



Town of Merrimack, New Hampshire

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Planning - Zoning - Economic Development - Conservation

MERRIMACK CONSERVATION COMMISSION

NOVEMBER 5, 2018

MEETING MINUTES

A regular meeting of the Merrimack Conservation Commission was held on Monday, November 5, 2018 at 6:31 p.m. in the Merrimack Memorial Conference Room.

Chair Gage Perry presided:

Members of the Commission Present: Michael Boisvert
Cynthia Glenn
Steven Perkins
Gina Rosati
Tim Tenhave, Alternate Member
Councilor Peter Albert

Members of the Commission Absent: Matt Caron, Vice Chair

Also in Attendance: Tom Zajac, Civil Engineer, Hayner/Swanson, Inc.
Kevin Slattery, Edgebrook Heights, LLC
Michael Swisher, Merrimack

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

- 1. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC, Wigston Properties, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners)** – Review for recommendation to the Planning Board for a Conditional Use Permit to permit a future mixed-use development consisting of retail, commercial, multi-family residential and elderly housing. The parcels are located at 1, 39, 55 & two unnumbered parcels off Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 1E, Lots 004-1 & 004-2, and Map 2E, Lots 006-2, 007 & 009.

Chair Perry noted the item was before the Commission because of its location. The Commission is not to comment on the Conditional Use Permit (CUP) itself.

- 2. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC, Wigston Properties, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners)** – Review for recommendation to the Planning Board for a boundary consolidation and subdivision plan. The parcels are located at 1, 37, 39 & an unnumbered parcel off Daniel Webster Highway in the I-1 (Industrial), Aquifer

Conservation and Flood Hazard Conservation Districts. Tax Map 1E, Lots 004-1 & 004-2, and Map 2E, Lots 007 & 008.

- 3. Edgebrook Heights, LLC (applicant) and Edgebrook Heights, LLC & Q. Peter Nash 1987 Revocable Trust 1 (owners)** – Review for recommendation to the Planning Board for a site plan to construct 232 multi-family residences (156 multi-family and 76 elderly housing units), a clubhouse and associated site improvements per the requirements of the Edgebrook Conditional Use Permit. The parcel is located at 1 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation and Flood Hazard Conservation Districts. Tax Map 1E, Lots 004-1 & 004-2, and Map 2E, Lots 007 & 008.

Tom Zajac, Civil Engineer, Hayner/Swanson, Inc., addressed agenda items 1, 2, and 3 noting the matter was before the Commission seeking feedback/recommendation to the Planning Board on the sub-division and site plan associated with the first phase of the Edgebrook Heights project.

The overall site measures approx. 36 acres, is in the I-1 Industrial zone, and is comprised of five existing lots. It is abutted by the former Nashua Corp. to the north, the Boston/Maine Railroad, Merrimack River and Pennichuck Brook to the east, undeveloped NHDOT owned land to the south, and D.W. Highway to the west with a number of mixed uses along the corridor.

The property contains about 1,600 linear feet as you move across D.W. Highway. The upper/westerly portion is relatively flat. There is a 50-60' grade change in the center of the site as you work your way east towards Pennichuck Brook. The majority of the site is wooded except for the northerly side where there is an existing parking lot and former ballfield.

The Pennichuck Brook defines the property in the southeast corner. A 100-year floodplain is associated with the top of the bank. Utilities are available. The site contains mostly sandy soils.

The property is located within the Town's Aquifer Protection District and a portion within the NHDES Shoreland Protection area associated with both the Merrimack River and Pennichuck Brook.

Mr. Zajac remarked in 2014 his office was involved in a CUP for this site. For many reasons the project did not move forward into the subsequent sub-division and site plan phases, and the CUP approval has since lapsed.

The CUP is essentially a master plan. Approval is being sought from the Planning Board. It is a mixed-use development upon four developable lots. There are commercial uses in the north and central part of the site and residential uses in the central and southerly portion of the site. Overall, they believe the current plan to be an improvement over the 2014 plan; there are four developable lots instead of 5, there is an elderly housing use instead of assisted living, there are three multi-family buildings associated with the residential portion instead of five.

Mr. Zajac reiterated it is a master plan. They will come forward with only a sub-division and site plan for the first phase. He stated the desire to walk through the different elements to familiarize the Commission with the site and possible future applications.

There is a 400' entrance drive that will tie into the existing signalized intersection with D.W. Highway and Harris Pond Drive (currently a three-legged intersection). It will be a private street under common ownership by the lots.

Lot A shows a 20,000 sq. ft. multi-tenant commercial building with approx. 115 parking spaces loading to the rear. It has the ability to access an existing curb cut off of the northerly side. The final design will be evaluated as part of the Site Plan review. Lot B is about 2 acres in size with a 4,000 sq. ft. gas (about 12 pumps), mini-mart, and car wash on the site. That would access via the new private street. Lot C is tucked to the east of the entrance drive. The intent is two one-story multi-tenant commercial spaces totaling 15,000 sq. ft. with parking accessed off the common entrance drive (geared towards small businesses/professional service offices). Lot D is 26.5 acres, starts off the private entrance drive, works to the south, and wraps around. Proposed is a 232 unit multi-family residential project.

The second piece of the project is the sub-division plan. It is the land plan that sets up the development lots as shown on the CUP. A number of existing lots are being consolidated, and then sub-divided back to create those four development lots as well as cleaning up a number of existing easements on the parcel.

The existing open space lot (1/2 acre on other side of railroad) is not part of the site plan application, and will remain as is. There are no physical improvements associated with the application.

Chair Perry questioned if access is over the railroad tracks, and was informed that is correct. Asked if there is any deeded crossing, Mr. Zajac stated his belief there is not.

The third portion of the project is the site plan. The property will be known as Map 1E/Lot 4-1. It is over 26 acres and will be the first phase of the Edgebrook project. There will be a new entrance drive known as Benning Court with a cul-de-sac turnaround at the end. It will be a private drive with utility infrastructure that will service current and future phases of the project.

The site can be broken up into two pieces; the upper portion that straddles D.W. Highway and a long private drive known as Pioneer Way that will wrap around down to the lower section. In the upper portion, building 1 (four story, 76 unit; mix of 1 and 2 bedroom) will be a multi-family residential building (elderly housing). There is a total of 116 parking spaces (72 surface parking/44 on lower level of garage). Access will be provided off both private streets (Benning Court and Pioneer Way).

When asked if the parking is sub-terrain or on-grade, Mr. Zajac responded it is almost a walk-out. There is a change in topography. On the upper side you will enter on the first floor level.

Mr. Zajac stated buildings 2, 3, and 4 are standard multi-family apartment buildings (156 units; 60, one-bedroom and 96 two-bedroom). Total of 287 parking spaces, which is about 1.84 spaces per unit. When asked, he indicated the buildings are not age restricted. There are 200+ surface parking spaces and each of the buildings has 26 parking spaces underneath.

The private street is about 1,800'. There is a roundabout provided at the end in the northeast corner of the site for emergency vehicles and bus turnarounds. A clubhouse building and patio area are located in the southwest portion of the site, and a fenced dog park in the northeast portion. The site has sidewalk and pedestrian connectivity throughout.

With regard to protection of natural resources and wooded buffers, the goal was for a compact design/footprint to minimize land disturbance and impacts to the existing wooded buffer. The project is fully away from Pennichuck Brook and its associated wetlands and wetland buffers. There is a considerable increase in open space compared to the CUP approved in 2014. They are seeking to

reduce the amount of impervious by limiting parking spaces. The multi-family requirement is 2.6 spaces per unit. Relief will be sought for that.

Snow maintenance, salt use, fertilizer use, will follow the recommendations typically set forth by the Town. The Green SnowPro program will be utilized for winter maintenance. Snow storage areas are not currently shown on the plan, but will be added. What has been heard is the desire for those to drain to stormwater practices and not be located on the perimeter of the site. That will be incorporated into the next round of plans. They have also noted fertilizers shall be no phosphate, slow release nitrogen fertilizer.

Commissioner Boisvert noted the plans referenced 10/10/10. Chair Perry noted there are also references to 14/14/14. Mr. Zajac stated that standard note would be removed.

With regard to stormwater, they do not believe quantity is an issue. Favorable soil conditions for recharge located throughout the site; deep sandy soils. The goal was to break up the drainage areas into small watersheds and use low impact design practices wherever possible to promote recharge throughout the site. There are a number of low spots and basins located throughout the site. There are two rain gardens located in the upper portions and two infiltration basins in the lower portion of the site (for large storms). They will ultimately discharge in a controlled manner into the brook.

Chair Perry requested the Commission receive a copy of the planting list.

Commissioner Tenhave noted the sewer easement that runs through the property (under parking lot). Mr. Zajac stated they would be looking to remove that, and his belief it was intended to service this and other parcels. It runs to an easement that follows the railroad tracks behind the former Nashua Corp. building. In 2014, the plan was to sewer through that existing public easement up to the treatment plant. That is no longer the case; they have to come up the hill with a private pump station. They will be tying into an existing storm main on the other side of D.W. Highway.

When asked if there are other easements that would be removed, he noted a number of existing easements (previously 5 parcels), e.g., cross-access and utility easements that existed between the various parcels (rights to drain from one parcel through the other). Those will be discontinued.

When asked how roof runoff is being addressed, he stated he majority of the roof is flat, the front is pitched, and those portions will flow onto the site (crushed stone, dripped edges). There are a number of roof drain services for each building that will pick up and convey the water either directly to a treatment practice right there next to it or into the onsite drainage system to drain downstream into another treatment practice.

Commissioner Tenhave asked, and was told all in road stormwater goes to a treatment facility of some sort. There will be berms, etc. to control the water.

Chair Perry questioned the language "reinforced turf fire lane". Mr. Zajac remarked it is another attempt to reduce the footprint. He met with the Fire Marshall regarding access behind the buildings. They wanted to lessen the look and feel. The current proposal is to use reinforced turf pavers; plastic sort of geogrid looking paver where certain sand and soils are used, and grass grows up through. There remains work to do to provide evidence of how that will hold up under winter conditions.

Commissioner Tenhave noted the open space west of the dog park. Mr. Zajac stated during the CUP approval in 2014, the abutters (Nashua Corp.) were opposed to the project. There has since been a private third-party settlement agreement between those properties and his client, which the Town is aware of. There are various scenarios outlined in the agreement that have resulting buffers, fences, etc. When asked if any of the agreements restrict paths or trails in the area, he stated the settlement agreement will govern, somewhat, the buffer closest to the property.

Dumpster pads will be in multiple locations on site. Asked if they would be bermed to ensure all flow is towards a treatment area, Mr. Zajac stated that to be the case. A look at the grading plan indicates all are pitched back into the parking lot.

Asked if the Commission would be provided a copy of the plan that will show snow storage, Mr. Zajac stated the plans are under review by Town staff and the peer review consultant. That information should have been included in the current plans as they will not be before the Commission again. The plan will be before the Planning Board on December 4th.

Commissioner Tenhave requested the Commission be provided with the stormwater management plan when available. Mr. Zajac stated a copy was submitted to Town staff. Commissioner Tenhave requested the department be asked to forward the summary. It was noted the plans will go before the Planning Board, peer review, DES Alteration of Terrain, and Shoreland Protection to look through the calculations. Commissioner Tenhave noted there to be no wetland or wetland buffer impacts.

Chair Perry reiterated the desire for the Commission to receive a copy of the snow storage plan as well as the planting plan.

NEW BUSINESS – None

OLD BUSINESS

1. Home Depot amendment of site plan

Chair Perry spoke of an email received regarding the salt storage assessment that was conducted. The Commission had requested monitoring wells around the site, which were used during construction and not monitored since that time. The request was that they monitor the wells for baseline purposes so that if a deicing compound were present it could be noted.

Chair Perry remarked the site plan will have to be changed. The limitations they have are on their site plan. They will need time to address this before the need for snow removal. Asked if there was anything on the amended site plan that concerned him, Chair Perry responded the Commission requested a storage plan for salt and deicing compound. They sent an email indicating what would be done. They were asked to have their contractor develop a plan to be included as part of the site plan indicating how salt storage and snow removal would be addressed. The property is in a pretty sensitive area (proximity to wells).

They were told the Commission would allow for pressure treated lumber outdoors because it is no longer force fed with the previous chemical formulation. Salt storage was the issue that was concerning. The site currently has a no salt use restriction. Having experienced issues with trips/falls, they would like to be permitted to store enough salt onsite to be able to treat walkways, loading dock, etc.

The Commission requested the item be placed on the agenda for the November 19th meeting to allow for further review.

OTHER BUSINESS

- Discussion on communications or correspondence received concerning regulated MCC activities and any issues concerning MCC managed lands

There being no objection, the Commission went out of the regular order of business by moving Subcommittee updates to the last item under Other Business.

- 2018 Annual LCIP Survey of Wasserman Conservation Area

The survey will be conducted on Saturday, November 10, 2018 beginning at 9:00 a.m. Commissioner Tenhave spoke with the neighbors who requested the visit to their property begin at the start of the walk. The Commission will meet at the parking lot.

The yearly walk is conducted to observe changes, address any issues observed, e.g., property line infringement, take photos, etc.

It was noted there are approx. 4-5 acres of Burning Bush on the property. They line the stream that feeds down from Naticook Road to Green Pond. It is likely some seed got in the brook, washed its way down and settled on the side.

- Sklar Work Day

Scheduled for November 17th beginning at 9:00 a.m.

Commissioner Rosati remarked Life Scout Sidhanth Dhanaraj will be before the Town Council on November 15th. Following that, he will have two days to provide the Commission with dimensions for the holes needed for his project. With use of the auger, the Commission can address that. Chair Perry suggested the Scout also provide Sonotube to be placed in the holes.

Commissioner Tenhave requested a map be drawn identifying where rocks should be placed. Chair Perry stated concern with rock placement at the trail heads believing that would encourage people to go on the other side of them. He suggested starting at the end and building up along the way.

The Commission will review the area during the work day to determine best placement. Councilor Albert stated his belief the Public Works Department (PWD) is ready to move the rocks when requested. Commissioner Tenhave reiterated the desire to be able to provide the PWD with detailed instructions (map) of where the Commission would like the rocks placed, depending on the number available.

Commissioner Boisvert suggested the Police Department be notified once the signs are installed.

The Commission returned to the regular order of business.

- Sub-committee Updates

Horse Hill Nature Preserve

The Sub-committee met and elected officers for the coming year; Peter Mikolajczuk was re-elected as Chair and Bruce Peterson as Vice Chair.

The Girls Scouts' walking stick project is progressing.

Commissioner Glenn noted work done around the Spalding foundation. It was unclear who had performed the work (cleaning of natural material around the perimeter).

It was noted the area was mowed a few days prior.

Commissioner Glenn commented users of the trails were asked to return the maps. They were being shoved in the mailbox, which resulted in it not closing and items getting wet. The suggestion of a separate mailbox may be the way to go. She expects to receive a call for additional maps at the Amherst Road kiosk.

Chair Perry questioned the number of maps that should be ordered/distributed. Councilor Albert commented on use of QR codes rather than paper maps. Commissioner Glenn noted it was tried, but the post numbers were not on the map. Chair Perry stated there is an ESRI app that can be downloaded and used to navigate on the map. Commissioner Rosati suggested small metal signs that could blaze the trail and serve as a reminder that the ESRI app could assist.

Wildcat Falls

The Sub-committee met on October 23rd. One of the issues discussed under winter activities is a full moon snow shoe hike in January or February. The problem is parking is not permitted in the evening. Parking could be at the High School. Councilor Albert suggested, as a Commission sponsored event, they should be able to make an exception to the dawn to dusk parking regulation, and that the Commission could notify the Police Department of the intent/event. Commissioner Tenhave stated the neighborhood should be notified as well. He commented the argument would be the Commission is encouraging people to go there in the evening hours. He noted, by going in at the High School, users would cross through the State land to get there.

Councilor Albert suggested the Police Department could make residents aware of the activity through their Facebook page and Nixle.

Commissioner Rosati noted the parking lot is rutted again. The Sub-committee questioned where the funding would come from for parking lot resurfacing, and if Wildcat Falls could be on the PWD early spring project list as the parking lot gets bad in the spring.

Chair Perry stated the only plan for the parking lot was reground (resurfacing). That requires a road project to be occurring in Town. Commissioner Tenhave clarified the material that would be used is generated as roadways are done in town. Chair Perry indicated he has spoken with Kyle Fox, Director,

PWD, and was informed it is on their list. When the department has projects in the area, they will address it. Another request could be made to ensure it is on the list.

Commissioner Rosati stated the Sub-committee questioned whether they might be able to gain another 6' in width in the parking lot. Were they able to do that, they could allow cars to parallel park on the other side. Chair Perry stated his belief the back side is as close to the water as it can get. The only way to gain 6' would be to push it closer to the neighbors.

Commissioner Tenhave stated he would be opposed to that. When Watson Park comes online it will be the second access to the property. Chair Perry questioned if opposition is to the increasing in size of the lot or pushing it closer to the neighbors. Commissioner Tenhave stated his opposition to be with the proximity to the abutters.

Chair Perry noted the parking lot was done in 2014. The desire was for the parking lot to be constructed in such a way that a fire truck could get through with cars in there. The parking lot was made larger, which was a very contentious issue. Efforts were made to avoid headlights shining in homes, etc. He spoke of sharing Commissioner Tenhave's concerns noting moving that berm closer to homes is something he could not support. A review could be conducted to determine if the roadway could be enlarged on the other side.

The Sub-committee discussed potential Eagle Scout projects. Sub-committee member Liz Petrides knows of an engineer who is willing to visit the area and provide recommendations (at no cost).

Discussion was had around the possibility of a viewing deck in the area of the dog beach. The exact location was unclear. Additional information will be provided.

The next meeting is scheduled for January 22nd.

Fields Farm

A formal Charter is in place for this sub-committee. It can start when members are appointed. Commissioner Tenhave noted interest has been stated by a few, but until the property is turned over, there will likely be no involvement.

Sklar Waterfront

This sub-committee does not yet have a Charter. Commissioner Boisvert spoke of two individuals who have indicated interest. It was suggested the Commission create the Charter and solicit volunteers.

Other

Chair Perry spoke of the map provided by GZA GeoEnvironmental, Inc., and questioned if Commissioners had comments. He indicated he would like to see designations for the identified properties, e.g., good for purchase, reclamation, etc. He suggested the Chapter 111 list be provided to GZA.

Commissioner Boisvert questioned the likelihood the Town Council would support an acquisition deemed desirable by the Commission noting his understanding the Council is of the opinion acquisitions are complete. Councilor Albert remarked that was discussed during the Retreat. He is open to hear anything, but the inclination of the Council, at the time, was there is enough property to be managed within Town. He remarked if something were to present itself that the Commission believed of value, it is important that be heard by the Council. Chair Perry stated there remain properties, identified within the Town Master Plan, that the Commission is still pursuing.

FY20 Budget

The Commission was provided with a list of the items identified under conservation included in the draft FY20 Town Budget.

Commissioner Tenhave commented some of the items listed are placed under conservation because they logically fit there; however, are not items/programs the Conservation Commission sponsors. Lay Lake Monitoring is for Baboosic Lake and the Commission has nothing to do with it. It is the largest budget item under conservation. The Commission has no interaction with them, does not look at the output of the reports, etc. Souhegan River Water Quality Testing and the Merrimack River Watershed Council are other programs he is not opposed to, but believes it should be made clear it is not the Commission that is advocating for those items in the budget.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. October 15, 2018

The following amendments were offered:

Page 2, Line 29; insert "be" before "infiltrated"
Page 3, Line 30; capitalize "Commission"
Page 4, Line 16; replace "October" with "November"
Page 4, Line 43; capitalize "Scout"

MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY COMMISSIONER GLENN
MOTION CARRIED
7-0-0

PUBLIC COMMENT

Michael Swisher, 22 Profile Drive

Commented he noted openings for alternate members on the Commission, and wished to observe a meeting. He questioned whether Commissioners have specific backgrounds that they bring to the Commission, and was informed most simply have an interest in serving the community. He commented on being familiar with the Fields Farm property having grown up in the area.

COMMISSIONER COMMENTS

Councilor Albert remarked he and Commissioner Perkins attended the seminar “Introduction to Conservation Commissions”. Listening to other Commissioners from around the State talk, highlighted the fact that the Merrimack Conservation Commission is very well run and integrated well with the Town departments and Town Council. The comments heard from others identified a lot of adversarial relationships.

Councilor Perkins remarked he had a similar experience at the seminar. He spoke of the list of top 20 resources provided by GZA noting it was obvious during the seminar that a lot of other towns don’t have the resources to have anything close to that done.

He participated in the wetland identification seminar, which he found to be fantastic. The gentleman that conducted the seminar has a passion for this and is incredibly informed.

Commissioner Glenn commented one of the sessions she took was about new wetland rules. They have been working on a project to standardize and streamline wetland rules. There was a lot of concern noted in the seminar that fewer items will be going through the Commission. The Commission will have to rely more on the Town to keep informed of issues put before it. Information presented during the seminar outlining existing versus proposed rules will be posted online shortly.

An example provided was that Shoreline and Shoreland applications, which are currently separate applications, will be able to be combined as a single application. The reasoning being NHDES has more time to conduct field work rather than processing paperwork. As an example a matter such as culvert maintenance would be identified as a standard process and would not have to get the level of review it currently does. There are 4 new Best Management Practice techniques. They requested information on how commissions would like to be notified of the rules that are put in place.

Councilor Albert commented Lamontagne Builders, Inc., and the Estate of John C. Foster, Jr. are looking to develop property that borders the wetlands around Reeds Ferry School, Pearson Road, Paige Drive, and Level Street. There are a number of lots. Residents are concerned about the wetlands. He stated his belief it is an issue the Commission needs to take a close look at.

It was noted that area has a great deal of beaver activity.

ADJOURNMENT

MOTION BY COMMISSIONER GLENN TO ADJOURN

MOTION SECONDED BY COMMISSIONER ROSATI

MOTION CARRIED

7-0-0

The November 5, 2018 meeting of the Merrimack Conservation Commission was adjourned at 8:27 p.m.

Submitted by Dawn MacMillan