

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

Attendees: Vice-Chair Jim Owers, Councilor Stacey Brown, Members Emily Landry, Rick Chormann, Jeff Lewis, and Alternate Mark Coen.

Absent: Chair Kristine Tardiff, Kathy Healy, Chris Kane, and Alternate Allison McGregor.

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

Public: None

**Call to Order**

The meeting was called to order by Vice-Chair Owers at 7:00 p.m.

**1. Minutes**

***August 10, 2022***

A motion was made by Mr. Owers, seconded by Ms. Landry, to approve the minutes of August 10, 2022, as written. The motion passed unanimously.

**2. TFMoran to discuss a proposed project at 3-7 Break O’Day Drive and potential wetland impact mitigation.**

Nick Golon of TFMoran, represented the application.

Mr. Golon indicated that 36,000 square feet of wetlands were delineated on the property. He indicated that the wetland was identified as having low wetland function per the assessment, and it was formed from highway stormwater runoff. Approximately 26,000 sf of the wetlands will be impacted by the proposed project. They are currently working with DES on mitigation requirements. Mr. Golon gave an overview of the project, which is a proposal for a phased development for a hospitality venue, to include a sit-down restaurant and lounge, charitable gaming hall, brew pub, hotel, conference center and events area. Phase 1 includes the charitable gaming hall, restaurant, lounge and bar, and allocated parking areas, access, and stormwater management. He stated that construction is planned to begin in 2024.

Mr. Golon described the topography as having wooded vegetation that encompasses the northern, southern, and western portions of the property. He noted that the existing wetland is in the eastern portion of the lot, and is fed by two drainage pipes conveying runoff from the NHDOT limited access-right-of-way associated with I-393. He stated that there is approximately 86-feet of grade change across the site. The highpoint of the site sits approximately 50-feet above the adjacent elevation of I-393. He added that the slope and the landscaping currently obscure views and they are working to reshape the slope to provide better balance and enhance the site lines. He stated that they are also working with NHDOT with hopes to remove some of the existing vegetation, which will also open the site lines.

Mr. Golon stated that the plan was presented to the ADRC who provided positive feedback. Mr. Golon explained the stormwater management associated with the project. He noted that there will be impacts to the exiting wetlands; they are low functioning. However, they are required to mitigate and would like to have the money go directly to the City instead of going to the ARM Fund. Ms.

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

Fenstermacher stated that a project needs to be shovel ready to be considered for the mitigation funds. Mr. Owers commented that the Potter Farm easement acquisition is in the works, and this would be a great opportunity as long as the timing works for the closing in early 2023. Mr. Lewis stated that he feels it could be done. Mr. Golon commented that their schedule is to file the NHDES permit this month and anticipate a 6 month review process; this could work for timing.

Mr. Lewis asked about intersection improvements. Mr. Golon stated that they have spoken to NHDOT relative to the grade changes of the lot. He stated that there will not be any intersection improvements for the initial phase of the development as the existing road network can service the first phase; however, there may need to be some local improvements done to Break O' Day Drive.

Mr. Owers asked if the area had been logged recently. Ms. Fenstermacher stated that logging was done about 10 years ago.

Mr. Chormann asked about the percent of impervious surface of the lot. Mr. Golon replied that the requirements of the zoning district have been met; the maximum amount allowed is 80% and they are under that. Mr. Chormann asked if there will be some natural ground cover on the site. Mr. Golon stated that the ADRC also had concerns with landscaping and vegetation. He stated that they will be creating perimeter plantings as required.

Mr. Lewis stated that he did review the wetlands analysis and from the perspective of the wetlands it is a low value wetland that does handle the runoff from the highway. He stated that there is not a lot of water under Break O' Day Drive. Mr. Golon stated that there were no hits for any rare or endangered species.

Councilor Brown asked what charitable gaming is. Mr. Golon stated that gambling is not allowed in NH. He explained the charitable gaming is allowed with the criteria that 35% of the profits must be given to charities. He stated that the owners have other venues in the state and donate 36% to charities. He added that there are these types of facilities throughout NH and prove to be functional.

Mr. Lewis agreed that the resource to protect is down-stream and asked about how stormwater is addressed. Mr. Golon explained the 50 year storm is less than 10 CFS. He stated that runoff will be culverted and turned into a treatment swale but they also have the opportunity to add rip-rap or grass channels to recharge the site. He added that there is existing drainage along Break O' Day Drive; they do not plan to redirect the stormwater flow. He stated that the underlying soils are sand and gravel and receptive to recharge.

Mr. Golon added that the property is under a purchase and sales agreement along with the neighboring 0.4 acre lot. The two lots will be consolidated.

Mr. Golon stated that he will look into the ARM Fund. Ms. Fenstermacher stated that she will provide information on the Potter property.

Mr. Golon requested information about the Potter parcel to present to NHDES, and will reach out to Ms. Fenstermacher if he needs the Commission to send a letter of acknowledgement to NHDES. Members were in agreement that this opportunity for using mitigation funds was preferable.

**3. NHDES Items**

There were no NHDES items to address.

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

**4. Reports**

*a. Trails*

*i. Broken Ground to Oak Hill Proposal*

Scott Daniels, Chairman of the Trails Subcommittee, met with the Commission to propose a connector trail from Broken Ground to Oak Hill. He stated that it is a goal of the Subcommittee to connect different trail systems throughout the City as well as mentioned in the Trail Master Plan. The trail location was reviewed and noted as former skidder trail, currently with signs for snowmobiles. The Subcommittee also suggested an alternate location. Trail procedures and the criteria for a new trail were reviewed. The length is proposed to be three miles, one way. The trail would more likely serve as a mountain bike path as it is a long distance. It will have mild terrain. It would also be a good cross country ski trail, and long distance running trail.

Mr. Chormann asked about the costs for creating a new trail. Ms. Fenstermacher stated that the City could again partner with NEMBA to sponsor and build the trail. A MOU would be established for any bridge work and maintenance. Mr. Owers stated that he believes that NEMBA would be interested; the problem could be getting permission from the land owners.

Ms. Landry stated that the concept is fantastic to connect the two other major trail systems.

Mr. Owers suggested that the property be walked first to make sure it is workable.

The general consensus was that the concept was worth evaluating. Mr. Owers and Mr. Daniels planned to walk the area within the next few weeks. The item was continued to next month's meeting.

Ms. Fenstermacher stated that the vest program is beginning for this hunting season. Vest sites are the Batchelder and Oak Hill Trails. She stated that the program has been very successful in Hanover. If it is successful vests will be spread it out onto other trails. Great idea Mr. Chormann.

The Trail Ranger Matson has been doing trail maintenance and has been meeting people. Ms. Fenstermacher stated that Carl will be here into a portion of November. Monitoring of the properties will be done in October. He may also lead the October hike.

Mr. Lewis stated that there continues to be good turnout on the hikes.

Upcoming hike for September is Ry's Way. October is still to be determined.

A discussion was held regarding an email sent by Alternate Member Allison McGregor, expressing concern from a Concord Monitor article relative to ATV usage by the Fire and Police Departments.

Ms. Fenstermacher explained that there are some areas where the Police and Fire have difficulty accessing; this is when an ATV would be used for emergencies. She stated that the Fire Department has asked that when trails are being built they are built wide enough to allow access. The ATVs will not be used for regular patrols, and they will avoid sensitive areas unless required for an emergency. She stated that they have applied for a grant, which includes the ATV, truck, and trailer. A public hearing will be held at Council's October meeting.

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

**b. Forestry Report**

The forestry report was distributed for review.

**c. Tree Committee**

Ms. Fenstermacher stated that the Tree Committee will have a booth at the farmers market this weekend.

Councilor Brown stated that she has partnered the Tree Tour with the upcoming Arts Market, September 24th. It will be a one hour tour of the trees of the State House complex. She noted that Intown Concord will be doing all of the marketing and provided a draft flyer.

Ms. Fenstermacher questioned why this was no longer a City event sponsored by the Tree Committee. Councilor Brown stated that she spoke to the City Manager who told her it would not be a City event unless the Conservation Commission wanted to do it. She said that he suggested that the Commission could give funds to Intown Concord and they can advertise it as an event. Ms. Fenstermacher asked what the plan was for the full tree tour document. Councilor Brown thought she had sent it to the Tree Committee members, however it was not received and she will re-send.

**d. Local River Advisory Committees**

Ms. Fenstermacher stated that there are vacancies available for representatives on both of the advisory committees.

**5. City Open Space and Easements**

**a. Potter Easement**

Ms. Fenstermacher stated that she is still awaiting a draft easement for the Potter easement.

**b. Gully Hill RFP**

Ms. Fenstermacher stated that the soil samples results came in today and she will review them tomorrow and forward the information along. She will send out the draft RFP to members for review too. The RFP selection committee will need to be created as well.

In addition, Ms. Fenstermacher noted that there is a large homeless camp on Locke Road, access is via the cell tower. She explained that the Forest Society has an official letter of violation to the City as they hold an easement on the property and this use is in violation of the easement requirements. The Police have been to the area to assess the site and determine the occupants, and have reached out the Homeless Coalition to notify them that they will be evicting the residents of this area. The Police Department has received some push back from the Coalition; however, due to the violation, the Commission agrees that the Police need to move forward.

A brief discussion was held regarding the status of the homeless camps on Black Hill Road. Ms. Fenstermacher stated that she was not sure of any activity since they were removed several months ago.

**6. City Council/Planning Board**

Ms. Fenstermacher stated that the Draft Code – Phase 1 is out for review and comment. She asked members to review it, watch the recordings of the meetings, and bring any

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

comments/suggestions to the next meeting or reach out to Heather Shank. Mr. Owers requested that members receive an executive summary of the impacts the proposed code will have on the open space and any developments in the open space.

This item was continued to next month.

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

**a. Conservation Easement Standard Templates**

Ms. Fenstermacher previously provided templates via email to members to review. There was a question about the purpose for the different templates, Mr. Lewis stated that if there are different easement options then there should be different options.

This item was continued to the October meeting.

**b. Conservation Preserves**

Nothing new to update.

**c. MRGT**

Ms. Fenstermacher stated that all PanAm properties were recently purchased by CSX and they need to review the P&S agreement for the PanAm parcel for the future MRGT. Once approved, then they can move forward with the acquisition. She is unsure of the final dates of the P&S. She noted that the TAP grant is still available to help pay for design, approximately \$250,000.

Councilor Brown stated that the MRGT Triathlon was successful with 40 participants, approximately 20 volunteers, vendors, and music. She stated that this event will continue to grow.

**d. ARM Project List - Turkey River Restoration and Management Plan**

Mr. Lewis stated that he reviewed the Turkey River Restoration and Management Plan. He stated that it had many recommendations for improvements for the watershed that can be addressed and would not be that difficult as many are prioritized and in Concord. He feels it would be a great opportunity and would be nice to implement. The City should be looking at these for future “shovel-ready” projects for ARM funding.

Ms. Fenstermacher stated that UMLAC is working to create an implementation subcommittee. Members requested hard copies of the management plan.

**8. Other Business**

**a. Financial Update**

Ms. Fenstermacher provided members with an updated financial report for the first quarter. She noted that the professional services line is almost expended due to the survey and appraisal costs for the Potter property.

**9. Non-Public Session**

Mr. Owers made a motion, second by Mr. Lewis, to enter into a non-public session at 8:58 p.m. per RSA 91-A:3, II(e).

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

Mr. Coen - in favor

CONCORD CONSERVATION COMMISSION

REGULAR MEETING

MINUTES

September 14, 2022, 7:00 PM

Council Chambers, 37 Green Street

Mr. Chormann – in favor

Ms. Landry – in favor

Mr. Lewis – in favor

Mr. Owers – in favor

Mr. Lewis made a motion, second by Mr. Owers, to come out of non-public session at 9:15 p.m. per RSA 91-A:3, II(e).

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

Mr. Coen - in favor

Mr. Chormann – in favor

Ms. Landry – in favor

Mr. Lewis – in favor

Mr. Owers – in favor

Mr. Owers made a motion, second by Mr. Lewis, 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:

Mr. Coen - in favor

Mr. Chormann – in favor

Ms. Landry – in favor

Mr. Lewis – in favor

Mr. Owers – in favor

**Adjournment**

There being no further business, Mr. Owers made a motion, second by Mr. Lewis, to adjourn the meeting at 9:16 p.m. The motion passed unanimously.

Respectfully submitted,  
Lisa Fellows-Weaver  
Administrative Specialist