

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

February 13, 2019, 7:00 PM

Second Floor Conference Room, City Hall, 41 Green Street

Members present at the meeting included: Kristine Tardiff (Chair), Jim Owers (Vice-Chair), Councilor Brent Todd, Jeff Lewis, and Rick Chormann. Assistant City Planner Beth Fenstermacher and Administrative Specialist Lisa Fellows-Weaver were also present. Chris Kane and Alternate Jan McClure arrived later in the meeting.

Members took a minute to introduce themselves and welcome Councilor Todd to the Commission.

1. Minutes

January 9, 2019

A motion was made by Mr. Lewis, seconded by Mr. Chormann, to approve the January 9, 2019 minutes, as amended, with edits that do not alter the content of the meeting. The motion passed 4/0/1. Councilor Todd abstained as he was not at the meeting.

2. Annual Report Presentation from Rob Knight, Chair, Trails Subcommittee

Rob Knight, Chair of the Trails Subcommittee, met with the Conservation Commission to provide the first Annual Report of the Trails Subcommittee. He explained that an official structure for the Trails Subcommittee was established by the Conservation Commission and Trails Sub-Committee in 2018; providing an annual report is one of the new requirements. He mentioned a few items that the Committee accomplished in 2018 and stated that he is very pleased with the outcome. He stated that there was 201 hours of volunteer labor recorded in 2018, with many more that were not tracked. 81 Miles of City trails were supervised and maintained. 31 trails of the trails system were checked and report on in the spring and fall by the 21 trails stewards. Twelve public hikes were led on the trails; one new hike every month, and that will continue to be a goal for 2019. Formal procedures and a criteria checklist were developed for adopting new trails.

Mr. Knight provided an overview of the continuous efforts of the Trail Subcommittee. The 2019 goals were reviewed.

Chris Kane arrived at 7:07 p.m.

Councilor Todd commented that the annual report is an excellent idea and the Subcommittee may want to consider increasing the report to twice a year, especially as the Committee continues to increase their work and find more volunteers. He stated that the City is very supportive of the trails and the initiative of the subcommittee. Trails are an amenity that the City can offer and the City can see the values and the economic potential of the trail system. He believes that a good job is done promoting the trails; however, there can always be more publicity. He suggested working with the City's Public Information Officer and encouraged a sideline project highlighting the City trails.

3. Tony Armano, 22 Shaker Road, requesting to remove deed restriction to allow for subdivision of land.

Ms. Fenstermacher stated that Mr. Armano has expressed an interest in further subdividing his land. She provided an overview of the area and explained that a deed restriction was placed on the land at the time of the original subdivision in 2004, restricting further subdivision. Ms. Fenstermacher stated that the property owner has frequently met with various departments and the restriction has been explained to the owner. She stated that the Conservation Commission is the entity that originally recommended the deed restriction due to the extent of wetlands and wetland buffers on the parcel, their input would be required to remove the deed restriction, which would allow for further subdivisions. A discussion was held

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regarding the buildable area of the site and the wetlands impacts. The Commission agreed that they would not be inclined to remove the deed restriction due to the wetland impacts.

- 4. TFMoran, on behalf of Harold J. Lassonde III, requesting a Conditional Use Permit to impact approximately 104,019 sf (2.39 ac) of wetland buffer, and NHDES Standard Dredge and Fill Application for temporary and permanent impacts to approximately 10,106 sf of wetlands, associated with the development of a wedding venue and associated site improvements at 63 Bog Road.**

Nick Golon, of TF Moran represented that application along with Justin and Eric Stephens, of Stephens Brothers, LLC.

Mr. Golon stated that the proposal is to construct a 5,960 sf indoor event venue, rebuild an existing gravel road, and construct a patio, parking lot, and drainage improvements at 63 Bog Road in the Medium Density Residential (RM) and Residential Open Space (RO) Districts. A variance was received on August 1, 2018, to allow the proposed use in this district. Mr. Golon provided an overview of the property. He referenced the wetland areas on either side of the driveway and explained that the proposal is to rebuild the existing gravel road. He noted that the road is proposed to be four feet smaller than is required by zoning. In addition, they are proposing a gravel road as it is less of an impact and is better than pavement for water quality reasons. Mr. Golon stated that the Applicant has filed variance applications to construct a 20' width road where 24' is required, and to not pave the access road.

Ms. McClure arrived at 7:17 p.m.

Mr. Golon stated that an Alteration of Terrain permit has been filed. The existing conditions were described. He mentioned that there is an easement for a rail trail that runs through the property, a former railroad bed. A Conditional Use Permit (CUP) application has been submitted for the disturbance of approximately 104,019 sf of the wetlands buffer which is primarily due to the access road. He stated that all of the development for the venue will be outside of the wetlands. 73% or 75,000 sf of the wetland buffer impact is for the access road. The parking area is 27,500 sf or 26% of the buffer impacts and the building buffer impacts are 880 sf, which is less than 1% of impacts. Mr. Golon stated that an existing open ended culvert will be replaced with headwalls. Pictures of the site were reviewed showing the existing road and cleared areas. Mr. Golon explained that 9,906 sf of wetlands will be permanently impacted: 1,269 sf of scrub shrub and 8,637 sf of forested wetlands. He stated that DES does not require mitigation for this amount of impacts.

Mr. Chormann expressed concern regarding the impacts of road salt on the wetlands and the mosquito population due to the amount of standing water. He mentioned the impacts to the eco-system relative to mosquito control and the use of pesticides. He stated that with the proximity to groundwater he would not want to see any spraying used on the site. The Applicant indicated that they will look into using contractors that have training for safe application of road salt in sensitive areas, and will look into safer mosquito control applications.

Ms. McClure asked if a wetlands inventory was done of the entire site and if any vernal pools were identified. Mr. Golon replied that the entire site was walked but the delineation was only conducted in the areas of development, which was completed in the fall. He indicated that two potential vernal pools were identified, but they are located outside the area of development. Ms. McClure commented that the fall is not the best time for vernal pool inventories. She asked if there were any alternate routes that may avoid wetland impacts. Mr. Golon replied that alternatives were reviewed, and this was the alternative that posed the least impact to wetlands, and also avoided the potential vernal pools.

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Additional discussion was held regarding the amount of trees being cut and the area of disturbance. Mr. Golon stated that the area is already cleared as it is an existing field, and there will be minimal tree removal.

Mr. Golon stated that the fire and police departments have reviewed the plans and were okay with the proposal. He stated that the area will have city water and sewer.

The Commission did not have any comments on the wetland application. The consensus of the Commission was to support the variance requests to construct a 20' road where 24' width is required, and to not pave the road relative to the conservation aspect and reduction of impacts to natural resources. Regarding the Conditional use Permit, the Commission requested additional information be presented for review for the March 13 meeting regarding the extent of the clearing, and the existing areas of the buffer disturbance. Mr. Golon will provide the information to Ms. Fenstermacher prior to the next meeting.

5. NHDES Items

City of Concord, on behalf of the Caleb Foundation, requesting Expedited Wetlands Permit Application review for impacts to 665 sf of wetlands for the creation of a stormwater treatment system associated with a multi-family residential development at 31 Canal Street (former Tannery site).

Ms. Fenstermacher explained that this is an Expedited Permit application that the City is doing on behalf of the buyer, The Caleb Foundation, for funding reasons. The wetland was created when there was excavation occurring on the site related to contamination clean up. The proposal is for a large treatment swale for the proposed residential development which will impact 665 sf of wetlands. There will be no changes to the grade; the bottom of the grade will meet the existing elevation of the wetland. She stated that the City retained a portion of the property with the potential for a future public park. If that were to be developed then the project would need to come back to the commission.

Mr. Chormann commented that any development of the site is an improvement.

A motion was made by Mr. Lewis, seconded by Mr. Owers, to approve the expedited wetlands permit application for 31 Canal Street, and for the chair to sign the application. The motion passed unanimously. Ms. Tardiff signed the application.

6. Reports

a. Trails Subcommittee

Mr. Lewis attended the Trails Subcommittee meeting and provided a synopsis for the Commission. He reminded folks of the upcoming hikes.

Mr. Lewis stated that the president of the Walker Reserve Home Owner's Association, Megan MacMullen, attended the meeting and was interested in what was going with respect to the conservation easement and trails in that area. A discussion was held regarding the existing trails in that area. The process of notifications to abutters and associations was explained. Ms. Fenstermacher gave her contact to Ms. MacMullen and will work with her to address communication issues and provide copies of letters that were sent to the HOA.

Ms. Fenstermacher stated that the reconstruction of the city sewer access road at Morono Park is moving forward. The trails are closed Monday through Friday from 7 am to 6 pm as the work continues.

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b. Forestry

Ms. Fenstermacher circulated the Forester's Report. She mentioned that Mr. Klemarczyk has completed the boundary markings on the Martin, Lassonde, and Hardy lots.

Ms. Fenstermacher reported that the Broken Ground Timber sale that was contracted to be completed this winter will not be occurring now. She explained that Hopkinton Land Clearing was originally awarded the bid and took no action; the contract will expire February 15. Several attempts to contact Hopkinton Land Clearing were made by Mr. Klemarczyk to no avail.

A discussion was held regarding re-bidding the cut for next year. Ms. Fenstermacher stated that the cut must be completed in the winter. Mr. Owers suggested going forward with the sale since it is already marked out and was agreed upon. Discussion ensued and the Commission agreed to hold off on making a decision on the timber sale until later this year, and continue to plan to update the forest management plan. It was suggested that a site walk be scheduled for the summer to look at the proposed timber sale area, and make a determination at that time whether the sale will be put out for bid in the fall.

c. Concord Tree Committee

Ms. Fenstermacher stated that Concord Tree Committee's next meeting is scheduled for Friday, February 22. This meeting will be focused on community outreach and Arbor Day activities scheduled for April 19 at Abbott Downing. She noted that Jim Milliken will be donation two trees this year.

Councilor Todd recommended a coordinated effort with the Transportation Policy Advisory Committee to get information out there about the importance of trees for traffic calming. Besides all of the other benefits of trees, they can be used to address neighborhood speed issues.

d. Local River Advisory Committees

Mr. Chormann reported that Bug Nights are starting up again.

Councilor Todd stated that the Contoocook River Improvement Society is an older organization and he suggested that they and the Commission meet with the members and maybe support each other. Councilor Todd will reach out to the contact person.

7. City Open Space

a. Morono Park – City Sewer Access Rd project update

This item was previously addressed.

- b.*** Ms. Fenstermacher stated that City Council approved the Conservation Easement to Five Rivers Conservation Trust on 30+/- acres for the Backwoods, Martin, and Lassonde properties, in the amount of \$8,500 for one time stewardship management fees and operation costs. Councilor Todd commented that there was one comment made from the public relative to requesting that property owners place a conservation easement on the property prior to conveying the land to the City so that the owners can benefit from the tax incentives. Mr. Owers stated that the property owners of the Martin piece would not have been interested and it was such a low land value. Ms. Fenstermacher stated that the Lassonde land was a land swap so there was no money exchanged.

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8. City Council/Planning Board

a. Solar follow up – draft Zoning Ordinance Revisions, draft Site Plan revisions

Discussion began regarding the amendment proposed to the site plan regulations regarding Solar Collection Systems and the proposed zoning ordinance changes. Members discussed the percentage coverage in the RO District as presented at last month's meeting and believe that their original recommendation for 100' buffers is still better than the 50' that is proposed in the ordinance.

Ms. Fenstermacher stated that she and Bryant Anderson, Associate City Engineer, met with Bethann McCarthy at the Alteration of Terrain Bureau to discuss their proposed stormwater guidance document. Mr. Anderson drafted the proposed stormwater section to address solar collection systems in the site plan regulations based on the State's guidance document.

Discussions ensued as to the definitions of commercial solar and community solar as well as the definition for on-site consumption of solar. Ms. Fenstermacher explained the difference, and members were supportive of the larger percentage to incentivize community solar.

A member of the public, Don Ross, provided a comment about a recent report from the American Farm Bureau relative to large acreage of solar panels impacting birds, there has been reports of the reflections "crisping birds".

Councilor Todd stated that there are two sides to every picture. The amount of chemicals involved in the manufacturing process of the solar panels is a potential environmental issue. He stated that solar panels are nice for residential properties; however, the big energy picture needs to be looked at as well and understood. The Commission is trying to protect rural areas and promote energy. He asked how the two can co-exist.

Ms. McClure and Mr. Lewis offered to draft a letter to the Planning Board and City Council, and Mr. Lewis will plan to attend the Planning Board meeting and speak at the public hearing. A motion was made by Mr. Kane, seconded by Mr. Chormann, to authorize Ms. McClure and Mr. Lewis to draft a letter on behalf of the Commission regarding the proposed solar ordinance, and to attend the February 20th Planning Board meeting and read the letter. The motion passed unanimously.

9. Follow-up/On-going Items:

a. Country Hill Estates

Mr. Owers stated that we are waiting for information from Peter Holden. Ms. Fenstermacher stated that the City Surveyor has requested additional information as to the property lines. Ms. Tardiff stated that the public hearing should probably not be scheduled for March since this information is still pending.

Ms. Tardiff stated that she met with Don Ross earlier in the week relative to an alternate proposal for Country Hill Estates. She stated that she suggested that he come back to the Commission to explain his proposal.

Don Ross, property owner of Rossview Farms, met with the Commission to continue discussions regarding the City's intent of acquiring a property at the end of District 5 Road, identified as the Country Hill Estates property. Mr. Ross stated that he is looking for a compromise and would like to work with everyone to come up with a way to make the use of the property beneficial for everyone. He provided a history of the parcels that make up the property from 1904 forward and an overview of the area. He stated that it would be his goal to see the land remain as agricultural land.

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He outlined his proposal to provide access through Dimond Road for the West End Farm Trail where there currently isn't an active trail agreement with his father-in-law; provide permanent mountain bike access through the existing trail that goes through the northern part of his northern-most parcel of land (connecting to Carter Hill Farm); and provide parking on his property at the corner of District 5 Road and the old Dimond Road. This would be in exchange for the southern Country Hill Estates Parcel and the original western most portion of the large CHE parcel (the 1904 subdivision plan). He is looking for a compromise to protect the agricultural land. He requested that the Commission table the public hearing until he and the Commission can work out something.

b. Update Bylaws - continued to future meeting

c. Easement enforcement policy discussion - continued to future meeting

d. Conservation Easement Standard Templates - continued to future meeting

10. Current Use Report – Quarter 4

Ms. Fenstermacher provided the Current Use Report for members to review.

11. Non-public session for the discussion of the acquisition of conservation property in accordance with RSA 91-A:3, II(d)

Mr. Owers made a motion, second by Mr. Chormann, to enter into a non-public session, per RSA 91-A:3,II(d). By a roll call vote, the motion passed by a unanimous vote at 9:23 p.m.

Mr. Owers made a motion, second by Mr. Chormann, to come out of non-public session at 10:10 p.m. With a roll call vote, the motion passed unanimously.

Mr. Lewis made a motion, second by Mr. Chormann, to seal the minutes of the non-public session, per RSA 91-A:5, IV. With a roll call vote, the motion passed unanimously.

Mr. Owers made a motion, second by Mr. Lewis, for Mr. Owers to represent the Commission and contact the Murrays and offer to purchase the land for \$2,400. The motion passed unanimously.

Mr. Lewis made a motion, second by Mr. Owers, to enter into a non-public session, per RSA 91-A:3,II(d). By a roll call vote, the motion passed by a unanimous vote at 10:13 p.m.

Councilor Todd recused himself from this non-public discussion and left the meeting at 10:14 p.m.

Mr. Lewis made a motion, second by Mr. Owers, to come out of non-public session at 10:30 p.m. With a roll call vote, the motion passed unanimously.

Mr. Lewis made a motion, second by Mr. Owers, to seal the minutes of the non-public session, per RSA 91-A:5, IV. With a roll call vote, the motion passed unanimously.

Adjournment

There being no further business, Mr. Lewis made a motion, second by Mr. Kane, to adjourn the meeting at 10:32 p.m. The motion passed unanimously.

Respectfully submitted,
Lisa Fellows-Weaver
Administrative Specialist