



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK CONSERVATION COMMISSION

MARCH 5, 2018

### MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, March 5, 2018 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Chair Gage Perry presided:

Members of the Commission Present: Matt Caron, Vice Chair  
Michael Boisvert  
Cynthia Glenn  
Gina Rosati  
Tim Tenhave, Alternate Member

Members of the Commission Absent: Councilor Jackie Flood

Also in Attendance: Brenton Cole, P.E., Keach Nordstrom Associates  
Conor Beote, 134 Turkey Hill Road  
Christopher Guida, Fieldstone Land Consultants, PLLC  
Don Laliberte, 5 Danforth Road

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PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

### STATUTORY/ADVISORY BUSINESS

- 1. Streif, LLC. (applicant/owner)** - Review for recommendation to the Planning Board for a site plan to construct 47 elderly housing units. The parcel is located at 412 Daniel Webster Highway in the R-4 (Residential), C-2 (Commercial), Aquifer Conservation and Elderly Housing Overlay Districts. Tax Map 5D-4, Lot 001.

Brenton Cole, P.E., Keach Nordstrom Associates, stated the property has frontage on East Chamberlain Road and D.W. Highway to the east as well as the Souhegan River to the northwest. Surrounding uses are residential and commercial. There are 14 acres of undeveloped land, and 2 utility easements that bisect the property (Merrimack sewer and Eversource). Proposed is a 47-unit, 55<sup>+</sup> community called Overlook Estates.

In accordance with Town regulations, the land is permitted 114 units. On the site are 3 triplexes, 2 single-family homes, and the remaining are duplexes. All units will have a garage and walk-out basement. The entire development comes off of Abenaki Circle, which is a private cul-de-sac off East Chamberlain Road. Also proposed are a community clubhouse and mail station. Sidewalks are along all of Abenaki, lead down East Chamberlain Road, and go onto D.W. Highway.

A large portion of the project is the redevelopment of East Chamberlain Road. It is steep, comes at an awkward skew, and without a stopping platform at the intersection. The intent is to reduce the grade 12-10%, add a stopping platform, and fix the skew by trying to create as much of a 90° intersection as possible.

Overlook Estates has a closed drainage system that leads down to an above-ground infiltration pond. In an effort to help the Town's drainage infrastructure, the intent is to intercept the East Chamberlain Road and direct the stormwater to the basin so that it can be infiltrated and treated as part of the project. This will reduce peak flows to D.W. Highway. The infiltration basin does not allow any stormwater to leave through the 50-year storm.

The project has all appropriate landscape buffers, proper sediment control devices, is proposed to be a no salt/no chemical deicer site, and utilize a Green SnowPro contractor. The project requires an Alteration of Terrain (AoT) Permit as well as a Shoreland Permit because of work within the 250 ft. buffer. No work is proposed within the 150 ft. or 50 ft. buffer to the Souhegan River.

Permitting requires the applicant meet with the Souhegan River Local Advisory Committee, which is planned for later in the month.

Chair Perry commented the 250 ft. buffer is right up against the back side of residences, and noted there is no fertilizer within 25 ft. of that; only limestone per NHDES. Commissioner Tenhave commented he was initially concerned with encroaching on the 25 ft. buffer; however, there already exists within that buffer the easement and an established gravel road.

Note was made of the need for the plans to be amended to identify, where appropriate, slow-release, low phosphate nitrogen fertilizer.

Commissioner Tenhave questioned if the buildings would have various pitched roofs, draining to the ground, etc. Mr. Cole stated no gutters are proposed at this time. All same-style building/roof.

## NEW BUSINESS

### **1. Review of NHDES Wetlands Permit Application for 6 Watkins Lane. Tax Map: 4C, Lot: 449**

Christopher Guida, Certified Wetland & Soil Scientist, Fieldstone Land Consultants, PLLC, noted the initial part of the sub-division was discussed with the Commission several months ago. He highlighted two areas of proposed wetland disturbance. Approx. 1,800 sq. ft. impact in the northern area of the property; in order to upgrade the existing gravel road, a small portion of the pond area will have to be impacted. As part of the proposal the pond will be utilized as drainage structure and retention basins. The berm height will be increased, and the outlet structure replaced and upgraded (400 sq. ft. impact).

The total impact has increased slightly since the initial presentation in that the impact to the northern area had been believed to be 1,100 sq. ft. Modifications to the road design resulted from undertaking the planning and zoning process.

When asked, he stated the intent would be to lengthen the existing 24" culvert.

Vice Chair Caron questioned the proposed location of the home on Lot 11 noting the exact location had not been determined at the time of the initial review. Mr. Guida remarked there had been discussion of a lot that was tight against the buffer noting the size of that home has been reduced and the location pulled forward. The roadway was redesigned to avoid runoff from the road going across someone's front yard all the way to the house. A ditch was installed to pick that up and keep it within the roadway. Chair Perry questioned if runoff would sheetflow over the road to get to the pond. Mr. Guida responded it would be channelized in a ditch on each side, would travel through a ditch with stone check dams and then into a treated swale.

**MOTION BY COMMISSIONER TENHAVE TO AUTHORIZE THE CHAIR TO SIGN, ON BEHALF OF THE COMMISSION, THE WETLANDS PERMIT APPLICATION  
MOTION SECONDED BY COMMISSIONER GLENN**

ON THE QUESTION

Commissioner Tenhave commented it appears this would be an improvement.

**MOTION CARRIED  
6-0-0**

**2. Review of NHDES Wetlands Permit Application for 4 & 6 Executive Park Drive. Tax Map: 4D, Lot: 076 & 077**

Chair Perry noted the project was discussed at the Commission's January 22<sup>nd</sup> meeting. One of the concerns that has been addressed is the 12' span of the footbridge, which will reach almost 2' beyond the streambank. Commissioner Tenhave commented the Commission had discussed the footbridge including some type of railing or other mechanism to keep people from coming off the footbridge and/or stepping into the wet areas near the streambed.

The consensus of the Commission was to recommend NHDES require the inclusion of some sort of railing, fencing, etc. to discourage animals from entering wet and edges of wet, that language be added indicating the distance the footbridge will go beyond the edge of wet as well as language regarding passive recreation only due to proximity to Naticook Brook, and that the concern over the construction materials, relative to future maintenance needs, be noted.

**MOTION BY COMMISSIONER TENHAVE TO AUTHORIZE THE CHAIR TO FORWARD TO NHDES THE RECOMMENDATIONS OF THE COMMISSION IN RESPONSE TO THE WETLANDS PERMIT APPLICATION**

**MOTION SECONDED BY COMMISSIONER BOISVERT**

**MOTION CARRIED  
6-0-0**

**3. 2018 Maintenance Plan - Beaver Solutions, LLC**

Chair Perry noted receipt of the invoice from Beaver Solutions, LLC for the 2018 Maintenance Plan in the amount of \$960.00.

**MOTION BY VICE CHAIR CARON TO AUTHORIZE THE CHAIR TO SIGN PAYMENT FOR BEAVER SOLUTIONS IN AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00). FUNDS ARE AVAILABLE IN FUND 53**

**MOTION SECONDED BY COMMISSIONER GLENN**

**MOTION CARRIED**

**6-0-0**

OLD BUSINESS

*There being no objection, the Commission went out of the regular order of business to take up Item #2 under Old Business.*

**2. Eversource Powerline Reliability Project**

Chair Perry noted Eversource contacted the Commission last year relative to the Powerline Reliability Project. They have been around Town trimming branches within reach of powerlines, etc. The project discussed with the Commission was the corridor that runs behind the Horse Hill Nature Preserve (HHNP). The project was an aggressive one culminating in a new access point.

Don Laliberte, Member, HHNP Sub-Committee, commented on February 12<sup>th</sup> he was hiking in the area of the Summit Trail. When reaching the part of the Summit that meets up near Pole 15 under the powerlines and looking out easterly, he was able to see dump trucks dumping stone and gravel. He walked up to the area and found a site supervisor, Chris Edgar. He asked several questions of him, and was informed all permits were pulled, all parties had been notified, and the work they were doing was authorized. Mr. Laliberte questioned if there was any plan to put anything at the beginning from Naticook Road into the right-of-way area in terms of a gate, construction equipment, etc. to prevent ATVs, etc. from entering, and was informed there was not.

Upon arriving home, he was able to conduct additional research. Section 7.2 of the HHNP Master Plan states in part:

*“Within the transmission line easement areas on the HHNP property, PSNH has the right to construct, operate and maintain power lines and all associated structures and support facilities. It also has the right to patrol the easement areas and to cut trees, clear brush and remove any obstacles. The Town has the right to use the land within the easement area so long as it is used in manner consistent with the easement agreement.”*

Mr. Laliberte commented Lori Barrett, Operations Manager, Highway Department, stated concern with the heavy truck traffic on Greens Pond Road, e.g., had to do a lot of work on the road because of the condition it was in after days of heavy truck traffic delivering stone and gravel. When asked about the work done by the PWD, Mr. Laliberte indicated the PWD fixed the mud areas. He added there was some stone that appeared in Greens Pond that was not there previously.

Mr. Laliberte spoke with Paul Micali, Assistant Town Manager/Finance Director, who indicated Eversource had provided a presentation to the Town Council on May 11<sup>th</sup>. He read sections from the minutes of that meeting:

*“Councilor Boyd remarked the W157 and the 380 go through two important pieces of property owned not only by the Town of Merrimack but the Conservation Commission. He questioned if any cross*

*jurisdictional cooperation has been done with the Community Development Department or the Conservation Commission regarding the work that will be done on those properties and if site reviews have been done with either group regarding mitigation that needs to be done as it relates to some of the wetlands, particularly at the HHNP. Mr. Stanek noted he is familiar with both properties and stated the work is at minimum in both sites. In preparing for the project, they had Environmental Scientists go out and delineate wetlands, which manifest themselves in project lands. They have best course of action procedures in place as well as avoidance measures in place to preserve those. Ms. Hoodlet and Mr. Logan will be reaching out to the Conservation Commission as well as the Town. The Town provides the resource and they will go out and meticulously talk about every tree to be removed on Town property just as they would with a private property owner.”*

*“Councilor Boyd questioned if FERC is providing any type of regulatory oversight or if it is simply a matter of notifying FERC of upgrades being completed.*

*Mr. Stanek responded of the lines applicable to Merrimack, there is only 1 FERC regulated line, which is the 380.”*

*“Councilor Boyd spoke of the upgrades on the 380 and asked if that would increase electrical capacity going through that line. Mr. Stanek stated it would not. It just ensures the electricity will be transmitted safely and that all of those structures and facilities are up to spec and standard, in a storm hardening capacity can withstand the elements of nature, and there are no negligent circumstances. They inspect poles annually when they are wood.*

*Councilor Boyd questioned if the Town Manager and the team could be asked that the schedule of dates and times, when received, be put out on a Nixle alert. Vice Chairman Rothhaus commented if the Town Manager is notified of the schedule that can be done.”*

Mr. Laliberte remarked when he spoke with the site supervisor he indicated to him there would be more electricity coming through those lines.

Mr. Laliberte noted the Town had posted information about the work and the presence of a helicopter on Friday the 9<sup>th</sup>. Work began on Monday the 12<sup>th</sup>. He stated concern with the way information was communicated, how difficult it was for him to obtain certain information, the fact that the HHNP Sub-Committee met a few weeks before the project started, and had questioned whether trees that had been cut would stay onsite and had asked about the easement agreement. Commissioner Glenn commented she had questioned, and was informed Eversource could pretty much do what they want with the trees.

Mr. Laliberte remarked he has come across different wording on different deeds relative to a so-called easement agreement. The clearest he found states in part: “Accepting and reserving to the Grantor, its successors and assigns, the Grantor’s presently existing electrical transmission lines located on the land hereby conveyed together with the right and easement to construct, repair, rebuild, operate, patrol, remove said lines and other overhead, underground lines consisting of wires, cables, ducts, manholes, poles, towers, together with foundations, cross arms, braces, anchors, guise, grounds, and other equipment for transmitting electrical current and/or intelligence over, under, and across the land hereby conveyed. This reservation shall include the right to clear and keep clear said land of all trees and underbrush by such means as the Grantor may select to remove all structures and obstructions found within the limits of said land, which interferes with said lines. By acceptance of this conveyance the Grantee for itself and its successors and assigns conveyance and agrees with the Grantor that it will not



erect or maintain any building or structure of any kind or nature or change the existing grade or ground level of said land by excavation or filling without the written permission of the Grantor.”

Mr. Laliberte commented it is interesting that it is worded that way, yet the Town cannot ask the same of them regarding what they did. He remarked nowhere has he seen where they can put in what is essentially an unpaved road, which he sees as associated with an unwanted activity coming into the HHNP.

The problem now is an area that was previously small, had a sign, but was somewhat hidden, has been widened from the point of allowing a PSNH vehicle to gain access to check the lines to now being 4-5 times wider at the entry point.

Mr. Laliberte spoke of the desire for a gate to prevent outside ATV activity from entering. He spoke of the increased likelihood of Eversource agreeing to such a step prior to the start of the project. Chair Perry stated that request has not been made. Eversource had indicated if there was something they could do while in the area to make them aware. There was some discussion of moving boulders, which they were agreeable to. Chair Perry stated a request could be made.

Mr. Laliberte commented it would be good to ask, and if they do not want it on their property another option is to place it at the start of the Old King’s Highway. Ideally it would be best to have the gate at Naticook Road.

Mr. Laliberte spoke of having seen an email chain that contained information from Eversource relative to the timeline for the project. It included a notation of signage that would be located on Old King’s Highway between poles 12 and 13 to warn of construction work ahead. He noted as of earlier in the day, there was no such signage. There are two points where Old King’s Highway crosses their unpaved road and 2 points where there is a crossing near the Loop Trail. There need to be 4 signs warning users of the HHNP of the work taking place. He commented there is nothing at the kiosk or the point of possible interaction with a truck.

Chair Perry stated he could send a letter to Eversource noting the questions and concerns raised. The letter could identify the need for signage warning of the construction.

Mr. Laliberte stated he noted, in one of the documents he reviewed, the intent, upon project completion, to take the gravel/stone out, which would cause more damage than leaving it in place.

Mr. Laliberte questioned what would happen with the towers located just on the other side of the wetland and heading uphill towards the HHNP Summit; specifically, if Eversource would attempt to put in a similar road to gain access to those towers. He requested that question be asked as well. Vice Chair Caron stated the steepest thing they have to access they are already going up; from the back side of the swamp up towards Naticook. They hardened that and dug it out at the top.

Commissioner Tenhave suggested the Town Council and Town Manager be copied on any correspondence. Vice Chair Caron commented the current condition would allow a car to drive from Naticook to the Loop Trail.

It was suggested the HHNP Sub-Committee could place a posting at the kiosk.

***The Commission returned to the regular order of business.***

**1. Sklar Waterfront Park and Town Boat Landing - Planning for clean-up**

Commissioner Boisvert commented the vast majority of the clean-up needed seems to be on the Town land. He volunteered to coordinate with the Town and the various groups that have expressed interest in the clean-up effort. The water level will have to be lower before work can be done. He suggested a June timeframe.

Chair Perry spoke of the need to coordinate with the Town Council around the subject of the boat ramp.

**OTHER BUSINESS**

- Sub-committee Updates - None

**PRESENTATION OF THE MINUTES**

Merrimack Conservation Commission. . . . . February 5, 2018

*The following amendments were offered:*

Page 2, Line 15 and Page 3, Line 25; replace “dentition” with “detention”

Page 3, Line 24; replace “then” with “than”

Page 4, Line 2; replace “included” with “include”

Page 5, Line 42; replace “preform” with “perform”

Page 6, Line 5; replace “Souhegan” with “Souhegan”

Page 6, Line 17; correct the spelling of “reimburse”

Page 6, Line 40; correct the spelling of “Commissioner”

Page 7, Lines 22 and 23; “scouts” should be capitalized

Page 8, Line 27; correct the spelling of “Councilor”

Page 8, Line 34; “registration” should be capitalized

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED**

**MOTION SECONDED BY COMMISSIONER GLENN**

**MOTION CARRIED**

**6-0-0**

**PUBLIC COMMENT** - None

**COMMISSIONER COMMENTS**

Commissioner Tenhave noted the Deliberative Session for the School District is scheduled for Thursday, March 8<sup>th</sup>, and the Deliberative Session for the Town is scheduled for March 14<sup>th</sup>.

Tuesday, March 27<sup>th</sup> is the Merrimack Village District.

Commissioner Tenhave noted March 22<sup>nd</sup> is the rescheduled opportunity to appear before the Town Council to discuss the process for Chapter 111.

Commissioner Rosati spoke of having attended the Winter Carnival the prior Saturday.

Commissioner Boisvert noted the maps are now up at the kiosk at Beebe Lane.

Commissioner Glenn spoke of her very positive experience utilizing the app from the website to pull up the map for the HHNP.

ADJOURNMENT

**MOTION BY COMMISSIONER TENHAVE TO ADJOURN**

**MOTION SECONDED BY COMMISSIONER GLENN**

**MOTION CARRIED**

**6-0-0**

*The March 5, 2018 meeting of the Merrimack Conservation Commission was adjourned at 8:19 p.m.*

Submitted by Dawn MacMillan