

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

**MEETING OF 10/12/22**

Members Present:

Karen Mackay, Paul Gagnon,  
Mike Gendreau, Ken Stanvick,  
Christine Kamal (alt), Al Steward,  
David Abare, Kara Kubit (alt)

**APPROVED 11/09/22**

Members Absent:

Scott Bowden (alt), Lisa Loosigian

Al Steward brought the meeting to order at 7:02. Mr. Steward led the Commission in the Pledge of Allegiance. Mr. Steward appointed Ms. Kubit as a voting member for tonight's meeting.

**OLD 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 proposal is to subdivide a 44 acre lot into a 14 acre lot with an existing house and a 30 acre lot with an apartment building of 65, 2 bedroom units. The Commission had requested the applicant move the driveway away from the wetland. The applicant has since agreed to purchase 1,000 square feet (sf) of the abutting lot so the driveway can be moved which will eliminate the wetland impacts. The applicant has agreed to move the dumpster to a location that is not visible to the neighboring land owner.

There will be 27,100 sf of wetland conservation district (WCD) impacts for the driveway and grading. The applicant has minimized this impact by reducing the side slopes to a 2:1 along the wetland side of the driveway. This necessitates a guard rail along the wetland side of the driveway.

The plan is to extend the public waterline from the church on Main Street. There will be WCD impacts for this extension. All impacts are anticipated to be temporary. Mr. Maynard spoke with the Wetlands Bureau a few weeks ago and he does not need a wetlands permit for a directional bore under Beaver Brook. There will be no impact to wetlands for the installation of the waterline. There will be WCD impacts in several locations for the extension of the waterline from the church to the developing lot including boring under Beaver Brook, and multiple locations for boring under sections of wetland along Bridge Street. The total WCD impact for the installation of the waterline is 750 sf. The state requires the waterline be installed at the outer edge of the state right-of-way (ROW) so as to not interfere with possible future road repairs or widening.

The process for a directional bore is to dig pits about 10 feet long and 6 feet deep on both sides of the wetland/water body. A drill is placed in the pit and drills under the water body into the second pit. The pits are then filled in and the bank/upland is restored with vegetation. The proposed waterline in this project is an 8 inch diameter line, which is the same diameter as the line to the church and the same as the line that comes in from a water station located on Mammoth Road, which runs through town. Pennichuck will be the water distribution company. Pennichuck along with the fire department will determine the water pressure that is required for fire protection.

Mr. Maynard has filed with the Planning Board. He needs a waiver for the 50 foot tangent in the driveway when 100 feet is required by regulations. If Planning does not allow the 50 foot tangent, then Mr. Maynard will need to come back to us with wetland impacts, because if the tangent is 100 feet then the driveway will extend into the wetland.

Mr. Gagnon appreciated the movement of the driveway to get out of the wetland. The Commission also asked for no further development on the back side of the lot. Mr. Maynard said his client would not put further restrictions on the lot. The present zoning regulations do not allow for any further development on this lot, but if zoning changes in the future, his client does not want any restrictions. Mr. Gagnon is looking for some sort of compromise and feels there is room for some protection of the back land. This project is using all the upland and 2/3 of an acre of WCD on the 5 acres of front land. If a few units were removed, there could be a smaller parking lot and smaller detention basin which could reduce the buffer impacts. This may help move him to a yes vote.

Mr. Maynard has to keep the road/driveway in the current location should he choose to cross the wetland at some future time. The driveway design has to be as it is in order to cross the wetland at the location recommended by his wetland scientist. If the driveway is shifted, then the crossing location won't work. There are conditions with elevation that must be met for the flow of water off the possible future crossing. A box culvert would be needed to cross this wetland.

Mr. Maynard is limited on site by the septic loading capacity. The lot has a 33,000 gallon a day capacity. He has used 19,900 gallon per day for the 65 unit apartment building. He cannot build further on this lot if zoning stays as it is today, but if zoning changes he has septic loading capacity that would allow more housing units on the back land.

Mr. Stanvick wondered why the project could not be shrunk down to fit the land area. The wetland and WCD limitations were on the land prior to the design of the apartment building. Mr. Maynard said he went through the court system a few years ago with this property for a 90 unit workforce housing building. The project has changed owners and the new owner wants many fewer units than the 90 units. The developer must get the value of the land. They must make a certain amount of profit on the project. This project is not viable if the size is reduced.

Ms. Kamal discussed how wetlands cannot be used in the septic loading. Very poorly drained soils cannot be used to figure septic loading. This development should have fewer bedrooms. The regulations state the land used in the calculations needs to be contiguous. The first 10 bedrooms in a multiunit structure will take 3 acres. The developer can get one additional bedroom for each 10,000 sf, but the land needs to be contiguous. Mr. Maynard said that standard does not apply to multiunit housing. He has been to Planning and he can use the whole lot if building a multiunit housing complex. He does not have any further restrictions other than the 10

bedrooms for the first 3 acres and 10,000 sf for each additional bedroom. There is no exclusion for wetlands when building multiunit housing. Mr. Maynard has also been to the state and subsurface has told him they will approve the plan.

Ms. Kamal and Mr. Maynard spoke back and forth about this issue for several minutes. Mr. Maynard has been to the wetlands board last week and subsurface 6 months ago. He can get state approvals for this project. If he cannot get the state and town approvals, this project cannot go forward. He still needs waivers from the town for the 50 foot tangent in the driveway. He will be before Planning next week. Mr. Stanvick asked for these approvals in writing. Mr. Maynard cannot get them in writing until he submits the plans to the state.

If any septic system fails it will be replaced in the same location. Systems could be moved if necessary because they have the space. The process for replacement would be to dig up the old system along with contaminated soils then replace the system with new aggregate materials. Mr. Maynard anticipates the systems designed for this project should last at least 30-40 years. There are 2 pumping systems for the septic systems. There is a day of reserve capacity on each tank, should a pump fail, which should be satisfactory.

Ms. Kamal said the system could fail if it filled with water. The property is surrounded by wetlands and will be covered by impervious surface. Mr. Maynard said this project needs Alteration of Terrain (AOT) permits from the state. The detention system must completely detain a 2 year storm event and infiltrate the water back into the ground. The detention pond is enormous and will handle 10, 25 and 50 year storm events. Water will sit in the infiltration pond for 24 hours and will recharge into the ground. If the ground is saturated, nothing will leach out. The pond will hold the water and water will infiltrate as conditions improve.

If the ground is saturated in the septic example, the fluids from the system will perk up through the parking lot asphalt. This should not happen except in rare cases. The test pits were dug down 8 feet and did not hit the water table. Some pits were dug down 14 feet with no water table. The building and parking lot will be 9 feet above the wetland which is well above the water table.

Parking under the building was discussed, but was not considered a viable option. This could reduce the impervious surface of the site. Under building parking requires multiple additional fire codes and was considered cost prohibitive on this project.

Ms. Mackay stated at the last meeting and at the site walk she was a no vote unless the back land was removed from the possibility of future development. She reiterated that position at this meeting. She requested no mowing or fertilizers on the WCD land between the driveway and the wetland. The land should be kept wild and natural. She would like to see the parking area moved away from the neighboring lot to the greatest extent possible with the open space between the two lots planted thickly with vegetation so as to shield the neighboring owner from looking at the parking lot and side of the building when they sit on their back porch or use their back yard.

Public Input:

Mr. Nate Boutwell felt the public waterline extended down Bridge Street would be an asset to the town. Many residents in town have had water supply issues and a public water supply would be beneficial to the town. Several wells on Mammoth Road have been contaminated and Pennichuck has helped to solve those problems. The cost to bring this public water supply to

residents on Bridge Street is extreme. If a developer is proposing to bring public water, than we should look at it as a positive and take advantage of the opportunity.

Ms. Lisa Corbin an abutter to the project said the developer reached out to her to help minimize the impact to her land and to move the driveway away from the wetland. She agreed to sell a small corner of her land to move the driveway away from the wetland. She has concerns about the space between her backyard and the parking lot for the apartment. She currently has a lot of privacy in her backyard. She has dogs that use the backyard. She would like more space between her yard and the parking lot. The noise level of beeping alarms and vehicles concerns her.

Mr. Gagnon appreciates the waterline coming up Bridge Street, the reduction in wetland impacts and working with the neighbor to minimize their impacts. The Commission's job is to protect natural resources. Mr. Gagnon thinks it is too much to ask for our approval for 65 units, potentially cross a wetland and use the acreage across the wetland. He would like to see some or all of the back land locked up in an easement or some agreement that the land will never be developed.

Motion: (Stanvick) to table the discussion until we hear back from Planning. Amendment to the motion: (Gagnon/Abare) to oppose the project as described because there is 2/3 of an acre of WCD impact, too much impervious area on a 5 acre site, the site is overburdened with no mitigation by locking up the back land from future development. The Commission appreciates the change to no wetland impacts and supports the 50 foot driveway tangent waiver.

Vote: 7-0-0 in favor.

Mr. Gagnon made the amendment to the motion because he wanted Planning to get our opinion on the project. The Commission does not write a letter to another board without a vote on what the letter will describe. Mr. Stanvick agreed to the amendment put forth by Mr. Gagnon.

**NEW BUSINESS:**

Maps 7 & 8 Lots 9-94, 9-95, 9-96-1, 9-135-3	Hayden Road – Proposed 15 lot subdivision with 10,000 square feet of WCD impacts for storm water treatment – Presentation by Shayne Gendron of Edward N. Herbert Assoc., Inc.
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The proposal is for a 15 lot subdivision on a 30 acre piece of land. Three houses already exist on the lots, thirteen houses are to be built. The parent lots will be reconfigured into 15 lots. Lots for the 13 houses will be conventional with one acre lots that meet all zoning requirements. The new road will be 1,400 linear feet in length and be located off Hayden Road.

This project has already been through the Planning process and reviewed by the town engineer. Originally, there were no WCD impacts. The project went to review with the town engineer. He did not like the system of storm water treatment that was proposed. The system was a specific type of water quality unit that consisted of baffles and internal parts and mechanisms that required a lot of maintenance and could be expensive to manage. The town engineer thought this system would be a burden to the town so he requested a traditional detention basin system. The change to the detention basin meant there would be 10,400 sf of WCD impacts for the basin and grading. The basin will consist of a sediment forebay, a wet pond and an outlet control structure. Rip rap at the outlet will slow water velocity and prevent scouring of the outlet channel. The

basin will contain a wet pond because the water table is high in this area so the pond must be shallow in order not to intercept the water table.

The town engineer is happy with this proposal to deal with storm water. This is a low maintenance option and very functional. The maintenance on the water quality system would be 4 times a year and also parts would need to be replaced periodically. The wet pond will require mowing once a year. Both systems work well, but the town has enough trouble maintaining the detention ponds, replacing parts and cleaning 4 times per year is too much for the town. The water quality system is however a lower impact option.

The lot is old farm land located between Simpson Road and Hayden Road. The land is largely flat with a gentle slope. The lowest point on the lot is located at the outlet structure near Hayden Road. The field has been hayed in the recent past. There are no large trees. Vegetation consists of scrubby trees and brush, grasses and weeds.

Impacts to the WCD will be temporary. Once the road is established, the area will be loamed and seeded so vegetation can return to the site. The WCD is along the side of a seasonal stream. This stream is an old farm ditch that widens as it approaches Hayden Road. Mr. Gendron was in the field today and the stream was bone dry. The seasonal stream runs under Hayden Road. The stream has a WCD, but the stream is not of high quality.

There will be no home owners association (HOA). The road will be a town road. The town will maintain the road as well as the drainage structures. The road will be curbed with catch basins that will lead to the wet pond.

Mr. Stanvick likes the water quality unit option for treatment of storm water. It has higher maintenance costs, but is less impact to the WCD. The town is still working on identifying the outflows and basins in town. Both systems need maintenance, but the water quality system has less impact. Mr. Stanvick is more interested in protecting the WCD at this point.

Mr. Gagnon asked if the driveway on lot 13 could be moved out of the WCD. Mr. Gendron said this would not reduce the WCD impacts by much as the lowest point of the lot is near the driveway and will impact the WCD. Storm water will sheet flow off the driveway of lot 13.

Public Comment:  
None.

Motion: (Gagnon/Stanvick) to approve the project as presented.

Vote: 6-1-0 in favor. Mackay opposed because we did not see the project. She does not want to vote to approve projects if we have not visited the site.

### **PUBLIC COMMENTS ABOUT OHRV's**

Mr. Nathan Boutwell is a land owner on Gumpas Pond. He is concerned about the quiet enjoyment of his property. Gumpas Pond is a beautiful area. The Conservation Commission purchased the land with public funds for the purpose of conservation. The land should not be taken over by a private club for all terrain vehicle (ATV) use. This is a violation of the public trust to solicit public funds for the purchase of land for conservation use then allowing ATV use on the property. Future land owners may not want to sell land to the town if they think the land

could be used in this way. The previous owner of the proposed land feels like he did the wrong thing and feels bad he sold the land to the town. Mr. Boutwell wants to see some push back from this board for this proposal. The proposed area has steep slopes down to Gumpas Pond. He is concerned with erosion. The abutters were not notified and should have been. This would be a permanent use of the property not a through trail. He used ATV's when he was a kid and the purpose was to go faster around the yard. He suggested the OHRV committee find a piece of land that is in a commercial or industrial area where noise is not a problem to set up this trail. He suggested land across from R&B Suppette on route 38 as a possible place for a park. He said this would be a non-conforming use if he wanted to build a track like this on his private property in a residential area. He read a portion of the minutes from the Selectmen's meeting that described the quality of the land on Tower Hill Road and how it took close to 13 years to buy the property. He said he talked to people in town who would think twice about selling land to the town if this type of activity was allowed on Conservation land.

Mr. Gagnon said Conservation had nothing to do with this effort. The background was that around this time last year a resident submitted a warrant article to allow ATV's to ride on all town land. This created concern among numerous folks. During the deliberative session, the warrant article was amended to ask for the formation of a committee to study the matter. The article passed and the committee was formed. The committee is working to study this issue and has not finished its work. There is no solid proposal defined at this time.

Mr. John Walter owns property along Gumpas Pond. This land was supposed to be purchased by the town, but a group of residents around the pond wanted to purchase the land so the town backed out of the deal and the residents purchased the property. Mr. Walter first became aware of the OHRV trail proposed on Tower Hill property when some residents watched our meeting of September 14, 2022. He has met with the lake association and abutting residents and the Selectmen. He is representing some property owners from the area. Gumpas Pond is of high quality. He outlined some points that the Conservation Commission is supposed to protect the environment, water resources and natural resources. He spoke to Mr. Zolkos, who sold the town the property in question, and he said he would not have sold the property to the town if this was the purpose for the land. Mrs. Zolkos thought they were doing the right thing by selling the land for conservation, but now she is not sure. Mr. Walter said OHRV riders have illegally ridden on land by the pond. They have gotten stuck in the woods and in the pond ice and have had to be rescued or their vehicles have had to be rescued in the recent past. They move rocks, cut logs and go around gates to access private land. After Mr. Walter met with concerned land owners he asked them to sign a letter opposing the OHRV trail. He has 30 signatures for the letter at this time. He gave the letter to the Commission.

Ms. Beth Jussaume walks the trails all the time. They are beautiful. She has always supported conservation efforts. She would like the Commission to walk the parcel to see the extensive trails and see how close they are to private property. Some trails are 25 feet from Rolling Ridge Lane, others go down to the pond. She sees tire tracks around Tower Hill gate. These trails could easily have connection to other trails in town. She did not know how this all came about. She noted there seemed to be a lot of energy into forming a club with bylaws.

The town voted to put together a committee to study riding OHRV's on town trails. The Selectmen created the committee with one member of forestry, one member of Conservation, one Selectmen and 3 members of the public. The committee was asked to study the feasibility of using town land to ride OHRV's then they are to submit a report to the Selectmen in one year.

The process is exploratory. Nothing official has been decided yet. Residents can go to the town website and the OHRV Committee page to see posted public meetings and minutes. There has been a lot of energy put into this committee because of the warrant article that passed and the Selectmen being required to develop some type of solution. Mr. Steward believes there will need to be another warrant article to pass any final version of a proposal.

Michelle Richards is an abutter to the conservation land. She said the area is peaceful and quiet. She was happy the Commission purchased the land so it could never be developed. She is concerned about the impacts to the land, the noise level and the wildlife in the area.

### **WALK IN ITEMS:**

Mr. Abare thought it was a good idea to listen to everyone about OHRV matters. We would like to come up with something that works for everyone in town. We want to continue to purchase land for the town and we want to maintain the trust of the residents.

There is an open house on the Merriam Farm property this Sunday from 1-3 p.m. Parking is at Veteran's Memorial Park. There will be a few speeches and trail walking. All are welcome. Ms. Kamal walked the trails a few weeks ago. It is an easy, level hike with trails down to Beaver Brook. The central part of the property is a beautiful, large, open field. She cautioned pulling in and out of the parking area as vehicles traveling on Mammoth Road move quickly and do not always see cars waiting to enter the parking area. Mr. Gagnon thought the new roundabout, once installed, would help slow the traffic in that area.

Mr. Stanvick took an action item a few months ago to talk to the police about patrolling on the trails. He was concerned after a couple was murdered on a trail in Concord. The police have been randomly monitoring our town trails since this request. The police suggested we add signage to indicate the trails are being randomly monitored. There is contact information on the signs for Pelham Police and advises residents to call if they see suspicious activity. Mr. Stanvick is going to ask the police how many times they have gone on the trails since we requested the increased monitoring.

Mr. Stanvick was approved, by the Selectmen, to be an alternate on the Zoning Board (ZBA). It is important to have a representative on the Zoning Board so we can have early warning of matters that may be coming to us and to express concerns as early as possible about pending cases.

Mr. Steward suggested this board move the meeting start time to 6:30 p.m. to be in line with other town boards. Ms. Mackay opposed this as she often works late and would have a hard time getting to the meetings.

Mr. Steward had an email address, to contact all Conservation members at one time, added to the beginning of our meetings. The address is [dlconservationcommission@pelhamweb.com](mailto:dlconservationcommission@pelhamweb.com).

There are two expense items Mr. Steward would like us to vote on tonight. The first is to expend \$2,700.00 for an expanded wetland study done by Mark West. This will be to look at remaining wetlands in town. The second item is \$3,800.00 to write up a conservation plan which would expand on the natural resources inventory (NRI) and the open space plan. Both items were added to our budget for this coming year.

Motion: (Stanvick/Mackay) to approve these expenditures.  
Vote: 7-0-0 in favor.

The Commission is also trying to work to update the WCD ordinances in the near future. Mr. Steward would like us to take the approach of the state such as requiring a 10:1 ratio for disturbance in the WCD. This is how we expanded open space through the state regulations regarding prime wetlands. We permanently conserved almost 20 acres on Hinds Lane for impacts on a project on Currier Road.

**MINUTES:**

Motion: (Gagnon/Gendreau) to approve the minutes of September 14, 2022.  
Vote: 7-0-0 in favor.

Ms. Kamal had a question about the minute from September 14 as to whether an accurate description of regulations was recorded. Ms. Mackay said she would review the notes from the meeting, but that the minutes must record what is said at the meeting even if something inaccurate was said. Ms. Kamal agreed to vote on the minutes with this understanding.

Motion: (Gagnon/Stanvick) to approve the site walk minutes of September 24, 2022.  
Vote: 4-0-3 in favor. Gendreau, Abare, Kubit abstained.

**ADJOURNMENT:**

Motion: (Gendreau/Gagnon) to adjourn.  
Vote: 7-0-0 in favor.  
Adjourned at 9:30 p.m.

Respectfully submitted,  
Karen Mackay,  
Recording Secretary