

# Town of Newington, NH

## CONSERVATION COMMISSION

Meeting Minutes, Thursday, March 12, 2020

- Call to Order:** Chair Jane Hislop called the March 12, 2020 meeting at 6:30 p.m.
- Present:** Chair Jane Hislop; Vice-Chair Weiner; Commissioners Andrew Meigs; Ann Morton; Jim Tucker; Alternates Jane Kendall; Bill Murray; and Town Planner, John Krebs
- Public Guests:** Duane Hyde with Southeast Land Trust; Bob Seavey; Lauren Cody and Matt Cardin with Eversource; Jerod Myers; Logan Young; Maria Letourneau; R. Gordon Leedy, Jr, Principal Landscape Architect and Colter Krzcuik, Staff Engineer with Tighe&Bond; Denis Hebert; Chris Cross

**1) Conservation Easement Discussion:** Regarding a potential conservation easement on the **Adam's Homestead/Knox** property located at **148 Nimble Hill Road, Tax Map 11, Lot 11.**

Duane Hyde with Southeast Land Trust (SELT) reminded the Commission that he had appeared before the Commission in April of 2017, and that Bob Seavey and his wife, a member of the Knox family were interested in seeing if the Conservation Commission would support putting a portion of the Adam's Homestead into a conservation easement. Mr. Hyde stated that the 20-1/2-acre property included the historic 1717 house that belonged to a relative of President John Adams had been put on the New Hampshire Historic Register. Mr. Hyde said the family expressed a strong desire to keep the property in the family to prevent further development if it was financially feasible.

Vice-Chair Weiner commented that the Commission typically didn't put easements on open fields, but he thought that it could be an exception considering it was a significant historic property in a highly visible area.

Mr. Hyde handed out a two-sided map showing the surrounding conservation easements, 16 acres of proposed conservation easement, and 3.7 acres that would include the house lot.

Mr. Hyde said he always thought that they would need to put a historic easement on the house in order to be competitive for statewide or regional grants, but restoring the house was not compatible with the family's desire to renovate the house

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so they were backing off. Mr. Hyde said that Great Bay Resource Partnership funding would cover the smaller amount of money for legal and surveying costs. Mr. Hyde said he didn't have an appraisal yet, but knowing that property values were high in Newington, the property owners would be willing to make a bargain sale, and he thought that they could do the entire project for around \$400,000, including the stewardship funds.

Planning Board Chair Denis Hebert commented that for many years the Master Plan consistently talked about protecting its rural character, including fields, farms and open space. Mr. Hebert added that the town had a variety of easements, including Fox Point, the property on the old Rollins Farm on Woodbury Avenue, and Trickey's Cove to name a few.

Commissioner Andrew Meigs asked if there would be agricultural use on the easement. Mr. Hyde replied that they would allow agricultural or forestry uses on the easement into perpetuity, but would not allow subdivision or residential structures on the easement. Mr. Hyde went on to say that they had talked about public access years earlier, which could be drafted to the discretion of the owner, and they could determine to post it during agricultural activity.

Chair Hislop commented that it was one of the few remaining open fields, and an amazing opportunity for the town to contribute an easement. Chair Hislop said the Frink Farm easement obtained U.S. Department of Agriculture funding, and she was concerned that they might have to open it up to the public if they obtained funding elsewhere.

Vice-Chair Weiner said that the Aquatic Resources Mitigation funding requirement for public access was a deal breaker for another easement proposal, so he wondered about that. Mr. Hyde replied that there were different ways of crafting an easement that could leave it up to the property owner's discretion, whether they were willing to have public access, or hunting, but they typically posted that public access was not allowed during agricultural activities.

Town Planner, John Krebs asked if they were allowing agricultural buildings on the easement, and Mr. Hyde replied that the USDA funding allowed 2% of impervious surfaces, which would be around 250-400 square feet, so they would allow agricultural building like a small washroom room with the easement holders' approval.

Mr. Krebs commented that he thought that the view of the field from the road was worth more than a wood lot, and asked if they mowed regularly. Mr. Hyde responded that it happened on occasion, but they were generally not prescriptive with limitations on what someone must do.

Commissioner Jane Kendall commented that she thought that trees performed a natural function for the environment, and habitats, and that she didn't think trees should be restricted forever. Mr. Hyde agreed that an easement was for perpetuity, and they didn't often require property owners to mow.

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Chair Hislop agreed that it might be difficult to require a single agricultural use into perpetuity because there were fewer farmers, but she thought that there might be an opportunity for the UNH Agricultural and Sustainability, or Forestry departments to do something such as maple syrup sapping. Mr. Hyde responded that easements do allow educational opportunities, but it would be up to the property owner.

Mr. Hebert pointed out that a photo of apple orchards from the early 1900's was on the front cover of the Master Plan, so he didn't think an orchard would be a concern. In early 1900's.

Bob Seavey stated that they had no plans for out buildings, but they would put them in the easement area if they became necessary. Mr. Seavey said he had reached out to the Smith Farm that planted corn in the field for the last few years, and they said they would plant again for a while. Mr. Seavey said he still needed to review the cost of house renovations, and maintenance, but he wanted to leave the use open because he hoped to continue with agricultural uses himself after he retired in a couple of years. Mr. Seavey said there used to be an apple orchard that went to the bay, and he was considering some kind of orchard. Mr. Hyde noted that an orchard would be an example of an agricultural use where required mowing could create a conflict.

Mr. Seavey went on to say that the property was already posted for no hunting, and he needed to check on posting or liability for public access. Mr. Hyde commented that anyone could sue anyone for anything, but it was usually thrown out of course because property owners had no liability under New Hampshire's public use doctrine unless they created a purposeful nuisance on the property such as barbed wire, or the like. Mr. Hyde said he would send the Commission the liability statute statement.

Commissioner Meigs asked if there would be any language in the agreement about encroachment. Mr. Hyde replied that boundary surveys and title work was always done first, and they would have to address any encroachments found prior to the agreement.

Mr. Hyde said that the easement structure would establish Southeast Land Trust as the easement holder in perpetuity, and that they would monitor the easement, but that the Town would have an executive interest, and could take over if SELT failed.

Mr. Hyde said that commissions often discussed easement proposals and the purchase price for budgeting with their selectmen before coming to an agreement with SELT and the property owner. with SELT agreement with property owner, and Town with SELT.

Commissioner Bill Murray asked Mr. Hyde what the assessed value of the property was, and Mr. Hyde said the house was assessed for \$177,000, and the land was assessed at \$541,000 because it was in current use.

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### II) Landscape Plans:

#### A) Flynn Pit Landscape Plan for Eversource's Transmission Expansion

Planning Board Chair, Denis Hebert said he had been working with Eversource for a while, and that there was a misunderstanding about the previous planting plan, which Eversource couldn't do because it would interfere with their 25' right-of-way. Mr. Hebert said they wanted to plant, loam, and put rocks down to prevent access, unless they needed more space for maintenance.

Lauren Cody, Director of Public Outreach for Seacoast Reliability said that the landscape plan had been approved in November 2018, but they agreed to return after the trees were cut and the line was buried to discuss adjustments.

Logan Young, arborist for Eversource said that the oaks and pines that had been proposed didn't meet their height requirements, so they needed to consider other plantings.

Mr. Hebert commented that he wanted to have further discussions regarding hemlock and juniper plantings outside of the right-of-way. Mr. Hebert suggested that they plant another three or four trees to block the view.

Chair Hislop asked how the juniper would handle snow load. Jerod Myer said that the juniper would be planted on the outside edge to allow access to their maintenance easement, but they could probably make a concession by swapping them out. Chair Hislop commented that she didn't think this juniper was native, but hemlock was. Mr. Meyer asked if green giant arborvitae that grew to 60 feet tall would be a consideration. Alternate Commissioner Jane Kendall responded that they often split under snow load.

*(Alternate Commissioner Bill Murray left at this point in the meeting at 7:29 p.m.)*

Chair Hislop asked about native cedar that did well in wet areas, but Mr. Meyer replied that deer often fed on cedar.

Commissioner Meigs noted that all the hemlocks seemed to be near the wetland. Mr. Young responded that they were not that close to the wetlands, but they had no issue growing in or near wetlands.

Mr. Hebert suggested that it might be better to plant the trees in a diagonal line instead of around the wetlands. Vice-Chair Weiner suggested that they stagger the plantings, and Chair Hislop agreed.

*(Planning Board member, Chris Cross arrived at this point in the meeting at 7:32 p.m.)*

Vice-Chair Weiner asked if diagonal would be workable. Mr. Young said believed their proposal would work, but diagonal configuration was a possibility. Mr. Hebert said thought would be an issue as they grow.

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Mr. Hebert stated that legal counsel would need to review how to memorialize the agreement so that it matched the plan. Mr. Krebs suggested that they submit a revised plan with a letter as an amendment attached to the original plan.

Mr. Cardin stated that he hoped that they could get the landscape plan approval as soon as possible. Mr. Krebs asked if they could stake the large plantings for a site walk for next month's meeting. Mr. Hebert said that couldn't be done until the road was moved. Mr. Young responded that they would do that as soon as possible.

Vice-Chair Weiner suggested making a conditional recommendation. Mr. Krebs responded that they should revise the plan, and stake out the planting area for a site review before next month's meeting. Mr. Hebert responded that Eversource needed to order inventory, and remove stumps to move the road before they could get a visual, so he thought the Commission should give conditional approval considering it was reasonable to make minor renovations. Chair Hislop agreed.

*Jim Weiner moved to recommend a conditional approval of Eversource's modified landscape plan at the Flynn Pit as discussed upon submitting revised plans to Chair Hislop, and Town Planner, John Krebs. Ann Morton seconded the motion, and all were in favor.*

Mr. Cardin said would he would arrange a site walk. Mr. Krebs announced that the next meeting would be held on Thursday, April 9, 2020.

B) Landscape plan review by **Doloma Investment** for a 98-room hotel to be located at **11 Shattuck Way**, Tax Map #, Lot #

Gordon Leedy, Jr, Principal Landscape Architect with Tighe&Bond appeared before the Commission on behalf of P.E. John Lorden, and Brendon Quigley with Gove Environmental who were not able to attend.

Mr. Leedy said that they had applied to the Department of Environmental Services (DES) for dredge and fill permits, and were looking for a recommendation for a conditional use permit regarding buffer and wetlands impacts, in addition to their landscape review.

Mr. Leedy said he felt they met the criteria for a Conditional Use Permit because access through the wetlands from Shattuck Way was necessary because access was not allowed from Woodbury Avenue.

Mr. Leedy said they would be replacing the culvert at the wetlands crossing, and were proposing retaining walls on both sides of the site to avoid additional impacts to wetlands areas adjacent to the development area.

Mr. Leedy said that they would not rip out the stumps because of the wetland impact, but they would hand cut the woody invasive including, buckthorn, honeysuckle,

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autumn olive, and multiflora rosa in the adjacent forested wetlands by Paul Brook, and the wetlands on the western side of site, and treating the area with a wetlands mix.

Mr. Leedy said that there was no other alternative, and any productive development of the site would require some relief.

Mr. Leedy said they were creating an attractive setting with shrub and shade trees to block parked car lights from shining onto Woodbury Avenue. Mr. Leedy said the landscape plan would include a majority were improved natives, including red maples pin and red oaks, flowering redbuds, service berries and white spruce.

Mr. Leedy stated that they would need further review at the State level for their Alteration of Terrain (AoT) Permit, but they were proposing tree filter boxes, a detention basin with stormwater treatment under the parking area, and a proprietary mechanical filter for higher volume runoff.

Commissioner Meigs asked about the beaver at Paul Brook. Mr. Leedy said they removed the beaver, and would need to continue to monitor their activity.

Vice-Chair Weiner asked how they would handle the control of invasives. Mr. Leedy said removing the invasives was a big undertaking, and even DES was challenged with how to control them.

Vice-Chair Weiner responded that he wouldn't approve the landscape plan unless they agreed to maintain the barrier to invasives in perpetuity. Mr. Leedy said that the goal wasn't to have additional regulatory impacts like tearing out and restoring the entire lot because it would be such a big undertaking, and he didn't think that the Commission could go above and beyond, the Zoning Ordinance unless they made the same requirement for every property owner.

Commissioner Kendall agreed that it was impossible to guarantee the removal of invasives for all time, considering their tenacity, but knew it was customary to ask a developer to maintain their site. Mr. Leedy agreed that it was in a developer's interest to maintain their site, but he thought it was overstepping to suggest rescinding site approval without a guarantee that all invasives were removed.

Mr. Leedy went on to say that the only thing that they could do to prevent buckthorn and honeysuckle from coming back the next season after cutting back would be to treat it at the base of the stumps with Roundup, though Fish and Game might disagree.

Chair Hislop asked how often they would need to replace the wildflower seed, and Mr. Leedy replied that they wouldn't need to because it reseeded itself. Chair Hislop asked if they would mow the area, and Mr. Leedy said they would mow every couple of years, but the idea was to have trees right up to the edge.

Chair Hislop asked if they intended to use water gators around the trees for the first two years until the trees were established. Mr. Leedy replied that they usually did a drip system.

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Mr. Hebert commented that it was not unusual to require a two-year maintenance plan after the invasives had been removed. Chair Hislop said they would also want to see a plan for watering, fertilizing, seasonal seeding, mowing, replacement of dying specimen, and litter pickup. Mr. Leedy said would submit a maintenance plan.

Mr. Krebs asked about the size of the trees, and Mr. Leedy said they would probably be around three to three and a half feet.

Commissioner Meigs asked about the root structure of red maple and oaks going under pavement. Mr. Leedy replied that parking lots had a robust base, and most roots would go in other direction, and if necessary, they would replant.

Vice-Chair Weiner stated that the Town would hold a bond for two years. Mr. Krebs suggested that a condition of approval be made that the plantings replaced for perpetuity if they died.

Commissioner Meigs asked Mr. Leedy if he was aware of the presence of amphibians like wood frog. Mr. Leedy said amphibians were probably present, but the area was very degraded from runoff from adjacent development, however they would be improving it with their stormwater management.

Commissioner Meigs asked if there would be pedestrian access off Woodbury Avenue. Mr. Hebert replied that the abutting development might address a sidewalk later, but the developer of the hotel had stepped up to do the first part.

Chair Hislop stated that a landscape plan, stamped by a licensed landscape architect, including a maintenance plan was required for approval. Mr. Leedy said that he would submit an updated plan.

Mr. Krebs said the applicant was also asking for approval on a conditional use permit, but copies were not present, and so he recommended that they postpone approval until they had copies of the wetland permit application, and the landscape and maintenance plan. Mr. Leedy commented that the Town of Exeter was cancelling meetings due to COVID19.

### **3) Community Education Outreach: Spring for the Bay 2020**

Vice-Chair Weiner suggested canceling Spring for the Bay that was scheduled for April 21, 2020, and postpone until further notice considering that many were social distancing due to COVID19.

### **4) Other Business: 2020 Budget**

Vice-Chair Weiner asked Recording Secretary, Jane Kendall to submit a draft of her outline for common terms and practices for Commission business to be reviewed at next month's meeting.

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Vice-Chair Weiner expressed concern that the Board of Selectmen had changed the Commission's budget requests, and removed the legal and Town Forest line items.

Discussion ensued regarding reduction in the Conservation Fund for easement acquisitions. Vice-Chair Weiner said they had request \$60,000 but it had been cut to \$20,000K, and he was concerned that there would not be enough to work with for the Adams Homestead. Mr. Krebs suggested that they ask for \$80,000 to be sure they were covered.

Mr. Krebs commented that the best time to address concerns was when the Board of Selectmen was preparing the budget, but someone could stand up and make a motion. Chris Cross of Nimble Hill Road suggested that the Commission make a statement that they wanted to keep their budget categories open with a minimal amount of \$1. Mr. Hebert suggested that they talk with Town counsel, Attorney John Ratigan to be sure they were following the correct process, or they could ask Town Moderator, Jack O'Reilly how to make motion to amend a budget.

*Jane Kendall moved to appoint a member of the Conservation Commission to speak at the 2020 Town Meeting for the restoration of their 2020 operating budget. Jim Tucker seconded the motion, and all were in favor.*

*Jane Kendall moved to amend Warrant Article 21 by no less than \$75,000, and appoint a member of the Conservation Commission to speak at the 2020 Town Meeting regarding the needs of the Conservation Fund. Jim Weiner seconded the motion, and all were in favor.*

**Minutes:** *Jim Tucker moved to approve the Minutes for the January 9, 2020 meeting. Jane Hislop seconded, and all were in favor.*

**Adjournment:** *Jane Kendall moved to adjourn. Jane Hislop seconded the motion and the meeting adjourned at 9:00 p.m.*

**Next Meeting:** Monday, March 23, 2020 at 6 p.m.

**Respectfully  
Submitted by:** Jane K. Kendall, Recording Secretary