

MINUTES

CONSERVATION COMMISSION

**1 JUNKINS AVENUE
PORTSMOUTH, NEW HAMPSHIRE
EILEEN DONDERO FOLEY COUNCIL CHAMBERS**

3:30 p.m.

August 9, 2017

MEMBERS PRESENT: Chairman Steve Miller; Vice Chairman Blanchard; Members, Allison Tanner, Barbara McMillan, Samantha Collins; Alternate Adrienne Harrison

MEMBERS ABSENT: Kate Zamarchi

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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I. APPROVAL OF MINUTES

1. July 12, 2017

Ms. Tanner moved to approve the July 12, 2017 minutes, as presented, seconded by Ms. Collins.

Vice Chairman Blanchard abstained from voting due to absence at the last meeting.

The motion passed unanimously.

II. WORK SESSION

- A. 1850 Woodbury Avenue
Goodman Family Real Estate Trust, owner
Aroma Joe's Coffee, applicant
Map 239, Lot 9

Corey Belden and Eric Weinrieb from Altus Engineering have submitted a conditional use permit application. The applicants have met with the Technical Advisory Committee (TAC) and received comments. The purpose of meeting with the Conservation Commission is to receive comments to incorporate into the final site design. The existing pavement will remain onsite for the project. Wetlands surround the building, so the entire existing building is in the buffer. Aroma Joe's is going to utilize part of the side of the building as a drive thru. The loading docks will stay the same. There is an existing disturbed area where the applicants are proposing to put in a rain garden and storm water drainage system. Right now everything drains to the loading docks on the low point of the site. That is why the applicants are proposing to place the drainage

where it is in the plans. Because the building is in the buffer, the applicants are trying to limit the grading and treatment for drainage. The applicants looked at alternatives and tried to push the rain garden and system a little further north to create a tiered system.

Ms. Tanner questioned if any water sits in that loading dock area today. Mr. Belden responded no it does not. There is a sewer line that runs from Portsmouth Housing Authority right along the building, so the applicants are trying to push the rain garden out of the easement. The other option is that everything could be pushed further out of the buffer, but it may not be as effective in runoff prevention at the loading dock low point.

Chairman Miller requested a review of the landscaping plan. Mr. Belden explained that the landscaping plan was not in the original application. The plan includes providing some frontage trees. One comment that came out in the TAC meeting is that there is a city owned water line that runs through the front of the property. The Department of Public Works (DPW) wanted the trees located a minimum of 10 foot offset from that line. Two trees may need to be revised due to this request because of overhead power lines. Chairman Miller asked if that meant those trees might not be in the final plan. Mr. Belden responded that they would most likely be shorter trees, but they will need to consult their landscaping architect. Ms. McMillan commented that the Urban Forestry now has a display onsite to show what trees will work with power lines.

Chairman Miller asked for clarification on the shrubs in the plan around the rain garden area. Is the rain garden being shifted out of the buffer? Mr. Belden responded that yes in the revised plan the rain garden has been pushed out of the buffer. Mr. Weinrieb added that the sewer line could still be an issue, so DPW may have a say in the plans. Mr. Britz commented that moving the rain garden looks like it would help with the easement some. Mr. Belden responded yes, a swale might need to be added.

Chairman Miller encouraged the applicants to put bushes in the corner. Mr. Britz agreed with Chairman Miller and added that there is a little bit of room against the building. Mr. Belden agreed there would be room. Mr. Britz clarified the request was for native buffer plants. Chairman Miller agreed and added that will help prevent trash from getting in the wetland.

Mr Weinrieb recognized the Conservation Commission does not like to see storm water treatment areas in the buffer, but this is an existing building. The applicants will do their best to move this as much as possible away from the line. There is no treatment today. The rain garden will be the best natural way to handle this.

Mr. Britz asked if treatment could be done without going into the buffer at all. Mr. Weinrieb responded that it could not. Mr. Britz asked what if the treatment was partly mechanical and partly rain garden could it be out of the buffer then?

Chairman Miller asked if all of the pavement would be pulled up. Mr. Belden confirmed that is correct. Chairman Miller asked if that provided the opportunity for an underground system. Mr. Weinrieb responded there would be depth issues. The only treatment method for that loading dock area would need to be surface treatment. That's the highest contaminant area.

Chairman Miller questioned where the roof runoff goes today. Mr. Belden responded that the scuffers run off the back of the building, and clarified the applicants are not providing treatment for the existing roof.

Ms. Harrison requested clarification on how the lot will be shared between Aroma Joe's and the Mattress Firm Clearance store. Mr. Weinrieb responded they have been through zoning for parking and have gotten zoning relief on the number of parking spaces which helps provide more green space.

Ms. Tanner raised concern is that it is a mattress store today but what about tomorrow. Mr. Weinrieb responded that is correct. The mattress store has a long-term lease and if the mattress store changes hands the property needs to go back through zoning.

Ms. Tanner requested clarification on where the entrances and exits are compared to the trees. Mr. Belden responded there would be one entry one exit, and showed the committee where the drive thru and loading docks would go. Ms. Tanner questioned if it's a right only on Woodbury Ave when exiting the Aroma Joe's. Mr. Belden responded cars can go left or right there is a center lane, and added that a traffic analysis is being done for this intersection.

Ms. Tanner asked for clarification on where the signage is located. Mr. Belden responded that the mattress store has an existing sign on the building and the Aroma Joe's sign will be new. Ms. Tanner questioned if any trees would impact the sign visibility. Mr. Weinrieb responded that the Aroma Joe's sign would have low plantings around it.

Ms. Harrison expressed concern about the increase of traffic in the drive thru creating an increase of the contaminate runoffs because it would be a busy location. Additionally, there is concern about the number of disposable products Aroma Joe's uses and it could be difficult to capture these products that end up on the property. Chairman Miller agreed with Ms. Harrison and added this could be tied into the maintenance plan of the rain garden and who is responsible for the maintenance of that. Another point could be added for the maintenance of the parking lot and responsibility there too. Mr. Weinrieb agreed that was a good point.

Vice Chairman Blanchard requested clarification on the note in the plans about the automatic outside hose. Mr. Weinrieb responded that the landscaping technician put that on the plan and the hose will be needed to help the plants establish. Vice Chairman Blanchard questioned if this irrigation would be permanent. Mr. Weinrieb responded that he did not know.

Ms. Collins questioned what the paved storage area was. Mr. Belden responded that's where the mechanical devices would be stored. Mr. Weinrieb added that there would be a half wall that would be a continuation of the building, so it will all be out of sight.

Ms. Collins questioned if this would be a building people can go into or just a drive thru. Mr. Belden responded that it would be a drive thru with a walk up window and patio. There will be no public bathrooms.

Ms. McMillan commented that this is a hard intersection to pull out of to take a left hand turn. Mr. Weinrieb responded that the assumption is that if people are leaving Portsmouth they are going to stop at Starbucks, but if people are going the other way toward downtown then they are going to go to Aroma Joe's or Dunkin Donuts.

Ms. McMillan questioned why seed mix was chosen for the rain garden. Mr. Belden responded that they have done other gardens with this seed mix in the past and it usually flowers and establishes pretty well. Ms. McMillan added that a maintenance plan would be important to see for that. Especially if it's only going to be mowed 1 or 2 times a year.

Ms. McMillan questioned what would happen to the buffer plantings. Mr. Belden responded that there are some shrubs along the property line that will be removed, but there will be some arborvitaes would be put in. Mr. Weinrieb added this is to provide the most storage possible there would also be grading as close to the property as possible.

Ms. McMillan questioned if any trees had to come down. Mr. Britz clarified the trees by the dumpster. Mr. Weinrieb responded that no trees by the dumpster area should be impacted.

Mr. Britz questioned why some of the other trees needed to be removed. Mr. Weinrieb responded they have to be removed because of the driveway and the grading. The Lo's Seafood parking lot and sign encroach onto the site as well.

Ms. Collins questioned if the loading dock for the mattress store is wide enough to fit two trucks and if that width is needed. Mr. Weinrieb confirmed it is wide enough to fit two trucks. It is needed because two trucks could arrive at the same time.

Ms. Harrison questioned if pervious pavement was possible to include on site. Chairman Miller added that pervious pavement may not be realistic for the drive thru and loading dock areas but there is potentially an opportunity for the upper lot. That may not be much of a gain. Mr. Belden commented that there is also an opportunity to split up the treatment in different areas to do a smaller area.

Mr. Britz questioned if the applicants were redoing the whole parking area, and commented that porous pavement could be added in the parking areas. Mr. Weinrieb responded that this option has not been explored yet. There is a balance with the economics where at some point there is a tipping point that site costs become too high and developers may walk away. At TAC the Fire Department commented that they would require better access or a sprinkler system to the building. This would be an added cost. Vice Chairman Blanchard questioned if that requirement has already been added to the plan. Mr. Weinrieb responded that it has not been added yet.

Ms. McMillan requested clarification on Mr. Belden's comment about different drainage areas. Mr. Belden responded that there is a little island that treatment could be added to make some other drainage areas smaller. The maintenance of the whole site would have to be figured out, but assumption is that the maintenance of the pervious pavement areas would be in someone else's hands potentially.

Chairman Miller clarified the assumption that there is no basement on mattress building. Mr. Weinrieb confirmed that is correct.

Ms. McMillan questioned if the lawn area that would be added near the loading dock could be a drainage area. Mr. Weinrieb responded yes, there is a catch basin there that will drain out into the treatment area then rain garden. Ms. McMillan clarified that the amount of water that infiltrates would get treated, but the overflow would not be treated. Mr. Weinrieb confirmed that is correct.

Mr. Britz questioned if the applicants have done test pits? Mr. Belden responded that test pits have not been done yet.

Ms. McMillan commented that there is a flow coming out of the parking lot. Mr. Weinrieb responded that could be converted to a treatment area. Ms. McMillan recommended that the applicants do that.

Ms. McMillan questioned if there was opportunity to plant more trees. Mr. Weinrieb responded there are some trees along the entrance that would be maintained. Mr. Belden added the applicants would coordinate with the landscape architect to clearly show the existing trees that would remain on site.

Vice Chairman Blanchard questioned if the 14-foot area would be concrete. Mr. Belden confirmed that is correct. Vice Chairman Blanchard questioned if it needs to be concrete. Mr. Weinrieb responded that they could certainly talk to the owner about making it a porous area. Vice Chairman Blanchard questioned if there is an indoor slab with this building that would be handicap accessible. Mr. Belden responded that the only access door into the building is from the rear for employee access.

Ms. McMillan commented that there must be a way that an irrigation system can be installed to not work during the rain. Mr. Weinrieb responded that almost all of them are moisture sensitive. Ms. McMillan requested that a note about the irrigation system only being needed for the establishment period be added to the plans.

Vice Chairman Blanchard asked for clarification about fertilizers. Mr. Weinrieb responded that they could make a recommendation that the landscapers minimize fertilizers and pesticides. However, most landscapers don't like that requirement during the establishment period because otherwise it will take longer for plants to grow and there could be erosion issues. Mr. Belden commented that this can be added into the maintenance plan.

Mr. Britz recommended the applicants look at the fertilizer restrictions in the ordinance. It should be low phosphate and nothing within 50 feet of the wetlands. Mr. Weinrieb confirmed that they would look into this.

III. OTHER BUSINESS

1. Review of wetland conditional use permit approval criteria

Mr. Britz provided the handout with two sections - one for developments and the other for utilities. Ms. Tanner had requested to go through the wetland conditional use criteria and make changes if needed.

Ms. Harrison had requested to look at sea level rise with acknowledgment and ways the Commission could approach that with the goal of telling people what the Commission knows, so they can make informed decisions. Ms. Tanner agreed that making the public aware would be good.

Vice Chairman Blanchard commented that a checklist would be a good idea to make sure applicants look at the ordinance and location to understand where they are building.

Mr. Britz commented that part of the permit process is to check if the applicants are in the flood plain. There are also maps that go beyond where the flood plains are now. It is all mapped out according to the study, so the checklist would have the applicants look at our studies.

Chairman Miller commented on the Coastal Risk and Hazard Commission report stating that the report showed all municipalities had a reasonable planning area for communities to have guidelines. There was good language in there and the report had a lot of good recommendations. These reports will be updated every 5 years so the idea is it's a living document that will be upgraded.

Ms. Collins suggested having a box that the applicants check and to show that they have looked at the maps. Ms. Collins questioned if it could be required that the applicants provide the map into the packets that are part of their presentations. Ms. Harrison added that there is a line between education and decision-making. The Commission can ask the applicants to be aware, but there is a line of where the Commission can use that education to inform the decisions.

Chairman Miller added that if the Commission wants this information to be part of the decision making process, then it should be added into the ordinance. Ms. Harrison added that this could be two-step process. It could start as an education process, and then look at what's feasible to add to the ordinance. The Coastal viewer could be a resource to point the public to.

Mr. Britz commented that the Commission could create a regulation, but not sure that they should start there. It should start as an education process, and eventually bring this to the Planning Board and City Counsel.

Chairman Miller commented that this will be hard with Portsmouth because a lot the projects are re-development. There won't be a one size fits all for every project.

Vice Chairman Blanchard agreed and commented that this is something the Commission should get ahead of especially to prepare for a high flood potential. It's not just structures that are at risk people will be too. The developers need to look far enough down the road to make informed decisions and it is the City's responsibility to help them address this.

Ms. Tanner commented that the wetlands are so valuable, and the more that is built into it the less the wetlands will be there in the future. Ms. Tanner added that the impervious surfaces in the buffers should not be allowed unless there is a mitigation system put in place.

Chairman Miller commented that the Commission has done a good job with evaluation of applications especially considering the buffers. The ordinance has been amended twice since he has been in office and believes the Commission has really strengthened them. There is a balancing point for what is put in the ordinance and the Commission needs to ensure the ordinance doesn't go too far.

Mr. Britz reminded the Commission that applicants come to them because the applicant can't meet something in the ordinance, so they are seeking the conditional use permit.

Ms. Tanner requested to add language that any amount of impervious surface area needs to be mitigated with equal pervious surface area in the buffer. The buffer needs to be enhanced in some way. Mr. Britz agreed that could be added. Ms. Tanner added that the mitigation would need to be reasonable. It could be something as simple as plant some blueberry bushes. Ms. McMillan commented that once something like that is added, then that could give the applicants a way around the criteria.

Vice Chairman Blanchard commented that ratio is important. How big of a project is it, and how much of the project is wetland. Ratio is an important word in the conversation.

Chairman Miller commented that the Commission was not going to write the revisions now, but it is good to have this conversation. Everyone needs to give it some serious thought. Maybe a smaller group would work on this or the Planning Board is engaged. Impervious surface and sea level rise are two examples of concerns that could be incorporated into the ordinance. Just want to make sure revisions will not make more problems than solving them.

Ms. Collins commented that applicants who go through the Board of Adjustment (BOA) and Planning Board have to satisfy hardship. This may carry more weight than the conservation ordinance that exists today, maybe that could be added. Today everyone that comes in with a project says there is nowhere else to put what is being proposed.

Vice Chairman Blanchard commented that there should be some level of buyer beware and property owners should be fully aware of what was purchased. It is important to raise the review process.

Mr. Britz added that the BOA will go through each criteria item and each individual gives feedback on how the criteria is interpreted by them. It is important to be a little open ended so there is flexibility to be more or less strict depending on the project. The subjective viewpoint is how each member makes their decision based on the criteria.

Ms. Collins questioned about item 6. Does it assume the buffer is already vegetated, and if it is not do the applicants have to re-vegetate the area? Mr. Britz responded yes, that is the intent. It is

probably unrealistic to think that everyone is going to return the buffer to it's natural state but important to be consistent with every project.

Ms. Harrison questioned if there are numbers on the impervious surface for all of Portsmouth. Mr. Britz responded that UNH did a study and it said that about 30% of it is impervious. Ms. Harrison suggested that it would be beneficial to have a goal to reduce the impervious surface overall, and consider how this can be incorporated into every project. Ms. Tanner added if a project couldn't reduce the impervious area then at least try not to have the project increase it. Mr. Britz added a statement around this could be added to the purpose section to act as guidance.

Ms. McMillan commented that the suggestion of speaking to the criteria points when reviewing an application would be very helpful to see what everyone is thinking. Mr. Britz added that it could be beneficial to look at them at home when looking at applications and then bringing up what is important in the meetings. Chairman Miller agreed and added that it would be helpful to for members to state their reasons for voting too. Ms. Tanner added that the reasons could also be helpful in the discussions because sometimes that helps change my mind.

Vice Chairman Blanchard agreed with Ms. Harrison that a positive statement about increasing undeveloped wetland areas would be beneficial. It's in the city's best interest to have areas that can handle water and prevent flooding.

Chairman Miller asked the Commission about next steps. Should there be a sub committee? Vice Chairman Blanchard commented that this should be worked on as a whole Commission. It should either be put on the agenda or scheduled as a work session. There is plenty for to think about and different members have different resources to use to firm up the package.

Chairman Miller requested Mr. Britz provide an updated zoning ordinance to the Commission members. Mr. Britz responded that he would provide a hard copy of article 10 to each member, and provide the entire zoning ordinance document electronically.

Ms. Tanner suggested that another item to add to an agenda is to look at properties that the Commission would be interested in protecting before development starts to really get going in certain areas. Chairman Miller agreed and added that this has always been talked about and seems to be something that never comes together. It is good to be proactive about this. Mr. Britz commented that funds could be used to have a study done. Mr. Britz took an action item to complete an RFP and send out to people who do this kind of study. Mr. Britz requested that the members send him what kind of information that they want in the report.

Ms. Tanner commented that it would be nice to see more open space in the city. It would be good to look at connectivity and look at areas in the city where there is not conservation land. The St. Catherine's property has a big piece of land that would be nice for a new park. Mr. Britz added that 996 Maplewood got approval. There could be an opportunity to put some of that area and pond into conservation as an easement.

Chairman Mille raised two other items. First he extended an offer to present findings from the NH Coastal Risk Management Report to either just the Conservation Commission or the Planning Board if there is interest.

Vice Chairman Blanchard suggested this could be presented to the Conservation Commission and a notice could be sent out letting other people know they can attend. Mr. Britz questioned how long would the presentation would be. Chairman Miller responded that he could give a good introduction in 20 minutes, but would not be able to get into any good recommendations in 20 minutes. Mr. Britz proposed that the presentation is given to the Planning Board and the Conservation Commission could be invited. Chairman Miller agreed.

Ms. Tanner question if there was a link to the report. Chairman Miller responded that there is, and it will be provided to the members.

Chairman Miller commented that the second item is that a citizen who is very concerned with synthetic pesticides the City is using has contacted him. Chairman Miller is bringing it to Conservation Commission to discuss that there is concern out there for good reasons, but not sure if any one is interested in taking this on.

Chairman Miller questioned if the letter they sent out could be sent to the concerned citizen. Mr. Britz responded that it could and he would email it out to the board members.

Chairman Miller commented that encouragement of a positive approach on this is the most beneficial.

Mr. Britz commented that private citizens can put all of this on their own lawns and are probably using way more than the city.

Chairman Miller expressed interest in a citywide outreach campaign about the cost benefit analysis on this issue to educate the city. Ms. Tanner agreed that the Commission should not jump on the city for this, but the education effort is important to do.

Ms. Harrison commented that at one time an outreach and education program was discussed to target people who own property in the flood plain in the buffer. Another piece to this effort could be talking about synthetic fertilizer.

Vice Chairman Blanchard recalled that the Commission instituted a mailing before. Mr. Britz responded that there has been a mailing, but not recently. It speaks to properties in the buffer and wetlands and goes out to about 2000 people who own properties within the buffer and wetland. The mailing could be expanded to the City to show the issues that synthetic fertilizer creates, show what the city is using, and show can be used as alternatives.

Vice Chairman Blanchard questioned if the mailing could be part of the tax bill. Mr. Britz responded that the water bill is probably more related to this. The key is that this mailing will have to be small enough so people read it. A link can be included to point people to more information.

Chairman Miller pointed out that it is a bit of a catch-22 because if the plants are not sprayed to get rid of weeds, then people will complain too. This outreach needs to be citywide. Ms. Tanner commented that the education effort needs to show direct results of the impacts. For example impacts to amphibious wildlife and lightning bugs. Ms. Harrison added that the bees are impacted as well.

Vice Chairman Blanchard commented that the Commission should follow up on this and then include something in the water bill mailing. Ms. McMillan agreed and commented that the Commission should research messaging and get on the water bill mailing schedule.

Chairman Miller commented that the concerned citizen wants to come to talk to the Conservation Commission. Ms. Tanner responded that they would just be preaching to the choir Vice Chairman Blanchard agreed, and stated that's not needed.

V. ADJOURNMENT

Vice Chairman Blanchard moved to adjourn the meeting at 5:24 pm, seconded by Ms. Tanner. The motion passed unanimously.

Respectfully submitted,

Rebecca Frey, Conservation Commission Secretary

These minutes were approved at the Conservation Commission meeting on October 11, 2017.