



Londonderry Conservation Commission
Tuesday, April 25, 2023
Minutes

Present: Marge Badois, Chair; Gene Harrington, Vice Chair; Deb Lievens, member; Bob Maxwell, member; Tiffani Macarelli, member; David Heafey, member; Jim Leary, alternate member; and Mike Speltz, alternate member

Absent: Susan Malouin, member

Also present: Amy Kizak, GIS Manager/Comprehensive Planner and Michael Malaguti, Town Manager

Marge Badois called the meeting to order at 7:30pm. M Badois appointed M Speltz to vote for S Malouin.

Wetland Permit – Wallace Farm – Map 16, Lots 1 & 3 – 1 Bridle Path & 48 Perkins Rd: Luke Hurley, BSC Group, presented on behalf of the applicant. L Hurley stated the area under consideration was permitted back in 2014 for the development that is currently there, including the roadway coming through off Perkins Way. Interstate 93 is to the east of the property and Perkins Road is to the west. There are several condominium units already in place. A hotel is directly to the north, and just beyond that is a self-storage, a cigar shop, and Route 28. The whole project was permitted back in 2014, including two stream crossings and some other wetland impacts. The first two phases of the project were carried out under that permit. The permit expired in 2019 and the applicant did not get an extension on it. The applicant now needs to get a permit for remaining impacts left for phase three. Nothing has changed from the original application, as the new permit has the same roadway layout, stormwater drainage, number of units, and road length and width. The alteration of terrain permit was extended a couple of years ago, so it is current even though the wetland permit has lapsed. L Hurley identified the remaining impacts to be carried out on the plan. In 2014, the Commission supported the permit. Any wetland delineation over five years old has to be verified per the Wetlands Bureau. L Hurley went out and walked the property to determine that the wetlands were the same size as in 2014 and he confirmed they are. There are four remaining impacts. Impact area four is 110 square feet. Impact area five is for the edging and totals 2,220 square feet. Impact area six is where the old farm path comes through a stone wall and is 250 square feet. Impact area seven is the original stream crossing and it is the same proposal as before. It is a Tier 1 stream crossing. The drainage area is about 40 acres. The original design meets the requirements of a Tier 1 stream crossing. It is 1,290 square feet of impact and the applicant will be installing a 78'x1'x2' box culvert to allow the water to continue to flow. L Hurley asked if there were any questions.

D Lievens stated that she remembered walking the site for the original permit. L Hurley replied that he knows some current Commissioners had been involved in the original decision, and this is a straightforward request for a lapsed permit for remaining work. The remaining work on this site is 3,770 square feet based on the four impact areas. M Speltz asked about buffer impacts. L Hurley replied that there are buffer impacts associated with the project. L Hurley identified that the buffer area impacts are on the plan and stated that the buffer impacts visible on the plans are for the entire project, not just the



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36 remaining ones for the new permit. M Speltz asked if wetland impact four was associated with a buffer
37 impact. L Hurley said no. M Speltz asked if buffer restoration was the same as buffer impact. L Hurley
38 replied they were not. D Lievens asked if there was a need for a conditional use permit. M Speltz asked if
39 conditional use permits expire on the same schedule as wetland impact permits. A Kizak said she
40 believed not but she would have to verify that. L Hurley showed the buffer impact plan where the
41 impacts were associated with each area. L Hurley pointed out where there was approximately 11,000
42 square feet of buffer for road access coming in and going through. There are about 3,000 square feet of
43 buffer impact remaining separate from that one. A rough total would be 14,000-15,000 square feet of
44 impact for phase three. M Speltz asked if there was slope grading. L Hurley replied that buffer there is.
45 Some are direct impacts for the road and for grading, and some are for the stream crossing. M Speltz
46 asked how the drainage moved through the property. L Hurley replied that it runs from the south on the
47 right side of the plan and flows through the middle of the plan south to north and off the property near
48 the hotel. M Speltz asked about the permit application where the applicant answered yes in two spots:
49 one where it asked if they reduced the road width and one where it asked if they used bridges instead of
50 culverts. He isn't clear to what that was referring, as all he sees is culvert. L Hurley replied that it is open
51 culvert. M Speltz stated that their original concern had been wildlife connectivity. L Hurley replied that
52 they were working with Fish & Game on that issue. D Lievens asked for clarification if elderly housing
53 was part of this project. Karl Dubay joined L Hurley, and replied that he was involved in the original
54 permitting, and they had pre-planned for elderly housing but never presented it to the planning board. K
55 Dubay continued to say that they would formulate a plan with the town for what could go in that spot in
56 the future. M Speltz asked if the development would be required to mow the side slopes. K Dubay said
57 no. M Speltz stated that he would like a comment included to encourage the planning board to follow
58 the recommendations from Fish and Game.

59 D Lievens made a motion that they make a recommendation to DES to renew the permit with M Speltz's
60 comment included. D Heafey seconded. The motion passed, 7-0-0.

61 **Conditional Use Permit – Winnie Estates – Map 6, Lots 53 & 58-2 – 20 & 22 Young Rd:** Jeffrey Brem,
62 Meisner Brem Corporation, engineers for Winnie Estates, presented. J Brem stated that Winnie Estates
63 is a 25-acre project located in R3 zoning with 21 lots proposed. There is an existing driveway for an
64 existing house, and the Commission asked the developer to remove that driveway, remove the culvert,
65 and reconnect the two wetland lines on each side. The construction of Winnie Estates will be in two
66 phases and all the things being discussed today are in phase one. They are planning on ripping up the
67 driveway and culvert. The Commission had been fine with the work being done in two phases. Staff and
68 the planning board would like it done all at once instead, so the applicant is now formally requesting the
69 conditional use permit. J Brem showed the plan to remove two parts of the driveway and restore the
70 area, including the planting and vegetation plan. The area of each section is 2384 square feet and 3434
71 square feet, for a total of 5818 square feet, and the restoration is 2090 square feet. J Brem stated that



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he hoped to get a recommendation for approval in advance of the Planning Board meeting on May 10, 2023, and indicated that staff had no issues with the plan.

M Speltz asked if the Army Corp would get credit for the restoration. J Brem did not know. M Speltz stated that he hoped the Commission would support the plan. D Lievens stated that the plan was very good.

D Lievens made a motion to recommend to the Planning Board that they approve the conditional use permit. G Harrington seconded the motion. The motion passed, 7-0-0.

Old Business

Moose Hill Lease: M Malaguti presented the information on the Moose Hill lease. Before his current position of Town Manager, he had been involved in its acquisition as an attorney for the Town. The front five acres are held by Town Council and unencumbered with any conservation or open space restrictions. The rear 21 acres are held under the management of the Conservation Commission under RSA 36-A. The transaction was partially funded by the Commission's Land Acquisition Fund and partially by the Drinking and Groundwater Trust to protect at least one wellhead area on the parcel. There are a number of restrictions on the rear area, including deed restrictions and those under RSA 36-A. When Andy Mack, the prior owner of the Moose Hill Orchards, sold the full operation, the sale of this parcel to the Town was already underway and separate from the other sale. When the property transfer for this parcel went through in June 2021, Moose Hill Orchards was farming the property, and the Town still needed someone to farm the orchard. The Town came to an agreement with Kyle Chrestensen, the new owner of Moose Hill Orchards, to farm the property between June and November 2021, when the lease expired, to maintain the parcel in its current condition, keep all revenue from the parcel, and pay rent to the Town in the amount of \$1. Mr. Chrestensen wanted to renew the lease, but the Town Council and Conservation Commission were not looking to enter into a long-term lease. In December 2021, the Town solicited interest for a lease of this parcel for apple orchards and other permissible agricultural uses, under the same terms as the prior lease agreement. The Town received twelve applicants. The Town felt that the only entity with the requisite apple orchard knowledge and economic ability to maintain it at that time was Moose Hill Orchards. There had been conflict between the Town and Mr. Chrestensen, particularly over his decision to allow less public access to the Moose Hill Orchards than the previous owner, Mr. Mack, had allowed. The lease between Moose Hill Orchards and the Town was approved, and it expired on November 24, 2022. There has been no lessee since then. There had been talks regarding a new lease involving the Town Council and Conservation Commission with Sunnycrest Farms, owned by the Hicks family. On Monday, April 24, 2023, the Town Council voted to lease the front five acres to Sunnycrest Farms for a period of five years with the option to renew. M Malaguti and the Town had been negotiating with Sunnycrest Farms for a lease with a 20-year term, for a rental fee of \$1, with the lessee entitled to all revenues generated, and with the lessee responsible for all care and maintenance of the apple trees. The Commission has the right to enter into a lease under RSA 36-A. The



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108 lease is subject to the terms of the conservation easement deed by which the Town acquired the parcel,
109 keeping it as open space but allowing for agricultural use. M Malaguti would like to move quickly
110 because there is agricultural work that needs to be done soon.

111 M Speltz stated that he believes that leasing to Sunnycrest Farms would be a low risk transaction due to
112 the restrictions on the parcel and the conditions in the lease. He recommends that the Town Manager
113 signs the lease. D Lievens wanted to make sure that Sunnycrest Farms will continue to be able to follow
114 their own orchards' guidelines in regards to dogs in the orchards to follow food safety rules. M Malaguti
115 said that the Hicks family would be able to continue with their current policies and that the language of
116 the deed is standard. He believes that the Commission and the Hicks family will be able to agree on what
117 substantive public access means for the land. If there is a disagreement, the body that makes the final
118 determination is the Commission. M Malaguti suggested defining trail areas as a potential option. The
119 Commissioners discussed various ways that a designated path could be established under the guidelines
120 provided in the lease. M Malaguti stated that there were provisions built in to protect the Town's
121 interests. M Badois stated she knew the Hicks family was excited for the opportunity. D Lievens asked
122 about the provision that they keep the same assortment of apple trees and why it exists. M Malaguti
123 replied that it was built into the lease to protect against unknown contingencies, but that cooperation
124 between the Commission and the lessee will determine the specifics of how the trees are managed. M
125 Speltz asked if there was an amendment provision. M Malgauti relied that the contract could be
126 amended. M Speltz emphasized that the purchase was presented to voters as preservation of
127 Londonderry's heritage and should be maintained as fits both that and the agricultural needs. B Maxwell
128 pointed out that the whole parcel is not currently covered with apple trees. The Commissioners
129 discussed the particulars of the current agricultural assortment and topography of the parcel.

130 M Speltz made a motion to approve the lease of the parcel of land to Sunnycrest Farms under the terms
131 presented by the Town Manager. D Lievens seconded. The motion passed, 7-0-0.

132 **Other Old Business:** D Lievens shared that the Londonderry Times would like to resume publishing
133 articles from the Commission at a rate of about four per year if the Commission is interested in writing
134 them. T Macarelli expressed interest in writing articles on ideas suggested by the rest of the
135 Commission. The Commissioners and A Kizak brainstormed some ideas for potential articles. D Lievens
136 reported that the Commission has \$1,051,000 available, and will explain the land use change tax at the
137 next report.

138 **New Business**

139 **Monitoring:** M Badois distributed maps via email to the Commissioners showing the locations of the
140 properties to be monitored. The Commissioners discussed various properties around the Town that had
141 not been monitored recently to the best of their knowledge and the benefits to checking those, as well
142 as properties with offenses in the past. M Badois purchased mosquito net hats for the Commissioners to
143 use when monitoring properties. M Badois asked what app they could use to help them monitor. A Kizak



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replied that the ARCGIS mapping app they have can do that, and some of the map information is as recent as April 9, 2023. The Commissioners discussed how to use the app. A Kizak will write up instructions and potentially present at a future meeting. She showed the newest imagery to the Commission and explained that with their subscription, they have access to all the imagery back to 2014.

Wolf/Coyote Presentation: M Badois spoke with someone who does presentations on wolves. This individual informed M Badois that wolves in New Hampshire are being shot year-round because they are being mistaken for coyotes. She would like to come provide a presentation to the Commission and the public. M Speltz suggested doing a joint venture with the Leach Library. M Badois will explore scheduling it with the library and the presenter.

Rabbits: M Badois reported that the development near the airport has negatively affected the rabbit population in the area, which is barely remaining stable. There is confirmation that they are crossbreeding with the Eastern Cottontail. M Badois suggested that they might need to consider changes to what they do with the rabbit habitat land since it is not having the desired effect. The Commissioners discussed the possibility of changing the landscaping of the cut to better suit other species. M Badois will pursue a getting the Commission a presentation or roundtable on the habitat.

Other Business

Minutes: The Commissioners went over the public minutes of April 11, 2023. B Maxwell made a motion to approve the minutes as amended. D Heafey seconded the motion. The motion passed, 6-0-1. T Macarelli abstained.

Non-Public Session

M Speltz made a motion to go into non-public session per RSA 91-A:3 for the purpose of considering the acquisition of property at 9:01pm. The motion was seconded by G Harrington. The motion was passed by M Badois, G Harrington, B Maxwell, D Lievens, D Heafey, T Macarelli and M Speltz with a roll call vote.

G Harrington made a motion to leave non-public session at 9:32pm. The motion was seconded by B Maxwell. The motion passed, 7-0-0.

G Harrington made a motion to recommend to town council to enter into a purchase and sale agreement for the purchase discussed in the non-public session. The motion was seconded by M Speltz. The motion passed, 7-0-0.

G Harrington made a motion to seal the minutes of the non-public session indefinitely per RSA 91-A:3. The motion was seconded by M Speltz. The motion passed, 7-0-0.

Adjournment: G Harrington made a motion to adjourn the meeting at 9:35pm. M Speltz seconded the motion. The motion passed, 7-0-0.

Approved 5/9/23



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177 Respectfully Submitted
178 Kirsten Hildonen
179 Interim Recording Secretary