

**MINUTES
CONSERVATION COMMISSION
PORTSMOUTH, NH**

Remote Meeting Via Zoom Conference Call

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Per NH RSA 91-A:2, III (b) the Chair has declared COVID-19 outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor’s Executive Order 2020-04, Section 8, as extended by Executive Order 2020-18, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

3:30 P.M.

November 04, 2020

MEMBERS PRESENT: Chairman Barbara McMillan; Vice Chairman Samantha Collins; Members; Allison Tanner, Jessica Blasko, and Thaddeus Jankowski

MEMBERS ABSENT: Adam Webster

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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I. APPROVAL OF MINUTES

1. October 14, 2020

Ms. Tanner commented that “lyme” on page 4 should be spelled “lime.”

Chairman McMillan commented that the word “is” was missing from a paragraph on page 3. The word “in” was missing in the first paragraph on page 7.

Ms. Tanner moved to approve the October 14, 2020 Conservation Commission Minutes as amended, seconded by Ms. Blasko. The motion passed unanimously by a 5-0 vote.

II. CONDITIONAL USE PERMIT APPLICATIONS (OLD BUSINESS)

1. 140 Edmond Avenue
Bacman Enterprises, Inc., Owner
Assessor Map 220, Lot 81

Alex Ross spoke to the application. The parking configuration was reconfigured after meeting with TAC. Mr. Ross was back to show the Commission the new layout. Spaces 10-12 were added to the parking spaces 1-6. There will still be pervious pavers and an infiltration trench around the spaces. There will be wetland buffer plantings to the east of the area. Boulders will be installed on the property line to clearly delineate the parking. There will still be a good buffer area. It is too late in the year to plant now, so that will not be done until next year.

Chairman McMillan questioned if there would be any vegetation cut to put in spaces 10-12. Mr. Ross responded that it is a grass area now, so there will not be any cutting.

Mr. Jankowski questioned if there was a lawn maintenance company used for the property. Mr. Ross responded that they were working with soil scientist Mark Jacobs. The planting will be done under his supervision. The wetland buffer planting types were included.

Chairman McMillan noted that there were two stipulations included in the last recommended approval. Mr. Ross confirmed that they will go to the City Council after the Planning Board to get approval for any work done off property.

Mr. Jankowski requested to include a stipulation that the property follow an organic lawn maintenance plan. Mr. Ross responded that he would need to consult with the owner, but it sounded like it would be fine.

Ms. Tanner moved to recommend **approval** of the Wetland Conditional Use Permit application to the Planning Board, seconded by Ms. Blasko with the following **stipulation**:

1. The Applicant shall follow the preferred practices of the 6th edition of the Northeast Organic Farming Association (NOFA) standards for the future maintenance of the property.

The motion passed unanimously by a 5-0 vote.

III. CONDITIONAL USE PERMIT APPLICATIONS

1. 105 Bartlett Street
Clipper Traders, LLC, Portsmouth Hardware & Lumber, LLC, and Iron Horse Properties, LLC, Owners
Assessor Map 157, Lots 1 and 2, Map 164, Lots 1, 2, and 4-2
(This item was postponed at the October 14, 2020 meeting to the November 04, 2020 meeting.)

Patrick Crimmins from Tighe and Bond and Robbi Woodburn from Woodburn and Company spoke to the application. Mr. Crimmins commented that this application was

last here in June. The property is located at 105 Bartlett St. The original plan had 272 units with buildings pushed up against the pond. After receiving feedback from the Commission, the project came back in June with 174 units and buildings pulled back off the pond. The Commission gave good feedback in June and that was incorporated. There will be a private road off Bartlett St. that will lead into a cul-de-sac. There are three proposed buildings. Buildings A and B will be multi-family and C will be mixed use. There will be commercial space on the first floor with dwelling units on the floors above. The project is providing community space in order to build 4 story buildings. The buildings will step down in stories according to the City's ordinances. There will be a surface parking area and garage parking under Buildings A and B. The community space will be deeded to the city of Portsmouth for the construction of the North Mill Pond Trail. This project will provide a park off the trail in the rear of the buildings. There were some comments and concerns about the building and parking impacts in the buffer. The parking previously extended down to the Cabot St. view corridor. Now it has been pulled back out of the 100-foot buffer. There is a small parking area in buffer to accommodate the fire truck turning movements. The reduction in pavement is significant. Pretty much all of the parking is out of the buffer area now. Another concern the Commission had was about impacts related to the buildings, specifically Buildings B and C. Originally Building C was matching the footprint of the existing brewery and doggy daycare building. A portion of the building went into the buffer. The building has been notched and is now out of the buffer. Building B has also been pulled back. The Commission had comments about storm water specifically about the temperature of the water that would directly discharge to the pond. The plan has been revised to have storm water be detained and then slowly released to the pond. There was a lot of discussion about the buffer impact calculations at the last meeting, so a table was included to show the existing and proposed numbers more clearly. Overall there is a net improvement for the buffer impact. It is almost 21,000 sf of improvement. The only category that shows any increase is 1,000 sf in the 25-50 foot buffer. That is all related to the North Mill Pond Trail. There was a lot of discussion about the Roundhouse at the last meeting. It is dilapidated, but it is still a structure. This project is counting it as a structure. However, even if it was not counted there would still be a net improvement.

Ms. Woodburn commented that the buildings have changed over time and stepped away from the pond. The project has created a park space that will book end the proposed greenway. The open space allows the trail to go along edge of pond and have an eddy between the buildings. The concept of the space is based on the roundhouse and turn table. There will be a rain garden shaped in a circle with a deck like bridge over it to recall the turn table. There will be a gentle slope up to the building. There will be circular seat walls in the slope and different layered plantings along the building. There will be trees along the parking lots. The lawn area will have a native mix that can withstand drought. It will brown out in the summer, but it is a native grass. The other side of the trail will have a narrow edge of existing buffer plantings. Right now, there is a mixed bag sumac, autumn olive, and Norway maples. The idea is to go in and selectively remove the invasive plants. Then a wildflower grass conservation mix will be put in. There are some mature Norway maples. They are invasive, however, they create shade and habitat. Ms. Woodburn questioned if the Commission thought they should be

removed or if they should remain. The plan has 85% native trees and some ornamentals. The ornamentals are mostly in areas where there will be salt.

Ms. Tanner questioned how they would stabilize the bank while removing the invasive plants. Ms. Woodburn responded that it depended on what it was. There will be erosion control. Some of the plants will be cut and some will be grubbed. The stumps will remain. There will be no disturbance along the bank except to remove the invasive plants. Ms. Tanner commented that the Norway maple is an invasive plant. However, if it's healthy, providing a function, and will help to prevent erosion then they should remain.

Vice Chairman Collins, Chairman McMillan and Ms. Blasko agreed with Ms. Tanner's statement about the Norway maples.

Mr. Britz commented that it would be good to show where the grubbing would be in the permit application. Ms. Woodburn responded that the only thing that would need grubbing is the bittersweet. There was not a lot of it. Ms. Tanner commented that the bittersweet needed to come out.

Vice Chairman Collins requested clarification on what grubbing was. Ms. Woodburn responded that they would be using a bucket to scrub out the roots. Chairman McMillan questioned if that meant that it would be removed mechanically and not by hand. Ms. Woodburn confirmed that was correct.

Chairman McMillan questioned if the lawn beyond the path would have the same grass mix. Ms. Woodburn confirmed it would be the same mix anywhere it says lawn on this side of the path. The other side of the path has a conservation mix.

Ms. Woodburn commented that the seeded area between the existing vegetation and the edge of the path will be potentially mowed twice a year to knock down any invasive plants. Chairman McMillan questioned if there could be a conservation mix next to the sidewalk. Ms. Woodburn responded that it would look tidier to have the lawn, but it can be changed to a conservation mix. Chairman McMillan confirmed the conservation mix was the preference. Chairman McMillan questioned if there was fencing along the sidewalk. Ms. Woodburn responded that there was not. The intent is to wait to see how things develop and add something later if it is needed.

Ms. Tanner requested an update on the contaminated soils results and questioned how they would be mitigated. Mr. Crimmins responded that they did a pretty extensive soils testing program. The results from all of the testing showed that the soils were consistent with a typical urban fill site. They didn't find anything with exceedance for the NHDES regulations in the soil or ground water. There will be a soil management plan implemented during construction. In 1992 there was a 20,000-gallon gas tank that was removed. The soils in that area showed limited petroleum contaminants in the soil. That will be mitigated in accordance with DES regulations.

Ms. Blasko questioned if the area they would be mowing a couple times a year was in the 25 foot no mow buffer. Ms. Woodburn confirmed that it was between the walkway and the bank.

Vice Chairman Collins requested more details on the pathway and questioned if it was 10 feet wide for fire access. Mr. Crimmins responded that it was still being designed to meet trail requirements. It will be a paved path with a gravel base. If the fire department wants a 14-foot width, then they could extend the base material out but keep it vegetated to the path. That way the truck would have the base material. Vice Chairman Collins questioned if the 10 foot width was required. Mr. Crimmins responded that it was designed to match the City's conceptual design. Ms. Woodburn added that 10 feet allows for 2 bikes going each way. Vice Chairman Collins commented that 10 feet was far too wide, and the path should not be paved. There also only appears to be two areas for snow storage, and they are still in the 100-foot buffer. Vice Chairman Collins questioned if those could be moved. Mr. Crimmins responded that they were located there and designed that way because the constraints of the site make it tough to store snow out of the buffer. The snow would be stored and graded so the snow would melt back onto the pavement and then go into the detention center for treatment. There are other areas outside of the buffer. The property manager will take snow off site if the snowbanks get too high.

Chairman McMillan commented that the plan says snow will be removed from the site when the banks reach 6 feet high. The snowbanks will go right up to the water along the driveway. There has been a problem with snow ending up in the North Mill Pond today. The snow needs to be taken off site before that happens. It may make sense to add a caveat that snow must be removed if the snowbanks reach 6 feet high or before the snow enters the pond. Mr. Crimmins confirmed that could be updated.

Ms. McMillan questioned if they were approving the walkway with this application or not. Mr. Britz responded that they would be approving the width and alignment. The permit could have changes, but it does fit with the conceptual design of the walkway as well.

Mr. Jankowski questioned if the walkway would be 100% paved. Mr. Britz responded that it would be paved or porous pavement. The design is still conceptual.

Chairman McMillan questioned if there was a lighting plan. Mr. Crimmins responded that it was not part of this package and was still being worked on. There will be an updated photo metric plan within the next 2 weeks. There will not be any lighting on the path.

Mr. Jankowski moved to postpone this application to the December meeting, seconded by Ms. Tanner.

Mr. Jankowski commented that this was his first time seeing the plan because he was a new member. This is very complex and there are still a lot of questions. Members of the

community have contacted the Commission and expressed concerns about moving too quickly with this application because they haven't had time to review.

Chairman McMillan commented that they should have discussion, then public comment, and then make a motion. Mr. Jankowski withdrew his motion and Ms. Tanner withdrew her second.

Vice Chairman Collins commented that she was still concerned about buildings in the 100-foot buffer. This plan brought back building B to make it flush with C, but there is still a good chunk in the 100-foot buffer. That buffer limit is there for a reason. A lot more should come out of the 100-foot buffer for buildings A and B. That will reduce the number of units and would reduce parking as well, which would be good. The pathway was an issue and it's unclear if it should be part of this application. If it is a City project, then it should remain in City hands.

Ms. Tanner agreed with Vice Chairman Collins comments about moving more out of the buffer. A 10-foot wide path is too wide. It doesn't need to be this wide unless it's also for fire access. Mr. Crimmins responded that is part of what is being accounted for. It would provide fire access to the back of the building.

Ms. Blasko agreed with the previous comments. Ms. Blasko appreciated the changes and efforts that were made, but there should be more improvement. Ms. Blasko had concerns about lighting from 3 buildings and its impact on the pond.

Vice Chairman Collins commented that this greenway path should not be used as fire access. Access should be outside of the buffer. It is good to put in a pathway for the public, but they need to be careful about what is put in that area because it's a critical area.

Chairman McMillan requested more information on the invasive plants on the property.

Mr. Jankowski questioned if there was design discussion about an alternate route for the fire access. Mr. Crimmins responded that this was the access. The fire department wanted 360-degree access. The site is pretty constrained. They need to account for the North Mill Pond view corridors and a large sewer easement on the property.

Vice Chairman Collins commented that this plan does not show the 100-foot wetland buffer as a constraint. It is a constraint. Mr. Crimmins agreed that it is a constraint and they are trying to do what they can within reason. The site is not maintained today. The plan pulled everything back and improved the buffer impact in every category. There will be less building and pavement in the buffer. The invasive plants along the water's edge will be removed. This is a predeveloped urban site.

Chairman McMillan commented that it was challenging to think about because it seems like it's not a great site, but it has been trying to recover for many years. There is a nice buffer in between. It is not perfect, but it is building a habitat.

Chairman McMillan opened public comment.

Public Comment

Liza Hewitt of 167 McDonough St. commented that this project fails on all of the criteria required to obtain a wetlands use permit. The land inside the 100-foot buffer is just suited for wildlife and plants. There is plenty of room outside of the buffer for an alternate location. There is no reason this project cannot be constructed in the upland. There will be massive adverse impacts to habitat and an increase in runoff. The proposal with the least adverse impacts would not need a Wetland CUP because it can be built out of the buffer. The applicant has not applied for a DES shoreland or wetlands permit. If they had, then they would know the results of the rare plants in the North Mill Pond area.

Elizabeth Bratter of 159 McDonough St. commented that the per DES the best practice is to have storm water infiltrate away from the water source. The alteration of the natural vegetated state should only be to the extent necessary. There is a 3,200 sf building that has saplings and is surrounded by trees and shrubs. That will be bulldozed over to create impervious surface and drainage. That area should be restored with a conservation mix and shrubs. The developer has not presented a plan with the least adverse impacts. This is a highly delicate area that will likely suffer from losing wildlife habitat and moving human activity into buffer. There is a lot of land left to be developed. This project should not be allowed to move forward. The City does not need another grass park where trees once stood.

Chairman McMillan closed the public comment.

Mr. Jankowski moved to **postpone** the Wetland Conditional Use Permit to the December 09, 2020 meeting, seconded by Ms. Tanner.

Mr. Jankowski commented that there was a tremendous amount of information with this application and he did not feel qualified to vote tonight.

Ms. Tanner commented that it was good to hear the public comment because it reinforces the feelings the Commission has expressed. An extra month may help to bring some sanity to proposal.

Vice Chairman Collins commented that things should be moved out of 100-foot buffer.

The motion passed unanimously by a 5-0 vote.

IV. OTHER BUSINESS

Mr. Jankowski requested a work session to talk about the role of the Conservation Commission and what they have the authority to do and not do. It would be good to discuss the regulations of the Board and the responsibilities.

Ms. Tanner commented that could be difficult because any discussion they have as a Commission has to be a public meeting. The Commission has done outreach to the public who have property in wetland areas. Ms. Tanner noted that anyone from the Commission can come over to her house to learn about invasive species and typical native plants.

Chairman McMillan commented that specific questions can be put on the agenda.

Vice Chairman Collins commented that it would be good to discuss the future role of the Commission. They can talk about certain things that should be added to the ordinance for further protections.

Ms. Tanner commented that they need to look at property that is available for development in Portsmouth and consider purchasing it. The Commission should be proactive to look at areas to protect against development. Chairman McMillan agreed they could put that on the agenda when there was a lighter load. Mr. Britz commented that he can provide maps of the properties that are available. There are very few areas that developers haven't capitalized on. The Commission needs to come up with a process. They should look at properties and write letters to owners and make offers or talk to City Council.

Ms. Tanner commented that the property behind St. Catherine's Church would be a great start. Mr. Britz noted that an easement protection could be another option. Easements are not as expensive as buying the property.

V. ADJOURNMENT

Ms. Tanner moved to adjourn the meeting at 5:22 p.m., seconded by Mr. Jankowski. The motion passed unanimously by a 5-0 vote.

Respectfully Submitted by,
Becky Frey,
Acting Recording Secretary