

**Town of Pelham, NH
Pelham Conservation Commission
6 Village Green
Pelham, NH 03076-3723**

MEETING OF 09/14/22

Members Present:

Karen Mackay, Paul Gagnon,
Mike Gendreau, Ken Stanvick,
Christine Kamal (alt), Al Steward
Lisa Loosigian

APPROVED 10/12/22

Members Absent:

Scott Bowden (alt),
David Abare, Kara Kubit (alt),

Al Steward brought the meeting to order at 7:06. Mr. Steward led the Commission in the Pledge of Allegiance. Mr. Steward appointed Ms. Kamal as a voting member for tonight's meeting.

NEW BUSINESS:

Map 22 Lot 8-85-1	579 Bridge Street – Discussion of a proposed multi-unit apartment building – Presentation by Joseph Maynard of Benchmark Engineering
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The property is about 44 acres in size. There is a power line easement on the westerly boundary of the property. The proposal is to subdivide the parcel into 2 lots. A 14 acre lot with a single family house. The other lot is approximately 30 acres in size and is proposed for 65, 2 bedroom apartment units. The proposed development parcel has a 14-15 acre centrally located wetland. Five acres of the parcel, adjacent to Bridge Street, are proposed to contain all the development. There are approximately 10-12 acres of back land on the far side of the wetland. This back land is not proposed to be developed at this time. The back land has been used in septic calculations for the project.

The development is shown to be within the 100 year flood plain, but the FEMA flood maps are inaccurate. The actual 100 year flood plain runs roughly along the edge of wet. Mr. Maynard is working with FEMA to update these maps. The flood maps are drawn using aerial imagery. This area is high and dry. If the flood maps were accurate, this parcel would be underwater.

This parcel was considered for work force housing a few years ago. At that time, the project was for 90 units. The design required crossing the wetland. The project had a lot of opposition. The 90 lot subdivision fell apart and the land owner contracted with another developer. Reno Properties has a purchase and sale on the property and would like to develop this parcel.

The new proposal is for one building containing 65, 2 bedroom units. The building will be 4 stories with a height of 40 feet which is the maximum height allowed by town regulations. The

driveway entering the complex will be a private road. Town highway services will not be used on the property.

The driveway must enter Bridge Street at a 90 degree angle per the regulations. The town regulations require a distance of 100 feet before a curve in the road, when a side road joins a main road. Mr. Maynard will be asking for a 50 foot tangent to the main road. This plan is designed to that specification and will require a waiver from the Planning Board. The 50 foot distance to the curve will minimize the impacts to the wetland to 6,000 square feet (sf). The entrance road is proposed to be 24 feet wide with a flare as it enters/exits Bridge Street. A guard rail will be along the road on the side of the wetland because of steep slopes. The driveway and parking area will be a one way around the building. This feature allows the width between the rears of each parking space to the parking space on the opposite side of the drive to be 20 feet in width. This helps reduce the square feet of impervious surface on the development.

Mr. Gagnon requested the entrance/exit driveway be moved to the north so the wetland could be avoided completely. Mr. Maynard said the driveway could not be moved to the north as it would cross in front of the lot line of the neighboring lot. Mr. Gagnon said their lot ends where the right-of-way (ROW) begins and it is not in front of their property. Mr. Maynard explained the lot line extends in an imaginary line all the way to the pavement of route 38 even though that land is held as a ROW to the Department of Transportation (DOT). The rounding or flare of the driveway at the Bridge Street/driveway interface must not be located in front of a neighboring lot, including the imaginary lot line extension. The entire flare must be within the frontage of the lot being developed. Mr. Gagnon did not understand if the neighboring lot did not own the land and the state owned the ROW then why couldn't the driveway be moved a bit to avoid a wetland impact. Mr. Maynard said the DOT does not care. They have rules that say you cannot place any portion of a driveway in front of a lot you do not own including the extension of the lot line. Mr. Gagnon asked if there was talk of purchasing a small amount of land from the abutting land owner so the driveway could be moved to the north. Mr. Maynard said he works with the situation he has, but that may be a possibility.

The adjacent lot is a triangular shape and is located between the subject lot and Bridge Street. The neighboring lot tapers to a point near the detention pond. The state ROW for route 38 extends approximately 30 feet from the edge of pavement on Bridge Street. This lot cannot have any portion of the driveway from the development in front of the neighboring lot frontage on route 38. If a small corner of this lot was purchased by the developer, the driveway could be moved to the north and avoid the wetland.

Mr. Maynard is drawing the road in a location that will allow an extension of the road across the wetland and into the back land area. The crossing will not be drawn on the plan, but will be fully compatible with the location of the proposed road. NH Department of Environmental Services (NHDES) requires wetland crossings at the narrowest point in the wetland. Mr. Maynard wants to keep options open regarding the back land in case zoning regulations change and that land could be developed in the future. There may be future plans to add a park to the back land, but this is not included with this project at this time.

The possible future wetland crossing would have major impacts to the wetland. The connection for a road from the 5 acre front section to the rear lot across the wetland would be 300 linear feet of roadway. The pavement would be 24 feet wide across the length of the span. There would be WCD impacts on both sides of the crossing. A box culvert or perhaps 2 box culverts would need to be used to cross this wetland. Water actively flows in the central area of this wetland. This parcel drains toward Balcom Road then to Golden Brook.

Ms. Mackay said Mr. Maynard already used the back land for the calculations for the 65 unit apartment building and cannot use it again. She wants the developer to commit to not use the back land if zoning changes. The 65 unit building is a heavy load on 5 acres of the lot. Ms. Mackay said she could not vote for this parcel if the back land was subject to new or changing zoning rules. The back land must be removed from the possibility of development forever. Mr. Maynard said if the back land were developed in the future with a zoning change, they would have to do mitigation for the wetland disturbance which could be a payment into the Aquatic Resource Mitigation Fund (ARM Fund). Ms. Mackay said she did not want any money going into the ARM Fund from Pelham projects, mitigation should be done in town. She reiterated, the land had already been used for this project and could not be used again.

Wetland impacts for this project, if the Planning Board gives a waiver for a 50 foot tangent rather than a 100 foot tangent, will be 6,000 sf. Wetland conservation district (WCD) impacts will be 18,500 sf for the road, detention pond and grading. A landscape architect would like to propose planting in the WCD with approximately 4,000 sf of impact, if the Commission approves.

Mr. Maynard is looking to extend the town water line from the Catholic church on Main Street, under Beaver Brook and up Bridge Street to the project area. Mr. Maynard believes he can directional bore under the brook without causing impacts to the brook. There may be a small impact to the wetland and WCD for this procedure. There may be a temporary landing which will be removed and restored after the water line is installed.

The project will have one large detention pond. Roads will be curbed. Storm water will enter catch basins and be conveyed to the detention pond. The detention pond is located close to the entrance to the site, between the apartment building and the adjacent triangle shaped lot, which abuts route 38. The pond is designed as an infiltration pond and will infiltrate a 2 year storm quickly. The pond will be dry 99 percent of the time. The discharge for the pond will be under the driveway into the wetland on the site.

The parcel has a large hill located roughly in the location of the proposed building. The hill will be cut down approximately 20 feet and the fill will be used to level the site and construct the road and detention pond.

Regulations state the first 3 acres of a development can have 10 bedrooms. Every 10,000 sf more allows an additional bedroom. The entire parcel can be used to calculate the number of bedrooms in a specific development. Town zoning allows for 130 bedrooms for this parcel. Soil quality is great on this parcel. Mr. Maynard believes he could have 3 times the sewer loading he is proposing because of the soils. The bedrooms are limited by the Zoning regulations.

The lawn area around the building will be minimal. There will be some grass around the structure and a possible small playground behind the building between the driveway and the building. They have contracted with a landscape architect to design the outdoor space.

Mr. Stanvick is concerned with salts and fertilizers on this property so close to the wetland. He also wants to keep salts out of wells. Mr. Maynard said there could be some restrictions on the use of fertilizers on the property, but he has not got that far in the planning yet. Mr. Maynard said pollutants will be removed in the catch basin system. An oil/water separator can be used in catch basins. The oils are trapped and the water is allowed to flow through. The basins would need to be cleaned out periodically (annually). Reports are not required by the town for cleaning catch basins. Mr. Stanvick predicts this development will have a large impact to the wetland. He wants to see clean water. Mr. Maynard referenced the Snow Pro certification program. Ms. Loosigian said it was a training program that provided a matrix of how much salt and other materials were needed based on road and weather conditions.

Ms. Kamal asked about the septic systems on the lot. There are 10 septic systems for the building. They pump to the fields 500 gallons at a time, then the next 500 gallons pumps to the next field. They have been designed to be located under the parking lot and can be driven over. There is a solids tank that flows into an aeration tank then a settling tank and a fluids tank. The fluids are then pumped into the leach fields.

The building is proposed on a roughly 5 acre section of the front of the property. The calculations for the septic loading are 150 gallons per day per bedroom. The state and the town allow a developer to use the entire lot to calculate septic loading. Mr. Maynard has calculated this lot can handle 39,000 gallons per day. This building will be using 19,900 gallons per day. These systems meet the state requirements for nitrates. All fields will handle less than 1,000 gallons per day.

Soils play a role in the calculations. The land has deep water tables and sandy soils. Very poorly drained soils (group 6) cannot be used in the calculations, but poorly drained soils (group 5) can be used. The soils on this site are largely group 1 & 2. Mr. Maynard was conservative and used the group 2 soils to calculate the loading. Test pits were drilled about 1 month ago and were witnessed by town officials. Soil types were determined by looking at the modeling in the test pits. All septic systems on site will be in natural soils. Multiple leach beds are located on the side of the building closer to the wetland. Mr. Maynard said this is the location of the best soils. He meets the 75 foot setback to very poorly drained soils and the 50 foot setback to poorly drained soils as required in town regulations.

Mr. Gagnon said this development is ugly. The back land is not available to absorb any of this septic load. There is a lot of parking and a lot of units. The WCD will suffer for this development. He wanted Mr. Maynard to go back to the state and try to get a better driveway location. Mr. Maynard said he has to follow permitting regulations.

Mr. Gendreau asked if there were any studies on how this development would impact the town resources or how many people were to live in each unit. Mr. Maynard did not conduct any of these type of studies. Mr. Gendreau asked if the building could be 60 units which would decrease the building and parking lot size which would allow the road to be moved to the east.

Mr. Steward is afraid we are creating an extreme precedent. This type of intense development would not be allowed on 5 acres if the wetland was not there. This development would be spread out on the site.

Multiple members commented on the intensity of the building on this site. There is approximately an acre of pavement. Each apartment will have 2 designated parking spaces. Ms. Mackay said the development on Windham Road, from Reno Properties, looks good and fits the site. This is much more intense on the small corner of a lot. Ms. Mackay realizes the developer is entitled to 65, 2 bedroom units based on the regulations. If the Commission says no to this development on this 5 acre corner, then the developer could cross the wetland and build out the whole parcel. Our dilemma is whether it is better to build heavy on one part of the land with minimal wetland impacts or cross a wetland, have maximum wetland impacts, open land impacts and build throughout the site.

Ms. Mackay requested heavy planting in the WCD along the road down to the wetland. No mowing of grass or fertilizing should happen between the road and the wetland. All landscape plants on that far side of the road should be thickly planted, low maintenance, salt and drought tolerant. In addition, the area between this development and the abutting land owner on Bridge Street should be heavily planted so the home owner does not have to sit in their back yard and look at a parking lot.

There has been no decisions made about snow removal and disposal at this time. Mr. Maynard does not want to add value to the plan before asking advice from the town boards.

Public Input:
None.

Members discussed conducting a site walk. Ms. Mackay said she would not vote on this project without a site walk.

Motion: (Stanvick/Gagnon) to conduct a site walk.
Vote: 7-0-0 in favor.

Site walk will be conducted Saturday, September 24, 2022 at 8:00 a. m.

Brian Bishop and Raymond Brunelle will update the Commission on discussions in the Off highway recreational vehicles (OHRV) committee.
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Mr. Steward started the discussion with a summary of recent events. The OHRV Advisory Committee began looking at Raymond Park for a possible OHRV trail. This location had deed restrictions and concerns because of multiple youth events, therefore was not desirable. Mr.

Steward suggested the group look for a place away from housing and out of sight. He thought the recently purchased Zolkos property met these criteria and suggested the Committee explore the possibility. This land is largely high and dry.

Mr. Bishop and Mr. Brunelle said the town had been growing in the past 40 to 50 years and as that has happened the open land has become more restricted. People used to have access to open land near their houses and enjoyed the forest by hiking and trail riding. Each year seems to bring more and more restrictions. The open space owned by the town has shut down a lot of areas. The petition passed by the voters was to explore the possibility of riding OHRV's on town lands. This article was supported by many residents.

The area the Committee is currently exploring is an 80 acre parcel on the west side of town near Gumpas Pond. This parcel was recently acquired from the Zolkos family. The land is open and remote. There is a cell phone tower on the top of the hill, but no other structures or immediate abutters. The map presented at the meeting has existing trails defined. There is a lot of overgrowth on some trails, others are used by snowmobiles.

The Committee consists of a representative from the Select Board, Conservation Commission and Forestry Committee as well as a few members of the public. Over several months, the Committee has met to discuss plans and review areas of town. At first, the Committee met bi-weekly and sometimes weekly. They have met with police and fire to get input about life/safety. Parks and Recreation is involved with the process. Town residents have sent messages with input. The Committee has spoken to NH Fish and Game environmental police. They have talked to members of clubs in other NH towns to discuss rules and regulations the other towns have implemented. All meetings have posted agendas and are open to the public. Agendas and minutes are posted on the town website, pelhamweb.com, Boards, OHRV Advisory Committee.

The Committee has created a club structure with positions such as president, vice-president, secretary, etc. They have proposed a fee structure to join the club. Fees would be used to conduct maintenance on the trails. They have proposed annual meetings and annual consultations with Mark West or some other wetland scientist in order to evaluate the land for damages or potential future problems with the location of a trail. They have proposed regulations and penalties for violations of the regulations including fines and prohibition of use.

The plan will continue to be refined as the Committee speaks with police and fire, parks and recreation, residents, attorneys, state agencies and others that may provide useful information. The Committee would like Conservation to be a partner in this project. The Committee wants to preserve the land, fix trails when needed and identify wet areas to avoid. The Committee thinks Conservation could help with the placement of trails. They feel this project could be a positive activity for families in town.

The Committee realizes this must be a managed process. They want to control parking, access to the proposed park and be able to maintain the area. They want to know who is using the area for riding. Police and fire want total access to the proposed park for safety issues that may arise. Mr. Stanvick would like to see some documentation that describes how police and fire may monitor the property for life/safety issues.

The Committee is proposing to partner with Pelham Parks and Recreation. They would like to have some method of controlling who is on the property. They are proposing having residents register with Parks and Recreation and getting passes and/or stickers that would entitle riders to use the OHRV park. There will be an age limit and a certification process for riders under 16 or who do not have a current drivers license. The trails are proposed to be unidirectional with the goal of minimizing the chance of head on crashes.

The Committee so far have not had any issues with abutters. Ms. Loosigian asked if abutters know about this process yet. This Committee only started a few months ago. Ms. Loosigian thought the gate should be narrow so trucks could not enter the property. The presenters said the bridges need to be 72 inches in width so police and fire can access the land. They have OHRV vehicles, but they are larger than the vehicles that will be allowed for residents to ride. She is concerned with runoff and erosion as well as other environmental damage. She asked the Committee members to ask other towns how they have handled these issues and how their Conservation Commissions have worked with the clubs.

Members had a lot of questions about what was legal and if this land could be used for this purpose given it was purchased with Conservation funds. Can they issue fines for misuse of the property if they do not own the property?

Mr. Gendreau is the Conservation representative on the OHRV Committee. He asserted thousands of dollars of tax payer money has been spent to purchase land in town. We are all in favor of that spending. Many people in town have machines and want to use them with their kids riding in the woods. He thinks this is a great idea. The Committee is trying to give residents a designated area that is being monitored with knowledge of who is coming and going. He acknowledges there will be some hurdles but the town residents have voted to draw up a plan with a goal to incorporate this activity. He said some residents want to use town land for one purpose, others want to try something else such as OHRV riding. Mr. Gendreau asserts there is enough space for all activities. He thinks Ms. Loosigian would be an asset when planning and maintaining trails as she has knowledge of water runoff and methods to prevent erosion. Mr. Gendreau cited her presentation 'Soak up the Rain' she gave the Commission several months ago.

Ms. Kamal questioned if riders would get bored with the limited space. She questioned how the club would restrict riders from veering off trails to explore other areas. She said there were a lot of sensitive areas in town. Mr. Brunelle said this would largely be an activity for parents to do with their children. Adults that are able, may pack up their machines and head north to explore more extensive trails systems.

The proposed parking area has space for trucks and trailers with a turnaround radius. Police and fire thought they may need to widen the entrance road area so vehicles can pass each other without having to back up with trailers in tow. There could be a gate added to the parking area to control access for riders. Keys to the gate could be issued through Parks and Recreation.

Mr. Gagnon stressed it was critical for the Committee to review these plans, rules and regulations with the town attorney. The parcel in question, and other possible parcels, was purchased with conservation funds. They want to make sure there is no restriction on using this land for this purpose. Mr. Gagnon thinks there is no liability for people walking or riding on trails if there is no charge. If the new club charges to ride the land, there might be a liability for injury. The presenters said they will work with the attorney and there may be an indemnification form that residents must sign before riding.

Mr. Gagnon asked the Committee to mark proposed trails then ask Mark West to walk the trails and point out any sensitive areas. Any wetland crossings will need permits through the state. The cell tower road is privately owned and cannot be crossed without permission. The map presented tonight shows the trail crossing the road. Mr. Gagnon said there was an ATV park opened in Milford then closed. He does not know why, but suggested the Committee find out the reason for the closure so as to avoid the same mistakes in our town.

Mr. Gagnon felt the presenters misrepresented how rights were taken away from residents by residents not being able to ride on land they had ridden on for many years. He said the Forestry Committee did not take away resident's rights to ride on land. The law does not allow any person to ride on land they do not own or have permission to use. The Forestry Committee simply enforced the law as it is stated. Mr. Brunelle did not think he was saying this and apologized if that is how it sounded. He agreed you cannot use anyone's land without permission. He feels there is plenty of space for everyone to enjoy the land.

Ms. Mackay said this was a good outline and start to the process, but the Committee must make sure the state allows the regulations and the town attorney says all the regulations are legal. Mr. Stanvick suggest the Committee model their activities after the snow mobile clubs. They should have good citizenship and good management. He also cautioned not to overcommit on how they are going to enforce rules for example how can speed be controlled on the trails and how will penalties be applied.

Public Input:

Ms. Deb Waters asked to get copies of the proposal we are reviewing and the map of the trails. Mr. Gendreau gave her these and said they would be available on the website. There are minutes of the Committee meetings on the website. Ms. Waters asked if the minutes could go up a little quicker as they provide information to the public and may answer questions the public has about the project.

This land was purchased with Conservation funds so the Committee should make sure the use is consistent with RSA 36-A. Ms. Waters was involved with the purchase of the Gumpas Pond Conservation Area many years ago. She has learned about the reality of machines on native soils and trails. Native soils are unspoiled soils that have a spongy, soft consistency. These soils are undisturbed and full of organic matter. They are sensitive to disturbance and can be broken down and washed away with future rains. They have a low carrying capacity. They cannot handle heavy tread tires repeatedly driving on them and churning the surface soils. Ms. Waters is concerned about these sensitive soils being disturbed, pushed from the trail then eroded away.

Native soils are not like soils on a dirt or tar road. Those type of roads are made to handle motorized vehicles, native soils are not. Ms. Waters would like to submit research describing this subject.

Ms. Waters told us the chairperson of the Board of Selectmen has assured her that all members of the public will be allowed to speak and provide input on the subject of OHRV's. She would like the same commitment from Conservation. Mr. Steward said Conservation meetings are open to the public and will allow public comment.

Mr. Dave Hennessey spoke about this warrant article. The article originally asked the voters to make OHRV riding on public lands legal. At the deliberative session, the warrant article was modified to create a committee to study the possibility of riding on public land and to make recommendations to the Board of Selectmen. He wanted to know if there would be a new warrant article at the end of this process. Mr. Gagnon thought there would be a warrant article that asked the residents to accept the recommendations of the study committee.

Mr. Hennessey also brought up the use of firearms on the trails. Mr. Brunelle and Mr. Bishop said all riders must follow state laws and regulations. If it is legal for individuals to carry firearms, they would be allowed to do so on the trails while riding.

Kevin Cote will discuss a proposed solar power ordinance for the Town of Pelham

Mr. Cote is a Selectman and is the Selectmen's representative to the Planning Board. He is looking for input from the Commission.

Pelham does not currently have a solar power ordinance. Many towns in NH have written an ordinance to deal with solar power. Some are complex and many pages long. Others are brief and basic. The ordinance Mr. Cote is presenting is a few pages long and bare bones. He expects to present the ordinance to Planning in October to allow a few months to work out wording and to send the draft ordinance to the town attorney.

The proposal is residential systems under 15 kilowatts (kW) to go through the building process with Planning, but will not need to go to Planning Board for final approvals. The process is expected to be similar to adding a deck or constructing a shed. Systems over 15 kW or systems that will be ground mounted will be required to go before the Planning Board for approvals. The goal of this approach is to not burden the Planning Board with small residential systems.

Members inquired about the weight limits of the panels on the roof. Should square feet of area be considered when going before the Planning Board? Members were concerned if solar panels would impact views from neighboring properties. No one would want to look at the back side of a solar array. Planning Board review of large free standing systems would allow the exploration of impacts on neighbors.

Mr. Gagnon said he installed a ground mounted solar array in his yard two years ago. He has 36 panels and the system is a 10 kW system. He has not paid for electricity since he installed the

system and the electric company owes him \$700.00. He powers his home and an electric vehicle using the panels.

Mr. Cote welcomed continued input on the ordinance.

Map 35 Lot 10-351, Map 41 Lot 10-312 & Map 27 Lot 2-80	Currier Road and Hinds Lane - – Discussion of the proposed conservation easement on Hinds Lane, the state requires the Commission to commit to yearly monitoring of the property – Discussion led by Karen Mackay
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Last month, Luke Hurley of Gove Environmental, presented the proposed easement on Hinds Lane as mitigation for impacts on the Currier Road project. The Commission agreed to accept the easement and hold the easement and wrote a letter to the state describing our vote. Missing from the letter was an agreement by the Commission to monitor the easement yearly. The Commission monitors the Little Island Pond Conservation Area for the Land and Community Heritage Investment Program (LCHIP) and the Dunlap property for the Society for the Protection of NH Forests. These two entities have a monitoring form we fill out. We could make our own form for monitoring and borrow some from these forms or the state may require a certain form they have designed.

In order for the state to accept the easement on the Hinds Lane property we must agree to the yearly monitoring and send them a letter stating we will monitor the property. If we do not, the state will not accept our easement.

Motion: (Mackay/Gagnon) we agree to monitor the Hinds Lane property (lot 27/2-80) once per year in accordance with the conservation easement and requirements of the state.

Vote: 7-0-0 in favor.

MINUTES:

Motion: (Gagnon/Gendreau) to approve the minutes of July 13, 2022.

Vote: 6-0-1 in favor. Loosigian abstained.

WALK-IN ITEMS:

Mr. Steward tabled all walk-in items until next meeting.

ADJOURNMENT:

Motion: (Gagnon/Gendreau) to adjourn.

Vote: 7-0-0 in favor.

Adjourned at 10:06 p.m.

Respectfully submitted,
Karen Mackay,
Recording Secretary