

**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 2020-10, 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.

August 12, 2020

MEMBERS PRESENT: Chairman Barbara McMillan; Vice Chairman Samantha Collins; Members; Allison Tanner, Adrienne Harrison, Jessica Blasko,

MEMBERS ABSENT: Alternate Joseph O’Neill

ALSO PRESENT: Peter Britz, Environmental Planner/Sustainability Coordinator

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I. APPROVAL OF MINUTES

A. July 08, 2020

Ms. Tanner commented that page 3 had a comment about pervious pavers and the word “installed” was missing from the sentence. On page 4 Alison was spelled with two “L’s” but it should just be one.

Vice Chairman Collins commented that on page 3 the term “computer connection” was capitalized but it should not be.

Ms. Blasko commented the Ms. Tanner made the motion on page 2, and Ms. Blasko had seconded it, so it should be switched.

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

II. STATE WETLAND BUREAU APPLICATIONS

1. City of Portsmouth Project
City of Portsmouth, Owner
Assessor Map 215, Lot 9; Map 214, Lot 3; Map 243, lot 6; Map 297, Lot 4; Map 297, Lot 11; Map 295, Lot 221

Ms. Tanner moved to postpone the State Wetland Bureau Application to the September 2020 meeting, seconded by Vice Chairman Collins. The motion passed unanimously by a 5-0 vote.

III. CONDITIONAL USE PERMIT APPLICATIONS

1. 18 Dunlin Way
Nania Family trust, Matthew J & Erica L. Trustees, Owner
Assessor Map 213, Lot 9

Owner Matt Nania and Wetlands Specialist Sergio Bonilla spoke to the application. Mr. Nania commented that they have been living in Portsmouth for 7 years and this application is to replace the existing deck with a new 3 season room, a new deck, and a patio. The deck is 20 years old and rickety. The goal is to maximize the space on the lot.

Sergio Bonilla commented that he surveyed the property and the wetland buffer is in the rear of the yard. Part of it is in the Eversource right of way, so it is subject to a maintenance regime for that. It is a low-quality wetland with typical opportunistic urban critters. There are some fruit bearing shrubs. The existing deck is setback 45 feet from the wetlands. The proposed project would be an extra 5 feet closer to the wetland. The porch area will be 260 square feet. There would be 282 square feet of impervious impact in the buffer zone. There will also be 164 square feet of pervious patio pavers. There will be no heavy grading. Some soil will be retained to make the stairs work. There will be gutters on the roof and an infiltration strip to bring the roof runoff into the ground water table. There is a healthy community of staghorn sumac already, but more plantings are proposed. Ms. Tanner suggested putting plantings on the inside of the stockade fencing, and that can be incorporated.

Ms. Tanner questioned if there will be gutters on either side of the addition that will go to the trench. Mr. Bonilla responded that there would be roof leaders at either end of the gabled porch. They will capture runoff and divert it into the infiltration strip.

Vice Chairman Collins questioned if the current roof line had gutters. Mr. Nania responded that it did not. Vice Chairman Collins questioned what would happen to the runoff that goes onto the new deck. Mr. Bonilla responded that there is an existing infiltration strip there. The proposal includes erosion control.

Vice Chairman Collins commented that some places refer to the proposed room as a 3-season room, and in others it says a 4-season room. It should be consistent. Mr. Nania confirmed that it would be updated.

Ms. Blasko questioned what would go under the new deck. Mr. Nania responded that they will put crushed gravel under the deck and the patio will be under the porch.

Ms. Tanner moved to recommend approval of the Conditional Use Permit Application to the Planning Board, seconded by Ms. Harrison with the following stipulations:

1. The proposed shrubs will be planted on the inside of the fence at the rear of the property instead of outside the fence as shown on the plan.
2. That the applicant will ensure that the erosion control measures are installed during construction.

The motion passed unanimously by a 5-0 vote.

2. 0 Banfield Road
Maud Hett Revocable Trust, Walter D. Hett Trustee, Owner
Assessor Map 265, Lot 2

Corey Colwell from TF Moran and Gary Spaulding spoke to the application.

Mr. Colwell commented that this was originally presented in October 2019 and then the drainage design was changed, and the buffer impact was reduced. The revised plans were presented in December of 2019 and this Commission voted to not recommend approval of the application to the Planning Board. That Commission's primary concerns with that design was that the density was too intense, there was not enough protection for the habitat and animal crossings, the wetland was vulnerable to collecting pollutants, there was too much tree clearing, and there were concerns about the barrier at the second animal crossing location. This current plan has been revised again to address those concerns. The application has received approval from TAC and NHDES for the wetland crossing and AOT for the drainage design. The first change with this design is that of the wetland crossing. It has been revised to lessen the impact to the wetland and buffer. There is wetland along the entire frontage of Banfield Rd. To access the upland the road has to cross the wetland. This new design reduces the wetland impact to 2,693 square feet. There will be 1,135 sf of temporary impact for construction. DES reviewed this design and classified it as a minor impact project. DES gave approval in May. Changes have been made to the eco-passages. They have been enlarged and raised in height to provide more room. The first passage was raised from 1 foot to 1.9 feet, the middle passage was raised from 1.3 feet to 2 feet, the third passage was raised from 1.1 feet to 2.2 feet. Eco-passages are widely used in Canada and Massachusetts and have been monitored with good results. The team is confident that the passages will allow wildlife movement. The roadway runs through a narrow strip of buildable land between the two pods of homes. This allowed for the elevation of the road to lower and the height of the retaining walls to lower or be eliminated. The right-side wall has been reduced by 6 feet and the left side wall has been eliminated completely. The right side will be 2-3 feet in height. This will facilitate large mammal crossings. There are no more guardrails on that section

of the road. There were landscape design changes. Post construction 84% of the site will be left in its untouched natural state. The rest will be landscaped. The new road will be tree lined through the site. The only buffer impact is for the road and drainage improvements. Landscaping will enhance the buffer and provide vegetation beyond the buffer. 86% of the plants will be native species. The remaining 14% were selected for hardiness and variety. Typically, the landscaping budget is \$4-5,000 per home. Each home will have \$17-20,000 for the landscaping budget in this development. There will be a total of 777 trees and shrubs planted as part of this plan.

Vice Chairman Collins questioned if the renderings shown reflected immediately after planting or after a few years of growth. Mr. Colwell responded that they were closer to a few years out.

Mr. Colwell commented that the road was raised by 2.5 feet. This will reduce the amount of ledge that needs to be removed and facilitate room for the storm water treatment system.

Ms. Blasko questioned if ledge would still need to be removed. Mr. Colwell confirmed that was correct, but it would be less ledge removal than what was previously proposed.

Mr. Colwell noted that the Commission had a concern about density. This land is in the SRA zone where one acre per lot is required. That yields 27.3 units allowed on the property. The plan is proposing 22 units. The whole development will only be on 2.4 acres or 16% of the property. Only 0.5% of the wetland is being impacted and 71.3% of the upland will remain in its natural state. The State also has regulations for developments that are not on the sewer system. There are 14 effluent disposal areas which exceed their requirements. The tanks need to be 50 feet from the wetland. These are all 100 feet away. The septic will be using a geo mat leaching system. According to the State density guidelines this property could handle between 59-99 homes. There has been additional septic review. The septic designs have been provided. DES has reviewed this site and given the acreage and soil condition determined it will support 59-99 homes.

Ms. Tanner questioned how long the geo mats last. Mr. Spaulding responded that the systems have been around and used for over 15 years. It all comes down to homeowner maintenance and doing what needs to be done for the leach fields. They can last 20-25 years or longer depending on maintenance. Ms. Tanner noted that maintenance is in the condo documents, but it was not clear what is necessary for maintaining the leach field. Mr. Spaulding responded that it would be the normal pumping process. Typically, pumping happens every 24 months or so. The condo association will be responsible for it. Ms. Tanner questioned if the maintenance would include replacing the filter if necessary. Mr. Spaulding confirmed that was correct and noted that it would be cleaned every time there was a pump out.

Mr. Colwell noted that the Commission was concerned about the amount of tree clearing. The plan will remove trees for the road and the homes, but most of the site will be left in its natural state. The plan will remove 4 trees in the 0-25-foot buffer and 32 trees in the 25-100-foot buffer. 98% of the tree removal will take place on the upland portion of the site. The developed portion includes 777 proposed plantings. Post construction the site will be heavily vegetated. The Commission was concerned about impacting the wildlife habitat. The team responded with a

wildlife report submitted by Jim Gove. The uplands on the property have limited wildlife usage. The wildlife is mostly in the low valleys and wetland. The wetland eco-passages will facilitate movement of wildlife. The impact to the wetland is directly adjacent to Banfield Rd. where there is little wildlife observed. The observed wildlife is mostly behind the property to the north. Removing the guardrails and lowering/removing the retaining walls will help wildlife crossing as well. The number of units in the development envelope have little to no impact to the wildlife habitat. The team hired two additional independent wildlife experts to review the plan. Normandeau Associates concluded that the project had taken considerable measures to facilitate wildlife habitat and mitigate impact. Green and Company has agreed to better protect the habitat areas with a deed restriction or conservation easement. Oak Hill Environmental Services concluded that there will be minor direct impact on wildlife. The eco-passages minimize the impacts and the proposed drive would not impede the wildlife crossings. The Commission felt that the wetland could be vulnerable to collecting pollutants. The team hired an independent reviewer for the drainage design. The City also hired a peer reviewer. Waterstone Engineering concluded that the design enables avoiding buffer disturbance and will successfully remove a wide class of pollutants. CMA Engineers concluded the storm water system as designed was sufficient and adequate. The science behind the changes and studies and the approvals back up what was submitted. The applicants have spent time and money on professionals to review wildlife, drainage and the overall project. They feel that this plan has addressed the Commission's concerns.

Ms. Tanner questioned if there was a note about salt usage on the road. Mr. Colwell responded that there was a chloride management plan in the operations and maintenance manual. Ms. Tanner questioned if there was going to be an internal speed restriction on the roadway. Mr. Colwell responded that it was designed for 25 mph. It is a private road, so the applicant can set the speed limit. If the Commission felt that signage or a reduced speed was required, then they would be amenable. Ms. Tanner questioned if there would be restrictions for motor vehicles in the open space area. It should be restricted. Mr. Colwell confirmed that it would be added.

Vice Chairman Collins agreed with Ms. Tanner about lowering the speed limit. There should also be animal crossing signs. Vice Chairman Collins questioned if the new storm water design would eliminate buffer impact. Mr. Colwell responded that it reduced buffer impact. The bio retention areas would be in the strip of roadway between the building pods and there would be one in the cul-de-sac. The original design had a gravel wetland design which had significant buffer impacts. The revised design with the underground stormwater treatment system reduced the buffer impact by at least 15,000 sf. Vice Chairman Collins requested more detail on the bio retention areas. Mr. Colwell responded that it was a fancy way of saying rain garden. They would be a depression of land for stormwater to go in and filter through engineered soil and plants. Vice Chairman Collins questioned if the R-tanks in the roadway would be completely under the road. Mr. Colwell confirmed that was correct.

Ms. Harrison questioned how they were able to expand the eco-passage openings. Mr. Colwell responded that they worked with DPW on the subdivision regulations. Normally the road is required to go down at a 2% grade for the first 100 feet. This road will not go in at a 2% for the full length. It will be 2% for the first 20 feet and then climb the grade from there. DPW agreed it would work. That adjustment has allowed for the increased height of the eco-passages.

Chairman McMillan questioned if there was a count for the number of trees that will be removed in the upland. Mr. Colwell responded that they did not have that count. Chairman McMillan questioned if the trees that will be removed in the buffer were marked in the plans. Mr. Colwell responded that they were only marked in the field. Chairman McMillan questioned if there would be a retaining wall at the first house on the right. Mr. Colwell responded that there is on the north side of the driveway and a small one on the south side to help create a yard. The house is being built up to create a drive under garage. It will be the same for first house on the left.

Chairman McMillan questioned if there was a note about lawn maintenance and fertilizer in the operations and Maintenance plan. It would be good to include restrictions on that. Similar to the chloride and de-icing operations. It would be good to make sure that the condo association hires someone certified and knowledgeable of those practices. Chairman McMillan questioned if there was a note about include leaf and yard waste in the condo documents. Mr. Colwell confirmed that it was included. There is also a note about the excavation of soil, cutting trees, and topography alteration. There should be a note to allow for the management of invasive plants. It would be good to remove dead trees on the limited common area or the open common space too. Chairman McMillan commented that diseased and unsafe fallen trees is a pretty general and overarching note. It does not seem necessary to remove fallen trees for that wooded area. It would only be necessary if there was trail work. It's a wooded area, so it should be left natural. Fallen trees saplings shrubs and dead trees add a ton to the environment and eco system. The note should just be they can remove diseased trees and others for trail maintenance. Mr. Colwell confirmed that they could update the note accordingly. The intent is to make sure trees close to the homes, utilities etc. can be removed if needed.

Vice Chairman Collins questioned what the difference between the common area and common open space was. Mr. Colwell responded that the common open space is the area that complies with the zoning ordinance. A certain percentage of the buildable area has to be common open space. The common area is a term used in context of the condos. It is owned by all of the condo owners. Vice Chairman Collins clarified that the limited common areas are directly around the houses. Mr. Colwell confirmed that was correct. Vice Chairman Collins questioned what activities would be allowed in the common area. Mr. Colwell responded that it would be passive recreation. The buffer would be clearly marked to keep it protected. Vice Chairman Collins commented that the plans should include that the buffer will be marked and outline what is allowed and what is not in that area. Mr. Colwell commented that the entire parcel is common area. On top of that each condo has a limited common area. The condo association will govern the buffer.

Chairman McMillan questioned if they would make the common open space larger. Mr. Colwell responded that they talked about that to address the concern in the Staff Memo. The applicants agreed that they would be willing to expand the common open space or put in a deed restriction or conservation easement. Chairman McMillan questioned if that could be a condition of the approval. Mr. Colwell confirmed that would be fine. Mr. Britz noted that would address the biggest concern in the memo. The intent was to have something more permanent. A private association or the City can hold the easement. The Planning Board and City Attorney can work to ensure the long-term protection of the open space.

Ms. Blasko commented that there was already a note about not using motorized vehicles in the condo area. It may make sense to expand that to more areas if needed. Ms. Tanner noted that they could not be used in the open space if it were put in the conservation easement.

Chairman McMillan questioned if the eco-passages would have winged entrances. Mr. Colwell confirmed that was correct. Chairman McMillan questioned if there was an opportunity to replant where trees will be removed. Mr. Colwell responded that the trees that will be removed are for the roadway and drainage improvements. Anything beyond the edge of pavement will be grass or landscape. There needs to be some space open for the drainage and yards. The intent is to vegetate everything beyond the pavement or buildings. Chairman McMillan questioned what kind of grass would be planted. Mr. Colwell responded that it would be a wetland seed mix in the 25-foot buffer.

Ms. Tanner reviewed what the Commission had talked about for conditions of approval. They included signs for animal crossings, reduced speed signs to 20 or 15 mph, a connection within the condo documents about the maintenance contract with de-icing, change the wording to cut vegetation limited to infrastructure areas and make common open space have a conservation easement, which would only allow passive recreation and no motorized vehicles. Ms. Harrison noted that the conservation easement should include the wetland and buffer areas. Mr. Colwell commented that they don't want to restrict the buffer entirely.

Vice Chairman Collins added that the conditions should include written restrictions on fertilizer and pesticide use in the condo documents.

Ms. Harrison moved to recommend approval of the Conditional Use Permit Application to the Planning Board, seconded by Ms. Tanner with the following stipulations:

1. Add speed signs and to post the site roadway at 15 mph.
2. Add animal crossing signs at crossing locations.
3. Provide details on plan showing planting of wetland seed mix in areas where site disturbance occurs within 25' of wetlands.
4. Provide information in condominium documents that restrict use of pesticides and fertilizers in buffer areas equal to or greater than as required in the City's Zoning Ordinance.
5. Add Conservation Easement to all the common open space currently shown on plan and expand that area to including all wetland and upland areas up to the wetland edge of the 100' buffer surrounding the limited common areas.
6. That there should be a connection in the condominium document that references the chloride reduction guidance stated in the maintenance guide.
7. Change the wording of removal of dead and diseased tree removal on open space only to the removal necessary to protect buildings and infrastructure.

The motion passed unanimously by a 5-0 vote.

Ms. Tanner expressed appreciation for the lengths this team went through to get their approval. They considered a lot of the Commission's concerns and improved the plan accordingly.

Mr. Britz commented that the Planning Board asked for input on the planned unit development CUP. The Commission does not typically approve that, but they can give feedback.

Ms. Tanner commented that it was preferable because the deed restriction encompasses the condo area and they would be able to maintain specifications. Vice Chairman Collins agreed.

3. 180 Greenleaf Avenue
Media One of NE, Inc., Owner
Comcast Corporation, Co-Owner

Doug LaRosa with Civil Works New England and Roland Leduc from Comcast spoke to the application. The project is located at 180 Greenleaf Ave. It is a 3.3-acre lot and the proposal is to remove two existing sheds and replace it with one shed. The activity is in the 100-foot buffer. Prior to construction silt sock will be laid around the perimeter of the fence. Utility connections will be removed. The area where the shed is removed will be loamed and seeded with a wildflower seed mix. The new shed will have a concrete pad with a 10 by 18-foot vinyl shed on it. There will be a 2-foot-wide stone drip edge around the perimeter. The utility lines will be reconnected.

Vice Chairman Collins questioned what will be stored in the shed. Mr. Leduc responded that they keep wheels of cable used for emergency situations. Vice Chairman Collins questioned if there would be any chemical storage. Mr. Leduc responded that there would not be any chemicals. Vice Chairman Collins questioned if there was anything stored outside of the shed in the fenced area. Mr. Leduc responded there were ladders.

Ms. Tanner questioned if they would consider doing some planting of native species inside or outside the fenced in area to enhance the buffer. Mr. Leduc responded that they had no problem with that. They can plant inside the fence as long as it doesn't impede with the path to the shed. Ms. Tanner commented that highbush blueberry or winterberry would provide good buffer capacity. They could probably fit half a dozen in that area.

Ms. Tanner moved to recommend approval of the Conditional Use Permit Application to the Planning Board, seconded by Vice Chairman Collins with the following stipulation:

1. The applicant shall plant six shrubs along the inside of the fence. The Conservation Commission's preference is for the new plantings to be native plants.

The motion passed unanimously by a 5-0 vote.

4. 239 Gosport Road
Martha B. Masiello Revocable Trust of 2004, Martha B. Masiello Trustee, Owner
Assessor Map 224, lot 10-10

Request to Withdraw

Vice Chairman Collins moved to withdraw the Conditional Use Permit Application, seconded by Ms. Tanner. The motion passed unanimously by a 5-0 vote.

IV. OTHER BUSINESS

Mr. Britz acknowledged that there were three potential new members that submitted applications before the City Council. The City Council will vote on the new members at the August 31, 2020 meeting.

V. ADJOURNMENT

Ms. Tanner moved to adjourn the meeting at 6:35 p.m., seconded by Ms. Harrison. The motion passed unanimously by a 5-0 vote.

Respectfully Submitted by,
Becky Frey,
Acting Recording Secretary