

FINAL

**LEBANON CONSERVATION COMMISSION
CITY COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
6:30PM THURSDAY DECEMBER 14, 2023**

MEMBERS PRESENT: Sarah Riley (Chair), Donald Lacey, Susan Almy, Ernst Oidtmann, Bruce James (Vice Chair), Chris Johnson, Barbara Hirai (Alt.)

MEMBERS ABSENT: Erling Heistad (City Council Rep.), Sean Dittrich (Alt.)

STAFF PRESENT: Mark Goodwin (GIS Coordinator), Nate Reichert (Director of Planning & Development/Zoning Admin)

OTHERS PRESENT: Colin Smith, Chair, Lebanon Pedestrian & Bike Committee; Kevin Purcell, Ward 1; Jon Chaffee, Vice Chair, LEAC
James Campion, landowner; Attorney Barry Schuster, Dan Nash

1. CALL TO ORDER

1. Chair Riley called the meeting to order at 6:35pm. She reviewed the City's meeting in-person and REMOTE attendance policies and procedures.

2. APPROVAL OF MINUTES November 09, 2023

Amendments: Page 16 Line 16: Change "Lacey" to "James"

A MOTION was made by Don Lacey to approve the November 09, 2023 Meeting Minutes as amended. The Motion was seconded by Chris Johnson.

** The Vote on the MOTION was approved (5-0), with Dr. Oidtmann abstaining.*

3. OPEN TO THE PUBLIC

No members of the public spoke.

4. PERMIT REVIEW

None

5. Study Items

A. Route 10/West Lebanon to Hanover Ped & Bike Concepts

Mr. Colin Smith, Chair of the Lebanon Ped & Bike Committee, and Mr. Kevin Purcell gave an overview of their proposal to connect West Lebanon to Hanover with a bike

route along the right of way of Route 10. Mr. Purcell said he was part of the West Lebanon Revitalization Committee, and he said the question of a bike route in the Route 10 corridor was raised but was considered outside the purview of that committee. He said he felt like this should be investigated. He said he has ridden on Route 10, and it is sometimes not the best place to ride, but the power line right of way could be used to bypass the area of Route 10 past Sachem to Maple Street. He said the towns of Hanover and Hartford, VT are interested in developing this connecting route for bikers. He asked the Commission to give its input on using Route 10 and/or the power line area along Route 10 as a bike path.

The group reviewed a map of the area. Mr. Reichert said the topography of the area does not lend itself to widening the road. He also said NH DOT has not been interested in developing a bike path there because there are several “pinch points” that would cost a great deal to resolve.

Mr. Lacey asked if they would have permission to use the path that the electric company uses to maintain their poles. Mr. Smith and Mr. Purcell said they did not know and would need to find out. Mr. Lacey said electric rights of way are not wastelands and they provide habitat for wildlife species. He said he would not like to see them subject to the impact of increased human use if a trail were made there.

Ms. Hirai asked if the intention for the route is to go north from the access road, or south as well. Mr. Purcell said just north for now. She said going south from the access road is quite different and would have to be considered differently.

The group discussed the topography of the area in question. Mr. Purcell said it is not for everyone because it is not very flat, but it would be an alternative to Route 10. Mr. James said if they are looking for something like the Mascoma Greenway, which is suitable for everyone, this area is not the same and seems rugged and steep. Mr. James suggested the bike route near Exit 16 off Route 89, which picks up on the Old Route 10, may be an interesting model for what Mr. Smith and Mr. Purcell are thinking about.

Mr. Goodwin clarified that Mr. Smith and Mr. Purcell were proposing a route on Route 10 as the preferred route, but, as an alternative where the road is too dangerous, can the electric pole path be used for bikers. He said they are trying to gather as much information as they can and they want to know what concerns the Commission might have of using the electric pole path.

Chair Riley said the state needs to prioritize cyclists and accommodate cyclists and pedestrians along that road. She noted that there is a wildlife crossing on Route 10 and car speeds need to be reduced. She said it is the state’s duty to accommodate users other than vehicles.

She asked Mr. Smith and Mr. Purcell to review the Trails for People and Wildlife program, by Jim Oehler of NH Fish & Game, that shows the impact of a trail or road on wildlife. She said the impact is not just linear and may extend outward by many feet. She

said this is a huge concern to her whenever there is talk about further fragmenting the landscape by trails. She said the more that wildlife feel the impact of humans and dogs, the more stress is felt by the species.

Mr. Lacey asked if a lot of people already use the path as it is right now. Mr. Purcell stated that the idea was a recommendation of the Bike/Walk Leb Plan from the Regional Planning document. Mr. Jon Chaffee, Vice Chair of the Lebanon Energy Advisory Committee, said basically no one is currently using it as a bike path.

Ms. Almy noted that the power lines she's been under have extensive brush by the end of the summer and it's really hard to walk through it. She said there are small and large animals in the area as well. Mr. Johnson said he has trouble imagining a significant enough portion of the commuting population would use it but said Mr. Purcell and Mr. Smith could look into it.

Mr. Smith said they would keep the Conservation Commission updated on its progress as it continues to consider the idea.

[Mr. Smith and Mr. Purcell left the meeting at 7:07pm.]

B. Zoning Amendments Review and Discussion

Chair Riley noted this is a continuation of the discussion from last meeting. Mr. Reichert said he was sitting in for Mr. Tim Corwin, Deputy Planning and Development Director.

Chair Riley gave an overview of the zoning amendments that have been proposed to the City Council (included in the agenda materials for this meeting).

She said there is a proposed amendment to Zone GC-1 which involves adding a manufactured home permitted use. She noted that GC-1 is a small area on the border near Hanover south of Jesse's Restaurant, bisected by Route 120. Mr. Reichert said the proposed change is to the kind of housing allowed in that area. He said DHMC has a concern that there are not enough single-family homes available for staff that relocate to the area to work at the hospital. Chair Riley said she had concerns about adding housing to the area.

Section 410 Riverbank Protection

Mr. Reichert said there are several sections of the City that would be impacted by this change, but the CCBA property is not going to be exempted under the urban exemption. He said one major area is for properties near Hanover and near the Woolen Mill.

Chair Riley clarified that the proposed zoning amendment is to change part of the Riverbank Protection District and assumes that the City has an urban exemption to the Shoreline Protection Act. She said one is a state regulation and one is a City regulation.

She said she is concerned that the City did not come to the Conservation Commission for comment on the urban exemption is an issue separate from the proposed change. She said much of the area that Mr. Reichert described is a significant ecological area for riparian habitat and waterfowl. She said she would recommend not making any changes to the Riverbank Protection District at this time. She said the City can do urban revitalization and have green space and maintain riparian areas. Mr. Lacey agreed that the proposed urban exemption is very broad. He said it seems like the City has identified already paved areas, but he said Chair Riley makes a good point about much of the area described is ecologically significant.

Ms. Almy said the City might be losing both types of protection on this land if the urban exemption is approved.

Ms. Hirai said she could understand having the urban exemption for the area north of Route 120/Hanover Street. She said the area downstream from that by the ball field has a nice wetland area and is a significant habitat. She said she would be really concerned about having that area impacted.

Mr. Reichert said that area Ms. Hirai indicated will not be included in any exemption request from the state because he said the City agrees that it needs to be protected. He said if the City does not change the zoning, it can't improve the urban areas and implement development ideas that embrace the river, instead of turning its back on it.

Chair Riley said the City needs to narrow down where it wants the shoreline urban exemption to be. She said, in areas that flood, it is not as simple as getting an urban exemption. She said the water needs somewhere to go. She said the proposal needs to be more thought out and more finely tuned and she would not recommend approval.

Ms. Hirai said if they relax the oversight of urban development, someone could easily make the area worse instead of improved. Mr. Reichert said the Planning Board regulations still remain and would provide the same parameters for the development of the areas in question.

Ms. Almy asked if there is some way to replace this proposed zoning amendment with a more useful form of oversight instead of just removing the shoreline/riverbank protections in place. Mr. Reichert said there are some reforms the City might be able to offer and the City would be open to conversation, if anyone had ideas.

The group discussed whether a motion should be made for each part of the proposed zoning amendment, or if one motion should be made for the entire proposal. They agreed to make individual motions on the two parts that most involve the Conservation Commission's recommendation.

Chair Riley said the proposed amendment assumes that the City is getting the urban exemption, which, if accepted, eliminates both City and State protections.

A MOTION was made by Don Lacey that the Conservation Commission recommend that the Lebanon City Council not accept the Zoning Amendment as presented at this time. The Motion was seconded by Ernst Oidtmann.

**** The Vote on the MOTION was approved (6-0).***

[Chair Riley called for a five-minute break in the meeting.]

Other Zoning Changes

Mr. Reichert gave an overview of another zoning change involving ADUs. He said, currently, an owner can take a temporary leave of absence from living in an ADU. He said the City Council is making a change to clarify that the leave of absence be clarified to mean one year.

He said other changes involve cleaning up other language related to recording fees. Dr. Oidtmann asked if there is an expiration date to file recording fees. Mr. Reichert said that needs to be done before the permit is issued.

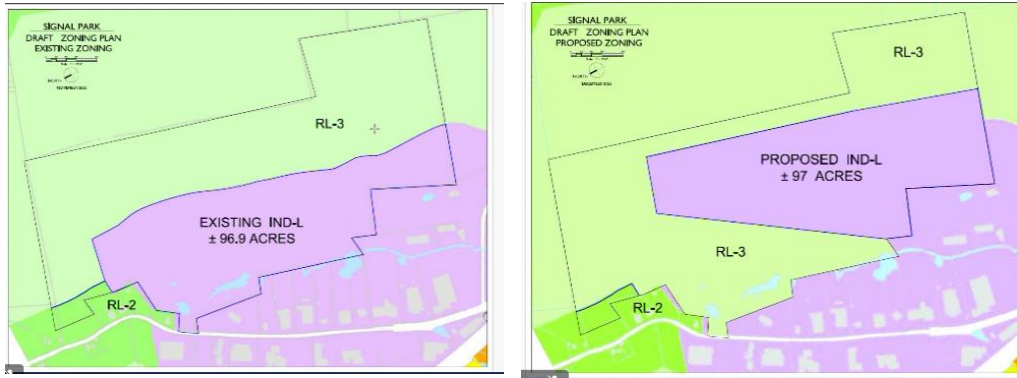
Mr. Reichert said another change involves the size of homes from 750 square feet to 960 square feet to match the minimum size allowed in FHA loan regulations. Chair Riley said she was concerned that this change may open the RL-3 District to more housing. She noted that RL-3 shows the entire area as green (rural). She said she wonders if that zone needs to be redefined or if a new zone should be created.

Chair Riley also said another Riverbank zone change involves “removing cumbersome City practices” from RSA 674-21. She asked Mr. Reichert what practices were being referenced, and he said he did not know. Chair Riley said she would send Mr. Reichert and Mr. Corwin an email to clarify what that meant.

IND-L / RL-3 Zone Uses

Mr. Reichert noted this discussion is about a resident-proposed change and it is being continued from last meeting.

Mr. Reichert referred to the maps included in the agenda materials for this meeting.



He said Mr. James Campion, the resident proposing the change, had reworked the areas that would be considered RL-3 after the discussion at the last meeting. He said he has widened the RL-3 area to give the wildlife corridor area more protection.

Mr. Campion said the new map includes all areas that are greater than 25% grade in the RL-3 zone, because the Commission was concerned about steep slopes that might not be included in the RL-3 zone, which is the only zone with steep-slope protections.

Mr. Campion 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 the map includes 250-foot buffer of the RL-3 zone on the eastern side near Signal Hill, and he has added a 100-foot buffer on the south side of the area near the conservation land. Mr. Campion said he believes the new plan gives better protection for wetlands and the wildlife corridor.

Ms. Hirai said it appears that the new proposed map shows the IND-L area is considerably higher up slope, so that seems like there would be less protection for steep slopes. Chair Riley said the RL-3 zone provides extra protection for steep slopes and it is the City's most restrictive zone related to development and density.

Chair Riley said the City's Future Land Use map shows this entire area is forest. Mr. Campion said it does not. Chair Riley said this zoning change is contrary to the City's 2030 Future Land Use map. She noted the Commission has just completed updating Chapter 5 of the City's Master Plan, which has been approved by the City Council.

Mr. Goodwin clarified that any wetlands in the area are protected, but the buffer area around the wetlands is not, so rezoning the RL-3 around the wetland areas will offer more protection to the buffer areas.

Mr. James said he is concerned that a wetland corridor area near the car dealerships will be filled in with impenetrable surface. Mr. Campion said the wetland exists because it is a gravel pit and is low. He said the runoff from the hillside is what needs to be controlled.

He said the proposed plan will improve the flooding issues in the area of the car dealerships and the National Guard building, etc.

Mr. James said he is more comfortable with the new map than he was last month. Chair Riley said she would vote against anything that overall reduces protections to the entire natural resources in the area.

Mr. Goodwin said if the zoning change is not accepted, the wetlands protection stays the same but the area next to the wetlands – the buffers – is not protected. Ms. Almy said she agreed with Mr. Goodwin and said DES frequently allows things the Conservation Commission does not like them to allow and has undone changes the Conservation Commission has proposed, especially to buffers. She said the City needs protection further away from the wetlands. Mr. Goodwin said if the map were drawn today, the City would never put IND-L zone all around a wetland area.

A MOTION was made by Bruce James that the Conservation Commission recommend that the Lebanon City Council accept the December 23 Zoning Amendment modification of the zoning district from RL-3 to IND-L zones as presented, with the following conditions:

- That extensive and detailed plans be provided to protect hydrological elements of the property;***
- That depth to ground water waterflow are quantified so the movement of water can be predicted and put off the hillside and off of impermeable surfaces;***
- That the final design will be created with the knowledge of where water will flow.***

The Motion was seconded by Don Lacey.

**** The Vote on the MOTION was approved (5-1: James, Oidtmann, Johnson, Lacey, Almy-aye / Riley-nay).***

A MOTION was made by Susan Almy that the Lebanon Conservation Commission feels no particular conservation interest in approving or opposing the other proposed zoning amendments as presented in the December 14, 2023 Meeting Agenda Packet. The Motion was seconded by Don Lacey.

**** The Vote on the MOTION was approved (6-0).***

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

**** The Vote on the MOTION was approved (6-0).***

C. Edwards Properties, LLC Rezoning Request

At 8:50pm, Chair Riley approved the appointment of Ms. Hirai to sit in for Dr. Oidtmann, who recused himself from the discussion about this agenda item.

Attorney Barry Schuster said this rezoning request is being made by the Volvo car dealership. He said it involves adding a conditional use permit for automobile sales and service in the RO-1 Zone. He said the property has been used as a car dealership since the 1960s. He said the zone was changed and the IND-L zone removed auto dealerships as a permitted use. He said any time the dealership needs to repave the parking area it must get a variance from the Zoning Board of Adjustments. He said there is a current debate going on whether a variance will be required for just an additional 15 feet of paved area on the property. He said to get a variance, the dealership must show a hardship. He said, for the dealership, it is a financial and practical hardship to have too many cars and not enough paved space to park them.

Chair Riley said she is concerned about this proposed change because there are other RO-1 zones all over the City, and the change would affect all RO-1 zones. She said what would stop someone from tearing down an existing building and create a car dealership. Mr. Schuster said making the auto dealership a conditional use means an owner would have to get Planning Board and site plan approval to create another type of property.

Mr. James said he is very concerned with the amount of impervious materials installed in the area. He said he has driven by that area for two or three years and has been worried that it will be paved over.

After further discussion, members determined that there may not be an issue that involves the Conservation Commission for this zoning change.

A MOTION was made by Barbara Hirai that the Lebanon Conservation Commission has not identified any conservation issues and therefore does not recommend approval or disapproval for the proposed addition of a Conditional Use Permit in the R0-1 Zone as presented in the December 14, 2023 Meeting Agenda Packet. The Motion was seconded by Don Lacey.

**** The Vote on the MOTION was approved (5-0).***

Ms. Almy announced that, when her term as a Conservation Commission member ends in January 2024, she is planning to become an alternate member and suggested that Ms. Hirai should be made a full member of the Conservation Commission. Mr. Reichert said they would both have to complete committee membership applications and submit them to the City Clerk before those changes can be accepted.

Mr. Lacey proposed that the Conservation Commission send a letter to the Lebanon Rotary Club, thanking them for the picnic tables that they donated to replace the existing old tables at Baker's Crossing.

A MOTION was made by Don Lacey that the Conservation Commission send a formal letter to the Rotary Club of Lebanon, thanking them for the procurement and delivery to Baker's Crossing Natural Area of two sturdy and attractive picnic tables to replace the two old ones and expressing the City's appreciation of over 30 years of the Rotary Club's commitment to the upkeep and beauty of this member of their string of pearls, which is enjoyed by so many in Lebanon. The Motion was seconded by Susan Almy.

**** The Vote on the MOTION was approved (6-0).***

D. COMMITTEE REPORTS

A. Biodiversity Group (Invasives)

Mr. Lacey said that Mr. Bob Barden cut a snowmobile trail through Baker's Crossing, which had been there years ago, but had not been used for a number of years. He said Mr. Barton is going to talk to Mark Gardner of the Snowmobile Group to see about re-establishing the regular snowmobile trail through Baker's Crossing. Chair Riley thanked Mr. Lacey for solving the mystery of who cut the trail because the City and the Snowmobile Group did not know about it.

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

E. OTHER BUSINESS

A. FYIs

None

B. Follow Ups

None

C. Workshops and Educational Opportunities

None

Mr. James asked if the Conservation Commission could plan a meeting just to catch up with its regular business. He said the outside requests for review that the Commission has received recently have taken up meeting time. He also suggested a two-hour work session to plan goals and strategies for next year. Mr. Reichert suggested the Commission plan to analyze the 2024 Strategic Plan and identify key items for the 2025 Strategic Plan.

F. ADJOURNMENT

The meeting adjourned at 9:30pm.

Respectfully submitted,
Paula Roux
Recording Secretary