayed far from those limited initial activities for which parking was initially okayed.

The use of the conservation area for parking for what are not agritourism activities is a clear violation of the terms of the conservation easement and should be policed and prohibited by the easement holder.

And, on this point, it is worth noting that the CE contains its own definitions of "agriculture" and "forestry" (see Use Limitations starting on the bottom of page three). The Andersons never considered agritourism. Nowhere in the CE deed is reference made to N.H. RSA 21:24-a, or agritourism. The only acceptable forms of agriculture are the ones listed within the deed itself.

3. **Septic System**. We understand that the Vernons may also be contemplating installation of a new septic system that would reside fully or in part within land encumbered by the conservation easement. On this subject, the CE deed could not be more clear. A septic system for the purpose of supporting the Vernon's commercial kitchen, or music/event venue, or similar operations is simply prohibited within the CE area. Section 2.C. of the CE deed states that: *"No ... portion of a septic system ... shall be constructed, placed or introduced onto the [CE-protected] Property."* The only exception to the categorical prohibition is found in Section 3.A. That Section requires that the property owner present to the NCC the design of a proposed system and the justification for placing the system within the CE area and not on property not subject to the CE. Importantly, Section 3.A. lists the sole acceptable justification for using the CE land for a new septic system: *"The Grantor agrees that justification for placing said septic system on any portion of the easement area shall solely be the lack of any area on the Grantor's property not subject to this easement in which said septic system is now located, to continue to adequately service said septic system."* (Emphasis added.) The last clause, the one underlined, limits the purpose and use of any septic system installed in the CE area to be to continue to adequately service the existing system already located on a part of the property not subject to the CE restrictions. The existing system was designed to serve a volume of use and needs extant at the time the system was designed and installed. Any new system – if it can only be placed within the CE area – cannot be for purposes beyond and outside of that scope.

To the extent that the Vernons propose a new system for the CE area to support the myriad and diverse new activities proposed on their property, agritourism or otherwise, it would not and should not be permitted.

CONCLUSION

We would like to have a brief discussion of these issues at your meeting on June 17, 2024, especially in light of the fact that we are in the early days of the summer season and the Commission only meets once per month. Our clients would like these matters under active

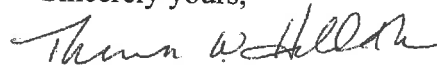
investigation and enforcement as soon as possible. The Girard Family has a matter already on the agenda for that evening and they are willing to defer consideration of that matter to this one, if necessary. Ideally, though, their matter can be covered and this one taken up under new business.

As long ago as the Select Board meeting on February 20, 2018, municipal stakeholders were expressing concerns about agritourism impacts on neighbors, traffic, parking affecting soil quality, and the like. One participant at that meeting observed that farms that are more remote would have less tendency to burden their neighbors. Similarly, a 2023 UNH Extension publication on agritourism, advises farmers that good fit is key. It urges farmers to ask: ***"Is my property suitable for what I am contemplating?"*** Not every farm will suitably support the same array, frequency, scope, scale, etc., of agritourism activities as every other farm. Our clients submit that the Vernons are trying to cram too much onto their small farm in close proximity to residential properties. It is the residential neighbors who are suffering from the negative externalities that result – noise, traffic, trespass, environmental degradation, and the like.

As the environmental stewards of the community at large, and as the holder of the CE on the Vernon property, your neighbors look to you to help address their concerns.

Thank you for your attention to and assistance with this matter.

Sincerely yours,



Thomas W. Hildreth

TWH/avl

cc: A. Manzelli, Esq. (counsel for the Vernons)
R. Patterson
L. Girard
S. Wachsmuth