

Exeter Conservation Commission
May 11, 2021
Virtual Meeting
Draft Minutes

Call to Order

1. Introduction of Members Present (by Roll Call)

Present at tonight's meeting were by roll call, Chair Andrew Koff, Vice-Chair Trevor Mattera, Bill Campbell, Carlos Guindon, Donald Clement, (Alternate), Kristen Osterwood (Alternate), Conor Madison (Alternate) and Kristen Murphy, Natural Resource Planner.

Members present indicated there was no one else present in the room with them during this meeting.

Absent: Allison Eberhardt, Dave Short, Julie Gilman Select Board Liaison, Ginny Raub, (Alternate) and Nick Campion (Alternate)

Mr. Koff read the meeting preamble indicated that an emergency exists and the provisions of RSA 91-A:2 III (b) are being invoked. As federal, state and local officials have determined gatherings of ten or more people pose a substantial risk to the community and the meeting imperative to the continued operation of Town and government and services which are vital to public, health, safety and confidence. This meeting will be conducted without a quorum physically present in the same location and welcome members of the public accessing the meeting remotely.

Mr. Koff called the meeting to order at 7 PM and indicated Alternates Donald Clement and Conor Madison would be active and voting for this meeting.

2. Public Comment (7:00 PM)

Mr. Koff asked if there were any members of the public who wanted to speak to an item not on the agenda and being none closed public comment.

Action Items

1. Continuation of the Wetland/Shoreland CUP review for an open space development at Cullen Way/Tamarind Lane. Tax Map 96-15 and 96-9 (Brian Griset, Justin Pasay, Christian Smith, Jim Gove, Luke Hurley)

Mr. Campbell commented that he and Mr. Mattera had been on a site walk of the premises.

A wetlands delineation error was disclosed of the prime wetlands boundary along the railroad corridor and discussed. It was determined the boundary did not affect the areas impacted by the CUP as it is not

in the developed portion of the site. Ms. Murphy noted if there were a material change to the Planning Board analysis it would come back to the Commission. Mr. Koff clarified if it materially affected the CUP application.

Mr. Koff opened the hearing to the public for comments and questions at 7:12 PM.

Neil Bleicken of 11 Tamarind Lane expressed concerns about the maps being incorrect and requested the Commission get an independent analysis.

Mr. Koff reported receipt of two similar letters from abutters asking for independent review of the wetland delineation.

Mr. Pasay stated he did not believe the Commission has the authority to order this for the Planning Board but noted he believed Mr. Sharples is trying to get some names together. Mr. Pasay clarified that realtor Scott Gove has no relation to wetlands scientist Jim Gove. Ms. Murphy corrected that the Commission does have the authority to request an independent wetland review. Ms. Murphy indicated that Mr. Sharples is looking at the availability of wetland scientists but the Planning Board has not requested a review.

Conor Madison joined the meeting at 7:17 PM.

Laura Knott of 15 Tamarind Lane requested an independent wetland review.

David Hadden of 12 Tamarind Lane felt the information should be answered before moving forward and expressed concerns about the loss of field for the animals.

Mr. Koff noted the Commission has a complete application and obligation to deliberate. Other than general uneasiness there has been no specific issuance of challenge. The easement area will be discussed at a later date. Ms. Murphy noted the Planning Board approved the Yield Plan in February.

Mr. Koff reviewed the criteria for the CUP.

Criteria #1 concerns permitted zoning. The premises are single-family, residential condominium open space units. The applicant received a variance from the ZBA for density on January 21, 2020.

Criteria #2 concerns alternative design. Mr. Pasay noted the 64 acres on 3 parcels with 18 units in an open space upland development. A conventional subdivision would have been 12,000 SF of impact so the applicant pursued the open space design. 50 acres will be preserved. The existing ROW was utilized. Soils were previously disturbed. There is no legitimate alternative design.

Criteria #3 concerns functions and values. Mr. Gove discussed the impacts on the edge and man made pond which is not a vernal pool, has fish, minnows and sunfish, and will continue to exist. The forested rea has a road bed expansion in an already impacted area. There are no loss to functions or values.

Ms. Osterwood asked Mr. Gove about the concerns of abutters about drainage of soils and any negative impact to abutters. Mr. Gove explained the flow of water from the development goes to the south. Water doesn't flow uphill. There are detention basins proposed at the lower areas and water will flow away from abutting properties. Clay soils in the abutters' properties create water problems because they don't drain well and problems with footing drains.

Criteria #4 concerns design/construction/maintenance. Mr. Gove noted the applicant did a good job to avoid wetland impact and with the proposal to manage stormwater volume and quality. Maintenance will minimize detrimental impact. Christian Smith noted the HOA will be responsible for inspections and annual reports to DPW if requested. Mr. Pasay added the plan is designed to use the best suitable uplands avoiding a line of swamp white oaks with the greatest benefit and minimum impact.

Criteria #5 concerns hazards to individuals or public, health, safety and welfare due to loss or contamination of groundwater. Mr. Pasay noted the impact is totally unavoidable to get to the uplands and impacts the lowest value wetlands and slightly to individual units. Mr. Gove clarified the criteria is meant to address issues IF there is a loss of wetland which causes flooding, as when wetlands are filled which is not the case here. There is no concern with contamination of groundwater as the units are residential not industrial or commercial.

Criteria #6 concerns wetland of equal or greater size. Mr. Pasay noted the Mendez Trust property is being conveyed which has higher value. Mr. Koff agreed.

Criteria #7 concerns temporary disturbance and restoration of vegetation or grade. Mr. Smith noted the disturbed areas will be seeded with a NE Conservation seed mix.

Criteria #8 concerns requirement of state and federal permits being obtained. Mr. Smith noted he will provide a list of those. Mr. Koff noted the applicant will need to come back to the Commission for recommendation of the State permit.

Mr. Mattera noted as far as the CUP goes it fits nicely. He agrees with minimization and that the functions are not heavily affected.

MOTION: Mr. Koff motioned after reviewing the application and criteria the Conservation Commission has no objection to the approval of the conditional use permit as proposed with the condition that if the impact increases the Planning Board should seek a revised recommendation from us. Mr. Guindon seconded the motion. A roll call vote was taken Koff – aye, Guindon – aye, Mattera – aye, Madison – aye, Campbell – aye and Clement – abstained. The motion passed 5-0-1.

Mr. Koff reviewed Page 16 concerning the Shoreland CUP within 150' of the brook, a major tributary that feeds to Little River which feeds to the Exeter River. Mr. Smith displayed the plan. Mr. Pasay pointed out the roadway impacts to access the uplands and entrance with 8,000 SF of permanent impact and 4,100 SF of impervious. Runoff goes to a treatment system outside the protected district a minimum of 100' from the shoreland district.

Mr. Koff reviewed the criteria. First that it not detrimentally affect the surface water quality of the adjacent river. Mr. Gove noted the runoff is controlled. Water quality is being treated. Discharge is through a thickly wooded area before it gets to the brook. Mr. Smith addressed the gutter line of the roadway curbing and catch basins. Mr. Koff noted the gravel road exists today and currently there is untreated runoff. Second, there be no discharge of wastewater other than domestic. There is no onsite hazardous or toxic waste. Mr. Smith noted the development will be on municipal water and sewer. All are residential units with no hazardous materials. Third concerns damage to spawning grounds or other wildlife habitat. Mr. Gove noted vernal pools are on the other side of the site. The area does not have the hydrology for wetland spawning.

Mr. Koff noted the next criteria concerns Regulation 934 of Exeter Shoreline Protection. Mr. Pasay noted there is nothing other than permitted uses.

Mr. Koff noted the next criteria concerns consistency with Regulation 931. Mr. Pasay noted the proposal is designed to preserve the quality of the environment and minimize impact.

Mr. Mattera noted in relation to the brook stormwater management is bring the stormwater out of the buffer itself adding a level of protection to the brook. Mr. Clement agreed it is an improvement to the existing gravel road.

MOTION: Mr. Campbell motioned after reviewing the application and criteria the Conservation Commission has no objection to the approval of the conditional use permit as proposed. Mr. Koff seconded the motion. A roll call vote was taken Koff – aye, Guindon – aye, Mattera – aye, Madison – aye, Campbell – aye, and Clement – aye. The motion passed unanimously 6-0-0.

Laura Knott asked about third party review. Mr. Koff noted it was already discussed and the Commission needs a material reason to request it and has not been presented with one.

Mr. Pasay asked about continuing the meeting to discuss the easement so that it will not have to be renoticed. Mr. Koff noted the Commission would need to get a legal document to review. Ms. Murphy noted the next meeting already had a full agenda and added that other items such as a baseline, discussion and agreement on stewardship fees and survey markers and edge walk be done to ensure the boundary markers on plan. Mr. Campbell added that discussions concerning conditions such as hunting need to be finalized. Ms. Murphy noted the Commission does not require a letter of notification so renoticing is not a concern.

Neil Bleicken asked about third party review and believes the map being wrong could affect the whole project. Mr. Koff noted if the Yield Plan was affected it would come back before the Commission. The impacts are not related to what was discussed tonight.

2. Standard Dredge and Fill Wetland Permit Application by Exeter Station, LLC for 1500 SF of temporary impact within the Exeter River at 53 Water Street (former IOKA theater) at Tax Map 72, Lot 34 (Sergio Bonilla, Dave Cowie, et al)

Mr. Koff read the Notice out loud for 1,500 SF of impact to the Exeter River at 53 Water Street.

Sergio Bonilla of Mission Wetlands presented the plan on behalf of the applicant which is to repair the concrete archway piers located in the river on the parcel which is an iconic downtown building. There will be decks to the basement speak easy and first floor commercial space and residents on the second floor. Mr. Bonilla noted the application has been reviewed by the Natural Heritage Bureau, NOAA, Fish & Game, the Army Corp and is on the agenda for review by the River Advisory Committee on the 25th. PVC boxes will hold river stone and there will be temporary sediment bags and settlement bladders. Impact would be foot traffic.

Mr. Campbell asked about the footprint and Mr. Bonilla noted the property line within the river shown on the plan. Mr. Koff asked about the Planning Board and Site Plan Review. Mr. Campbell asked about whether the development would be enlarged and Mr. Bonilla noted it would be in the same spot and dimensions.

Mr. Campbell asked about the decks and Mr. Clement asked how far they will extend over the river. Mr. Cowie noted they are within the footprint of the building. The area is dry in the summer and wet in the winter with some flow.

Mr. Clement asked how high off the surface of the water the decks would be. Mr. Bonilla referenced Sheet 3. Mr. Clement referenced the elevations before the dam.

Mr. Campbell asked if the decks would be cantilevered and Mr. Bonilla noted they would and that a variance was obtained.

Mr. Clement asked if the basement deck was beyond the archway and Mr. Bonilla noted it was within.

Christina O'Brian from Market Square Architects shared the drawing.

Mr. Koff asked if the deck is being constructed while the coffer dams are in place.

Mr. Koff noted the upper decks do not require a wetland permit.

Mr. Clement asked about vegetation and loss of light transmission which is detrimental to aquatics. Mr. Bonilla noted the area is riverbed stone with one shrub. Mr. Clement asked about impact on fish during flows and Mr. Bonilla noted Fish & Game will weigh it on that.

Ms. Murphy asked about the tidal marsh influence and noted the Coastal Project Worksheet is not in the packet. Mr. Bonilla noted he will keep the Town apprised of discussions with Army Corp.

Mr. Bonilla noted the project would be done in the summer in a three-week window. Mr. Koff noted there is usually no flow in the summer especially during the drought. Mr. Clement noted DES will determine when the work can be done.

Mr. Koff asked about the elevation of the lower deck and whether it could be raised any and Mr. Cowie noted if it were raised any it would go up under the arches.

Mr. Campbell asked the purpose of the deck and Mr. Cowie noted it was for the restaurant.

MOTION: Mr. Koff motioned after reviewing the application and criteria the Conservation Commission has no objection to the application as proposed. Mr. Campbell seconded the motion.

Mr. Guindon expressed concerns with the elevation of the lower deck.

A roll call vote was taken Koff – aye, Guindon – aye, Mattera – aye, Madison – aye, Campbell – aye and Clement – nay. The motion passed 5-1-0.

Mr. Clement noted the basement deck was a concern for him.

3. Todd Johnson Ash Tree Study on Emerald Ash Borer Defense Research Request for a portion of the town-owned lands within the Little River Conservation Area

Mr. Koff noted the proposal is for a three-year USDA funded project.

Mr. Johnson noted the project concerns research of the Emerald Ash Borer on the Ash trees. The smaller trees appear to be more resistant than the larger trees. Once the pests are detected the trees die rapidly.

The Commission reviewed the proposed location ½ mile within the entry. Ms. Murphy pointed to the project area on the map in relation to the gas line south of Continental Drive.

Mr. Johnson noted 68 White Ash trees would be artificially infested then cut down. They are not bringing in an insect that is not already there and at this stage the insect which takes a year to develop would not accidentally escape. The trees would be taken down and the bark scraped. Biological control wasps would be released. The largest tree is 16 cm. The trail would be watched on both ends when the trees are fell.

Mr. Guindon noted he was excited to see the area used for research and is in support.

Mr. Madison asked about posting signage during the project and Mr. Johnson posted a copy of the laminated signs with QR codes for UNH.

MOTION: Mr. Guindon motioned after reviewing the proposal and find the activity to be in compliance with the terms of the deed as proposed. Mr. Campbell seconded the motion. A roll call vote was taken Koff – aye, Guindon – aye, Mattera – aye, Madison – aye, Campbell – aye and Clement – aye. The motion passed unanimously 6-0-0.

4. Andrew Butler Furbearer Study Technique Evaluation Research Request for Oaklands Town Forest, Colcord Pond and Stone/Leighton

Ms. Murphy noted the project is for three game cameras and to evaluate wildlife tracks. Jay Caswell is not her. The project is a non-invasive study on town-owned property. Mr. Koff noted it was not unlike the cameras already out there.

MOTION: Mr. Koff motioned after reviewing the proposal and find the activity to be in compliance with the terms of the deeds as proposed. Mr. Mattera seconded the motion. A roll call vote was taken Koff – aye, Guindon – aye, Mattera – aye, Madison – aye, Campbell – aye and Clement – aye. With all in favor the motion passed unanimously 6-0-0.

5. Committee Reports

a. Tree Committee Update

Ms. Murphy noted the Tree Committee is working on an ordinance.

6. Approval of Minutes:

March 9, 2021 Meeting

April 13, 2021 Meeting

7. Correspondence

a. Piscassic River WMA Timber Harvest Notice

b. NHDOT Rocky Hill Brook Culvert Repair Notice

8. Other Business

Mr. Guindon asked about the materials left at the Newfields Road entrance, at the intersection, and whether they could be stored further off the trail. Ms. Murphy will follow-up.

Mr. Koff noted the Alewife are running and encouraged people to get photos.

9. Next Meeting: Date Scheduled (6/8/21), Submission Deadline (5/28/21)

Adjournment

MOTION: Mr. Koff moved to adjourn at 10:15 PM. Mr. Campbell seconded the motion. A roll call vote was taken Koff – aye, Mattera – aye, Campbell – aye, Guindon – aye, and Madison – aye. With all in favor the motion passed unanimously 5-0-0.

Respectfully submitted,

Daniel Hoijer, Recording Secretary