



City of Nashua
Conservation Commission
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NASHUA CONSERVATION COMMISSION

Tuesday, January 4, 2022

A. Call to order

A regular meeting of the Nashua Conservation Commission was called to order on Tuesday, January 4, 2022 at 7:00 PM, via Zoom virtual meeting.

B. Roll call

Members present: Sherry Dutzy, Chair
Brandon Pierotti
Gloria McCarthy
Carol Sarno
Jed Crook
Meghan Cook

Also in Attendance: Matt Sullivan, Planning Manager
Ald. Ernest Jette (via Zoom)

C. Approval of minutes

December 7, 2021

MOTION by Commissioner Sarno to approve the minutes of December 7, 2021

SECONDED by Commissioner Crook

MOTION CARRIED 6-0

December 14, 2021 - Site Walk Notes

MOTION by Commissioner Crook to approve the site walk notes of December 14, 2021

SECONDED by Commissioner Sarno

MOTION CARRIED 6-0

D. Old Business

- ***BAE Systems Information & Electronic System Integration Inc. (Owner) Requesting review of permanent impacts to "Other" wetland and "Other" wetland buffer for the construction of a concrete generator pad and building for equipment storage, plus associated improvements. Property is 65 Spit Brook Rd. Sheet A, Lot 12. Zone PI and R1C. Ward 7.***

Anthony Mento, SMP Architecture, 30 South Main St, Concord, NH

Mr. Mento introduced himself to the Commission as representative for Hallam ICS and BAE Systems.

Chairman Dutzy said that Mr. Weigel mentioned there is was a need for a second egress, which would necessitate modifying the plan and encroaching in the wetland buffer. Did that come to pass?

Mr. Mento said yes, an agress was added on the west side of the building towards the wetland buffer. It is a single man door exit, with a landing and step down towards the south. All are intended to be constructed out of a metal grate so that water will flow through, and will not impact the buffer any more than the paved area does already.

Chairman Dutzy asked if he knows how far into the buffer this will extend.

Mr. Mento said 3-ft. It's a landing.

Commissioner McCarthy asked if this is an everyday use door, or an emergency exit.

Mr. Mento said an emergency exit. It will be rarely used. There are other entries and exits more accessible.

Chairman Dutzy said this was discussed on the site walk as a possibility.

MOTION by Chairman Dutzy to favorably recommend the proposal

SECONDED by Commissioner Sarno

MOTION CARRIED 6-0

- **Final Review of Conditionally Approved Plan: John J Flatley Conservation Subdivision. (Proposal to Permanently Impact 7,700 sq. ft. of wetland area and 27,700 sq. ft. of wetland buffer area for the construction of 58 single-family dwelling units and associated improvements as part of a conservation subdivision. The property is located at Shadowbrook/ Spindlewick Drives and Dozer Road. Map A, Lots 58, 67, 68, 768, 990 & 994; Map 132, Lots 1 & 85. Zoned R-40 and R-18. Ward 8.)[APPROVED AT THE DECEMBER 7, 2021 MEETING]**

Mr. Sullivan provided a brief summary of the changes. He said what this new plan does is show the proposed new configuration. This plan was presented to the Zoning Board on December 14th. Some of the lot numbers have changed referenced in the conditions have changed, but the revised plan does avoid buffer impact or encroachment for the lots themselves. Functionally, he believes the conditions have been met.

Commissioner Sarno said it appears that the revised configuration isn't complete. Some wetlands look like they are missing.

Mr. Sullivan said there are a few wetland areas on the property. As part of the proposal they review, there are two impact areas; one to the north, and one in the middle. The Commission correctly identified that there were other impacts for lot regrading, or that the future property owners would have issues. With these adjustments, all of the lot lines appear to be outside of the buffer areas. There are no other wetland or buffer impacts on the plan that he is aware of. These are the adjustments that the Commission requested as part of their conditional approval.

[Unknown] said other than the road.

Mr. Sullivan agreed. But there have been no conditions related to that. The applicant has shifted things around to accomplish what the Commission requested. The general intent has been met by avoiding that buffer impact.

Chairman Dutzy asked if the red line is basically the outer edge of the buffer, and in some cases it coincides with a lot line.

Mr. Sullivan said it does, and it may be appropriate at the Planning Board stage to ask for monumentation of these buffer

areas that are not being impacted. Otherwise, there may be an impact.

[Unknown] said that is a stipulation.

Mr. Sullivan said they want to make sure it gets incorporated as a condition. The Commission's monumentation does not take precedent to construction. One of the concerns he has is because of the close proximity between the buffer and construction areas, that after the fact monumentation would not avoid impacts during the construction process. It may be appropriate to ask for flagging of the wetlands based on the limited buffer impact they have shown here.

Chairman Dutzy asked if that would be done at the Planning Board.

Mr. Sullivan said correct.

Chairman Dutzy asked if the monumentation is the buffer area.

Mr. Sullivan said there are different applications of the buffer monumentation statute. They would want to ask for more comprehensive monumentation in this case.

Chairman Dutzy said they have wetland signage for a number of things.

Mr. Sullivan said his sense is that the applicant would be willing to discuss this.

Chairman Dutzy said that because the plan is already approved and this is a revision based on the conditional approval no motion needs to be made.

E. New Business

➤ Discussion with Pennichuck Solar Representatives Regarding Site Plan Violation of the Conservation Zone

Mr. Sullivan provided some background information. As part of Commissioner Porter's monitoring, they reviewed a potential encroachment into the Conservation Zone as part of a previously approved solar farm off of Old Harris Road. Simultaneously, Mr. Zajac from Hayner Swanson Inc. had reported similar encroachment activities and requested to have

a conversation with the Planning Dept. and Commission about a potential remedy to the encroachment that took place.

Mr. Sullivan said the encroachment that took place is a site plan violation, and not a strict violation of the zoning ordinance. Therefore, there is a specific enforcement process that would take place in the event that the applicant and Commission are unable to come to an agreement on a restorative plan for the area. It really comes under the Planning Board's authority. In their discussions, they felt it would be good to have a conversation between the applicant, owner, and agent about the encroachment, the lessons learned, and how to prevent future encroachments as well as moving forward.

Mr. Sullivan said he believes the Commission has an interest in working cooperatively with Pennichuck. He also acknowledges that Pennichuck in this case acknowledges that there was an encroachment into the Conservation Zone. He hopes this can be a productive discussion, and believes they have shared goals in conservation. They need to have an open and honest dialogue about how these will be handled in the future.

Andrew Catania, Aligned Climate Capital

Mr. Catania said they are the long term owner of this facility. They acquired the project from the original developer New England Solar Gardens, and are responsible for owning and operating the site. Their company is exclusively focused on investing in companies that fight climate change. With him tonight is Tom Zajac from Hayner Swanson, who developed the project and is working with the contractor who is building the project, iSun Energy. Also present is Don Ware from Pennichuck Water Works.

Mr. Catania said their goal is to be a good partner with the city and the neighbors. They were disappointed to learn about what happened to the site. He described the Conservation Zone shown on the plan. During the permitting process, the Zoning Board allowed some tree cutting within this area, with the stipulation that the stumps and low growing vegetation would remain in place. This zone was staked out by Hayner Swanson prior to construction to prevent impacts. Unfortunately, the subcontractor made a mistake and cleared those areas.

Mr. Catania said when they found out about this, they provided notice to the Planning Dept. and the NH Dept. of Environmental

Services. Then they took a few different actions. They ensured that this area was seeded and stabilized. Going into winter, they put down straw mulch and silt fence to provide further stabilization.

Mr. Catania said for long term stabilization, once the soil warms up they would like to revegetate the area with pollinator seed mixes. They would also like feedback from the Commission, as well as to touch on where they are as a whole.

Tom Zajac, Hayner Swanson Inc.

Mr. Zajac said as part of the Alteration of Terrain permit, any project over five acres the applicant has to hire a professional certified erosion control engineer to monitor the site on a weekly basis. Their office was retained by Mr. Catania when they started construction in October, and they performed weekly inspections. The photos in their packet are from October, when the violation occurred. Since then they have installed temporary stabilization measures in the form of hydroseed and straw mulch.

Commissioner Cook asked what it was seeded with.

Mr. Zajac said he doesn't know the exact seed types in the mix. It is a temporary, winter mix with a tackifier to hold the soil together. It acts as a measure of erosion and sediment control, especially late in the year. The straw mulch goes over the top of it.

Commissioner Cook asked if from an erosion control perspective, that is preferable to wood mulch.

Mr. Zajac said both are forms of temporary stabilization. They wanted to go with the hydroseed approach because the project was approved with the intent that this area was to remain natural open space. They wanted to get back to that as quick as possible before they came in to discuss the final restoration at springtime.

Commissioner Sarno said the area that was mistakenly cleared, how many trees were removed?

Mr. Catania said the tree clearing was approved as part of the plan. He is not sure how many of the stumps were removed.

Mr. Zajac said no mature trees, but there were a number of stumps that were intended to remain. The total area of impact is about 25% of the Conservation Zone, totalling 27,000-sqft.

Chairman Dutzy said they were out there weekly monitoring, and the reason that the whole zone wasn't impacted is because they observed the activity and stopped the contractor. She asked if the rest of the area is cleared but the stumps remain.

Mr. Zajac said correct. They called a time out once they observed the damage. The remaining areas are cleared but the natural forest mat remains, and are preserved as intended by the plans.

Chairman Dutzy asked what their plan is for restoration in the area.

Mr. Catania said they intend for the project to come to mechanical completion sometime February. As temperatures come up in the spring, the contractor will vegetate the site and establish a pollinator mix. The contractor should be able to access that area easily.

Chairman Dutzy asked if they would be coming up with a design.

Mr. Catania said he would look to the contractor for recommendations on how they want to establish the best growth. On other sites they have used a hydroseeding approach.

Chairman Dutzy asked if they would use hydroseed to maintain the soil, and then let everything else grow up. They would not plant any other things, and let nature take over.

Mr. Catania said yes, that would be their intention.

Mr. Zajac said they were before the Commission last August and the Planning Board in November, as well as Alteration of Terrain. There was a wildlife study performed, and what was agreed is to install a pollinator mix throughout the site and 12-acre array. What Mr. Catania is describing is that they would also install it in these areas.

Commissioner Sarno said that sounds great in the array, but she personally would like to see shrubs and small trees to restore it more to what it was before being stumped.

Mr. Catania said that's something they can look into. He asked if they had any thoughts about species.

Commissioner Sarno said whatever they choose, she would want it to be a native species. The contractor should be able to recommend based on the soil type what would make sense there.

Mr. Catania said it would be really helpful to have that flexibility to select things that would do well. He asked if they come back with a proposed planting area, would that make sense as a next step?

Commissioner Sarno said it would to her.

Chairman Dutzy said yes. Their priority is to stabilize the site and provide habitat for wildlife. She asked for the contractor's name and credentials. There are ecological landscaping companies that focus on this, as opposed to 18th century landscape developers that want to make everything look like Versailles. If they could work with an ecological landscaping designer, they would appreciate it. It would be a learning experience to work with a true environmental professional. The goal is not to make this look pretty, it is to make this look functional for the environment.

Mr. Catania said that is a great suggestion. They will work with the contractor to make sure they get input from someone with expertise. They will work on putting together a proposal.

Mr. Zajac said the person who put together their wildlife study is a certified wildlife biologist, they can bring him in to review it.

Chairman Dutzy said they would like to focus on that.

Commissioner Cook said another resource may be Emma Erler through the UNH Extension.

Mr. Sullivan asked what Alteration of Terrain's response was to the encroachment.

Mr. Zajac said this is a local buffer, so their concern was getting it stabilized as soon as possible. It didn't matter as much to them, but recognized that it needed to be stabilized and followed up.

Commissioner Crook said they should focus on native and successional planting, and monitor for invasives.

Mr. Catania said during their long term operations they use sheep for vegetation management, and will look into the possibility here.

Chairman Dutzy said what can come out of this may be better than what they originally started with. She is glad that their company is concerned about the environment. If they can combine renewable energy with improving the habitat, it's a double win. She appreciates their willingness to go the extra step.

Mr. Catania thanked Chairman Dutzy. They are excited to get the site running.

Commissioner Sarno asked when it would be operational.

Mr. Catania said February.

Chairman Dutzy said when everything is situated, they would be interested in a tour.

Mr. Zajac suggested they put together a plan for the Commission's review and comment. This work won't be completed until March or April, with the spring thaw.

Chairman Dutzy said she has no problem looking at the plan, and only asking them to come back if they have questions.

Commissioner Cook asked for updated photos of the area.

Mr. Zajac agreed.

Chairman Dutzy thanked them for their time.

G. NCC Correspondence and Communications
None

H. Nonpublic Session per RSA 91-A: 3 II (d) concerning land (Roll call vote required).

Nonpublic session was not required.

I. Commissioners Discussion

➤ ***Division of Historic Resources Salmon Brook Area Walk Review***

Chairman Dutzy said they would like to schedule a zoom meeting with the Commission this Friday. The Commission's interest in education and an archaeological study at Joyce Park fits well with what their mission is for granting money, and there are two projects in Massachusetts very similar to what they are trying to do. She will try to set something up. It might be beneficial to see what they can offer.

Chairman Dutzy said she is also working on a stewardship plan on Joyce Park. She asked if they got the approval for the \$1,800 they were requesting.

Mr. Sullivan said that legislation has been drafted and will be submitted to the Board of Aldermen in January. They have an excellent relationship with Swamp Inc, who has been very patient. He doesn't anticipate any issues.

[Unknown] asked if Chairman Dutzy wouldn't mind sharing the stewardship plan.

Chairman Dutzy said once the first draft is finalized. She hopes to have it prior to their first work session. They need to finalize it in order to get money to do things.

Commissioner Cook said she would be happy to assist. She is also interested in joining the meeting, if it is at a time she can be available.

➤ ***Roby Park Cutting Violation***

Mr. Sullivan said he was contacted by Commissioner Crook and others about potential cutting violations at Roby Park for a disc golf course. He is trying to look into it. He can say that the disc golf monies were approved by the Board of Aldermen, and that there is a Critical wetland onsite. He is trying to figure out what the process was to begin that cutting, who is doing the work, and what they can do about it. It is work that would require Commission review, and he believes it was a miscommunication to not

involve the Commission. He is confident that they can work to address that.

Commissioner Sarno asked if they are continuing to cut.

Mr. Sullivan said he doesn't think they are actively working, but there was work for a period in late December.

[Unknown] said it would have been the last week of December. He couldn't tell if it was new or not.

Mr. Sullivan said he was proactively contacted by the department doing the work to see if there were any wetlands issues onsite. He did flag it as a potential concern, and subsequently within 10-hours he received a concern email from Commissioner Crook and Chairman Dutzy. He thinks there was a lack of understanding about the regulatory implications of the buffers. They are working with a willing party, it's just a matter of getting the right process in place. What he has seen does require Commission review, and they need to work to address that. He appreciates everyone who reached out to notify him.

[Unknown] said they have it all flagged and surveyed, very clearly within vernal pools, with stakes in the wetlands.

Mr. Sullivan said he believes some of that is fairway flagging, so he doesn't believe they had a wetland scientist out there. That is part of his concern. They have these wetlands on the map, but he doesn't believe the delineation has ever been done. They need to bring this in for review.

➤ ***Edgeville Dam***

Chairman Dutzy said she and Commissioner Sarno have found what they believe to be the Edgeville Dam. It can be accessed from the common land between Charlton Circle and Oneida Circle, but you should ask the residents for permission. She looked through records, and she gave a

brief history of the dam. She said they have a lot of questions about how it worked and all fit together.

A brief discussion of the dam ensued.

Mr. Sullivan said the unfortunate thing is that they have all these disparate files on this dam, and they're all in different places. He hopes that they can consolidate everything in one place.

A brief discussion of the dam history ensued.

Chairman Dutzy said maybe they can put together a Phase 1 archaeological study.

Mr. Sullivan said the file they were sent by the state was pretty incredible.

Chairman Dutzy said it's fascinating but time consuming. That's why she wants to finish the stewardship plan, so they can hire someone to investigate further. They need a map to find out where Edgeville is.

Mr. Sullivan said he can ask Scott McPhie, he might know.

➤ ***Future Work Study Session***

Commissioner Cook said one of the topics she would like to discuss is how to follow up with BAE about rain gardens.

Chairman Dutzy said they need to follow up with BAE, but she was reading and found that rain gardens are not appropriate in areas with standing water.

Mr. Sullivan said they can't do a rain garden in a high water table.

Chairman Dutzy said they can discuss it at the work session. One of the stipulations was rain gardens, so they

need to look at whether to ask them to install one there or somewhere else.

Mr. Sullivan said a rain garden is a specific stormwater best management practice. It's different from a basin or a swale. He would want to have a better understanding of what was requested at the time. They are fully landscaped gardens, so he would not be surprised if BAE does not want to do them based on the maintenance to the parking lots, with salt that would kill traditional a rain garden unless properly placed. He can look at the approval. He asked if they are suggesting that they didn't meet the approval from a previous approval.

Chairman Dutzy said what she sees is from the March 30, 2018 letter. The fifth stipulation was a general, long term maintenance document for the rain gardens. The question is, they referred to something as a rain garden that is just an area that floods.

Mr. Sullivan said he sent that letter to Commissioner Porter recently. He can look into it and pull the plan to see if it was a specific BMP proposed.

Chairman Dutzy said she doesn't see it in the original letter, so she doesn't know how it got in there. If they had agreed to rain gardens, they need to follow up.

Commissioner Cook said she also has a question about the shared google drive Conservation Commission folder. Is the intent to use it to share information? She found a guide she would like to share with commissioners.

Commissioner Sarno said yes, that was her intent when she started the drive. She asked if any time she adds a document, she also puts in the master document what was added. She said this is also her drive, and may be more appropriate to have one owned by the city.

Mr. Sullivan said the city does not use google drive. Because of their IT structure, they are not usually supportive of collaborative programs like that. He would be willing to use a google account and maintain it.

[Unknown] said he graduated from Cornell he technically has an enterprise account. If he were to host it, size restrictions wouldn't apply.

Commissioner Sarno said she is also thinking about the long term. When any of them are not on the Commission anymore, the next generation of commissioners should be able to access these documents.

Mr. Sullivan said he will set up a Nashua conservation commission gmail account, take ownership of the files, and direct emails from that account to the Conservation Commission email account with the city. They have done that for other projects.

➤ **Subcommittee Reports:**

None

J. Adjournment

MOTION to adjourn by Commissioner Pierotti at 8:04 PM

SECONDED by Commissioner Crook

MOTION CARRIED 6-0

DIGITAL RECORDING OF THIS MEETING IS AVAILABLE FOR LISTENING DURING REGULAR OFFICE HOURS OR CAN BE ACCESSED ON THE CITY'S WEBSITE. DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.