



Londonderry Conservation Commission
Tuesday, August 22, 2023
Draft Minutes

Present: Marge Badois, Chair; Gene Harrington, Vice Chair; Susan Malouin, member; Deb Lievens, member; Bob Maxwell, member; Mike Speltz, alternate member

Absent: Tiffani Macarelli, member; Dave Heafey, member; Jim Leary, alternate member

Also present: Kellie Caron, Assistant Town Manager/Director of Economic Development; Mike Malaguti, Town Manager

M. Badois called the meeting to order at 7:30 p.m. M. Badois announced M. Speltz will vote for T. Macarelli.

1. CUP & Wetland Permit – Proposed Automobile Dealership Site Plan – Map 28, Lot 18-3 – 36 Industrial Drive

Jim Petropulos of Hayner/Swanson and Brendan Quigley, certified wetlands scientist with Gove Environmental Services, appeared before the Commission. Leo Leighton, Scannell Properties, property developer, was also present. They presented a proposed 50,180 square foot automobile dealership on an 8.3 acre property on Industrial Drive, in the GD Gateway Business District. This is intended to be the new service and sales facility for Tesla. J. Petropulos noted parking designations are different for automobile dealerships and described the property. There are two impact areas to mapped wetlands. There is also impact to the western buffer. They have applied for a New Hampshire DES wetlands dredge and fill permit.

B. Quigley described the wetlands on the site, including a remnant stormwater swale. The swale is densely vegetated and fairly narrow, and is no longer attached to a stormwater system. The other wetland is a natural feature that might have been created to manage runoff for the former sand and gravel operation. The swale is the bulk of the impact for this project. The DES concerns are mainly regarding the wildlife and he anticipates a good result through their coordination with DES.

D. Lievens questioned the need for the number of parking spaces. J. Petropulos said the Town requires 214 spaces; they are providing 305. Tesla feels they need this many spaces to meet their program requirements, including parking for employees and customers, transition spaces, and vehicle storage. D. Lievens asked for details regarding charging stations and if the Southern New Hampshire Planning Commission was aware that they will be supplying charging stations. Mr. Petropulos said the eight charging stations are for customer use.

M. Speltz asked for clarification regarding the number of parking spaces needed and L. Leighton responded, explaining that the demand will fluctuate. B. Maxwell asked where snow will be removed to and J. Petropulos said no snow will be dumped into the wetlands; any excess will be trucked away.



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J. Petropulos said they believe the drainage was altered when the road network was installed in the past, which impacted the swale. M. Speltz noted the headwaters of the stream that flows into the wildlife corridor are on the DOT easement on the abutting property. The intent of the buffer is to preserve the quality of the water going into the wetlands the DOT has put into place. The impact to the buffer is significant on this plan and he asked if the detention ponds could be moved. J. Petropulos said the buffer was disturbed by the former gravel operation and there isn't room to move the ponds. There is a Town drain line that discharges onto the site and he expects the Town will request an easement for the pipe and drain swale. He said they would consider revegetating the disturbed buffer and Town Engineer Trotter is examining the plans. M. Speltz suggested removing parking spaces to minimize the buffer impact and replanting the slopes on the detention ponds.

G. Harrington said he thought parking was not allowed in the buffer. M. Speltz said the zoning ordinance allows the Commission to recommend to the Planning Board granting a conditional use permit for certain things, but parking is not one of those permitted uses of the buffer. M. Speltz asked if the east-west drainage was visible on the property. B. Quigley said past site modification seems to have eliminated it. He reiterated that much of the buffer function can be restored through planting. M. Speltz urged the developer to maintain as much wildlife habitat as possible. B. Quigley said they will work with the New Hampshire Fish & Game on this.

J. Petropulos said they will amend the plan to eliminate parking in the buffer, which will decrease the total number of spaces. The retaining wall will need to be moved to establish the buffer.

The Commission expressed enthusiasm at Tesla moving into Londonderry and bringing electric vehicles to New Hampshire.

2. CUP – Vista Medical Office – Map 15, Lots 51,59,60,60-2

Sam Foisie of Meridian Land Services appeared before the Commission representing applicant Bill Griner (ph) of Vista Ridge Medical, LLC. He reviewed the project, which is west of Exit 5 off Route 93. This lot is associated with the proposed Vista West and Vista East subdivision. There are two wetlands on the property that will be impacted, totaling approximately 10,000 square feet. The project includes a 12,000 square foot medical facility and a 3,000 square foot bank. They are prepared to submit a wetland impact permit application to DES next week.

M. Speltz asked if the Fire Department has approved not having direct access to the south side of the building. S. Foisie said the architect said southern access will not be required. M. Speltz asked about snow removal and that if it cannot be stored safely, it must be trucked off. S. Foisie said he can add a note that snow cannot be pushed into an area that drains into the wetlands. He noted the planned berm can be extended to direct snowmelt into the swale and infiltration basin.



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65 **3. CUP – Southgate Subdivision – Map 4, Lot 57 – 116 South Road**

66 Jeff Merritt and Brent Cole with Granite Engineering appeared before the Commission, with applicant
67 Bob Lamontagne of Brook Hollow Corporation. J. Merritt reminded the Commission they issued a
68 favorable recommendation regarding this project, Southgate subdivision, in January 2023. He reviewed
69 the project, which includes conventional and open space lots. A change to the plans during the design
70 review process has resulted in a small wetland buffer impact. DPW noted a historic flooding issue, so
71 they have redesigned the stormwater plan to outlet the swale onto their property.

72 He noted the applicant would be willing to deed the portion of the property that is adjacent to
73 conservation land to the Town, as the Commission expressed interest in this at the last meeting.

74 He said the public water supply for the project will be located on the open space lot, which is allowed.
75 The open space will be governed by the homeowners association. However, they could plat a
76 conservation easement on this property so that the Commission would be the steward of the easement.

77 M. Badois noted the lot line of lot 12 touches the vernal pool and asked to consider a no-cut zone. B.
78 Lamontagne pointed out a no-cut zone is included in the plan.

79 D. Lievens asked if neighbors can access the open space. J. Merritt said the well road has an easement
80 across lots 10 and 11, which would provide access to people in the association.

81 M. Speltz asked to make it clear on the plan that once the land is deemed conservation land, the
82 boundaries will be posted. J. Merritt agreed.

83 M. Speltz asked if they would be willing to have the state manage the easement. M. Malaguti directed
84 the Commission to 5.3.5.B.11 of the zoning ordinance, which addresses ownership and management of
85 open space within conservation subdivision, and offers options. The Commission noted the state might
86 not be interested, due to the water supply being located on the open space lot. M. Speltz suggested
87 noting in the documentation that the easement could be transferred consistent with the purposes of
88 conservation.

89 M. Speltz asked about the location of the single conventional house lot and why it is not included in the
90 conservation subdivision. J. Merritt explained this is due to Town regulations that as the amount of
91 wetlands are conserved, the amount of uplands must be increased. K. Caron said this is a standard
92 typically applied to conventional subdivisions that has carried into the open space and it can be
93 addressed.

94 M. Malaguti noted that Town Council approval is required to accept the ownership of the indicated
95 property and establishing an easement on the open space. He said that 36.A.4.1 also requires the
96 Commission to formally approve this, once the terms are negotiated. He recommended Town counsel



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review the recommendation before the Commission votes to approve this. K. Caron will provide J. Merritt with language and facilitate the documentation being reviewed by Town counsel.

K. Caron referenced an email from Director of Engineering John Trottier, which indicates the Engineering Department is supportive of this impact for the reasons outlined by the applicant. It will resolve a current watershed issue affecting abutting properties.

J. Merritt said the treatment swale will be loamed and seeded, but will have to be mowed periodically. It will not be allowed to naturalize.

M. Speltz recommended supporting the conditional use, as the Town is benefitting from this project at minimal cost.

G. Harrington moved to support the approval of the Conditional Use Plan. B. Maxwell seconded the motion. A vote was taken. All were in favor. The motion passed unanimously.

M. Badois asked if the Commission needed to vote on CUPs. K. Caron said only a comment to the Planning Board is required. M. Speltz said he believes the Commission agreed that the minutes could reflect their consensus, unless it was a formal recommendation to DES or the Planning Board.

4. DRC - Auto Auction NE Site Plan – Map 10, Lot 51 – 1 Action Blvd

Matt Routhier of TFMoran and Steven DeLuca of Auto Auction of New England appeared before the Commission to discuss a proposed parking lot. M. Routhier noted there would be expansion into the southern portion of the site, adjacent to the wetlands. They are proposing two parking areas for vehicle storage, which would involve removal of an existing above-ground detention pond. This site has a long history of development. The project will include installation of underground stormwater chambers and treatment to improve the water quality to the wetlands. There will be building expansions and fencing.

D. Lievens noted the Commission worked hard in the past for a row of trees to be installed as screening but the trees have died. She asked if this could be added. M. Routhier noted the grade change due to the ramp area and said because of existing easements, there is not an adequate planting area.

M. Speltz asked if there is impact to the 50-foot buffer. M. Routhier said if there was, it would be in the northern corner next to the office building. The Commission discussed whether the parking lot at the southeastern corner is in the wetlands setback buffer. K. Caron clarified there is no new impervious proposed within the buffer. She said this proposal is still under technical review by staff. M. Speltz said no parking should be placed in the conservation overlay district. M. Routhier said the parking areas were originally detention pond areas that were proving stormwater storage, so were previously impacted.

M. Malaguti noted that 4.6.1.7 of the zoning ordinance supports M. Speltz's statement.



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128 S. Deluca noted the main focus is the buildings. They decided to expand the parking and improve the
129 stormwater detention situation secondarily. They were considering the 50-foot wetlands setback but can
130 keep in mind the 100-foot buffer requirement.

131 M. Speltz said improving the stormwater treatment might be a fair tradeoff for not taking out the
132 existing parking, but no parking should be added. M. Malaguti clarified that the Town does not have the
133 option to require existing parking that is grandfathered be removed.

134 The Commission discussed the need for the modular block wall extending into the buffer. M. Routhier
135 noted the wall is required due to the grade change and will improve the stormwater treatment system.

136 M. Speltz recommended the Commission's advisory comment to the Planning Board be that an effort is
137 made to get new construction out of the 100-foot buffer. K. Caron said the timing of the establishment of
138 the conservation overlay district needs to be examined in relation to the parking area.

139 The Commission supports the improvement of the drainage system. M. Routhier noted if the pavement
140 expansions are not done, it will negate the need for the drainage improvement. S. Malouin noted the
141 Commission does not have the authority to grant additional parking in the conservation overlay district.

142 **5. DRC – Gilcreast Estates Site Plan – Map 7, Lot 118 – 35 Gilcreast Road**

143 Joe Maynard of Benchmark LLC appeared before the Commission on behalf of Gilcreast Realty Holdings.
144 The property is over 20 acres of overgrown orchard. There is currently a conservation easement on the
145 property that the developer is buying back from the Town. There are wetlands on the western side of the
146 lot. This is a 96-unit townhouse project with two-car garages and driveways. Three roads will be
147 constructed. Municipal sewer and water will be used. He described the proposed drainage system. The
148 plan has been submitted for design review. A fence will be encroaching into the WCD.

149 D. Lievens said she cannot support the project until the conservation easement purchase is complete. M.
150 Malaguti said this purchase was approved by the Commission and Town Council at the end of 2021 and
151 approved by the voters on the 2022 ballot. The terms of the purchase and sales agreement were
152 approved by the Commission and Town Council. The property must be replaced with conservation
153 property with an equal or greater value. There are potential projects that could apply.

154 The fence will be a 4-foot chain link fence with concrete supports, with no gates. It was requested by the
155 Nevins. There is also a fence at the retaining wall for fall protection. The Commission requested
156 relocating the fence along the edge of the buffer and J. Maynard agreed.

157 Kristine Perez, 5 Wesley Drive, asked what was being done about the contaminated soil. M. Badois noted
158 this is not an issue that is handled by the Conservation Commission. K. Caron said this could be
159 addressed by the Planning Board. K. Perez said a study was done to install a walking trail in this area and



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160 the air quality was bad. She understands test pits were done in this area and asked if the disturbing of
161 the dirt at that time was taken into consideration. She asked why the Commission is not concerned
162 about this. M. Badois clarified it was not air quality; it was soil quality. She believes the water and soil
163 quality should be investigated.

164 M. Badois asked about the grant studies. M. Malaguti clarified money was taken from the state arising
165 from another site and used to conduct a Phase 1 environmental study as well as additional work. He
166 reiterated that he has commented publicly that this site exhibits characteristics similar to what you
167 would expect if pesticides were historically applied to crops, as with other sites in town that have been
168 developed. He has not heard that this site is undevelopable. He said the Planning Board has a good track
169 record of ensuring health and safety factors are navigated. He reiterated that a design review application
170 has been submitted and the Town has a constitutional obligation to assist applicants before land use
171 boards in developing their projects. He said it is appropriate to raise concerns about how these factors
172 will be navigated. He said the contamination question is best addressed by the Planning Board.

173 M. Badois clarified that the Phase 1 environmental study was completed and it was recommended that
174 Phase 2 testing be done. She asked when those test results could be introduced into this plan review and
175 who would make that determination. M. Malaguti responded they can be referred to immediately by the
176 Planning Board; the results are not secret and he can supply those results to anyone who requests them.

177 M. Speltz explained the Phase 1 study was conducted due to the Town receiving a grant from a state
178 agency that tries to put brownfields back into use. The developer made an offer to develop this property,
179 so there was no interest in pursuing the studies further. He noted the developer might want to do
180 remediation. The study disclosed that the contaminant of concern were present as a result of growing
181 apples. The remedy is to not drink water or ingest dirt extracted from the ground. This project will be on
182 town water; there will be no wells drawing potentially contaminated groundwater. He does not see this
183 as a fatal flaw to the development of this property.

184 K. Perez noted the Orchards at Woodmont had remediation done to the property and asked how that
185 land is different than this property. M. Malaguti clarified that no one is saying mitigation will not be
186 required on this property. He said the applicant will need to demonstrate compliance with the legal
187 requirements of the Planning Board and he has no reason to believe they will not do this.

188 J. Maynard noted they will bring in material to get to the grades shown on the plan, which will cap the
189 contaminant at the lower levels. He understands that the lifespan of the pesticide is longer than it would
190 be in other states.

191 **Old Business**

192 M. Badois reported they are still waiting for the signs for Mack's and Kendall Pond.



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193 M. Speltz said he believes they are getting close to closing the Lithia Springs project, so they need to
194 engage Trailways to construct a trail. M. Badois said she will connect with them. M. Speltz said two
195 historical signs need to be posted but are expensive, and a discussion should be held with other
196 organizations to discuss bearing that cost. M. Malaguti said it is important to mark the site and he is
197 open to discussions on how the Town can help. M. Speltz noted a discussion needs to be held with the
198 abutters regarding encroachment.

199 D. Lievens reported that the transition between fiscal years has been cloudy, so she does not have
200 information on the Commission's finances. She reported \$1+ million was taken out of the account and a
201 \$500,000 grant was put into the account. M. Speltz clarified this was the DES grant, which went into the
202 account and then went to the escrow agent.

203 **New Business**

204 None

205 **Approval of Minutes**

206 B. Maxwell moved to approve the minutes of the July 25, 2023, meeting as presented. G. Harrington
207 seconded the motion. A vote was taken, all were in favor. The motion passed unanimously.

208 **Adjournment**

209 G. Harrington moved to adjourn the meeting. S. Malouin seconded the motion. A vote was taken, all
210 were in favor. The motion passed unanimously.

211 The meeting was adjourned at 9:58 p.m.

212

213 Respectfully Submitted

214 Beth Hanggeli

215 Recording Secretary

