

CONCORD CONSERVATION COMMISSION
REGULAR MEETING
MINUTES
June 14, 2017, 7:00 p.m.
Second Floor Conference Room, City Hall, 41 Green Street

Members present at the meeting included: Kristine Tardiff, (Chair), Jim Owers (Vice Chair), Councilor Mark Coen, Jeff Lewis, Chris Kane, Katherine Healy, Jan McClure (alternate), and Stefan Mattlage (alternate). Assistant City Planner Beth Fenstermacher and Administrative Specialist Lisa Fellows-Weaver were also present.

1. Minutes

May 10, 2017

A motion was made by Mr. Lewis, and seconded by Ms. Healy, to approve the May 10, 2017, minutes. The motion passed unanimously.

2. Jeff Littleton and the Moosewood Ecological team to discuss the final revisions to the Conservation Open Space Plan Update

Jeff Littleton was present along with Carol Ogilvie and Anne Dealy. Ms. Dealy presented an overview of the draft online version of the Open Space Plan, which she described as a story map or an interactive viewing plan. She showed how the various maps for focus areas of the report were interactive, and briefly illustrated how to move through the many sections of the plan.

A discussion was held regarding rearranging Sections 9.1 and 9.2 to help clarify the difference between existing policies and proposed goals. One suggestion was to re-structure these two sections to be “existing” and “recommendations for implementation and actions”, and to reference the goals of the updated plan to better differentiate between existing and proposed. Ms. Fenstermacher, Ms. McClure, and Ms. Tardiff will continue to edit this section and have final revisions provided to members tomorrow for final review.

The Commission thanked the Moosewood Ecological team for their excellent work and patience throughout the Open Space Plan update process.

3. Brendan Quigley, Gove Environmental, and Jeff Lewis, Northpoint Engineering, on behalf of Concord Orthopaedics to discuss Easement revisions, stewardship fees, and access agreement

Jeff Lewis recused himself from the Commission for this project.

Jeff Lewis of Northpoint Engineering and Brendan Quigley of Gove Environmental were in attendance. Tim Paris on behalf of Concord Orthopaedics was also present.

Mr. Quigley reviewed the plan showing where the conservation easement and the 15’ wide pedestrian access easement are proposed. He explained that the pedestrian access is proposed to provide access from Pleasant Street to the easement area. The public access area is located along the western property line, and aligns in places with the existing gravel drive. Photos of the area were reviewed. Mr. Quigley stated that they continue to work with NHDES and with the Commission regarding the easement and deed wording and the public access to the site. He explained that the easement deed will include wording for the access for the City as the easement holder for the monitoring and other duties related to the stewardship of the property.

Discussion continued regarding the two different access types. Mr. Quigley added that there has been interest expressed by the Commission for public access to be located off of Pleasant Street, most will be from *White Farm* area, with a separate entity to protect that access. Progress has been made for an

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acceptable document and has been presented to the City solicitor for review. He stated that they are waiting for an amount for a stewardship contribution for the monitoring and, to date, there has been no recommendation or requests received from the Commission.

Mr. Quigley noted that the existing fence on the edge of the existing driveway area may need to be removed or altered to have a safe slope for public access. He added that the existing shed would need to be moved as well. Mr. Paris explained that the proposal is for the conservation and access easements to be separate documents so that they have the ability to modify the public access location in the future due to future development and safety factors. The conservation easement cannot be modified after it is recorded. Both easements will be linked. Ms. Fenstermacher noted that the easement holder is responsible for maintenance for the public access.

Ms. Fenstermacher stated that she has spoken to Five Rivers regarding how to calculate stewardship fees. The minimum is \$5,000 for a conservation easement, with \$7,500 as a typical fee; however, it could be more depending on the complexity of the easement. Members recommended \$7500 and felt that the amount was a reasonable cost for stewardship fee for this easement.

Members agreed that the applicant's legal counsel can address the City's counsel directly and provide revisions back to the Commission for next month. Ms. Fenstermacher stated that once the legal agreements are provided she will execute through the City Manager's office, the City Surveyor will address the pedestrian plan, and she will present to City Council.

Resident Claudia Damon expressed concern with the public access and parking. Ms. Tardiff replied that at this time there is no proposal for trails in this location and there is no anticipation of a parking area.

Ms. Damon asked about mitigation standards. Mr. Quigley explained that this is a State standard and a parcel does not necessarily need to be a developable parcel for mitigation.

Resident Laura Bailey asked about the process of flagging wetlands and the overall application process. Mr. Quigley explained all wetlands in this site were flagged by him and were surveyed by a land surveyor. He provided an explanation of the application requirements and timeline. He stated that the application was originally submitted in April and DES must provide comments by July 8.

Ms. Bailey asked about the process of determining invasive species on site. Ms. McClure explained that there is a methodology in evaluating functions and values of wetlands. A wetlands scientist determines what values and functions are lost and what the mitigation must provide for that loss. Mr. Quigley added that this easement is intended to be in perpetuity.

Resident Meagan Ryder, asked about the possibility to have the easement and not have access from Pleasant St. She reiterates concerns of safety and the value in the access, which will then draw pedestrians. Mr. Owers commented that it is still a good option to have the easement and the rights for the future, even if they have no plan to use the access at this time. Ms. Tardiff added that there is no question that parking is a big issue, and this will be addressed in the future if the City decides to go forward with constructing a trail.

The members will review the easement documentation. Overall, the general consensus of the Commission is to hold and be responsible for the easement.

Jeff Lewis returned to the Commission as a voting member.

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4. Nick Golon, TF Moran, on behalf of Eversource Energy requesting an amendment to the conditions of a previously approved Major Site Plan and Conditional Use Permit for the purpose of conveying a Conservation Easement instead of an in-fee land transfer at 40 Farmwood Road.

Nick Golon met with the Commission on behalf of the applicant, Eversource Energy. He explained that this is a request for a modification to a previously approved Conditional Use Permit (CUP), which was approved with the 2013 Major Site Plan and included a condition stating that “prior to the issuance of a certificate of occupancy or use of the site, the area of the property located north of Farmwood Road, and westerly of the existing power line right-of-way, shall be conveyed to the City for conservation purposes as mitigation for the extensive wetland buffer impacts.” The applicant is requesting to convert the previously planned in-fee land transfer via subdivision to a conservation easement.

The Planning Board granted Major Subdivision approval to Public Service Co. of New Hampshire (PSNH) on September 18, 2013, for the construction of a four terminal 115 kV switching station within a fenced 330’ x 345’ gravel yard. A CUP was granted for the disturbance of 101,713 square feet of wetland buffer for the construction of the station and access roads, and for disturbance required for the connection to the Oak Hill Substation and existing transmission lines. The Conservation Commission recommended that the Planning Board seek mitigation for the extensive wetland buffer impacts related to the project. At that time, City staff suggested that the two areas of the property located north and south of Farmwood Road and westerly of the existing power line right-of-way be conveyed to the City for conservation purposes as mitigation for the wetland buffer impacts. This conservation land would connect already protected lands to the north and south.

Based on recommendations from the Conservation Commission and City staff, the Planning Board placed the condition to convey the land for mitigation for wetland buffer impacts on the Conditional Use Permit. In compliance with this condition, PSNH proposed to subdivide from their existing 64.44 acre lot a 12.507 proposed conservation parcel and convey said parcel to the City of Concord. The Conservation Commission reviewed the donation of land and voted unanimously to recommend that the land be accepted. The subdivision plan was approved by the Planning Board at the December 18, 2013 meeting. City Council passed a resolution on January 13, 2014 authorizing the City Manager to accept a gift of 12.507 acres of land from PSNH for conservation purposes and to merge the parcel with adjacent City properties.

In May 2017, Eversource Energy submitted a Major Site Plan and CUP application to expand the existing substation. It was then discovered that the subdivision plan and executed Warranty Deed with Conservation Restrictions had never been recorded. Planning staff notified the applicant that the subdivision plan shall be recorded to meet the conditions of the previous site plan application. In addition, tabulations for the 2017 site plan application shall be based on the subdivided lot size and not the original 64.44 acre lot size.

The applicant submitted a Major Site Plan Application in May 2017 to expand the existing substation and gravel area. The application tabulated the proposed lot coverage as 10% utilizing the 64.44 acre lot size, which meets the maximum lot coverage for the Residential Open Space District. The proposed lot coverage tabulated with the correct 51.93 acres would be 13%, exceeding the maximum lot coverage allowance. Planning staff recommended that the applicant either re-design the expansion to reduce lot coverage or request a variance for lot coverage. The Applicant indicated that re-design was not possible, and instead is requesting this amendment to convey an easement on the 12.507 acres so that the entire

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64.44 acre lot can be accounted for in the lot coverage tabulations. If this request is approved, a variance will not be required.

Members of the Conservation Commission expressed concern about the lower value of the easement to the City versus the value of the in-fee ownership of the land. Concern was expressed about increased monitoring and management responsibilities associated with an easement, which could potentially incur additional costs for the City in the long run. Additionally, members had concern that a decision was made and accepted on behalf of the public in 2013, and that decision should be upheld. Other members felt that the easement was more desirable, but agreed there would be an increase in costs for monitoring. It was suggested that the City request payment of stewardship fees. There was considerable discussion about the benefits of the City's ownership of the land versus holding an easement.

In response to these discussions, the Eversource representative made a proposal to provide monetary compensation in the form of stewardship fees and the difference between the in-fee land ownership and easement value, in addition to conveying the Conservation Easement. They also agreed to pay for the appraisal to determine the difference in value.

At the conclusion of the discussions, the Commission members were presented with 2 options:

1. Move forward with the original plan to subdivide and convey the land via in-fee transfer with conservation restrictions, or
2. Accept the Conservation Easement along with stewardship fees and a monetary contribution equal to the difference in value between the land and the easement value.

Under either option, the Conservation Commission would oversee either the management of the land or of the easement.

Ms. McClure made a motion, second by Mr. Lewis, to require the subdivision and in-fee land transfer to be consistent with the 2013 agreement. The motion passed with a vote 5/3.

5. **NHDES Items** – Nothing to report

6. **Reports**

a. Trails Committee – Nothing to report

b. Upper Merrimack River Local Advisory Committee – Nothing to report

c. Contoocook and North Branch Rivers Local Advisory Committee – Nothing to report

d. Forestry - A copy of the monthly forestry report was distributed for review.

e. Street Trees – correspondence from Lisa Bissonnette re: Commercial Street was distributed.

Ms. Fenstermacher stated that she does not believe that this is City owned property and will check into.

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7. City Council/Planning Board

Councilor Coen distributed copies of “Destination Concord”. He highlighted the accomplishments of the Commission noting the great work that this Commission does and value for the City.

8. City Open Space

a. Oak Hill Road Property (Paul Morrisette and Five Rivers)

Ms. Fenstermacher provided an update for the proposed easement for the Oak Hill Road property. Members commented that this is a value to the City and supported Five Rivers going forward with the easement.

9. Follow-up/On-going Items:

a. Riparian Plantings Update

Mr. Kane provided an update regarding the property on Gully Hill Road. He stated that the farmer has seeded buffers and reported that he noted that a vehicle has driven through the area, and he will follow up with the farmer.

10. Other Business

a. DRED/OEP

Ms. Fenstermacher stated that she met with DRED and OEP today regarding the Rossvie Farm and they discussed signage updates for the trails. She noted that the Forest Management plan has expired and the State is responsible for following up with the update of this plan.

b. Concord Trail Passport Program

Ms. Fenstermacher provided members with the Hike for Health Passport Program information packet. She stated that this was a group effort with the Capital Area Wellness Coalition, Center for Health Promotion, and herself.

11. Non-public session for the discussion of the acquisition of conservation property in accordance with RSA 91-A:3, II(d) – not required

There being no further business, **Mr. Lewis made a motion, second by Ms. Healy to adjourn. The motion passed unanimously at 10:10 p.m.**

Respectfully submitted,
Lisa Fellows-Weaver
Administrative Specialist