



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

A regular meeting of the Merrimack Conservation Commission was held on Monday, January 27, 2020 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Matt Caron, Chair, presided:

Members of the Commission Present: Steven Perkins, Vice Chair
Gina Rosati, Secretary
Michael Boisvert
Gage Perry
Eric Starr, Alternate Member
Michael Swisher, Alternate member
Tim Tenhave, Alternate Member
Councilor Peter Albert

Members of the Commission Absent: Cynthia Glenn

Also in Attendance: Andy Prolman, Esq., Prunier & Prolman, P.A.
Dorinne Whynott, 257 Daniel Webster Highway

Chair Caron designated Michael Swisher to sit for Cynthia Glenn.

PUBLIC COMMENT - None

PUBLIC HEARINGS - None

APPOINTMENTS - None

STATUTORY/ADVISORY BUSINESS

- 1. Dorinne Whynott (applicant) and SAD Development (owner)** – Review for recommendation to the Planning Board for a dog daycare/training/boarding business. The parcel is located at 257 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation District. Tax Map 3D-2, Lot 036.

Andy Prolman, Esq., introduced the Applicant, Dorinne Whynott, Owner, Animal Care Center of New Hampshire, who is looking to expand her existing pet sitting business by opening a daycare and boarding facility. Conditional approval was granted by the Planning Board.

The daycare would be housed in a 6,600 sq. ft. facility on a site just under an acre in size. The proposal includes the addition of a 3,850+/- vinyl fenced play area on the east side of the building.

Dawn Tuomala, Deputy Director/Town Engineer, Public Works Department (PWD) expressed concerns relative to stormwater runoff, and has requested the catch basins in the back corner of the property (infiltrate under the parking lot and has overflow outlet that outlets to the northeast corner of the property) be capped (solid cover) and then have a drainage structure. Granite Engineering is reviewing that, and will

be designing what amounts to be a fancy septic system likely underneath the turf that will be in the back play area.

The applicant is proposing to operate daily from 6:00 a.m. to 7:00 p.m. with five full-time employees and one overnight employee. Services will be by appointment only.

The first floor will be for the boarding of dogs. The daycare facility will be in the lower level; series of 7 pens. Over the course of the day, the dogs are herded out to the play area through a garage door in the back of the property. To exercise and distract the dogs there are events that occur over the course of the day. The pens in the daycare are separated by 4' high solid fences. An animal prep area will be used for washing and brushing. There is a very small retail area up front.

Town water and sewer will be utilized. It may be necessary to dig up the road to install a larger water line coming in from the street to accommodate additional fire suppression requested by the Fire Department.

The fenced in area out back will have a locked gate to allow for emergency vehicle access and for the emptying of the dumpster that will be located inside the gated area. There is continuous dog feces cleanup. The site, both indoor/outdoor is cleaned with disinfectants (WysiWash).

Approval has been granted for 120 animals onsite at any one time (roughly 60 boarding/60 daycare).

Attorney Prolman stated the belief any concerns will be addressed through comments provided the PWD and with what Granite Engineering will be designing.

Commissioner Boisvert questioned if the fenced in area would remain paved and was informed the pavement would be removed and replaced with compacted dirt and a turf material cover.

Commissioner Boisvert questioned, and was told dog feces would be bagged and placed in the dumpster. The dumpster will be emptied as necessary. Chair Caron questioned if what is intended to be located under the turf is a leach field design. Attorney Prolman responded it will be the leaching field of a septic system. No storage tank. It was described to him as being like catch basins that lead to a large separator and leaching from there. A design has not yet been provided. It is a condition of Planning Board approval that be provided before work commence.

Asked if the design is artificial turf intended to be permeable atop soils that will be brought in to replace the pavement so that it will filter down before entering the aquifer, Attorney Prolman stated his understanding, based on the condition and the grade coming off of Star Drive and D.W. Highway that most of that back parking lot is fill anyway. The intent is for infiltration.

Commissioner Perry noted the WysiWash would get washed into the water and was told it is EPA approved for outdoor and indoor use.

Commissioner Rosati questioned if there is an area where grass is planned. Attorney Prolman noted the grass area between the parking lot and D.W. Highway as well as a small amount as you travel down Star Drive. Surrounding it, behind the parking lot, is all thick wooded vegetation that will not be touched. Asked if there are plans for fertilizer use, Attorney Prolman stated other than mowing the area in the front, no. Commissioner Perry stated the construction plan provided was for the former occupant, and has already been completed. Attorney Prolman stated it would not be touched as it is a good buffer from the propane tanks down the hill. Asked if there are internal drains, he stated his belief there are not. Asked

about runoff, he stated his opinion everything drains to the rear catch basin in the northeast corner of the parking lot behind the building. The engineers are going to have to account for roof shed and the asphalt in the parking lot.

Commissioner Perry remarked the building is not being changed. What is changing is the removal of impervious surface. Asked, he stated the vinyl/fenced play area would not be covered (open to the outdoors).

Commissioner Swisher noted material will be added, which may hump up, and everything from the driveway that was going to that corner may get diverted before reaching the area.

Chair Caron suggested what is being put in place will be as level as possible, and will be permeable. Attorney Prolman stated that to be the plan. Commissioner Perry questioned the amount of weekend traffic, and was told there would be dog boarding, a staff of 1, and a little turnover during the weekend, but not a lot of activity.

Training is done indoors, for safety purposes. The trainees are more of the human kind. Ms. Whynott commented it will most likely be after daycare hours. It could be on a Saturday (10 or less owners with their dogs).

Asked about snow and ice mitigation, Attorney Prolman stated it would be whatever is recommended by the contractor. He questioned the will of the Commission. Councilor Albert spoke of eco-friendly material. The Town is working towards a reduction in salt use. Chair Caron suggested the applicant seek out a contractor that has Green SnowPro certification.

NEW BUSINESS

There being no objection, the Commission went out of the regular order of business.

2. NH Fish & Game Operation Land Share – Landowner Relations Program

Commissioner Swisher noted he had questioned whether the program was open to municipalities. Participants must agree to allow the majority of a certain parcel to be open to hunting. In return, free signage is available.

Chair Caron commented most of the Commission property, by default, already qualifies. The conversation came up in the context of Beebe Lane. There are ready-made safety zone signs in addition to other signage the Commission could find useful. Asked if there are limits in terms of quantities, Commissioner Swisher stated his impression it would apply to acreage.

Councilor Albert questioned the amount of acreage being considered to be closed off and was told the focus in Grater Woods is around the end of the pond (1 acre). He spoke of being approached by residents expressing concern the Commission may consider trying to close off the entire area to hunting.

Commissioner Perry commented he does not believe anyone who has viewed any of the Commission meetings could reach the conclusion there is any attempt to be rid of hunting as an activity on the property.

Commissioner Tenhave noted the parcel in question is under the ownership of the Town not the Commission (managed by the Commission). He suggested a discussion take place with the Town Manager inquiring as to whether there is the need to go before the Town Council.

Councilor Albert suggested the Commission make a request of the Conservation Officer to focus attention in this area ahead of the next duck season. Chair Caron noted the suggestion that the Conservation Officer visit the site next September to meet with the neighborhood.

Vice Chair Perkins spoke of having reached out to Shawn MacFadzen, Conservation Officer, and of having shared with him the discussion that occurred. He provided him with photos of issues around the Sklar property. He was pleased to learn Mr. MacFadzen was aware of the situation and had visited the area last fall and last spring during which he issued citations. He expressed being eager to participate in a ride-a-long.

Vice Chair Perkins volunteered to keep Mr. MacFadzen apprised of issues that come up in discussion.

Chair Caron noted the back side of the maps include information on permitted uses. Hunting, for most of the properties, is included on that list. The signage would reinforce that. The safety signage is what is needed in the Beebe Lane area.

Commissioner Tenhave spoke of the need to have an update of the map to include the safety zone.

Once provided with approval to move forward with participation in the Program, a discussion regarding a map update could be placed on a future agenda.

Councilor Albert questioned if the Commission approved adding the QR codes to entrances to Commission properties. Commissioner Perry stated that information is on the current maps. It was suggested they be placed on the kiosks as well.

Chair Caron noted the school already has a safety zone around it, and suggested, if calling out one safety zone area on the map, they should all be called out.

Chair Caron indicated he would reach out to the Town Manager for approval to participate in the program, Commissioners will review the sign options, and an update to the map will be discussed at the next meeting.

3. Wildcat Falls Moonlight Snowshoe Walk – tentatively February 8, 2020

With no snow in the immediate forecast, the date is on hold.

4. 2020 Membership Donation – Society for the Protection of New Hampshire Forests

Chair Caron spoke of prior donations; \$250 in both 2018 and 2019.

MOTION BY COUNCILOR ALBERT TO RENEW THE ANNUAL MEMBERSHIP TO THE SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS IN THE AMOUNT OF TWO HUNDRED FIFTY DOLLARS (\$250.00). FUNDING SOURCE IS THE GENERAL OPERATING BUDGET
MOTION SECONDED BY COMMISSIONER PERRY

ON THE QUESTION

Commissioner Tenhave commented on the funding source being that of the Town budget. The funding has been allocated, and the requirement is for approval from the Commission for the expenditure to be made.

He commented on the plaque received the previous year recognizing 20 years of participation.

MOTION CARRIED

7-0-0

The Commission returned to the regular order of business.

1. MCC Parcel & Acquisition Process

Commissioner Tenhave reviewed the procedure the Commission established in 2013 for the way in which parcels will be reviewed for acquisition/donation. The Parcel Assessment Tool was created to provide a consistent way of evaluating properties:

Acquisition Assessment

- Is the parcel supportive of all elements of the RSA on Land Use Change Tax (LUCT) (work/recreation/ecosystem conservation)
- Is the parcel part of an identified Conservation Focus Area (CFA)

That comes out of the 2010 [Biodiversity Plan](#) (Plan) created in concert with the Moosewood Ecological LLC.

- Does purchasing the parcel help to increase contiguous acreage for existing properties in the CFA
- Is the parcel in an area under high development pressure

There could be a parcel that is in the CFA, but is not under development potential.

- If parcel is not acquired and left for development, could it affect the acquisition efforts on other parcels that would increase contiguous acreage of the CFA

There may be the desire to obtain a parcel because it is the access to other parcels.

- Does the parcel increase access opportunities for other MCC properties

Conservation Easement assessment after doing Acquisition Assessment

- Does parcel contain structures
- Is the owner interested in an easement and its benefits
- Is there a low potential for development

The Plan identifies five (5) different CFAs; properties along the Baboosic Brook corridor, Grater Woods, Horse Hill Nature Preserve (HHNP), Souhegan River corridor, and Merrimack River corridor.

Identification of a CFA involves co-occurrence scores (analytical tool that uses data to determine where various levels of natural resources occur in unison or overlap), what the State has viewed as wildlife protection areas, etc.

The 2013 [Master Plan](#), Section 5.2 – Natural Resources Goals, identifies the goals for natural resource as:

- Continue to preserve significant parcels of land to along the Merrimack and Souhegan Rivers, Grater Woods and Horse Hill to enhance biodiversity, recreational opportunities, and water quality.
- Integrate biodiversity protection and land use through Merrimack’s land use regulations.
- Protect the quality of water in Merrimack’s rivers and ground water supplies through effective stormwater management practices, subdivision regulations, and design.
- Develop community-wide environmental awareness of open space and forest conservation and practices that protect water.

As part of the Town’s Master Plan, these and other goals should be reviewed by the Planning Board and Planning Department when development approvals are considered.

The 2002 Master Plan created a target list of parcels that should be looked towards for conserving:

Tax Map/Lot #	Acres	Description
3B/201	26.0	Abuts Horse Hill Nature Preserve, and would provide buffer from residential development for these parcels.
6E-1/64	1.8	Small thin parcel located on the bank of the Merrimack River.
3D-1/3	30.8	A key shoreline parcel along the Merrimack River. Historically the Thornton’s Ferry area.
5D-1/3	4.7	Located at the confluence of the Souhegan and Merrimack Rivers. Key parcel for trail network.
5D-4/78	8.6	Located at the confluence of the Souhegan and Merrimack Rivers. Key for greenway network.
5D-4/100	1.0	Small parcel along Souhegan River. Trail potential.
5D-2/4	23.1	Located on the northern bank of the Souhegan upgradient and in the WHPA for wells # 4 and 5. Very important for groundwater recharge.
6E/6	7.9	This parcel would provide additional access to the Merrimack, with potential for trails & boat access.
6E/8	0.8	This thin parcel could be a link in a potential Merrimack R. greenway/trail system.

Some of the identified parcels have since been purchased and conserved.

The Acquisition Reference ties in with the [RSA](#) for Land Use Change Tax (LUCT), and was used when creating the Parcel Assessment Tool. It addresses wildlife corridors such as the Merrimack River corridor, which are important to allow wildlife to travel safely through the landscape. These corridors are not only important to larger mammals but also to smaller wildlife such as amphibians, reptiles, and migratory birds.

The purpose of the RSA: “providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources.”

The majority of the funding the Commission receives has come from the LUCT. When people take open space away for development purposes, those tax dollars are utilized to acquire more open space.

The Commission is working with GZA GeoEnvironmental to assess properties in Town to identify those which would have the greatest potential for application to the Aquatic Resource Mitigation (ARM) Fund. Those identified as having the highest value include the Grater Woods CFA, HHNP CFA, Souhegan River, etc. The properties identified by GZA align with those identified in the Plan. The Commission may wish to include the information obtained from GZA as part of the Assessment Tool.

Chair Caron suggested a future agenda include discussion of the 8 properties identified on the list to determine whether they align with those identified by GZA, and begin an application to the ARM Fund.

Councilor Albert questioned if there is an anticipated amount of revenue each year from the LUCT and was informed there is not. Commissioner Perry stated there to be a chart of the properties remaining in Town that fall into that category. That is all that can be used as a forecast. When the properties are sold, the revenue is received by the Town.

Commissioner Tenhave noted the Assistant Town Manager/Finance Director could provide information on what the Commission has received from that funding source in recent years. The Town Council has capped the amount of revenue earmarked for the fund to be 50% of revenue generated through LUCT providing the balance of the fund remains under \$1 million. With the development of the Merrimack Premium Outlets parcel the fund reached its limit. The Commission has since utilized some of the funding to purchase other properties. Chair Caron noted the total revenue that could be generated from all remaining parcels in current use would be less than that which resulted from the Merrimack Premium Outlets parcel.

Chair Caron stated his belief the 2 or 4 parcels along Continental Boulevard where construction is beginning had been in current use and would result in revenue to the fund.

OLD BUSINESS

1. Amend vote to expend funds for the 2020 Seedling Giveaway

Chair Caron spoke of the previous vote to expend an amount not to exceed \$450.00. However, an adjustment was made to the mixes resulting in a final invoice of \$460.00.

MOTION BY COMMISSIONER PERRY TO RECONSIDER THE VOTE TAKEN ON THE APPROVAL OF THE EXPENDITURE FOR THE MAY 9, 2020 SEEDLING GIVEAWAY, AND APPROVE THE EXPENDITURE OF AN AMOUNT NOT TO EXCEED FOUR HUNDRED SIXTY DOLLARS (\$460.00). SOURCE OF FUNDING IS FUND 53

MOTION SECONDED BY COMMISSIONER ROSATI

MOTION CARRIED

7-0-0

2. Fields Farm Canoe Launch

Councilor Albert commented on the recent review of the proposed FY21 budget for the Public Works Department. The department has proposed an expenditure of \$50,000 for the Seaverns Bridge Road canoe launch. He had expressed concern that funding may have to continue to be put towards this location because of erosion.

Kyle Fox, Director, PWD assured him most of the issue will be addressed. However, he also spoke of consideration, at one time, of a canoe launch at Fields Farm. Commissioner Tenhave has provided him with information on what creating a canoe launch at Fields Farm would entail.

Commissioner Boisvert stated agreement with the information provided by Commissioner Tenhave, e.g., at this time, a project of that magnitude is not something that is anticipated. Commissioner Perry spoke of the development challenges of creating access to the water from the parking area, and the issue of parking itself. The parcel has some restrictions relative to motorized vehicles. Councilor Albert commented with the information he was provided he now understands the challenges of a boat launch in that area (distance of approx. 800' to the water).

Commissioner Tenhave noted the Commission has not yet explored what NHDES would impose for rules knowing it is a protected river. The bank would be impacted in some way were a canoe launch put in.

OTHER BUSINESS

1. Discussion on communications or correspondence received concerning regulated Commission activities and any issues concerning Commission managed lands.

Chair Caron spoke of an invoice received from Beaver Solutions for the 2020 Maintenance Plan. The cost of the plan is \$1,020.00.

Commissioner Tenhave spoke of the issues that were experienced in a number of places in Town relative to beaver controlling waterflow. When the beavers were damming, it was causing water to back up into different places, e.g., Naticook Road, Mayflower Drive. Beaver Deceiver devices were put in place to address the issue. The devices are designed to ensure water always flows through a dam. Depending on where you set the outlet pipe will determine the depth of the pond/stream. It all works hydraulically. When beavers hear running water their instinct is to block it up thinking that all the water is going to leave their dam. The device deceives them, and they don't really know where the water is leaving, they get used to the level, and build their huts around that level as opposed to creating a new level. The water always flows, but the rivers/lakes remain at a constant height.

Beaver Solutions is onsite twice a year to check the pipes for deterioration (under warranty), will make repairs, clean out areas, etc.

Chair Caron spoke of the success of the work that has been done and the maintenance that continues to serve the Commission/Town well in addressing the issue.

MOTION BY COMMISSIONER ROSATI TO APPROVE THE 2020 MAINTENANCE PLAN WITH BEAVER SOLUTIONS, LLC AND AUTHORIZE THE PAYMENT OF ONE THOUSAND TWENTY DOLLARS (\$1,020.00). FUNDS ARE AVAILABLE IN FUND 53
MOTION SECONDED BY COMMISSIONER PERRY
MOTION CARRIED

7-0-0

2. Sub-Committee Updates

Wildcat Falls

Commissioner Rosati spoke of a meeting conducted on January 7th, and the identified need for additional maps. Commissioner Perry will share the information on the quote that has been provided. He will look into whether the maps could be received in time for the Winter Carnival.

The topic will be placed on the agenda for the Commission’s next meeting.

Grater Woods

A meeting is scheduled for January 28, 2020 at 6:30 p.m. in the Merrimack Memorial Conference Room.

Horse Hill Nature Preserve

A meeting is scheduled for Monday, February 3, 2020 at 6:30 p.m. in the Merrimack Memorial Conference Room.

PRESENTATION OF THE MINUTES

Merrimack Conservation Commission. [January 6, 2020](#)

The following amendments were offered:

- Page 6, Line 31; insert “viburnum” following “maple leaf”
- Page 6, Line 38’ change “May 3” to “May 9”

**MOTION BY COMMISSIONER ROSATI TO ACCEPT, AS AMENDED
MOTION SECONDED BY CHAIR CARON
MOTION CARRIED**

6-0-1

Councilor Albert Abstained

PUBLIC COMMENT – None

COMMISSIONER COMMENTS

Councilor Albert noted the Town Council reviewed the proposed FY21 budget for the Conservation Commission the prior Wednesday. There were no questions posed.

During the PWD presentation there was discussion of funding that had been set aside for a boat ramp at the Waste Water Treatment Plant. The idea has been abandoned as it is not feasible. The Director commented the funds would likely be utilized for the boat ramp at the Sklar property (Town portion).

Chair Caron commented if the department was able to construct a ramp like the one at Naticook it would be incredibly helpful. He commented on members of the Commission being present onsite when a truck got stuck in the boat ramp and had to be towed out.

Commissioner Rosati questioned the will of the Commission relative to reaching out to Anita Creager, Historical Society, to inquire about a historic marker at the Sklar property. The Commission was supportive of the idea.

Commissioner Boisvert commented on having had the opportunity to get out on the frozen ponds to view some of the duck boxes. Both had eggs; one hatched and one not. Chair Caron informed the Commission the contractor who builds the boxes is forwarding information on how to remedy the issue with the unhatched eggs. He noted a lot of the time when there are more than 4 and unhatched eggs, it is because two hens laid in the same box, battled, and then left the eggs. He is also going to provide bedding for all boxes.

Commissioner Starr questioned the will of the Commission relative to discussion of an internship type arrangement where the Commission would work with high school students, e.g., conducting ecological surveys and in the process teaching the students how to conduct scientific work relative to the properties. He stated a willingness to research similar programs to help determine feasibility.

Commissioner Perry spoke of efforts in that regard, e.g., Outdoor Classroom, and a desire to put such an effort forward again.

The consensus of the Commission was supportive of any way to engage the youth of the community.

ADJOURNMENT

MOTION BY COMMISSIONER PERRY TO ADJOURN

MOTION SECONDED BY VICE CHAIR PERKINS

MOTION CARRIED

7-0-0

The January 27, 2020 meeting of the Merrimack Conservation Commission was adjourned at 8:30 p.m.

Submitted by Dawn MacMillan