

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

November 10, 2021, 7:00 PM

Council Chambers, 37 Green Street

Attendees: Chair Kristine Tardiff, Councilor Brent Todd, Members Jeff Lewis, Kathy Healy, Chris Kane, and Alternate Emily Landry

Absent: Vice-Chair Jim Owers, and Rick Chormann

Staff: Beth Fenstermacher, Assistant City Planner  
Lisa Fellows-Weaver, Administrative Specialist

Public: Rebecca Ross

**Call to Order**

The meeting was called to order by Chair Tardiff at 7:00 p.m.

**1. Minutes**

***October 13, 2021***

A motion was made by Mr. Kane, seconded by Mr. Lewis, to approve the minutes of October 13, 2021, with minor edits that do not alter the content of the meeting. The motion passed unanimously.

2. TFMoran, on behalf of Barn at Bull Meadow, requesting a Conditional Use Permit to disturb approximately 3,975 sf of the 50-foot wetland buffer for the construction of a single-family home with garage underneath at the existing Barn at Bull Meadow facility at 63 Bog Road.

Nick Golon of TF Moran represented the application.

Mr. Golon stated that the project is an amendment to a previously approved Major Site Plan to add a 1,300 sf garage and a two bedroom apartment. The garage will allow for storage of venue related items as well as maintenance equipment for the general upkeep of the property. The facilities manager will occupy the apartment, which will also add security for the venue. He explained that a variance was granted for the residential use.

Mr. Golon reviewed the buffer impacts noting that there are wetlands on either side of the project area and the existing rail trail nearby. He stated that the project location is equal distance between the wetlands, to minimize impacts. He stated that the drainage systems have been evaluated and there will be no impacts with the added building and paving. An amended AoT permit is not required to be filed as the project qualifies for deviation.

Ms. Tardiff asked if this new structure was a part of the original plan. Mr. Golon replied that there was no additional building proposed with the original site plan. However, he mentioned that there was an old foundation remnant removed as part of the original site plan in this location. The owners have realized it would be best to have a caretaker on site for security purposes.

Ms. Tardiff expressed concern with the proposed location. Mr. Golon explained the elevation of the site noting the raised grade, everything is on a natural slope away which provides a positive pitch for the drainage. He added that the proposed location is the least amount of buffer impact. He acknowledged that staff suggested that they modify the seed mix for the disturbed areas to be more native grass and wildflowers instead of lawn, and agrees to make that revision.

Mr. Lewis asked what the total impact was. Mr. Golon replied the original buffer impact was 104,592 sf and the new structure is a 4% increase. Mr. Lewis recommended that Engineering review for storm

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water.

Mr. Lewis asked about future additions to the property. Mr. Golon replied that this was a new venture for the applicants and they are realizing that it is important to have an onsite presence, and don't anticipate any additional site improvements.

Additional discussion was held regarding the location and buffer impacts. Mr. Golon stated that the proposed location is the area with the least impacts. He stated that this is also the best area and is not visually intrusive to the venue. He explained that the area was previously impacted and by the original site plan. The area is also readily accessible to the existing utilities. Mr. Golon stated that eliminating parking is not an option as there have been some issues with parking.

Mr. Lewis stated that he would prefer this impact rather than having the house encroaching on other areas of the site. He asked if this location were to not be approved where else would it be placed on the property.

Ms. Tardiff stated that she has concerns with the overall project and the proposed structure; however, the proposal does not change the site.

Mr. Kane asked if adding the residential aspect changes the use at all. Mr. Golon replied that the variance obtained was a limited variance intended for a caretaker only, which does not change the use.

A motion was made by Mr. Lewis, seconded by Ms. Healy, to recommend approval of the Conditional Use Permit allowing the disturbance of approximately 3,975 sf of the 50-foot wetland buffer, as presented, and that the stormwater design be reviewed by Engineering. The motion passed; 4/1. Mr. Kane was opposed.

**3. Review of Proposed Ordinance Revisions – Cluster Subdivision and Buffers**

Heather Shank, City Planner, met with the Commission to review aspects of certain ordinances with the hope that changes could be made to allow flexibility to cluster design standards and overlay districts.

Ms. Shank stated the main intent is to allow more flexibility to create cluster developments with as many units as possible. She stated that with the current implementation of a cluster design there is no density bonus but there are still open space designs. She explained that if a major subdivision development is proposing a new road or a shared common drive they are currently required to provide open space and can then get the density bonus; if there is no new road required there is no density bonus; however, the proposal will still be required to provide open space. For a minor subdivision with no road there would be no open space required and no density bonus. She stated that this is designed to prevent over densifying an area and having many small "scrap" lots. She mentioned that flexibility could be proposed in other ways such as minimum lot size, frontage, and setbacks requirements.

Ms. Fenstermacher referenced open space requirement criteria that has been outlined in another municipality's ordinance, beyond just listing buildable area requirements. She recommended that Concord consider including a similar list, which includes protecting riparian and other resource buffers; high quality forest resources; critical habitat; high quality soils; viewsheds, and existing recreational trails. This information is already included in the Open Space Master Plan, and could be

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referred to when designating open space areas in future subdivisions. These changes would help create better easements to meet Commission goals.

Discussion continued relative to flexibility with the required perimeter buffers and whether they could be reduced via Conditional Use Permits to provide flexibility for the Planning Board. Mr. Lewis suggested using design review to identify areas to protect before the applications are submitted. Ms. Shank explained development team meeting processes and how most developers already come before staff prior to submission; however, there is no guarantee that the developer won't have to return to a board/committee once the application is submitted.

Councilor Todd stated that Concord is extremely lucky. Concord has 64 square miles, which is more than any other community in NH; of that approximately 50% is undeveloped. He continued to state that there is a need for housing and asked how planning should begin for the future and what happens now will impact the next 20 years. He stated that this is very important work for the Conservation Commission and he encouraged the Commission to continue their work and discussions.

Ms. Shank stated that in terms of future goals of the Code, there is no plan to change the boundaries of the urban growth boundary; it is not the purpose to change the infrastructure and utilities. The intent is to maintain the intent of RO district. She explained that when the State mandated ADU's and the City implemented it, it was done in the most restrictive way. Other communities were more encouraging and have had a lot of success. She added that in the proposed ordinance ADU's are allowed in the RO district; other districts allow more.

Further discussion ensued regarding whether the Board can request applicants to complete a Natural Resource Inventory (NRI) as guidance when selecting open space areas for cluster subdivisions. This would be similar to the process for Traffic or Water Studies that the Board can currently require. Ms. Fenstermacher can work on a list to add as guidance for applicants.

The Commission discussed the submission process of the planning division's applications and how applicants meet now with other committees before proposing a project. Members expressed concern with the time the review process may take or if an applicant will be delayed. Mr. Lewis suggested that the Commission create a list of what the Commission would like to see in projects as it will aid the developer and timing. Ms. Shank stated that the process will change with the new code and it will make it easier for developers.

Ms. Fenstermacher spoke to the wetland buffers. She stated that there is no proposal to change the buffer distance of 50 ft at this time; the proposed changes will provide guidance to help the Commission and Planning Board make decisions. She suggested adding a 25' no build setback within the buffer and asked the Commission if these seems reasonable, or choose another amount of feet. Further, she is suggesting revisions that will address impervious surfaces: either, there can be no net increase of impervious surface, or an applicant can propose mitigation in the form of rain gardens or additional plantings, if it is not possible to reduce the amount of impervious surface. This will give the Commission and Board ability to require mitigation for the CUP approval. Mr. Lewis thought these suggestions made sense, and asked if the Commission would have the opportunity to review the actual ordinance language. Ms. Fenstermacher said she would revise the ordinance language and will bring it back. The purpose of this discussion was to get initial reactions to the proposal.

Ms. Fenstermacher stated that with the Shoreland Protection, the State makes these requirements. She explained that the Commission can make the requirements more restrictive than the State. She

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discussed a few items that the State allows within the buffer, but the City does not list those allowed uses in the existing ordinance: agriculture and water based accessory structures. A brief discussion was held regarding allowing accessory structures within the buffer. Members supported this revision to match the State allowances.

Ms. Fenstermacher stated that she will continue to work on this project. Verbiage for buffer to bluff, and aquifer protection districts will be forthcoming.

**4. NHDES Items**

There were no NHDES items.

**5. Reports**

*a. Trails*

Mr. Lewis introduced Gail Page, Trails Committee member, to discuss placing a bench near the Broken Ground trails.

Mr. Lewis stated that the Trails Committee recommended the Commission approve the addition of a bench near the Broken Ground Trails on a trial basis.

Ms. Page described the "Aldo Leopold" style bench which will hold two people. Pictures were provided of the bench and location. She stated that the purpose of the bench is to provide a quiet place that is approximately 30 – 40 feet away from the road. She noted that the existing pathway can be improved to allow better access and no tree removal is proposed. She added that the bench is free as a local Boy Scout will be making the bench. She requested that the Commission approve the bench on a trial basis; if it is a problem it can be removed.

A discussion was held regarding the proximity to the pond and the potential disturbance and impacts to the wildlife. It was noted that the heron nest and osprey nest are now gone due to natural succession; disturbance should not be an issue. Ms. Fenstermacher stated that there may be an impact to the beavers; however, this would be a good opportunity to add educational signage. Mr. Lewis commented that this could be viewed as a test case. Ms. Tardiff added that she too had concerns with the herons but if they are gone then it is not a concern at this time. She added that the heron activity should be tracked should they return and also if there are any other impacts to the pond. There was discussion about taking photos now and creating a baseline data report, and then doing regular monitoring to determine if the area becomes degraded.

Mr. Kane asked if the bench would be imbedded to keep the bench permanent. Ms. Page replied that it will be placed on top of the ground, which is solid and may need to be cleared. She added that the bench will be chained on both sides to trees.

Mr. Kane asked about parking. Ms. Page stated that there is an area where one or two cars could park.

Mr. Lewis asked what the time frame is for the bench. Ms. Page replied that the bench could be done now and be out there through the winter months.

A motion was made by Mr. Kane, seconded by Mr. Lewis, to allow the placement of a bench at the pond on the Broken Ground property by a Boy Scout, on a trial basis, with regular monitoring to be done of the area and pond for impacts. The motion passed unanimously.

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Mr. Lewis attended the Trails subcommittee meeting and provided an overview. He noted that the committee continues to go through the Trail Guide with updates. He stated that the Committee is doing fall maintenance and trail checks as this time. He stated that Trail Ranger Mel and Ron Klemarczyk blazed the Backwoods Trail and added temporary signs.

Ms. Fenstermacher stated that November 20<sup>th</sup> has been scheduled for a trail trash clean-up day. The goal is to clean up the trash on the trails and in the trail head parking lots and to get the community more involved with clean up. She is working with Mel to get the word out.

**b. Forestry Report**

The forestry report was linked.

**c. Tree Committee**

Ms. Fenstermacher stated that the Tree Committee minutes were attached for review. The next meeting is scheduled for November 18 at 8 a.m.

**d. Local River Advisory Committees**

Ms. Fenstermacher stated that City Council appointed Claire Lund to the Local River Advisory Committee. She added that she will contact her and request that she provide a monthly report to the Commission.

**6. City Open Space and Easements**

Ms. Fenstermacher stated that she met with staff from the Merrimack River Watershed Council who have recently moved a new branch to Concord. They went on a site walk to West Portsmouth Street to observe the trees that were planted by MRWC several years ago and visited Terrill Park and the Merrimack River Greenway Trail to discuss potential supplemental plantings along the project area. She stated that she has invited the staff of MWRC to attend an upcoming Commission meeting.

Ms. Fenstermacher stated that she has spoken to Deputy City Manager Baia relative to the future plans for Gully Hill and will the City be going back out to bid when the lease expires. Mr. Baia will reach out to the Mayor. It was noted that the Merrimack River Greenway Trail will be a big change to the area.

**7. City Council/Planning Board**

Councilor Todd stated that the Planning Board approved the retaining wall at 16 Millstream Lane at the October meeting.

**8. Follow-up/On-going Items:**

**a. Conservation Preserves**

A work session was scheduled for December 10<sup>th</sup> at 8 a.m.

**b. MRGT**

Mr. Kane stated that the grant has been awarded. It is a 50/50 match in the amount of \$550,000 for design and construction. It will cover approximately  $\frac{3}{4}$  of a mile. He added that there is no additional information on the TAP Grant.

**c. Education/Outreach: ConcordTV videos, 50<sup>th</sup> anniversary ideas**

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Ms. Tardiff stated that she and Ms. Caron have met and came up with a few ideas. The plan is to give a presentation to City Council that gives an overview of the purpose of the Commission, highlighting 50 years of the Commission, have some pictures of members and note some of the very first land acquisitions.

*d. Conservation Easement Standard Templates – postponed to future meeting*

**9. Other Business**

*a. Membership*

Ms. Tardiff stated that Mr. Mattlage has resigned from the Commission. In addition, reappointments for another term are needed for Chris Kane, Rick Chormann, and Kathy Healy. All members agreed to be reappointed to the Commission for another term.

*b. NHACC Membership Info*

The NHACC has required updated members information. All members agreed to provide their emails for newsletters, etc.

*c. Other – Follow-Up*

1. Mr. Lewis asked about the follow-up on the Concord Monitor article from last month's meeting regarding future development at the Airport. Ms. Fenstermacher stated that this was a misquote and Fish and Game is already involved and it appears that property is being shifted; nothing is being removed from the Airport's conservation area.
2. The Trails Master Plan has been approved by the Planning Board at their October 20<sup>th</sup> meeting and is on the City Council agenda for December.
3. Mr. Lewis asked if there was any follow-up to the complaint about a tree adjacent to 51 Welcome Drive. Ms. Fenstermacher stated that there is a meeting coming up and she will provide an update at next month's meeting.

**10. Non-Public Session**

Mr. Lewis made a motion, second by Mr. Kane, to enter into a non-public session at 9:27 p.m for the discussion of the acquisition of conservation property in accordance with RSA 91-A:3, II(d).

The motion passed unanimously with a roll call vote as follows:

Ms. Tardiff – in favor  
Mr. Kane – in favor  
Ms. Healy – in favor  
Mr. Lewis – in favor  
Ms. Landry – in favor

Mr. Kane made a motion, second by Mr. Lewis, to come out of non-public session at 10:06 p.m. per RSA 91-A:3, II(d).

The motion passed unanimously with a roll call vote as follows:

Ms. Tardiff – in favor  
Mr. Kane – in favor  
Ms. Healy – in favor

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Mr. Lewis – in favor

Ms. Landry – in favor

Mr. Lewis made a motion, second by Mr. Kane, to seal the minutes of the non-public session, per RSA 91-A:5, IV.

The motion passed unanimously with a roll call vote as follows:

Ms. Tardiff – in favor

Mr. Kane – in favor

Ms. Healy – in favor

Mr. Lewis – in favor

Ms. Landry – in favor

A motion was made by Mr. Lewis, seconded by Ms. Healy, to appropriate up to \$3,500 for an appraisal for the Hutchins Street property.

The motion passed unanimously.

**Adjournment**

There being no further business, Mr. Lewis made a motion, second by Mr. Kane, to adjourn the meeting at 10:07 p.m. The motion passed unanimously.

Respectfully submitted,  
Beth Fenstermacher  
Assistant City Planner