City of Biddeford
Conservation Commission
January 26, 2023 6:00 PM Second Floor Conference Room & Zoom
https://biddeford.zoom.us/j/92640245802?pwd=aTJOV3hEOGMrbytLQ05uNGZUYjJlZz09
Webinar ID #926 4024 5802 Passcode #707995

Status: Conservation Commission Meeting 6:00PM, January 26, 2023, Second Floor Conference Room

1. **Call to Order**
2. **Approval of Meeting Minutes**
   2.1. Approval of Meeting Minutes from 12-15-22
   BCC_Meeting Notes 12.15.22.pdf
3. **State of the Budget-Denis Rioux**
   3.1. Fiscal Year 2023 Annual Budget is $3,000 with no expenditures to date.

4. **Mark Ward invoice payment protocol/payments**
   4.1. All Conservation Commission expenditures and invoices need to be sent to Nan Whitten for payment.

5. **Comp Plan**
   5.1. See City of Biddeford website link Project * Comprehensive Plan Update (biddeforfordmaineorg) to provide input on Draft City Comprehensive Plan Chapters. Remaining Draft Chapters including agriculture and natural resources will be presented to the Planning Board on February 1, 2023

   5.2. State of Maine New Housing Law LD 2003
   LD 2003 is state legislation sponsored by local Rep. Ryan Fecteau (D-Biddeford) that aims to address Maine's housing crisis by creating new allowances for duplex and fourplex homes in most areas.
   * Allows for us to four (4) units per lot by-right in most existing growth
   * Allows for two (2) units per lot by-right in other areas
   * Density bonuses for certain affordable housing projects
   * Signed into law in April 2022

   Phased Implementation LD 2003 is likely to have an impact on how our community develops and where growth occurs. At time of writing, the rulemaking for LD 2003 is ongoing.

6. **Review of Maya's draft letters (re December meeting)**
   6.1. See two attached letters
   81 Guinea Road_BCC Recommendation.pdf
   Divine Capital Development; Andrews Road_BCC Recommendations.pdf
7. **Erik: website/climate video update**

8. Climate

9. Thatcher B impairment mitigation, Mike Lowell

10. Newtown Road Projects Update

10.1 Coastal Oaks appeared before Planning Board for Sketch Plan 10-5-22, no further action since.

11. Election of Officers

11.1 Annually at its first meeting, the Conservation Commission shall elect a Chair, a Vice Chair and a Secretary.

12. Other Business

13. Next Meeting 2-16-23 6:00PM City Council Chambers

13.1

February 16, 2023	City Council Chambers
March 16, 2023	City Council Chambers
April 27, 2023	Second Floor Conference Room
May 18, 2023	City Council Chambers
June 15, 2023	City Council Chambers

We will update you when we can start scheduling for July meetings and later.

14. Adjourn

Biddeford Conservation Commission

Thursday, December 15, 2022

6:03 - 8:50 pm

Attendees: R. Rhames, D. Rioux, E. Heumiller, M. Atlas
Absent: C. Gastelum, B. Hadler, M. Lowell
Guests: E. Freeman, G. Mitchell, N. Whitten, Representative from Tarradyn and Fletcher, Selser & Devine

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1. Meeting Called to order at 6:03pm
2. Consent Agenda
    a. *Motion to approve September minutes (9.15.22) as submitted – D. Rioux 6:04p*
        - *Second – E. Heumiller 6:04p*
            - *No discussion*
        - *Unanimous approval*
    b. *Motion to approve October minutes (10.20.22) as submitted – D. Rioux 6:06*
        - *Second – E. Heumiller 6:06*
            - *No discussion*
        - *Unanimous approval*
3. Discussion
    a. Devine Capital // Andrews Road
        - Questions:
            - Elaborate on the access road off Andrews Road if the Turnpike exit is built where it is indicated
                - Developers indicate that they would hope for a signaled light where the roads intersect
            - Conservation land in the north-west corner of the plot. Are the easements going to include other areas around the wetlands (since a viable habitat requires not just wetlands, but also the land around it)
                - If turnpike does not go through, is it safe to assume that the land would go into conservation
            - Review responses to Mark Ward Report
                - IFW deemed vernal pools “non significant”
                - No floodplain wetlands on this property so they are not especially significant
                - The plans they submitted are in compliance with the zoning (development zone, presence of ag soils, etc)
            - DEP/Turnpike/Thatcher Brook – salting on roads
        - Recommendations from BCC
            - Botanist survey of rare plants, a database does not pick up the nuance of a natural space.
            - Consider expanding conservation easement to include upland because habitat requires more than just the wetlands
        - *Motion to request that the Planning Board request two items of the developer (1) a botanist survey of rare plants, performed at an appropriate season. (2) Expand the conserved area to include the upland areas between the wetlands. – D. Rioux*

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- *Second - M. Atlas 6:49*
    - *Discussion – Amend motion to include a request to clarify the allowed use of the upland areas. E. Heumiller*
- *Second amended motion – R. Rhames 6:53*
- *Is this a reasonable request, do we need to provide additional context and help the planning board understand why we are requesting these things.*
    - *Discussion – Amend motion to include an informational letter explaining the importance of these matters*
- *Second motion as re-amended - R. Rhames 6:58p*
    - *Unanimous vote*

■ @M.Atlas to draft letter with recommendations and explanations as to why so we can provide further context for the types of questions we are continually asking

b. Comprehensive Plan Review presentation Eric Freeman

■ Upcoming dates:
- Jan – collect stakeholder and community feedback
- Not all chapters are presented today, some are still being formatted, others are still being fleshed out
- Feb 1 – planning board workshop for all remaining chapters
    - BCC provide feedback before 2/1/22 meeting

■ Land Use Plan
- Land use categories – not ordinance or zoning based, rather existing land use
- 5 categories within growth area (everything not RF and commercial) // Removed coastal residential zone
    - Downtown Core
    - Urban residential neighborhoods
    - Suburban Residential
        - "Complete neighborhoods"
            - Encouraging infill
            - "15-minute neighborhood"
            - Access basic goods and services without needing to drive
    - Commercial & Industrial
    - Institutional
        - They have a master plan that impacts height, buffers, etc
        - This is not zoning specific
- Limited Growth
    - Rural Farm
    - Coastal Residential

■ Economy
- Mill District, courthouse, tourist
- Technology + business incubator (STEM)
- Limit parking to encourage housing
- Supporting working landscapes

■ Housing
- Adaptive reuse (work with what we have)
- Changes to zoning, density bonuses

■ Climate Change

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- Taskforce work, climate action plan

c. Planning Board Updates
   - Hidden Hills
     - Planning Board has requested to see the full Mark Ward report
     - Send invoices to Nan
   - 81 Guinea Road
     - Peter Mcpheeters Presentation:
       - 2 parcels that add up to 20 acres; 4 lots
         - Would this trigger site-law review?
       - How can we limit the development to be sure there are not further lots built on the land
       - Land owner is open to easements or deed restrictions
       - Concerns about LD2003
         - The land has to support the development, so it sounds like this could not qualify based on the owners description of the parcel
     - Matt Haas comments
       - Believes that the technical and environmental reviews of this property have not been considered
       - Old growth pines, when one is cut other falls; how is that being considered
       - Slopes of the roads seem unsupportive
       - Feeder creek disruption
     - *Motion to request that the Planning Board host a site walk on the land. M- Atlas 8:10*
       - *Second - E. Heumiller 8:10*
         - *Discussion: amendment to include biologist, city planner, engineer*
           - *Can it go to the city planner and engineer review prior to the site walk*
           - *Preliminary approval has been granted, they have not made their final applications to finalize the plans*
           - *The steps required for this development are still underway (peer review, recommendations to the planning board, final application)*
           - *Are we intervening too soon?*
           - *Recommend that a site walk with qualified professionals take place before a decision is made, consider deed restriction and conservation easement.*
       - *Amendment: Recommend that a site walk with qualified professionals take place before a decision is made, consider deed restriction and conservation easement. – C. Gastelum 8:25*
         - *Second - M. Atlas 8:26*
       - *Unanimous approval*
       - M. Atlas to write the recommendation

d. Updates
   - Route 111 South Street Feasibility study (3rd meeting)
     - Well attended, virtually and in person

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        - Majority of attendees were South Street residents worried about increased traffic
        - Concerns about loss of habitat
    - Skipped Thatcher Brook (M. Lowell is absent)
    - Climate Task Force Council resolve on race to zero
    - Saco Valley Land Trust and Scarborough Land Trust Event
        - Role of forests in mitigating climate impacts (Tom Doke)
        - Scarborough – Ocean based presentation
            - Scarborough marsh will be flooded
            - Saco sewage treatment will have to move because of its placement
e. *Motion to adjourn - E. Heumiller*
    - *Unanimous vote*

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Date: January xx, 2023

To the Members of the Biddeford Planning Board

As the Conservation Commission, we are writing to you with two recommendations regarding the proposed development at 81 Guinea Road. After a presentation made by Peter McPheters on December 15, 2022 with commentary from Matt Haas it is our determination that the following two points of action would be well advised.

(1) A site walk should take place with qualified professionals to evaluate the viability of the access road, the impacts to the stream, the slopes of the road, and questions of architectural and ecological integrity.
(2) Consider a deed restriction and conservation easement to ensure that the property is not further developed beyond the proposed lot. The land owner expressed that they were agreeable to this idea.

Thank you for your consideration. For any clarifications, please feel free to reach out to the Conservation Commission by emailing conservationcommission@biddefordmaine.org (internal note I just tested this email address, I'm not sure that it is working correctly),

Richard Rhames; Vice Chair
Denis Rioux
Bryan Hadler
Erik Heumiller
Michael Lowell
Maya Atlas; Secretary

Date: January ZZ, 2023

The Biddeford Conservation Commission, is writing to the Biddeford Planning Board in response to their request for a review of the Divine Capital development on Andrews Road.

Please note that in addition to the recommendations, we are also providing some brief narrative to help provide context for why these recommendations are being made. The Conservation Commission has repeatedly observed a need for similar recommendations on various development plans proposed in Biddeford. It is our hope that by providing this context, we can support the Planning Board in flagging these nuanced and important details at earlier stages in development plans.

Informed by a presentation to the BCC by XX and YY on December 15, 2022, we are making the following recommendations to the Planning Board:

(1) A rare plant survey should be performed by a botanist on the entire parcel.
    (a) The current data provided to the developer was gathered using a database. The issue with using this type of data as a final decision is that it is often out of date and generalized by region. An audit performed by a botanist (or specialist) in a season where biodiversity can be seen and not inferred will yield more accurate and helpful information.
    (b) As it was referenced by the engineer of the project, the pond on the property has changed over the years (visible even in Google Maps historical images). Changes to bodies of water impact species present and such changes would not be detectable by a database.
(2) Conserved areas should be expanded to include not only the wetlands, but the upland areas between them.
    (a) Conserving strictly wetlands does not successfully achieve the purpose of conserving land. Species of flora and fauna that rely on wetland habitat also need the uplands nearby to perform their necessary functions.
(3) Clear parameters should be put in place for permissible future uses of open spaces on the parcel
    (a) Clarifying what types of development can be added to the various parts of this parcel that are not currently proposed for development.

Thank you for your consideration. For any clarifications, please feel free to reach out to the Conservation Commission by emailing conservationcommission@biddefordmaine.org (internal note I just tested this email address, I'm not sure that it is working correctly),

Richard Rhames; Vice Chair
Denis Rioux
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