

TOWN OF AMHERST  
Conservation Commission

August 1, 2023

**APPROVED**

In attendance: Jared Hardner – Chair, Rob Clemens, John Harvey - alternate, Peter Lyon – Board of Selectman Ex-Officio, Christian Littlefield, Frank Montesanto, Mark Bender.  
Staff present: Kristan Patenaude – Recording Secretary (remote)

**Administrative:**

**1. Chair Comments**

Jared Hardner opened the meeting at 7:00pm. He noted that the Town has completed the second purchase of the Curran property.

*John Harvey sat for Lee Gilman.*

**2. Minutes Approval**

**Mark Bender moved to approve the meeting minutes of July 12, 2023, as amended. [Line 108 to read: “However, this can be accommodated with an escape clause...”] Seconded by Christian Littlefield.**

**Vote: 4-0-2; motion approved [R. Clemens and F. Montesanto abstaining].**

**3. Treasurer’s Report**

Mark Bender noted that the Commission has received two donations since the last meeting. This is the last Treasurer’s Report for the fiscal year. The Commission had a fiscal year budget of \$15,828. The Commission spent \$8,775.28, or 55% of the budgeted amount. This left a balance of just over \$7,000. The year-to-date Gift account balance is \$48,569.76. The year-to-date Land Account balance is \$1,073,349.05, with some pending expenses. The Commission’s FY24 operating budget was reduced to \$12,190. He suggested, going forward, that the Commission spend down its operating budget before drawing from the Land Account.

**Public Hearing**

*Public Hearing to take input on the expenditure of funds held and controlled by the Conservation Commission for the acquisition of property by the town, to be held and controlled by the Conservation Commission. The Town is considering the purchase of a parcel of land, Tax Map 5, Lot 159-1, the owner of record being Clearview Development Group, LLC, and the Conservation Commission is considering the use of Conservation Fund monies as a deposit upon the execution of a Purchase and Sale agreement for the above-described parcel. The purchase of said parcel will be financed, in part, with bonds authorized by the 2021 Town Meeting vote approving borrowing money for conservation purposes.*

**Rob Clemens moved to enter the Public Hearing. Seconded by Frank Montesanto.  
Roll Call Vote: Mark Bender – aye; Rob Clemens – aye; John Harvey – aye;  
Christian Littlefield – aye; Frank Montesanto – aye; Jared Hardner – aye; 6-0-0;  
motion approved.**

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Rob Clemens explained that the Commission has been working on an acquisition deal for some number of months in which the Amherst Conservation Commission and the Amherst Land Trust are working to acquire Lot 159-1 for conservation of open space and public access. The acquisition will conserve 60 acres of forest and wetland habitat and avoid proposed development of 25 residential lots. This area is located between Boston Post Road and New Boston Road. There is a regionally significant area of ecological ranking in the northern portion of the property and a supporting habitat area to the south. One of the concerns for this particular property, expressed during the Planning Board process, was potential threats to groundwater supply. This property is located on the northern fringe of a major transmissive aquifer to the south. This property has an approved subdivision plan, including 18 acres of conserved land via a conservation easement. This acquisition focuses on the west village portion of the site, which abuts Boston Post Road. The Town and Commission will execute a purchase and sale agreement with Clearview Development to acquire the referenced property in two phases. The first phase is half of the currently approved west village development. The second phase deals with the remainder of the west village development minus approximately four acres to be retained by the developer. The Amherst Land Trust would acquire a conservation easement on the entire open space area from Clearview Development.

The Commission will fund the first phase of the acquisition with \$470,000 from its Conservation Fund. The Town will fund the second phase with \$600,000 of the remaining open space bond. The Commission will also return \$110,000 of Land Use Change Tax funds that will be received from sales of units in the developers' east village. The Amherst Land Trust will fund the conservation easement with privately raised funds of approximately \$635,000. The P&S is scheduled to be executed imminently and phase one of this acquisition is scheduled to close by early October, following a complete RSA 36A and 41:14-a review process. The second phase of the acquisition is scheduled to close by late August 2024. The Land Trust will complete its purchase of the conservation easement by the time of the first phase closing in October of this year. The current request is for the Commission's approval of \$25,000 of conservation funds to fund the deposit of the phase one acquisition.

Will Ludt, 3 School Street, asked where the historic resource was identified on this property. Jared Hardner stated that this was found on the east side of the property. Rob Clemens noted that there are 25 units proposed in the west village and 18 condos proposed in the east village.

In response to a question from Mark Bender, Rob Clemens explained that the proposal is for the Commission to provide \$470,000 of the Conservation Fund for this acquisition. The P&S requires a deposit for the acquisition, so \$25,000 of the \$470,000 is proposed to be allocated upfront. The Town will cut the check, with the Commission to reimburse this amount, if approved by the Commissioners.

Jared Hardner suggested that this money be allocated from the Gift Account, as additional funds may be needed from the Conservation Fund for other items.

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Peter Lyon explained that the purpose of the public hearing is to take funds from the Conservation Fund.

**Rob Clemens moved that the Amherst Conservation Commission authorize the expenditure of \$25,000 from the Conservation Account to pay for the deposit on the proposed Clearview acquisition. Seconded by Mark Bender.  
Vote: 6-0-0; motion approved.**

Rob Clemens noted that there will be a joint public hearing with the Board of Selectmen on August 14<sup>th</sup> regarding this proposal.

**Rob Clemens moved to close the Public Hearing. Seconded by Frank Montesanto.  
Roll Call Vote: Mark Bender – aye; Rob Clemens – aye; John Harvey – aye;  
Christian Littlefield – aye; Frank Montesanto – aye; Jared Hardner – aye; 6-0-0;  
motion approved.**

#### **Special Topics & Presentations**

##### **4. CUP Application for 4 Lake Outlet Road (Taylor Hennas – Meridian)**

Taylor Hennas, Meridian Land Services, stated that the request is for the Commission's comments regarding the pending Conditional Use Permit (CUP) application. The subject parcel is located at the northerly portion of Baboosic Lake. This lot is entirely within the Shoreland Zone of Baboosic Lake and entirely within the Wetland and Watershed Conservation District. The 100' buffer from Baboosic Lake is the only buffer shown on the plan. The buffer is associated with the wetland to the north and with the wetland to the west. There is currently a pre-existing non-conforming primary structure on the property that was constructed in 1960. This primary structure is currently serviced by a septic system and well. The existing lot has no stormwater management techniques associated. This proposal intends to construct a 148 s.f. addition, with no additional bedroom counts. This will be located in an area of previous disturbance and will not further encroach on side setbacks. The proposed addition will also have access steps and a proposed drip edge, which will surround the proposed addition and a portion of the pre-existing non-conforming primary structure. The project also includes a porous paver driveway and a legally approved pretreatment septic system. A portion of the proposed drip edge and porous paver driveway will control and reduce the overall post-development peak runoff on the lot. The total permanent disturbance is 176 s.f. and the proposed temporary disturbance on the parcel is 3,718 s.f. The proposed disturbance area will be bounded with a silt sock, and it will remain intact until construction is complete. The surrounding disturbed areas will be stabilized per the erosion control notes on the plan. This proposal will reduce the overall impervious area on the lot from 28.1% to 25.7%, via removal of the existing gravel driveway. An existing ramp on the east side of the non-conforming primary structure is proposed to be removed. The stormwater management techniques and the subsurface components on the lot will also be improved. This creates an overall net improvement. This proposal has received all State approvals, including the shoreland impact permit and construction approval with the septic

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system. The Natural Heritage Bureau has identified that the proposed scope of work will have no adverse impacts on rare species or exemplary habitats identified within the area.

Rob Clemens explained that one of the major concerns currently is stormwater runoff into the Lake. He noted that there is a sand and beach area in front of the site and asked about runoff from it. Taylor Hennas explained that this area is surrounding the 50' waterfront buffer and the deck. The other portion of the lot is maintained landscaping. The proposal is to implement drip edges and a porous paver driveway. If drip edges or porous paver driveways are proposed within 75' of surface water or adjacent wetlands they do not have the same removal capacity as maintaining the 75' setback. Thus, the drip edges in this proposal surround the northerly portion of the house to maintain the 75' setback. The lot is relatively flat.

The Commission thanked Taylor Hennas and stated that it would send comments along to the Planning Board.

#### **5. Review of wetlands impact management at 14 and 33 Buckridge Dr**

Jared Hardner explained that he previously asked Commissioners to stop by these sites to view the ongoing construction projects. He noticed these lots as he lives nearby. These lots are well covered by wetlands and have 25' buffers. He has spoken with Building Inspector, Scott Tenney, about these lots. Both lots have a tight fit for driveways and houses. The project plans seem to fit with the Town's regulations and a go-ahead was given by the Building Inspector. Jared Hardner stated that the wetlands delineation seems to be a bit shorter than what he expected, and he is concerned regarding the plan delineations and what actually occurs in the field. When construction began, he also noticed that the construction impacts seem to extend into the buffers. There are specific instructions as to how to delineate wetlands, including information from test pits.

Jared Hardner explained that he ran the UNH wetlands analysis for one of the lots. The wetland connects into a complex of wetlands nearby. It appears that the wetlands on this lot would be considered significant, meaning that there should be a 50' buffer. This would cut through the driveway and middle of the house. He provided this information to the Building Inspector and Community Development Director. He visited the site with the Building Inspector and Community Development Director and started a citizen complaint on this project in order to halt construction. There was no erosion control in place on this site prior to the complaint. The Town is waiting to hear from the owner regarding supporting information from Fieldstone Land Consultants about wetlands delineation and evaluation of the site. Fieldstone has not responded to the request for this additional information.

Jared Hardner asked the Commission to consider what it can do in the future regarding enforcement of its wetland rules.

John Harvey stated that this is a thorough evaluation. The information from Fieldstone Land Consultants is not signed by a certified wetlands scientist. The delineation has to be the edge of the envelope of three items, water, hydrogeological plants, and hydric soils. None of this is evident

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based on the existing plot plan. He is optimistic that the Community Development Office will take the right action to throw the plan out. Construction should cease until a wetland delineation is done by a certified wetlands scientist and the lot should be returned to its former, natural state. There is precedent for this.

Rob Clemens stated that this is a significant concern because residential proposals of this type do not go before the Planning Board and thus, are not reviewed by the Commission or other departments. There are many other residential lots in Town proposed for construction that the Commission may never have the option to review. It is important that the information being provided to the Community Development Office is thorough and correct. This also raises questions as to the role of the Town and State in dealing with enforcement situations. No one on the Commission is a certified wetlands scientist, so the question is who will provide an opinion on these items.

In response to a question from Christian Littlefield regarding the review process of certain projects, Jared Hardner explained that the Commission has a process in place that works well for items such as Conditional Use Permit applications. For other types of projects, such as those on existing lots, there seems to be a gap in review on the part of the Commission. The Commission is also very trusting when it receives information on CUP projects, but it is unclear if the information submitted is always clear and there may need to be better checks on this. Rob Clemens noted that applicants need to comply with the Wetlands Ordinance and information needs to be submitted to make sure the project is compliant. This burden is shifted to the Community Development Office.

Jared Hardner suggested that the Commission write a letter to the Community Development Office and copy the Board of Selectmen, stating that the existing process should be evaluated to determine if there are any gaps and how to fill them. All of the citizen complaint items have been fulfilled by the owner at this time.

Rob Clemens noted that the Commission is not a regulatory body. It is unclear at what point the Town should go to the State regarding a potential violation of regulations.

Peter Lyon agreed that there may be a gap in review of these types of projects. A letter to the Community Development Office, copying in the Board of Selectmen, is a good idea to raise attention to this item.

Christian Littlefield asked if there is review of the restrictions on deeds when issuing a building permit. Jared Hardner noted that this is not currently part of the review for a building permit. Christian Littlefield noted that the Town departments may be short staffed and there could be a potential for the Commission to help with a supportive review of some of the proposed projects.

Rob Clemens noted that the Water Resources appendix of the Master Plan notes how wet Amherst is. It is not surprising that areas of Town are being pushed to the edge of these wet areas as new building continues.

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Jared Hardner agreed to draft the letter to the Community Development Office and Board of Selectmen for the Commission's review.

**Other Business**

Jared Hardner stated that he met with Charlie Koch, Town Forester, and discussed marking trees for forestry purposes, which could be completed if the ground freezes this winter. This project will cost approximately \$1,125. There are also many trees that need to be thinned along Grater Road. He also spoke with Charlie Koch about updating the forested areas that have recently been cut in the GIS system.

**Jared Hardner moved to expend up to \$4,250 for the Town Forester to mark a timber cut in the Boutelle Forest and along Grater Road for the parcels owned and managed by ACC and update the forestry GIS with the parcels in the Curran properties and the Wheeler Forest, to come from the Gift Account. Seconded by Frank Montesanto.**

**Vote: 6-0-0; motion approved.**

Christian Littlefield explained that he would like to purchase a few hiker signs for use on Commission properties.

**Christian Littlefield moved to expend up to \$400 for hiker and arrow signs from the Sign account. Seconded by Rob Clemens.**

**Vote: 6-0-0; motion approved.**

**Non-Public Session per RSA 91-A:3, II, (d)**

- Consideration of the acquisition, sale, or lease 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.

**Mark Bender moved to enter Non-Public Session pursuant to RSA 91-A:3, II, (d) at 8:30pm. Seconded by Frank Montesanto.**

**Roll Call Vote: Mark Bender – aye; Rob Clemens – aye; John Harvey – aye; Christian Littlefield – aye; Frank Montesanto – aye; Jared Hardner – aye; 6-0-0; motion approved.**

**Mark Bender moved to exit Non-Public Session. Seconded by Frank Montesanto.**

**Roll Call Vote: Mark Bender – aye; Rob Clemens – aye; John Harvey – aye; Christian Littlefield – aye; Frank Montesanto – aye; Jared Hardner – aye; 6-0-0; motion approved.**

No decisions were made, and no votes were taken during Non-Public Session.

**Mark Bender moved to adjourn at 8:51pm. Seconded by Christian Littlefield.**

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264           **Vote: 6-0-0; motion approved.**

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266           **The meeting adjourned at 8:51pm.**

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269   *Respectfully submitted,*

270   *Kristan Patenaude*

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272   *Minutes approved: August 23, 2023*