



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION MONDAY, JUNE 13, 2022 MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, June 13, 2022 at 6:30 p.m. in the Memorial Room.

Steve Perkins, Chair, presided:

Members of the Commission Present:

Michael Boisvert, Vice-Chair
Cindy Glenn
Michael Drouin, Alternate Member
David Trippett, Alternate Member
Councilor Andy Hunter
Gage Perry
Eric Starr

Members of the Commission Absent:

Gina Rosati, Secretary
Ellen Kolb, Alternate Member

Also in attendance:

Thomas Boland, 16 Lakeside Drive

Ruth Boland, 16 Lakeside Drive

Matthew Peterson, Engineer, Keach Nordstrom Associates, Inc., representing Ultimate Bimmer Services

Chris Gaudet, Chapter President of NEMBA (New England Mountain Bike Association)

Andrew Duane, Wildcat Falls Subcommittee, 10 Duane Street

Chair Perkins designated Commissioner Trippett to sit in as voting member.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS -

- Consideration of expedited wetlands permit application from Tom and Ruth Boland of 16 Lakeside Drive. Tax Map 6A-1, Lot 107.

Mr. and Mrs. Boland briefly presented the project. They purchased the property a few years ago. There was an existing cottage that was demolished and the current building was built around 20 years ago. There are some stairs from the front of the house down to the Lake below. There is quite a slope down to the water as with most lake properties. There are small retaining walls and exterior staircases that are all constructed of pressure treated wood. The wood is starting to fail and shift. They would like to take everything made of pressure treated wood and replace it with manufactured concrete materials. The foot print would stay the same as it currently is with the wood. Chair Perkins explained that NHDES is typically only looking for a signature from the Conservation Commission (MCC) for these application.

Mr. Boland had a few questions regarding upgrades to a deck in the near future and whether or not he would need to complete the same permit for this type of project. Commissioner Perry commented that it depends on how close the structure would be to the Riparian Zones. Commissioner Perry advised Mr. Boland to speak with Community Development for more information and to check on the Merrimack GIS system. Chair Perkins signed the application and will return it to Community Development for next steps.

- **UDM Group, LLC (applicant/owner)** – Review for recommendations to the Planning Board regarding a site plan to construct a 9,250 square foot building addition with associated site improvements. The parcel is located at 105 Daniel Webster Highway in the I-1 (Industrial) and Aquifer Conservation District. Tax Map 2D, Lot 021-01.

Matthew Peterson presented the project. The site was previously occupied by DCU and has been vacant for approximately 10 years. There are some wetlands towards the back of the site going towards the Merrimack River, but the majority of the site is dry. There will be two points of access coming into the site. The site previously had many drive up lanes for the bank which had to be re-worked. Keach Nordstrom is proposing a 9,250 square foot addition onto the existing building and are proposing to rip up the pavement towards the side and back of the building addition. They would then create two additional lanes so traffic can flow forward and backward to the site. There will be customer parking and the plan is to also utilize the existing parking created for the bank.

Grading and drainage will be addressed with this plan. They were able to sheet flow from a high point behind the building using two sediment forebays and a swale. They accounted for pre and post runoff numbers and in all cases post runoff numbers were lower. No on site

wetlands will be impacted, the project will actually be situated quite far from the wetlands. Vice-Chair Boisvert questioned gas/oil containment precautions in the event of a spill. Mr. Peterson stated there would be a typical oil containment spill plan, however this is a typical repair shop for BMW'S. There will be no vehicles sales and no used or new vehicles will be sitting in the lot long term. He can make a note on the plans to keep something in the office for spill containment. However, Keach Nordstrom did propose to keep all the vehicles on pavement, so in the event of a leak/spill nothing would go directly into the soil. The area will also be well lit to hopefully prevent incidents of theft.

Commissioner Perry shared concerns regarding the onsite storage of oils and lubricants and if this would be contained in any way. Mr. Peterson stated he would email the Conservation Commission with more information. His understanding is that all oils and lubricants would be stored within the building and contained in an area that meets all of the State of NH's requirements. Questions regarding floor drains were also covered as the building will have a wash bay. Mr. Peterson explained that they are proposing to have a separate 1,500 gallon holding tank for the wash bay which would have bells on it to notify individuals when it needed cleaning.

Commissioner Perry questioned types of fertilizer used as the site is in the Aquifer Conservation District, he would like to see the phosphate application rate numbers addressed as they are a bit high. Questions regarding the erosion control plan, snow storage, and if the site would stay on septic were also covered. Mr. Peterson responded there will be a permanent snow storage area on site and that the site will stay on septic.

Recommendations made by the Conservation Commission are as follows:

1. Any storage of oils and chemicals must be done in a manner to prevent chemicals from leaching into the ground and potentially contaminating groundwater. At the time of the presentation it appeared that the drainage plan for the inside of the structure had not been completed.
 2. Spill kits shall be kept on site in the event of leaks from motor vehicles.
 3. Update site plan drawings to indicate snow storage areas.
 4. Provide clarity on wash bay in corner with 1500 gallon containment holding tank system.
 5. On parcels that are located in the Aquifer Conservation District and/or a Wellhead Protection Area, only low phosphate, slow release nitrogen fertilizers shall be used. While not required, it is recommended that the applicant utilize a soil testing facility to determine what levels and application rates are necessary prior to applying any fertilizer to the site.
 6. Only non-invasive plants may be used.
 7. If necessary, straw will be used, not hay.
- **Dick Anagnost (applicant/owner)** - Review for recommendations to the Planning Board regarding a site plan to construct two multi-family residential buildings totaling 48 units in accordance with the NH workforce housing statutes (RSA 674:58). The parcel is located on Twin Bridge Road in the in the R-4 (Residential), Aquifer Conservation, Town Center Overlay,

Elderly Housing Overlay and Planned Residential Development Overlay Districts. Tax Map 5D-3, Lot 114.

Matthew Peterson presented the project. He explained that this housing is currently labeled as workforce housing which means the rent rate will be lower than that of a typical apartment complex. This site has access through Front Street and an access out through Twin Bridge Road. It is the last parcel of what was originally the Commons of Merrimack PUD which includes the nearby mall and a few other apartment complexes.

Mr. Peterson explained that the plans, as originally designed, are quite old but did include a detention pond that could probably handle drainage for the whole development. Keach Nordstrom however decided to go forward in designing the apartment as a standalone site. They will be tying into a drain manhole that they are adding to handle the overflow water from their system. They are proposing to install a chambered infiltration system below the parking lot. Currently the 50 year post runoff numbers have increased, but none of the other post runoff numbers have increased. The plan will be modified to correct the 50 year post runoff rate. The parcel is about 2.9 acres in size and the proposal is to construct two 24 unit buildings as well as a parking lot. Since the mall nearby is currently underutilized, overflow parking would be available. Mr. Peterson continued to explain more details regarding storm water runoff, pre and post runoff numbers.

Commissioner Perry commented that he would like to see the application rates of phosphorus fertilizer used at the site lowered. Mr. Peterson questioned if these rates were posted anywhere. Commissioner Perry responded that he believes the Planning Board language for the Aquifer Conservation District is that slow release nitrogen is allowed, but phosphates are not. Community Development should be able to provide accurate numbers.

Chair Perkins asked a few questions about the amount of impervious lot coverage and requested clarification on how much pavement would actually be removed, as the number seemed off to him. Mr. Peterson stated the number was going from 47,000 to 75,000 square feet therefore the impervious lot coverage is going up by 55,000 square feet. He believes the calculation is including a portion of pavement in the lot next door, but said that he would verify the numbers were correct. This project should be going before the Planning Board soon.

Recommendations made by the Conservation Commission are as follows:

1. On parcels that are located in the Aquifer Conservation District and/or a Wellhead Protection Area, only low phosphate, slow release nitrogen fertilizers shall be used. While not required, it is recommended that the applicant utilize a soil testing facility to determine what levels and application rates are necessary prior to applying any fertilizer to the site.
2. Revisit 50 year storm numbers.
3. Clarify before and after square footage. The difference between existing and proposed square footages in the residential site plan layout looked as though it may have been understated. The MCC's concern is that the correct footages were used in the post-development peak discharge rate calculations.

NEW BUSINESS -

- Request to purchase rip-rap to amend the ingress to the stone bridge at Sklar
Commissioner Drouin got a price quote for the project from Lakeview. Chair Perkins requested to have quotes for these types of items included in packets. This would allow all members to review the information before meeting. Chair Perkins asked what size the rip-rap would be and whether it would only be stone, or a mixture of stone and concrete. Commissioner Drouin responded the quote was for 6 inches of rip-rap and is just stone. Commissioner Perry commented this was quite a large amount. Commissioner Drouin responded that 4 inches of rip-rap was recommended however, Lakeview only had 6 inches. He continued that a smaller stone could be placed on top at a later point, but right now it would fix the hole in the bridge.

Commissioner Perry asked if the Conservation Commission would be buying the rip-rap with their funds or if they have spoken with the Town. He mentioned asking the DPW if they get volume discount(s) with certain vendors. DPW most likely buys a lot more of this material and may be able to buy it at a discounted price and pay for it using Conservation funds. Commissioner Drouin noted he had spoken with DPW about this in the past a few times, the materials were always already spoken for or too valuable to spare.

Commissioner Perry noted he hadn't seen a picture of the bridge and asked if the goal of the project was to fix access to the bridge. Commissioner Drouin responded last year DPW cleared the culvert and put some mud and a big tree against the ramp, however at this point the bridge is mostly washed away. Commissioner Perry questioned if anyone had verified the correct way to fix this issue.

He cited a project at Seaverns Bridge Road where rip-rap was used in an attempt to correct an issue. The embankment washed away and the area ended up needing a jersey barrier because it is now unsafe to access. He feels it would be beneficial to ensure another problem like this isn't created by the wrong type of repair.

Councilor Hunter suggested setting up a special meeting at Sklar with DPW, the Town Manager, the Conservation Commission, and the Sklar Subcommittee. They could discuss ADA compliance as well as how to keep damage from vehicles to a minimum. This meeting would also be a good time to look at the bridge and get feedback from DPW and the Town Manager to determine if the use of rip-rap was a good fix. Commissioner Drouin stated the quote was for 8 yards of rip-rap at \$35.00 per yard and \$25.00 flat rate for delivery. Chair Perkins reiterated it would be helpful to have a quote in writing for the Conservation Commission to consider.

MOTION BY CHAIR PERKINS TO TABLE DISCUSSION OF RIP RAP PURCHASE AND PLACEMENT OF LARGE ROCKS AT SKLAR UNTIL SPECIAL CONSERVATION COMMISSION MEETING TO BE HELD AT SKLAR ON MONDAY, JUNE 20, 2022.

SECOND BY COMMISSIONER PERRY
MOTION PASSED 7-0-0

- Sklar kiosk replacement

Commissioner Drouin spoke of the kiosk replacement. The kiosk that was at Sklar was run over by a tree company during some tree cutting by the Flying Eagles club. The Flying Eagles offered to have the kiosk recreated. Commissioner Drouin continued that the subcommittee charge says that the subcommittee has decision power to choose where the kiosk will be placed. Commissioner Trippett added that he feels there need to be two kiosks at Sklar, one at the front of the property where the bridge is, and one near the boat launch. He noted there had been a lot of division in the subcommittee about where the sign would be, so it would be helpful to have two to satisfy the needs of all individuals utilizing the property.

The discussion continued briefly touching on the project timeline and the benefits of having two kiosks. The Sklar subcommittee will speak about the placement of the kiosk at their upcoming meeting. Commissioner Glenn questioned if the subcommittee would see where the replacement kiosk would be placed before its location was fixed permanently.

Commissioner Drouin commented he wasn't sure, but so far he had only received a list of materials to be used.

- Feedback from the Town Council Retreat

Councilor Hunter shared some updates from the Town Council retreat. The Town Council discussed ADA compliance/access concerns at Wildcat Falls. Because the trails are in a natural state, there are some exposed roots on trails. The Town Manager walked some trails at Wildcat Falls to take a look. After discussion, the Town Council eventually agreed to keep the trails in their natural state, but work to make them as accessible as possible. Councilor Hunter stated individuals with limited mobility had concerns about Wildcat Falls. He continued that if there are other trails on Conservation properties that need repairs to be accessible, these issues should continue to be cared for as promptly as possible.

The Town Council also spoke about Sklar Waterfront Park and the boulder placement on site, as well as the picnic tables, and boat ramp. After discussion, the Town Council felt it would be a good idea to convene a meeting at Sklar to include the Conservation Commission, Sklar Subcommittee, The Town Manager, and DPW. They can cover ADA Compliance and boulder placement. The Town Council also spoke about video surveillance signs at Sklar and whether there really are cameras posted. Commissioner Drouin noted that there are cameras that belong to the Flying Eagles RC Club, but they aren't placed on Town property.

Chair Perkins asked if there was any discussion regarding a Conservation Officer. Councilor Hunter responded yes, the Town Council briefly spoke about the possibility of hiring a part-

time Conservation officer in the near future.

- Feedback from the Conservation Land Stewardship walk at Wasserman
Vice-Chair Boisvert met with Jocelyn Duffy from the State of NH Conservation Land Stewardship Program. Jocelyn walks Conservation properties every 5 years and this year, she walked and reviewed the Wasserman property. Jocelyn took pictures and will create a report for the State of NH. Chair Perkins asked if Jocelyn had an easy solution for the burning bush, Vice-Chair Boisvert responded no, but she had seen it.
- Field Farms- Bike access project with NEMBA
Chris Gaudet Chapter President of NEMBA met with the Conservation Commission to establish a relationship with the group. He has recently come into this position and his hope is to create an open line of communication between the two groups. He explained he would like to ensure mountain bikers are following all rules and best practices, and that land owners rights are being respected.

He expressed interest in ensuring bikers are using trails they are allowed on. He mentioned that the NEMBA can't control all mountain bikers, but can work with the Conservation Commission. This would be particularly helpful at the Field Farms property where there have recently been some interactions between bikers and property owners. There is currently a large section of land coming off of Amherst Road where a trail appears to cross a land owner's property and some bikers have been using this trail.

Mr. Gaudet also hoped to get some history on the Field Farms property. Vice-Chair Boisvert shared some trails have recently been cut into the property and a bridge was placed that the Conservation Commission was not aware of. He continued that the trail was unknowingly cut into a triangular portion of the land which was actually an individual's property.

Mr. Gaudet clarified that NEMBA had not cut the trail. He spoke to Matt Caron a former Conservation Commission member. Mr. Caron had previously worked with the Commission to seek approval for trails to be created in the area. No trails in the area had been approved, however an individual had decided to cut some trails. The individual had originally been told not to, but at some point were given permission to create trails from someone who did not have authority to grant this approval, most likely from a subcommittee. He shared he had not been privy to the original interaction between the property owner and biker. He noted that some NEMBA members expressed interest in using the trails, however bikers did not want to use the trails if they were not allowed to.

Mr. Gaudet hoped to learn the Commission's plans for the property and whether or not there was a way to legitimize the trails. He has made a few attempts to speak with the land owner to chat about their concerns and hopefully resolve the issue.

Commissioner Perry noted the property has some interesting deed restrictions and is a completely passive recreation property. The Commission is still looking to the Town to get some feedback on whether a road can even be put to allow for boat access. Currently, there is not a subcommittee for the parcel. Vice-Chair Boisvert mentioned that there was supposed to be approximately 20 acres of open space for the nearby Windy Hollow development which is adjacent to Field Farms. This land somehow got deeded to some of the new land owners which has caused a lot of holdups.

Chair Perkins mentioned there may be an alternative to creating some trails with the use of easements. The easements would only cover small tracts of land but they would serve to allow bikers access to the rest of the Field Farms property. Mr. Gaudet stated that the mountain bikers are currently riding at Horse Hill Nature Preserve (HHNP). When they leave the HHNP parking lot, they ride down the road to the entrance across from Farmer Road. If there are other entrances that need to be suggested, NEMBA could do this. Commissioner Perry stated there is not an official entrance to the land and there is no subcommittee actively working on a plan for the property.

The discussion turned to the possibility of asking the HHNP subcommittee if they wanted to take on the property. Commissioner Perry commented that they should get some clarification on what can be done at the surrounding acreage first as it will be the only access point to Field Farms. Mr. Gaudet asked if the property not having an access point for parking would mean individuals could not access the property. Commissioner Perry responded no, it would just make it more difficult. It was always on the plan to create a subcommittee and clear trails in the area, but they had to wait for the Windy Hollow Development to be completed, and hadn't had a chance to work on the property yet.

Questions about deed restrictions prohibiting mountain biking on the property were discussed. Mr. Gaudet reiterated that NEMBA was willing to work with the Conservation Commission and spread any important messages regarding trails to its members. He mentioned that the interaction he previously spoke of between a land owner and biker didn't sound confrontational. From his understanding, the land owner wanted more information and to speak with whoever was in charge of the trails.

Commissioner Perry commented that Mr. Gaudet can certainly keep trying to make contact with the land owner, but that he could also let them know he is working with the Conservation Commission. The Commission can also work with the land owner to pursue a remedy on their end. Chair Perkins will also connect with Community Development to get more information. Councilor Hunter questioned if individuals riding their bikes on these trails were doing so with the Commission's blessing. Commissioner Perry responded no. Councilor Hunter asked how they could legitimize these trails and also asked what the commission needed to allow bikers on these trails.

Commissioner Perry noted the existing trails would need to be mapped and they would need to find a legitimate access point that doesn't cross private property. Councilor Hunter noted

NEMBA came with a legitimate concern and it would be helpful to know the path forward to a resolution, understanding that ideally it would be to get the 28 acres of common space. Since this process would take a while, if possible, he questioned if they should prohibit bike riding on the property for the time being, or if they should come up with an interim solution.

Commissioner Perry remarked they would need to figure out the access point as currently they only have access to a tiny section along Amherst Road. The rest of the access is further down Amherst Road where there is no parking, bikers could park in the HHNP lot for now and bike down to the current access point as they are currently doing. The access point across Farmer Road could be moved back to a place where the Conservation properties connect for the most part. This may alleviate some of the concerns. Mr. Gaudet asked if the Commission has been notified of any concerns from bikers riding to the access point on the road. The Commission has not heard anything thus far. Vice-Chair Boisvert commented that their concern was that new trails were cut and a bridge was installed without permission on Conservation property and it was unclear who did this work.

Commissioner Drouin suggested a property walk so that a plan can be created and presented to the Commission for approval. The plan would designate the basics such as parking and trails, eventually when a subcommittee is created, they can continue and elaborate on the plan. Hopefully this would prevent people from making more trails. Vice-Chair Boisvert and Commissioner Perry commented that the trails were already created. Commissioner Perry added that they ran into similar problems at the Grater Woods property, because the trails were only designed for bikes and not for walking or any other use(s).

Discussion continued touching on a suggestion for multi-use trails and also covered the fact that the property at one time was private and not owned by the Conservation Commission. Suggestions of having bikers involved in trail maintenance and moving the access point to the property for walkers were also discussed.

Chair Perkins to reach out to Community Development. Mr. Gaudet questioned the best way to go about contacting the land owner. Commissioner Perry mentioned he looks up the Tax Map and gets the phone number. Discussion continued to if there was a deal or remediation in the plan when the Conservation Commission bought the property due to the Windy Hollow Developments open space being disrupted.

Commissioner Perry responded yes, the developer wrote it into their plans and the land was to be deeded to the Commission, but there was some sort of issue when recording of the deeds. Councilor Hunter responded there may have been a bonded deed for this type of project which could be verified with Community Development.

The need to create well defined trails was spoken about, if trails are not properly labeled and maintained, users may create their own. Trail safety was emphasized. Commissioner Starr will put a feeler out to the HHNP Subcommittee to see if they are interested in taking on the Field Farms property.

OLD BUSINESS -

- Chapter 111 Update

The Town Council will vote on Chapter 111 on June 23, 2022. Their only request for modification was to include a map of parcels. This would make it easier to visualize how parcels line up with street addresses. Community Development will put this together. Property descriptions will be added to an appendix. This will allow properties to be added in the future without amending the Zoning Ordinance.

OTHER BUSINESS -

- Subcommittee Updates

Sklar Subcommittee – Next meeting is June 14, 2022. They will discuss invasive plant management, boulder placement, and kiosk placement. There is still an issue with off roaders on the beach area. Commissioner Perry noted this should be reported to the Police and Community Development Director as the Conservation Commission doesn't have the ability for enforcement.

Horse Hill Nature Preserve -

Grater Woods – Met June 8, 2022. The Subcommittee will hold a work day on July 9, 2022 for outdoor classroom repairs, new bridge, and balusters.

Wildcat Falls – Andrew Duane from the Wildcat Falls subcommittee spoke of his interest in the ADA Compliance discussion. He mentioned the subcommittee had looked into solutions, but ultimately decided against further action at the time as modifications would have necessitated paved paths. He also shared details on the proposed North Bridge Loop trail replacement. He was able to get detailed notes and designed a new bridge that should be more durable and reliable. He also created cost estimates for the project with a 16 foot bridge replacement costing approximately \$340.00, thought current lumber prices are very volatile.

Measurements taken show that a 12 foot bridge would be sufficient and would cost approximately \$222.00. Mr. Duane explained the 16 foot bridge would span water but would actually be too long, extending about 3-5 feet onto flat ground on either side. The 12 foot bridge would allow for 2-3 feet of solid ground on either side on the bridge. The subcommittee would like to do this work sometime this summer. Chair Perkins stated this can go on the June 27 Conservation Commission agenda to be voted on.

PRESENTATION OF THE MINUTES –

MOTION BY COMMISSIONER GLENN TO APPROVE THE CONSERVATION COMMISSION MINUTES DATED MAY 23, 2022 WITH CHANGES AS FOLLOWS:

Page 1, Add Gage Perry and Eric Starr to the Members of the Commission Present

Page 2, Line 52 change "it" to "is"

Page 2, Line 57 delete “been”

Page 6, Line 193 change “BAULSTERS” to “BALUSTERS”

Page 6, Line 197 change “COMMISSIOR” to “COMMISSIONER”

SECOND BY COMMISSIONER PERRY

MOTION PASSED 7-0-0

PUBLIC COMMENT – None

COMMISSIONER COMMENTS –

Commissioner Starr will not be able to attend the June 20, 2022 meeting. Commissioner Perry will not be able to make it to the June 27, 2022 meeting.

ADJOURNMENT -

MOTION BY COMMISSIONER GLENN TO ADJOURN.

SECOND BY COMMISSIONER PERRY

MOTION PASSED

7-0-0

MEETING ADJOURNED AT 8:27pm

Submitted by Stefanie Brinn