

TOWN OF AMHERST
Conservation Commission

February 26, 2020

APPROVED

In attendance: Jared Hardner – Vice Chair, Bill Widmer – Treasurer (alternate), Rich Hart, Lee Gilman, Bill Stoughton (alternate), and Mike Cohen (alternate).
Staff present: Kristan Patenaude – minute taker.

Vice Chair Jared Hardner called the meeting to order at 7:01 pm.

Bill Widmer, Bill Stoughton, and Mike Cohen sat for absent Commissioners.

ADMINISTRATIVE:

1. Chair Comments

Jared Hardner explained that the Commission will be holding elections for positions at their next meeting.

2. Minutes (from 2/12)

Bill Widmer moved to approve the meeting minutes from February 12, 2020, as amended [For Line 151-154 to read: “Currier Orchards, in Merrimack, was contacted regarding pruning and spraying. They gave a quote of \$50/hour/person for this. \$1,500 will be spent on pruning, approximately 30 hours, and \$1,000 will be spent on spraying. Lee Gilman will be consulted on all matters;” for Line 157 to read “\$50/hour” instead of “\$15/hour.”

Bill Stoughton seconded.

All in favor.

3. Treasurer’s Report

The Commission will review the next Treasurer’s Report in March.

4. Planning & Permits

Rich Hart explained the last Planning Board meeting saw lengthy design reviews for the Prew and Jacobson properties.

TOPICS:

5. Arboleda Realty, LLC – Discussion and endorsement request relative to wetland buffer impacts & pending Planning Board CUP application for The Farmhouse Marketplace project at #340 Route 101 / Tax Map 8 Lot 52

Ken Clinton, Meridian Land Services, stated that the applicant will be filing a Conditional Use Permit (CUP) with the town on Monday. He plans to show the Commission a preview of that application tonight and request support, if agreed upon. Arboleda Realty is a separate entity of LaBelle Winery. The Farmhouse Marketplace will be directly across from LaBelle, but will be a stand-alone business. There are two borrow pits on the property that will be impacted through the entrance to the property. DOT would prefer this area be impacted, rather than impact a larger

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wetland to the north of the property. The applicant will be back before the ACC for wetland buffer impacts in the future.

Ken Clinton explained that the project hopes to minimize the grading on site, and will thus be increasing the removal of material from the site. The new working plan is substantially different in regards to grading and drainage. This is a better design; there will be less trucking, fewer retaining walls, and fewer impacts to wetlands and buffers. This plan no longer looks to fill one of the wetlands entirely, but a short section of this area may need a guardrail. There is a fairly large wetland basin on site; this may become a small pond and will function as such.

Ken Clinton stated that one of the borrow pits will be fully impacted and the other will be about a third impacted. There are no buffers associated with these as they are manmade. There is one 25' buffer that will be impacted and another 50' buffer towards the back of the property that will be impacted. It is believed that these are reasonable impacts, due to the amount of protection on the rest of the site. The applicant is following DES requirements regarding most of these impacts.

He explained that the applicant will file a site plan review and CUP application to be heard by the Planning Board on April 1st. The applicant will be looking for ACC support at that time. This will be a follow-up endorsement to the ACC's initial letter to DES, as there are now more final plans regarding the location of grading, drainage, and buffers.

Bill Stoughton explained that he will have questions during the CUP process, including what is being done to mitigate the wetland impacts. He believes the ACC, if it endorses the project, should do so because the applicant has shown it has taken certain steps within the process.

In response to a question from Bill Stoughton, Ken Clinton stated that the grading will allow all of the parking lot runoff to head to a curbed corner and be collected, so as not to enter the wetland. There will also be a treatment swale before heading into the wet pond.

Bill Stoughton noted that the town has no jurisdiction on the two original buffer impacts mentioned, and thus anything done for mitigation on them would be voluntary on the part of the applicant.

In response to a question from Mike Cohen, Ken Clinton explained that the runoff from the parking lot heads out to the culvert and catch basin on site. It then goes across the street to the winery property. Currently this runoff receives no treatment and goes into Beaver Brook. Any untreated runoff from the road also goes right in. The project aims to take some of the state road's untreated runoff and fold it into the treatment that will occur. This is a small way to help with the current runoff as well as the proposed runoff.

In response to a question from Mike Cohen, Ken Clinton stated that the difference in this new plan is the way the runoff is collected and routed. Originally a chamber underneath the property to meter out the runoff was suggested, but the site is not good for this type of mitigation.

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Bill Stoughton suggested that Ken Clinton come back to further discuss and answer questions after the CUP is on file. If the ACC is favorably inclined at that point, it can draft a letter to the Chair of the Planning Board stating that the CUP has been reviewed and the ACC is in favor of it because the applicant has followed steps in accordance with the town ordinances.

6. Michachunk Development, Inc. – Discussion of trailhead parking & trail location in Founder's Village phase 3 with proposed amended conservation easement deed

Ken Clinton stated that he was joined by developer, Mike Foisie, to discuss Founders Village. They are currently pursuing Alteration of Terrain re-permitting for phases 3 and 4 because the previous permits have expired. Phases 1 and 2 have all of the pavement down and some substantial house lots completed. Trailhead parking and trail access were discussed in regards to phase 3, after the town approved the entire plan set at both the ACC and Planning Board levels. It was always known that there would be some attempt to discontinue North Street from Founders Way, north to the town land and all the way to Lyndeborough Road. This was always a contingency to approach the townspeople with. If this was not agreeable, 1-2 of the housing lots may be substantially compromised, maybe to the point of being a non-residential lot. A petition warrant article was drafted, and the town voted to discontinue the road fully and revert it back to the abutters. If this was agreed on, there could be trailhead parking off the north side of Founders Way, within the old North Street right of way. This was never perfected because phase 3 was not begun. The warrant article language states that the road can only be accepted formally upon construction of the trailhead parking.

He explained that there are two conservation easement deeds for this property; the first one doesn't contain the Board of Selectmen's signatures on it. The town never accepted it formally. Thus a confirmatory deed was prepared, signed and recorded. However, in this document there is a section that references "paragraph 9," but there is no paragraph 9 included (which discusses no rights to the public for this area). However, the discontinuance of North Street is predicated upon some rights. The document already refers to a paragraph 9, however there could be some language proposed to cover this item. Ken Clinton suggested the proposed language: "In accordance with the 2012 Warrant Article #33, which is entitled 'Discontinuance of a Portion of North Street,' the public shall have trail access along the road bed, formally known as North Street, over open space Lot 5-59-23 from the trailhead parking at the northerly end of North Street, described in Warrant Article, north to the southerly boundary of Lot 5-62, the end of the Town of Amherst." He also references the plan, which is not drawn yet. It will also have a larger intent. The intent is to collect the drainage easements that are required from the new Alteration of Terrain permitting. He will collect those two drainage changes, come back to the ACC for wetlands/buffer impacts, and back to the Planning Board for a CUP to accept the drainage easement to accommodate the new Alteration of Terrain permit.

He would like to wrap up a visual representation of the trail parking and easement to include in the plan, tentative date of April 1, 2020. This language doesn't entirely capture where the trails are now. The trail would be beyond the old trail bed, and then there are trails that veer off. If the ACC is accepting of this idea in theory, Mike Foisie is okay with where there are currently trails on the property, but there will be no new trails allowed to cross through the property. This

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requires collaboration by the ACC and Mike Foisie, but will also need to go to the Board of Selectmen for their approval.

Bill Stoughton stated that the groups should work in conjunction with the easement language, that there should be no public access, other than what is mentioned in the new paragraph 9.

In response to a question from Mike Cohen, Bill Stoughton explained that the ACC is involved in this because there are currently town trails that traverse a property on which public access is not allowed.

In response to a question from Jared Hardner, Ken Clinton explained that when the subdivision was approved, the language did not allow for an easement for the greater public. With 59 lots, there are 59 owners, but no public rights were granted to townspeople. However, the phrasing of the language makes it reasonable to put in a trailhead for access to the town line. This document sat latent for a number of years because phase 3, with which it's associated, never started.

Bill Stoughton explained that, during ACC monitoring, it became clear that there are trails with blazes and signs on this property, that otherwise should have no access onto it. This is considered a town encroachment on private property,

In response to a question from Bill Stoughton, Ken Clinton explained that the current trails can be referred to on the plan, if he is provided with approximate locations. He thanked Mike Foisie for his help in this matter.

Rich Hart explained that, originally, the class 6 road that led up to Lindabury Road was walked and a trail was created to join up with it. The legal documents apparently didn't follow.

Jared Hardner suggested that Bill Stoughton work with Ken Clinton in order to revise the language of the documents. He also suggested that the area be walked with a GPS in order to get the correct locations of the current trails.

7. Proposed Legislation on Coyote Killing Contests (Senate Bill 588) – Joan O'Brian (guest speaker)

Joan O'Brian addressed the Board regarding Senate Bill 588.

Jared Hardner explained that the ACC doesn't take a position on legislation but that the ACC does manage properties on which there are coyote populations, and has had past requests to approve coyote hunting, making this conversation relevant. He also finds it important to educate the public and Commissioners on current legislation.

In response to a question from Mike Cohen, Jared Hardner explained that, in the past, the ACC has given permission to hunt coyotes for one year at a time, contingent upon reporting the takes.

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Joan O'Brian explained that she volunteers for the Humane Society and is working to help end the suffering of all animals, including the worst hunting practices. This introduced bill is to ban coyote killing contests. As the ACC sets the rules for what can be done on their properties, it would seem fitting for them to hear this information. She explained that coyote killing contests take place in every state and are organized events, in which people are asked to kill a targeted type of coyote in a specific area. Many of these contests disregard fair chase – allowing hunters to use electronic call devices, hounds to kill the coyotes, etc. Often times the carcasses are wasted and discarded. There are three killing contests currently known about in New Hampshire: one in Jaffrey, sponsored by Pelletier's Sports Shop as a way to get people to come into their shop; one in Milford, sponsored by Hawkeye Hunting & Fishing News for a \$500 gift card; and one in Rochester, sponsored by Coyote Creek Outfitters. She provided the Commissioners with testimony from wildlife experts.

Bill Widmer questioned how the Humane Society views protecting coyotes, while also being concerned with family pets that go missing, possibly due to coyote populations.

Joan O'Brian explained that once someone lets their pet outside, it is considered part of the ecology of the area. These coyote killing contests condone wasteful violence, disrupt the natural order and are not ethical hunting practices. Wildlife experts have shown that this type of approach does not decrease the population, but can actually create a population explosion of juvenile coyotes that may be more likely to go after pets.

Jared Hardner stated that there is some evidence that shows a benefit to human health from coyote populations, as a healthy population keeps rodents at bay, thus reducing instances of Lyme disease.

Joan O'Brian stated that there were two undercover investigations into these killing contests in Maryland and New York. She submitted them as cautionary tales as to what can happen.

In response to a question from Mike Cohen, Jared Hardner stated that, to the degree that hunters need permission from the ACC to hunt on town properties, the ACC should be prepared to take a position as to hunting contests. There is a policy that allows hunting in general on town properties. There can be a further discussion as to whether the ACC wants to refine or limit this in some way.

Bill Stoughton mentioned that the ACC already has a future agenda item to discuss a possible deer stand policy on their properties. The ACC does have some purview over these controls in places where the deeds allow it.

Jared Hardner stated that the ACC is required to post signs if hunting is not permitted on any of their lands.

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Joan O'Brian stated that killing contests devalue wildlife, give ethical hunters a bad name, and have no legitimate, ethical wildlife management purposes. She asked any individual who feels strongly about this to share this information and speak out on the proposed legislation.

In response to a question from Bill Stoughton, Joan O'Brian stated that NH Fish & Game has no problem with these killing contests. The proposed legislation was brought to them for their consideration of holding a public hearing, but they were not in favor.

In response to a question from Jared Hardner, Joan O'Brian stated that she can let the ACC know if the proposed legislation moves through the channels.

8. Earth Week Update 2020

Mike Cohen stated that, at the last ACC meeting, the group discussed the 50th anniversary of Earth Day and town participation. The idea of having a theme surfaced, and the Commissioners discussed centering activities around the acquisition of Buck Meadow. He explained that, from this conversation, he developed a year-long theme that builds on the Buck Meadow idea and expands it through other educational activities/events. Amherst Earth Week will be held from April 18-25, with the goal being to focus on celebrating the 50th anniversary of Earth Day. This week's activities will be promoted on Facebook and in the newspaper. The week will begin on April 18th with Clean-Up Day, and end with a celebration on April 25th at Buck Meadow. The celebration could possibly take place in the clubhouse and be used to inform the public about the acquisition, the ACC's rationale for it, and how the land will be utilized.

The ACC can then look to have a display at the Library in April regarding wetlands and aquifers in town and their importance. He hopes that the ACC can coordinate with other town entities, such as the Recreation Department and the Bicycle & Pedestrian Advisory Committee, and the Garden Club on certain activities throughout the year. He ran through a number of activities that the ACC could work on throughout the year.

In response to a question from Rich Hart, Mike Cohen stated that the ACC should consider hosting a guided hike during the Earth Day celebration, and possibly during the 4th of July and Old Home Days events. Mike Cohen also mentioned the possibility of using QR code plaques along certain ACC trails to give more educational information to users. This would need to be tied to a website.

In response to a suggestion from Mike Cohen, Jared Hardner expressed interest in a management subcommittee for Buck Meadow. Jared Hardner stated that abutters should be on the committee as well. There is a public meeting for abutters being held next Monday to educate them on the acquisition.

Mike Cohen moved to support the celebrating of the 50th anniversary of Earth Day/Amherst New Hampshire Earth Week, with thematic activities starting in March and running through the end of the calendar year. Bill Stoughton seconded.

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Jared Hardner stated that, with the ACC in general approval of the idea, he doesn't believe a motion is necessary.

Mike Cohen withdrew his previous motion.

Mike Cohen moved a proposed resolution that the ACC resolves that April 18-25, 2020, shall be Earth Week in Amherst, celebrating the 50th anniversary of Earth Day. The Commission encourages all Amherst residents to participate in Earth Day events and speak out for greater protections of our resources: forests, fields, wetlands, rivers and lakes, parks and fields, and plants and pollinators. Lee Gilman seconded.

Bill Stoughton stated that it would be nice for the same type of resolution to also come from the Board of Selectmen.

All in favor.

9. Other Business

Jared Hardner stated that the due diligence into the Buck Meadow acquisition continues. Meridian Land Services has been hired to do the site work. There will be an environmental assessment completed next week. There will be a public abutters' meeting on March 2, 2020, at 7pm at Town Hall. A good turnout is expected. He believes the abutters have mixed feelings regarding the acquisition. Most of the questions fielded so far involve noise and traffic concerns.

Bill Stoughton stated that the noise and lighting concerns are addressed in the town's floodplain ordinance. Jared Hardner agreed that these concerns are also addressed in the operating agreement between the ACC and Recreation Department.

In response to a question from Bill Stoughton, Jared Hardner stated that the Recreation Department appears to be working through reviewing the operating agreement well so far. Most of the information reviewed shows that, if the site is properly evaluated, there should be no problem with nutrient loading. They first need to know what the soil is lacking, but there are plenty of best management practices out there.

10. Round Table

Lee Gilman stated that the forestry mowers at Scotts Field last week have wrapped up.

Bill Widmer stated that the pruning taken on by Currier Orchards at Lindabury Orchard is about 2/3 complete.

Jared Hardner stated that there will be public hearings regarding the Buck Meadow acquisition on March 9th and 23rd, with a final vote by the ACC and Board of Selectmen on March 30th.

Bill Stoughton moved to adjourn the meeting at 8:33pm. Bill Widmer seconded.

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305 **All in favor.**

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314 Respectfully submitted,

315 Kristan Patenaude

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317 Minutes approved: March 11, 2020