



Town of Merrimack, New Hampshire

Community Development Department

6 Baboosic Lake Road

Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK CONSERVATION COMMISSION

DECEMBER 2, 2013

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, December 2, 2013 at 6:36 p.m. at the Merrimack Memorial Conference Room.

Chairman Tim Tenhave presided:

Members of the Commission Present: Matt Caron, Vice Chairman
Ron Davies
Gage Perry
Simon Thomson
Councilor Thomas Mahon

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

Also in Attendance: Ken Clinton, Meridian Land Services
Shannon Barnes, 55 Lawrence Road
Joe Cogan, 15 Sheridan Way

Chairman Tenhave reminded the viewing audience hunting season is upon us, and encouraged those venturing out into the woods to dress appropriately, e.g., hunter orange, and stick to the trails. He encouraged those interested in hunting on conservation lands to visit the website, Merrimackoutdoors.org, to learn which properties do and do not allow hunting.

PUBLIC COMMENT - None

There being no objection, the Commission went out of the regular order of business to take up Statutory/Advisory Business.

STATUTORY/ADVISORY BUSINESS

1. Northview Homes & Development, Inc. (applicant) & David R. Cota & Dorothy E.

**Cota and
Raymond A. Cota (owners)**

Review for recommendation to the Planning Board of an application proposing consolidation and re-subdivision of four residential lots into 13 cluster residential lots. The parcels are located at 14 & 16 Pearson Road within the R (Residential) District and a portion of the parcels are in the Aquifer Conservation and 100-year Flood Hazard Districts. Tax Map 6D, Lots 046, 047, 047-02, 047-03 & 047-04.

Chairman Tenhave stepped down and Vice Chairman Caron presided.

Chairman Tenhave recused himself from the discussion.

Mr. Ken Clinton, Meridian Land Services, informed the Committee an application is currently before the Planning Board for a subdivision of 13 open space lots. The plan notes four residential lots into 13 and should be corrected to state five residential lots into 13.

There are five lots on Pearson Road; a small pre-existing, non-conforming lot and four larger lots around the frontage and behind that property. On the East it is bound by Pearson Road, on the south by other property belonging to the Cota family and Baboosic Brook, which sweeps around to the West side, and on the North it is bounded by several lots, which are part of the Woodhaven Circle Subdivision.

The land was sub-divided just over a year ago into four lots excluding the small lot (#46), but the sub-division did not change hands, and was not developed. It remained dormant for a while, and the Cota family felt they had a property that had some better options. They came in with Northview Homes and discussed what could be done. The property does have some constraints, environmental constraints in particular; the Baboosic Brook is subject to the Shoreland Protection Act (up to 200' from the edge of flow), associated wetlands, is subject to 100-year flood associated with Baboosic Brook, and some slopes that rise up to the upper land along Pearson Road. There are a good number of out buildings; in addition to two homes there are garages, sheds, a former chicken coop, a garage that accommodates repairs to the Cota's machinery, pole barn, etc.

Being proposed is an open space sub-division that reduces the lot sizes substantially and creates two short cul-de-sacs off of Pearson Road on either side of the many buildings onsite. That will be separated into three residential lots. Each cul-de-sac has five proposed small residential lots. The open space calculation used (net area of property divided by 40,000) complies with the zoning and sub-division regulations. The end result is a larger open space tract (11.5 acres). A minimum of 50% of gross has to be protected for open space. In this configuration, the slopes down to the wetland and ultimately to Baboosic Brook are protected from use or developments.

Although the property has access to Town water there is no Town sewer. Under the current plans, the lots and development would be leach fields. They would have to comply with regulations; however, conceivably they could put a leach field all the way back to the edge of the slope and would meet setback on most lots. In order to qualify for the Open Space Sub-division, sewer is being extended on any development on that property (all 13 lots and the existing house).

Drainage is being collected with catch basins, run through a closed pipe, and then into an infiltration basin. Filings have been made with NH DES. At this time, the applicant has no concerns/issues. The infiltration basins are sized to handle the 50-year storm. Water will collect and infiltrate into the ground. Anything from storms greater will overflow and end up into the transitional wetlands before entering Baboosic Brook.

Mr. Clinton stated the need to file for a Shoreland Permit given each infiltration basin is, based on grading, slightly into the 150' buffer (between 150-250). A few of the lots may require a Shoreland Permit based on where the house is situated and how the drive and turnaround might be. Individual lot development might trigger additional permits on a lot-by-lot basis.

When Lot #5 is developed, even though there is a Shoreland permit for the sub-division they will have to go to get an individual one. Technically they are encroaching on the 250' limit. No issues are anticipated given there would not be septic or well onsite.

The homeowner's association would be responsible for all thirteen (13) lots because they are all part of the open space sub-division, which means they will all own a fractional interest in the open space and are all subject to the same conditions and restrictions that go along with that.

Commissioner Perry noted an existing pole barn, and was informed it is to be raised. He commented on existing driveways between some of the properties. Mr. Clinton remarked as lots are sold and the pole barn raised, some additional cleanup will have to be performed to make the properties more marketable. When asked, he stated there to be two existing houses on the property.

Mr. Clinton noted the entire project is predicated on the extension of sewer. They have plans and have met with representatives of Wastewater and understand their changes to some of the preliminary designs. At this point, the final details of the design items are being worked out. Mr. Clinton informed the Commission the application would be before the Planning Board the following night.

Councilor Mahon questioned, and was informed the cul-de-sacs would be to Town standards for public roads. Commissioner Perry spoke of a requirement of the original sub-division for sidewalks to be constructed. Mr. Clinton remarked because Pearson Road is a collector road and the need for sidewalks was identified, as part of the approval of the previous sub-division Mr. Cota picked up the sidewalk where it stopped on Pearson Road and extended it up to the School driveway, then crossed the driveway, and constructed it several hundred feet towards the school itself. He then built additional sidewalk up to the next driveway. When before the Planning Board last, it was recognized Mr. Cota has met the obligation for sidewalk construction along Pearson Road. Sidewalks will also be constructed as part of the two new cul-de-sacs.

Commissioner Perry spoke of the Commission's recommendation that de-icing compounds be minimized, and applicators be Green SnowPro certified. Councilor Mahon suggested the Public Works Department look at the site for consideration as a no salt zone or reduced salt zone. He noted there are properties in Town located further away from water bodies, which have had such a restriction placed on them. He further suggested the use of fertilizer in the area be restricted. He spoke of three bridge projects on Baboosic Brook intended to occur over the next ten years, which will open up the flows. The Town Council has discussed how the bridges would be sized and the impacts the opening sizes will have upstream. Mr. Clinton stated he would be happy to bring the issue up before the Planning Board.

Commissioner Perry spoke of the Commission's preference for use of low-phosphate, slow release nitrogen fertilizer.

Commissioner Perry questioned whether the Deed would include language regarding the requirement for green space. Mr. Clinton stated it would and noted each deed for lots transferred will also reference subject to additional covenants and restrictions for the open space.

Mr. Clinton stated his agreement with the recommendations of the Commission and stated the fertilizer restrictions as well as the requirement that salt applicators be Green SnowPro certified could be incorporated into the covenants and restrictions and perhaps included on a note on the face of the plan. Doing so would make it binding upon the buyer of the lot.

Vice Chairman Caron stepped down and Chairman Tenhave presided:

APPOINTMENTS

1. Visit with the Grater Woods Sub-Committee

Sub-Committee to meet with the Commission to discuss their immediate goals and projects.

Commission to *share any desires it would like to see done. Discussion to also include terms for members.*

When the Sub-Committee members were appointed the term lengths were not specified. When asked, Ms. Shannon Barnes stated her desire for a three-year term. She spoke of the amount of curriculum being developed at the school around activities that occur on that property. She remarked although on the Sub-Committee as a member of the public, she has agreed to inform the School Board, on a regular basis, of her interactions with the Conservation Commission regarding the property and the activities of the Sub-Committee. She stated her belief there is a great deal that will come from trail development, which will impact the cross-country team, the science program, etc. She commented the more communication that goes back to the school district, the better partner they can be.

Mr. Joe Cogan stated a willingness to serve a three-year term. He resides near the property and has an interest in seeing it maintained for use by all. He remarked he knows the property very well and is fairly resourceful; could enlist the help of others when needed to assist with projects.

Vice Chairman Caron informed the Commission the Sub-Committee has had the opportunity to conduct a single meeting to date. The organizational structure was established during the initial meeting. The first project discussed was the bridge at the bottom of Gateway Hill. Since that time a quote has been received from the contractor that erected the gate on Conservation Drive. The quote and whether or not the Sub-Committee wishes to pursue it will be discussed at the next meeting.

The Sub-Committee's first project will take place at 7:00 a.m. on Saturday December 7th and will consist of the construction of a bridge at the bottom of Beebe Lane. Any and all volunteers are welcome to participate.

Vice Chairman Caron noted the Sub-Committee is interested in what the Commission wishes to see occur with the gates for South Grater Road.

Commissioner Davies spoke of two occasions in recent weeks where he has been in his yard and called out to by individuals in the woods who were lost. They both spoke of lack of signage. Future plans for a kiosk on Beebe Lane were noted. Vice Chairman Caron stated the Sub-Committee would be taking up the issue of installation of kiosks.

Chairman Tenhave spoke of an individual becoming lost at the Horse Hill Nature Preserve (HHNP) despite the area being fairly well signed. He stated his desire for the Sub-Committee to take on the task of ensuring there is a kiosk located at all primary access points (Beebe Lane, Conservation Drive, and at the school property) and that the Sub-Committee look at appropriate signage for intersections of major trails. He suggested there to be a need to determine how to identify trail usage. With the identification of categories A, B, C, and D, it is necessary to ensure the public is educated on what activities can occur on each. Councilor Mahon suggested consideration be given to color-coding trail markers. Vice Chairman Caron spoke of the permitted usage medallions used at the HHNP. He commented there are trails which should be signed "no motorized use" such as Drilled Rock, which runs along the motorized corridor. Chairman Tenhave spoke of the new section of the Red Maple Trail, which is not motorized. The question came up of how to mark a road non-motorized. Chairman Tenhave suggested the Sub-Committee be asked to provide an opinion.

Commissioner Davies spoke of a section on the Red Maple Trail, which leads up to the houses and where tire tracks are visible. Vice Chairman Caron commented there used to be a main trail that came down from up there. When the Forester performed improvements on the trail he placed rocks in the middle and a dirt mound leading up to the rocks. To the right of the rocks a few trees have been cut down to provide access around the rocks. He spoke of the inability of the Commission to provide enforcement and noted the police have become involved in the past. Chairman Tenhave stated his hope as the property becomes more used those enjoying it will make others aware of restrictions.

Commissioner Davies noted the entrance to Beebe Lane is steep, and in the fall there are wet fallen leaves. He suggested the Sub-Committee give consideration to some form of grade change, e.g., steps.

Chairman Tenhave stated a desire for the Sub-Committee to provide information on things it would like the Commission to be working on over the next year in support of them. He would also like the Sub-Committee to give consideration to forestry projects and letting the forestry operation provide trails (especially D2 and D3). Vice Chairman Caron stated the Sub-Committee has a discussion on its agenda of those trails and combining that with a forestry project. He pointed out the D2 and D3 trail location is currently the backstop for the shooting range. He spoke of the need to address that before creating and encouraging use of new trails.

Vice Chairman Caron informed the Commission the Sub-Committee would be coming forward with a proposal for a signage project and kiosks along with a request for funding.

OLD BUSINESS - None

NEW BUSINESS

The Commission recessed at 7:29 p.m.

The Commission reconvened at 7:31 p.m.

1. Eco-Sweep

Don Willet to introduce Eco-Sweep and MolecuLoc to the Commission.

As the representative from Eco-Sweep was not present, the Commission did not take up the item.

2. Annual donation to the Souhegan Watershed Association

Commission to discuss its annual donation to the Souhegan Watershed Association.

Chairman Tenhave stated the item to be included in the Community Development Department's budget under the Conservation Line item (\$200.00). He spoke of the work of the Souhegan Watershed Association with regard to weekly testing of the waterways, their oversight of the river, etc.

It was the consensus of the Commission to continue to support these efforts.

3. Terms for the Grater Woods Sub-Committee

Commission to set the terms for all the members of the Grater Woods Sub-Committee.

Chairman Tenhave informed the Commission, Commissioner Lehman who served as the Ex-Officio member prior to the organizational meeting of the Sub-Committee, collected input as to interest of members relative to term length: Steve Desilets (1 year), Nathaniel Fairbanks (at least 2 years), and the remaining members have expressed an interest in three-year terms.

Chairman Tenhave noted the Charge never identified a term for the Ex-Officio member (typically 1 year).

MOTION BY COMMISSIONER TENHAVE TO AMEND THE CHARGE, UNDER "MEMBERSHIP" BY ADDING THE WORDS "FOR A ONE-YEAR TERM" AFTER THE WORDS "AS AN EX-OFFICIO FULLTIME MEMBER" IN THE FIRST BULLETED ITEM

MOTION SECONDED BY COUNCILOR MAHON

MOTION CARRIED

6-0-0

With the passage of the motion, Commissioner Lehman will serve in the capacity of Ex-Officio member for a one-year term.

MOTION BY COMMISSIONER TENHAVE TO SET THE FOLLOWING TERM LENGTHS FOR MEMBERS OF THE GRATER WOODS SUB-COMMITTEE: FOR ONE-YEAR TERMS, STEVE DESILETS AND ROGER BLAIS, FOR TWO-YEAR TERMS, SHANNON BARNES AND NATHANIEL FAIRBANKS, AND FOR THREE-YEAR TERMS, JOE COGAN AND MATT CARON

MOTION SECONDED BY COMMISSIONER THOMSON

MOTION CARRIED

6-0-0

OTHER BUSINESS

- Grater Woods Trail project update

Vice Chairman Caron stated the winning bidder was notified by the Finance Department. However, Bay State has informed him they are not familiar with the contractor, made an attempt to contact the contractor and did not receive a response, and given the lateness of the year, believe it not in the best interest of the property to begin the project at this time. It was explained to him, in this industry, it is typical for the contractor to make the initial contact with the Forester to identify project timeframe, etc. That did not occur, and an attempt by the Forester to make contact was unsuccessful. They will wait until the spring at which time they will take the project up again.

Chairman Tenhave requested the Commission be informed when Bay State is ready to resume so that the contractor can be contacted and given the opportunity needed. Commissioner Perry stated a concern with postponing the project and questioned whether it could have unintended consequences relative to the Purchase Order, etc. Councilor Mahon noted the budget year ends on June 30th and the Purchase Order may require a request for extension.

It was noted the RFP language very clearly stated Bay State is managing the project for the Commission. Chairman Tenhave requested Bay State be asked to inform the Commission, in a timely manner, should a decision be made to re-bid. Chairman Tenhave stated he would follow-up with the Finance Department so that the contractor is provided notification a decision has been made not to pursue the project this fall, and to wait until spring before deciding how to proceed.

- Right-to-Know; is training desired

Chairman Tenhave questioned whether Commissioners wished to receive training on the Right-to-Know Law. Commissioner Perry spoke of a CD, which he believed to be available. Councilor Mahon noted information is available online from the Attorney General's website. He stated he would speak with the Town Manager, and suggested it may be a good time to make such training an offering to members of all boards, committees, and commissions.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. November 18, 2013

The following amendments were offered:

Page 3, Line 13; add the word "tank" before the word "farm"

Page 4, Lines 7 and 17; replace "Chairman Mahon" with "Councilor Mahon"

Page 8, Line 47; replace "Councilor Thomson" with "Commissioner Thomson"

MOTION BY COMMISSIONER PERRY TO ACCEPT AS AMENDED

MOTION SECONDED BY COUNCILOR MAHON

MOTION CARRIED

5-0-1

Commissioner Davies Abstained

PUBLIC COMMENT - None

COMMISSIONER COMMENTS

Chairman Tenhave informed the Commission of his receipt of notification regarding seedlings. He asked for a volunteer to spearhead the seeding give-away in the spring. Commissioner Perry volunteered.

Chairman Tenhave spoke of the availability of copies of the publication "A Hard Road to Travel", which will be housed in the library in the conference room in the Community Development Department.

ADJOURNMENT

MOTION BY COUNCILOR MAHON TO ADJOURN

MOTION SECONDED BY COMMISSIONER PERRY

MOTION CARRIED

6-0-0

The December 2, 2013 meeting of the Merrimack Conservation Commission was adjourned at 7:57 p.m.

Submitted by Dawn MacMillan