

Hampton Conservation Commission

Minutes

May 24, 2016

Present: Barbara Renaud, Chairman
Jay Diener, Vice Chairman
Sharon Raymond
Peter Tilton, Jr
Pat Swank
Diane Shaw
Nathan Page (8 PM)

Also Present: Rayann Dionne – Conservation Coordinator
Keith Lessard – Planning Board Representative

I) Call to Order

The meeting was called to order by Ms. Renaud at 7 p.m. in the Town Hall Selectmen’s Meeting Room.

II) Review of Minutes

MOTION: It was moved by Ms. Shaw to approve the April 26, 2016 Minutes with approved edits.

SECONDED: Mr. Diener

FAVOR: 4 in favor, 2 abstained (Ms. Swank, Ms. Raymond)

MOTION PASSED

III) Appointments

1) Cindy Willis – Victory Garden Spring Update

Ms. Willis informed the Commission the Victory Garden began their spring season with a meeting on April 26th. She stated they were able to finish installing all ten new gardens. She conveyed there are still two people on the waiting list. Ms. Willis said there are a lot of young people this year that are sharing different techniques at the gardens. She noted a couple of projects they are planning on for the summer. They will begin an overhaul of the existing shed. They will be painting the shed, adding a new roof and installing a gutter so they can utilize their second rain barrel that was donated from a condominium association in Town. Ms. Willis indicated a conversation she had with Mrs. Dionne regarding ideas from some of the gardeners. They are interested in the land adjacent to the fenced area of the garden. Ms. Willis shared a member is interested in using natural resources and plantings in the swale to possibly develop it into a rain garden. Mrs. Dione responded the challenge with the idea is the ability for it to receive water. She noted there was a design for water there, however it never was hooked up. At this time she does not feel it would be the best location for a rain garden. Ms. Willis requested if they could install some plants along the edge and they will maintain them. She feels putting natural plants that would grow wild would beautify the area. Ms. Willis also noted there is more walking and biking traffic where the newly installed Eagle Scout path is and perhaps installing Lilly of the Valley or Irises along the sides would be a nice addition. Mr. Tilton suggested that Ms. Willis submit her plan to Mrs. Dionne so she can confirm there would not be any plants installed that is on the State’s Prohibited List. Ms. Willis commented they do not have a large access to plants; however they do receive some plant donations. Mrs. Dionne suggests she talk with the Garden Club and inquire if there some leftover plants from their annual sale last weekend.

Hampton Conservation Commission

Minutes

May 24, 2016

Ms. Willis addressed the groups concern with the invasion of Black Swallow and Bittersweet. She stated Bittersweet is the third most invasive plant in New England, and it is all over the place. She is uncertain how to recommend treating this invasion without the use of chemicals. Mrs. Dionne commented that the Town Manager has approached her inquiring about projects for correction facility workers volunteering to do some work. Mrs. Dionne said she is in the process of identifying areas that work needs to be done, and she can add this to the list.

Ms. Willis announced there will be a ribbon cutting ceremony for the new gardens scheduled for June 20th around 4 p.m. She said they will invite local businesses, the Conservation Commission, the Selectmen, and local newspaper to tour the area. Mr. Diener inquired if this will be opened to the general public. Ms. Willis responded they are planning on serving refreshments, and would not be able to manage that without an approximate head count.

Ms. Willis concluded by noting there has been a positive increase in visibility in the garden over the past year. Mr. Diener requested Ms. Willis document some of the techniques being implemented in the garden and provide them to Mrs. Dionne so they can be added to the Conservation website.

2) 8 Witch island Way #A-B – ZBA Review Request

Joe Coronati of Jones & Beach Engineers, Inc. and Holly L. Bauer, property owner of 8 Witch Island Way #A-B appeared before the Commission. Joe explained they are proposing to remove the existing duplex and replace with a single family residence. Mr. Coronati provided a plan handout that depicted the existing structure as well as the proposed new single family home. He stated the proposal is to keep the impact to the wetlands buffer either the same or increase the separation to the buffer. He indicated they are moving the house further from the wetlands to the west. They are planning to replace the porch in the back with a patio and that will remain within the same distance from the wetlands. Mr. Coronati said he went before the Zoning Board, and the Zoning Board suggested he appear before the Conservation Commission for their input and comments prior to rendering a decision at the June 16th Zoning Board meeting. Mr. Coronati stated after receiving approval from the Zoning Board, they will come before the Conservation Commission to apply for a Special Wetlands Permit. The concern for the Zoning Board is that it is required to have a 40' separation between the buildings, and they will not have that. He spoke about impacts and stated they have 1496 sq. ft. of impervious coverage they are removing and placing back 1404 sq. ft. Mr. Coronati also noted that going from a duplex to a single family residence there will be a parking reduction. He concluded they will be removing a bit of the porous pavement from the front of the structure.

Commission:

Mrs. Dionne informed the Commission that she reviewed the ZBA (Zoning Board Association) minutes and there was a question by Bill O'Brien inquiring why the building could not be pulled forward. Ms. Bauer's response during that meeting was it could not because the front door is on the side and it would interfere with the neighbor's front door.

Hampton Conservation Commission

Minutes

May 24, 2016

Mr. Diener questioned how the front door interferes with another front door. Ms. Bauer responded it is to preserve the architectural integrity. She stated Unit 7 was built with the understanding that the next door neighbor's would be behind the front door. Mr. Lessard inquired if that was in writing or an oral agreement. Ms. Bauer responded it is not in a written agreement.

Ms. Raymond inquired if the 1400 sq. ft. of the proposed impervious area proposed is the total, or just what falls within the 50' buffer. Joe responded that is what will be in the buffer.

Mr. Lessard asked if the patio will be elevated and Mr. Coronati responded it would be slightly elevated, and comprised of eco pavers with stone layers underneath for filtration. Mr. Lessard inquired if the patio will be shoveled in the winter, or will they be using salt down on the patio if it is a second egress. Ms. Bauer will not be removing snow in the winter. Mr. Diener addressed the ZBA issue and there is further discussion regarding moving the single family home out of the buffer. Mr. Coronati stated the existing building is less than 40' away from the other building. With the new single family home, the building is closer to 21 ft. apart, and there is concern for moving it any closer.

Ms. Renaud asked the Commission if there is a consensus as to whether they are comfortable with the single family home remaining in half the wetlands buffer. There was a discussion and it is agreed the Commission will not oppose the Zoning Board granting the homeowner a variance, and the variance will not be an issue with the wetlands permit application for this project.

Mrs. Dionne commented we should thank the Zoning Board for having this brought forward to us to review.

IV) Applications

1) Saltmarsh Sewer Line Emergency Repair NHDES Standard Dredge and Fill Permit Owner: Town of Hampton/DPW

Emergency repair of the sewer line breach located within the saltmarsh near Tide Mill Creek.

Jen Hale, Deputy Director of the Department of Public Works (DPW) appeared before the Commission and stated the sewer line is fixed. She stated the New Hampshire Dredge and Fill Application has been submitted, the State has accepted it and it is going through the normal process. She informed the Commission the marsh grass is growing in all ready, green and fresh. Ms. Hale commented the mats used were amazing to work with on the marsh, and the way they were able to just drag them off the marsh without causing any destruction was remarkable. She noted the DPW will continue to monitor it. Ms. Hale confirmed with the Commission that DPW received approval by Board of Selectmen last evening to move forward with the design to have the sewer line removed from the marsh. She explained it would be a non-emergency process with our engineers. Mrs. Raymond inquired if they have approval for the design, and what time frame are they looking at. Ms. Hale replied the time line is established to do design and investigative work to find the issues and have then them resolved. She confirmed the issue is

Hampton Conservation Commission

Minutes

May 24, 2016

money, and they need to get the plan and prices to the Selectmen by January 2017 for it to become a warrant article on the ballot in March. Ms. Hale said if it is approved by the town in March of 2017, the work would begin as soon as all the documents are in place. The idea is to have permits in the fall and winter so that when the timing is right and the funding is appropriate, they can move forward. Mr. Tilton inquired if the project would then be completed by the end of next spring. Ms. Hale responded hopefully it would be completed by next June.

MOTION: Mr. Diener moved to recommend the approval of the NHDES After the Fact Permit.

SECONDED: Mr. Tilton

FAVOR: 6 in favor, 0 opposed

MOTION PASSED

2) 630 Lafayette Rd

Town Wetlands Permit

Owner: Hannaford Bros. Co., LLC

Agent: Stantec Consulting Services Inc.

Site improvements include removal of a damaged chain link fence and overgrown vegetation, replacement of a wooden post and rail fence, two bollards, and damaged pavement, re-level and reset the transformer and pad, and sealing pavement cracks.

Jay Lord with Maple Rock, representing Hannaford Brothers, appeared before the Commission with site plan of the property. He explained that as part of the remodeling project, there are some areas outside around the property they would like to improve. They want to remove and replace a post and rail fence. There is a stop sign on the property that has been damaged they would like to replace. There are some areas where there are pavement issues, and they are requesting to grind down and install new pavement. Mr. Lord stated there is a chain-link fence along the back of the property that is broken down, and they would like to remove that. He said they plan to pick the fence posts out with a backhoe so they can pull them straight up and out and refill the holes. Also, they would like to re-level and reset the transformer and pad, and they will be working with Eversource on that. Mr. Lord mentioned a few issues that came up during site walk that will also be improved. There are some trees that will be cut, and a grey birch tree that will be removed. Along the side of the property, there is a foot bridge that has some erosion on the ground, he suggested they will put crushed stone to control the erosion. There is lawn debris that was discovered on the site walk along with some materials being dumped on the edge of the pavement on the east back side of the property. They are infractions and will be cleaned up. He concluded they will monitor these areas better, as it is their responsibility.

Commission:

Mr. Lessard questioned if there is a record of maintenance and when the detention pond was last mowed. Mr. Diener doesn't feel you can mow the detention pond, as it was not designed that way. Mrs. Dionne will review the original plans and determine if it is supposed to be mowed, and will update Mr. Lord.

Ms. Renaud stated when the Commission attending the site walk, there was a discussion about the asphalt berms along the side of the building that seemed to have worn away or disappeared

Hampton Conservation Commission

Minutes

May 24, 2016

allowing that trash and other items to drift down into the ditch. Mr. Lord said this issue would be addressed and maintained as well. He stated during a storm, waters flow back in that area and erode behind the embankment. He suggested putting a rip rap around the turn to help hold the bank in place, as over time this will move closer into the parking lot. Also, he noted they are planning on installing 3/4" stone by the footbridge with a 3-4" rip rap.

Mr. Diener suggested they review a previous Department of Environmental Services Permit to see if they are required to submit annual maintenance reports to the town.

MOTION: Mr. Tilton recommended granting the Hannaford project of 630 Lafayette Road with the amendment on the plans to include stones at the foot of the bridge, and the addition of rip rap along the stream edge; removal of lawn clippings and soil debris from the rear of the building and the installation of a "No Dumping" sign in that area. Tree trimming (?). Mrs. Dionne will look at records for maintenance of retention pond, and if it is less than is required, it will be maintained as required going forward.

SECONDED: Ms. Raymond

FAVOR: 6 in favor, 0 opposed

MOTION PASSED

Nathan Page arrived.

3) 4 Ocean Drive

TOWN WETLANDS PERMIT

Owner: 4 Ocean Drive, LLC

Agent: Edward N. Herbert Associates, Inc.

Installation of a 2.75' x 7.5' generator pad (20.6 sq. ft.). This increase in impervious surface will be offset by the removal of the west side deck stairs (29.7 sq. ft.). Replacement of *Rosa rugosa* shrubs (337 sq. ft.) removed during construction. Installation of a perimeter fence, outdoor shower with associated drywell, irrigation system, and identified areas that will be converted to lawn.

Peter Zohdi with Edward N. Herbert Associates, Inc., Jennifer Dinovo a landscape architect with Design Works, and John Alosso, the general contractor with John Alosso Associates, LLC, appeared before the Commission to discuss the installation of a generator, perimeter fence, outdoor shower, replacement of *rosa rugosa*, and landscaping with lighting at 4 Ocean Drive.

Mrs. Dionne explained the applicant's representatives were there to address some issues and questions regarding the generator location with its exhaust outlet and the necessary setbacks. She confirmed with the Building Inspector, Kevin Schultz, the proposed vegetation is not considered combustible and, as the Building Inspector, he has no issues with the vegetation being there. Mrs. Dionne said another issue is the two areas where the *rosa rugosa* was removed during construction for the dwelling and were previously identified to be replanted. She remarked there were questions whether the area being shown is truly reflective of what was actually removed. Mrs. Dionne also stated there were questions regarding types of fencing and the Commission needs a better understanding of what is planned. Mrs. Dionne concluded the

Hampton Conservation Commission

Minutes

May 24, 2016

area on the older plans that was identified as lawn and irrigation, have now been removed and the Commission is requesting confirmation of what will be installed there, as well as how it would be treated.

Mr. Zohdi passed handouts to the Commission from the manufacturer of the proposed generator. He referred them to Page 15 where the manufacturer specifically addresses setbacks. He stated the plan meets those setbacks. Mr. Zohdi addressed the issue of removal of vegetation. He stated that at the beginning prior to any disturbances, their plans depicted what was initially there for vegetation and plantings. He submitted a newer plan that depicts the old vegetation and highlighted in yellow is what was removed, and highlighted in pink areas are vegetation that remain intact. He also provided an aerial photo of property depicting vegetation prior to construction dating May, 2015. He concluded In reference to the fencing, iron rod fences will be installed on one side of the property, and a solid PVC privacy fencing will be installed on the other side.

Jennifer Dinovo a landscape architect with Design Works addressed the Commission regarding landscaping. Ms. Dinovo pointed to the plans and explained the areas in black are going to have new vegetation. They are proposing to replace the rosa rugosa with grasses and juniper. They would also like to install approximately 20 Little Bluestem along the perimeter, as well as installing spreading ground cover to put a hold on the area berry trees. She noted they also plan to install a line of switch grass along the property line. She concluded that these are all plants from resources provided on the Commission's website.

The Commission:

Mr. Diener expressed concern that the rosa rugosa was not to be taken out, and since it has, he strongly feels it should be replaced in kind. The General Contractor, John Alosso, responded they can do that, however they were looking for some other species as well with variation and color.

Mr. Tilton said he liked the idea of installing Juniper on the boarder of the neighbor as it is a good natural privacy fence. He also stated they were not supposed to remove the rosa rugosa, however it is gone, and he feels this is a good plan for vegetation replacement.

There is a discussion and consensus amongst the Commission that the rosa rugosa be reintegrated along with other native vegetation. If the property owner wants to install additional trees/shrubs, they can do so on the houseward side of the replacement rosa rugosa.

Ms. Renaud moved onto the previously proposed lawn installation and inquired what the newly proposed plan is. Ms. Dinovo explained the plan is to have a small path for the family and the dog to get around the home using a pea stone path. They would like to introduce plants in the area that will be very minimal. She stated the path would be about 5-10 feet around the home.

Ms. Raymond said pea stone being proposed in the pathway could create an impervious pathway. Ms. Dinovo responded it is conceptual right now and noted mulch could be an option. Mrs. Dionne commented there is also a product called gravel pave, they come in sheets and they can be filled with stone and they will have stability and maintain the perviousness. She also stated she would like to see the walkway limited to a width.

Hampton Conservation Commission

Minutes

May 24, 2016

Mr. Lessard confirmed with the general contractor there are eight low voltage up lights and 14 landscaping lights being installed.

Ms. Renaud moved onto the fencing issue. Mr. Alosso said they will be installing an iron fence with a gate, as well as a solid PVC privacy fence.

Ms. Renaud confirmed with Mr. Alosso the homeowners will maintain the cleanup of the beach where items may wash up.

Mrs. Dionne inquired how the fence posts would be installed, and Mr. Alosso stated they would like to install the posts in cement again due to the winds.

Public Comment:

Chris Whitley from 79 Plymouth St. approached the Commission. He began by pointing out that the New Hampshire Department of Environmental Services (NHDES) permits and the Conservation Commission Town Wetlands Permits required the rosa rugosa should be replaced with what was there. He expressed concern for the accuracy of plans depicting where rosa rugosa was prior to construction. He showed the different plans. First one of the renderings begin to show rosa rugosa being pulled back from the 10' set back line. He stated the latest drawings they have, there are no rosa rugosa going to any of the setbacks. He said based on the plans, all the rosa rugosa should be placed to where they have the generator pad going, yet the latest plan presented has no rosa rugosa. Mr. Diener replied that is outside of the 50' buffer, so it is not in The Commission's jurisdiction. Mr. Whitley remarked that there is a significant removal of the rosa rugosa. He feels heavy equipment damage does not negate the fact that it should be restored to its original state as was initially stated in the Conservation Commission and State Permits. He also made the comment that on the NHDES website, there is a list of approved plantings along the shoreline, and most of the proposed plantings on his side of the lot are not on this list. He asked that the rosa rugosa be put back the way they were prior to construction. Mr. Whitley also expressed concern that the fence and proposed tree installations will obstruct his view.

Mr. Whitley mentioned he spoke with Chuck Marsden, Assistant Building Inspector, regarding the generator. Mr. Marsden told Mr. Whitley he would inspect with the requirements of the Manufacturer setbacks for the generator, so he would go with the 8' at the end of the generator for the clearance from the exhaust. Mr. Whitley feels based on Mr. Marsden's statement, there is not enough space for the generator pad to be installed if that is the case. He mentioned the stone area proposed around the generator within the 10' setback should be considered part of the generator and pushed back towards the buffer zone. Mr. Whitley also commented according to the Manufacturer setback there should not be any adjacent play areas. He noted he has a play area and the privacy fence is going to keep the fumes down and no way for it to escape. Mr. Whitley confirmed with the Mr. Alosso the lighting would be 250-300 lumens and he stated he feels it does not fit with the character of the area. Mr. Whitley concluded that he again asks that the rosa rugosa be placed back in as they were. He also noted the newly proposed trees were not part of last month's discussion.

The Commission:

Hampton Conservation Commission

Minutes

May 24, 2016

Mr. Lessard confirmed with the general contractor that the fuel for the generator is natural gas. He also confirmed the generator exercise cycle would be 30 minutes a day.

Mrs. Dionne commented it is unfortunate that Mr. Schultz and Mr. Marsden do not agree with regards to the generator. However, Mr. Shultz is the expert on generation installation. She offered to go onsite with Mr. Schultz and examine the site area together.

Mr. Lessard confirmed with Mr. Zohdi they have not received any zoning variances.

MOTION: Mr. Diener made the motion to recommend the approval of the Town Wetlands Permit for 4 Ocean Drive with the following additional stipulations (all original permit stipulations still apply):

1. **The Commission defers to the Building Inspector to verify that the proposed location of the generator meets both local setbacks/requirements and the manufacturer's specifications. However, the final generator location shall not result in the removal of any existing or "to be restored" vegetation.**
2. **The unpermitted removal of a total of 337 sq. ft. of Rosa rugosa shall be replaced in-kind. The restoration area shall be staked out prior to planting and the stake locations shall be based on the survey plan which identified the original edge of vegetation. A pre- and post-planting inspection shall be scheduled with the Conservation Coordinator.**
3. **The Conservation Commission does not endorse the use of pea stone proposed in the landscaping plan, because it will become compacted and impervious over time. The pea stone walkway shall be replaced with permeable gravel pave.**
4. **The final landscaping plan shall be submitted within 30 days of the Planning Board's approval and the plan shall be reviewed and approved by the Conservation Coordinator prior to installation.**
5. **The fence installation shall not result in the removal of any vegetation, however pruning is acceptable. The post holes shall be dug with hand tools.**
6. **All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species.**
7. **The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed.**
8. **There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Wetlands Permit is required for the erection of any additional structure(s) in the buffer.**
9. **All stipulations from the approval of the original wetlands permit application for this project shall remain in place.**
10. **The Conservation Commission shall be notified in writing upon commencement and completion of the project. A final inspection shall also be scheduled with the Conservation Coordinator upon completion of the project.**

SECONDED: Mr. Page

Favor: 7 in favor, 0 opposed

MOTION PASSED

Hampton Conservation Commission

Minutes

May 24, 2016

4) 155-175 Island Path

Town Wetlands Permit

Owner: Aaron Brown, Robert Dudley and Peter Martin

Agent: Jones and Beach Engineering, Inc.

Complete mitigation work on 155, 165, and 175 Island Path and construct a duplex on 155 Island Path.

Joe Coronati with Jones & Beach Engineers, Inc., Bob Casassa, Attorney and Aaron Brown appeared before The Commission.

Mrs. Dionne presented a quick overview of the history with this project. The Town Wetlands Permit that was initially approved has expired due to delays. The permit required the Applicants complete all mitigation work prior to the construction of the duplex. This new permit is for the completion of the remaining unfinished mitigation and construction of a duplex at 155 Island Path. The Commission forwarded a recommendation to the Planning Board that the Wetlands Permit be granted in July of 2015 with the major condition being that they be allowed to complete the mitigation and install the foundation plus utilities at 155 Island Path. However they could not complete the rest of the structure until the mitigation was completed. The Building Inspector also determined the Applicant did not need a variance for the primary setback from the wetlands which was added in 2015 because they had reached a status of substantial and active prior to regulation change.

Mrs. Dionne asked the applicants to verify that what they are planning now for the project does not differ from last year. Mr. Coronati replied the only change they would like to make is to install eco paver or porous pavement for the driveway.

Mrs. Dionne confirmed this is a new permit, but it is for the same work that has been previously permitted.

Public Comment: No public comment.

Commission: No comments.

MOTION: Mr. Page moved to recommend the granting of a Wetlands Permit to the Planning Board and to allow the Applicants to complete mitigation and add permeable pavement or eco pavers for the driveway, with all the existing stipulations from the previous approval which was reviewed in July 2015:

- 1. The Commission recommends a phased building permit for the proposed duplex at 155 Island Path. The first phase would include only the site work involved in installing the concrete slab and utilities. The second phase of the building permit would only be issued once all of the mitigation work has been completed at 155, 165 and 175 Island Path.**
- 2. Both stone wall ends at 175 Island Path shall be capped and two granite posts installed with an attached Wetland Conservation District (WCD) marker. The three proposed cedar posts with WCD markers may be reduced to one. This post shall be placed along the buffer edge and equidistant from the stone wall ends. A different type of post material may be used, but it must be permanently secured into the ground.**
- 3. The Conservation Commission supports the applicant's request to install porous pavement in place of the permeable pavers in the driveway locations, if desired.**

Hampton Conservation Commission

Minutes

May 24, 2016

- 4. Any adjustments to the planting plan for 175 Island Path, must be reviewed and approved by the Conservation Coordinator prior to installation.**
- 5. The applicant has agreed to remove the non-functioning sewer line at 175 Island Path.**
- 6. Permeable surface driveway.**
- 7. Any deck must be open above and below allowing for vegetation to grow beneath.**
- 8. Lawn care must follow the guidelines set forth in the NHDES Shoreland Protection Act (Env-Wq 1400). No storage of grass clippings or yard waste in the wetland or its buffer.**
- 9. Removal of trees that are not dead, diseased, or unsafe must be performed in compliance with the NHDES Shoreland Protection Act Section Env-Wq 1403.05**
- 10. All proposed plantings shall have at least 75% success after two (2) growing seasons. Any plants that do not survive shall be replanted or replaced with another suitable plant species.**
- 11. Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. Silt fence and hay bales (salt hay bales for tidal areas).**
- 12. The buffer should remain undisturbed to the degree possible in the process of construction.**
- 13. There are to be no additional structures such as sheds, swimming pools, gazeboes, patios or other sealed surface, etc. in the buffer, other than that shown on the approved plan. A new Wetlands Permit is required for the erection of any additional structure(s) in the buffer.**
- 14. The Conservation Commission shall be notified in writing upon commencement and completion of the project. A final inspection shall also be scheduled with the Conservation Coordinator upon completion of the project.**
- 15. If the project requires an occupancy permit, the Conservation Coordinator shall not sign the permit until all of the Wetlands Permit conditions have been met.**
- 16. An As-Built Plan for 155 Island Path including grades/elevations shall be submitted following project completion and then a final inspection shall be scheduled with the Conservation Coordinator.**
- 17. This permit will expire two years from the date that it is granted by the Planning Board. Refer to Hampton Zoning Ordinance Section 2.3.5 for information on permit extensions.**

SECONDED: Mr. Tilton

FAVOR: 7 in favor, 0 opposed

MOTION PASSED

5) 299 Exeter Rd

NHDES

Standard Dredge and Fill Permit

Owner: AG Hampton Hospitality, LLC

Agent: Opechee Construction Corp.

Construction of a 104-room hotel and 40,000 sq. ft. office building.

Hampton Conservation Commission

Minutes

May 24, 2016

Barry Stowe and Keith Kelly with Opechee Construction, and Thomas Sokoloski with TES Environmental Consultants, Inc. appeared before the Commission. Mr. Stowe explained the proposed plan is for commercial development of a 104-room hotel and 40,000 sq. ft. of office building. On the Plan, he pointed the frontage of the property at Exeter Rd, Route 27. He explained the first phase of construction will be the hotel. He went on to say this phase will impact about 4,000 sq. ft. of central wetlands. The second phase is the office building and will impact 4,000 sq. ft. of the other wetland onsite.

Mr. Stowe indicated the wetlands are not contiguous. He remarked that in the 1950's and the 1970's the site was used as a gravel pit for construction of Route 95 and Route 101. He indicated the soil maps have it delineated as a gravel pit.

Mr. Sokoloski said to be a wetland, it must have hydrology or perched ground water. He stated the central wetland receives water from a run off of CR's Restaurant. The other receives water only from the immediate water shed of the loop of Routes 101, 27, 95. Mr. Sokoloski stated the gravel pit essentially created the wetlands. He noted the areas are above the headwaters. He stated the levels of function and values are quite low. Also he noted it does not contain habitat value. He commented there are no surface waters that are long enough lasting for fishery habitat, vernal pools, or other wildlife habitat. He concluded that there are 9,000 sq. ft. of wetland impacts. There is quite of a bit of debris, utility poles and iron debris there that was left after a gravel pit is abandoned after 40 years of growth.

The Commission:

Ms. Renaud informed the Applicants that the Commission does not grade wetlands in their ordinances. She stated they have a wetland district which includes them and their associated buffers and adjoining river and streams. She concluded even though it does not apply to the NHDES, they will take into consideration the local municipality's' ordinances and our desire to ensure that we are able to protect our wetlands.

Mr. Stowe said they understand the Commission would like to receive local mitigation for this site, and it is their intention to provide that. Ms. Renaud responded she understands that there has been discussion and that will be addressed a little later in the meeting.

Mrs. Dionne shared a letter from CR's Restaurant in support of the project.

Mr. Diener asked if they could briefly describe storm water management system proposed to be put in place.

Mr. Stowe responded the storm water plans have been revised from the plans you currently have as a result of going through the PRC. He said when they return to the Commission for the local permit, they will bring an updated plan. Mr. Stowe stated currently they are still in the review process with the PRC so it is not complete as of yet. He described what they are proposing is a surface sand filter. He went on to say that anytime you expose more than 100,000 sq. ft. of soil you have to go through the NHDES for approval. Currently the NHDES is conducting a detailed review of the drainage system. Its design intent is to mitigate all posts down to their pre development condition based on accepted drainage calculations.

Hampton Conservation Commission

Minutes

May 24, 2016

Mr. Diener inquired whether the Department of Public Works (DPW) has reviewed the latest Plan. Mrs. Dionne confirmed they have as they are part of the PRC review.

Mr. Diener is concerned that nobody at the Town level has had the opportunity to review the revised storm water system. Mrs. Dionne stated she has reviewed it, however it needs to be submitted to the NHDES. The plan the Commission is viewing this evening is the old plan that the NHDES currently has. The revised plan has not been submitted to the NHDES. She stated we are reviewing the plans that the NHDES has.

There is a discussion amongst the Commission if they should proceed without having the latest updated Plan.

Mr. Stowe responded that his team will have more comments from the PRC tomorrow and there will be another set of revised plans.

Ms. Raymond stated she could not vote without the latest revised plan, as well as a proposal for mitigation.

Mr. Stowe stated he is willing to move forward with Ms. Raymond opposing.

Mr. Page commented the Applicants will be back for a local permit, and the Commission is just being asked to say yes or no for DES on the plan. He stated we are overall in agreement for the development and mitigation in the future.

Mrs. Dionne confirmed the Applicants need both State and Town permits to move forward.

Ms. Swank said she understands Ms. Raymond's concerns, however if the DPW and Planning Board Engineering Firm recommends this, then she will go along with it.

Mr. Tilton agreed with Ms. Raymond.

Ms. Renaud declared the two issues facing the Commission is they do not have the latest plans, and they do not have mitigation information.

After a lengthy discussion, it is suggested the Applicants postpone this review for the Town Wetlands Permit and NHDES Fill permit until next month once the plans are finalized. He stated the plans need to be passed by the PRC prior to the Town Wetlands Permit.

The Applicants representatives agreed to request an extension for another 30 days from the NHDES due to the fact that the current plans will be changing.

V) Appointments

1) Asset Title/Seacoast Realty Trust – Mitigation discussion

Ms. Renaud stated there are two issues before the Commission this evening. First issue is to consider amending or terminating of a 50-year Conservation Easement on the property known as Cornerstone. The other is to consider mitigation for the proposed office space and hotel previously discussed.

Peter Saari, attorney. and Corey Colwell of MSC Civil Engineers appeared before the Commission on behalf of Joe Valle and Steve Paquette the developers. Mr. Colwell explained that Mr. Valle represents Asset Title which owns all the property around there. He reviewed that

Hampton Conservation Commission

Minutes

May 24, 2016

everything was going well and approved until the Conservation Easement was located. He went on to say it is a temporary easement with 6 years remaining on it. He noted that Easement has no right of way and no frontage on the road, however it is there. He reviewed that the owners have already agreed to donate to the Town the Car Barn Parcel with a pond on it. He said Asset Title also has a piece of land next to the Car Barn Parcel containing six acres. He stated the purpose of tonight is to deal with the issue the developers have with the Easement, as well as they would like to deal with the proposed hotel and office space for 299 Exeter Rd. with regards to mitigation. Mr. Valle would like to donate mitigation for that site as well. He went on to say the issue is what the board feels is reasonable to deal with all these wetland issues. The assisted living facility project is a well-liked project, as well as the hotel, and he feels it is something the town would like and wants to see how they can make it happen.

Mr. Colwell provided a handout they prepared for mitigation ratios. He also displayed the plan showing the approved Cornerstone facility and the area shaded in green is the Conservation Easement. He reviewed the Easement runs for another six years and then expires. He explained that mitigation is being considered for the hotel site as well as two other properties that are owned by Asset Title Holdings. Two parcels owned by Asset Titles are being offered in exchange for the hotel site and the assisted living site as well as the lifting of the Conservation Easement. He reviewed the Car Barn Lot was offered as mitigation to the assisted living facility. He displayed a map that depicts the wetland and upland area on that lot. He stated there is more wetland being preserved on the Car Barn lot than is being mitigated on the assisted living site. For comparative purposes, Mr. Colwell directed the Commission to page 2, the bottom table where it says Timber Swamp Site. Those ratios are proposed for 3 sites, for the hotel site, the assisted living site and Liberty Lane site. He explained the tables show all three sites that would require mitigation.

Ms. Renaud commented the Commission will only address what is current, not future projects.

Mr. Diener informed the Commission he talked with Joe Valle about mitigation for the hotel site and compensation for the Conservation Commission's support of amending or terminating the 50 year conservation easement early. Mr. Diener suggested to Mr. Valle if his primary interest was expediting the Cornerstone property, then they would be better served on separating that out. However, Mr. Valle chose not to do that. Mr. Diener said they discussed possibly combining mitigation for the hotel and support for the Cornerstone Easement, and Mr. Valle suggested lot 66/3, a 6 acre parcel adjacent to the car barn parcel would be adequate for both of those purchases. Mr. Diener said he did some number crunching with that idea and took the mid-range of that ratio. He explained he first considered the wetlands impact and focused only on the hotel site. With the donation of parcel 66/3 for the hotel site, there was a remainder of approximately 2 acres on 66/3 left for use of mitigation for the Conservation Easement's remaining 6 years, which is also about 2 acres. Mr. Diener said if we were to use parcel 66/3 for the hotel site and the remaining 2 acres for the six year Easement, it would give us a 1:1 ratio of property being acquired in supporting the release of the Easement.

Mr. Diener explained the process of releasing the Easement, if the Commission supports that, is to send a letter to the Board of Selectmen. The Board of Selectmen would then have to vote to support it, followed by the Town Attorney addressing probate court to end the 6 remaining years on the Easement. Mr. Diener said the Attorney General will be looking for an equal or better

Hampton Conservation Commission

Minutes

May 24, 2016

exchange for what is being given. He stated using lot 66/3 gives us equal. It does not give us better. He stated there are three different levels probate court looks at. Easy, middle, and hard level. Mr. Diener feels giving up a Conservation Easement is the most challenging. He stated he has never dealt with this before, but his sense is they will be looking for “better” compensation for releasing the Easement.

Mr. Page suggested the donation of 66/3 in perpetuity to the Town is greater than the 6 years remaining on the Easement. Mr. Diener responded that may be right, but it could also be risky going into it with a 1:1 ratio.

Mr. Colwell said he agrees with everything Mr. Diener has said and he has done some fantastic research. He informed the Commission the applicants have an attorney working with the charitable trust as well as the probate court. He confirmed they will be meeting with the Board of Selectmen on June 13th. He feels the land values of 66/3 in perpetuity has far greater value than the 6 years remaining on the Easement. He also noted the Easement is land locked, while the property on Timber Swamp Road has frontage and could be developed in the future. He informed the Commission the Applicants have hired an appraiser for the Conservation Easement, as well as Parcel 66/3. He said the indication is Parcel 66/3 has greater value to the Town than the remaining 6 years of the Conservation Easement, because of its size as well as development possibilities with that lot.

Mr. Diener responded they are not just looking at the value of the land. He said you are asking the Commission to vacate an easement and that is something we have never done before. Mr. Diener expressed deep concern for what the perception of the Town will be. He wants it to be clear, if the Commission does this, that the Town receive something that is more valuable than what is being given up. He wants the message to be that the Commission does not do this often and does not take it lightly. He concluded we count on donations from the citizens. If they perceive we are giving up easements too easily, people will not be comfortable donating to us in the future.

Ms. Swank remarked that just because it was only 6 years left to the Conservation Easement, it doesn't diminish the intent and importance of the Easement, and it still holds value. She expressed it was an important easement at the time of donation and still is.

Ms. Shaw agreed with Ms. Swank and feels that breaking the contract created 44 years ago would require a sufficient land value to override that.

There was further discussion amongst the Commission whether a 1:1 ratio is sufficient mitigation.

Ms. Raymond expressed her concern of having the mitigation lumped together for the two large projects as well as the Easement.

Mr. Tilton feels the upland of parcel 66/3 is a good value as it is an upland and wetland lot.

Mr. Lessard commented that the Conservation Commission does an honorable job protecting the wetlands, and as Mr. Diener pointed out, you cannot do this without serious thought. He

Hampton Conservation Commission

Minutes

May 24, 2016

suggested moving the Easement for the remainder of the six years to another spot on the property. Mr. Saari responded that the State would not allow them to relocate an easement.

Ms. Raymond exited the meeting at 10:40 p.m.

Mr. Tilton asked the Commission if they do not feel the 6 acre lot is adequate, what they would consider.

Mr. Diener showed on the map the Batchelder Easement area where the Conservation Commission has protected land. He points out that parcel 66/3 comes close to that. He went on to say he understands that Asset Title has a strip of land between the two of them. Mr. Diener said this would be a valuable link between Batchelder Farm, the Car Barn Lot and Parcel 66/3. He said that is about 2 more acres and could be a valuable link to this Town.

Mr. Colwell responded the front of the parcel is slated for something. He doesn't think what is slated for the front of that parcel would infringe on the back of it, but he would want to make certain.

Mr. Diener pointed on the map the back part of the strip to go from parcel 66/3 to the deed restriction to the strip. If you gave the back part of that strip to allow access to Batchelder Farm, you could still maintain the front of that strip for future development. Mr. Diener said the Commission as a whole has not discussed this, it is just his thought and it holds some real conservation value.

Ms. Swank question how large is the part of the lot Mr. Diener is suggesting. Ms. Dionne responded it would be a strip that would be about 2 acres. Mr. Diener stated for it to be a wildlife Corridor it cannot be a 10' wide strip, you need something wider for more protection. Mrs. Dionne said she does not know if the deed restriction allows for public foot traffic, however it does add to the wildlife corridor.

Ms. Swank commented that parcel 66/3 is not enough compensation, so if the applicants could go further it would be great. Ms. Shaw agrees, as does Mr. Tilton.

Ms. Dionne noted on lot 66/3 there is a small dam there and the Commission should make certain it is in good working order.

Mr. Paquette said he feels the appraisal and market value of parcel 66/1 is greater value than the interior of the Cornerstone lot with a 6 year remaining Easement. He commented they thought this construction would have begun back in April and cautioned the everyday markets are changing. He inquired if there would be a chance they could meet and iron this out prior to the Selectmen's meeting in June. Mrs. Dionne commented that this is not the only issue holding up the project, that there are some sewer issues as well. Mr. Paquette pointed out that is the biggest issue.

Mr. Colwell commented if the Easement is not lifted, then parcels 66/1 and 66/3 would not be donated to the town, and in six years when the Easement is up, the town will have received

Hampton Conservation Commission

Minutes

May 24, 2016

nothing. He requested if they could schedule a work session to further discuss the mitigation issue prior to the Board of Selectmen's meeting scheduled for June 13th.

Ms. Renaud noted it is almost 11 p.m. She explained the Commission needs to decide as a whole what it considers adequate consideration for release of the Easement. She commented there are qualitative issues at stake as well as quantitative. She suggested they schedule another meeting with the applicants and the Commission to sit down and discuss specifically what can be done to resolve these two situations. She stated it would need to be posted as a public hearing.

There was a discussion regarding such meeting and a possible date is June 7th at 6 p.m. They will firm up a date and time and post it for the public.

V) Old Business

There was no old business discussed.

VII) Business

There was no new business discussed.

VIII) Conservation Coordinate and Chair Update

There was no update.

IX) Adjourn

MOTION: Mr. Tilton made the motion to adjourn at 10:50 p.m.

SECONDED: Ms. Shaw

FAVOR: 6 in favor 0 opposed

MOTION PASSED

The next meeting of the Conservation Commission will be held on June 28, 2016 at 7 p.m.

Respectfully Submitted,
Cheryl Hildreth