

TOWN OF AMHERST  
Conservation Commission

February 10, 2021

**APPROVED**

1 In attendance via Zoom : Rob Clemens – Chair, Jared Hardner, John Harvey, Peter Lyon – BOS  
2 Ex-Officio, Frank Montesanto [8:59pm], Mike Cohen, Vick Bennison, Rich Hart, Lee Gilman,  
3 and Bill Stoughton (Alternate).

4 Staff present: Natasha Kypfer – Town Planner, and Kristan Patenaude – minute taker.  
5

6 Chairman Rob Clemens called the online meeting to order at 7:01 pm, with the following  
7 statement. As Chair of the Amherst Conservation Commission, I find that due to the State of  
8 Emergency declared by the Governor as a result of the COVID-19 pandemic and in  
9 accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04,  
10 as extended by various Executive Orders, this public body is authorized to meet  
11 electronically.

12 Please note that there is no physical location to observe and listen contemporaneously to this  
13 meeting, which was authorized pursuant to the Governor’s Emergency Order.

14 However, in accordance with the Emergency Order, I am confirming that we are:

15 Providing public access to the meeting by telephone, with additional access possibilities by  
16 video or other electronic means:

17 We are utilizing Zoom for this electronic meeting.  
18

19 All members of the Board have the ability to communicate contemporaneously during this  
20 meeting through this platform, and the public has access to contemporaneously listen and, if  
21 necessary, participate in this meeting through dialing the following phone #646-558-8656  
22 and password 851 2528 5343, or by clicking on the following website address:  
23 <https://zoom.us/j/85125285343> that was included in the public notice of this meeting.  
24

25 Providing public notice of the necessary information for accessing the meeting:

26 We previously gave notice to the public of the necessary information for accessing the  
27 meeting, including how to access the meeting using Zoom or telephonically. Instructions  
28 have also been provided on the website of the Planning Board at: [www.amherstnh.gov](http://www.amherstnh.gov).  
29

30 Providing a mechanism for the public to alert the public body during the meeting if there are  
31 problems with access: If anybody has a problem, please call 603-341-5290.  
32

33 Adjourning the meeting if the public is unable to access the meeting:

34 In the event the public is unable to access the meeting, the meeting will be adjourned and  
35 rescheduled.  
36

37 Please note that all votes that are taken during this meeting shall be done by roll call vote.  
38

39 Let’s start the meeting by taking a roll call attendance. When each member states their  
40 presence, please also state whether there is anyone in the room with you during this meeting,  
41 which is required under the Right-to- Know law.  
42

43 **Vick Bennison, Lee Gilman, Rich Hart, Jared Hardner, John Harvey, Mike Cohen, Bill**  
44 **Stoughton, Rob Clemens, and Peter Lyon – all present and alone.**

February 10, 2021

APPROVED

ADMINISTRATIVE:

**1. Chair Comments**

Rob Clemens mentioned that the Town's Deliberative Session has been moved to May 5, 2021. Town Meeting has been moved to June 8, 2021. This means that the ACC will need to stretch out its information campaign on the proposed warrant article through the spring.

**2. Minutes**

Jared Hardner moved to approve the meeting minutes of August 26, 2020, as amended [Line 77: change "Conservation Plan" to "Conservation Fund;" Line 205-206: change "strips some of" to "overwhelms;" Remove lines 215-217 from "An offset...burden of other things;" Line 219: change "curated" to "creates;" Line 221: change "efficient is" to "efficient in;" Line 230: delete "and enter the ecological water system..."; Line 230: change "a deficit" to "an incremental impact;" Line 234: change "the EPA" to "stormwater regulations; Line 343: insert the word "should" after the word "it;" Line 135: change "site" to "salt.] John Harvey seconded.

Roll call vote: Vick Bennison – aye; Rob Clemens – aye; Lee Gilman – aye; Rich Hart – aye; John Harvey – aye; and Jared Hardner – aye. Motion carried unanimously.

Vick Bennison moved to approve the minutes of December 23, 2020, as submitted.

Roll call vote: Vick Bennison – aye; Rob Clemens – aye; Lee Gilman – aye; Rich Hart – aye; John Harvey – aye; and Jared Hardner – abstain. 5-0-1; motion carried.

Jared Hardner moved to approve the meeting minutes of January 13, 2021, as amended [Line 100: change "Rolland" to "Rollend;" Line 125: change "Rolland" to "Rollend"]. John Harvey seconded.

Roll call vote: Vick Bennison – aye; Rob Clemens – aye; Lee Gilman – aye; Rich Hart – aye; John Harvey – aye; and Jared Hardner – aye. Motion carried unanimously.

**3. Treasurer's Report**

Rob Clemens noted that there is an additional LUCT fund addition that is not reflected on this report. This should bring the Land Account to over \$300,000.

Jared Hardner moved to accept the Treasurer's Report. Rich Hart seconded.

Roll call vote: Vick Bennison – aye; Rob Clemens – aye; Lee Gilman – aye; Rich Hart – aye; John Harvey – aye; and Jared Hardner – aye. Motion carried unanimously.

**4. Planning & Permitting**

February 10, 2021

**APPROVED**

Bill Stoughton stated that the Planning Board will hear the Clearview application next Wednesday. Density will be decided soon for this project. The third-party review of the hydrogeological study is outstanding and will hopefully be received soon.

In response to a question from Rob Clemens, Natasha Kypfer stated that the Master Plan Steering Committee has been working to make the Master Plan Survey results public through the Town website. The Master Plan Steering Committee has no future meeting date set yet. The group has reached out to NRPC to receive unbiased help regarding processing all of the raw survey data.

#### **4.1 Revised CUP, Carlson Manor**

Chris Guida, certified wetlands scientist, and Chad Branon, civil engineer, of Fieldstone Land Consultants joined the meeting.

Chris Guida explained that this CUP is for the proposed road crossings and driveways. Peter Spiers, a certified wildlife biologist, has completed a report on the property that is attached to the application. The application also includes a buffer restoration plan, and the proposed relocation of the stormwater features outside of the buffer.

Chad Branon stated that the original application submitted to the Planning Board included stormwater features in the buffer areas. This seemed to be an issue for some Board members. His client thus agreed to proactively relocate the stormwater management areas out of the buffer areas to alleviate concerns and to create a better buffer restoration plan. A buffer restoration plan has been submitted and any buffer impacts are presented on the current plan. Some buffer areas will be disturbed during construction but then restored afterward.

Chad Branon explained that there were concerns about water temperatures from the stormwater management systems. Removing these systems from the buffers allows for additional separation and mitigation of any impacts. The combined stormwater management systems being proposed include pretreatment and gravel wetlands. These combined systems have been studied by the UNH Stormwater Center and are considered a type of best management practice that are productive in managing temperature impacts. These studies were done on a parking lot surface, which has a larger impervious area draining directly into wetlands. The proposed Carlson Manor project has less of a temperature impact because there is additional green space and infiltration proposed.

Chad Branon explained that buffer restoration is being proposed behind units 49 and the clubhouse, toward Hollis Road. Other areas on site will be augmented with additional plantings. The plan also calls out areas within the buffers that will be unmaintained and allowed to grow back naturally. He believes this updated plan is a significant improvement to the design of this project.

Chris Guida showed the proposed plantings on the plan. Currently, the area is full of grass/hay and sandy soil. White pines are proposed for the plantings on site, as they do well in sandy, well-

February 10, 2021

**APPROVED**

draining soil. The wetlands areas on this site are fairly shallow and tend to dry out rapidly by the early summer. There may be some overflow from the stormwater basins. Discharge points are required, so that the overflow will go into the vegetated areas. It is rare to see water come out of these areas, as it usually infiltrates into the soil.

In response to a question from Jared Hardner, Chad Branon explained that this project contemplates placing many of the restoration areas in protective open space on the property. The buffers are also located in protective open space. There are legal documents, covenants, and restrictions will help those areas to remain in protective open space in perpetuity. All of the buffer areas, outside of those being impacted, are in protected areas.

In response to a question from Rob Clemens, Chad Branon stated that the maintenance of these protected open space areas falls to the HOA. Draft documents for this have been submitted. There is a potential vernal pool at the back of this property that will also be located within the protected open space.

In response to a question from Rich Hart, Chad Branon explained that there is a split rail fence proposed along the limited common area units. Plaques will be located along this fence explaining to the residents that this is a conservation wetland buffer, and that yards must end before this area. Plaques will also be placed along the boundary and road areas.

Rich Hart noted that white pines tend to grow large trunks, with not much greenery on them and with a lot of space in between them. He asked if the applicant has considered adding low bushes in between the white pines as a way to hold the soil in place and to be an additional filter. Chad Branon explained that he believes the white pines will fill in nicely. The rest of the areas will be allowed to grow undisturbed, allowing nature to take over.

John Harvey suggested that the density of the pines be open enough to allow sunlight to reach down to help natural bushes to grow.

In response to a question from John Harvey, Chris Guida explained that Peter Spiers did not notice any significant wildlife in the wetlands while out completing his report. This could be because the area tends to dry out so much in the summer. In the wetland crossing, there is a 48" culvert proposed, which exceeds the size of other nearby culverts. This culvert will be partly imbedded and allow clear passage by wildlife.

Bill Stoughton noted that, as the ACC representative to the Planning Board, he limits his comments in this forum regarding this application and will not form opinions or comment on the merits of the application until it is heard by the Planning Board. He noted that he appreciates the changes made to this application and views them as a significant improvement. He explained that this application is proposed under the former stormwater regulations but using gravel wetlands is one of the best management practices and removes approximately 60% of all nitrogen and phosphorus. He believes this will lead to a cleaner and cooler aquifer than the original plan.

February 10, 2021

**APPROVED**

In response to a question from Rob Clemens, Chad Branon stated that the current plan is to utilize an existing well on site for the irrigation. This should lessen the load on the Pennichuck system. There are five existing wells on site. There will be an evaluation done as to which well will be best for this purpose.

Rob Clemens noted that there is some concern about this project creating an impact on existing users and aquifers in the area. This plan looks to import Pennichuck water and infiltrate it on site, which will recycle some of the water back into the system.

In response to a question from Mike Cohen, Chad Branon stated that there has been some discussion regarding using grasses on site that are drought-tolerant and require less water. Chad Branon stated that he believes this is the ultimate plan for this property. This is a very large site, and the applicant is trying to minimize the amount of water needed. There are existing residences on the site that utilize water, so there shouldn't be a large difference in the water draw.

Rob Clemens stated that the Commission will put together comments on this application to send to the Planning Board.

#### TOPICS

##### **5. Timber Cut Permit Reviews**

Rob Clemens noted that there have been a number of timber cut permits applied for and granted in the Bon Terrain area of Town over the past years. It doesn't appear that the ACC was aware of these permits.

Lee Gilman explained that it is okay to clear to the edge of a stream, but this area shouldn't be 100% cleared. The Basal Area Law (RSA 227-J:9) says that 50% of the basal area can be cleared within one year. The Shoreland Protection Act only governs great ponds and larger surface waters of the State. First, second, and third order streams are not governed by the Shoreland Protection Act, and but under the Basal Area Law. Enforcement of Basal Area Law is used to prevent erosion and maintain habitat. Variances can be applied for under the Basal Area Law. The ACC has no real enforcement options for Intent to Cut permits in Town. If violations are made, the ACC can report these, and there are other checks and balances in the system.

Lee Gilman stated that, if the ACC's goal is to protect certain wetlands in Town, it can pick important areas and designate them as prime wetlands. If it designates a wetland as prime, the ACC will be guaranteed notification of the timber cut before the permit is approved by the State. He does not believe the ACC has any sort of an enforcement mechanism to get ahead of loggers.

In response to a question from Rob Clemens, Lee Gilman explained that fourth order and larger streams are on a list with DES. If a stream isn't listed, it is less than fourth order and only governed by the Basal Area Law. Lee Gilman stated he is unsure what order Peacock Brook is. Lee Gilman stated that the State laws allow for certain parts of a stream to be cleared in order to cross, but not all of a stream to be cleared. There are some dimensional guidelines.

February 10, 2021

**APPROVED**

Lee Gilman explained that the ACC can report if a violation occurs. There should be Intent to Cut postings on the site, as part of compliance. If the Town decides to designate a wetland as prime, the ACC will receive prior notification of a proposed cut. There are no prime wetlands in Amherst at this time.

#### **6. Discretionary Easement Update**

John Harvey defined discretionary easements, per RSA 79-C. A landowner may apply for a discretionary easement with a map, description of how the easement will be a benefit to the public, and a tax appraisal. He is requesting that the Board of Selectmen consider allowing ACC to review discretionary easement applications, with the ability to add justifications when the application is consistent with the Conservation Plan and located in the highest value habitat.

John Harvey explained that he reviewed the tax revenue impact risk with NRPC. There are 168 parcels in Town with no structures on them that currently meet the requirements for a discretionary easement. The total Vision land value of these parcels is \$7,576,800. The maximum revenue impact of this land at \$28.8/\$1,000, is \$215,787. If the Town collects 20% of that amount (\$43,642), per the proposed discretionary easement amount, this leaves a tax impact on the Town of \$174,570.

John Harvey is recommending that the Board of Selectmen vote on a discretionary easement policy that includes: any empty lot under 10 acres, that is all/partially within the Wildlife Action Plan Tiers 1, 2, or 3, for a minimum of 10 years (but longer is encouraged), with other factors allowed, and ACC review required.

Bill Stoughton questioned if there are truly only 168 parcels in Town that are 10 acres or less. John Harvey noted that there are 168 parcels that are 10 acres or less and located at least partially within Tiers 1, 2, or 3 of the Wildlife Action Plan.

Bill Stoughton pointed out that the proposed taxes to be collected from these parcels was estimated, per John Harvey's numbers, at \$215,000. This is an annual collection amount. The discretionary easement recovery amount would only occur once. Thus, this one-time collection would not offset the possible 10+ years of tax loss for each parcel.

In response to a question from Jared Hardner, John Harvey explained that discretionary easements are legal, and someone could apply for one at any time. Peter Lyon stated that discretionary easements appear to be a fairly unknown part of State law. There has been one proposal put forth to the Board of Selectmen that has not yet been voted on. Town Administrator Shankle has searched for other municipalities in the State that utilize discretionary easements and only found a handful that do.

John Harvey explained that parcels that apply for discretionary easements could add up to good wildlife connectors and greater open space for the Town.

February 10, 2021

**APPROVED**

Jared Hardner noted that, per the results of the Master Plan survey, the Town should demonstrate that it is looking into many options to preserve open space in Town.

The group discussed the possibility of extending the discretionary easement policy to a period longer than the minimum of 10 years.

Bill Stoughton stated that he is an advocate of requiring discretionary easements to be extended to a longer time period than the minimum of 10 years. He suggested that the next presentation about this include an analysis review of the properties within the 168 parcels that are under development pressure.

In response to a question from Peter Lyon, John Harvey explained that any of the 168 parcels could apply for a discretionary easement, but further evaluation into each would be needed.

In response to a question from Rich Hart, Bill Stoughton stated that, per the RSA, discretionary easements are granted for a fixed period of time (10+ years). This time period can be extended, if both parties agree.

The group discussed comparing the tax/fiscal considerations of discretionary easements versus permanent easements, in order to decide which one is more advantageous.

#### **7. ACC Website Approval**

Jared Hardner explained that the URL for the site has been registered, and the site is live. If the ACC is ready to make this website its main site, the next step would be to take down all content, other than administrative information, from the Town website, and to notify previous bidders that the process is closed. The ACC can then put an announcement on the Town Facebook page. He also suggested that the ACC add an online survey to the new website and the Facebook page, in order to gauge people's satisfaction with the new website.

*Frank Montesanto entered the meeting at 8:59pm.*

#### **8. Baboosic Lake Access**

This item was postponed to a future meeting.

#### **9. ACC Property History Markers**

Rob Clemens displayed an example of a proposed history marker that could be added to each property's kiosk. These could contain history and information for each property. The group agreed to work more on this moving forward.

#### **10. Other Business**

Natasha Kypfer clarified that the Master Plan Steering Committee will be seeking an RFP for a consultant to help process the raw data from the survey. It has not decided on using NRPC yet. She also noted that the Planning Board hasn't yet seen the CUP for Carlson Manor because it hasn't yet been filed with the Community Development Office.

TOWN OF AMHERST  
Conservation Commission

February 10, 2021

**APPROVED**

Frank Montesanto stated that an Eagle Scout project to construct a footbridge in Lindabury Orchard should be before the ACC with a design soon. He also noted that he is unsure if the DPW will continue to mow Lindabury Orchard this year.

John Harvey suggested that the ACC look into possible environmental science interns for this summer. This could be an unpaid position, with a possible stipend from the Educational Outreach budget. John Harvey, Rob Clemens, and Rich Hart agreed to work on this possibility.

Will Ludt, Chair of the Heritage Commission, explained that the Heritage Commission will be hosting the Black History Month walk on the New Boston Air Force Station on February 20, 2021, at 10am. He will forward anyone who signed up to go further instructions. Will Ludt also explained that the Heritage Commission discussed a long-term project with the Bicycle Pedestrian Advisory Committee to create a replica of the B&M flag stop train station at the intersection of Embankment Road and Walnut Hill Road. He is hoping to present this project to the ACC at its next meeting.

Lee Gilman stated that there is a new permit to treat invasives within the State right of ways. Any hot spots should be reported for new locations.

Rob Clemens noted that a Town-wide Cleanup Day is being considered in April. There is also a potential Eagle Scout project to cleanup along Route 122 that will be pitched to the ACC at its next meeting.

**The meeting was adjourned at 9:43pm.**

*Respectfully submitted,  
Kristan Patenaude*

Minutes approved: March 10, 2021