

CONSERVATION COMMISSION

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TOWN HALL

238 Danbury Road

Wilton, Connecticut 06897

WILTON CONSERVATION COMMISSION

WEDNESDAY December 6, 2017 – 7:30 P.M.

TOWN HALL ANNEX - MEETING ROOM "A"

RECEIVED FOR RECORD
TOWN OF WILTON
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BY: (KC)

MINUTES

- I. PRESENT: Susan DiLoreto (Chair), Frank Simone, Jackie Algon, Jade Hobson, Colleen O'Brien, Jeff Lapnow, Brice Chaney
- II. ALSO PRESENT: Lynn Vanderslice, First Selectwoman; Lori Bufano, Selectwoman; Mike Conklin, Director of Environmental Affairs; Liz Larkin, Recording Secretary; Peter Gaboriault, Wilton Land Conservation Trust; Karen Silverman, Resident
- III. CALL TO ORDER – Ms. DiLoreto called the meeting to order at 7:31 pm.
- IV. BOARD OF SELECTMEN REFERRALS

A. Millstone Property Holdings, LLC – 180 Millstone Road - review proposed draft Amendment to Conservation Restriction

Ms. Diloreto explained that even though the Commission held a special meeting to discuss this matter last week, she was not comfortable submitting the comments as drafted. She noted that full-size revised plans are now available to review with the existing and proposed trails plotted. She added that the Health Department has approved the proposed septic location and she thinks the new version of the restriction is less ambiguous and has a net benefit to the town.

Mr. Gaboriault stated that the Wilton Land Conservation Trust has spent more than a year with the new owners discussing the property and their wishes as it relates to their restrictions. He confirmed the Land Trust is excited for the new restriction as they will obtain a long pedestrian trail on the property at the expense of the owners. He confirmed the locations of the newly proposed smaller buildings are in areas that are already disturbed with no additional tree removal. The existing restriction allowed for construction on a steep slope which would require grading and new driveways, which has been abandoned. Mr. Gaboriault added that he spoke to Tony Grassi, the original grantor, and he agreed that the idea of the restriction is to protect the scenic and pastoral views which the Land Trust assumes this new trail will accomplish.

Mr. Gaboriault stated the revised agreement keeps all activities out of the conservation area and keeps all disturbance in an already disturbed and flat residential reserve area. He confirmed the newly proposed riding ring will be smaller than originally requested and once the revised restriction is executed, it will close off any additional requests for development in the future. Mr. Gaboriault stated there is no trail there now except for

some pre-existing horse trails which are not designated for pedestrians. Mr. Simone countered that he walked the trail that afternoon with Mr. Conklin. Mr. Gaboriault responded that these are not deeded pedestrian trails. Mr. Conklin stated they followed a trail marked by yellow flags and confirmed the existing town trail is marked in blue on the plan, while the horse trail is in red. Mr. Gaboriault stated the owners have a big issue with pedestrians getting in the way of the galloping horses for safety reasons. He noted the trail as proposed in green on the plan is not final and there will need to be some switch-backs in certain steep places. Mr. Gaboriault added the neighbor has over 10 acres and is willing to create an easement or sale of a portion of the site that has an interesting large rock and can then connect to the existing Deer Run Land Trust parcel for connectivity.

Mr. Gaboriault advised that the owners just completed a portion of the new trail near where the horses are pastured by placing a few inches of woodchips on the surface. He states this was an important point for the homeowners in this location due to the proximity to the expensive and rare horses they will keep. He also stated the boardwalk constructed by the Finks goes through a swamp wetland and connects to the Land Trust parcel on Deer Run Road which then connects to Woodcock Nature Center. The owner plans to remove the fences near the paddocks to allow for trail passing and a new bridge will be built along the Comstock Brook.

Mr. Gaboriault stated the Land Trust will be clearing invasives and building a parking area, but the trail will be built entirely at the cost of the owners, with maintenance being the responsibility of the Land Trust. Ms. Diloreto asked who the Land Trust would use for the maintenance. Mr. Gaboriault responded they hope to use Dave Francefort, a professional trail builder that the town has used to help with trail maintenance in Town Forest and Quarry Head. He also indicated the current violations that exist will be cleaned up voluntarily while noting this is not always easily obtained. Mr. Gaboriault stated this is the best deal we will get from the owners and the offer has a time constraint. He commented that the owners may choose to build a much larger building that falls within the existing restriction if all parties do not agree; and he does not want to lose these rights. He confirmed the Health Department cannot legally deny a septic location based on a Conservation Restriction.

Mr. Simone stated he and Mr. Conklin walked the property earlier in the day and he was disappointed in the trails and the fact that the owners want to push the trail farther away from the farm and into the woods. He said pedestrians can walk on Tito Lane that already exists. He also reviewed the amendment principles provided by the Land Trust Alliance which include: serving the public interest, net benefit or net neutral results, and it cannot result in permissible private benefits. He stated the town spent \$2,000,000 of tax payer's money and they expect this will not be changed unless there is a very good reason. He does not want to establish a precedent that these agreements can be changed.

Mr. Simone stated the proposed parking area for the trail is difficult to access, he does not like that dogs are excluded from the property, and the boardwalk will be expensive to replace so this is not a benefit in his opinion. He raised concern about the loss of the scenic vistas as the proposed trail is in the woods. He noted he liked the location of the riding ring but he is neutral on the proposed hoop houses even though they are bigger than allowed.

Mr. Conklin reviewed the proposed trail in its entirety. He noted the blue trail on the plan is where the public is allowed to walk with the current agreement. He stated there is a current right to build the parking area which is fairly level and will be gravel which will keep cars off the road. He noted the green trail on the plan is where the new trail is

being proposed and he does not think it is ground-truthed. He stated the parking area is not feasible as it would require retaining walls which would increase the disturbance and cost. There is also a stone wall and large hill with an embankment that will be difficult to traverse. Mr. Conklin stated the main reason a trail was requested on the site is so the public can see the property being protected. He added that there are more linear feet to the proposed green trail but the existing blue trail is a better option.

Mr. Conklin noted there is a pasture area with a great view but the owner just put fences up and built a trail with woodchips through the woods with a scrub-shrub area that impedes the views of the undulating pasture land. He also reported that he checked the existing boardwalk and it is already rotting as he discovered reinforcement with screws and sections have been repaired. He noted that the swamp is foul-smelling in this area and not something the town wants to inherit due to the cost of repairs. The blue trail keeps the walkers out of the wetland and down to a nicer paved driveway. There is high value from the blue trail as you can get glimpses of the farm and the associated activities.

Mr. Conklin advised that the upper section of the proposed trail is impassable due to fencing that was erected. He noted that there will need to be changes to the proposed trail in this area as there is a steep rock ledge that can be dangerous for some unsteady walkers. He confirmed the blue trail ends at the break in the stone wall and the property is staked in this area. He stated there is room to walk in the town right-of-way as this provides the most amazing views and walking on Tito Lane is safe. Mr. Conklin suggested keeping the blue trail in place and with the parking area in the currently allowed location. Mr. Gaboriault stated the owners were against having the parking area in that location as it is too close to the horses and reiterated there is no trail there now. Mr. Gaboriault added that the owners are willing to put in excess of \$50,000 of improvements into the trail and he does not want to lose this opportunity. He also noted that he thinks the boardwalk is okay and promised no obligation to the town for maintenance.

Mr. Gaboriault stated the green trail on the map is not the final trail design. Ms. Vanderslice was surprised that the trail location was not chosen and written by the Land Trust as testified by the Millstone Property owners. She stated she was hesitant to sign the conservation restriction as shown on the plans if they are not exact and final. Mr. Gaboriault stated the owners may abandon the entire conservation project if this is denied. He added that he fought hard for dogs to be allowed and the owners were not receptive to this. Mr. Conklin stated the owners have already cleared trees and built a portion of the trail without a permit and clearing anymore without the permit would be even more of a conflict. Mr. Conklin also noted the blue trail would be easy for his 6-year-old to pass and does not require any chips or building but maybe could use some signage.

Ms. Algon asked if any more negotiation will be taking place with the owners. Mr. Gaboriault responded that the owners need a space for their horses for next year and the decision is made by the Board of Selectmen and Planning and Zoning. Ms. Vanderslice added that the owner currently lives in Rowayton and the horses are kept in South Salem, New York until they can move them to Wilton. Mr. Conklin cautioned against approving something preliminarily. The commission decided to create a table of the pros, cons and net neutral items on the revised restriction. The positives included: the reduction of the size of the riding ring and land disturbance, an improved location for the riding ring and the farming and hoop houses will remain. The net neutral items listed included: the location of the septic and the hoop house location. The negatives include: the proposed parking lot location, the location of the trails, the loss of views, establishing a precedent, the existing violations, and a bond should be required for the clearing of the trail.

Ms. Hobson asked why the Land Trust has not built the trail as required in the existing restriction. Mr. Gaboriault responded that the trail has been blocked by fallen trees and the eight-foot easement is too tight to fit a truck into; so everything will need to be cut and dragged out by hand. He added that the Land Trust spends thousands of dollars every year to enforce their easements. Ms. Vanderslice stated that without the owners agreeing to a bond for the trail, there is no way to guarantee it will be done correctly and there could be further violations, much like what happened with the Finks. Mr. Gaboriault stated he has been working with the owners for some time now and he trusts them enough to do the right thing. Ms. Vanderslice was adamant that she would want this bonded. Mr. Conklin noted that residents may not have had issue with the trail not being built as the Fink's allowed walkers all over the property; so a trail was not needed. Mr. Gaboriault offered to add the Land Trust required maintenance to the restriction. Mr. Conklin stated he did not like the portion of trail they already built as it is spongy with wood chips and noted that the boardwalk that was constructed by the Finks did not require a permit as previously discussed.

Mr. Chaney stated that he was upset that the commission just received the full size plans and did not have an opportunity to walk the proposed trail prior to making this decision. Ms. Vanderslice stated her concern that there will be no enforcements on the trail and she is not confident that the trail will ever be built. Ms. Chaney stated the commission would be better served if they had more time to walk the site and review the new plan. Ms. Vanderslice stated it is unrealistic to change the location of the trail and she does not want to sign an agreement with any unknowns. Mr. Lapnow stated if most of the blue trail is accessible today, with adding the switchbacks at the top will be better, we should have the negotiation power to obtain this. Ms. Vanderslice stated that everyone agrees the smaller size of the riding ring is a benefit but the revision of the trail is not really a benefit as the Land Trust states. Mr. Gaboriault countered there is a benefit as the town will have more than two miles of trails for free.

Ms. Diloreto suggested only amending the agreement for the septic location and the hoop house and remove the trail entirely from the agreement. Mr. Conklin stated the owners have been quoted as stating there will be no more "asks". Mr. Simone suggested the 3-acre provision is cleaned up in the agreement.

Ms. Silverberg, of 150 Pipers Hill Road, stated she has been waiting to be able to walk on the property since 2001 as she cannot figure out how to access the property. She stated that it is functionally flawed as there are no marked trails and fences everywhere. If this amendment is not approved, she fears the owners will close off the property for good. She stated she thinks the current blue trail has failed to work. Mr. Simone countered that the green trail does not have open access to the property. Mr. Conklin stated the town could improve the current signage and mark the trails. Ms. Silverberg asked why this has not already been done. Mr. Simone stated nobody cared as the entire property was accessible. Ms. Vanderslice noted that she spoke to Paul Hannah, the First Selectman that was seated during the original restriction, and he confirmed he never walked the trails as the entire farm was accessible but that what was there probably did not work. Mr. Chaney asked if the Commission if they think the trail is worth our time, do we think we can make the trail usable for the public. Ms. Silverberg asked if a new map could be drawn that may be agreeable and stated there does not need to be views from every angle along the entire trail.

Ms. Vanderslice stated the town paid \$2,000,000 to preserve the view and prevent single-family homes from taking over the area. Mr. Lapnow stated if we make the owners mad at our requests, they will not remove the fencing and we get nothing. Ms. Vanderslice added that there are three parties to this agreement and if one party does not agree, there is no change. Mr. Conklin stated the comments to the Board of

Selectmen should include eliminating the proposed trail from the amendment and the existing fencing that is blocking passage should be removed.

The Commission reviewed the suggested changes that were red-lined by Ms. Diloreto on the restriction document. All Commissioners were in agreement with the changes.

Mr. Chaney MOVED to DIRECT Mr. Conklin and Ms. Vanderslice to finalize the amendment based on the conversations and information shared at the meeting, SECONDED by Mr. Lapnow and CARRIED 7-0-0.

V. PLANNING AND ZONING REFERRALS

- A. SP#439, Millstone Property Holdings, LLC, 180 Millstone Road, for a riding stable for 28 horses, indoor and outdoor riding ring**

Mr. Conklin advised that this referral is from Planning & Zoning and showed the proposed locations for the barn, riding ring, and parking. Ms. Diloreto asked if horses can safely walk on permeable pavers as she would like to request pervious pavement wherever possible. She also suggested that the stone walls be protected where possible during construction as these walls add value to the habitat and pastoral views.

Mr. Chaney MOVED to RECOMMEND utilizing permeable pavers or hardscape wherever possible and to protect the stone walls, SECONDED by Ms. Algon and CARRIED 7-0-0.

- B. SP#440, Rigby/Maneyrol, 270 Newtown Turnpike, to allow accessory dwelling unit within an existing detached garage**

Mr. Conklin advised the Commission that he did not think this referral would be something the Commission would be recommending anything additional as all activities are inside an existing structure. The Commission agreed there are no comments on this referral.

VI. INLAND WETLAND REFERRALS – None

VII. ONGOING BUSINESS

- A. POCD Discussion** – Ms. Diloreto advised there is no POCD Meeting in December but there is a website residents can visit for information: <https://wilton2029.com/>.

- B. Parks Reports** – Item was tabled due to the late hour.

- C. Conservation Activity Log Updates**

Horseshoe Pond Long-Term Management Plan – Item was tabled due to the late hour.

Park Walks & Talks – Item was tabled due to the late hour.

Kent Pond Management – Item was tabled due to the late hour.

- D. Work with other Commissions/Committees**

- A. Tree Committee** – Item was tabled due to the late hour.

B. Deer Committee – Item was tabled due to the late hour.

C. Planning & Zoning Liaison – Item was tabled due to the late hour.

VIII. NEW BUSINESS

A. 2018 Meeting Schedule – The commission decided to hold the July Meeting on the 2nd Wednesday of the month on the 11th as it falls on the 4th this year. All other meetings will be held on the first Wednesday of the month except in August where there is no meeting.

Ms. O'Brien MOVED to APPROVE the 2018 Meeting Schedule as amended, SECONDED by Mr. Lapnow and CARRIED 7-0-0.

B. 2018 Elections – This item was tabled due to the late hour and at the request of the Chairwoman, as she is not certain she can continue the role in 2018.

C. Discussion of Conservation Commission Roles & Responsibilities Part I – Item was tabled due to the late hour.

IX. APPROVAL OF MINUTES

A. 11/1/17 Meeting Minutes & 11/28/17 Special Meeting Minutes

The following edits were requested to be made to the 11/1/17 Meeting Minutes:

1. Mr. Chaney did properly notify staff of his absence prior to the meeting.
2. Item C Paragraph 1 Horseshoe Pond: Ms. Dimoreto stated she would begin drawing the full plan in January probably for discussion at February Meeting.
3. Item D Paragraph 1 Tree Committee: proper pruning practices “for professionals and residents”
4. Page 2 First Full Paragraph: change “not privy to” to “not a party to”
5. Page 2 Second Full Paragraph: Remove “They will not subdivide the property”.

Ms. Hobson MOVED to APPROVE the 11/1/17 Meeting Minutes as amended, SECONDED by Ms. O'Brien and CARRIED 7-0-0.

The 11/28/17 Special Meeting Minutes Approval was tabled as all Commissioners were not able to review them prior to the meeting.

XI. ADJOURN – Ms. Hobson MOVED to ADJOURN at 11:20 pm, SECONDED by Mr. Lapnow and CARRIED 7-0-0.

Next meeting will be January 3, 2018.

Respectfully submitted,
Liz Larkin, Secretary, Environmental Affairs