



CONSERVATION COMMISSION
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MINUTES OF THE CONSERVATION COMMISSION

Wednesday, September 08, 2021 – 6:30 p.m. – Town Hall Conference Room

Members Present: Bill Bilodeau, Laura Byergo, Joe Fedora, Lloyd Ziel

Members Absent: Rich Collins, Brad Lajoie

Also Present: Jeremy Lougee, Southeast Land Trust; Alan and Steve Smith, Great Bay Farm

Chair Byergo opened the Conservation Commission meeting at 6:45 p.m. It was announced a quorum was present and the meeting was being recorded. Attendance was taken by roll call: B. Bilodeau – present, L. Byergo – present, Joe Fedora – present, L. Ziel – present.

1. Southeast Land Trust: Jeremy Lougee

Jeremy Lougee, Southeast Land Trust, addressed the Conservation Commission regarding Great Bay Farm (the Smith Farm) on Newington Road. The SELT has been working with the family for approximately one year to do a conservation easement. Grant applications have been submitted by SELT. They would like to conserve almost 154 acres of Great Bay Farm. J. Lougee has met with the Board of Selectmen.

An application has been submitted to the Federal Natural Resource Conservation Service through their agricultural land program. Applications have also been submitted to L-Chip and the Department of Environmental Services (DES) Drinking Water Trust Fund.

J. Lougee has sent L. Byergo a draft conservation easement for review. SELT is not at the point where the easement needs to be drafted. The Natural Resource Conservation Service has a strict guideline for their requirements for conservation easements. SELT feels this is regionally an important project and extremely limited resource: Great Bay Farm is one of the last four commercial dairy farms in Rockingham County. There is a great deal of history to the farm that is important to the Town. Great Bay Farm is on a well-head protection area for a number of wells on Pease and are integrated into the Portsmouth water system. It is an important property for wildlife, resident and migratory bird species, and other terrestrial species.

J. Lougee stated that SELT would like the Conservation Commission's support. SELT hoped this would warrant the Conservation Commission contributing funds to see the farm preserved.

J. Fedora asked if the area where the buildings were located would be separate. J. Lougee distributed additional maps to the Conservation Commission. The hashed area indicated on the map will be excluded to be used by the family. It is part of the farm and central to the farm's infrastructure. J. Lougee explained this is strictly an agricultural land easement which means that agriculture and forestry

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are allowed uses. The Natural Resources Conservation Service required language supports the farm and the long-term viability of the business and tries to keep the land productive over time.

L. Byergo reviewed the information from J. Lougee. She noted that the Conservation Commission has been focused on wildlife corridors because Greenland is under development pressure. Identifying wildlife corridor areas helps to identify land that sets some priorities for land conservation.

L. Byergo asked for the status of the applications that have been submitted. J. Lougee responded that the L-Chip application process takes approximately one year; the application was submitted at the beginning of June and they expect to hear in December. A field visit is scheduled for late September. They have submitted a pre-application to the Drinking Water Trust Fund, which will be screened. They have been asked to submit a full application. J. Lougee added that because of the requirements of the different funding sources, they do not expect to close on this project until late 2022. L-Chip requires public access; the landowners cannot post against passive recreation. J. Lougee noted that the Smith's have never posted the property. In addition, passive hunting and fishing cannot be prohibited; the exception if there is an active agricultural field.

L. Byergo asked if there was a wildlife management plan for the easement and if the plans included recreational opportunities. J. Lougee stated that SELT's opinion is that an active dairy farm is not an appropriate location to be encouraging recreation. They have not specifically targeted this property for recreational access. They are targeting it for the agricultural resource and water protection resource as well as the historical aspect. L. Byergo noted that Barker's Farm on Rt. 33 has a trail that is associated with their farm. She was 'pushing' for a recreation area because there is a wooded area in the back, which also is wetlands. The Conservation Commission is interested in protecting the wetland areas. Greenland has a great deal of wet areas but not a lot of upland wooded area. The farm has a combination of upland wooded areas and wet areas. That area could be an amazing addition to the Town of Greenland in terms of protecting wildlife as well as providing access for people to enjoy the wildlife. The easement did not contain any information about a woodland management plan.

Alan Smith stated the problem with accessing the woodland is that walking out there would be difficult with the rain. Harvesting in the woods will not be done for another 12 to 15 years. A. Smith continued they have worked with the Audubon Society. Referring to the easement, there was a discussion about woodland management. J. Lougee noted they require a forest management plan written by a licensed New Hampshire forester in order to do any timber harvesting once the easement is in place. The easement document includes a series of requirements the forester must follow. J. Lougee pointed out the only part of the property that is not considered high quality habitat is the forested area. This project is more of an agricultural water resource and community historic focus. There are approximately 35 acres in the woodland area.

L. Byergo asked if they were going to provide any posted areas for people to enjoy the passive recreation area. A. Smith stated they did not plan to post any areas. Fish and Game, across from them on Newington Road, is a passive recreation area. A. Smith stated they do not often tell people they cannot use the property. L. Byergo stated it would remain private land but there would be more public interest due to funding of the easement. Responding to L. Ziel's question, A. Smith stated there is not public access to the wooded area.

It was L. Byergo's hope that the Conservation Commission would be involved with this project as it moved forward. She questioned if there would be any small commercial enterprises on the property as mentioned in the NRCS document; A. Smith replied, 'not as long as we own the property'.

L. Byergo asked about the farm's fertilizer runoff controls, and the nitrogen and phosphates coming from their farm. A. Smith stated that whenever they put in material (examples: manure or commercial fertilizer), it is incorporated into the ground and there is no surface runoff. L. Byergo asked if there were any buffers between the farm fields and the stream. A. Smith noted that was approximately a ¼ mile away from any of the fields being used and are sloping away from the Bay. They fertilize just before or after planting. J. Lougee added that the SELT has worked with a lot of farms that they have conserved recently. In the cases where farms are planting up to a brook, SELT has asked for a buffer. In the case of the Great Bay Farm, the family has been abiding by a buffer and why the forested area can be seen. It is built into the farm practice.

J. Fedora questioned the difference in the acreage noted on different documents. J. Lougee explained that was the report from the wildlife group and was an error. J. Fedora asked if the easement did not pass and the land was developed either commercially or residentially, what would be the impact on drinking water. S. Smith responded that currently the farm is on City water. J. Lougee stated 71 single-family homes or 165 age-restricted housing units could be built if the property were developed. That would be an additional strain on the water system. S. Smith added that the City of Portsmouth has stated they would not be able to supply that many houses. Wells would have to be done and the aquifer would be impacted.

J. Lougee encouraged Conservation Commission members to call him with any questions. He will reach out to the Commission after the L-Chip visit. Decisions are normally made by L-Chip and the Drinking Water Trust Fund in late November/early December. The Natural Resource Conservation Service has not made their decision. J. Lougee noted they were still in need of funding and were hoping for support from the Town. The amount of funding is dependent on what is received from the other sources, including the Town's Conservation Fund and/or a warrant article voted on by residents. J. Lougee stated a private donation campaign is planned. L. Byergo noted there is approximately \$260,000 available in the Conservation Land Capital Reserve Fund that has not gone unnoticed. S. Smith stated the Board of Selectmen has discussed the project and would have to decide how much funding to commit through a warrant article. A. Smith provided his contact information to Conservation Commission member and offered to answer questions as well.

2. Site Plan Review, Conditional Use Permit: 309/333 Portsmouth Avenue (Map R21, 65 – RCIM Mixed-Use District)
Owner/Applicant: SKA Properties 11, LLC – Sheree K. Allen
The owner/applicant is proposing to add a parking display area ancillary to the existing automobile dealership.

Steve Haight, CivilWorks, addressed members. Also present was Mike Menary, Staff Engineer with CivilWorks. S. Haight pointed out the parcels owned by Mercedes-Benz. The site was permitted for the Holloway Cadillac dealership 10 to 12 years ago and never was developed. The proposed footprint and drainage mitigation systems are the same. Gove Environmental services has reflagged the wetlands; the plan is up to date. A Special Exception was granted by the Zoning Board of Adjustment (ZBA). The proposed plan is for display spaces; there is not a building planned at this time although the plans include space for a septic system and electricity. The water generated from the parking area will be captured on site. There will be an underground detention system that also infiltrates. It will flow into a treatment system uphill before going anywhere else. He pointed out the area on the plan that would stay the way it is now. The system as designed would be capturing stormwater, putting it into the ground and infiltrating as well as treating.

B. Bilodeau noted that when the previous approval was made, there was a concern from the development across the street that the water would flow onto their property. S. Haight stated that water would be captured, even during a 100-year flood event, before it could flow across the street. He briefly explained the system, stating 'very specifically, it would not go across the street'. Anything being developed would be captured on site. S. Haight noted that Gove Environmental has done a wetlands assessment (copy given to the Conservation Commission). The classification was consistent with what had been done 10 years ago.

The Conservation Commission received a copy of the plan given to the ZBA and Planning Board; a Special Exception was granted by the ZBA. The plan is being reviewed by Altus Engineering. Permits have been submitted to DES: the wetlands, driveway and septic design permits have been submitted. A septic system design has been submitted in case a building is added in the future; the owner has no intention of adding a building. A leach field and utilities infrastructure have been included if a building is needed in the future. A very extensive landscape plan has been done.

L. Byergo asked for an explanation of the plans, noting that the wetlands outlined on the plans includes a straight line that does not follow a normal wetland path. S. Haight agreed, and explained that the Planning Department, when they went before the ZBA, stated that the wetland setback was where the wetland fill would be located. The wetland buffer impact area was noted in yellow. The total impact area is 31,000 plus square feet, with 9,800 square feet of actual wetland impact, and 21,000 square feet of buffer impact.

Referring to the yellow area on the plan, S. Haight explained that area would become the filled area that would be landscaped as part of the project and not paved. Referring to the grading plan, S. Haight stated that everything drains into the catch basins and flows into the system. There is treatment inside the system itself, doing three things: (1) it attenuates any peak flows and captures storm events and attenuates that so it does not discharge any quicker than it does today; (2) it treats the stormwater as it exits; (3) the system is also recharging. The water goes into the ground; what does not go into the ground is stored and metered out very slowly through outlet systems. The outlet is uphill and does not discharge directly back down.

Responding to J. Fedora's question about the 25-50 and 100-year storm events, S. Haight stated they are required to design for the 2-10-25-year storms and mitigate for the 50-year storm. Stormwater management plans state that a 10-year storm event is 4.3" in 24 hours. The proposed system is designed to accommodate a 50-year storm event. S. Haight explained that a site-specific hydrograph is done now for the 50-year storm. Along the seacoast, they have been asked to increase it by 15%. As an engineer, adding safety factors on top of safety factors is never a bad idea; however, there tends to be an overdesign. The system is not only designed for the 25-year event site-specific for that area of Greenland it also includes a 15% increase. The storage container holds 16,000 cubic feet (approximately 120,000 gallons). The discharge pipe is located in the uplands area. The discharged water will flow across the grassy area and into the meadow wetland and into the culvert under Rt. 33.

L. Byergo stated that the ZBA granted a Special Exception based on a list of criteria that must be met. The criteria that usually impacts the wetlands is that the property owner has to cross the wetlands to be able to use the property. That is not the situation in this case. They are already using a large piece of property and will be adding another parcel. From L. Byergo's perspective on the Conservation Commission, it was adding impervious surface to the Town of Greenland and does not have an immediate necessity. They are already using the land and cars are displayed. L. Byergo questioned the size of the proposed space. S. Haight responded that according to Town zoning, there are only certain

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areas where the commercial base can be expanded. This location is zoned for this project. From a practical perspective, it is being utilized for that use. To provide Mercedes the ability to expand in Town, in an area that is zoned for this use, makes sense from a practical standpoint. L. Byergo noted that the zoning maintains protection for the wetlands and its buffers. S. Haight responded: 'yes, from a black and white standpoint'. They were at the Boards and Conservation Commission from a gray standpoint. The proposal would not utilize the entire parcel. They have tried to balance the clients needs with the ability to do something on the parcel without impacting all of the wetlands while providing those protections. L. Byergo suggested cutting it back to stay outside the buffer. S. Haight reiterated the area is zoned for this. There is limited land area that has this ability.

B. Bilodeau stated this will be impervious surface with runoff. If it was a pervious surface, much of the stormwater and pollutants would be absorbed into the ground. S. Haight stated that was being done. Previous pavement would have infiltration throughout the entire area and it would flow to the same location. The underground detention system is designed to capture all of that. Pervious pavement does not work everywhere. At this location they have the ability to take all the water, hold it and infiltrate it out; it is treated as it works its way through.

J. Fedora questioned what would happen if the Mercedes dealership moved and the lot sat vacant for a number of years. Who would be responsible for the maintenance of the system? S. Haight responded that the Planning Board process requires a stormwater management plan. The systems must be maintained, regardless of the owner; it is in perpetuity relative to the site. It is a passive system; it does not have to be cleaned out and fixed every day. S. Haight explained the maintenance timeline of the stormwater management system. He noted that any change of use must go back to the Planning Board for approval. Responding to a question from L. Ziel, S. Haight explained how the treatment system works.

B. Bilodeau questioned the location of the holding tank in the lower wetland area. He suggested putting it in the top right-hand part where there were no wetlands. S. Haight explained that it was due to the grade and water flows downhill. Adding another pump would be a tremendous expense. They want to keep it 'simple, stupid'. They need the system to work and gravity has to be considered. L. Byergo stated that if it was smaller, they would not need as big a system, which would be less expensive. S. Haight explained there was a trade off in making it smaller and making the project unviable. L. Byergo stated that the expansion was driven by the commercial desires of the current owners. The Conservation Commission's role, recognizing the commercial interests of the owner, was to try and protect the wetlands and to try and uphold the wetlands and its buffers. There was continued discussion about the wetlands.

S. Haight stated their purpose for being before the various boards was that they had to discuss the gray areas, the rights of the landowners, the needs of the Town, and environmental concerns. Submittals were made based on what has been done historically in terms of trying to balance items. They would love the Conservation Commission's endorsement. The systems are more robust now than they were 10 years ago.

L. Byergo noted the Conservation Commission had 40 days from Friday, September 03, 2021, to send a note to DES regarding the wetlands and their granting permission to move forward with the project. Members would have to vote on sending a note to DES about this project. She also noted the proposal would be discussed at the next Planning Board meeting and the Conservation Commission would need to send a not to the Planning Board.

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At the request of L. Ziel, the landscape plan was discussed. L. Ziel asked if rather than it being a landscaped lawn could it be a landscaped wetland solution. He clarified that whatever that buffer area is doing now, could it be incorporated in the new grading. S. Haight explained that there will be a retaining wall. They are limiting the impact associated. The slope and outlet will be revegetated. Trees will be added to the upland areas that do not currently have trees. J. Fedora noted the objective was to have visibility from Rt. 33.

J. Fedora noted that the last wetland report was in May 2021 and asked if anyone had been out in the last couple of months after all the recent rain. S. Haight responded they were out recently and it is not a pond area.

S. Haight explained that they went to the ZBA and were granted a Special Exception allowing a parking lot in that zone. They have gone to the Planning Board; they are in the process of reviewing the project. The plans have been sent out for an outside review by the Planning Board Engineer. They are at the Conservation Commission because they are applying to DES for the wetland fill. The Planning Board Engineer will be looking to make sure the drainage and grading are done correctly, they are in compliance with the ZBA and Planning Board, etc. Adjustments will be made based on the review by the Planning Board Engineer.

S. Haight asked the Conservation Commission to consider the discussions that took place at this meeting. The project has the ability for expansion and the Commission has the wetland review and engineering plans. A positive endorsement was received from the ZBA.

The Conservation Commission received a copy of the ZBA and Planning Board minutes. L. Byergo clarified that the ZBA granted a Special Exception for the parking lot and did not really deal with the issues. S. Haight stated that the Conservation Commission was a non-regulatory Board and provides advice to the Planning Board. The only Boards that can actually grant approvals are the ZBA and Planning Board; L. Byergo added DES.

L. Byergo stated they appreciated the opportunity to talk things through with people and to give various points of view. The Conservation Commission normally informs the Planning Board of their opinion and can send a letter to DES with their opinion.

S. Haight noted they would be back at the Planning Board on Thursday, September 16, 2021, pending Altus Engineering's review. L. Byergo told members that she would like to have them make a decision at this meeting since they would not meet again before that Planning Board meeting. They needed to decide if there were any comments that should be sent to the Planning Board and DES. This is a dredge and fill application, adds impervious surface, it is for an existing commercial entity which has space, they are adding a septic system with some indication that there might be further development in the future. B. Bilodeau stated he could not really say yes or no to this because it has not been reviewed by the Planning Board Engineer. L. Byergo stated it would be comments, not yes or no. B. Bilodeau stated that until the Planning Board Engineer looked at the project they could not decide. B. Bilodeau commented that due to the wetlands, he was not in favor.

S. Haight reiterated that the wetland scientist identified this as a mowed field. Not every wetland is created equal and they have different functions. L. Byergo stated that due to I-95, they function as wetlands. S. Haight stated that the Conservation Commission's recommendations are heard by various Boards. As civil engineers they do not design those just for their clients; they are designed for the ethics associated with how you drive to the site and move around the site, who will be utilizing the site, etc.

J. Fedora stated he would like to see a better balance and the lot cut back enough to save some of the wetland and buffer. L. Ziel stated they did not know what would be going onto the Suds N Soda property. This would still be creating some green space. He wondered if the wetland that was being lost could be recreated rather than mowed. S. Haight clarified that the term would be mitigation. L. Byergo stated there was some concern among members relating to the project. Her advice to the Planning Board would be 'why can it not be cut back?'. Cut it back so the stormwater management system is not in the wetland. S. Haight stated that can be said but a practical application of that does not work. A stormwater management system cannot be put on an uphill lot. S. Haight asked if the Conservation Commission could recommend a specific percentage amount for reducing the proposed space. L. Byergo stated they could not guesstimate what the percentage would be; however, the Conservation Commission was very clear: reduce the size so the project does not need to impact the wetland buffer.

There was a discussion regarding the value of the wetland. S. Haight stated it was not a high value wetland. J. Fedora asked if the Conservation Commission could request a second study of the wetland. L. Byergo stated the Conservation Commission could recommend a second opinion to the Town. That expense would fall on the applicant. S. Haight stated the drainage analysis would go to Altus Engineering as a peer review. If the Conservation Commission wanted a peer review of the wetland delineation and the forms and functions of the wetlands, make that recommendation. He continued that was valid and what Conservation Commissions did. The wetland report is consistent with the one done a decade earlier. L. Byergo reiterated that the Commission could ask for a second opinion on the value of this wetland. Her point was that there are gray sections in the rules and regulations but a lot of public discussion goes into regulations that are voted on by the Town's residents. The Conservation Commission's role is to support the regulations protecting the wetlands. S. Haight reminded members that everything they were looking at had been approved 10 year ago and included a 13,000 sq. ft. building. The proposed project is slightly smaller and the impact is less in terms of the overall use.

J. Fedora stated they would like to see the owner give some consideration for a better balance by having somewhat less intrusion into the wetland and wetland buffers. The Conservation Commission would also like the opinion of another wetland scientist.

MOTION: J. Fedora moved to communicate to the Planning Board that the Conservation Commission would like to see consideration from the owner to modify the plan to mitigate a bit the intrusion into wetland and wetland buffer and also request the owner obtain a peer review of the valuation of the wetlands. Second - B. Bilodeau; all in favor. MOTION CARRIED

3. 300th Anniversary Celebration

Members were given a copy of the Protect the Wildlife brochure. The printer made a mistake and did not print the maps on the back; the brochure is being reprinted. 100 brochures were printed. L. Ziel will add the brochure to the website for the 300th Anniversary. The Scavenger Hunt information will be delivered to L. Ziel. The trail sign will be delivered to J. Fedora; J. Fedora and B. Bilodeau may be able to install the sign. If not installed, it will be available on Sunday, September 19, 2021, at the Conservation Commission booth.

MOTION: J. Fedora moved to approve the expenditure of \$65.88 for the preparation of the Conservation Commission banner, funds to be taken from the warrant article. Second – L. Ziel; all in favor. MOTION CARRIED

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B. Bilodeau would like a trail sign closer to the road at Liberty Hill. L. Byergo stated that would be in the next warrant article.

The Certificate of Appreciation for Matthew was discussed. L. Byergo suggested that in addition to the Certificate of Appreciation, Matthew be given a year subscription to an off-trail app, 'onX Offroad Premium Yearly'. He would know if he was on private property. The cost is \$29.99.

MOTION: L. Ziel moved that the Conservation Commission gift Matthew, Eagle Scout, a one-year subscription to an off-trail app, 'onX Offroad Premium Yearly', in the amount of \$29.99 for his help on the trails. Funds to be taken from the warrant article. Second – J. Fedora; all in favor. MOTION CARRIED

4. Approval of Minutes

MOTION: B. Bilodeau moved to approve the minutes of Tuesday, August 31, 2021. Second – J. Fedora; all in favor. MOTION CARRIED

5. Other Business

Budget: L. Byergo discussed the renewable warrant article approved in 2019 that will expire in 2022. The amount of that warrant article was \$10,000. She would like to do a new warrant article to include trail maintenance. L. Byergo will go to the Budget Committee when budgets are reviewed. She also plans to request the Conservation Commission budget be doubled, from \$1,000 to \$2,000. The summer intern has been approximately \$1,000 from the warrant article for easement monitoring. L. Byergo would like it to be moved from the warrant article to the budget. B. Bilodeau suggested requesting \$3,000, hoping the Budget Committee would negotiate to at least \$2,000. There was a discussion about the Conservation Commission's current budget and the difficulty of funding community outreach activities. L. Ziel supported requesting an increase in the annual budget and suggested further discussion of the budget at the next meeting.

6. Adjournment

MOTION: B. Bilodeau moved to adjourn at 9:15 p.m. Second – J. Fedora; all in favor. MOTION CARRIED

NEXT MEETING

Wednesday, October 13, 2021 – 6:30 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant