

FINAL

**LEBANON CONSERVATION COMMISSION
CITY COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
6:30PM THURSDAY NOVEMBER 09, 2023**

MEMBERS PRESENT: Sarah Riley (Chair), Erling Heistad (City Council Rep.), Donald Lacey, Susan Almy, Bruce James (Vice Chair), Chris Johnson, Barbara Hirai (Alt.)

MEMBERS ABSENT: Ernst Oidtmann, Sean Dittrich (Alt.)

STAFF PRESENT: Mark Goodwin (GIS Coordinator), Shaun Mulholland (City Manager), Tim Corwin (Deputy Planning and Development Director), Nate Reichert (Director of Planning & Development/Zoning Admin – REMOTE)

OTHERS PRESENT: Kate Buckman, River Steward in NH at the CRC (REMOTE)
James Campion, landowner

1. CALL TO ORDER

Chair Riley called the meeting to order at 6:30pm.

2. APPROVAL OF MINUTES October 12, 2023

Amendments: Page 3 Line 9: Change “vents” to “fences”
Page 4 Line 1: Add “in” after “decrease”
Page 4 Line 12: Add “stated that” after “Ms. Hirai”
Page 4 Line 5: Add “Ms. Almy said near the hospital large numbers of patients and visitors are coming from outside the Lebanon area and it can’t be assumed they’re going to be able to use bikes and buses. With the addition of the new tower, these numbers are going to be increasing.”
Page 5 Line 8&9: Change “if wildlife friendly fabric could be used instead” to “if the rip rap could be covered with wildlife friendly fabric”
Page 5 Line 33: Add “stated that” after “Ms. Reardon”
Page 5 Line 35: Change “impaired for Mercury and E Coli due to atmospheric deposition” to “impaired for mercury due to atmospheric deposition and E coli.”
Page 5 Line 37: Add “Ms. Almay noted the impaired area of Mink Brook is the part in Hanover where it connects to the Connecticut River and everybody walks their dogs there.”
Page 7 Line 23: Add “in another community” after “River”

At 6:41pm, Chair Riley approved the appointment of Ms. Hirai to sit in for Dr. Oidtmann.

A MOTION was made by Erling Heistad to approve the October 12, 2023 Meeting Minutes as amended. The Motion was seconded by Bruce James.

**** The Vote on the MOTION was approved (7-0).***

3. OPEN TO THE PUBLIC

No members of the public were present.

4. PERMIT REVIEW

None

[Chair Riley said the next items for discussion will be out of the order that was published on the Meeting Agenda.]

5. Study Items

B. Ethics Training with the City Manager

City Manager Shaun Mulholland gave an overview of the City's Ethics Policy, including the following regulations:

- That the Commission acts in the best interests of the City, not personal interests
- That members disclose potential conflicts of interest
- That members recuse themselves if a conflict of interest arises
- That members are honest, independent, impartial and responsible in their actions
- That members make decisions and policies through the proper channels and procedures of government
- That members openly conduct public business unless legally confidential under NH RSA 91-A:3

Quorum Questions

He said the business of the Commission must be done in public; therefore, the Commission cannot meet with more than a quorum of commission members and engage in decision-making processes outside the view of the public. Chair Riley asked if a buckthorn pulling event on conservation land that includes five Commission members is a violation and City Manager Mulholland said it is not. He said a good practice is to do a notice of quorum in those instances. He said to be cautious about what is being discussed during volunteer activities and avoid speaking about applications that have come to the Commission or to make any decisions about Commission matters.

City Manager Mulholland said Commission members should also take care that emailed communications are informational (i.e., sharing meeting times and dates) but do not engender decision making conversations. He said violations can happen unintentionally and again urged caution in what is discussed during group communications. He said any

subcommittees and working groups created from the Conservation Commission must meet all the requirements of RSA 91-A as well.

Ms. Almy said that three members of the Commission were recently pulling buckthorn and discussing a raft attached to the bank of the Connecticut River without a permit. City Manager Mulholland said that was not a violation.

Recusing Because of Conflicts of Interest

Ms. Almy asked about another situation she was in where the Martin Brook Ecological area was being discussed in a public meeting. She said she is sort of an abutter to the area, and she runs the Martin Brook Homeowner's Association. She said she did not know if she should have removed herself from the meeting table area and sat in the seats with the public. She said she did abstain from voting on the issue in that meeting. City Manager Mulholland said he did not see a violation because there was no direct benefit to her in voting on the matter to cause a conflict of interest. He said she did not need to recuse herself in that case.

City Manager Mulholland said Commission members should recuse themselves, explain why, and then move away from the meeting tables if they think there is a conflict of interest. He said if any other members think a member has a conflict of interest, they can ask for a vote to have the person recuse themselves. He said even if the Commission votes in favor, it is a non-binding vote, and the member is not required to leave. He said if a member of the public asks a member to recuse themselves, it is also non-binding. Ms. Almy asked if she had not left the table and if someone sued the City because of the outcome of that vote, would that impact the City. City Manager Mulholland said if she had not recused herself or abstained from the vote and the court determined there was a conflict of interest, it could affect the City.

City Manager Mulholland said in the case of the five members discussing the raft docked on Conservation Land, the right course of action is to make a note of the raft, but then discuss the issue in a formal meeting format.

- No member of the Commission should appear before their own public body on behalf of the private interest of a third party

City Manager Mulholland said an example is if a Commission member is a soil scientist and comes before the Commission to represent a private party for an application. He said this would be a violation.

City Complaints Procedure

City Manager Mulholland explained the City's Complaints Procedure – how the City receives complaints and how the complaints are investigated. He said Commission members are appointed by the City Council and therefore have no responsibility to him, so he will not conduct investigations of the Commission unless directed by the City Council. He said if any report of criminal activity is received regarding any Commission member, he would notify the appropriate law enforcement agency. He said for complaints of violation of City policy, he would notify the City Council and an investigation would

be conducted at the request of the City Council. He said the City Council makes the decision about what action would be taken.

He said the ethics policy also includes state statutes regarding bribery, public officials being barred from private dealings, compensation for past actions, gifts to public servants, compensation for service, and purchase of public office / improper influence, etc.

City Manager Mulholland encouraged Commission members to contact him if they have any questions about conflicts of interest.

Ms. Almy said there had been an instance in the past where a member of the Planning Board was found to be derogatory in his speech to an applicant and the final decision (which was not in favor of the applicant) was reversed because of it. She said the State Housing Appeals Board language included a reference to the Conservation Commission. She asked if the Conservation Commission could cause the same kind of damage. City Manager Mulholland said it could possibly happen.

City Manager Mulholland thanked all the members for their time and dedication. Mr. Heistad said this was a very beneficial discussion.

A. CRC Update on Wilder Dam

Dr. Kate Buchman gave an overview of the presentation she gave to the City Council on the Connecticut River Conservancy (CRC) Wilder Dam relicensing process. She said the relicensing process normally takes five years, but due to various delays, this process has been going on since 2012.

History of Wilder Dam Relicense Application

She said the dams are licensed to operate by FERC (Federal Energy Regulatory Commission), which is required to give equal consideration to the power and development (hydropower), energy conservation, protection of fish & wildlife and their habitats, recreational activities, and preservation of other aspects of environmental quality (water quality, historic and cultural resources).

She said studies were conducted between 2014 and 2017 and were submitted unfinished in 2017 because they were required to be submitted within the five-year period. She said significant stakeholder discussions during 2020 and the COVID shutdown, which resulted in a significant proposed operational change.

She said the dams going through relicensing are:

- NH/VT: Vernon, Bellows Falls and Wilder Dams – all owned by Great River Hydro (owned by Hydro Quebec)
- MA: Northfield Mountain Pump Storage Facility and the Turners Falls Hydroelectric Facility – all owned by First Light (owned by a Canadian hydropower company)

Great River Hydro agreed to the operational changes that were submitted as an amended final application in 2020. They revised the amended final application to include the installation of a turbine in the Bellows Falls Dam. She said from 2020 to present, settlement agreements were going on in Massachusetts regarding those facilities.

Current Status of Application

She said now all the studies are done and settlement agreements have been submitted. She said the process will move forward soon with FERC issuing the REA (Ready for Environmental Analysis), which triggers the public comment stage.

Dr. Buckman said today FERC requested more information from Great River Hydro and First Light because they felt the application package was not fully complete. She said the REA will not be issued until that information is received and reviewed, and she believes the earliest the REA would be issued is mid-January.

She said once the REA is issued, it opens a 60-day public comment period on the final application or to make a motion to intervene, which provides the authority to dispute the final license once it is issued. She said government groups can submit comments on how the operation of these hydroelectric facilities and the area they encompass impacts the towns that they live in. She said FERC greatly values local input.

She said the significant operational change that was added to the amended final application proposed that the facility change from being a peaking facility (river fills up and empties dramatically) to an InFlow=OutFlow facility. She said the InFlow=OutFlow process involves peaks being down during limited hours per month based on the ecology of the river. She said this allows the company to remain flexible to respond to energy needs while the river activity is much closer to natural water flow.

Opportunities for Comment and Changes

She said CRC had expected significantly more protection, mitigation, and enhancement measures in the license application, especially in the recreational activities. She said the CRC has recommendations that include:

- Upgrading facilities to make them ADA Accessible
- Improvements to portage locations
- More funding toward CT River paddlers trail
- Maintenance of recreational facilities in optimal condition
- Improvements to fish passage-viewing facilities
- Creation of new historical and archeological interpretative programs

She said there are opportunities for individuals and municipalities to get involved in the next stage. She said when FERC issues the REA, it triggers the 60-day comment window and a 30-day window for the companies to file an application for a 401 Water Quality Certificate with the state(s) in which they are located. She said the 401 Application process takes about a year to process and includes public comment periods as well.

Once FERC has reviewed all the comments and input, it will issue an environmental impact statement, which also includes a public comment period. She said it is better to provide comments earlier in the process. She said after that, FERC will issue the license, which they anticipate will last 40 years. She said this is a once-in-a-lifetime opportunity to have input in the licensing process.

She said FERC has information on the best way to submit comments and input. She said she can also help the Commission submit its comments. She said her counterpart in VT, Dr. Kathy Urffer, can also help in the process.

Impacts to Endangered Species

Dr. Buckman said studies in the license application have been done on endangered plants. Chair Riley said she was interested in how the facilities impact endangered plant species in and around the river. Dr. Buckman said these species were taken into consideration during the proposal of the operational change. Mr. Lacey asked if exemplary or unusual plant communities were also studied. Dr. Buckman said only endangered species were evaluated, but the Commission could advocate for the protection of unusual plant communities in the area. Ms. Almy asked if the study only applies to the species in the river and on the eroding riverbanks, and Dr. Buckman confirmed it does.

Mr. Goodwin said it seems like it's almost too late to provide input since the operations plan has been formed. Dr. Buckman said the input from communities is not to create a new operational plan, but the relicensing process requires equal consideration to all the aspects. She said there is no recreation plan in the current license application, very little that addresses historic and cultural resources, and very little in terms of the protection, mitigation, or enhancement of other elements. She said comments added now may cause FERC to provide more protection, mitigation, or enhancement measures beyond what is currently in the plan.

Chair Riley said there are several significant ecological areas included in the City's Natural Resource Inventory that are islands in the river and shorelines along the river, some of which are home to rare or endangered species or exemplary species. She asked if it would be appropriate to propose restoration of these areas if they're being threatened by an invasive plant. Dr. Buckman said it would be appropriate and it is important that these areas are noted in the NRI for the City.

Mr. Goodwin said it is hard to narrow down which requests to submit without specific parameters. He said feedback received during previous conversations about the dam is that "nothing south of the dam" will be considered. Dr. Buckman said the studies were done almost a decade ago and things have changed, and it would be worth submitting any requests / ideas during this period.

Impacts to Wildlife Crossing

Chair Riley said the road section by the dam near Route 10 includes an important wildlife crossing in Lebanon. She asked if there are any protections that could be included for this area in the application. Dr. Buckman said there is a section of the license application that

considers terrestrial resources because these dam companies own a lot of land. She said that request could be added to the comments.

Mr. Heistad said the portage in the wildlife crossing, which affects animals, amphibians, and other creatures, is not in the best shape, so any effort to reinforce that area would be beneficial.

Ms. Hirai asked if it is better to have each Commission provide input or to have one large input document from the entire City. Dr. Buckman said she would ask Dr. Uffer because she is not sure.

Recreational Activity Considerations

Chair Riley said this is a river city, but residents do not have equal access to the river. She asked what kind of recreational programming can be requested during this process. Dr. Buckman said it is easy to ask for investments in recreational facilities, but she said she is not sure about programming. She said the City could request it anyway.

Ms. Hirai said she used to take students to educational programs in the past and asked if those could be reinstated. Dr. Buckman said improvements to the fish-viewing facilities are included, so educational opportunities about hydropower and migratory fish could be included.

Next Steps

Mr. Goodwin suggested the Commission members make a list of requests or comments to be discussed at a future meeting. Mr. Goodwin said he would work on the process to submit comments for the Commission members. He asked if there was a past draft list from Voices of Lebanon. Dr. Buckman said she would research it.

Ms. Hirai suggested including Hanover or Hartford about historical considerations because there were bridges that involved both communities. Mr. Goodwin said, in the past, several groups from Upper Valley communities provided ideas for use of the river. Mr. Heistad noted that the City uses one part of a 400-mile river and the City should be coordinating with the entire resource because the river is pretty wonderful.

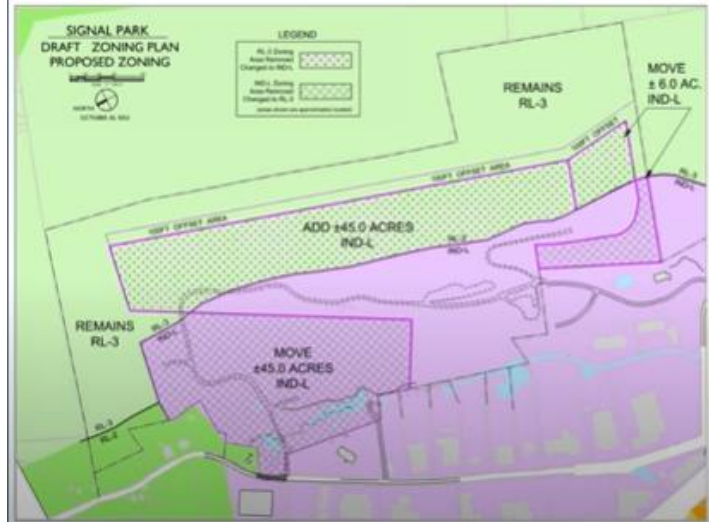
C. Zoning Amendments Review and Discussion, Part I

Mr. Tim Corwin gave an overview of the process for the zoning amendments that have been proposed this year to the City Council (included in the agenda materials for this meeting). He noted that two amendments fall within the Conservation Commission's purview.

He said one of the proposed zoning changes has been requested by Mr. James Campion, who owns property that would be affected by the zoning amendment if approved.

IND-L / RL-3 Zone Uses

Mr. Campion referred to the map included in the agenda materials for this meeting. He said he'd like to deed a portion of the land in the



IND-L zone to the City to be used as recreational fields, but the IND-L zone does not list recreational use as a permit use. He said, with the requested rezoning of the area, that land area currently in INDL would be zoned as RL-3, which allows recreational use. He said the proposed rezoning would then result in a similar amount of land currently in the RL-3 zone to be zoned as IND-L.

Chair Riley said she is concerned because the RL-3 zone is the City's most restrictive zone and is the only zone that includes steep slope overlay. Ms. Hirai asked if the land is rezoned from RL-3 to IND-L, would the Conservation Commission not be able to comment on the steep slope restrictions. Chair Riley said the Commission could comment but the land would no longer be protected by steep slope overlay.

Mr. Corwin clarified that the IND-L zone permits the local government use of land, under which land used by the City's Recreational Department would be allowed. He said the uses for the land would be permitted, therefore, as recreational fields if the zoning remained IND-L for that land.

Concerns for Wildlife Corridor

Ms. Almy asked about the area on the map with frontage on Etna Road. She said she believed that area is the wildlife corridor. Mr. Campion said the area in question is further north on Etna Road. Chair Riley said one of the most important wildlife corridors in Lebanon is located just adjacent to the proposed rezoned area.

Mr. Corwin reminded the Commission that no final decision is required at this meeting and the group can take additional time and request additional information from the applicant for more deliberation and consideration.

Chair Riley said she is concerned about the zoning change because the RL-3 is the most restrictive and some of the area that would be rezoned to IND-L does have steep slopes.

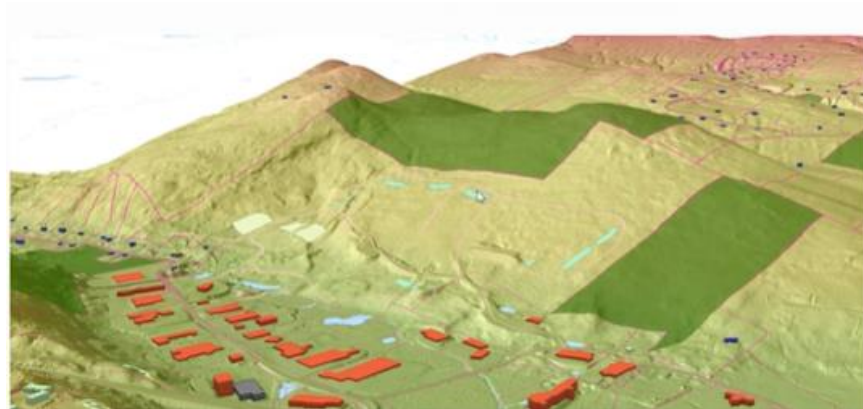
She said the proposal brings IND-L closer to the boundary of conservation land, and the proposal includes intense residential use in the IND-L zoned area. She said residential use is one of the most impactful to wildlife habitats in terms of trash, compost, dogs, and traffic. She said a wetland corridor is located all along the road near the area proposed for rezoning. She said she did not think the Commission could take into consideration the benefit that a recreational field would have to the City. She said one of the purposes of the zoning ordinance is to protect the natural resources and she is concerned this rezoning would not benefit wildlife and could adversely affect the landscape habitat for wildlife, the wetlands, and steep slopes.

Character of the Terrain

Chair Riley asked if blasting might be involved in developing the land if rezoned IND-L. Mr. Campion said the property is unique in that it has 18 feet of overburden and blasting is not anticipated in the redevelopment. He said the location of the land is ideal for fill, and he has received hundreds of thousands of yards of fill material from City, DHMC, and Dartmouth College projects. He said he's had an Alteration of Terrain Permit for six years. He said he knows the land and he doesn't believe there will be an increased impact on steep slopes because of the rezoning.

Chair Riley noted there are vernal pools on the Signal Hill property.

The group discussed the rendering that shows green conservation lands, red existing buildings in the area, and light blue proposed buildings and their proximity to the conservation areas.



Concerns for Hydrology & Wetlands

Mr. James said his concerns are the impacts on hydrology and wetlands. He said there's been a lot of disturbance in the wetlands in this basin over the last year. He said the City needs to be sure that the wetland impacts are well understood before considering rezoning. He said this region – Etna Road, Centerra Rd, Rte 120 and Mount Support Rd – is very important for flood protection of the Mascoma River and potentially downtown Lebanon. He said he's concerned about the scale of the change that would result from rezoning and what that might do to big storm mitigation issues.

Mr. Campion said he agreed with his concerns and that's why it took three years to obtain the Alteration of Terrain permit and why he's spent as much time and money as he has on hydrology. He said, should a site plan be proposed for development of the area, these issues would have to be re-examined. He said he's proud of how well the retention ponds and drainage he has installed on the land have held up during the big rainstorms experienced recently in Lebanon. He said he lives one hill over from the area so he's aware of how the rainstorms can affect the area.

Mr. James said the City needs to have a "bigger landscape" perspective because Mr. Campion's proposal is just one that has been made for projects in the area and these projects could have a larger collective impact on the City. He said the Commission has a responsibility to the City to ensure the use of the land is done wisely.

Mr. Campion said the property is 229-acre piece of land that is a side slope and said that's why he's looking at how the entire piece might be developed. He said the wet area at the base of the hill is a retired gravel pit. He said he's been trying to reconstitute that pit into something that is useful. He said the rezoning would put the wet areas under the purview and control of the City. He invited the Commission members to walk the property to see what is there. Chair Riley said a site walk would be helpful.

Impacts to Wetlands

Ms. Hirai asked how many acres of wetlands will be impacted. Mr. Campion said he did not know but that would depend on a proposed site plan for the area. Mr. Goodwin estimated that maybe 7-10 acres of wetlands are on the parcel. Mr. Campion said there are maybe 15 acres of wetlands at the base of the hill. Ms. Hirai said the Commission needs to think about concerns related to erosion (that leads to flooding) but also related to impacts on wildlife.

Mr. Campion said he asked DES to assess the property because he said, in the past, material was put into a wetland area. He said he asked DES if he should remove the material or expand another wetland area to be more significant. He said DES told him to remove the material because the wetland area in the north was not a functional wetland so there would be no benefit to expanding it. Ms. Hirai asked if the Commission's ability to comment on wetlands in the future be changed if the rezoning was approved. Chair Riley said it would not. She said the steep slope overlay only exists in the RL-3 zone and not in the IND-L. Mr. Campion said there was code that addresses development on slopes over 25%. Mr. Goodwin said the Commission can always make comments about impacts to any natural resources during the site plan review process. Mr. Heistad said the slopes on the boundaries of the Campion property have slopes that are greater than 25%.

Chair Riley said the NRI identifies an entire chain of wetlands along Etna Road from Hanover down to Mascoma River, as well as some associated streams, and part of that is on the property in question. She said the NRI also identified part of this area as a

moderate to moderately highly rated ecological area. She said the only reason this area is not rated as a significant ecological area is because of its proximity to the existing developments. She said it is important to realize that many things co-occur in this location; the wildlife that's described in the wildlife crossing study and many recommendations from Dr. Rick Van de Poll about protecting the wildlife crossing. Mr. Campion said he hired Dr. Van de Poll to view his property and Chair Riley said she'd like to read his report.

Mr. James asked if any analysis of depth to groundwater beneath the property and how it may vary during different seasons has been done. Mr. Campion said he's lived through several seasons and has seen where the water comes from. He said there's 18 feet of material, mostly rocks, above the ledge from glacial activity and water either disappears into the rocks or creates little streams. Mr. James suggested a glacial geologist should do an analysis for landscape analysis. Mr. Campion said he did have testing done during the soil analysis he had done.

Conservation Commission Considerations

Ms. Almy said she'd like to tour the area, but it won't be helpful until the snow is gone. Mr. Campion said there is a roadway that goes all the way through the property.

Chair Riley said she's hesitant to recommend that the Council make this zoning change because she feels this is injecting an IND-L zone into an RL-3 zone and extending IND-L up a slope. She said she doesn't know what caused the City to draw the zone lines in the first place. Mr. Campion said that line has been in place since 1978. He said, until very recently, the RL-3 zone was for areas intended for future development once water, sewer, and other services were made available. He said he's trying to look at the land area as a whole so it can be planned as a whole.

He said the residential plan that he's proposing is needed and includes residential for workforce, residential ownership, and residential for families with children. Chair Riley said the City needs housing and home ownership, but the City is moving towards infill as opposed to new development. She said she worries about adding housing right near one of the City's larger wildlife corridors and contiguous open spaces. Mr. Campion said the City has just invested a lot of money updating sewer and water lines for more capacity. He said this property abuts water and sewer lines in three places.

Mr. Corwin said he recommends the Commission provide an agreed-upon comment or recommendation to the Council.

Mr. Goodwin said the original zones were based on the characteristics of the land that were determined at this time. He said if zoning were being made now, the characteristics may have been evaluated differently and the zoning would match more closely what Mr. Campion is proposing. Mr. Campion said he had requested a variance from the Zoning

Board of Adjustments that would allow a planned recreational park and a planned business park to coexist on the same piece of property. He said he was told by staff that a decision like that would be more appropriate for the Planning Board. He said he wanted the acreage of the amount of land moving into new zones to be even.

Ms. Almy said the proposed residential area is planned next to a major part of the stream coming down Etna Road to Great Hollow. She said people that live in the new houses would have to get out of the development over the wetlands. Mr. Campion said the proposal includes a new road from where Unifirst is located out to Lombard Road near FedEx. He said the proposed road would go through the wetlands. Mr. Campion confirmed that the plan would also bring in water and sewer lines to the new residential area from two different locations.

Chair Riley asked if there are other parcels with zones that are divided like this area. Mr. Goodwin said one of the objectives of the Master Plan rewrite in 2012 was to eliminate as many of the split zoning parcels as possible, so there are few that remain that are as large as this parcel. Mr. Campion said the mandate to have zoning lines follow property lines would be very impactful in this case because it would create a substantial increase in the IND-L that it did not seem appropriate. Chair Riley said if the zoning is to align to physical characteristics of the land, Lebanon needs to add new zones. She said Hanover, for example, has a few more restrictive zones than Lebanon.

Mr. James said the City needs to be looking at ground water hydrology and what is flowing off of Signal Hill and from the north down. Mr. Campion said the water comes off the hill and how it is handled is critical. He said he feels good about how the water has been managed. He said the water that has come down from Signal Hill into the car dealerships has been more controlled.

Next Steps

Chair said there is some information the Commission would like to see before it makes a decision:

- Site Walk
- The Van de Poll Report of the Campion property
- Maps with topographical lines and wetlands areas identified

Mr. Campion gave the Commission members permission to walk the property without him. He said he would submit the items requested to the Planning Department.

A MOTION was made by Susan Almy to extend the meeting to 9:30pm. The Motion was seconded by Don Lacey.

**** The Vote on the MOTION was approved (7-0).***

C. Zoning Amendments Review and Discussion, Part II

Mr. Tim Corwin said the other proposed zoning amendment that falls under the purview of the Conservation Commission involves the Riverbank Protection District.

He said the Shoreline Protection Act in 1991 includes an urbanization exemption that recognizes that there are areas in downtown Lebanon that have very little natural resources left in them. He said the exemption allows the City to request from DES that urbanized areas be exempt from having to comply with shoreline protection regulations. He said many communities have taken advantage of that exemption, but Lebanon has not yet done so. He said Lebanon adopted a Riverbank Protection District in 2014 as an amendment to the Zoning ordinance, which includes a 50-foot protected buffer from shoreline.

Mr. Corwin said the City is seeking to an urbanization exemption from DES around the Mascoma River, which runs through downtown Lebanon.

He said the map/graphic included in the agenda materials is a rough delineation of the path of the Mascoma River; he said the blue line depicts the edge of properties zoned as the Lebanon Downtown District along the river.



Mr. Corwin said the proposed zoning amendment would provide that properties that would be subject to the Shoreline Protection Act regulations, would be exempted under a DES-approved urbanization exemption and therefore exempted from the Riverbank Protection District requirements.

Concerns for Natural Resources

Chair Riley said she feels like asking for the zoning change is premature. She raised several concerns:

1. Is the City's planning to come to the Conservation Commission for comment before making zoning changes.
2. Although many towns have been granted urbanization exemptions, many have not either asked for or been granted exemptions.
3. Of the towns that have been granted urbanization exemptions, how many are along designated rivers.
4. The blue line on the map includes many areas that regularly flood and that provides important level of protection to downtown Lebanon. She said the commission has not been familiarized with what the urbanization exemption

would permit. She said it is not true that there are no natural resources in the blue areas delineated on the map; she said there is a lot of nature still there.

Ms. Almy said the Shoreline Protection Act is already being violated in many places in that blue area on the map structures by (buildings, parking lots, etc) that were in existence before the Act was enacted. She said it is not clear from the map what parts of the blue area are already “urbanization” and what parts are not yet urbanized.

Ms. Hirai asked what would be allowed if the exemption is given that is not allowed now. Mr. Corwin said structures would be allowed to be constructed, which could include buildings, parking lots, etc. He said the 50-foot buffer is meant to be left in a natural state, so exempting downtown urbanized areas from those regulations would recognize that development has encroached within that 50-foot buffer. He said it would allow structures to be constructed within that 50-foot buffer.

Mr. Lacey asked if the area behind the CCB that is currently a protected natural area would be considered for constructing structures. Chair Riley said yes, and it also means that the properties that border Hanover Street that flood regularly could be built on.

Mr. Goodwin said the area shown on the map is from the CCBA down to Logan Field (about where the Kleen Laundry building is located). Mr. Corwin said the blue line shows the properties that are zoned Lebanon Downtown District that abut the Mascoma River. He said if there are properties in the area that the Commission feels have valuable natural resources to protect, there are extra layers of riverbank protection even if that limits development.

Concerns About Flooding

Chair Riley said Emerson Gardens floods, the CCBA provides an important buffer, many properties along Hanover Street flood in their lower lots. She said maybe half of the area in the blue line currently is asphalted or concreted riverbank. She said the (Economic Development Commission) EDC is advocating for a more naturalized riverbank where the lower lots are located and not advocating for building right up to the river, so she said she questions why the City is seeking an urbanization exemption.

Mr. Lacey said there is a lot to think about before the City builds anything. Chair Riley said that’s why she is wondering if this is premature. Ms. Hirai said Montpelier and Middlebury and other towns in Vermont are rethinking the wisdom of putting buildings close to the river after the rains last year.

Mr. Lacey said the exemption sounds like a good idea to provide access to the river but needs to be thought out much more carefully to protect the integrity of the river. He said there is a lot to think about before the entire area is designated for exemption.

Mr. Goodwin said he authored the Riverbank Protection District, in part because the state protection could be changed or removed. He said there would be value in exempting urbanized areas from the state regulations, but exempting these areas from the Riverbank Protection District is not a good idea. He said property owners are forced to get a state permit for any activity (like renovations or additions to property) within 250 feet of the river and that is an inconvenience. He said what little vegetation that remains in the area is incredibly valuable, however, and should be protected. Mr. Corwin said there are other aspects of the City's land use regulations that do protect that vegetation during site development.

Mr. Nate Reichert said flood zone requirements are not being exempted, so anything being built in flood zone areas would have to meet flood zone requirements. He said the area has been urbanized for a long time and there has been a lot of conversation about redevelopment of some areas. He said the current Shoreline Protection act fixes the natural and built environments and does not allow the City to "fix," improve, or rethink these areas for larger projects, which could include removing cement parking lots off the riverbank areas. He said, without the exemptions, the City cannot redevelop these areas near the river to be more environmentally sound because projects cannot move forward. He said even projects like making the current walkway behind CCBA more ADA accessible become incredibly difficult unless the exemption is granted. He said our attitude toward the river has changed over the last several years and the exemption allows the City to be more creative in how we think of the river.

Next Steps

Chair Riley said she would recommend against the exemption or have the Conservation Commission be much more involved in the discussion about the exemption because the current proposal eliminates the Conservation Commission from the equation. Mr. Goodwin said there is no other regulation that prevents any landowner from removing all the vegetation from their property within 50 feet of the river.

Mr. Lacey said a plan needs to be made on how to do this nicely before the Conservation Commission supports this zoning amendment request. Mr. Heistad said if we think about building near the river, we need to think about flood mitigation as well. He said the City ought to keep the 50-foot buffer.

Mr. Corwin said he will come back to the Conservation Commission with some options for the rezoning when the other zoning amendment (involving Mr. Campion's property, that was discussed previously in the meeting) is re-presented.

Chair Riley said **Agenda Item 5. D. Edwards Properties, LLC Rezoning Request** will be discussed at the next meeting.

6. COMMITTEE REPORTS

A. Biodiversity Group (Invasives)

Ms. Hirai said she met with a new volunteer, Carolyn Rooney, and walked the Alana Cole Conservation Area. She said Ms. Rooney is interested in creating an accessible trail on that property.

Mr. James said Mr. Goodwin, Ranger John, and the Hypertherm team of volunteers did a great job cleaning up the Boston Lot trail, but it will still need a lot of significant work.

B. Stewardship

Ranger

Trail Coordinator

Monitors and Stewards

No update

C. Wild About Lebanon

No update

D. Amphibian Crossings

No update

E. LUCT/Current Use

No update

F. Other Subcommittees

7. OTHER BUSINESS

A. FYIs

None

B. Follow Ups

None

C. Workshops and Educational Opportunities

None

8. ADJOURNMENT

The meeting adjourned at 9:30pm.

Respectfully submitted,

Paula Roux

Recording Secretary