

CONCORD CONSERVATION COMMISSION

REGULAR MEETING MINUTES

January 10, 2024, 7:00 PM

City Hall, 2nd Fl Conference Room, 41 Green Street

Attendees: Chair Kristine Tardiff, Vice-Chair Jim Owers, Members Emily Landry, Rick Chormann, Allison McGregor, Councilor Stacey Brown, Alternate Mark Coen

Absent: Jeff Lewis, Katherine Healy

Staff: AnneMarie Skinner, Assistant City Planner
Krista Tremblay, Administrative Specialist II

Public: Tim Blagden
Daniel Lagneux
Rene Marro
Craig Francisco

Call to Order

The meeting was called to order by Vice-Chair Owers at 6:59 PM.

1. Election of Chair and Vice-Chair

Mr. Owers skipped from agenda item 10a to this agenda item.

Mr. Owers stated Ms. Tardiff is currently the Chair and he is Vice-Chair. However, Mr. Owers is becoming an alternate which means he cannot be an officer any more. Mr. Owers is proposing Ms. Tardiff to be Chair and Jeff Lewis to be Vice-Chair. Chair Tardiff stated she will check with Mr. Lewis. Mr. Owers stated Mr. Lewis has been here the longest. Chair Tardiff stated if they vote it will be subject to Mr. Lewis' acceptance. Mr. Chormann seconded. All in favor. The motion passed unanimously.

2. Approve November 8, 2023 meeting minutes and December 13, 2023 meeting minutes

November 8, 2023

A motion was made by Chair Tardiff, seconded by Mr. Chormann, to approve the minutes of November 8, 2023. All in favor. Motion passed unanimously.

December 13, 2023

A motion was made by Vice-Chair, seconded by Chair Tardiff, to approve the minutes of December 13, 2023 with changes to fix typos. All in favor. Motion passed unanimously.

3. CUP - 388 Loudon Rd for disturbance to wetland buffer

The applicant was not present, so AnneMarie Skinner gave an overview. There is a vacant building on the site that will be demolished. The proposal is to build a new approximately 6,000-square-foot AAMCO transmission repair shop with accompanying parking. The onsite well and septic will be decommissioned and the project will connect to City water and sewer.

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Mr. Owers asked about the impact to wetlands?

Ms. Skinner stated it is pretty minimal. The last portion of the parking area to the east needs some grading in the wetland buffer.

Mr. Owers asked if staff had any objections?

Ms. Skinner stated no.

Ms. McGregor recused herself from this agenda item due to a conflict of interest.

Chair Tardiff asked if there is an option for less parking to reduce the impervious surface?

Ms. Skinner stated yes, the area where they need to do the disturbance is not parking, but is outdoor storage for vehicles waiting for repair.

Mr. Owers asked if it is proposed to be paved?

Ms. Skinner stated yes. They have 12 spaces for car storage that are tandem which is really 24 spaces. There is another storage area for vehicles along the eastern portion. It's possible that some of this parking could be reduced.

Ms. Landry asked if the grading is impacting the buffer and not the parking spaces?

Ms. Skinner stated that, yes, the grading is what is impacting the buffer, not the parking spaces. The parking spaces are not in the buffer. The code does not allow a disturbance to the buffer without conditional use approval, and the applicant will go to Planning Board in February for that conditional use permit.

Chair Tardiff stated because it is wetland, the Conservation Commission gets to comment.

Chair Tardiff made a motion that they recommend the applicant and Planning Board look at reducing the storage spaces to either minimize or eliminate the impact to the buffer. Mr. Coen seconded. All in favor. The motion passed unanimously.

4. CUP - Lot 26 Fiskill Rd for disturbance to wetland buffer

Craig Francisco (Bedford Design) and property owner Daniel Lagueux presented the application. Mr. Francisco noted the owner bought lot 8. The recorded subdivision requires

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building to occur within 25 feet of the center of the designated circle. The wetland is about 10 feet wide. They are proposing a 5-10-foot buffer so they can have a backyard, with a pool and walk-out basement.

Ms. Skinner asked for the square footage for the footprint of the house?

Mr. Francisco stated roughly 55 by 36.

Ms. Skinner asked if the deck is 8 feet deep?

Mr. Francisco stated yes.

Ms. Skinner asked if there is 20 feet between the deck and the edge of the pool?

Mr. Francisco stated yes.

Ms. Landry asked about the current grading on the property.

Mr. Francisco stated there is a ridge on one side and it is steep everywhere.

Ms. Skinner asked if they have submitted a conditional use permit?

Mr. Francisco stated no.

Mr. Owers asked if it is approved lot in a subdivision?

Mr. Francisco stated yes, it was approved in 1983.

Mr. Owers asked how many acres?

Mr. Lagueux stated the lot is 11 acres. He noted they met with the association a month and half ago they approved everything. There is a little less than $\frac{3}{4}$ of an acre that is buildable out of the 11 acres. All the rest is part of the wetlands and needs to be 25 feet away from the stake. It used to be 120 acres and the seller wanted to conserve the land, so he put 11 lots with 100 feet accessing to Fisk Hill Rd. For every lot there is a stake so you cannot build within someone's view.

Chair Tardiff stated the Conservation Commission concern is the impacts to the buffer. She asked for the calculation to the impacts to the square footage of the buffer?

Mr. Francisco quickly calculated about 6,700 square feet.

Chair Tardiff stated in the past for other residential lots the Commission has asked about comments on impact to either wetlands or the wetlands buffer zone with the concern being is it absolutely necessary? In order to access the site, for example a driveway, do you have to impact the buffer if that is the only way to get there? Here it is the development of the back of the property the grading and pool.

Mr. Francisco stated to put a house at the location he needs to cut the ground down 4-5 feet.

Mr. Owers stated one of the problems is that this subdivision was created before there were buffers.

Mr. Francisco stated it was created before there were wetlands.

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Mr. Owers stated this was already approved by the Planning Board in 1983.

Chair Tardiff appreciates the constraints with the site and the overall concern is thinking about consistency in thinking about how the Commission has commented about these things in the past. They are okay with a plan that minimizes impact to the buffer in order to utilize the site.

Ms. McGregor stated those constraints are usually more heavily considered by Planning Board when they are doing the official approval. When looking at Conservation Commission's recommendation they are looking to avoid disturbances to the wetland buffer. It is difficult to say she would give an okay for a pool and a yard.

Mr. Owers stated they are locked into an old plan. This is odd lot sitting out there.

Mr. Francisco stated this is the only spot on the lot where they can build.

Chair Tardiff stated she would be comfortable with some grading in the wetland buffer but keeping the buffer as a buffer. Her concern is more with putting improvements in the wetland buffer and eliminating the buffer.

Mr. Owers asked how much they can eliminate of the 6,700 square feet?

Mr. Francisco stated maybe 100-150 square feet.

Chair Tardiff understands this is a difficult lot. She stated her concern is consistency where there have been other parcels that have come before Conservation Commission asking or seeking to impact wetland buffers that are much lower value parcels smaller homes and they raise concerns. For discussion, she would make a motion to recommend to the Planning Board that they consider reducing the impact to the wetland buffer. Mr. Owers seconded.

Discussion.

Chair Tardiff recognizes the subdivision plan was approved a long time ago.

Mr. Owers stated this would never get approved today.

Mr. Francisco stated the Planning Board would never approve this today.

Mr. Owers stated this is a lot in an old subdivision and a waste not to do anything with it.

Chair Tardiff read back the motion that the Conservation Commission recommends the applicant and Planning Board consider any modifications that would minimize impacts to the wetland buffer to the extent that is practical.

Mr. Lagueux asked what would be preferable as to terms of minimizing? It is a whole architectural design that needs to happen. It is \$20,000 some odd dollars for a lot that has 11 acres and $\frac{3}{4}$ of it is buildable. The reason why they did this size house is because of the market and proximity to a hospital. If they want to move the pool to a new location that changes the whole design plan. They chose the pool in the south side to have full sun. He stated if it does not work out he is not coming back. He is going to list the property.

Ms. Skinner stated the Conservation Commission is not a decider on the conditional use permit.

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The Commission's commendation has to do with the wetland buffer. The Planning Board is the approver or denier of the conditional use permit. There are criteria in order for the Planning Board to find it valid and approvable. 1) The disturbance to the buffer is necessary to the establishment of an allowable principal use. She pointed out that would be the house, not the pool or the deck. 2) The proposed disturbance to the buffer cannot practicably be located otherwise on the lot to eliminate or reduce the impact to the buffer and represents the minimum extent of disturbance necessary to achieve the reasonable use of those portions of the lot consisting of buildable land. 3) The proposed disturbance to the buffer minimizes environmental impact to the abutting wetland and to down stream property and hydrologically connected water and wetland resources. 4) Where applicable, wetland permits have been received or obtained from the NHDES and USACOE. 5) Where applicable permits or proof of compliance with all state and federal regulations have been received. She stated it is the first three but really the first two that will be key to approval. Staff reviews the request and gives a recommendation to Planning Board as well. Ms. Skinner stated the applicant will want to explain why the disturbance to the buffer is necessary even without the pool and the deck.

Mr. Owers stated there is a pending motion.

Ms. Landry seconded.

Mr. Owers paraphrased the motion was to take the necessary steps to reduce the impact to the buffer consistent with the criteria.

Discussion

Mr. Coen asked if this will be the last lot.

Mr. Francisco stated yes.

All in favor. The motion passed unanimously.

5. Tree Removal Request from Unitil (Erin Dancy) – Carter Hill Road Open Space Lot 37Z 56 and Lot 37Z 26

Erin Dancy was not in attendance to present the request.

Mr. Owers looked at the pictures and noted it makes sense to take them down.

Chair Tardiff made a motion to approve the request to remove hazardous trees on the lots specified in the agenda. Mr. Owers seconded. All in favor. The motion passed unanimously.

Chair Tardiff requested to skip to agenda item 7c.

6. NHDES Items

Ms. Skinner has nothing to report.

7. Reports

a. Trails Report - The report was linked to the agenda and was not discussed

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- b. Forestry Report - The report was linked to the agenda and was not discussed
- c. Tree Subcommittee draft meeting minutes from December 21, 2023 – presentation by Ted Diers, Tree Subcommittee Chair

Chair Tardiff requested to skip to agenda item 7c after agenda item 5.

Ted Diers stated the focus of the Tree Subcommittee is on urban trees along the streets and in the rights-of-way. It is a challenging issue. There are conflicts with utilities. There are issues with soil quality because of salting and years of beating on soils. With climate change trees are not surviving as well and then there are pests. They did inventory a few years ago looking at the difference in the urban corridor of the City from 2020 to 2022. In that time period the City has lost about 38% of the tree canopy. Getting that back is challenging and the subcommittee is looking at creative solutions. They have been working on opportunities for tree planting in conjunction with street paving projects to get residents to get trees in the ground. The main tool they use is the sustainable tree program. They attend farmers markets and the sunflower festival, and use yard signs and scholarship. There is a waiting list at this time. They will work with schools and state. They are looking at trees in the backyard because of the conflict of having trees in the front yard. They will discuss planting other things than trees because of sight lines and maintaining trees in certain locations. They will continue to do outreach. They are looking to augment some of the maps on the trail maps with some tree tours. They have several ideas and he stated Councilor Brown has been working with Bob Pollock who is a long-time tree expert and former city planner. There may be a request to get some resources. They would like to build on the trail map.

Mr. Owers asked if the tours would be on conservation land or the urban areas?

Mr. Diers stated it will be the urban area. He noted the first one they want to do is right around the State Legislature. The other one is Blossom Hill Cemetery which has some really interesting historic trees.

Mr. Coen asked what time period was the 38% loss.

Mr. Diers stated 20 years.

Mr. Coen asked for typical growth span of trees to lose naturally?

Mr. Diers stated those are areas that had trees and no longer have trees. They looked at that overall and there was not a gain somewhere else to offset. Mr. Diers gave the example of

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where he lives the city planted crab apples 25 years or so ago. They are all 25 years old and are falling apart. He has replaced where there was a crab apple he has replaced with a linden which is now counted today as one for one. What has been identified is that trees are not being replaced when they die.

Mr. Coen asked how you measure if 38% is a high number?

Mr. Diers stated the 38% should be a shocking number to people and there are places like Philadelphia that are replanting aggressively. Private land owners do not want a tree. A tree that would have survived 50 years ago before the use lots of salt, higher temperatures, and disease are not surviving in the same locations. Mr. Diers stated Concord is a large area. He stated as he recalled Nashua and Manchester both could fit within the border of Concord. It is a significant land area. Given the relatively low population density there is a lot of woods and conservation land. There is amazingly protected watershed. In terms of urban core, you want to make sure it is cooler, reduce energy costs, and storm water. Trees help with all that. As the City is developed that they are maintaining tree cover. It is not just tree cover but maintaining the original soil with all of its components. This way there is enough buffer for when the trees do age and fall down that there is a way that it can maintain itself over time. You do not want to get to a point where the only trees are in our parks and conservation land. They are looking at the tree regulations in the zoning code and site plan regulations. Before beginning to make recommendations, they felt it was appropriate to discuss with the Conservation Commission first.

Mr. Owers stated the Commission really deals with open space. However, he feels they should expand.

Chair Tardiff thinks because there is a City Tree Subcommittee it dove-tails and connects nicely. She stated if Planning staff has time to work with them she would say for them to take the lead on exploring. When there is proposal, as a joint effort the Conservation Commission and Tree Subcommittee could present to City Council.

Councilor Brown arrived at 8:12 PM.

Mr. Diers emphasized thinking of trees as part of the infrastructure.

Ms. McGregor noted trees are traffic slowing methods for pedestrian safety.

Chair Tardiff stated Mr. Chormann came up with idea to have a City nursery.

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Mr. Owers asked if there could be something put together in writing. He is looking for something they can use as a policy.

Mr. Diers stated they have a nice report they presented to City Council and they can add some of these elements.

d. Local River Advisory Committees

i. Five Rivers Monitoring Reports

Mr. Owers noted there is an issue with the Hardy lot.

Ms. Skinner asked if that is the lot with the encroachment?

Mr. Owers stated yes.

Ms. Landry stated it is a long-standing encroachment.

Mr. Owers noted they need to do something about it.

Ms. Skinner stated the first step is to send a letter with pictures.

Chair Tardiff stated they do have a process to monitor the easements and there is a template.

Ms. Skinner will send a letter using the template.

e. 4th Quarter Current Use Change Tax Update

Ms. McGregor asked about the land use tax and if they are only getting 50% since 2008?

Chair Tardiff stated that is one of the things that has been on their list.

Ms. Skinner noted she was asked to get information. She has the information. She asked if Chair Tardiff wants it on the February or March agenda?

Chair Tardiff stated she needs to go through the information and draft up something for everyone to discuss.

Mr. Owers wanted to skip ahead.

Chair Tardiff stated they skipped over agenda item 6.

Ms. Skinner stated there is nothing to report.

Mr. Owers skipped to agenda item 10a as the constituent is present at the meeting.

8. City Open Space and Easements

Ms. Skinner has nothing to report.

9. City Council/Planning Board

Councilor Brown stated Michele Horne (Ward 2) is the new Councilor for Conservation Commission.

10. Follow-up/On-going Items:

- a. Currier Road parking lot sign installation needed? – *update from Stacey Brown*

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Ms. Brown stated since she is no longer appointed to Conservation Commission she cannot discuss this topic as a Councilor. She can only speak about this as a resident. Michele Horne is the new Councilor for Conservation Commission. Ms. Brown has been there and seen Mr. Marro.

Mr. Owers stated at the last meeting they discussed having an additional sign installed.

Ms. Brown stated she discussed with Mr. Marro after the last meeting and that the camera signs are not enough.

Mr. Owers asked Ms. Skinner to get the new sign made.

Ms. Skinner stated she will order it tomorrow.

Mr. Marro lives on Currier Rd for the past 20 years. He stated there have been several incidents in the parking lot that is adjacent to his property. He has a camera on his property and have sent the pictures for people to review. He noted there are people there late at night. Mr. Marro stated the City camera is no longer there.

Ms. Skinner stated it was moved to a different location.

Mr. Marro asked for more signs to deter people from doing inappropriate things.

Mr. Owers asked that the sign state the parking lot is closed between dusk and dawn.

Ms. Skinner stated the draft sign does note the parking lot will be closed. She also noted she will need to purchase a new camera. The camera was moved to another area where there is a similar issue.

Chair Tardiff stated Conservation Commission can authorize the purchase.

Mr. Marro has no trespassing signs on his land.

Ms. Skinner stated there are three signs there now that basically say cameras are present and they are being recorded.

Mr. Owers made a motion to get the signs up within the next two weeks and it will note the parking lot is closed any time it is dark, loitering prohibited, and will authorize another trail camera. Ms. Landry seconded. All in favor. The motion passed unanimously.

Mr. Owers then skipped to agenda item 1

b. Review of Conservation Easement Standard Template

Mr. Owers thought it was pretty good.

Ms. McGregor stated if people have comments to go through one by one.

Mr. Owers wondered about the first page mentioning building and structures.

Chair Tardiff stated she thought since it was bracketed it is easily removed when there are no structures or no building.

Ms. McGregor asked if should say existing?

Chair Tardiff stated yes.

Mr. Owers noted item 2g use limitations talks about the grantor allowing the right to grant

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permission to ride or use snow mobiles, horses, and non-motorized bicycles. He felt the grantor and the grantee should have that right so that it is not just the grantor having the right. Chair Tardiff felt it was structured nicely and ready to go to City Solicitor.

Mr. Chormann wanted to know if can interject a little bit more with respect to forestry practice or sustainability or low impact. Right now, there is a forest management plan that is reviewed to ensure the practices are not determinantal to the overall ecology of the land. This will be applied to future easements. Seems like they should encourage sustainable low impact forestry activity instead of the status quo.

Ms. McGregor will take a look at the forestry.

Ms. Landry stated right now they are required to use a licensed professional forester and best management practices. She wanted to know if there was a document to reference.

Ms. Skinner stated as soon as you introduce the verbiage sustainable or low impact you need to define it.

Mr. Chormann stated that can get a little squishy.

Ms. McGregor stated they can do it.

Chair Tardiff is not sure if there is other language. She noted best practices which can evolve over time.

Ms. Landry stated it is more specific to soils and less thinking about the entire ecology of the forest. She felt it might be worth looking into other language.

Mr. Owers stated to approve this document as of this date and that it will be an evolving document.

Chair Tardiff stated if the City is acquiring a conservation easement they are starting with the template and where there are concerns it is special land they would prefer not to have timber harvested. When the appraisal is being done they say okay how much is the easement is going to cost or how much more if say you can't do this thing because they want to restrict or preserve. They can have that conservation with the land owner and pay a little more to preserve something.

Mr. Owers wants to approve this document.

Ms. McGregor stated they can make the couple changes and send to have forwarded to the City Solicitor.

Chair Tardiff made a motion to approve this document subject to the changes. Mr. Owers seconded.

Discussion

Ms. Landry asked for the name of the organization in Maine?

Mr. Chormann stated MOFGA.

Mr. Owers made a motion with the modification of MOFGA to approve the proposed conversation easement template City of Concord NH as of January 10, 2024. All in favor. The motion passed unanimously.

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c. Naming policy/procedure

Mr. Owers stated he would not make a single change to this document.

Mr. Coen agreed.

Mr. Owers made a motion to approve the Conservation Commission policy for naming trails and other memorials as drafted. Mr. Coen seconded. All in favor. The motion passed unanimously.

11. Other Business

a. Miscellaneous update items from staff – AnneMarie Skinner Update on Graham Rd/Julie Dr
Ms. Skinner stated they will need additional funds or authorization to do blazing to get additional survey because the forester was not able to locate one pin. There will need to be a survey at cost of \$1,000.

Ms. McGregor asked to be reminded of the issue.

Ms. Skinner stated the activity that was taking place at the Graham Rd and Julie Drive site.

Mr. Owers stated they were cutting an illegal trail.

Mr. Owers made a motion that they appropriate up to \$1,000 for a survey to mark the boundary on the Graham Rd/Julie Drive trail issue. Ms. Landry seconded. All in favor. The motion passed unanimously.

Ms. Skinner stated Eversource has posted the partial closure where they will be doing work at Spears Park.

Ms. Skinner stated there were two complaints from a couple for an incident that took place on New Year's Day. They were on the West End Farm trail off of Currier Rd and there was some shooting. Ms. Skinner responded to the emails. She informed them that hunting is allowed on most of the trails, shooting on your property is allowed, and would bring this to the attention of Conservation Commission.

b. Budget Update

No questions on budget.

c. Set date for special meeting – February 5th or February 8th at 6:00 PM

Conservation Commission members agreed to a special meeting date of February 8th at 6:00 p.m.

d. Memo from Barbara Richards – link in the agenda. No discussion took place.

12. Moved into a non-public session for the discussion of the acquisition of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community in accordance with RSA 91-A:3, II(d).

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13. Came out of the non-public session and motion passed unanimously to authorize expenditure of funds for legal review of an easement document in association with procuring an easement.

Adjournment

Chair Tardiff moved, seconded by Vice-Chair Owers, to adjourn the meeting at 9:51 PM. All in favor. The motion passed unanimously.

Respectfully Submitted,

Krista Tremblay
Administrative Specialist II