



Town of Merrimack, New Hampshire

Community Development Department

603 424-3531

6 Baboosic Lake Road

Fax 603 424-1408

Town Hall - Lower level - East Wing

www.merrimacknh.gov

Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

SEPTEMBER 15, 2014

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, September 15, 2014 at 6:33 p.m. in the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Michael Boisvert
Gage Perry
Councilor Thomas Mahon

Members of the Commission Absent: Thomas Lehman
Robert Croatti, Alternate
Lauren Kras, Alternate

Also in Attendance: Mike Powers, Bay State Forestry Service
Matthew Peterson, Hillside Design Group
Katie Weiss, Bedford Design Consultants, Inc.
Earle Blatchford, Hayner/Swanson, Inc.
Jesse Fraser, 144 Wire Road
Ken Clinton, Meridian Land Services

Chairman Tenhave noted Commissioner Lehman was unable to be in attendance due to work commitments, and Commissioner Kras was absent due to illness.

Chairman Tenhave stated the second item under Appointments would be postponed to a future meeting.

PUBLIC COMMENT - None

APPOINTMENTS

1. Informational Session

Commission to meet with our neighbors near 10 and 18 Brookside Drive to discuss the invasive plant species spraying being planned for later in September. A question and answer period is planned.

Chairman Tenhave introduced Mike Powers noting he is the Commission's Forester as well as a licensed herbicide applicator.

The Town owns the property at 10 Brookside Drive, which includes a storm water outlet that runs towards Baboosic Brook, and remains vacant. Also owned by the Town is 18 Brookside Drive. That property wraps around the back side of 16, 14, and 12 Brookside Drive. The property at 18 Brookside Drive encompasses most of Baboosic Brook during times of normal flow. At 10 Brookside Drive there are a number of invasive species, e.g., Japanese Knotweed, Burning Bush, etc. Here in New Hampshire Japanese Knotweed have no enemies with the exception of humans. If knocked down and cut into pieces, some may get lodged in the ground creating a new plant, if ending up in the brook; they will travel down the brook and find a new place to root. Burning Bush is another invasive plant, which has been seen mostly near the common shared boundary with 12 Brookside

Drive. In front of 18 Brookside Drive, closer to the deep end, quite a bit of Burning Bush has been seen. Multiflora Rose has also been seen on site.

The property owner at 8 Brookside Drive is experiencing issues with Oriental Bittersweet and Autumn Olive. The owner has been doing work on the property, and has been fairly successful at cutting the plants and pulling most down. What remains is a large issue with Japanese Knotweed; however, that issue wraps around into the back yard and is causing issues with the retaining wall and is coming from under the porch and making its way through the deck boards.

On Town property, what can be seen are clumps of Japanese Knotweed closer to the brook. How the invasives came to be located in this area is unknown. What is known is that, over the course of many years, people have placed yard and other waste on Town property. That activity has taken place at 10 and 18 Brookside Drive. Chairman Tenhave commented if debris dumped on the property happens to contain a single weed from one of those invasives, the problem gets moved to Town property. Given the proximity to the brook it could also end up on a neighbor's property further down the road.

Chairman Tenhave noted letters were mailed to abutters to ensure those whose properties abut Baboosic Brook are aware of the situation. The best way to address the situation is to kill the invasive. It is not necessarily a good idea to dig it up and remove it because the process of digging it up can lead to other issues.

Prior to addressing the issue, and given the proximity to water, the Town was required to file a permit with the New Hampshire Department of Environmental Services (NH DES) in order to use the chemicals intended to be used in eradicating the invasives. Chairman Tenhave stated the herbicides intended to be utilized are fairly well diluted. There is another chemical within the mix that helps them penetrate to get to the roots of the plants to kill the plants at the root. Chairman Tenhave noted the only precaution required of the applicator of the chemicals is to wear gloves, boots, long-sleeve shirt, and pants.

Chairman Tenhave stated the impetus for notifying abutters was to make them aware, and provide the opportunity to answer any and all questions. He noted the project would commence in the next week or two. The intent is for the project to encompass as many plants as possible, which will result in a significant amount of spraying in the area of 10 Brookside Drive. Mr. Powers stated it is a foliar application, e.g., minimize the amount of herbicide hitting the ground. The desire is to hit the foliage. Chemicals are absorbed into the plant through the foliage and then translocate through the plant down into the root systems and kill the plant. Spraying is typically done late summer/early fall. If you try to spray towards the beginning of summer/late spring, the plant is concentrating on taking water and nutrients from the soil and bringing it up into the plant and into the foliage whereas this time of year the plants are starting to store nutrients in their root system.

Chairman Tenhave noted the likelihood another application would be done next year to address anything that is not taken care of by the initial application. Mr. Powers remarked whenever having a heavier infestation, there is always the need for follow-up spraying. It is not uncommon for smaller plants located underneath the larger plants not to be impacted by the spraying. A much lesser amount of herbicide would be required for the follow-up spraying. When asked, Mr. Powers stated it would be 3-4 weeks before signs will be visible of the plant dying. Noticeable results will not be seen until next spring. Commissioner Perry questioned, and was told after the initial 3-4 week period, when signs are starting to be seen, it would be too late in the season to spray again.

The spray being used is referred to as an invasive species mix. It is used on all invasive species. When asked if a maple tree or oak caught in the spraying would also die, Mr. Powers stated it would. He added, on a heavy infestation, if there is a small tree growing within the area of the knotweed, chances are very likely that small tree won't survive. The larger trees should be okay because the herbicide really needs to compact the foliage in order to penetrate the plant.

Commissioner Boisvert questioned whether the ground retains the chemicals and the toxicity to the water system. Mr. Powers responded there are three different herbicides used. The one utilized the most has an active ingredient of glyphosate, which is found in products such as Roundup. It has very low residual soil activity. It does not stay active in soil very long. It penetrates the plant; if there is drippage it hits the soil and decomposes very quickly. Another herbicide in the mix is called Arsenal PowerLine. The active ingredient in that is Imazapyr. That particular chemical will be a little bit more persistent in the soil. However, very little of it is used in the mix (perhaps ¼ percent). It is designed to stay in the soil to provide better control of the area.

When asked, Mr. Powers stated once the herbicide dries the site can be entered. He commented of all of the chemicals used in the mix, the longest reentry interval cited is about 3-4 hours. When asked if there is the possibility of reconstituting if wet, Mr. Powers stated there is not. The herbicide needs approximately 30 minutes to have the desired effect. The spraying will be timed with the weather, e.g., if a day of high winds or rain, spraying would be postponed.

Chairman Tenhave opened the floor to the public.

Kevin Fitzgerald, 18 Jakes Lane

Questioned the minimum amount of wind required to postpone the spraying. Mr. Powers remarked in windier conditions they add to the mix what is called low drift. That binds up the solution and reduces drift. If high winds were anticipated spraying would not occur. There is no specific range (mph) at which the decision would be made to discontinue spraying. It is dependent upon the particular situation, e.g., open field, densely populated area, etc.

Mr. Fitzgerald stated the Japanese Knotweed is flowering right now, and he has bees. His bees are definitely on those Knotweed plants, which means once they are sprayed his bees will be picking up the spray. He questioned whether the class of herbicides intended to be used is proven to be bee friendly. Mr. Power stated he would have to read through all of the labels to be sure. Mr. Fitzgerald suggested that be determined before application, and noted his neighbor also has bees. Mr. Powers agreed.

Mr. Fitzgerald questioned whether the area being sprayed would be posted to keep pedestrian traffic away, and was told it would be. Mr. Fitzgerald questioned if the land is conservation land, and if so, is it available for hunting. Chairman Tenhave stated it to be Town owned land. Mr. Fitzgerald spoke of conservation land behind his residence which is available for hunting, and stated there to be a need to determine whether hunting would be occurring in the area. Chairman Tenhave stated the property is not deeded as conservation land. It is Town owned land. The Town has asked the Commission to oversee the property. As Town owned land it has no specific restrictions against hunting.

Mr. Fitzgerald spoke of how invasive Bittersweet is, and questioned whether that would be targeted. Mr. Powers stated his belief any invasives onsite would be targeted.

Patricia Mercier, 26 Jakes Lane (Daughter's residence)

Spoke of neighboring properties having invasive plants, and questioned whether there would be educational assistance for those individuals to assist with eradication of plants on abutting properties noting the opportunity for the area being sprayed to be re-infested by adjoining land. She suggested it would be helpful for someone to visit the neighboring properties to identify invasives and educate homeowners on how to get rid of them.

Chairman Tenhave stated assistance can be provided by the New Hampshire Cooperative Extension. They have individuals who will conduct site visits and provide education. Ms. Mercier commented a neighborhood meeting could perhaps be arranged and a representative from the Cooperative Extension invited to attend. Mr. Powers remarked Jonathan Nute is the Cooperative Extension Forester for Hillsborough County. He believes he would be more than happy to attend a gathering and provide information. Mr. Powers stated, on your own property, you can use general use herbicides such as Roundup. If spraying on property not owned by you, you must be a licensed applicator.

When asked about the understory, Mr. Powers stated attempts would be made not to destroy that; however, when the area is sprayed, anything that is native within that infestation likely will not survive. If left as is it would not survive either; Knotweed would take over. Ms. Mercier commented spraying the area would open it up for new growth.

Chairman Tenhave remarked the exact date of the spraying is not yet known. Mr. Powers stated he would look into the question of whether the chemicals are bee safe, and will have an answer to the Chairman by the end of the week. Chairman Tenhave commented he had not planned on spending taxpayer dollars to conduct additional mailings; however, if the Commission feels that would be appropriate that could be discussed. Commissioner Perry requested contact information be provided for those interested in hearing the results. It was noted the hives could be plugged to keep the bees away from the area. Commissioner Perry questioned the lead-time that would

be required to allow bee owners to prepare, and was told 24 hours. Commissioner Perry stated efforts would be made to keep them apprised of the schedule.

Kevin Fitzgerald, 18 Jakes Lane

Questioned whether the herbicides contain any of the neonicotinoids that are the subject of a lawsuit initiated by the honey producers in Canada. Mr. Powers stated he was unaware of the lawsuit. As it is a pesticide, that should not be included in the mix.

Chairman Tenhave addressed the audience and requested anyone aware of individuals dumping lawn waste, branches, trees, grass clippings, etc. on Town land encourage them not to do so. When asked if the area is posted, Chairman Tenhave stated it is not; however, there is a Town sub-division rule that anyone caught engaging in that activity will be fined. The suggestion was made that the property be posted. Chairman Tenhave commented that is being considered. The hope had been not to clutter the parcel with signage identifying restrictions. He remarked, even if not dumping invasives, there could be fertilizers, pesticides, etc., and given the proximity to Baboosic Brook as well as the storm water system that runs through 10 Brookside Drive, some of what is dumped could end up inside Baboosic Brook.

Patricia Mercier, 26 Jakes Lane (Daughter's residence)

Questioned whether the information being relayed is a surprise to residents. Chairman Tenhave responded Town ownership of 18 Brookside is intended to protect Baboosic Brook, which is a specially recognized water body in the State. Ten Brookside Drive was set aside simply because it has a storm water system for Walden Drive and others in the area, and then runs into the wetland area. He suspects residents that have been around for some time are aware.

The comment was made that broaching such a subject with neighbors could be uncomfortable. Comments were made that a good many residents dump on the site. It was noted the letter sent out to abutters spoke to inappropriate use of property for disposing of yard waste. A member of the audience commented she had not previously given thought to pesticides, etc. making their way to the water as a result of dumping.

Kim Streeter, 16 Brookside Drive

Questioned the area spraying would occur. Chairman Tenhave noted information contained in the letter, which identified the greatest area of impact being 10 Brookside Drive. What is occurring on that parcel is impacting the residents of 8 Brookside Drive. There are also issues with Burning Bush at 18 Brookside Drive. Prior to receiving her e-mail the intent had been to go after the Burning Bush at 18 Brookside Drive and then concentrate most of the activities on 10 Brookside Drive, which goes from the road to the beginning of the brook.

Chairman Tenhave informed the Commission Ms. Streeter has discussed with him her sensitivities to chemicals. Ms. Street stated she has genetic defects that do not allow her to detox from anything. Even if someone is wearing perfume she has to leave the area as she gets asthma. With even the smallest risk, she would likely react, and her reactions can be life threatening. She had followed up her e-mail communication with a phone call.

Chairman Tenhave questioned the will of the Commission, given this new information, with regard to limiting spraying to 10 Brookside Drive as well as the back side of 8 Brookside Drive, which is where the Town property extends. Chairman Tenhave stated efforts would be made to contact Ms. Streeter in advance of spraying. Ms. Street expressed her gratitude for the efforts being made to accommodate her physical well-being.

Mr. Powers stated the spraying would only take a few hours to complete. He would anticipate arriving around 8:00 a.m. Commissioner Perry stated efforts would be made to provide advance notice. Mr. Powers asked and was told the elementary school picks students up at the bus stop around 8:00 a.m.

Chairman Tenhave spoke of the residents of 8 Brookside Drive, and how both that and the Town owned property are being affected. When asked if something could be done at 8 Brookside Drive, Mr. Powers stated that could be addressed; however, permission from the landowner would be necessary.

Chairman Tenhave informed the Commission and viewing audience he has spoken with the residents of 8 Brookside Drive as well as the Acting Town Manager. The consensus was to ask Mr. Powers to work with the

property owner and come to agreement with what needs to take place on that property. He noted, should they agree, the Commission would take care of the cost of the work performed on that property. It is believed a few hours' time would be required. It was noted the origin of the invasives is not known.

MOTION MADE BY COUNCILOR MAHON THAT THE HERBICIDE SPRAYING BAY STATE FORESTRY HAS BEEN ASKED TO PERFORM INCLUDE SERVICES DEEMED NECESSARY TO ADDRESS THE ISSUE OF INVASIVES AT 8 BROOKSIDE DRIVE
MOTION SECONDED BY COMMISSIONER PERRY
MOTION CARRIED
5-0-0

2. Visit with GZA

Commission to receive an update from our contractor working on our Beaver Management Study.

STATUTORY/ADVISORY BUSINESS

1. Bowers Landing of Merrimack, LLC. (applicant/owner)

Review for recommendation to the Planning Board of an application for an amendment to the previously approved site plan to construct 50 single family units rather than multi-family units in Phase III of Harris Pond P.U.D., located at Bowers Landing Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 1D, Lot 001-03.

Matthew Peterson, Hillside Design Group, informed the Commission what was before it was the next phase of the Harris Pond project. At present, the project consists of Dunkin Donuts at the beginning, the garden style apartments, empty land, which will be more garden style apartments, then townhouses. What is being discussed is the next phase of the townhouses. The townhouse phase is about 122 units. This had 44 townhouse type units proposed on it and a circular roadway. Being proposed will provide for single-family units in the development on smaller type lots (P.U.D). It allows the project to consist of garden styles, townhouses, and the single-family.

Over the last year they have worked closely with the Planning Department to come up with the concept/design being presented. The Planning Board approved it in one meeting, which was very unusual. Approval is conditioned upon the Commission's input, State permitting, etc.

This phase of the project is 36 acres in size and makes it way all the way down to the road. Originally the design had the storm water drainage in the back corner and a little bit in the lower corner. With the revised design there is no wetland impact. The majority of the drainage will be brought to a central location as depicted on the grading and drainage plan. Mr. Peterson utilized copies of the plan to identify the area(s) for drainage. There is a closed drain system within the roadway collecting the majority of the runoff. There are catch basins, which bring the water down into the main system.

For the ten-year storm about 22.1 CFS will enter the system. What is coming out is 1.4. The intent is to recharge the majority of the water into the ground in the system, picking up runoff that comes off of it, treating it, and dumping it into the infiltration and back into the ground. The system has been designed for the Alteration of Terrain (AoT) Permit, and is currently at the State for approval.

Mr. Peterson noted the addition of sidewalks as part of the approval granted by the Planning Board. He spoke of copies of landscaping plans provided to the Commission. He commented he is aware the Town of Merrimack has specific language regarding fertilizer use, etc., and stated that would be added to the plans.

Chairman Tenhave noted the wetland on the back side of the property, identified on the map provided. The plans highlight everything has been kept outside of the no disturb buffer. He questioned whether plantings are intended for inside of the no disturb buffer. Mr. Peterson stated that would be left completely undisturbed. The tree line will be held where it is currently.

Chairman Tenhave noted the area is also a no salt, no deicing compound area. Mr. Peterson stated agreement. Chairman Tenhave spoke of the notation for a 10-20-20 fertilizer specification. He stated the hope of the Commission for fertilizers to be low or no phosphate, slow release nitrogen. The middle number (20) is the phosphate number, which would not count as low. He suggested the applicant follow the advice of the NH Cooperative Extension and test the soil. If there is no need for phosphate or nitrogen then don't apply it. Mr. Peterson stated a homeowners association is already set up, and they have had discussions of where cost savings could be achieved. If there is a means of saving on maintenance costs it would make sense to pursue.

Chairman Tenhave noted the reference to hay, and stated the preference for straw. The rate of application of fertilizer should reference testing the soil and determining the correct action.

When asked about snow storage, Mr. Peterson stated there are areas identified on the site plan, behind the parking spaces, where snow will be stored. In the event accumulated snow exceeds storage capacity, it would be removed from the site and disposed of properly. Chairman Tenhave stated his assumption any runoff would stay onsite. Mr. Peterson responded the areas are small. If snow accumulates it will have to be removed.

Chairman Tenhave stated he would put the Commission's comments in writing.

2. AutoFair Realty II, LLC. (applicant) and Helios Investments, LLC. (owner)

Review for recommendation to the Planning Board of an application for a site plan to construct a 2,095 s.f. car rental facility and outdoor vehicle storage/parking. The parcel is located at 302 Continental Boulevard in the R (Residential) and Aquifer Conservation Districts. Tax Map 2B, Lot 032.

Katie Weiss, Bedford Design Consultants, Inc. remarked Bedford Design Consultants was before the Commission earlier in the year for the AutoFair located on the corner of Continental Boulevard and 101A. This project is located next to that and an associated use. Construction is underway at the AutoFair building. As part of that, being proposed is a car rental facility with parking around it and storage for the cars that will be rented as well as a large parking lot for employees, and a large storage lot that will be fenced in. Around the site are a few residential abutters, the Home Depot, and Pennichuck Square. Presently the site is zoned residential. In 2004, a Zoning Variance was achieved. The proposed use is permitted.

Continental Boulevard is a limited access highway controlled by the NH DOT. Being proposed is retaining the existing driveway entrance and coming up at 8% grade to a flat area where the building will be located. The roadway would then go up again to another flat area. There are wetlands on the site. The 25' buffer will not be disturbed. As part of the conditions of approval, they will be moving the corner back slightly and placing more buffer plantings. When asked, she stated the plantings would not be outside of the 40' buffer, but are allowed in the area. The area will be moved back enough to get in a little bit more of a berm, and additional plantings will be placed atop the berm. The abutters have requested the additional plantings.

The top parking lot where employees will park includes two sediment forebays. Water will flow into those forebays and down into an underground detention system where the water from the rental facility will also go. That will outlet onto Continental Boulevard into a swale to a catch basin, which is owned by the NH DOT. On the other side of the site, water will flow to a sediment forebay and then back underneath into a large underground detention area. Once that is filled it will travel, along with some of the driveway water, and be held in another storage facility and outlet onto Continental Boulevard. They are working with the NH DOT on a use change, and discussing with them which way they would like the water to flow.

Normally in the winter they keep snow storage inside the fenced area. It cannot be removed from the fenced area without trucks coming in. They maneuver the cars back and forth during storms and move the snow off to the side. If it becomes really heavy it will be hauled off.

The buffer plantings being proposed get rather large. Ms. Weiss stated AoT approval is required and would be sought the following week. A sign variance is also required.

Commissioner Perry remarked the corner of the parking lot in the fenced area is outside of the no disturb buffer, but within the 40' setback. Ms. Weiss stated agreement, and noted a corner would be cut off to allow for more

room for a berm and additional plantings. When asked how far into the 40' buffer, Ms. Weiss suggested it would be perhaps 35' from the wetlands.

Chairman Tenhave noted the slopes come down towards the wetland. Ms. Weiss stated the area to be curbed. When asked about deicing compounds in the storage area, Ms. Weiss stated it would be handled in the same manner as will be done for the AutoFair site, e.g. Green SnowPro certified snow removal service. Ms. Weiss stated a concern with the 8% slope up the driveway, and not being able to use salt.

Chairman Tenhave asked for clarification she was suggesting they would only use deicing compounds from the Enterprise building down. Ms. Weiss responded the entrance drive where there is a steep slope. Chairman Tenhave remarked there will be no deicing compounds in the storage area. Ms. Weiss stated that to be correct. Ms. Weiss commented in the winter time they don't see a lot of movement of cars. They start to lose their inventory so the cars don't get moved a lot, and that is why there is room for snow storage. When asked, Ms. Weiss stated a note could be included stating deicing is only allowed on the entrance drive up to the rental property.

Chairman Tenhave remarked, during the Planning Board meeting, there was discussion of the wetland buffer. Ms. Weiss stated they had the 25' labeled as the wetland structure setback, and did not include the 40', which was confusing, but they were not within the non-disturbance.

She was asked, and agreed, to ensure the sheets are updated to include that as well as the area of snow storage. In addition, notations regarding fertilizer should state the use of low or no phosphate, slow release nitrogen. It was suggested the applicant follow the advice of the NH Cooperative Extension and test the soil. If there is no need for phosphate or nitrogen then don't apply it. Ms. Weiss stated the plan would be reviewed and the notes changed to reflect the Commission's wishes. Chairman Tenhave remarked if there are notations regarding application rates; the testing would help govern that as well.

When asked about landscaping, Ms. Weiss spoke of mulch, shrubs, etc. She identified the area that would be seeded. When asked about the general area, she noted it would be the staging area for construction; however, once complete the area would be loamed and seeded. There are no plans for the area because of the sewer regulations. The home onsite will be disconnected from the sewer. When asked, Ms. Weiss stated her belief power and water would remain. She commented it may be that in the future the applicant might be able to put a septic on the site. Commissioner Perry remarked if disconnecting from the sewer, the water should be shut off. Ms. Weiss remarked with the sewer, the line will be removed. For the water they could simply shut it off and let the line remain.

Vice Chairman Caron questioned what plantings would be utilized. Ms. Weiss stated some are native. A type C buffer is being used, which requires a certain amount in the 20' area. Because plants grow so large she did not wish for them to crowd each other. In areas where room is limited smaller plants were chosen, e.g. Colorado Spruce, Balsam Fir, etc. Commissioner Perry commented the desire is not to introduce the next invasive species. As a result they try to stick with the most native plants possible.

3. Boomer McCloud Car Audio (applicant) and GFI Merrimack LLC (owner)

Review for recommendation to the Planning Board of an application for a site plan to construct a 7,500 s.f., two-story car audio/electronics retail sales and service building. The parcel is located at 5 Executive Park Drive in the C-2 (Commercial) and Aquifer Conservation Districts. Tax Map 4D, Lot 073.

Earle Blatchford, Hayner/Swanson, Inc., stated Boomer McCloud is a car audio and electronics retail and installation facility. The proposed site is located at 5 Executive Park Drive. The parcel is located on the easterly side of Executive Park Drive, right across from the now vacant hotel. The lot was created in the late '70s when Executive Park Drive and the hotel were built. Since that time the two office buildings and the theatre have been constructed. The lot is a little over an acre and a half and is zoned C-2 (Commercial).

Mr. Blatchford stated the parcel to be bounded on the east side by the F.E. Everett Turnpike, nothing to the south, and on the north a commercial lot with an office building located on it. On the west side is the now vacant hotel. The site is predominantly wooded, has a high plateau area, and then the grade dives down into a ravine. Naticook Brook, which is piped through the hotel property and under the road, discharges at the north end of the property line. There is an approximate 20' wide wetland associated with the brook as well as associated floodway and floodplain. All of the proposed work is well above that. There are no impacts to wetlands or floodplain. Soils

on site are predominantly Windsor soils; sandy, well drained soils. The site is serviced from the Street by Merrimack Village District water, Town sewer, and underground electric, telephone, gas, etc. are all in the street.

Being proposed is a two-story, 7,500 square foot building. The two-story format was chosen because of the steep topography on the north end of the site. They tried siting a one-story building, and found there was not sufficient room. The lower level of the building is four service bays. Mr. Blatchford identified on a drawing the access to the service bays as well as employee parking. He identified the customer entrance on the upper level as well as the customer parking (25 surface spaces). The hope is to gain 10 additional spaces; however, that is contingent upon getting an easement from the State, which owns the strip of land between the property and the Turnpike.

The drainage system has been designed to accommodate that. The parking is not needed to meet the regulation. The building and garage space can accommodate 10 cars. Although they meet the parking requirement, the owner would prefer to have additional spaces given the nature of their business.

The entire site is curbed. The building is a center gable roof. The peak of the roof sheets and is caught in a gutter and downspout system and picked up in the closed drainage system. Mr. Blatchford utilized the drawings to identify the areas where runoff from the upper and lower lots is captured. All runoff is piped together into the underground detention and infiltration system, which is designed to infiltrate everything up through the 50-year storm. They have included an overflow pipe, but the 50-year storm would have to be exceeded for anything to get into that overflow system.

The catch basins proposed have sumps and gas hoods to address sediment and any petroleum products in the runoff. In the infiltration system is an isolator row, which is baffled. That knocks out a lot of the sediment. What doesn't get captured in catch basins and flows through will get captured in the isolator row, which will be maintained, along with the catch basins, on a regular basis. Everything infiltrates into the ground. There is no sediment leaving the system whatsoever.

It is a small development, and does not require an AoT Permit; however, they have exceeded all of the requirements that NHDES would require if a permit were required. There are notes on the plan that address the winter maintenance. They call for no sodium or calcium chloride to be used. There are snow storage areas identified on Sheet 4 of the Site Plan. They are basically around the perimeter. A note has been included stating if need be any excess snow would be trucked off site as well as language around contractors being Green SnowPro certified or possess an equivalent certification. There is also language regarding judicious use of landscape products, e.g., fertilizers, herbicides, etc.

The only State permit the project requires is for sewer discharge. The application was filed with staff at the Waste Water Treatment Plant, and responses to all questions/requests have been provided.

Commissioner Perry questioned the notation that states the connection to the manhole (overflow) was proposed; specifically whether it was proposed or will be done. Mr. Blatchford responded they are awaiting comments from CLD Consulting Engineers. They have not received feedback from the Public Works Department. He had pointed out that is intended. He has not received any pushback. He stated his opinion it is a reasonable proposal.

The lower level of the building is 17' high and acts as a retaining structure as well as building space. The upper level is 12' high and more of a standard commercial story height. The lower level was made taller than necessary to help accommodate grades found on that part of the site. Commissioner Perry questioned the proposed timeline for commencement, and was informed it will begin as soon as possible (winter construction as necessary). Commissioner Perry spoke of the important role the silt fencing will play particularly given the steep grade.

Vice Chairman Caron questioned the plantings being proposed. Mr. Blatchford stated he would double check with Joe Hochrein from Blackwater Design, to ensure all plantings are native. Chairman Tenhave commented there is notation of roadside mix that is intended to be placed in the back along the slope that leads down towards the sewer and Naticook Brook, and commented it appears to be a traditional mix. Mr. Blatchford remarked it is similar to a conservation mix. It will be planted and not maintained; will go natural.

Mr. Blatchford noted, along the brook, is the Naticook Brook sewer interceptor. The only thing being done on that is the raising of a manhole. They have addressed with Public Works that sometime in the near future (2 years or

so) Public Works will be constructing a pump station to the north of the parcel and abandoning the line. There is an easement through there, but they really don't get in there and maintain it. That is one of the reasons they want to abandon it is because it is a tough area to get to.

Councilor Mahon spoke of a management plan for maintenance of the storm water. Mr. Blatchford responded, on the erosion control plan, they have recommended inspection and maintenance schedules, which are standard quarterly inspections and semi-annual cleanings.

Chairman Tenhave spoke of the mention of fertilizer mixes on Sheet 14, Note 9. He noted the mix is identified as 12-25-12, which says phosphates will be predominant. Mr. Blatchford stated he could discuss that with Mr. Hochrein. Chairman Tenhave spoke of the proximity of the site to Naticook Brook, which happens to feed Horseshoe Pond, which has had a lot of issues with phosphates, etc. The desire would be for no phosphate on this site. He clarified the recommendation would be for no phosphate, slow release nitrogen, if determined necessary after testing.

Commissioner Perry remarked comments were made about the 50-year flood, but further down in the plan it speaks to pipes being designed for the 25-year storm event. Mr. Blatchford stated the pipes themselves are designed for the 25-year storm event, which is standard. With storm water management areas you design for the 25 year and check for the 50 to make sure you have a foot of free board, and in this case that it is contained in the system. If an open basin you would want to have a minimum foot of freeboard for the 50-year storm. In this case it is just contained within the pipe and stone that comprise the system. Basically it can handle 2, 5, 10, 25, and 50-year storms. It probably handles the 100-year storm.

As the presenter(s) for Item #4 were not yet in attendance, the Commission moved ahead with the agenda.

5. Jesse Fraser (petitioner/owner), Bluebird Enterprises

Review for recommendation to the Planning Board of an application for a site plan approval for a personal service use (Critter Control), located at 144 Wire Road within the R-1 (Residential) and Aquifer Conservation Districts. Tax Map 7C, Lot 019.

Jesse Fraser, 144 Wire Road, informed the Commission he was present to satisfy the Zoning Board of Adjustment (ZBA) requirement that he consult with the Commission regarding the request to park the existing storage trailer at 140-142 Wire Road.

When asked, he stated the trailer has been in that location for the past 3 years. He was recently notified of the requirement to go before the ZBA to have a business in the R-1 Residential District and Aquifer Protection areas. Mr. Fraser stated the business is within the setback areas. Chairman Tenhave questioned what is being stored, and was informed they are a wildlife control firm, and; therefore, have no pesticides, etc. As far as chemicals are concerned, there is paint and caulking. The remaining materials would be hard goods just as other contractors, e.g., roofing materials, roofing guns, PC compressors, etc. In the trailer is a paint cabinet that holds spray cans (30 or so). When asked he stated he may be storing a quart of oil, but nothing to service vehicles, etc. Their vehicles are maintained elsewhere. He stated they do own and operate a lift, which is also serviced elsewhere.

When asked, he stated they access the area from the house via the gravel driveway. They have no plans of adding any kind of driveway. Commissioner Perry noted the stockade fence at the opening into the other parcel. Mr. Fraser stated there is a stockade fence in front of the trailer to obscure the front of the trailer from Wire Road. If the land wasn't already cleared before they bought it, it would have been left wooded. When asked, he stated the trailer to be a 40' storage trailer. The lot is almost all sand, and the trailer sits on jack stands and cinder blocks. Mr. Fraser stated the gravel to be plowed as is; no salt use.

The only recommendation of the Commission was to stipulate no salt or deicing compounds be utilized.

Chairman Tenhave spoke of reading a recent article in the Union Leader, which talked of the fact this is the time of year when rodents and other critters want to find a home inside our homes. He commented he found it interesting to read about critters going into or under vinyl siding. He questioned where a common area is that they would gain access. Mr. Fraser responded in vinyl siding they would look for the corners of the house. Houses built after '05 usually have a wider vinyl siding in the corner and they are packed with Styrofoam. In

houses built prior to that the corners were open. When asked how to deter that, Mr. Fraser stated caulking and steel mesh is the best solution.

OLD BUSINESS

1. Invasive spraying review

Commission to review, discuss, and make any final decisions related to the September invasive spraying being planned at the Town parcels on Brookside Drive. This item may not be necessary or may be incorporated into our discussion at the beginning of the meeting.

Chairman Tenhave noted the issue of 8 Brookside Drive was addressed during the Informational Session. Mr. Powers' plan was approved. What the Commission had not yet addressed was the issue of signage. Chairman Tenhave suggested temporary signs be placed identifying spraying will take place or spraying has occurred. Commissioner Perry stated his impression Bay State would have such signage. Councilor Mahon suggested it could be a requirement of the applicator's license.

Commissioner Perry suggested speaking with Mr. Powers to gain a clear understanding. Chairman Tenhave remarked if the Commission needs to post signage, he believes there to be enough leeway to address that. Commissioner Perry stated he would be concerned with language, and suggested it be relatively specific as to the activity taking place. He stated he would defer to Mr. Powers for language.

STATUTORY/ADVISORY BUSINESS

4. Tomasian Drive LLC (applicant) and The Stephanie Tomasian Revocable Trust (owner)

Review for recommendation to the Planning Board of an application for a 19-lot cluster subdivision and wetland crossing located at Tomasian Drive in the R-1 (Residential), Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 4B, Lot 009-01.

Chairman Tenhave recused himself from the discussion.

Chairman Tenhave stepped down and Vice Chairman Caron presided.

Ken Clinton, Meridian Land Services, stated the project is a 19 lot open-space subdivision. He commented on having been before the Commission several months earlier to introduce the Commission to the idea of the subdivision, which required a variance by the ZBA to allow a cluster in the zone and a cluster that, while served by public water, is not public sewer. There are individual septic systems on each lot. Both variances were received, and the project has proceeded through the planning process.

The project was before the Commission for two particular reasons; the property is subject to the aquifer zone as it is adjacent to the Souhegan River, and because the applicant is poised to file a wetland permit. The desire was to share the nature and necessity of the permit with the Commission as well as some of the specifications of it.

The property is about 50 acres in size. Adjacent is the Ireland parcel (under conservation easement), to the north is the Souhegan River, to the north and west are other lands owned by the applicant. The yield was 20 lots. Being proposed is 19 lots and a road. Open space begins in the corner adjacent to Amherst Road, running up and around and adjacent with the Town of Merrimack land. The largest swath of open space is adjacent to the Souhegan River. At its closest point it is just over 400' from the river itself. That open space comes down next to Warren and Angela Tomasian's property, down again, and has some frontage on Tomasian Drive. The 19 lots are in a cluster surrounded by the road.

Part of the regulations is that any property subdivided that is subject to the aquifer must come before the Conservation Commission for review/feedback. He identified the aquifer zone on the plan provided; everything to the north towards the Souhegan River technically is the aquifer and everything to the south is out of the aquifer. The nearest lot line is greater than 400'. All development is substantially away from the aquifer zone.

With regard to the open space, Mr. Clinton reminded the Commission he had introduced the idea of seeking to either convey it to the Town in fee or possible easement. A commitment has been made that, should the Town so desire, that open space would be gifted. The area has to remain protected open space, which leads him to believe it makes as much sense for the Town to own the property rather than a fractional interest of all of the

homeowners (1/19th interest). If the Commission felt it agreeable to oversee it in that capacity, that would be fine. If simply an easement, they are open to that as well. Mr. Clinton commented while the project will be before the Planning Board on the 23rd of the month, there are other issues being addressed, e.g., wetlands permit, etc. There is time to work out the legalities of the disposition of the open space.

Vice Chairman Caron noted the open space line denoted along the borders of the Island property, and questioned the frontage along the Souhegan River. Mr. Clinton highlighted the entirety of the area that is open space. He remarked the open space, by regulation, also has a 100' buffer along the outside of it. He commented if you have proposed residential lots right up against the property line that 100' buffer comes into play. The idea is that a cluster is denser where the underlying zone might be 100,000 sq. ft. minimum lot area that is net on wetland, etc. If you are up against a large lot the idea is that buffer protects the large lot at that much greater density versus these newly created cluster lots at a smaller density. It supposedly buffers and protects the value and the underlying zone characteristics. In this case, that 100' strip is all within the open space anyway so it is almost redundant, but it certainly would be subject to that.

Mr. Clinton remarked when preparing for the discussion he had every expectation he would be talking about the permit as filed. However, when filing a wetlands permit you have to contact certain State agencies to obtain input, e.g., National Heritage Bureau regarding threatened or endangered species, the Division of Historical Resources regarding any potential archeological sites, etc. There are two hits as far as threatened or endangered species that are in the general vicinity of the property; Spotted Turtle and Blanding's Turtle. His office received information from the National Heritage Bureau highlighting the area of the crossing. Across the Souhegan and across Wilson Hill Road to the northeast there was a sighting of a Blanding's Turtle (reporting period between 2007 and 2011). Another Blanding's Turtle was sighted in the area of the power lines. There was a Spotted Turtle in Amherst just north of the golf course. There was a concentration in the Horse Hill Nature Preserve of both the Blanding's Turtle and Spotted Turtle. To the National Heritage Bureau this is a flag that in the general vicinity there have been sightings or reportings of threatened and/or endangered species. They pause, and then they start to ask additional questions about the overall subdivision, namely what is being done to protect as much area as possible on the property.

Mr. Clinton commented they explained to the Bureau that the project is an open space subdivision and a minimum of 50% of the area has to be protected. They had additional questions relative to the general drainage design, whether the open space would be protected by any easements, restrictions, etc. As recently as late morning, they responded to their questions providing information from the Merrimack Zoning Ordinance as far as the requirements for the open space, e.g., how it is supposed to be handled, the options that it could be conveyed to the Town or further protected under easement, etc. They have not yet heard back. They cannot file the application until hearing back from them that they understand the level of protection and the quality of the design, which substantially protects the Souhegan River, and find it acceptable. Mr. Clinton stated his expectation of receiving a positive endorsement based on the subdivision design.

With regard to impact, Mr. Clinton stated from Amherst Road there is a natural drainage course that flows through the property to the Souhegan River. In order to access usable area on the site you have to make some level of wetland crossing. A road was proposed in a location to create as much separation from the Souhegan River while still adding some width to the open space adjacent to the Town owned land. He identified what he referred to as the logical crossing area. It is about 3,300 sq. ft. They have a 30" culvert proposed with headwalls and some riprap on the downslope sides to slow the water coming through the culvert. That is as minimum a design as they could possibly have considered. He stated his opinion it is a relatively small impact for a 19-lot subdivision especially considering the rest of the protections that are going along with the quality open space. When asked, he stated the length of the culvert to be approximately 60'. There are 2/1 side slopes proposed, turf reinforced to allow for as minimal impact as possible. Town requirements are 3/1. That will be a Waiver request. In the case of trying to reduce the overall wetland impact, as long as you show the side slopes will be stable, a Waiver is typically granted. The overall transition from the natural grade to the proposed grade of the road is in the vicinity of 3½ to 4'.

When asked if the road is staked off at this time, Mr. Clinton stated it is not. At this point they only have test pits dug on either side of the road for each one of the lots, but the road itself is not staked. Commissioner Perry commented it appears most of the drainage is coming back to a low point culvert on the last piece of property. Mr. Clinton stated road drainage is being intercepted and collected; it is then going all to the back of lots 11 and 12. In this particular case the soil conditions, while suitable for individual septic systems, are not as suitable for what the AoT is seeking as infiltration. The fairly high water table and quality of the parent soil is not conducive to

infiltration so it is more of a traditional detention area than an infiltration area. There is a more natural swale through lots 8, 9, 10, and 11. They are looking to retain that. It is partly going to be collected under easement. Although there are driveway culverts, it is important for that channel to remain unobstructed. They will share with the Planning Board their belief at least the ones immediately near the cul-de-sac, lots 9 and 10, be collected in an easement. An easement isn't necessarily for the Town to maintain the individual driveway culverts it is to prevent the landowner from filling them. If that natural swale is obstructed it will change the drainage pattern and force the water to go elsewhere. They will make it a requirement language be included in the deed that those natural drainage areas are unobstructed and that the developer has to install those culverts as part of the road.

Commissioner Perry questioned if the infiltration pond being constructed behind building 12 would be an open swale. Mr. Clinton responded there is a treatment swale that leads to it and then the pond itself has enough storage for the 25-year storm. When asked if that would also be an easement, Mr. Clinton stated that is a Town easement and has to be designed for access to it for future maintenance.

When asked, Mr. Clinton stated the individual lots are private; however, the open space still may have an association depending on the ultimate outcome. It will be a Town road. Vice Chairman Caron commented the deeds could include language about the individual homeowners and their care. Mr. Clinton stated there could, and noted they have not yet talked about anything that specific with the Planning Board. He remarked the subdivision as a whole could have further restrictions, not just for road maintenance, but individual lot use. That has been discussed in the past on other projects, and the problem generally becomes one of enforcement. He stated his recollection the Planning Board struggled with how that could be requested to be on the plan or in the deeds if there is no means of enforcement.

Mr. Clinton stated he would appreciate receiving feedback from the Commission in advance of the next meeting with the Planning Board.

Commissioner Perry questioned whether there is a requirement relative to minimum size for cluster lots. Mr. Clinton responded not in the lot. He added he has seen clusters with lots as low as 8,500 or 9,000 sq. ft. In this particular case, because there is no public sewer and it is a cluster with MVD water, but individual septic systems, from a State lot sizing standpoint, which is based on soils and the soils' ability to absorb affluent from the leech field, they probably could have been down in the 3,200 sq. ft. area. From a marketability and sales standpoint if you get below an acre it is not as appealing to buyers, and the intent is met with greater than 50% open space. Commissioner Perry questioned, if the property is managed by the Commission does it change the fact the open space is no longer part of the open development? Mr. Clinton responded not that he is aware of. He added as long as the open space is protected to the level of the Ordinance. Any protection above and beyond that is a bonus. He spoke of language that speaks to the nature of the use, which was included in the deed for the Ireland parcel, and offered to provide a copy via e-mail.

Vice Chairman Caron stepped down and Chairman Tenhave presided.

NEW BUSINESS - None

OTHER BUSINESS

Chairman Tenhave reminded the Commission of the November 1st Annual Meeting of the New Hampshire Association of Conservation Commissions taking place in Laconia. He will be looking for those interested in attending to make that desire known at the next regular meeting. The public is welcome to attend. Additional details can be found at www.NHACC.org.

Chairman Tenhave spoke of receipt of information from the New Hampshire Cooperative Extension regarding their Timber Harvesting Systems program being held on October 4th and October 18th from 8:30 a.m.-Noon. The first session will be conducted in Canterbury and the second in Washington, NH.

Councilor Mahon informed the Commission of a joint meeting scheduled between the Town Council and School Board for September 29th. One of the topics of discussion will be Madeline Bennett Lane.

Chairman Tenhave noted materials have been stockpiled on Gateway Trail to do the rehabilitation the Commission has contracted for. The intent is for that work to begin at the end of September. Vice Chairman Caron remarked brush hogging would likely begin the next day.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. August 18, 2014

The consensus of the Commission was to table acceptance of the August 18, 2014 meeting minutes until the next regular meeting.

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Commissioner Perry spoke of the Learning to Live with Beaver meeting conducted the previous Friday at the Town Hall. There were approximately 20 attendees. He stated his pleasure with the display provided by representatives of the New Hampshire Cooperative Extension and the GZA contractor who made a display of some of the work they have been doing in town. A quick field trip took place. A great deal of positive feedback was received. He commented one of the Wildlife Biologists present from the Cooperative Extension has stated a desire to come back and review other things he saw in Grater Woods.

Chairman Tenhave spoke of having had the opportunity to attend. He was pleased with the information provided. There was a lot of interest from members of other towns.

ADJOURNMENT

**MOTION BY COUNCILOR MAHON TO ADJOURN
MOTION SECONDED BY COMMISSIONER CARON
MOTION CARRIED
5-0-0**

The September 15, 2014 meeting of the Merrimack Conservation Commission was adjourned at 9:27 p.m.

Submitted by Dawn MacMillan