



City of Nashua
Conservation Commission
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EXPANDED DRAFT MEETING SUMMARY

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NASHUA CONSERVATION COMMISSION

September 1, 2021

A. Call to order

A special meeting of the Nashua Conservation Commission was called to order on Wednesday, September 1, 2021 at 7:00PM in Room 208 in City Hall AND via Zoom virtual meeting.

B. Roll call

Members present: Sherry Dutzy, Chair
Brandon Pierotti, Treasurer
Dick Gillespie, Acting Clerk (Arrived 7PM)
Carol Sarno
Gloria McCarthy
Alderman Liaison Alt. Elizabeth Lu

Also in Attendance: Sarah Marchant, Community Development Dir.
Matt Sullivan, Planning Manager
Deb Chisholm, Waterways Manager
Jamie Ouellette, Harriman
Sam Forgue, Harriman
Alderman Rick Dowd, Ward 2
Shawn Smith, Plant Operations Director

Meeting Procedures

1. Access

This meeting is accessible in person in Room 208 in Nashua City Hall and via Zoom. Members of the public and representatives of the applicants have been urged to attend the meeting via Zoom, but they may attend in person at City Hall. Real time public comment can be addressed to the Board utilizing Zoom or in City Hall, Room 208.

2. Public Notice and Access

If anybody has a problem accessing the meeting, please call (603)589-3115, and they will help you connect.

3. Adjourning the Meeting

In the event that the public is unable to access the meeting via the methods above, the meeting will be adjourned and rescheduled. Please note that the Commission will continue to take vote via roll call.

The Conservation Commission and Planning Department thank you for your understanding and patience during this difficult time.

C. Approval of minutes

July 6, 2021

MOTION by Commissioner Porter to approve the minutes of July 6, 2021, as amended

SECONDED by Commissioner Gillespie

MOTION CARRIED 5-0

July 20, 2021 - Special Meeting

MOTION by Commissioner Porter to approve the special minutes of July 20, 2021, as amended

SECONDED by Commissioner Hauser

MOTION CARRIED 5-0

E. New Business

None

F. Old Business

- ***City of Nashua (Owner) Nashua School District (Applicant) Requesting review of permanent wetland impacts for construction of road and recreational facility. Property is located at 36 Buckmeadow Road, "L" Cherrywood Drive, & "L" Chokeberry Lane. Sheet C, Lots 762, 2851, & 2859. Zoned R40/FUOD. Ward 9.***

Chairman Dutzy said this meeting is discuss minimizing wetland impacts for the proposed new middle school.

Ald. Dowd said they will be presenting additional steps they can take to mitigate impact on the wetlands. They have always been trying ensure minimum impacts as much as possible, and hopes they can have a constructive meeting.

Chairman Dutzy said they are all in agreement that a new middle school is needed, and they will try to work together.

Jamie Ouellette, Project Engineer, Harriman

Mr. Ouellette said what they brought today was to show the thoughts they went into early on in the project. Last time they met it was to show where they were and what they were proposing; this is to show the plans they came from. Their hope is to show the Commission how they tried minimize impacts to the vernal pool areas, maintain the design from the school district, and provide the needed facilities for the students.

Sam Forgue, Project Engineer, Harriman

Mr. Forgue provided background on the project's development history.

Mr. Forgue said they provided a 40-ft buffer for wetlands over 9,000-sqft, a 20-ft buffer for wetlands between 3,000-sqft and 9,000-sqft, and a 20-ft buffer for vernal pools. There is no buffer required for wetlands smaller than 3,000-sqft. Initially, they were trying to fit in the program discussed with the school department, including access. Access off of Medallion Ct was not appropriate, so they decided to build off of Buckmeadow Rd. One of the things they did to provide extra distance from the wetlands was a lot line relocation to accommodate the track further to the east.

Ald. Dowd said the expansion was approved by the Planning Board.

Mr. Forgue said there have been some feelings about being left out relative to mitigation efforts proposed, and some feeling of heartbreak that they are just paying a fee to disturb wetlands. They approached city staff and the Commission in January to ask if there were any projects in the city appropriate for mitigation, and the response were that there were no projects that would fit the bill. That is what led them to the determination of the in lieu payment.

Chairman Dutzy said that was never brought before the

Commission.

Mr. Sullivan said that is correct, no discussion was had in January nor February. A subsequent conversation was had in August about a potential mitigation project, and at that time they determined that there were no applicable projects for the \$75,000 value. The discussion was held internally.

Ald. Dowd said they would have rather spent that contribution here.

Mr. Forgue said that leads them to the proposed changes. They relocated the road further to the north to avoid most of the wetland and minimal disturbance. They are operating outside of the 20-ft buffer for three wetlands. The smaller wetlands do not have a buffer, but they are disturbing them entirely. A conversation they had with the Army Corp and DES is that they are providing a 50-ft buffer on the vernal pools onsite. By shifting the property line over and providing the buffer, they feel they are minimizing impact. This proposal is to provide balance across the schools.

Chairman Dutzy indicated the track on the plan, and asked what she would be looking at outside the track.

Ald. Dowd said that would be grading. Any plantings they want in that area would be fine with them.

Chairman Dutzy indicated wetland 9 and the 20-ft buffer. It looks like part of that buffer is where the track is.

Mr. Forgue said wetland 9 will be impacted.

Chairman Dutzy asked if part of the buffer will be filled in.

Mr. Forgue said yes. The zones they show on the plan are the regulated, required zones. They are encroaching the buffer zones and wetland areas.

Mr. Ouellette asked if the wetlands impacted are 6, 7, 11, & 9, plus the road.

Mr. Forgue said 6, 7, 9, & 1 are impacted. 11 is not impacted.

Chairman Dutzy asked staff if a critical buffer is 40-ft buffer.

Mr. Sullivan said correct.

Chairman Dutzy asked if anything under 3,000-sqft does not have a buffer assigned to them.

Mr. Sullivan said correct. He indicated the table on the plan. Discussion of the wetland classification ensued.

Commissioner Sarno said she has concerns about the impact of this development on vernal pools. City ordinance has a 20-ft requirement, and the DES and Army Corp recommended 50-ft buffer. The other three wetlands should have been certified as vernal pools, but when the wetland scientist evaluated them he could not find any evidence of the indicator species. No follow-up was performed. She believes they are potential vernal pools.

Commissioner Sarno said a vernal pool needs space around it so the species born in the vernal pool can live out their lives. She is trying to think of ways to help this situation. She thinks wetland 3 separated from the other pools from the road is the least viable of all the potential vernal pools. She suggested they sacrifice wetland 3 and relocate the road to give more buffer to wetland 2 and 4.

Mr. Forgue said that is a tight corner. He asked if there is a way to create pathways under the road or culvert systems to allow wetland 3 to have passage.

Commissioner Sarno said there are, but her greater concern is the limited buffer around wetland 2 & 4. She realizes that is the city ordinance minimum, but 50-ft is recommended by the DES.

Mr. Ouellette said he sees it would be a significant challenge to turn the corner. Is there a way to stay out of wetland 2 & 4, go through 3, and get on site at the appropriate angle?

Ald. Dowd said no, they have to stay on the property.

Mr. Forgue said they would lose a piece of the property used for delivery truck access. They would have to revamp the area to make the accommodations. He doesn't make the decision, but it's a potential.

Ald. Dowd said they can lose the tennis court, relocate the basketball court, relocate the parking, and redesign the road.

Mr. Sullivan asked if they are shifting the parking to the right.

Ald. Dowd said that moves things over, and what is not parking can be left natural. They have to stay within the bounds of the property they own.

Discussion of the proposal ensued.

Brandon Pierotti asked if the area south of the tennis court is retention basins.

Mr. Forgue said yes.

Brandon Pierotti suggested they use permeable asphalt and rotate the tennis court so that it's side by side with the basketball court.

Mr. Ouellette asked if they would be proposing to remove the tennis court.

Ald. Dowd said yes. With one court it would most likely be used by the neighbors.

Mr. Forgue said he can take a look at the calculations to see what permeable pavement would do.

Ald. Dowd said in their discussions with the athletic director, she was ok with removing the tennis field and relocating the basketball court. They are trying to stay away as far as possible from wetland 2 & 4, and make the habitat around acceptable.

Brandon Pierotti asked if there is a barrier they can install between the wetlands.

Commissioner Sarno referenced a hibernaculum, which was discussed previously. It's a place where adult species can live and overwinter.

Ald. Dowd said they also proposed learning opportunities by the wetland as well.

Mr. Sullivan showed images of hibernaculum. He doesn't think it would be an acceptable project for mitigation funds, asnt eh DES rules are quite stringent.

Ald. Dowd said he thinks this wouldn't break the budget. He wants to work with Commission.

Commissioner Sarno said they want partiy between the middle schools. But it was stated that there are laws in the Board of Education requiring these features, and couldn't find it.

Ald. Dowd described the state Board of Education requirements. All students are required to have physical education for 1 year.

Commissioner Sarno expressed concerns about upland habitat. She asked if they could combine the rectangular and diamond fields into the same space. That would free up some space for habitat.

Ald. Dowd said they met with the athletic director, and all three areas are used simultaneously. For safety reasons it wouldn't work. He described differences between the field types and said it doesn't work.

Mr. Forgue said they considered that, and options they explored early on.

Commissioner Sarno suggested eliminating the rectangular field and running track.

Ald. Dowd said that is the most used pieces of the program at all schools.

Commissioner Sarno asked if they are used more than the baseball fields.

Ald. Dowd said every day.

Commissioner Sarno asked if they could eliminate the baseball fields and relocate the rectangular fields there.

Ald. Dowd said that would put a huge dent in the equality of the schools. At this point changing all the drawings is a huge expense to the city. They are trying to do things that would fit in their budget and help the Commission.

Commissioner Sarno said she is looking at this from the perspective of habitat. This is 90% developed. They have done some good work to shift away from the wetlands, but the current guidance from the Army Corp is a 100-ft buffer for vernal pools, with a 750-ft buffer of no more than 25% development. They are

trying to get more open space on this lot. She asked if physical education could also be walking paths for hiking trips on property.

Ald. Dowd said they have cross-country teams, but physical education doesn't do that.

Ald. Dowd said they can't put any buildings on that lot, and it is owned by the Gagnons.

Commissioner Sarno said she is concerned that the adjacent lot will be developed and result in squeeze on the vernal pools. The city has been talking recently about balanced development.

Mr. Sullivan said it is open space as part of an open space subdivision. It has to remain open.

Ald. Dowd indicated another parcel to the north, which is a buffer parcel between the residential neighborhood, and cannot be touched.

Chairman Dutzy said she appreciates efforts to increase the buffer from the wetlands. However, everyone she has spoken to about the design has said they feel the scope of the project is too big. It's not about the dollars, just the size of it. She asked if they could eliminate the track; she never sees anyone at Pennichuck using the track.

Ald. Dowd said it's used when school is in session, every day and after school.

Chairman Dutzy said if they eliminate the track they could increase buffer distance. She suggested that the kids jog on the streets of Cherrywood development.

Ald. Dowd said that would be taking schools of school property.

Chairman Dutzy said Nashua Catholic does it.

Ald. Dowd said that's not a public school. One of the things growing exponentially in middle schools is the track. They run certain lengths and all on a track course. Every high school has it, and every middle school has it. Track is something they can't get rid of.

Commissioner McCarthy said they are talking about equity between

schools, which is the tenets of plans coming through. Elm St middle school sits on 8 acres; the other two schools sit on about 20 acres. The other two schools have all these facilities. This is a 24 acre piece of property. It's no bigger than the scope of the other schools. Finishing this will make it equitable to the other two school. Removing any of the extras will take away from the equality of the kids.

Commissioner McCarthy said she thinks Joint Special School Committee, the architects, and planners are doing an amazing job of getting as much stuff onto the site as they can, and leaving as much natural as they can. It shouldn't be a surprise to anyone that this is going to be a school; it was purchased 20-years ago for a school. The option for this site would be to fill it with 50-60 houses, and there wouldn't be vernal pools or wetlands at all. The Commission needs to take a step back and think about all the things involved.

Chairman Dutzy asked when equity got involved.

Ald. Dowd said 5 years ago, when they started having public hearings.

Chairman Dutzy said the other schools have been retrofitted for equity. It's 2021, not 1995, and they need to look at their assumptions and the land that they have, and designing the schools to fit the land, not rearranging the land. They have an opportunity to rethink the whole process. She asked why this is going to be natural gas heated. They are using a heating system that matches the 1960s. They have an opportunity to not build the school to specifications in 1988. It doesn't make sense. She thinks they are doing the kids a disservice. If they don't think climate change and the environment through, then when? If they don't preserve their environment, they can't expect people in Brazil do it. She repeated that it doesn't make sense.

Ald. Dowd said at the middle school level they have issues with kids running off the property. Getting them off the property is an issue. In order to get rid of the track and field and make major changes to the layout, the added cost is probably going to kill the middle school. The kids will stay in Elm St. They can't afford to buy another piece of property.

Chairman Dutzy said they aren't asking for that, and don't want to sound unreasonable. She thinks they are not being creative.

Ald. Dowd said Harriman has built numerous schools.

Mr. Forgue said this is far beyond a 1980s school. This school will exceed the energy efficiency, the products are recycled materials, the windows are more efficient, the walls and ceiling will have more insulation. Energy codes are more stringent. This is not equivalent to even a 2000s school, and continues to improve as time moves on. It's good to see that.

Mr. Ouellette said they looked at solar and geothermal extensively and it didn't pan out.

Ald. Dowd asked if they don't remove the track, the Commission won't approve this project.

Commissioner Sarno said she knows they have concerns about kids on the private streets, but there is a lot of pavement in this design. Could the running be on the road around that school?

Mr. Ouellette said that is a safety concern.

Ald. Dowd said the track has marked lanes with distances. Sprints can't happen without that.

Ms. Marchant said she loves Commissioner Sarno's suggestion about relocating the driveway; that is a creative way to solve some of these problems. She hears Commissioner Sarno's concerns about the uplands; there is value in what they are talking about but it does not comport to the Special Exception criteria or any of the rules and regulations before them. While she thinks they are raising valid points, those conversations should be around the Land Use Code update in the future and do not reflect the rules and regulations before them today.

Chairman Dutzy asked, even though the track will affect three wetlands?

Ms. Marchant said that track and those buffer areas are before them. The other ones are not real right now and they have made some concessions.

Chairman Dutzy said she is talking about the fact that the track will be affect two wetlands. Under RSA 36A that is their responsibility.

Ms. Marchant said that is correct. The other wetlands don't have

buffers, and are being satisfied by payments, as much as they would wish they could find a project. The wetlands on the side are real, and the wetlands impacts are real things in their jurisdiction. They are on the right path to some great middle grounds, and they come to a difficult spot when the Conservation Commission is trying to tell the school district how to run its athletic program.

Chairman Dutzy said she isn't. But if they eliminate the running track they don't impact three wetlands.

Ms. Marchant said that is a fair statement. Suggesting that they go run on Cherrywood is a big jump.

Chairman Dutzy said she didn't say they have to eliminate the track program.

Ms. Marchant said the Commission is also not in the position to say how they have to run the program. They have to be careful about context.

Commissioner Gillespie entered the meeting.

Commissioner Sarno asked what kind of culvert will be used on the access road and wetland.

Mr. Forgue said 24-in.

Commissioner Sarno asked if it is bottomless.

Mr. Forgue said yes. He can send a drawing.

Commissioner Sarno said that seems small for the amount of water there.

Ald. Dowd said it goes by 200 times a year, and doesn't ever see running water.

Commissioner Sarno said they performed a site walk July 24th and there was a lot of water.

Ald. Dowd asked if that was after the big rainstorm.

Commissioner Sarno said yes, they got a lot of rain. But that's what they're trying to build for.

Ald. Dowd said over the past three years he has been there numerous times, and it's not that wet. It's a grassy area. One of the previous owners is still cutting that grass. They'll put whatever is required.

Commissioner Sarno asked about the emergency access road. It seems like a much more direct route would be from the Medallion Ct culdesac.

Ald. Dowd said the residents were against it, and the road is too narrow for emergency vehicles.

Commissioner Sarno said she is still concerned about rare species being on this property. She prefers to wait another year and do the study again in the spring.

Ald. Dowd said waiting another year creates many issues. Every day that they don't order things for the new schools escalates cost of materials.

Commissioner Sarno said they had the opportunity to do this survey in 2020 and 2021 and didn't.

Ald. Dowd said he wasn't involved in it directly, but the previous Planning Manager Roger Houston said there were no rare species.

Chairman Dutzy said with all due respect, Mr. Houston wasn't a wetland scientist.

Commissioner Sarno said they won't find it unless they look.

Ald. Dowd said they need to build the road and the school. They don't have to build the fields yet, but they need to get the road going. At that time they can take a look at things and make final decisions there, but they need the blessing to move forward with the road and building.

Commissioner Pierotti referred to the track, and asked if it would impact wetland 9 less if the sprint area was relocated, like a mirror image.

Mr. Forgue said he is concerned about the NW corner and how that grading could be impacted with how close they are to the property line.

Commissioner Pierotti asked northwest or northeast.

Mr. Forgue said both. He can look into it.

Ald. Dowd said with any cuttings and plantings they would keep the Commissioners in the loop on decisions.

Chairman Dutzy asked Mr. Sullivan for clarification on who is voting.

Mr. Sullivan said he did not anticipate a vote tonight.

Chairman Dutzy asked if regular members should be voting if they haven't heard the case all the way through.

Mr. Sullivan said they should be provided to the information that has been presented, and the minutes will be expedited. They will make access available. He said he will ask the Commissioners to review the materials in advance of the meeting.

Ald. Dowd asked if they can come to a workable solution.

Chairman Dutzy said she thinks they have done as much as they can. She personally would vote in favor. If they can consider flipping the field and relocating the road, as well as hibernaculum and wider culverts and environmental laboratories, she would be in favor.

Ald. Dowd said they want to continue to work with the Commission.

Mr. Sullivan asked if she is including the track in the plan she would support.

Chairman Dutzy said yes. She understands that they will consider redesigning the road and may flip the track, and there is a commitment to saving the vernal pools and moving the basketball court to the tennis court area and relocating the parking. She appreciates them considering all those changes.

Ald. Dowd said they will also look at the culverts.

Chairman Dutzy said they can look into creating vernal pools and educational opportunities.

Ald. Dowd said as far as the buffer for vernal pools goes, he will work with them to get the ordinance changed to 50-ft.

Commissioner Pierotti asked where the new snow stockpiles are, and what they are doing with landscaping in terms of native species. Would they consider permeable pavement onsite?

Mr. Forgue said permeable pavement is a consideration. He described the stormwater runoff system. Snow storage is treated through the stormwater management system.

A discussion about landscaping architecture ensued.

Ald. Dowd asked if they are leaning towards approval.

Commissioner Pierotti said based on what they are discussing tonight, yes.

Ald. Dowd said they will modify the drawings and get them the changes.

Chairman Dutzy asked if they could get a presentation from the landscape architect.

Mr. Forgue said the architect is sensitive to environmental issues, and incorporates that into his design work.

Ald. Dowd said moving forward they will include the Commission in design discussions.

Commissioner Sarno said she appreciates their consideration of the road change. She wants to see updated plans before she makes a decision.

Ald. Dowd said they do need to move through the Zoning Board and Planning Board and AOT, and all those things have to fall into place. Step one is building the access road, and the building foundations.

Commissioner Sarno asked if they could approve the roads and schools, not the playing fields.

Mr. Sullivan said they could recommend a portion of the development to support. However the Zoning Board doesn't have the power to modify the plan, so a revised application would need to be submitted. It is the Zoning Board's jurisdiction. If approval comes from the Commission it is in the form of a recommendation.

Ald. Dowd said not having to go back to the Zoning Board is preferable.

Mr. Sullivan said an ideal path would be a recommendation from the Commission and an approval from the Zoning Board in September.

Commissioner Sarno asked if a wetland scientist could review the potential vernal pools in the spring.

Ald. Dowd said he has no problem with that.

Discussion ensued.

Mr. Ouellette said the hope is to create the access road and do the work needed to start the foundation in the fall.

Ald. Dowd said it will meet all the requirements. The school also has lights that only shine downwards.

Commissioner Gillespie asked if the underground stormwater chambers have vapor heads on them and hydrocarbons.

Mr. Sullivan asked if the chambers are not vented.

Mr. Forgue said no.

Commissioner Gillespie asked if there are oil separators.

Mr. Forgue said as part of pretreatment, like deep sump.

Ald. Dowd said they want to make sure any water leaving the property is all treated.

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

None

J. Adjournment

MOTION to adjourn by Commissioner Pierotti at 7:32PM

SECONDED by Commissioner Sarno

APPROVED:

Gene Porter, Acting Clerk, Nashua Conservation Commission

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Prepared by: Kate Poirier