

Conservation Commission  
Special Meeting  
Draft Minutes  
June, 7, 2016

**Present:**

Barbara Renaud, Chairman  
Jay Diener, Vice Chairman  
Peter Tilton, Jr.  
Pat Swank  
Nathan Page, Alternate

**Also Present:**

Rayann Dionne – Conservation Coordinator  
Mark Gearreald – Town Attorney

**D) Call to Order**

The Hampton Conservation Commission Special Meeting to continue the discussion with Asset Title Holdings from the regularly scheduled May Meeting was called to order by Ms. Renaud at 7 p.m. in the upstairs conference room at Town Hall.

Mr. Corey Colwell of MSC Engineering expressed appreciation to the Commission for holding the special meeting and affording his clients the opportunity to move forward with the discussion of mitigation for the proposed assisted living facility (298 Exeter Rd), the proposed hotel and office complex (299 Exeter Rd) and the remaining six year Conservation Easement on 298 Exeter Road. He displayed a map depicting the proposed developed lot sites of 298 and 299 Exeter Road, as well as the sites being offered for mitigation for each of these projects, as well as parcels west of Route 95 that are held by the Town of Hampton in Conservation. He reviewed that mitigation being offered for the wetland and buffer impacts on the assisted living site is a 6 acre lot, Map 66 Lot 1, known as the Car Barn Pond lot. The second mitigation is for the proposed hotel and office complex site with the early release of the 50-year Conservation Easement, and that mitigation proposed is Map 66 Lot 3. A six acre lot as well.

Mr. Colwell reviewed that they left off at the May Conservation Commission Meeting where Mr. Diener had a great suggestion of connectivity between these two parcels the Batchelder property, Map 37 Lot 8, with a back strip of approximately 2 acres that would allow connectivity and a possible wildlife corridor. Mr. Colwell stated it would not be a viable proposal as that property is owned by the Dunbars. The abutting Chinburg property has a “no build” deed restriction on it, but it would not allow for full connectivity because it does not extend to the Batchelder property.

Mr. Colwell went over the proposed mitigation for the hotel parcel is Map 66 Lot 3 which contains 6 acres. He stated four of those acres are designated for the hotel site. The remaining 2 acres on that lot would be toward the compensation for the early release of the 50-year Conservation Easement. That is a ratio of 1:1 (impact to preservation). He noted it was

Conservation Commission  
Special Meeting  
Draft Minutes  
June, 7, 2016

determined that for the good of the Town of Hampton, there would need to be a greater ratio to be able to confidently move forward. Mr. Colwell met with the owners and they now understand the unique predicament the Town is in.

Mr. Colwell met with the owners and they discussed a parcel identified as Map 51 Lot 3. He pointed on a map the lot that the Old River runs through this Lot. He also pointed out that there is an acre of upland on the parcel. The owners have decided to offer as additional compensation toward the release of the Conservation Easement two acres of this parcel, one of which will include the uplands. The Old River flows under 27 and into the Car Bond Pond which is Map 66 Lot 1 also being offered as mitigation. Mr. Colwell stated this creates connectivity between three lots being offered for wildlife and habitat. He noted the upland on Map 51 Lot 3 is being offered as well to protect the frontage of the lot from future development. He said also this two acres is being offered in a Conservation Easement, and that it protects a large wetland system located behind the frontage. Mr. Colwell concluded the owners agree that a 2 acre Conservation Easement on that portion of the property in addition to the 2 acres being offered on Map 66 Lot 3 on Timberswamp Road totaling 4 acres would be reach the desired 2:1 ratio (2 acres of permanent protection: 1 acre of temporary easement).

The Commission:

Mrs. Dionne asked Mr. Colwell if there was any reason why they chose to offer a Conservation Easement rather than deed it to the Town. Mr. Colwell said in reviewing the options, it is clearly in the Town's interest to have the Conservation Easement. He said if they were to subdivide the lot to deed one to the Town, it would require frontage on both lots to make it a legal subdivision. If they were to proceed with that option, it would leave the upland portion closest to the road open for future development. He and the owners feel with the upland in Conservation protection, it would not allow for any future development there, it would protect the upland and leave the Old River and connectivity in Conservation protection as well.

Mrs. Dionne likes the concept and how the Old River flows down to the Taylor River. She stated protecting the waters that feed the Taylor River will better protect the Taylor River.

Mr. Diener agreed with Mrs. Dionne and stated the more we are able to protect the Old River, the better it will be for the Town. He also is pleased that the uplands are being included in the proposed Conservation Easement and how it precludes it from future development.

Mr. Page stated he does not have an issue with this being a Conservation Easement. He views a future subdivision being much more problematic.

Ms. Swank said she is encouraged with this proposal. She questioned Mr. Colwell if there is any possibility for the upland in the back part of Map 51 Lot 3 being developed in the future. Mr.

Conservation Commission  
Special Meeting  
Draft Minutes  
June, 7, 2016

Colwell responded yes, it could be developed. There was a discussion of accessibility to that portion of the lot, and Mr. Colwell pointed out there is an existing driveway leading up through to the back of the lot that could possibly be converted to a road in the future. Ms. Swank inquired with Mrs. Dionne if the Commission would allow a road to be developed in wetlands area. Mr. Page responded it is already an existing lot of record with an existing driveway on it.

Mr. Tilton stated he feels this is a brilliant idea that Mr. Colwell and the owners have come up with.

Ms. Renaud also stated she is pleased with this proposal and what it offers in terms of the Commission's objectives. She is pleased that this will allow the Commission to protect the Old River and allow connectivity into the Car Barn Pond as well as protect the area above on Map 53 Lot 1.

Mr. Page inquired what the procedure would be next. He also noted he has been in touch with some heirs of the original 50-year easement, and 3 out of the 4 heirs are in support of the termination of the Easement for proposed mitigation being offered in perpetuity and will present that in writing.

Mrs. Dionne referred to a pond on Map 53 Lot 1 stating it needs some restoration. She said the Commission may have an opportunity to apply the NHDES for funds to provide some of that work. She inquired if the proposed Easement could also cover that pond so they could apply for a grant from the NHDES. Mr. Colwell responded the owners have committed to the two acres and he does not feel they will commit to anymore. He said they could reconfigure the layout of the two acres to fit the pond, however that would take away from the upland they are offering.

Mr. Page followed up by inquiring if they could be allowed access to maintain the wetlands behind the Easement. Mr. Colwell responded he cannot speak for the owners, but feels it could only help them if that was allowed and would also be a benefit to them. Mr. Colwell said he would share the idea with the landowners.

Mr. Tilton requested the Easement to include public access.

The Town Attorney, Mr. Gearreald, noted as we have learned from Batchelder Easement and the Hurd Farm Easement, the devil is in the details where you put restrictions on conservation easement. He suggested it would be helpful to create a plan and a document with details before finalizing the Easement.

Mr. Diener followed up on Mr. Gearreald's concerns and said it should be clear if there are any issues or concerns that we or the owners would want to see attached to an Easement. He noted

Conservation Commission  
Special Meeting  
Draft Minutes  
June, 7, 2016

generally we allow for public access for recreation on easements, and we only prohibit motorized vehicles except for emergency rescue or maintenance.

Mr. Gearreald commented if there are any concerns for pesticides or fertilizers, these should be included in the Easement as well.

Mrs. Dionne mentioned at the May meeting there was talk regarding a dam on Parcel Map 66 Lot 3 located on the southern end of the parcel and she would like to make certain it is in working order. Mr. Colwell referred to a map and he believes the dam may actually be located on another parcel. They review several maps and Mr. Colwell stated if it is on our Parcel we will repair it. Mr. Diener noted if the dam is repaired it would increase the size of the pond.

Mrs. Dionne asked the Commission if they are interested in having a parking area installed for a couple of cars along these properties. There was a discussion regarding this, and everyone agrees the shoulder is wide and there is room along the side of Timberswamp Rd. for a couple of cars to pull over without an issue.

Mrs. Renaud confirmed with Mr. Colwell the size of the Conservation Easement proposed on Map 55 Lot 3 is a total of two acres. Mr. Diener confirmed with Mr. Colwell that .98 acre of that is upland and that does not include the buffer.

**Public Comment:**

There was No Public Comment.

**MOTION:** Mr. Diener moved that the Conservation Commission accept as mitigation for the wetland and buffer impacts on 299 Exeter Rd. and as compensation for the Commission's support of releasing the remaining 50-year Conservation Easement at 298 Exeter Rd six years early, Parcel Map 66 Lot 3 of which approximately 4 acres of combined wetlands and buffer will serve as mitigation for the impacts of 299 Exeter Rd. The balance of that parcel, approximately 2 acres, as well as 2 additional acres along Exeter Rd. on Map 51 Lot 3, including uplands and wetlands and buffer will collectively serve as compensation for the release of the 50 -Easement. Of those two, lot Map 66 Lot 3 will be deeded to the town and the portion of Map 51 Lot 3 that will serve as compensation will be placed under a conservation easement, the terms of which shall be deemed agreeable to the Town and the Conservation Commission prior to this agreement being finalized. In addition, if the dam on the Car Barn resides on Parcel Map 66 Lot 3 or Map 66 Lot 1, then the dam will be repaired and restored to working order at the expense of the current owner. The proposed conservation easement should also include rights of access to the Old River/pond located on Map 51 Lot 3 on Exeter Rd. to the northeasterly border of that lot.

**SECONDED:** Mr. Page

**FAVOR:** 5 in favor, 0 opposed

**MOTION PASSED**

Conservation Commission  
Special Meeting  
Draft Minutes  
June, 7, 2016

Mr. Diener stated the process now is the Conservation Commission will make a recommendation in writing to the Board of Selectmen regarding the release of the remaining six years on the 50-year Easement. In turn, the Board of Selectmen have to approve that release. Assuming they do agree with the terms, the Board of Selectmen will direct the Town Attorney to request the release of the Easement from the Probate Court. He concluded even though we have come to an agreement this evening, it still does need to pass through the Board of Selectmen and the Probate Court.

Mr. Colwell said he and the owners understand the process moving forward, and they are confident with the appraisals they have ordered on the mitigation parcels that what they are offering the Town of Hampton reflects a much greater value versus the six years remaining on the Easement.

Mr. Diener expressed appreciation for Mr. Colwell and the owners and the fact they listened to the Commission and took their comments seriously. He said he now feels if the Commission is questioned by the Town's people about why we released an easement prior to its expiration he can point to something significant that the Town has gained.

Mr. Colwell responded that the Commission set a high standard for the future and it is appreciated.

Ms. Renaud concluded that this will help maintain the trust of the people in the Town of Hampton, and she is comfortable that the Town is gaining greater value in this situation.

**II) Adjourn**

**MOTION:** Mr. Diener made the motion to adjourn at 7:46 p.m.

**SECONDED:** Mr. Tilton

**FAVOR:** 5 in favor, 0 opposed

**PASSED**

**MOTION**