

TOWN OF AMHERST
Conservation Commission

August 28, 2019

APPROVED

In attendance: Rob Clemens - Chair, Jared Hardner – Vice-Chair, John Harvey, Vick Bennison, Lee Gilman, Rich Hart, Bill Stoughton (alternate), Bill Widmer – Treasurer (alternate), and Mike Cohen (alternate).

Staff present: Kristan Patenaude – minute taker

Rob Clemens called the meeting to order at 6:59 pm.

ADMINISTRATIVE:

1. Chair Comments

Rob Clemens explained the purpose of the Conservation Commission. The ACC is an advisory body, interested and charged with the identification and preservation of open space in town. It works with other local bodies, including the Board of Selectmen and the Planning Board, when projects come forward.

Jared Hardner added that the ACC's Strategic Plan, which can be found on the town's website, details the strategies the Commission has in place, and shows the current activities and progress towards those. The Commission is happy to gain the public's input on any projects to send forward to the correct town body, but it otherwise has no authority to stop projects or make major modifications to plans.

Peter Lyon, BOS Representative, entered the meeting.

2. Minutes (from 8/14)

Vick Bennison moved to approve the meeting minutes as edited [Line 63-64, to reorder the Souhegan River and the Merrimack River]. Jared Hardner seconded. All in favor.

3. Planning & Permits

Chairman Clemens stated that next week (September 4th), the Planning Board will hear cases regarding the Jacobson and Woodlands developments.

- a. CASE #: PZ11605-080519 – 24 Brook Road, LLC, c/o John Walsh (Owner & Applicant), 24 Brook Road, PIN #: 010-026-000 – Request for approval for a Conditional Use permit application for a proposed residential subdivision over Tax Map 10-26 utilizing the Integrated Innovative Housing Ordinance (IIHO). Zoned Northern Rural.**

Chad Branon, Fieldstone Land Consultants, stated that this lot covers about 127 acres of land. A 39 unit, residential condo subdivision was approved in 2006. That approval lapsed in 2012. His client then purchased this land and is ready to move forward with a new project, under the IIHO.

This proposal is planned to reduce the infrastructure and consolidate the development toward the front of the property. Land preservation and conservation are at the front of the ideas and

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conceptual plan. Currently this is planned to be a 46 unit development. The old plan called for approximately 5,230 linear feet of roads. This plan reduces that amount down to approximately 3,900 linear feet. This will reduce the area disturbed and impacted. It will also reduce the amount of storm water mitigation and infrastructure required for that. The new plan also better takes into account the challenges of the property. The current owner has a vision of continuity of the area with the rest of the town-owned land that surrounds part of it. There is also a piece of town-owned land that sits in the middle of the property. The proposal is to keep about 80% of this land as open space.

The proposal includes possible trailhead parking at the end of some of the roads, and a trail network that runs through the property. There will be some wetlands impacts, and permits will need to be secured again, but there impacts have not changed from the previous plan. There are approximately 4,550 ft² of wetland impacts on the site, over three different impact areas. There will be a brook crossing, with a proposed oversized covered bridge at that location.

In order to qualify for the IIHO density bonuses, the developer must show a benefit to the public. In this project, it is believed that unique features, such as the access to isolated town land, access to trails and parking at the trailhead, and the large amount of open space being proposed to be protected, are public benefits.

Chad Branon explained that there is an existing structure on the property, off Brook Road, that they would like to offer up to the ACC for their use in a different area.

Chairman Clemens stated that this property has been of great interest to the ACC for some time, particularly due to the land-locked town-owned land that sits in the center of it. There is also interest in how to link this land to the properties to the north and south of it.

In response to a question from Jared Hardner, Chad Branon explained that the development will conform to all of the water quality regulations, and that there will be adequate buffering to meet all current groundwater guidelines. The proposed building site near the brook is of interest to his client due to its privacy and the natural features surrounding it.

In response to a question from John Harvey, Chad Branon stated that the open space could be conveyed to the town through an easement. It may also be possible to deed it to the town, depending on zoning issues.

In response to a question from Bill Stoughton, Chad Branon explained that on this conceptual plan, there is a limited amount of common space around each home (about 30 feet). Everything outside of these areas will be open space.

In response to a question from Bill Stoughton, Chad Branon stated that his client wants to find a balance between the number of units and conservation space in this project. If the land is conveyed to the town by an easement, it could possibly be a conservation easement, but this is open to discussion.

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In response to a question from Bill Stoughton, Chad Branon explained that this development plan conforms well to the wetlands. The goal of this development is to have different types of low-impact housing.

In response to a question from Bill Stoughton, Chad Branon stated that the plan is to try to have individual septic for each unit, or combination septic for the two units closest to each other. This is thought to be a better design as it disperses septic over the development and will meet all of the requirements.

Chad Branon explained that the type of drift aquifer on this site is found commonly throughout Amherst. They design to those requirements and standards all of the time. No physical wells have been drilled on the site yet.

In response to a question from Chairman Clemens, Chad Branon explained that the wetland crossing across the main road is currently designed as an oversized culvert. This area has the largest wetland impact because of the grade of the ravine.

In response to a question from Bill Stoughton, Chad Branon stated that the extraordinary circumstances that will be used to claim density bonuses under more than one area of the IIHO are the amount of open space they're willing to preserve, public access being allowed through the condo development, and parking and trailhead access.

Bill Stoughton explained that, per NH Fish and Game's Wildlife Action Plan, there are two areas within this site that are ranked highest for wildlife habitat in the state. One of these sites doesn't have any houses proposed to be built on it, and the second section runs along the brook. The ACC would like to protect the brook and also encourage the developer and his client to protect it as well. Development in this site could impact wildlife, water quality, and aquifer recharge.

Lee Gilman explained that before development is an opportune time to treat the area for invasive species, if there are any.

John Harvey suggested that, if the land is conveyed via a conservation easement, that there be a clause included to allow for occasional forest harvesting on the property, for the good of wildlife. Jared Hardner stated that prior to development might also be the last chance for the ACC to access that land-locked piece of town-owned land in the center of the site.

Bill Stoughton recommended that the ACC propose specific comments and ask the Planning Board to recommend specific things from the applicant:

Applicant seeks a conditional use permit and Integrated Innovative Housing Ordinance density bonuses for this project, portions of which are located in a Wetland & Watershed Conservation District. Applicant's proposed development is concentrated close to the Brook Road portion of

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the property, which is within the district discussed above. The area close to Brook Road is also categorized as highest quality wildlife habitat in the state (the highest ranking). Given that the proposed project includes residential uses in and in close proximity to the water quality protection district and high value wildlife habitat discussed above, and given the risk of adverse stormwater and groundwater quality changes, recommend that the Planning Board exercise its discretion to require the following as conditions for granting any density bonus under the Integrated Innovative Housing Ordinance:

1. Require additional buffer distances between residential units and the stream adjacent to Brook Road. Additional buffer distances will provide benefit to both water quality and wildlife habitat.
2. Require surface and ground water quality to be tested periodically before, during, and after completion of construction activities and for a period of three years after final residential occupancy of the development.
3. That the Applicant meet water quality limits established by the Planning Board (working with the ACC), and take corrective action if necessary. E. Coli, dissolved oxygen, and sediment levels should be included among tested parameters.

Also the Applicant claims multiple density bonuses for Open Space. Multiple bonuses are allowed only in “extraordinary circumstances.” Applicant asserts that the percentage of land kept in open space, connectivity, easement and parking with Conservation Land constitute “extraordinary circumstances.” Recommend the Planning Board consider whether these items rise to the level of extraordinary circumstances.

The Applicant currently seeks a density bonus for “open space under restrictive covenant.” The town zoning ordinance defines “open space under restrictive covenant” as “Conservation/agricultural Land, ‘unimproved’ open space. May be under easement/deed restriction to third party or Town.”

Recommend that the Planning Board exercise its discretion and find that benefit to the Town requires the following as conditions for granting any density bonus for “open space under restrictive covenant”:

1. That the open space designated for this bonus be sited so as to connect to existing town-owned conserved lots 10-6 (Arnold Land), 10-9 (Arnold Lot), 8-24-1 (Reusch Lot), 8-26 (Lorden Land), and 7-63 (Audette Land).
2. That public access be expressly permitted to the open space designated for this bonus.
3. That the open space designated for this bonus be protected as conservation land by conservation deed or easement to the Town.

Public Comment:

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Ellen Dutile, 55 Brook Road, stated that she has seen two 100-year floods go through that area and right through the house that the owner is offering up for the ACC to move and use. She is concerned about what future floods will do to the road.

Janice Kelleigh, 30 Brook Road, suggested that any studies on vernal pools in the area be done in the spring time when the pools can actually be seen.

Robert Choquette, 33 Brook Road, explained that the main road is a 'no salt' route due to previous ground contamination. In response to a question from Mr. Choquette, Chad Branon stated that the new road will not be a public road.

b. Proposed Development – Carlson Manor 153-169 Route 122

Chad Branon explained that this proposal is for a 54 unit development with mixed housing types. There were previous comments from the Commission regarding buffer areas on the property. The property was extensively used in the past and thus there is not a lot of vegetation next to the wetland areas on the site. They are getting ready for submission of the site plans. There were a number of access points, six, onto the property; they will eliminate three of these. They have also removed the paved area within one of the buffer areas. There is a revegetation plan in place to reestablish the buffer throughout the zone. There will also be a proposal for protected open space.

Rich Hart stated that this area holds a tributary to Peacock Brook, which continues to have native brook trout in it. These fish need the water to stay cold and clean.

Chad Branon stated that there will be a detailed revegetation plan as part of the project. There is also interest in connectivity of open space and trails through the area.

4. Old Home Day Preparations

Mike Cohen explained that Old Home Day will be held on September 7th. He would like Commission members to be around to man the booth on the Green from 10am-2pm. The new trails brochure will be available to hand out. There will be an educational and conservation walk at PMEC at 1pm, hosted by Jared Hardner and Will Ludt, of the Heritage Commission. There will also be two interactive activities going on at the booth throughout the day.

5. Round Table

The Commission agreed to layout the new corn crib trail with Will Ludt on Saturday, September 14 at 10am.

The Commission discussed coming up with a list of wetlands projects for future mitigation.

Jared Hardner explained to the Commission that there should be an ACC policy regarding shared electronic file storage. The group discussed that before any document can be put into DropBox, it must first come to a public meeting and be noted in the minutes. This goes for documents being added or ones being changed.

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The proposed policy is as follows:

In keeping with RSA 91-A:1 and 91-A:2 regarding public access to government records and communications outside of meetings, ACC Commissioners shall not create or update, and then store, any electronic files concerning ACC matters on a file sharing platform (e.g., a cloud storage service) where a quorum has access, until the Commissioner announces at an ACC meeting that the file exists and will be uploaded once the Commission votes to do so. This should be recorded in the meeting minutes.

Further, any proposed change to a document should not be discussed by any commissioners on the file sharing platform, and any proposed amendments or documents removals/deletions will be brought back to the commission for discussion at a properly noticed meeting.

**Jared Hardner moved to adopt the proposed policy on Shared Electronic File Storage, effective immediately. Rich Hart seconded.
All in favor.**

Chairman Clemens explained that the ACC needs to start working on their 2021 budget. The plan is for a draft budget to be ready by September 11th.

Bill Widmer explained that he went, as a private citizen, before the Board of Selectmen on Monday night to suggested creating a policy for encroachments.

Bill Stoughton stated that four more easements have been monitored; no encroachments were found. He has three monitoring reports to circulate to the group on Drop Box.

The group discussed the possibility of creating a warrant article to bond some amount of money in order to buy conservation/recreation land with it. This was done about 10 years ago but only one property was identified and purchased with the bond money at that time.

Lee Gilman stated that an Intent to Cut was filed on property 5-160, the Day property.

Jared Hardner stated that he went to examine the trails created by the Eagle Scout on the Highland Trail. The result is great. The trail cuts through some nice terrain and satisfies the goal of getting rid of the steep slope.

The group discussed going out to view the other Eagle Scout trail project on the Arnold easement and provide feedback on it.

6. Non-Public Session (pursuant to NH RSA 91-A:3 II (1))

Chairman Clemens moved to enter into Non-Public Session, pursuant to NH RSA 91-A:3 II (1), to review potential property acquisitions. Jared Hardner seconded.

**By roll call vote: Hardner – aye, Harvey – aye, Bennison – aye, Clemens – aye,
Gilman – aye, Hart – aye,**

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262 **Motion carried.**

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264 Whereupon, at 8:59 pm, the Commission entered Non-public Session.

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266 At 9:23 pm, the Commission left the Nonpublic session and returned to Public Session.

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268 Chairman Clemens stated that in Non-Public Session no votes were taken; no decisions were
269 made.

270 **John Harvey moved to adjourn the meeting at 9:23 pm. Vick Bennison seconded.**

271 **All in favor.**

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278 Respectfully submitted,

279 Kristan Patenaude

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281 Minutes approved: November 13, 2019