

Somersworth Conservation Commission
MINUTES OF REGULAR MEETING
December 8, 2022

MEMBERS PRESENT: Doug Bryar, Sarah Childs, Jeremy Degler, Scott Orzechowski,
Jeremy Rhodes, Dale Smith-Kenyon

MEMBERS ABSENT: Kevin Dodds, Angela Ficco

STAFF PRESENT: Michelle Mears

The meeting was called to order by S. Orzechowski at 6:03 pm.

1) APPROVAL OF MINUTES FROM PREVIOUS MEETING

Corrections to Minutes of September 14:

- Paragraph 2 of Packy's Investments presentation; amend Secretary's note to add 'to my knowledge'
- 3.B – Final item was a motion
- C – Ruall St spelling is correctly spelled Rual, and ATV signs indicated 'fees', not 'taxes'
- 4 Rabbits (2 pairs) were released at Malley Farm, not 2.
- A plan was requested from the Oaks

D. Smith-Kenyon moves to approve as amended, S. Childs Seconds, motion carries 4 – 0 – 1 (J. Degler)

2) PUBLIC COMMENT (five minutes per person and subject to closure in interest of time)
None

3) CONDITIONAL USE PERMIT REQUESTS

- a. **CONTINUED: Packy's Investment LLC is seeking a conditional use permit for 12,235 SF impact to the Riparian and Wetland Buffer as part of a commercial development on a property located at 363 Route 108, in the Commercial Industrial (CI) District, Assessor's Map 48 Lot 22B, CUP#14-2022**

Bob Stowell speaks for the applicant, who was unable to attend tonight. S. Orzechowski asks if trees on the site have been cut; B. Stowell confirms that they have. This came to light after the November conservation meeting; the exact date is unknown. Cutting occurred in virtually all of the woodland and vegetative buffers, as well as in the wetland proper.

S. Orzechowski moves that the Conservation Commission recommends forwarding the Planning Board to deny the CUP#14-2022 to the planning board with a recommendation to deny, as:

The applicant has removed most of the trees from the 50-foot vegetated buffer, for which 19.13.6.C.2 states that the purpose is "to protect the quality of public waters..." "no natural ground cover or trees shall be removed..."

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The applicant has removed most of the trees from the 50 to 100 foot woodland buffer, for which 19.13.6.D states that the purpose of the woodland buffer is "...to protect the quality of public waters by minimizing erosion, preventing siltation and turbidity, stabilizing soils, preventing excess nutrient and chemical pollution, maintaining natural water temperatures, maintaining a healthy tree canopy and understory, preserving fish and wildlife habitat, and respecting the overall natural condition of the protected shoreland." 19.13.6.D.1 states that "At least 50 percent of the area outside of impervious surfaces shall be maintained in an undisturbed state."

The Commission recommends that solar arrays are not installed, leaving the cut area untouched to allow natural regrowth, while actively monitoring the area for invasives and manually cutting any invasives back.

19.13.6.E states that "Within the Riparian and Wetland Buffer District, structures shall be located a minimum distance of 50 feet from the buffer of all streams, wetlands and vernal pools." - in other words, a building setback fifty feet beyond the woodland buffer – the purpose of which is to minimize the impact of regular human activity on wildlife in the buffer. The remainder of the applicant's plan calls for a building that lies completely within that 50-foot setback.

The Commission's opinion is that while the applicant's plan is commendable for its intent to increase the pool of alternative energy, such work can be done elsewhere with minimal impact to the city's water and wildlife diversity. Further, the Commission finds that the applicant shows contempt for due process and for the guidance of the Commission and has acted in bad faith with respect to the Chapter 19 of the City Zoning Ordinance, suggesting that stipulations by the Planning Board may be complied with only as the applicant sees fit.

J. Rhodes seconds, with the addition that, as the applicant's representative has confirmed that cutting took place within the wetland without necessary permits, the item be referred to the New Hampshire Department of Environmental Services for appropriate enforcement action.

Motion as amended carries 5-0-0

- b. Favorite Development Group, LLC is seeking a conditional use permit for impact within the Riparian and Wetland Buffer as part of an alteration to an existing commercial development on a property located at 20 Rescue Lane, in the Industrial (I) District, Assessor's Map 58 Lot 6G, CUP#15-2022**

Brent Cole of Granite Engineering presents for the applicant.

The site in question was originally developed approximately 2000; at the time, a gravel access road was put in place. This roadway is impacted by the buffers of offsite wetlands to the north and south of the property. The applicant wishes to expand their operations to this site by including a loading dock and paving the access road. This work will involve cutting into the soil at the docks to regrade as well as paving.

Stormwater on site is currently managed through a single runoff pond; as part of this work, the applicant proposes to install sloped granite curbing and redirect stormwater to a

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modern system in compliance with all state and city regulations. This system does increase impervious surface by 35 square feet but compensates with substantial water management and treatment. No cutting or clearing is involved with this work.

S. Orzechowski raises the topic of fill, requesting that any removed as part of the work be left onsite in order to contain invasives. The applicants are amenable to this request.

D. Smith-Kenyon asks if any invasives are onsite; the applicant isn't certain, but all expect so. She asks if the dumpster is to be bearproof; the applicants weren't planning to but are happy to do so given local sightings. She also notes that the magnolia noted on the landscape plan is a nonnative plant; J. Rhodes refers to the natives list published by the city. The applicant states they'll swap out the magnolia for an equivalent native species in the final plan.

J. Rhodes moves to forward the application to the planning board with a recommendation to approve with the above stipulations (fill, dumpster, native plants). J. Degler seconds.

Motion carries 5-0-0

4) **NEW BUSINESS**

a. Any new correspondence

There have been numerous complaints regarding cutting near Royal Rd; this cutting is in Rollinsford. Residents are advised to contact Rollinsford regarding this work.

b. Any new business to come before the Commission

None

5) **OLD BUSINESS**

a. Review and Approval of NH Association of Conservation Commissions 2023 Membership Dues

Dues are \$575; S. Childs moves to appropriate \$575 from Commission funds to renew our membership. D. Smith-Kenyon seconds. Motion carries 5-0-0

b. Easement monitoring

S. Childs and D. Bryar plan to check Lily Pond at 2:30 on 12/9/2022 and will submit DES reports.

S. Orzechowski, S. Childs, R. Harris (NH Fish and Game) checked the Ruel trails. The trails approach 30 feet wide in places, and 2-3 feet deep and rutted in places. These are not approved or permitted trails. Once signed, NH F&G is willing to enforce.

One site remains 383 Blackwater Rd (Marlene Frasier site). D. Smith-Kenyon plans to check this site prior to our next meeting.

c. Any Correspondence regarding old business

M. Mears following up with Oaks regarding resubmittal of cutting plans. Possibility of a site walk prior to next meeting.

d. MEMBER ITEMS, SUB-COMMITTEE ITEMS, AND REPORTS

i. Lily Pond wildlife management plan - No update

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ii. Invasives plan sub-committee report

S. Childs and S. Orzechowski undertook cutting of invasives at Malley Farm; note that containment may be the best goal at this site given the degree of growth.

iii. Exploration of potential bridge and water bars at Malley Farm

No update

iv. Culvert Assessment

S. Orzechowski has sent K. Dodds the Coastal Viewer layer for culverts (source UNH Cooperative Extension); this should be helpful in prioritization.

e. Any other old business that may come before the Commission

None

6) TREASURER'S REPORT

No report at this time; account status is requested.

D. Smith-Kenyon moves to adjourn; S. Childs seconds. Motion carries 5-0-0

Meeting adjourned at 6:50 PM.

Respectfully submitted:

Jeremy Rhodes
Conservation Commission Secretary