

August 23, 2023

APPROVED

In attendance: Jared Hardner – Chair, Rob Clemens, John Harvey - alternate, Peter Lyon – Board of Selectman Ex-Officio, Lee Gilman, Steve Lutz, 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 explained that there was a successful site visit with Mike Gagnon and Matt Tarr at Buck Meadow this morning. There were positive comments regarding the trajectory of the restoration of the grassy area at the site and recommendations were made for additional items. The overriding theme was to let nature take its course.

2. Minutes Approval

Frank Montesanto moved to approve the meeting minutes of August 1, 2023, as presented. Seconded by Rob Clemens.

Vote: 5-0-2; motion approved [C. Littlefield and L. Gilman abstaining.]

3. Treasurer's Report

Mark Bender presented the Treasurer's Report for July, the first month of the fiscal year 2024. With only minimal expenses thus far, there is still \$12,190 remaining in the Commission's budget. The Land Account had a beginning balance of \$1,073,349. The Commission received two Land Use Change Tax (LUCT) payments of \$32,030, and also received interest of \$2,269, giving a closing balance for the month of \$1,107,648. There are pending charges, of which the largest amount is an approved payment for the land acquisition on the Curran property of approximately \$600,000 that is planned to be for paid by the Town in either December of 2023 or January of 2024. The Gift Account balance is \$48,569, with a couple of pending gifts that have not yet been deposited of approximately \$1,000.

Special Topics & Presentations

4. Subdivision Conceptual Review: Vonderosa (formerly Hazen) Lots 4-125 (County Rd and Upham Rd), 4-116 (Cricket Corner and County Rd), and 4-118, 4-119, 4-121, 6-102 (County Rd, Spring Rd, Upham Rd) – Fieldstone

Ken Robinson, Certified Wetland Scientist for Fieldstone Land Consultants, explained that there are three separate applications for this applicant. The first application is for Tax Map Lot 4-145, located at the corner of Upham Road and County Road. The parcel is approximately 15.93 acres, and minimum zoning in this area is two acres of non-wetland land.

Rob Clemens noted that this item is currently in design review before the Planning Board. The Planning Board is in the process of providing individual feedback, not a formal Planning Board

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comment or approval at this time. The applicant is seeking feedback from the Conservation Commission at this time. Ken Robinson agreed that there are 5-6 studies that need to be completed before a formal application will go before the Planning Board. The design review was completed by the Planning Board at its last meeting.

Ken Robinson explained that the plan shows five proposed lots. The lot currently supports a six-lot subdivision, but the number of proposed lots have been reduced in order to maintain an existing farm field along Upham Road. The lots range in size from 2.1 acres-4.5 acres, and all lots meet the dimensional standards. Test pits have been performed on each of the proposed lots. Each of the lots is proposed to be serviced by on-site septic systems and wells. The applicant has confirmed a 300' sight distance for the proposed driveways for each lot.

Jared Hardner explained that the Commission is likely to retain a wetland scientist to assist in review of future plans. He asked the applicant to provide the Commission with the Army Corps data sheets. Ken Robinson agreed. Jared Hardner asked if it is standard practice for Fieldstone to have these on file. Ken Robinson stated that, yes, it is standard practice to record all field notes and have them available in the office.

Jared Hardner noted that the wetland delineation was conducted in midwinter, between December and February, approximately four years ago. Ken Robinson agreed that the initial wetland delineation was conducted by Christopher Guida, a wetland scientist from Fieldstone, and Mark West of West Environmental. Mark West is one of the co-authors of the New Hampshire method leading the way for wetland science in New Hampshire.

Jared Hardner asked if the vegetation survey was satisfactory without herbaceous plant cover. Ken Robinson stated that it met the three-parameter delineation for hydrology, hydrophytic vegetation, and hydric soils. Jared Hardner asked if the vegetation was only based on woody species, as there was no herbaceous layer in January, or it would have been buried by snow. Ken Robinson stated that some delineation can still be done with certain evidences. All of these sites were revisited in July 2020, and he also completed a follow up inspection during the test pit installation to review wetland delineations as well as document vernal pools in May 2023. Jared Hardner noted that those extra items are not on the plans. Jared Hardner asked when the test pits were completed. Ken Robinson stated that this was done in May of 2023. He supplied the Commission with an additional form regarding the test pits.

Rob Clemens asked if the test pits were installed for septic purposes or for wetlands delineation purposes. Ken Robinson stated that these were completed for septic purposes. Wetland delineations are done with an auger.

Jared Hardner asked about the vernal pool delineation. Ken Robinson stated that he, Mark West, and Chris Guida have all completed these delineations on the site. Jared Hardner noted that the plan does not show which tiers were specified. Ken Robinson stated that, for the purposes of the buffer, all vernal pools were assumed to be tier one, in order to put a maximum buffer on them. In regard to all the wetlands, anything greater than one acre was treated as a water protection

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wetlands with a maximum buffer applied. Jared Hardner stated that the plan says the opposite; it states that a 25' buffer was assigned to all of these and that they do not qualify for water protection. Ken Robinson stated that he is in the process of revising the plans. The plans that the Commission has in front of them are progress prints that have been updated. 100' buffers have been applied for all wetlands greater than one acre. Jared Hardner noted that there is a statement on the plan that this does not overlap with the stratified drift aquifer, which is incorrect. Ken Robinson stated that this is reflected in the hard copies and that he will provide updated plans.

Jared Hardner asked if it was the understanding that the wetland buffer is intended not to be disturbed, or can it be disturbed, say replaced with lawns or something else. Mr. Robinson responded that the limits may not be defined precisely but he does not know of any wetland buffer where clearcutting of buffers and replacement with lawns is standard practice. Mr. Hardner asked if that was generally the understanding of Fieldstone. Mr. Robinson answered, yes.

Jared Hardner asked if there are wetland or wetland buffer crossings planned. Ken Robinson stated that there are no wetland crossings proposed for this application. There is one proposed on the following application and there are four wetland crossings proposed on the final application.

Rob Clemens asked about the siting for the lot on Upham Road. Ken Robinson explained that the intention is to place the house on the lot with a shared driveway to access the back of that lot from County Road. The intent is to maintain a buffer and to preserve an existing farm field. Rob Clemens noted that the Planning Board was confused as to how the lots will be accessed, as this was not included on any of the plans. Ken Robinson explained that no driveways or wetland crossings have yet been designed.

Ken Robinson stated that this application for Map 4 Lot 116 is to create nine frontage lots along County Road and Cricket Corner Road. These lots range from 2.4 acres-13 acres in size. These lots all meet the two-acre zoning minimum requirement. There is also one back lot provided, which meets all the Town back lot requirements. There is one wetland crossing proposed that would be required to access the back lot, along with a larger standard frontage lot, using a shared common driveway. The applicant will eventually seek a Conditional Use Permit (CUP) for that crossing.

Rich Hart asked whether a Planned Residential Development (PRD) solution might still be possible for this area, in order to place houses on smaller lots and save some of the open space. Brett Vaughn, applicant, stated that he believes that has been changed by the Town and is no longer a possibility. Ken Robinson stated that the intent is for these lots to meet zoning requirements for a conventional subdivision.

Ken Robinson explained that this application of Map 4 Lots 118, 119, & 121 and Map 6 Lot 102 contains four parcels, which combined total approximately 270 acres with approximately 13,000' of road frontage. There are proposed lots distributed along County Road, Upham Road and Spring Road. There are a total of 15 lots proposed on the south side of County Road, 18 lots on

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the north side of County Road, three lots along Upham Road, and five lots proposed along Spring Road. This totals 38 conventional lots and three back lots. The plans also indicate proposed wetland crossings.

Frank Montesanto asked if the applicant plans to improve the dirt section of County Road. Brett Vaughn explained that, in his discussion with the Planning Board, it was suggested that he meet with DPW Director, Eric Slosek, to consider a traffic study. The Planning Board would review that traffic study and listen to Eric Slosek's suggestions. A cost estimate and how that cost might be dispersed would then be discussed.

Jared Hardner asked if the scenic road designation would then be changed. Brett Vaughn stated that this will not be changed. This will require certain setbacks. There are some trees that would need to be cut as they are virtually in the road, even if there is no additional subdividing of land. The Planning Board has the authority to make the decision as to which trees can be cut. Ken Robinson explained that this section of County Road is of variable widths. It is not defined by anything other than existing stonewalls. The applicant is considering defining the width as an offset from the centerline, to increase the right of way to provide for better road maintenance. Ultimately, whether it gets paved or not is dependent upon the traffic study and request of the Planning Board.

John Harvey asked how the square footage of a wetland is calculated, in order to determine a 100' buffer for wetlands over one acre. Ken Robinson stated that all wetlands were delineated and flagged by his office. This data was made into CAD files using the exact spatial dimensions and was used to create polygons. The Town Zoning Ordinance was used, which states that wetlands shall be treated as contiguous so long as they do not narrow to less than 50', at which point it is to be treated as a separate wetland.

Jared Hardner asked if it has been decided that there will be a 100' buffer on all wetlands. Ken Robinson stated that this is correct. Fieldstone has not yet completed the New Hampshire Method functions and values assessment, but instead took the most conservative approach. Jared Hardner stated that he is currently working with the Planning Board to clarify the 50' rule. The 50' foot rule comes from a reference from 1991, which was a precursor to the New Hampshire Method. The paragraph immediately before the 50' rule notes to use the most recent version of the New Hampshire Method, which is 2023. In that version, there is no 50' rule. Ken Robinson stated that the zoning states to use an outdated version of the guidance. Jared Hardner stated that the two cannot exist together. The New Hampshire Method does explain how to determine the evaluation unit, and, in the second chapter, there is no 50' rule. He suggested that the applicant use the most recent New Hampshire Method, which supersedes the 30-year-old version. This is his recommendation.

John Harvey noted that the wetland is an irregular "H" shape on the lot. The buffer line seems to go right through the lower right leg of this shape. He asked that the applicant review this.

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Rob Clemens referenced Note 6 on the first page. He asked if the buffers are 25' or 100'. Ken Robinson stated that they are variable. His office is in the process of updating all of the notes on the plan to clarify them. Rob Clemens noted that the Spring Road lots seem to be covered by wetlands and wetland buffers. He asked where the houses on these lots will be sited and accessed. Ken Robinson stated that two wetland crossings will be required from Spring Road, tentatively with a shared driveway. Rob Clemens stated that he does not see any buildable space on the first two lots on Spring Road. Ken Robinson stated that these lots will require a wetland crossing and a shared driveway. The associated buffers are 100' buffers.

Frank Montesanto asked if this crossing would require a culvert. Ken Robinson stated that the hydrology of the area will need to be studied to determine how many culverts are required.

Jared Hardner explained that he spent a lot of time staring at the fine print on the plans that were submitted. There were many misstatements on those plans that caused the Commissioners to waste a lot of time. He would appreciate more accurate plans be submitted in the future. The statement that these wetlands are in no way overlapping the aquifer is not true; also, there are differing buffers mentioned. Ken Robinson stated that some clarification in the notes is needed, but much of the information is not opposite of the truth. Jared Hardner stated that the plans show a range of 25'-100' buffers, which is the full range of possibilities for buffers. Also, the vernal pool evaluations seemed to look for egg sacks in January. Ken Robinson stated that vernal pool surveys can be done outside of the season. Jared Hardner asked how the tiers were identified. Ken Robinson stated that these plans went with the strictest buffers. Jared Hardner stated that this is what was said during the presentation, but the plan states there are simply no vernal pools and no tiers. The information submitted raises an eyebrow. Ken Robinson stated that he submitted an updated note this evening. Jared Hardner stated that the original plans were submitted with a lot of errors.

Jared Hardner asked for public comment at this time.

Dave Williams, 56 County Road, stated that a few years back the Commission identified a significant portion of this property as having some value to the Town for preservation and went so far as to put this before the citizens for a vote. The citizens voted to purchase the property, but the sale of the property did not go through. As this area appears to have significant value to the Town for preservation of wetlands, preservation of the aquifer, and preservation of wildlife, he asked if there is any interest on behalf of the Conservation Commission or the Heritage Commission to meet with the applicant and consider preserving some of this land to satisfy the wishes of the citizens of Amherst.

Rob Clemens explained that there was originally great interest in this property. The original property was approximately 237 acres, but this is approximately 350 acres, as it includes lots on Cricket Corner Road and Upham Road. The original interest dealt with the wetlands and underlying aquifer area between Spring Road and County Road. The applicant previously considered placing PRDs along County Road in order to preserve the area along Spring Road. The applicant has since shifted gears to cut the area up into buildable lots, which does not align

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well with the Commission's thoughts and interests regarding open space protection and habitat protection. He echoed Rich Hart's comments regarding this land lending itself to a PRD approach, to increase the density in a smaller footprint. There remains an interest in maintaining this corridor for water supply protection and habitat protection. This proposal seems to totally disregard those items. He is personally disappointed with this proposal. The wetlands delineations have been confusing in terms of the lots are presented. Even as presented, the wetlands crossings are going to be very difficult.

5. Developing an ACC Integrated Vegetation Management framework (L. Gilman)

Lee Gilman presented on how the Commission manages vegetation/invasive species. He presented two conceptual frameworks, one from the Forest Service and one from the American National Standards Institute. He reviewed the Forest Service's perspective, which is not as broad as the consensus standards. The major elements of prevention include detection, control, management, and possible restoration or rehabilitation. Invasive species are held to be one of the top three causes of species extinction, along with development and pollution. Persistence of invasive species results in high levels of economic damage. There are many criteria that need to be met for a species to be considered invasive, such as crossing spatial boundaries and displacing native species.

Lee Gilman explained that invasive species management needs to be based on objectives, not detection. One goal, in a built environment, could be to eradicate an invasive species, but this will depend on the site. The Forest Service will directly intervene when it is cost effective to manage populations of invasive species that threaten forests and grasslands. Vegetation managers should be qualified to identify the species, understand their behaviors and cultural environments, and manage them. Treatment areas should be prioritized using objective criteria. Success and rapid response efforts and methods for reducing barriers should be shared with the widest audience possible. Tools, technologies, methods, and budgetary processes necessary to prioritize and eradicate and manage invasive species should be shared. This has been a line item in the Conservation Commission's budget for a number of years.

Lee Gilman stated that containment is the most efficient strategy, before diving into hot spots to try to reclaim them. Restoration and rehabilitation can be used to minimize or reverse adverse ecosystem effects, after significant invasions occur. A systems approach for invasive species management allows for structure. Gaps in procedures necessary for effective integrated invasive species management programs should be identified.

Lee Gilman explained that the American National Standards 300 series for tree, shrub, and other woody plant management is focused on integrated vegetation management. The intention for integrated vegetation management is to create, promote, and conserve sustainable plant communities that are compatible with the intended uses of the site, and manage incompatible plants. Specifications and plans for integrated vegetation management shall be written and administered by a vegetation manager or qualified professional familiar with the science of ecosystem management and integrated vegetation management practices. There are various

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vendors that could do this for the Town. Selective methods should be preferred, and non-selective methods should be considered as initial steps when developing selective management of the site. Mechanical methods should be considered for selective removal of dense stands of incompatible species but there is still an emphasis on selective removal. The Forest Service standard states that herbicides shall be used, but the due process consensus standard plays to a wide audience. This framework is useful and versatile for all audiences to develop specifications for the objectives and how to achieve those objectives. Action thresholds should trigger responses. Integrated vegetation management treatment should be initiated when site conditions reach specified action thresholds. Thresholds may vary according to locations and plants. The Commission should be planning a life cycle ahead.

Jared Hardner stated that he would like to apply these standards to the Commission's properties and eventually create a program/plan/strategy which shows how a certain framework is applied to the properties. This will likely be driven at a site level. He asked Lee Gilman to provide potential objectives for certain sites. The Commission can then determine thresholds for action for each of the major sites. The Commission will then know how much to budget for during the strategic planning phase.

Jared Hardner asked if Lee Gilman thinks that the Commission should bring in a consultant to help develop the plan. Lee Gilman explained that he provides this service for some people, but that the Commission may wish to seek outside feedback. There are people that develop the consensus standards. The Secretariat for this series is based out of Manchester for the Tree Care Industry Association. The Commission could consider someone for a Zoom meeting to develop a similar framework. The site plan/action plan for an individual site has to consider a number of details.

Rob Clemens stated that the Forest Service guidelines mention the clear impact that the broader landscape has on the likelihood for success. The Commission manages 14%-15% of the land mass in Amherst, on which a smaller percentage has invasive species issues. There remains a huge amount of landmass that the Commission is not responsible for and will not be able to control invasives species on, though these issues could be improved via communication or outreach. He suggested using upcoming projects, such as at the Lubby Lot, to consider outreach and communication efforts. Jared Hardner noted that there is currently a page on the Commission's website for that purpose. This could be expanded to get the abutters involved. Lee Gilman noted that the Commission is in the middle of the management process for this lot and abutters have been approached, with some agreeing to join the project. Lee Gilman agreed that the Lubby Lot might make a good case study.

Steve Lutz noted that, during the 4th of July events, the vast majority of questions to the Commission were regarding invasive species. There is an appetite from the public to be educated on this topic. He noted that he has updated the Trail Steward Guidelines with an invasive species statement.

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Lee Gilman stated that he believes it is important that the Town and DPW create a program to help with invasive species management at point locations to allow for right of ways to remain open.

Jared Hardner stated that there seems to be two ways to approach this issue, a rotation of these techniques on conservation properties or firefighting these species immediately as they are seen. Lee Gilman stated that early intervention is not firefighting; that is efficient and strongly recommended by both frameworks. Early detection and early intervention is containment. Steve Lutz suggested that there needs to be a level approach as to how to educate the public on what to do with invasive species it comes across. This can include varying levels of approach.

Jared Hardner asked how the Commission can get to an executable plan. He asked if Lee Gilman could create plans, property-by-property, for the Commission to execute against. These plans could then be integrated into the forestry plans so that all of the Commission's plans work in unison. Lee Gilman stated that he would work to draft some documents. He would like the Commission to work together with the DPW, stewards, and private landowners.

Jared Hardner asked if there is anything Eric Slosek, DPW Director, should be aware of in terms of executing right of way management in Town. Lee Gilman mentioned a number of locations around Town that could use additional invasive species management. He suggested a field walk for certain sites and narratives that he would create. Jared Hardner suggested that Lee Gilman model a plan for one site for the Commission and DPW to have a discussion regarding objectives.

Other Business

**Jared Hardner moved to approve the expenditure of \$167.83 for signage for invasive treatments from the Invasives line item. Seconded by Rob Clemens.
Vote: 7-0-0; motion approved.**

Jared Hardner noted that the Commission previously discussed wetlands impacts at two sites on Buckridge Drive. Scott Tenney, Building Inspector, has since issued an opinion that the Town's Zoning Ordinance provides no protections for wetlands buffers. Scott Tenney also noted that removal of the forests on these lots would fit under the forestry exception and that replacement with residential lawn area would improve the wetlands functions. This decision has been appealed by the abutters. Jared Hardner explained that he provided the abutters with some information on the way that the ACC has been interpreting the Zoning Ordinance, in that it believes the Ordinance does indeed provide protections for wetland buffers. There will be a ZBA hearing on this matter on September 19th. He stated that he will be drafting a letter to the Planning Board and Office of Community Development regarding a discussion about the Zoning Ordinance and the justifications for the Commission's understanding. This will include a series of recommendations including to decide the interpretation of the Zoning Ordinance. The Planning Board is currently considering potential changes to the Zoning Ordinance, which would go to Town Meeting. He would like to suggest one change regarding the 50' issue previously

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discussed, along with the addition of language to make it very clear that wetland buffers are protected. He stated that he will distribute the draft letter to the Commission for discussion.

Frank Montesanto stated that there will not be a Ciderfest this year at Lindabury Orchard. There is a power meter at the Orchard on a dead tree and he will contact Eversource about this.

Christian Littlefield stated that he and John Harvey volunteered for the Piscataquog Land Conservancy (PLC) Day last Saturday and gave a tour at the Joppa Hill fields. John Harvey noted that the volunteer manager for the PLC suggested that the Commission could have access to his 30 volunteers for projects.

Christian Littlefield noted that the contractor agreement is approximately 95% completed and will likely be reviewed by the Commission at its next meeting.

Jared Hardner noted that the owners of 3 Sunset Road have requested permission for Lee Gilman to remove invasive species that are within 10' of the property line and on the Commission's property. Lee Gilman noted that he has been working with these owners. They are covering the cost and trying to manage invasives that are encroaching onto their property. There was consensus on the Commission to allow for the management of species within 10' of this property line. The Commission discussed continuing this treatment into nearby Town properties. Lee Gilman stated that he would work to receive a quote on this item.

**Rob Clemens moved to adjourn at 9:05pm. Seconded by Steve Lutz.
Vote: 7-0-0; motion approved.**

The meeting adjourned at 9:05pm.

*Respectfully submitted,
Kristan Patenaude*

Minutes approved: October 11, 2023