



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION

DECEMBER 6, 2021

MEETING MINUTES

A meeting of the Merrimack Conservation Commission was held on Monday, December 6, 2021, at 6:30 p.m. in the Merrimack Memorial Conference Room.

Steven Perkins, Chair, presided:

Members of the Commission Present:

Michael Boisvert, Vice Chair

Gina Rosati, Secretary

Cynthia Glenn

Gage Perry

Eric Starr

Michael Drouin, Alternate Member

Ellen Kolb, Alternate Member

Members of the Commission Absent:

Councilor Andy Hunter

Also Participating:

Nathan Chamberlin, P.E. Project Engineer, Fieldstone Land Consultants PLLC (for both Flatley and L& W Supply)

David Morin, Berkshire Hathaway HomeServices Verani Realty (For KTK Realty Trust)

Keith Pasquale Sr., KTK Realty Trust, LLC (also for KTK Realty Trust)

Chair Perkins designated Commissioner Ellen Kolb to sit in for Councilor Hunter.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS – None. Appointment committee will meet December 15th to interview candidate interested in being an alternate on the Conservation Commission.

STATUTORY/ADVISORY BUSINESS –

1. **John Flatley Company (applicant/owner) – Review for acceptance and consideration of final approval for a lot line adjustment to increase the area of Map 6E, Lot 003-07 and a site plan to construct two 48 unit apartment buildings (in addition to the existing 240 units), both in accordance with the most recently amended Flatley Mixed Use Conditional Use Permit. The parcels are located at 5 Gilbert Crossing and 645 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation & Elderly Housing Overlay Districts and Wellhead Protection Area. Tax Map 6E, Lots 003-01 (645 DW Hwy) and 003-07 (5 Gilbert Crossing).**

Nathan Chamberlin from Fieldstone presented the project. He explained that: The project was approved in 2017 for five apartment buildings which have already been constructed. The site was subdivided into two parcels. John Flatley Company amended the site plan and is now seeking approval for two additional buildings as well as approval to slide the lot line over to provide room for the first of the two new buildings.

Commissioner Perry asked if the lot line adjustment cut into the perimeter of the soil test. They only tested soil beyond the new proposed lot line. Mr. Chamberlin responded that there was enough information from previous tests that they could modify the mapping slightly to capture the area that had not been tested previously.

Mr. Chamberlin spoke of the original approval including construction of a berm. The building and parking will be right on top of the berm, so they will be rebuilding the existing berms and have a small infiltration basin to handle the increase in runoff from additional parking area pavement and the new buildings.

Commissioner Perry questioned which parcel the landscape berm would be on. Mr. Chamberlin stated that the berm would be on the other parcel owned by John Flatley Company.

Commissioner Perry asked if the berm met the original plan. Mr. Chamberlin responded that the berm is currently half a foot lower than it was originally designed due to things like settling.

Mr. Chamberlin spoke of a proposed retaining wall along the driveway and parking area. Commissioner Perry asked if the proposed retaining wall will be built if the project gets final approval. Mr. Chamberlin responded yes, the retaining wall is a part of the approval.

Chair Perkins shared concerns regarding how soil being excavated would be managed as well as how runoff from the parking lots and two new buildings would be kept out of Dumpling brook. Mr. Chamberlin stated there would be not any soil leaving the site and that everything is pitched away from Dumpling Brook.

The Conservation Commission's primary concern with this project continues to be the management and disposal of excavated soils. We were assured that all excavated

materials would be maintained on site and not disposed of elsewhere. Mr. Chamberlin presented an overview of the project and answered questions regarding excavated material remaining on site, as well as advise that GZA Environmental is putting together a soil management plan that, when complete, will be forwarded to the Merrimack Community Development department to be kept on file.

2. KTK Realty Trust, LLC (applicant/owners) – Review for acceptance and consideration of final approval for a site plan to operate a trailer suspension and repair business. The parcel is located at 20 Star Drive in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 3D-1, Lot 012.

David Morin Real Estate Advisor with Berkshire Verani Hathaway realty
And Keith Pasquale Sr. owner of KTK Realty Trust

This project was approved through the Planning Board for a change of use previously for North Shore Trailer. Mr. Morin stated no physical changes to property have been made. They have cleaned up the plan as the original plan submitted was quite old. The updated plan now shows existing conditions on the site.

Commissioner Perkins stated the Conservation Commission had four concerns with this project. The concerns were as follows: Storm Water drainage plan, onsite water containment and treatment, use of non-invasive plants on the property, and use of straw instead of hay. The Conservation Commission asked that these stipulations be followed by KTK and all future tenants.

Mr. Morin explained that the B&M railroad crossing made it difficult to implement plans as they were originally made. Water naturally flows downwards because of the terrain and modifications other tenants have made to their lots. He said there isn't much they can do to improve the current plan.

KTK did come up with a few recommendations. The first was modification of the parking lot to create a few berms and reduce impervious surfaces slightly. Their second recommendation would be to put in a gutter along the side of the building that faces the parking lot to divert water from the front of the building to back of building towards the railroad where there is a natural depression in the land.

Chair Perkins questioned if Conservation Commission was clear with what the Planning Board was looking for from them as they seemed to be in the same place with the project as they were 4 months ago.

Commissioner Perry remarked this building would not be allowed today as it's operating outside of current town regulations. Trying to go back and fix the building would not be possible or reasonable. Chair Perkins says the conditions appear to have been met and that the Commission doesn't have further concerns. The commission felt they should say that there are not further concerns with this project and that they are accepting it.

The MCC received the proposal from KTK Realty and Trust (Mr. Keith Pasquale). The MCC believes that this parcel and adjacent parcels between the DW Highway and Merrimack River present significant storm water management shortcomings. Much of the existing development in this area would not be permitted today because it would fall short of meeting storm water management requirements. We also concede that this particular request for site plan approval from the property owner will not exacerbate the runoff concerns in this watershed area in any appreciable way. Furthermore, the existing rail line, and particularly the spur, eliminate any opportunities for additional run-off water infiltration. Ultimately, the proposed addition of a gutter system along the west side of the structure represents the most the owner can do to manage impervious runoff at this site.

3. L & W Supply (applicant) and 260 DW LLC (owners) – Site Plan to construct 6,800 sqft. storage building. The parcel is located at 17 Smith Road in the Aquifer Conservation District. Tax Map 3D-2, Lot 009-02.

Nathan Chamberlin from Fieldstone presented the project. He explained that:

L&W would like to remove some containers and build a new storage building on their parcel. Mt. Chamberlin states they are looking to add one building which is to be built into the slope of the land.

Mr. Chamberlin stated they are planning to pave the section that is currently gravel. In addition storage shelves will be more defined. They already received a variance for the building to be within their setbacks and would like to replace the wall that is already existing on the property.

Commissioner Perry questioned the amount of storm water runoff. Mr. Chamberlin answered that the proposed changes would result in less runoff. Vice Chair Boisvert asked if this is storage specific or if it's for general use. Mr. Chamberlin remarked it's for building supply storage.

Commissioner Rosati stated she didn't see anything on the plans regarding only using native plants and the use of straw instead of hay. Mr. Chamberlin responded the plan only shows the use of one plant being proposed called Bayberry. He can double check and make sure this plant is on the towns list.

The MCC would like to see the storm water management plans, when available.

NEW BUSINESS

- Conservation Commission 2022 Meeting Calendar –

Chair Perkins asked if there were any questions or concerns. None were brought up. Conservation Commission approved the 2022 meeting calendar.

- Spring 2022 Seedling Catalog NH State Forest Nursery

Chair Perkins stated it's critical to place an order as soon as possible since seedlings run out quickly.

Chair Perkins stated they could talk about this at future meetings or appoint a representative to complete the order. Commissioner Perry said he would put together an order proposal and send it out to the group.

Past year's orders would be used as a benchmark of what to order and what not order as well as the budget for this year. Commissioner Perry would prefer to order as soon as there has been approval. Budget for the order not to exceed \$500.00.

Commissioner Drouin spoke of the Sklar subcommittee discussing an order of wetland varieties of trees. He was unsure if this should be a part of the Conservation Commission order. Chair Perkins noted this would be a separate order. Commissioner Drouin then clarified that he was currently unsure of the Sklar budget and specific plants as Sklar subcommittee hadn't yet discussed it.

Commissioners Rosati, Perry and Drouin briefly discussed how much money Sklar may need. The Conservation Commission would be meeting in another few weeks and could revisit this once Commissioner Drouin had a list of trees.

MOTION BY COMMISSIONER ROSATI TO GIVE COMMISSIONER PERRY AUTHORITY TO ORDER SEEDLINGS FOR THE SPRING 2022 ANNUAL SEEDLING GIVEAWAY FROM THE NH STATE FOREST NURSERY, IN AN AMOUNT NOT TO EXCEED \$500, FROM FUND 53.
MOTION SECONDED BY: CHAIR PERKINS
MOTION CARRIED
7-0-0

- Request from resident Jason Conquest to hunt on open land behind Riverside Park Subdivision. Parcel is 4B 0-35 Riverside Drive (27 acres)

Resident did not show up to meeting. Chair Perkins questioned if residents requesting to hunt on Conservation Commission land within Chapter 111 should have to come before Commission if they were hunting lawfully. Commissioner Glenn mentioned Chapter 111 states hunting cannot take place on restricted properties.

Chapter 111 limits the discharge of firearms and motorized use. Commissioners Perry and Rosati would like to know if hunting is limited or prohibited on this land and whether or not there is a sign posted.

Commissioner Glenn stated this property is currently one of the restricted properties for hunting and target practice. It is only to be used for passive activities.

Commissioner Drouin remarked that unless the resident made a compelling argument, the restrictions should stay in place.

Commissioner Perry stated that if it's open land, hunting is allowed in the State of NH as long as all laws are being followed. The caveat would be if any documentation prohibits hunting on the land such as any restriction(s) listed on the deed. More information would be needed.

- Candidates for alternate on Sklar sub-committee – Nancy Kelly and Weston Cole

Commissioner Drouin requested moving this item to the end of the meeting as the two candidates would be arriving to the meeting around 8:00pm.

Chair Perkins and Commissioners Rosati, Perry, and Vice-Chair Boisvert decided to vote on the item now to save the subcommittee candidates a trip.

MOTION BY COMMISSIONER ROSATI TO APPOINT NANCY KELLY TO THE SKLAR WATERFRONT PARK SUB-COMMITTEE AS AN ALTERNATE MEMBER FOR A TERM TO EXPIRE JULY 31, 2024.

MOTION SECONDED BY: COMMISSIONER KOLB

MOTION CARRIED

7-0-0

MOTION BY COMMISSIONER ROSATI TO APPOINT WESTON COLE TO THE SKLAR Waterfront Park sub-committee as an alternate member for a term to expire July 31, 2024.

MOTION SECONDED BY: Chair Perkins

MOTION CARRIED

7-0-0

- Finances

Commissioner Drouin stated the Conservation Commission has lost \$110,000 dollars in the last year since hitting their cap. All of the lost money went into the General Fund instead of the Conservation Commission Fund. As a solution, Commissioner Drouin spoke of creating two warrant articles, one to raise the cap and another to transfer lost funds back into the Conservation Commission Fund.

Vice Chair Boisvert said his concern would be alienating the Town Council. Commissioner Perry suggested a discussion with the Town Council before making any official statement about a warrant article.

Chair Perkins explained that the money is not lost, the remainder just goes into a different town fund once the Conservation Commission cap has been met. He spoke of making a more compelling argument which could include specific parcel(s) that they felt they needed to purchase.

Commissioners Drouin and Perry mentioned it would be helpful to mention bridges as these are costly investments that get used heavily by residents.

Commissioner Rosati stated if the Commission were to position this to council, they should highlight that they have to maintain the land they already have, as Town Council has previously said we don't need to buy additional land. It is important that the council also consider there isn't much land left for purchase.

Commissioner Perry recommended deciding how much money the Conservation Commission would suggest as a new cap. Commissioner Rosati suggested raising the cap and not stating a specific value. She spoke of the fact that Fund 53 will dry up and the land will be used, but maintenance needs will not go away.

Commissioner Rosati and Kolb remarked, just because the Conservation Commissions buy land, it doesn't mean the land has to be developed into trails etc. There's value in having greenways and the resources to buy land to create wildlife corridor management.

Commissioner Kolb questioned who audits usage of the funds and lets the Commission know that their cap has been met. Commissioner Perry remarked he was unsure but that no alert gets triggered when the limit has been met.

- Advertisement/Merrimack TV
Commissioner Drouin suggests using the waiting screen before and in between meetings to advertise Conservation properties, events, and other news. He volunteered to be the lead for this project.

Vice Chair Boisvert suggested that pictures on town website are available for use. Commissioner Drouin will figure out who the contact for MerrimackTV is.

OLD BUSINESS

- Chapter 111 proposed wording

Chair Perkins asked if there are any concerns with the Chapter 111 document. This will go to legal counsel next for a formal review.

Commissioner Drouin questioned why individuals can drink soda on conservation properties, but not alcohol. Vice Chair Boisvert, Rosati, Perkins, and Glenn stated there was lots of dialogue around this a few years ago. It became an issue with lots of trash being left from parties being held in the woods.

- LCIP Submittal

Commissioner Starr noted that LCIP hasn't been submitted yet. There were no further comments provided by the Conservation Commission. Commissioner Starr to submit LCIP.

- Shed

Commissioner Drouin submitted three quotes to Chair Perkins. One quote was for a 12 by 20 shed to cost approximately \$13,480 (delivery and installation included) from Reeds Ferry. However there are other options available. The Commission would be responsible for any footings to be placed under the shed.

Commissioner Drouin suggested putting concrete pad under the shed which can last 30 years if it's warrantied. Commissioner Perry said a concrete pad is estimated to cost around \$15,000. Commissioner Drouin and Perry discussed the option of using crushed stone and Commissioner Perry noted this would be a good option because it drains well.

Commissioner Perry mentioned the Town Manager, Paul, Micali, suggested Bishop Field as a shed location. At Bishop Field there is a lot of sand which would drain very well. There is a MYA shed there currently, but perhaps putting this shed a bit further into the woods near the school would be a good option.

Commissioners Rosati and Drouin and Chair Perkins discussed shed size options and costs. Smaller sheds could cost around \$8,000-\$11,000. They went back and forth on what size would be appropriate, what the plan for shed use would be, and whether or not one is truly needed.

Chair Perkins has talked with Town Manager Paul Micali about storage of gas powered tools. If gas tools are being stored, it needs to be done with proper containment (i.e. fire extinguishers, secondary containment). If there are no gas powered tools, this changes the request considerably. Commissioner Kolb suggested asking the Department of Public Works if they could spare some room for storage of gas tools.

Chair Perkins mentioned they could clarify their requests with the Town when there is one. There have been no issues getting things like gloves or trash bags in the past.

Commissioner Perry brought up that equipment maintenance would be needed and asked who the responsibility would fall on. A discussion continued about possible reimbursement for Commissioner Drouin's broken chainsaw. Commissioner Drouin voiced that he feels the board doesn't want to spend money on any improvements as they don't want to buy their own tools or equipment. Commissioner Drouin went on to state that he was quoted \$65.00 for the repair of his chainsaw. Commissioner Rosati asked that he submit a receipt for reimbursement.

Commissioner Rosati feels if there is work to be done and a commissioner doesn't own the necessary gear, or is not willing to purchase it, then they should not volunteer for this work. Members should volunteer within their means.

Commissioner Perry noted that Paul Micali said the Conservation Commission could borrow Department of Public Works equipment when needed. Voting on the shed to be pushed to the next meeting. Commissioner Rosati will follow-up with the Department of Public Works regarding requests to borrow equipment.

MOTION BY COMMISSIONER ROSATI TO APPROVE THE EXPENDITURE, NOT TO EXCEED \$65, FROM FUND 53, FOR COMMISSIONER DROUIN TO REPAIR HIS CHAINSAW.

MOTION SECONDED BY: CHAIR PERKINS

MOTION CARRIED

6-1-0

- Equipment purchase recommendation

Commissioner Drouin feels the Conservation Commission should have tools and safety equipment and that members should not have to personally buy it. Chair Perkins voiced concerns of not wanting to set a precedent to pay for repair and maintenance of individual's tools and questioned if that's where Commissions funds should be spent.

Commissioner Rosati had concerns about members of the Commission doing work without following safety protocols. Commissioner Drouin remarked that the Commission hasn't set safety protocols. Commissioner Rosati feels the Commission could ask the Department of Public Works to do complex work safely instead of having volunteers do it and risking injury.

Commissioner Drouin brought up the purchase of hard helmets. He stated he would like to go to Town Council for consideration of the purchase of helmets for all subcommittee members if Conservation Commission is unwilling to purchase them.

Chair Perkins clarified he is not against spending however safety equipment spending is not in the Conservation Commissions Charter. Funds should be spent on items in the Charter. If they requested to borrow items from the Department of Public Works and were denied, then he would be more comfortable with this type of purchase.

The discussion was not resolved. The Commission was not ready to vote on a shed yet.

OTHER BUSINESS

- Subcommittee Updates
- **HHNP**

-Commissioner Kolb questioned acquisition of materials for bridge material. Is there a written procedure for purchasing small materials from stores such as Reeds Ferry? Commissioner Perry shared that the procedure currently is to get a quote for the Commission to bring to Community Development for purchase.

-HHNP is dealing with multiflora rose that is persistent: The subcommittee would like to cut it back over the winter. Commissioner Perry suggested Matt Tarr at the UNH Cooperative Extension as the best person to contact for assistance.

-The subcommittee is out of maps and is looking into having more printed. Commissioner Rosati to call Papergraphics.

-The subcommittee is working to identify trail hazards and mud pits.

- **Sklar Waterfront Park**

Recently the subcommittee has:

- Cleared trees
- Flooding puddle by the Kiosk has been filled
- Bittersweet was removed
- Tree pile and stumps have been shredded
- Parking area improvements

-Commissioner Drouin noted there was some damage made by off roaders. These incidents weren't reported to the Police Department. Commissioners Rosati and Perry and Chair Perkins say these issues should be reported to the Community Development Director, Tim Thompson and to the Police Department.

- **Wildcat Falls subcommittee**

-The bridge on North loop needs work. There are also some trees down that the subcommittee will be taking care as soon as possible. Someone was at Wildcat Falls with a wheelbarrow moving sand/rock and filling in holes with concrete.

The Police Department has called twice over last few weeks regarding these issues.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission.

[November 15, 2021](#)

Commissioners Starr and Perry were Absent

The following amendments were offered:

Page 2, Line 8; replace "structed" with "structured"

Page 8, Line 32; remove comma after "proven"

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY COMMISSIONER GLENN
MOTION CARRIED 5-0-2**

Commissioners Starr and Perry Abstained

PUBLIC COMMENT -

COMMISSIONER COMMENTS

Commissioner Boisvert asked if Grater Woods could get a sign to let visitors know they are at Grater Woods with sign to be painted in town colors.

Commissioner Drouin proposed site walks at the different projects the Commission reviews to ensure the plans were being followed.

ADJOURNMENT

**MOTION BY COMMISSIONER PERRY TO ADJOURN
MOTION SECONDED BY COMMISSIONER STARR
MOTION CARRIED
7-0-0**

The December 6, 2021, meeting of the Merrimack Conservation Commission was adjourned at about 9:10 p.m.

Submitted by Stefanie Brinn