

Lincoln Conservation Commission (LCC) - Public Meeting Minutes

March 9, 2022

Approved: ****

Members Present: Susan Hall Mygatt (Chair), Amber Carr, Becca Fasciano, Ari Kurtz, Laura Regrut, Richard Selden (arrived at 7:40 p.m.), and Kathleen Shepard

Conservation Staff: Michele Grzenda, Conservation Director; Stacy Carter, Conservation Planner

7:00 p.m. Housing Choice Act Response

Ms. Vaughn-MacKenzie, Planning Director, presented a proposed letter to DHCD regarding the Draft Guidelines to the Housing Choice Act. The letter has been approved by the Select Board. This letter will be signed by the Planning Board and South Lincoln Planning and Advisory Committee (SLPAC), and Ms. Vaughn-MacKenzie requested that the Conservation Commission review and consider signing onto the letter. Wetlands permitting will be a large determinative factor in any development or redevelopment in the mall area. Lincoln has been categorized as a “bus service” community by the new Multi-Family Zoning Requirements for MBTA communities, but the Planning Board believes that Lincoln should be categorized as a commuter rail community instead. The designation that the Town receives will determine the timeline by which the new zoning requirements would be applicable – categorization as a commuter rail community would give the Planning Department and the Town more time to thoughtfully consider appropriate zoning changes.

The Planning Board is also requesting further flexibility from the state about the minimum housing and zoning requirements (extremely burdensome due to wetlands and other factors near our MTBA stop) and is requesting clarification about water use permits and wastewater treatment to support new housing. This letter also requests improvements to the MBTA station and services.

Motion by Ms. Shepard to authorize Mr. Kurtz and Ms. Mygatt to sign the letter as co-Chairs of the Commission; seconded by Ms. Carr; Roll call vote: each member responded Aye.

7:15 p.m. Conservation Land Encroachment Update; 134 Sandy Pond Road

On February 16, 2022, the Commission received a letter from Selina and Al Rossiter (134 Sandy Pond Road) requesting permission for them to continue maintaining lawn on conservation land. The Conservation Department became aware of the approximately 3,000 s.f. of lawn encroachment in October 2021, when the Rossiters were conducting a landscaping job in the area. The matter was discussed with the Commission on November 10th, 2021, when it was agreed that the Rossiters would have their property surveyed and that the conservation land encroachment would be restored. The Rossiters are still amenable to restoring the section of area which is currently dirt (as a result of their landscaping project) with native plants. This approximate 980 s.f. area is marked as “Area A” on a sketch they attached to their 2/16/22 letter. However, the Rossiters have requested a temporary license from the Commission to continue using the existing lawn on conservation land (shown as Area B (1,720 s.f.)) until the property is conveyed to their heirs or to a third party. The Rossiters have also agreed to remove the deer fencing and posts, and the compost container, from the conservation land. In addition, the Rossiters have agreed to place rebar with caps about every 30 feet along the property line where the encroachment exists.

It was Ms. Mygatt’s suggestion that some type of agreement could be authorized by the Commission which would allow the Rossiters to continue maintaining lawn on conservation land for a period of time. It was Ms. Carr’s opinion that conservation land, which is protected under Article 97 of the state constitution, cannot be used for private benefit and should be returned to a natural state. Mr. Kurtz is amenable to a portion of the conservation area which is lawn to be maintained as a meadow (with an annual mow) and indicated that lawn on conservation land is not appropriate. Ms. Fasciano agreed with Mr. Kurtz and believes that a natural meadow could be established on the conservation land area.

Buzz Constable, resident, stated that the Commission should not grant a license since the land is protected by Article 97. However, it was his suggestion that the Commission could find a way to work with the owners on

granting permission for them to continue to utilize lawn on conservation land for a defined period of time (5 years) as long as the land ultimately gets restored. Mr. Constable stated that such a restoration plan could be set forth in a recordable document, binding on the Rossiters and any subsequent owner of the property, which would acknowledge that a portion of lawn is on conservation land, and that upon the sale of the property the land would need to be restored.

Rosamond Delori, resident and a friend of Ms. Rossiter, spoke in favor of the Commission allowing the Rossiter's to continue maintaining lawn on conservation land.

Discussion ensued. Some Commission members expressed interest in finding a compromise which would allow the Rossiters to continue using conservation land as lawn for a period of time. It was Dr. Selden's opinion that giving a reasonable amount of time to restore the area is an appropriate action. The restoration timeline should be based on the seriousness of the encroachment and should factor in the length of time in which the encroachment has occurred before being brought to the attention of the landowner. Given the fact that the encroachment appears to have existed for over 40 years, it seemed reasonable to some of the Commission members to give a longer period of time to restore the area. Ms. Carr re-stated her position that agreeing to allow the encroachment to continue for 5-7 years is precedent setting and that it is her opinion that the LCC does not have the authority to allow an abutter to use conservation land as private lawn. However, the remaining Commission members were amenable to giving the Rossiter's 5-7 years to restore the area as long as an agreement was signed and recorded, thereby binding the Rossiters and future owners. Ms. Grzenda expressed her concerns about the Commission allowing an encroachment on conservation land to remain for a long period of time. Ms. Grzenda believes that this kind of encroachment is not unique and can be restored quickly. It is Ms. Grzenda's opinion that the Commission should handle all encroachments in a fair and consistent manner and react quickly to encroachments once discovered. Ms. Grzenda re-iterated that the Commission should require the Rossiters to cease using any part of conservation land either by actively restoring all areas or allowing Area B to grow in naturally.

Ms. Mygatt offered to work with the Rossiters' attorney in drafting a document for the Commission to review at their April 20, 2022 meeting. The document would indicate that prior to the sale of the property, the Rossiters would have an obligation to restore it. The Commission agreed to discuss this matter further at 7:30 p.m. on April 20, 2022.

8:45 p.m. Administrative Matters -

- Review Meeting Minutes from February 16, 2022 - Motion by Ms. Mygatt to approve the minutes; seconded by Mr. Kurtz; roll call vote: each member responded Aye.
- Ms. Grzenda provided an update Lincoln's trail use assessment and suggested that a public meeting be held in April to discuss Lincoln's draft trail use regulations. The Commission has reserved April 13, 2022 for that public meeting.
- Ms. Grzenda informed the Commission that Land Manager Emma Coates has submitted her resignation as she has accepted a planner position with the Town of Wellesley. The Commission and staff wish her well. Ms. Grzenda recommends that the position of Land Manager be offered to Land Steward Ryan Brown and the Commission was amenable to that. Discussion ensued regarding the Land Steward position. LLCT staff suggested that the Land Steward's duties be modified to incorporate some ranger duties on the weekend. Some Commission members agreed that having a ranger available on a weekend day would help enforce the new trail use regulations anticipated to go into effect this summer.
- Dean CR Update – Motion by Ms. Carr to sign the Conservation Restriction; seconded by Mr. Kurtz; roll call vote: each member responded Aye.

Meeting adjourned at 9:30 p.m.