

CONCORD CONSERVATION COMMISSION

WORK SESSION

MINUTES

August 14, 2019, 6:00 PM

Second Floor Conference Room, City Hall, 41 Green Street

The Concord Conservation Commission (CCC) held a work session on August 14, 2019 in the 2nd floor conference room at 41 Green Street.

Attendees: Chair Kristine Tardiff, Vice-Chair Jim Owers, Members Kathy Healy, and Rick Chormann.

Absent: Councilor Brent Todd, Members Chris Kane, Tracey Boisvert, Jeff Lewis, Alternate Jan McClure, and Alternate Stefan Matlage.

Staff: Beth Fenstermacher, Assistant City Planner
Lisa Fellows-Weaver, Administrative Specialist

Public: Two citizens in the audience

City Planner Heather Shank met with the Conservation Commission to discuss various zoning ordinance items including a proposed conservation district and a proposed urban growth boundary. Other topics noted were using zoning as a resource protection tool, potential rezoning areas of the city including a flood hazard district change and creating a cluster ordinance.

Members thanked Ms. Shank for meeting with them and will look forward to working with her and the planning division for further developments.

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Second Floor Conference Room, City Hall, 41 Green Street

The Concord Conservation Commission (CCC) held its regular monthly meeting on August 14, 2019 in the 2nd floor conference room at 41 Green Street.

Attendees: Chair Kristine Tardiff, Vice-Chair Jim Owers, Members Kathy Healy, and Rick Chormann.

Absent: Councilor Brent Todd, Members Chris Kane, Tracey Boisvert, Jeff Lewis, Alternate Jan McClure, and Alternate Stefan Matlage.

Staff: Beth Fenstermacher, Assistant City Planner
Lisa Fellows-Weaver, Administrative Specialist

Public: Two citizens in the audience

Call to Order

The meeting was called to order by Chair Tardiff at 7:10 p.m.

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1. Minutes

July 10, 2019

A motion was made by Mr. Owers, seconded by Mr. Chormann, to approve the July 10, 2019 minutes, as written. The motion passed unanimously.

May 8, 2019

Ms. Tardiff explained that the May 8, 2019 minutes were previously tabled to this meeting for additional discussion relative to a request from Leslie Talmadge, a member of the audience at the May 8 meeting, who had previously suggested edits be made to the minutes via email.

Ms. Tardiff explained that the Commission's minutes are not intended to be a verbatim transcript of a meeting.

Ms. Fenstermacher stated that she contacted the Deputy City Solicitor relative to Ms. Talmadge's request. It was suggested that Ms. Talmadge's email be attached to the official minutes so that the concern is available.

A motion was made by Ms. Healy, seconded by Mr. Owers, to approve the May 8, 2019 minutes, as written, with the addition of Ms. Talmadge's email. Mr. and Mrs. Tallmadge supported the Commission's decision. The motion passed unanimously.

2. *Ari Pollack representing ROI Irrevocable Trust, request to rezone land off Black Hill Road from RO to GWP for a proposed mixed use development.*

Ari Pollack of Gallagher, Callahan & Gartrell, PC, represented the application. He introduced Jeff Kevan of TFMoran, and Alex Valis as the project team for a future development off Black Hill Road, which involves rezoning the land.

A conceptual plan was provided for review. Atty. Pollack explained that the proposal is to change two parcels from Residential Open Space (RO) to the Gateway Performance District (GWP). This change would allow for the area to be developed with an assisted living complex, apartment complex, a medical office, retail area, hotel, and restaurants, along the river and future Merrimack River Greenway Trail. In addition, with the recent ordinance amendment to change from the Army Corp of Engineers to FEMA maps for flood zone designation, the property is no longer in a floodway, opening up opportunities for development. The property is within a FEMA floodzone; therefore, they would propose to build up the land to be above the flood elevation so that the development is outside of the floodzone. In addition, any living space will be at least one foot above the flood plain elevation, as required. He indicated that the flood zone line meanders throughout the property, and the entire development is not within the floodzone. They will run the required analysis, but do not anticipate that there will be any impact to the flood water elevation.

Ms. Shank stated that the proposal to raise the land outside of the floodzone would require the applicant to apply for a Conditional Letter of Map Revision (CLOMR) with FEMA. The proposed zoning amendment would allow for an applicant to apply for the CLOMR at the same time as the City's site plan review process, instead of waiting for the CLOMR before applying for site plan review. This could save an applicant a substantial amount of time. Receiving the CLOMR would be a condition of approval.

Ms. Fenstermacher stated that this area was identified as a conservation focus area in the Open Space Plan. There would need to be an AOT permit and a CUP application would be required for the buffer

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impacts. The shoreland buffer would still exist at 75'. Ms. Tardiff noted that the Commission would be concerned with setbacks along the river, impervious surface, and run off. Engineering staff would need to review the drainage calculations for the project. Ms. Shank noted that there would be a change to the urban growth boundary.

Atty. Pollack stated that there is a very low impact to the land and buffer; the area is an uphill slope. He explained that they are looking to alter the process so that everything can be done concurrently; filing for the CLOMAR with FEMA and Planning Board review. He noted that there could be some discussions relative to the trail and he will try to figure out the best recreation use and will continue to work on the concept.

A discussion was held regarding conducting a joint site walk with the Planning Board. Ms. Fenstermacher will work to coordinate.

3. *The Dubai Group, on behalf of Strategic Contracting Company, LLC, requesting a Conditional Use Permit to impact 1,966 sf of wetland buffer for the construction of a treatment swale for the Glen Ellen Phase II development on Hoit Road.*

Ms. Fenstermacher provided an overview of the project explaining that the Glen Ellen application was originally submitted and approved in 2008. Glen Ellen is an open space cluster subdivision which included the creation of 4 frontage lots, 1 farmhouse lot (existing structures), and 30 condominium units. The project was to be phased out due to the recession. The first phase was completed in 2012 and included the subdivision of the four frontage lots, farmhouse lot, and creation of the open space easement. Phases 2 and 3 expired in 2016 and 2018. The intention of the current application is to proceed forward with the second phase of the project, which involves developing the first thirteen condominium units and supporting infrastructure.

Jessica McNeill from the Dubai Group, Inc. represented the application. She stated that a Conditional Use Permit (CUP) request was previously approved with the original submission of all three phases; however, it expired. They are requesting a CUP to allow for drainage improvements to be located within the wetland buffer. This request will allow a treatment swale to be graded within the wetland buffer west of the proposed Gorham Drive entrance, which will provide treatment for the runoff from Gorham Drive. The total area of disturbance is approximately 2,000 SF.

A motion was made by Mr. Owers, seconded by Mr. Chormann, to recommend approval of the CUP to impact 1,966 sf of wetland buffer for the construction of a treatment swale for the Glen Ellen Phase II development on Hoit Road, as submitted. The motion passed unanimously.

10. *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 8:20 p.m.

Mr. Owers made a motion, second by Mr. Chormann, to come out of non-public session at 9:00 p.m. With a roll call vote, the motion passed unanimously.

Mr. Owers 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.

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4. NHDES items

None

5. Reports

a. Trails Subcommittee

The Trails Subcommittee did not meet in August.

Ms. Fenstermacher stated that she met with Central NH Regional Planning Commission (CNHRPC) to develop a scope of work to create a Trails Master Plan. She explained that the Trails Subcommittee is an advisory committee and they are making decisions relative to trails; however, the trail development process does not look into the overall impact to different City departments. At this time there is no capacity in house to draft the Master Plan; therefore, Planning has requested assistance from CNHRPC with the project. Craig Tufts (CNHRPC) is writing a scope of work, and believes they have funding that will cover their costs associated with writing the trails master plan. Once the scope of work is developed, she will bring the proposal to City Council. She stated that trails are a priority in the City; it is bigger than the Conservation Commission can handle. She is hopeful that the outcome of the plan will be a recommendation to City Council to add a position similar to a park ranger with enforcement capabilities.

Ms. Fenstermacher stated that a site walk was conducted at the Healy Park and the Merrimack River Trails. She provided a history of the project and the area. A discussion was held regarding closing the trails due to the ongoing issues at the park; health hazards, the homeless population; and how it could be addressed by the City. She stated that the issues were brought up at the recent RPAC meeting, without much response from RPAC.

Mr. Owers made a motion, second by Mr. Chormann, for the Commission to send a letter to City Council requesting that RPAC review the ongoing problems at Healy Park and to determine whether to close the trails. The motion passed unanimously.

b. Forestry

The Forester's report was circulated.

c. Concord Tree Committee

The next meeting is scheduled for September 27, 2019, at 8 a.m. at the White Park Merrimack Lodge.

d. Local River Advisory Committees

Minutes were provided for review.

6. City Open Space

a. Invasive Species Removal

Ms. Fenstermacher suggested that an herbicide treatment be done to remove invasive species along some of the trails. She explained that poison ivy, bittersweet, and buckthorn tree have been located at the Jim Hill River Walk, Oak Hill Trail, and at Merrill Park. A quote has been obtained in the amount of \$1,800, which will be expended from the Trails budget.

Ms. Healy asked if additional treatments will be necessary. Ms. Fenstermacher stated that funds can be added to next year's if additional treatments are required.

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Mr. Chormann made a motion, second by Mr. Owers, to appropriate \$1,800 for the necessary treatment to remove invasive species of at the Jim Hill River Walk, Oak Hill Trail, and at Merrill Park. The motion passed unanimously.

7. City Council/Planning Board

Solar Ordinance

Ms. Fenstermacher provided an update of her report to City Council relative to the solar ordinance. She stated that the public hearing was set by City Council for September 9.

A discussion was held regarding potential impacts due to the amended proposal as it now includes a 50 acre cap rather than 25 acres. Members expressed concern with utility sized solar plans and the locations of solar placement with respect to the impacts to land values and to the wildlife. It is important that the public provide input relative to their concerns.

8. Follow-up/On-going Items:

a. Education Outreach – Concord TV

Ms. Fenstermacher stated that the education and outreach for the community to highlight accomplishments and goals of the Conservation Commission is ongoing. Stefanie Breton, the City's Public Information Officer created an outline of talking points and will be reaching out to Commission members to create snippets/videos in the fall.

b. Update Bylaws

This item was continued to the next meeting.

c. Merrimack River Greenway Trail

There is no update at this time.

d. Public Notice Policy - continued to future meeting

e. Easement Enforcement Policy - continued to future meeting

f. Conservation Easement Standard Templates - continued to future meeting

9. Other Business

a. Soil Workshops at Broken Ground – August 22 and September 6

Ms. Fenstermacher stated that she has received a request from the Society of Soil Scientists of Northern New England (SSSNNE) requesting hold a workshop at the Broken Ground Conservation Area on August 22, 2019. SSSNNE and the Concord Conservation Commission have an agreement to use the Broken Ground Conservation Area for training and education. The workshop will focus on the use of LiDAR technology in soil mapping to produce topographic maps. In addition, the Association of Natural Resource Scientists requested to hold a wetlands soil workshop for September. The purpose is for the distinction between poorly drained and very poorly drained soils as it applies to wetland and soil science. The Commission had no objection to either workshop being held at Broken Ground on the dates specified.

b. NHF&G - Spotted Turtle Survey permission at Locke Rd

Ms. Fenstermacher stated that The NH Fish & Game Department is seeking permission to access properties for the purpose of monitoring spotted turtle populations in NH, occurring from April to

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September 2019 as part of a regional project from Maine to Florida. They are in the process of monitoring known priority populations, identifying new populations, and are seeking landowner permission. The areas of specific interest are the Locke Wetland and W. Portsmouth Street (SPNHF) conservation easements. The Commission agreed to grant permission for the survey and requested that NHF&G provide their findings.

c. *Backwoods – Five Rivers Easement*

Ms. Fenstermacher stated that the closing should be within the next couple of weeks.

d. *Farm Land Leases - Updates*

Ms. Fenstermacher updated the Commission on the status of the current farm land leases. The Morrill lease was lowered from \$155 per acre to \$77 per acre. Gully Hill will be going to go back to City Council to request an extension, per the lease.

e. *Pan-Am Properties*

There is no update as to the status of the Pan-Am properties, at this time.

Adjournment

There being no further business, Mr. Owers made a motion, second by Mr. Chormann, to adjourn the meeting at 9:47 p.m. The motion passed unanimously.

Respectfully submitted,
Lisa Fellows-Weaver
Administrative Specialist