

**MINUTES
CONSERVATION COMMISSION
1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
CONFERENCE ROOM "A"**

3:30 P.M.

FEBRUARY 12, 2014

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman Mary Ann Blanchard;
Members Allison Tanner, Barbara McMillan, Elissa Hill Stone,
Peter Vandermark, Alternate Shelley Saunders,

MEMBERS ABSENT: Paul Ambrose

ALSO PRESENT: Peter Britz, Environmental Planner

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I. ELECTION OF OFFICERS

A. Chairman, Vice Chairman

Mr. Vandermark stated that Chairman Miller was doing an amazing job. Chairman Miller stated that he and Vice-Chair Blanchard were both willing to continue.

Ms. Tanner made a motion to re-elect Chairman Miller and Vice-Chair Blanchard for another term. The motion was seconded by Ms. McMillan. The motion passed by unanimous (7-0) vote.

II. APPROVAL OF MINUTES

1. June 12, 2013

Ms. Saunders made a motion to approve the June 12, 2013 minutes. The motion was seconded by Ms. Tanner. Chairman Miller asked if there were comments or changes and hearing none, he asked for a vote. The motion passed by unanimous (7-0) vote.

III. CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)

A. Off Spinney Road and Middle Road
Frances T. Sanderson Revocable Trust and Lynn J. Sanderson Revocable Trust, owners
Spinney Road Land Holdings, LLC, Lots 5 & 24
Assessor Map 16
(This item was postponed at the January 8, 2014 meeting.)

Ms. Tanner moved to postpone the Conditional Use Permit application to the March 12, 2014 meeting. The motion was seconded by Vice-Chair Blanchard. The motion passed by unanimous (7-0) vote.

B. 292 Lang Road
Ertugrol Yurtseven Revocable Trust of 2010, Ertugrol Yurtseven, owner
Lang Road Land Holdings, LLC as a partner
Assessor Map 287, Requested Lot 4-4
(This item was postponed at the January 8, 2014 meeting.)

Ms. Tanner moved to postpone the Conditional Use Permit application to the March 12, 2014 meeting. The motion was seconded by Ms. Saunders.

Ms. McMillan asked how long the application would go on for. Mr. Britz talked about Spinney Road keeping the chain alive without having to re-advertise and thought that the Commission would most likely not see the Spinney Road application again, especially if the applicant received approval from the Planning Board. He stated that the Lang Road applicant changed their plan by moving the driveway out of the buffer plan and would probably return.

There was no additional discussion. The motion passed by unanimous (7-0) vote.

Chairman Miller then introduced Mr. Tom Richter of the Public Works Division to discuss the amendment to the previously-approved Sagamore Road Bridge application.

Mr. Richter stated that the original request for the permit was to permit H piles in a generic trestle arrangement, and they had asked for 84-86 square feet of disturbance, each H pile being 2 square feet. The contractor then decided to redesign the trestle pattern and made it smaller. They did an amendment that reduced the impact down to 46 square feet and when they moved the barge to the shoreline, it swung out into the channel during high tide, creating a small impact. They were asking for 2 square feet for that one H pile. They also needed 20 square feet, or 10 H piles, to support a temporary water main. The engineers came up with a plastic welded water main design for a temporary water main because the water main until September. Another portion of the amendment was a temporary construction impact to one of the containing walls on the northwest side. The original permit had taken into consideration the construction for the wall but not the temporary construction impact, so they were asking for 260 square feet of construction impact that would disturb the soils.

Chairman Miller verified that it would be 260 square feet of temporary impact. Mr. Richter stated that they would have what they needed to protect the storm water and the slope, but it would be impacted.

There were no questions. Chairman Miller thanked Mr. Richter for coming in to explain the situation.

IV. STATE WETLANDS PERMIT APPLICATIONS

1. Standard Dredge and Fill Application
1900 Lafayette Road
Aphrodite Georgopoulos Revocable Trust, owner
Assessor Map 267, Lot 8

Mr. Peter Weeks on behalf of Seacoast Trust LLP was present to speak to the application. Mr. Weeks stated that Ms. Adele Forillo was supposed to attend but was missing. He said the 4-acre site on Lafayette Road was originally a subdivision in 1969, with lots on Lafayette and West Roads. The applicant's lot, which was next to the Army Training Center, was the only lot that had not been developed, and all the gravel, blasted rock and materials were removed from the site before it was sold. There were four areas of wetlands on the site, three of which were impacted. The one in the rear would not be impacted. The wetlands on the site were manmade. The study by Normandeau as to the value of the wetlands was very minute. Mr. Weeks stated that he met with the Department of Environmental Services (DES) on a preliminary application basis and was asked to reduce two of the areas that had the least impact. It was originally 6,000 square feet of impact, but they reduced it to 4,000 square feet. It would be a good thing for the City to finally develop the property for a medical office building.

Ms. Saunders stated that she had researched the timing of the visit by John Turner Consulting (JTC), the company hired to do the geotechnical work, in December and found that it had been a very cold day and they had described the site as having snow on it. She asked if they got an accurate read as to how deep it was. Mr. Weeks said JTC liked to do things just before storms and were scheduled to do more work on it that day. Mr. Vandermark asked how the wetland toward Lafayette Road, #2, would be treated. Mr. Weeks said they would plant wetland vegetation and treat it naturally. Ms. Saunders asked if the Army Reserve had come before the Commission when they were constructing the Army Reserve Center. Mr. Weeks replied that, being a Government institution, they had received an after-the-fact permit but did not have to follow it because it was a back-of-the-property situation where the service road was. Chairman Miller remembered that the Army Reserve had come before the Commission as a courtesy. They reviewed the application and discussed the water quality and the manmade wetlands, and the Reserve personnel had made some modifications to the back and the front.

Mr. Britz stated that the Technical Advisory Committee (TAC) was reviewing the application's storm water infiltration very closely because it went across the back access road. Chairman Miller noted that the application mentioned a rain garden and asked where the infiltration would be and whether there were infiltration chambers. Mr. Weeks replied that they were under the parking lot. Chairman Miller concluded that the chambers would take all the water from the parking lot and the rain garden would take the water from the front of the lot. Mr. Weeks agreed and said there was also a pond in the back.

Chairman Miller noted that the fill on the site was highlighted in the report and asked if it was something the Commission should be aware of. Mr. Britz told him that the infiltration piece was a concern due to the nature of the fill, and a lot of new fill would be brought in. Mr. Weeks stated that TAC had requested a third-party peer review of all the infiltration. Ms. Saunders

asked if the service road was West Road. Mr. Weeks replied that it was an easement that ran behind the West Road properties and their property, and they would connect to the road to the left and eventually construct a road behind the lot. The City had long-range plans to do something behind the Center. Ms. Tanner asked what they would do with the construction debris. Mr. Weeks stated that the debris was illegally placed on the site, but they had a legal site where it could be relocated to. Ms. Saunders asked what sort of debris was found. Mr. Weeks told her it was asphalt, brick, concrete, curbing, and so on. Ms. Blanchard remarked that she had lived in Elwyn Park for over 40 years and remembered it as a working pit. She thought it behooved anyone who wanted to develop the site to be careful because that person would not want to deal with the problem. Chairman Miller stated that the report mentioned test pits showing 10' of material would have to be removed and shipped to a legal site for disposal, with clean material brought in if needed.

Ms. McMillan asked about the building up by the road. Mr. Britz stated that no parking was allowed in front of the building. Mr. Weeks stated that there was an 80' zoning setback on Lafayette Road from the center line and a 50' setback from the property line, and parking was not allowed in the front setback.

Ms. McMillan asked if the trees on the front of the property as shown in the plan were existing trees. Mr. Weeks replied that over the years, they had been required to put screening up, but a lot of unhealthy clumps of pine trees were growing together. They were in the process of identifying the trees that would be removed and would plant mostly pine or spruce trees in front of the building. Ms. McMillan asked if there was a sidewalk in front of the building. Mr. Weeks replied that there wasn't one yet, but TAC required them to have a sidewalk easement in case the City built a sidewalk in the future, and also asked that they extend the present sidewalk to Lafayette Road so it would connect to the future sidewalk. Ms. McMillan noted that the islands on the parking lot didn't have vegetation. Mr. Weeks stated that there would be landscaping in the islands, but they weren't shown on the plan. He added that TAC had mentioned building a walkway between the front and back buildings through the islands, so there would be plantings and a walkway. Ms. McMillan asked if storm drains would go under the parking lot. Mr. Weeks stated that they would be chambers and would go to the pond in the back. Chairman Miller liked the idea of the walkway, the wider islands and more vegetative cover.

Vice-Chair Blanchard asked if there was a maintenance plan and timeframe for the chambers to ensure that silt debris was removed. Mr. Weeks said there would be and it would be part of the site review and did not know the timeframe. Vice-Chair Blanchard stated that the Commission was always concerned about drainage issues and the commitment to maintain it, and the property had drainage issues. Chairman Miller asked whether the application would be modified in relation to rear access if the access road got built. Mr. Weeks stated that they were discussing it with TAC and had a design for the traffic engineer. The New Hampshire Department of Transportation (NHDOT) allowed left and right turns out of the site onto Lafayette Road, and TAC was not receptive to the left turns onto Lafayette Road. Their traffic engineer would explain the situation to TAC. The road would go left but it wasn't on the plan because it was not part of the application. Chairman Miller asked if an access would be cut into the back of the lot to meet the future road in the back. Mr. Weeks agreed and said that there would already be an access in the back to go left as one left the site. Chairman Miller stated that his concern was the

infiltration detention pond. Mr. Weeks stated that the detention pond was on the other side of the property and explained where the service road would be. Chairman Miller verified that it was the overgrown gravel road shown and wanted it on record that the detention pond would not be filled for the road in the back. Mr. Weeks agreed and stated that 100 feet of the service road would be built to connect to the road that was behind the Knights of Columbus Hall.

Ms. Stone asked if the fill in the chambers would be removed to the bedrock. Mr. Weeks replied that the geotechnical people were working on it and a minimum of 4 feet had to be removed and 2 feet of gravel put in. Ms. Stone verified that it would be 4 feet of the fill and another 4-6 feet of fill. Mr. Weeks replied that a geotechnical fabric would be placed on and the gravel placed on it under the pavement. Ms. Stone asked if the test pits were presently happening to figure out what would remain from the fill, and Mr. Weeks stated that they were.

Ms. Saunders asked if the parcel had previously come before the Commission. Mr. Weeks stated that he did not think so because back in 2000, a plan for three office buildings was proposed and they received site approval to build them, and at that time there were no wetlands on the site.

Ms. Tanner moved to recommend approval of the application to the Department of Environmental Services as presented for discussion. The motion was seconded by Ms. Stone.

Ms. Saunders asked if there should be stipulations about the vegetation planting on the islands and the parking lot. Mr. Britz replied that it was included on the plan. Chairman Miller considered a stipulation about the fill to ensure that it was understood by TAC and the Planning Board that the Commission was concerned about what was underneath before the fill came out. He thought the wording should not be restrictive but should be understood. Mr. Weeks thought TAC was addressing it. Chairman Miller was concerned that there might be an environmental consequence by not knowing what was in the fill and creating a greater problem by infiltrating and introducing something else. Ms. Saunders noted that they were going back out for more test pits. Chairman Miller stated that if it was reinforced, he would be okay with it. Mr. Weeks stated that none of the test pits showed any oil.

There was no additional discussion. The motion passed by unanimous (7-0) vote.

V. OTHER BUSINESS

A. Conservation project – Southeast Land Trust of New Hampshire

Mr. Duane Hyde representing the Southeast Land Trust was present to speak to the application and was replacing Mr. David Viale who was on vacation. He distributed a map to the Commission and stated that Southeast Land Trust had been approached by the Ferraris, a family who owned about 46 acres on the corner of Ocean Road and Banfield Road that abutted Great Bog. The Ferraris had envisioned building on the property but then decided to put the property on the open market. They approached Southeast Land Trust about conserving the property before putting it on the market, and Southeast Land Trust wanted to come before the Commission to get their feedback and discuss the different scenarios, primarily one dealing with

whether the City would conserve the entire property or a portion. There were two maps, one showing the entire property, and the other a portion of the property showing that the Ferraris would hold onto 10.6 acres but would conserve 36 acres. The 10.6 acres were along Ocean Road. There was an area of old fill on the property that dropped down to a forested wetland system. Great Bog was an ecological gem for the City, with over 600 acres of contiguous conservation land.

Mr. Hyde stated that they had put three appraisals out to bid and had received two responses, one from Bergeron of Portsmouth and the other from McManus and Nault in Bow. Bergeron's bid was \$3,700 and McManus and Nault was \$4,200. Bergeron could do the work in 4-5 weeks, and the other in 8-10 weeks. Hopefully the Ferraris would agree to fund the appraisal so they could get started. One of the key issues for the appraisal was the nature of the assignment. Getting the whole site appraised made sense, but if the City was interested, having frontage on Ocean Road and Banfield Road would give better access to the City to enjoy Great Bog. Mr. Britz concluded that it made sense to let the applicant build on one lot, but the area on Banfield Road would be difficult to get to. They discussed the 10.6 acres the Ferraris would retain and the conservation area. Mr. Hyde stated that there weren't any wildlife activity studies done, and the Ferraris retaining the piece along Ocean Road cut off Great Bog and Packer Bog. Vice-Chair Blanchard asked if the appraisal incorporated natural resource inventory and wildlife. Mr. Hyde thought perhaps the fair market value for the property did, but not the real estate appraisal.

Ms. Tanner stated that she understood the value of incorporating large areas of land for wildlife but also thought the City residents would like to have an open space. Great Bog was at the edge of Portsmouth, and there were some nice properties next to a prime wetland with wildlife going through. The conservation fund had a limited source of income, and there was very little property in the City that they could get additional funding for. She believed that conserving areas in the City and around populated parts deserved consideration. Ms. McMillan agreed but said they didn't have a conservation plan for Portsmouth and were not proactive because they didn't have the time or money to come up with a conservation easement plan. Ms. Tanner stated that prices in Portsmouth were not going down, and Vice-Chair Blanchard agreed and wished that they could discuss the upland woodland contiguous to the Borthwick area, which seemed more meaningful than an extension of Great Bog. She asked Mr. Britz to explain their budget for acquisition. Mr. Britz replied that they had a current use penalty fund and very few properties left in the City that were in current use, so they would not see a big growth in the fund.

Ms. Tanner asked how much of the property was developable. Mr. Hyde didn't know but said the Ferraris wanted to sell the entire property and he had told them that it would be more affordable to retain the developable portion and sell the rest of it for conservation. Mr. Britz asked if they could get an appraisal for only the conservation parcel. Mr. Hyde did not think it would be much different. Vice-Chair Blanchard stated that if it was part of the plan for Great Bog, there were other entities for resources. Chairman Miller asked the potential value of the property. Mr. Hyde replied that it was \$36,000 - \$50,000 on the back wetland acreage. Ms. McMillan asked if the owner expected full market value, and Mr. Hyde said it depended on what the appraisal sold for.

Mr. Vandermark suggested making it two separate parcels, one buildable and one not. If the owner received anything for the undevelopable portion, they would be happy. He asked why they would bother evaluating the parcel the owner would keep. Mr. Hyde said if the Commission didn't feel that it was worth having the developable portion appraised, they could just do the back land. Chairman Miller stated that he was not interested in the developable portion because it was one of the things that would make getting the back portion of the conservation land work, unless there was a strong argument for the connection to Packer Bog. He agreed with Ms. McMillan about their tending to be reactive because they didn't have the resources. If they could get the back portion for \$50,000, he would be for it, even though it might be undevelopable. If they could spend under \$50,000 for 36 acres, it would be 1/16 of what was in the fund. Vice-Chair Blanchard wondered about the City Council paying for it because the City had invested in the major parcel. Mr. Britz agreed but said it would be a tough sell. Vice-Chair Blanchard thought it would depend on the sum of money because price made a huge difference. People wanted to push the margins of wetlands and what they could do. It was discussed that the City Council could put it into the general fund so they should use caution.

Mr. Hyde stated that his company had completed their strategic plan and wanted to provide open space opportunities for urban communities in their service area. He said he would be happy to work with the Commission to figure out priorities. Chairman Miller liked the idea because the Commission lacked the expertise. Vice-Chair Blanchard asked how quickly the Commission would know which appraiser the Ferrari family chose and asked Mr. Hyde to let Mr. Britz know so that they could further discuss it.

Mr. Hyde stated that he would probably schedule another work session.

B. Membership dues – New Hampshire Association of Natural Resource Scientists - \$20.00

New Hampshire Association of Conservation Commissions - \$875.00

Vice-Chair Blanchard stated that she had always supported being part of the NH Association of Conservation Commission because it was a presence for the legislature that the Commission needed, but she wasn't sure why the Commission was part of the Natural Resource Scientists. Mr. Britz told her that it because the Commission could receive discounts at other workshops by paying the \$20 fee.

Vice-Chair Blanchard moved to authorize the payment of the above-referenced dues. The motion was seconded Ms. Tanner.

Vice-Chair Blanchard asked Mr. Britz what was in their budget, and Mr. Britz thought it was about \$1300 and said Mr. Nick Coates headed up the NHACC. Vice-Chair Blanchard thought it was important for former directors to be present at rule-making hearings at DES on what could and couldn't be done in the wetlands, especially with all the logging done by the private sector.

There was no further discussion. The motion passed by unanimous (7-0) vote.

Ms. Tanner stated that she did a neighborhood walk with Mr. Jim Splaine, who suggested that the Commission meet with him as an individual counselor to discuss issues. There was a nice piece of property he wanted to discuss, and he wanted to know exactly what the Commission did. Mr. Britz stated that they had to post notice of the meeting and make sure the public was invited. Chairman Miller thought it would be a nice opportunity. Vice-Chair Blanchard preferred the broader invitation of having an informal meeting with an agenda that they would make public. Ms. Tanner said it would involve some planning to get all the information together. Mr. Vandermark asked what would happen if they did the same thing with Southeast Land Trust. Mr. Britz said they would need to come up with a notice and an agenda. Ms. Saunders thought that Mr. Splaine was important because he was spearheading some wetland impact projects. Vice-Chair Blanchard thought they could email agenda items to Mr. Britz, and she and Chairman Miller could meet with Mr. Britz and schedule it on a night when the City Council didn't have a meeting. Chairman Miller liked the idea of focusing on the Ordinances and asked them to think about future concerns and challenges.

Ms. Saunders mentioned that she requested full membership into the Conservation Committee.

Chairman Miller told Mr. Britz that the 209 Gosport Road application received their permit and asked if they would see the application again. Mr. Britz said if they wanted to build the road, they would have to come for a Conditional Use Permit.

Ms. McMillan mentioned that Ms. Eva Powers passed away and that Ms. Carol Shea Porter had spoken at the service about Ms. Power's dedication to wildlife.

VI. ADJOURNMENT

At 5:05 p.m., it was moved, seconded, and passed unanimously to adjourn the meeting.

Respectfully submitted,

Joann Breault
Acting Conservation Commission Recording Secretary

These minutes were approved at the Conservation Commission meeting on August 13, 2014.