

Small property, big aspirations: Horse-keeping on a 5-acre conservation easement property

I. Introduction

The 4.8-acre subject conservation easement property (referred to hereafter as the Property) was originally conserved in 1993 as a portion of a larger 188-acre conservation easement property, which consists of active farm fields and working forests. One of the reserved rights in the conservation easement deed permits the separate conveyance of the 4.8-acre Property, so long as it is conveyed with the adjacent 1.37-acre home area (for a total of 6.17 acres). The home area is completely unrestricted and contains a residence and a couple of outbuildings.

New owners recently purchased the 6.17-acre property and have reached out to you with a detailed proposal to keep show horses on their land, which includes a few, new large structures. The Property is relatively level, is comprised of prime agricultural soils, and has been previously managed as hay and corn fields. Scenic views to open fields (both on and surrounding the Property), coupled with more distant mountain views, are visible from public roads.

The landowners are hoping to board, train, and rotationally graze their four show horses on the Property for their own personal use. In order to do so, they would like to construct an outdoor riding arena, build a barn, and also install fencing around the pastures.

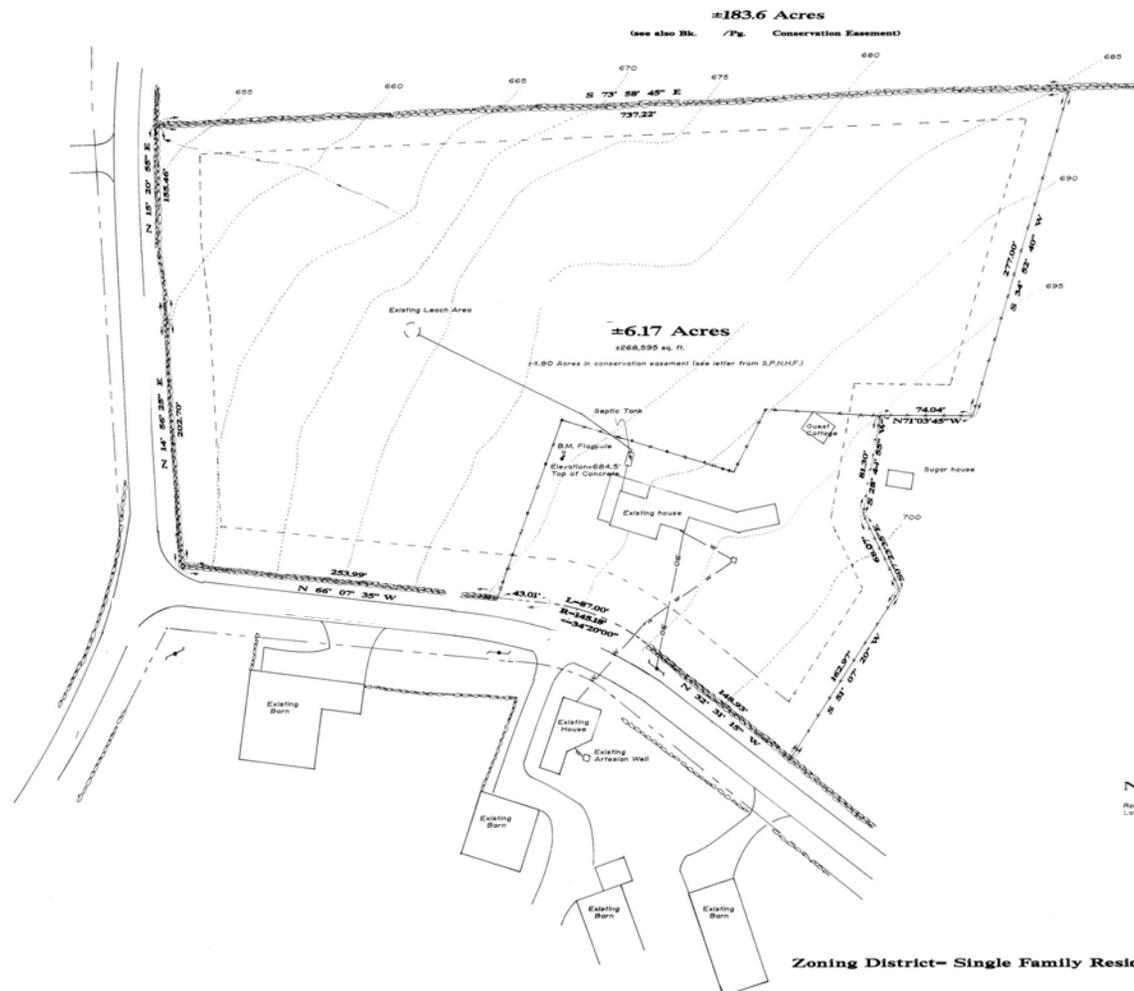
The construction of the outdoor riding arena will require significant soil removal/excavation so the ground can be leveled. Subsequent layers of gravel, other fill, and surface material will be added to create a flat and cushioned surface. Drainage pipes will also be installed under the arena.

Your task: Use the information provided, including maps and excerpts from the conservation easement deed, to determine whether to accept the landowner's proposal.

II. Survey & Maps

See the following documents listed below for visual representations of the Property:

1. Survey by Ammonoosuc Survey Company, Inc.
2. "Nearby Conservation Lands" for a general overview of the 4.8-acre Property, the original 188-acre conservation easement property, and surrounding conservation lands.
3. "Proposed Agricultural Structures" for the proposed layout as well as the location, size of, and additional details on the proposed structures.



Soil Type: PaB-Paxton
 Parcel 1.2: ±6.17 Acres of buildable land-100 acres required

Notes:
 Road frontage remaining on Lot 1 is 2,283 feet.
 Lot 1 meets Town of Gilford density requirements of 1 acre of buildable land.
 I hereby certify that Parcel 1.1 and proposed Parcel 1.2 meet all requirements of Article 5.1(b) of the Town of Gilford Zoning Ordinance.

 Licensed Land Surveyor

Zoning District- Single Family Residential(SFR)

CERTIFICATION
 "I, Jonathan K. Howe, L.L.S. #731, hereby certify that this plat was prepared by me or those under my direct immediate supervision. I also certify that this survey plat conforms to the N.H.L.S.A. Minimum Standards of Practice for the survey of real property, Condition Category ."

NO.	DATE	DESCRIPTION	BY

SCALE	1"=50'
LEGEND	<ul style="list-style-type: none"> Stonewall Wood fence Wire fence Colour line Setbacks
REFERENCES	
TITLE	



-  Subject Property
-  Original CE
-  Conservation and Public Lands
-  Perennial Stream
-  Intermittent Stream
-  Artificial Path-Waterbody

Boundaries shown are approximate. This is not a survey.

Nearby Conservation Lands

Subject Property, Conservation Easement, 5± acres

L. Hart, Forest Society, 3/27/2018; Source Data: NH GRANIT



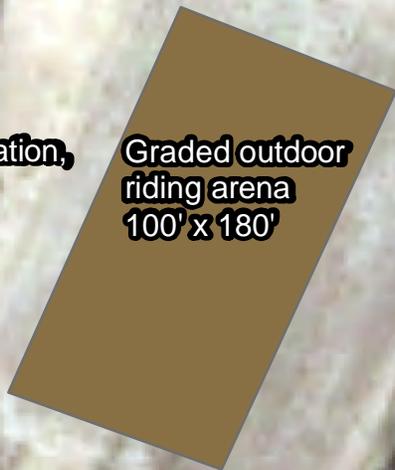
Round pen
60' diameter



5-stall barn
with cement foundation,
heat, and water
36' x 60'



Graded outdoor
riding arena
100' x 180'



2.5-3 acres
rotational grazing
with permanent fencing



Access point



Subject Property



Boundaries shown are approximate. This is not a survey.

Proposed Agricultural Structures

Subject Property, Conservation Easement, 5± acres

L.Hart, Forest Society, 3/27/2018; Source: 2016 SPNHF



III. Interpreting the Conservation Easement Deed

Review the excerpt from the conservation easement deed on the following pages:

1. PURPOSES

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes:

A. The preservation of open spaces, particularly the 188.4 acres of productive farm and forest land of which the land area subject to the Easement granted hereby consists, including the undeveloped water frontage along the Gunstock River, to which the land area subject to the Easement granted hereby provides access and upon which it fronts, for the scenic enjoyment of the general public. This purpose is consistent with the clearly delineated open space conservation goals and objectives as stated in the 1989 Master Plan of the Town of Gilford, which states "The town's conservation priorities should include areas of productive farmland and valuable wildlife habitats" and "It shall be town policy to promote the conservation of Gilford's rural lands with fields, forests, scenic views, and shorefront properties." and with New Hampshire RSA Chapter 79-A which states: "It is hereby declared to be in the public interest to encourage the preservation of open spaces in the state by providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, by maintaining the character of the state's landscape, and by conserving the land, water, forest, and wildlife resources."

This purpose is consistent and in accordance with the U.S. Internal Revenue Code, Section 170(h).

The Easement hereby granted with respect to the Property is as follows:

2. **USE LIMITATIONS** (Subject to the reserved rights specified in Section 3 below)

A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial or commercial activities, except agriculture and forestry as described below, and provided that the productive capacity of the Property to produce forest and/or agricultural crops shall not be degraded by on-site activities.

i. For the purposes hereof, "agriculture" and "forestry" shall include animal husbandry, floriculture, and horticulture activities: the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting, and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and the processing and sale of products produced on the Property (such as pick-your-own fruits and vegetables and maple syrup), all as not detrimental to the (scenic or agricultural purposes of this Easement.

ii. Agriculture and forestry on the Property shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property. Forestry and agricultural management activities shall be in accordance with the current scientifically based practices recommended by the U.S. Cooperative Extension Service, U.S. Soil Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active. Management activities shall not materially impair the scenic quality of the Property as viewed from public waterways, public roads, or public trails.

B. The Property shall not be subdivided and none of the individual tracts which together comprise the Property shall be conveyed separately from one another except as provided in Section 3 below.

C. No structure or improvement, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, aircraft landing strip, tower or mobile home, shall be constructed, placed, or introduced onto the Property; however, ancillary structures and improvements including, but not limited to, a road, dam, fence, bridge, culvert, barn, maple sugar house, or shed may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property and provided that they are not detrimental to the scenic, or agricultural purposes of this Easement.

D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:

i. are commonly necessary in the accomplishment of the forestry, agricultural, conservation, habitat management, or noncommercial outdoor recreational uses of the Property; and

ii. do not harm state or federally recognized rare, threatened, or endangered species, such determination of harm to be based upon information from the New Hampshire Natural Heritage Inventory or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and

iii. are not detrimental to the scenic or agricultural purposes of this Easement, and

Prior to commencement of any such activities, all necessary federal, state, and local permits and approvals shall be secured.

E. No outdoor advertising structures such as signs and billboards shall be displayed on the Property except as desirable or necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property, and provided such signs are not detrimental to the purposes of this Easement.

F. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to the provisions of paragraphs C., D., or E., above. No such rocks, minerals, gravel, sand, topsoil, or other similar materials shall be removed from the Property.

G. There shall be no dumping, injection, burning, or burial of man-made materials or materials then known to be environmentally hazardous.

Which sections in the excerpt of the conservation easement do you need to reference to evaluate the proposal?

What other information do you need, if any?

Discuss.

IV. Additional Details: Best Management Practices

- New Hampshire Department of Agriculture, Markets & Food's "Manual of Best Management Practices (BMP's) for Agriculture in New Hampshire" states:
A key consideration in the establishment of a horse-related operation – whether a business or a single horse for personal use – should be the suitability of the site for maintaining adequate exercise and grazing areas for the animals as well as for managing manure.
- The UNH Cooperative Extension's "Good Neighbor Guide to Keeping Horses" states:
One to two acres of well-managed pasture can support one mature horse during the grazing season with rotation. When the animal is rotated as frequently as every two weeks, the acreage needed could be closer to one acre. Four to five acres of unimproved native grass pasture will support only one mature horse for the entire grazing season.
- Natural Resources Conservation Service (NRCS) considers the following when constructing a conservation plan to guide horse keeping BMP's:
 - Waste storage facility
 - Roof water management on the planned barn
 - Prescribed grazing (not based on the horse, but based on what the pasture can produce while remaining in healthy condition)
 - Fence—either permanent or temporary/movable fence for partitioning interior paddocks
 - Water system—to support the grazing in the paddocks
 - Heavy Use Areas—to confine the livestock during periods of rest for the pasture

The landowners are waiting to hear back from you about their proposed plans. Describe the process you would take internally to discuss their proposal.

Collectively, how do you respond to the landowner?

Discuss.

V. Change of Plans

Based on recommendations from the easement stewardship staff, the landowners have met with representatives from the UNH Cooperative Extension and NRCS. After hearing their recommendations, the landowners have decided to adjust their plans.

See the map entitled “Proposed Agricultural Structures #2” for their new proposed layout.

The landowners would like to start construction soon, ideally before the ground freezes. What do you say?



 Subject Property

Boundaries shown are approximate. This is not a survey.

Proposed Agricultural Structures #2
 Subject Property, Conservation Easement, 5± acres

L. Hart, Forest Society, 3/27/2018; Source: 2016 SPNHF





Preparation and distribution of this presentation is made possible, in part, by the New Hampshire Bar Foundation's J. Albert and Mildred E. Lynch Fund