



Londonderry Conservation Commission
Tuesday, April 14, 2020
Minutes

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

Absent: Mike Noone, member; and Jocelyn Demas, alternate member

Also present: Deb Paul, Town Council liaison member; Jack Szemplinski; Maria DiBiaso; Josh Ducharme; Thomas Roy and Thomas Hodge

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

Wetland Permit Application – Stonehenge Road Properties – Map 012 Lots 119,124-8, 124-7, 127-6, 124-5, 124-4, 124-3, 124-12: Marisa DiBiaso, P.E. and Joe Ducharme, P.E. from Hoyle, Tanner & Associates, Inc., 150 Dow Street, #402, Manchester, NH, introduced themselves to the Commission. M DiBiaso told the Commission the project is for a new water main for Elm Grove Companies that will provide service to eight apartment buildings on Stonehenge Road. She reviewed the map with the Commission pointing out where the apartments are, noting that there are seven apartment buildings on the north side of the road and one on the south side. She noted that the water is currently provided by a private well system, which has aged and is failing. She told the Commission the owner is dealing with brown water and has to treat the water for contaminants, including sediments, uranium and bacteria. She stated that the project proposes to connect the seven apartments on the north side to a new water main from the new development, MacGregor Cut, across the street. She said that the one apartment building on the south side will have water connected to a Pennichuk Water Works (PWW) booster station. She shared that the new water main would be owned and operated by PWW. She mentioned that they are required to stay out of Town's right-of-way with the water main, which would result in three temporary wetland impacts that would be limited to the length of the pipe trench. She said the disturbed areas would be restored with existing materials and returned to existing grade at the completion of construction. She commented that they filed a minor wetland impact application with New Hampshire Department of Environmental Services (NHDES) and reviewed it with the Commission. She pointed out that impact A is 148 SF for the 8-inch water main to cross through the wetland, impact B is 54 SF for a 2-inch water service, and impact C is 124 SF impact, noting they are all temporary. She remarked that the Town considers this a utility project and does not require a Conditional Use Permit (CUP). Joe Ducharme reiterated that all the impact will be temporary to install the pipe, back-fill and restore the grade. M Badois asked if the impacted wetlands were run off swales. M DiBiaso responded that she believes that to be correct, but stated it is hard to tell. G Harrington noted that this is a simple project. The Commissioners had no objections to the wetland impact.

DRC – Cross Farm Phase 4, 5, & 6 – Map/Lot 006-059-1: Jack Szemplinski, P.E. from Benchmark Engineering, 1F Commons Drive #39, Londonderry, NH introduced himself to the Commission. J Szemplinski told the Commission that this is the final phase of Cross Farm elderly housing development.



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38 He informed the Commission that the proposal is for 81 single family detached units, serviced by
39 Pennichuk water and on-site septic systems. He reviewed plans on the screen with the Commission. He
40 noted that all the wetland crossings they are proposing will have open-bottom culverts, which will be
41 large enough for critters to cross. He mentioned that this project includes seven detention ponds/rain
42 gardens or ponds. He pointed out that the Alteration of Terrain (AOT) regulations require there to be
43 zero increase in the volume of run-off for a two-year storm, stating that in order to accomplish this all
44 the ponds will be infiltration ponds, which mean the ponds do not hold water for an extended period of
45 time. He reviewed the locations of the seven ponds with the Commission on the screen. He started with
46 pond 63 that is a two-foot deep rain garden that has no impacts to wetlands or Conservation Overlay
47 (CO) District. He commented that they have been collaborating with New Hampshire Fish & Game and
48 were required to install a 48-inch non-drainage culvert underneath Route 102 for critters to cross. He
49 stated that in their negotiations with New Hampshire Fish & Game they created an outlet structure with
50 an 18-inch culvert at the bottom of the wetland with an overflow weir that is going to control run-off at
51 higher peaks. He said that at the major crossing there is a little peninsula that separates a wetland that
52 has been deemed a good habitat by a wetland scientist, so they are installing a Jellyfish Filter that is very
53 effective at removing pollutants out of the stormwater, such as salts. He stated that there is about 5,600
54 SF of impact for the swale and work associated with it. He added that there is an additional 4,400 SF of
55 impact at this location. He told the Commission the wetland impact, which was been approved by the
56 Wetlands Board, is 10,500 SF. He opened it up to questions from the Commission at this time. D Lievens
57 asked if she could get more information on the Jellyfish Filter. J Szemplinski said he can email that
58 information to D Lievens. M Speltz asked if the Jellyfish could remove sodium chloride. J Szemplinski
59 answered that he does not know if it will take everything out, but meets the approval of the AOT. He
60 told M Speltz he would also email him the information on the Jellyfish filter. M Speltz asked if the 5,600
61 SF of impact was outside of the impact caused by the culvert in this location. J Szemplinski stated that it
62 was and the wetland permit was worked out in Phase 2. He noted that the impact to the wetlands is
63 10,500 SF, and CO impact is 10,100 SF. M Speltz asked if this was caused by the slopes of Pumpkin Patch
64 Road. J Szemplinski said that was correct. M Speltz stated he was trying to figure out how to interpret
65 the CO district ordinance. G Harrington said that the area under the gray hash marks are buffer impacts,
66 which are beyond the impact to the wetland. D Lievens said that if the wetlands are filled, the buffer
67 changes. M Speltz said that now the gray area in the wetland on the screen that goes from the edge of
68 wet in the north to the edge of wet in the south, is now no longer wetland, technically and legally, and
69 cannot have a buffer. G Harrington commented that if an arc was drawn from the edge of wet to the
70 buffer at the end of the fill area all the way to the east, by the time you traced 50-feet, you would hit the
71 edge of the buffer from the other side; therefore, J Szemplinski still has the buffer impact. M Speltz
72 asked if J Szemplinski presented the worst case. J Szemplinski responded that was correct. M Badois
73 asked what is on the bottom of the open-bottom culvert. J Szemplinski said it was rip rap. M Badois
74 asked for something else to be placed there instead of rip rap that is not hazardous to turtles. J
75 Szemplinski said that he could get rid of the rip rap from that location and use natural wetland soils. B
76 Maxwell informed the Commission that he looked at the specs for the Jellyfish Filter and it removes
77 particulates only.



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78 J Szemplinski moved on to the second area of impact, pond 61, noting it is the second largest area of
79 impact. He commented that the dredge and fill area is 4,850 SF and buffer impact is 17,500 SF. He
80 informed the Commission that the total impact for this phase is 15,850 SF of wetland impact and 66,630
81 SF of CO impact.

82 He went on to pond 64 noting no wetland impact, but 2,250 SF of CO impact for the outlet structure and
83 embankment of the pond. M Speltz asked if pond 64 could be made more rectangular and stay farther
84 out of the buffer, which might mean giving up house 120 or 121. J Szemplinski answered that he cannot
85 change the shape, as this means he is getting into the water table.

86 He moved on to pond 65 noting it had 7,630 SF of CO impact with no wetland impact at this location. M
87 Speltz asked if unit 132 could be taken out to move the pond out of the buffer. J Szemplinski stated that
88 this is very similar to the last situation with the water tables. G Harrington asked if it was feasible to
89 construct the retaining wall for unit 131 without entering the buffer, as it right against the foundation
90 and the buffer. J Szemplinski said that it would be really tight. G Harrington asked if the CO buffer signs
91 are up on the property. J Szemplinski said that they are installed in Phase 2, but not Phase 3. G
92 Harrington asked if the CO buffer signs would be installed before construction. J Szemplinski said the
93 signs would be installed before construction. D Lievens voiced her concern regarding unit 131 being so
94 close to the buffer, as the residents will not be able to use their backyard and become frustrated. J.
95 Szemplinski said that the unit would be a walk out basement with about 15 feet of backyard. D Lievens
96 said that is really hard for a resident to tell where their backyard ends and the buffer begins. She added
97 that the 66,000 SF of buffer impact for the project equals an acre and a half of impact. M Speltz asked M
98 Badois to write down to have unit 131 removed. B Maxell commented that with the Commission's first
99 approval of other phases of this project the septic systems were shown between the properties so they
100 would not be close to the CO district, but on the as built plans all the septic systems are behind the units
101 right on top of the CO buffer. J Szemplinski asked if B Maxwell is saying the septic systems were
102 constructed in a different place than where they were shown on the plan. B Maxwell said that he
103 thought some were shown in between the units, which is not what is being built. M Byerly asked A Kizak
104 to follow up on the septic system issue, as it would be a code enforcement issue if the septic systems
105 were constructed in a different location than what was proposed on the plan. B Maxwell stated that
106 units 96-102 are what he believes would be the problems. A Kizak told the Commission that she made a
107 note of this and would follow up. M Speltz remarked that he felt this could be a similar situation to the
108 trees along Gilcreast, where the plan that the Commission saw was different than the plan the Planning
109 Board saw when approving the plans. He suggested that A Kizak check to see if the plans the
110 Commission viewed were different than the plan the Planning Board approved for Cross Farm. J
111 Szemplinski explained that the second phase of this project went through many revisions, and he does
112 not have the final plans in front of him tonight. B Maxwell expressed concern moving forward, as he
113 feels he cannot trust what is said and speculated that the septic systems will not be maintained and the
114 wetland will be destroyed forever. J Szemplinski offered that the condominium documents for this
115 development state the homeowners association (HOA) has to hire someone to maintain those tanks on
116 a regular basis. M Badois claimed that that the condominium documents that the Commission saw
117 stated the responsibility for maintaining the leach fields was the association, however, the maintenance



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118 of the tank was the individual homeowner. She further commented that if the homeowner does not
119 maintain the tank, the leach field will fail, and the HOA has nothing they can do to stop this. J
120 Szemplinski explained that when a septic system fails, it does not go down 50-feet and interferes with
121 the wetlands, but first the ground becomes soggy and should alert the homeowner that something is
122 wrong. D Lievens asked if there is enough room on these lots to build a new septic system if a septic
123 system fails. J Szemplinski responded that 99% of the time, the excavator would excavate the old septic
124 system and put the new septic system in the same place. D Lievens and M Badois objected that this is
125 not what they have experienced with septic systems. J. Szemplinski stated that when a septic system
126 fails, they usually do not replace the tank, but the leach field in the same exact place. M Badois
127 reiterated that in her experience as a real estate agent the new septic systems are always placed
128 somewhere else. A Kizak interjected and told the Commission that she viewed Phase 2 and 3 design
129 review submissions for this project and the septic systems are shown in the same place as they were on
130 the final plans. B Maxwell commented that he feels the Commission made a mistake and does not want
131 to make this mistake again. M Byerly shared that he is appreciative for what B Maxwell is saying, but the
132 developer did not do anything against the Town's regulations. He offered that the Commission could
133 certainly make a comment to the Planning Board that septic systems should be as far away from the
134 buffer as possible. M Badois concurred that the developer did not do anything against the regulations.
135 M Speltz suggested that the Planning Board should require water quality testing at six-month intervals
136 to monitor what is happening to the water quality of the wetland, and if something were to happen,
137 require mitigation. J Szemplinski offered that NHDES is very active in studying the effects of waste water
138 on soils, and over the years the setbacks were actually reduced based on these studies. He said that in a
139 properly functioning septic system once the effluent reaches two feet of septic sand, it comes back
140 almost as clean as water.

141 J Szemplinski went on to pond 66, and reviewed it with the Commission. He then went on to pond 68
142 and reviewed it with the Commission. M Byerly asked if pond 68 was where the Conservation Restriction
143 is on the property. J Szemplinski answered that it was not. M Byerly said that they are allowed to put in
144 storm water management systems in that area as long as the Planning Board approves it. M Speltz asked
145 about extending pond 68 northwest to get out of the CO District. J Szemplinski stated he would be
146 happy to look at it and let the Commission know, but he thought it would not work.

147 J Szemplinski reviewed pond 60 with the Commission, noting there is 5,150 SF of impact on the
148 northwesterly side and 2,725 SF of impact on the southerly side made up of embankments and portions
149 of driveways. D Lievens expressed her concern, that there is way too much impact to the buffer.

150 J Szemplinski pointed out that there are two rain gardens, pond 62 and pond 67 on the plan, that do not
151 have that much impact associated with them. M Badois commented that she has concerns about rain
152 garden 67, as it impacts a vernal pool buffer, noting the vernal pool could be killed with the removal of
153 vegetation. J Szemplinski explained that he does not believe the Town has any regulations regarding
154 vernal pools and noted they are about 60-feet away from the vernal pool, as well outside of the
155 buffer. D Lievens asked about planting information for the rain gardens. She said that if the right plants
156 are not put in, it will not be a rain garden, more like a shallow detention pond. J Szemplinski said that



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157 was what the state wanted. D Lievens asked to have more information on this to turn these into "real"
158 rain gardens. J Szemplinski said that he does not see any plants on the plan and would follow up with D
159 Lievens. M Speltz pointed that unit 157 is too close to the vernal pool buffer of rain garden 67 and the
160 CO buffer signs should be extended along the vernal pool buffer. J Szemplinski said that it could be
161 feasible to place the CO buffer signs there. B Maxwell mentioned that on the southwest corner of the
162 vernal pool, unit 167 and 168, are even closer than unit 157. M Byerly pointed out that there are other
163 places on the plan where the units have virtually no backyard as they are right up against the tree line
164 and there have been other projects in town where this has happened with homeowners taking trees
165 down, etc. J Szemplinski explained that they went before the Zoning Board of Adjustment (ZBA) to ask
166 for a variance in the reduction of the setback from 40-feet to 30-feet, but the ZBA did not grant them
167 the variance. M Byerly suggested the Commission comment to the Planning Board that in order to fit in
168 as many units on the property, units are pushed to the tree line, vernal pool buffers, etc., which the
169 Commission does not want them to do. He noted that this has caused problems in other 55+
170 communities where the units are too close to the tree lines or buffers. B Maxwell stated that units 167
171 and 168 cannot have decks off the back and they will most likely want them. J Szemplinski told the
172 Commission that the Mesiti group has done an excellent job when showing the properties to make sure
173 the potential buyers are aware of how close they would be to the buffers. M Speltz suggested that it
174 might be within the purview of the Planning Board to place a condition on the plan that no structure or
175 accessory to the structure shall be no more than 10 feet to buffer zones, wetlands or vernal pools, as
176 people will be too tempted to violate the buffer to create a backyard. B Maxwell noted that the Nevins
177 have 25-feet and are still unhappy with this decision.

178 The Commission started compiling the DRC comments at this time. B Maxwell noted that units 130, 131,
179 133 on Barn Door Circle are within several feet of the CO district boundary. M Speltz recommended that
180 each unit should have at least 10-feet of backyard. B Maxwell expressed concern about 10-feet noting
181 that the Nevins are unhappy with 25-feet. M Badois summarized the DRC comments for the Commission
182 noting:

- 183 1. Requested information on the Jellyfish Filter.
- 184 2. Request the developer not use rip rap on open-bottom culverts.
- 185 3. Install CO buffer signs before construction starts and place them along the vernal pool buffer
186 line.
- 187 4. Keep the leach fields as far away from the buffer as possible.
- 188 5. Unit 131 should be eliminated as its foundation is right on a retaining wall.
- 189 6. Due to the large potential amount of sodium chloride, landscaping chemicals and septic
190 effluent, the Commission suggested the Planning Board require ongoing water testing.
- 191 7. Pond 68 could be expanded toward unit 189 to reduce the impact on the CO District.
- 192 8. What plants will be planted in rain gardens 62 & 67.
- 193 9. Recommend structures should be placed so that the homeowner would be able to enjoy at
194 least 10-feet of turf grass for a backyard, between the house and the buffer.
- 195 10. Unit 157 is too close to the vernal pool buffer.
- 196 11. Units 130, 131, 133 are too close to CO District.



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12. Units 167 & 168 are too close to vernal pool buffer and should they be eliminated.
13. The conservation restriction line should be shown on the detail sheets. J Szemplinski stated this was an oversight and would be corrected.
14. The CO buffer signs to be installed 25-feet apart or less where structures are within 50-feet of the buffer.

Conditional Use Permit (CUP) for Cross Farm- M Speltz read from the CUP application stating that "town regulations require that roads within subdivisions and age restricted projects be interconnected and provide at least two main means of egress." He commented that the developer achieved interconnected roads by having a big wetland crossing, which in his opinion is tied into economic advantage, as they cross the wetland, they can put more units in. J Szemplinski said that they have to cross the wetland for the egress. M Speltz suggested that the developer could cross between two other phases perhaps over a narrow piece of the central wetland. M Byerly added that there could be interconnected roads and two modes of egress without doing Phases 4,5 & 6. M Badois clarified that economic advantage seems to be the main benefit of the CUP with respect to phase 5. D Lievens stated that she is not sure if she agrees with M Badois statement. J Szemplinski explained that this configuration has been before the Commission for three years or so and nothing has really changed. B Maxwell countered that the Commission's viewpoint has not changed on the project either. M Speltz asserted that economic advantage appears to be the primary reason for the wetland crossings and buffer impacts associated with Phase 5. J Szemplinski commented that this sounds like redesigning the subdivision. M Speltz made a motion to recommend approval of the CUP subject to the Planning Boards approving the Commission's comments on the DRC comment sheet. D Lievens told the Commission that she could not vote for this motion, as she feels it does not explain what the Commission thinks about the CUP. M Speltz said that the only chance the Commission has to make comments is tonight as they do not have to come back before the Commission, unless they were to change something that affects something the Commission has supervision over. J Szemplinski voiced his opinion that if the Commission felt so strongly in opposition someone from the Commission should have come to the NHDES meeting for the wetlands permit in the beginning of the project. M Byerly mentioned that the early phases, such as Phases 1, 2 & 3, did not have much of a wetland impact, and therefore, there was not as strong of a reaction from the Commission. M Speltz asked if anyone seconded his motion. M Badois responded that no one had and therefore the motion died. M Byerly made a motion to recommend not granting the CUP because section four of the conditions for granting it are not met as economic advantage is the primary driver of the buffer impacts. G Harrington seconded the motion. The motion passed, 7-0-0, by a unanimous roll call vote, G Harrington, D Lievens, B Maxwell, M Byerly, R Floyd, M Speltz and M Badois.

M Speltz asked A Kizak to consider alerting the Commission in the future if there are any significant changes to the plan. A Kizak responded that she would.

Wetland Permit Amendment – Permit # 2016-02060 – Map/Lot 010-034-0 - 4 Trolley Car Lane: M Badois told the Commission that this project is amending the wetland permit and actually reducing the amount of impact. A Kizak informed the Commission that this is a sewer force main project and the overall buffer impact is less as they have more accurate buffer mapping now. She said they decreased



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236 the amount of buffer impact by 125 SF. The Commissioners agreed they have no comments or
237 objections.

238 **Unfinished Business**

239
240 **DOT land:** M Badois told the Commission that she and S Malouin have a virtual meeting at 11 a.m.
241 tomorrow to discuss and she would report to the Commission after.

242 **WRMPP:** M Badois asked if this has moved forward. A Kizak said it has not moved forward but would be
243 in the future.

244 **Articles for the Londonderry Times:** D Lievens told the Commission that J Demas's article was just in.
245 She does not have an updated schedule and asked for a volunteer.

246 **Pollinator:** S Malouin told the Commission that she attended a virtual meeting and learned a lot. She
247 said that she has a flyer about partner roles and responsibilities for the project if the Commission
248 chooses to join Kingston and become one of their partner towns and conservation commissions, that
249 she could pass along. She mentioned that if the Commission were to join, they would have to host and
250 promote one or more Pollinator Pathways programs per year and create or secure at least one monarch
251 butterfly habitat area in town that is certified with Monarch Watch. M Badois informed the Commission
252 that Pollinator Pathways are having a webinar this Friday from 6:30 p.m. to 7:00 p.m., and asked if
253 anyone would like to join. D Lievens said she would like to attend.

254 **Trail Day:** M Badois said that she is hoping that this will happen on June 6, 2020.

255 **New Business**

256 **Maps:** M Badois said she picked up some new maps and need to approve the expense. D Lievens made
257 a motion to take \$529 from the Conservation Fund for the expense of the maps. G Harrington seconded
258 the motion. The motion passed, 7-0-0, by a unanimous roll call vote, G Harrington, D Lievens, B Maxwell,
259 M Byerly, R Floyd, M Speltz and M Badois.

260 **Future applications:** M Badois asked what the plan is for future applications and DRC's given the remote
261 meeting status at this time. A Kizak answered that she is not sure what the final plan will be, but thought
262 if this meeting works to keep having the meetings remote until Town Hall is open again. She told the
263 Commission that everyone can come in and look at paper plans in the Sunny Crest conference room. M
264 Speltz noted that in the emergency Governor's order, land use boards have been excused from having to
265 take action on timelines that are otherwise statutorily obligated and suggested the Commission might
266 want to take advantage of this exception. M Speltz suggested putting things off for another month and
267 then reconsider. M Badois asked if this would be done selectively. M Speltz said that the Commission
268 should try to coordinate with the Planning Board.



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269 **Property:** M Badois told the Commission that she sent an email regarding an acre of property at Kendall
270 Pond, which is an island. She said that she does not believe that the Commission could access the island
271 or the public would access it, but rather be used as a bird sanctuary. D Lievens asked if the family would
272 gift it to the Commission. M Badois answered that was correct. M Speltz made a motion to recommend
273 the property to the Town Council. D Lievens seconded it. The motion passed, 7-0-0, by a unanimous roll
274 call vote, G Harrington, D Lievens, B Maxwell, M Byerly, R Floyd, M Speltz and M Badois.

275 **Sand in NEC3:** M Badois said that Josh from Fish & Game would like to help with the sand in NEC3 and
276 place logs there to block the ATV's. She asked if the Commission has access to a small excavator or a
277 large tractor from the Department of Public Works and Engineering (DPW). She stated she is going to
278 talk to Conservation Officer Aprile and see if he might be able to help contact DPW.

279 **Hickory Hill:** M Badois reviewed how she has been monitoring the cars parking here during the social
280 distancing orders.

281 **Minutes:** The Commissioners went over the public minutes of March 10, 2020. B Maxwell made a
282 motion to approve the minutes as presented. B Maxwell seconded the motion. The motion passed by a
283 roll call vote, 6-0-1, with D Lievens abstaining.

284 The Commissioners went over the non-public minutes of March 10, 2020. B Maxwell made a motion to
285 approve the minutes as presented. M Speltz seconded the motion. The motion passed by a roll call vote,
286 6-0-1, with D Lievens abstaining.

287 **Adjournment:** M Byerly made a motion to adjourn the meeting at 10:40 p.m. D Lievens seconded the
288 motion. The motion passed, 7-0-0, by a unanimous roll call vote, G Harrington, D Lievens, B Maxwell, M
289 Byerly, R Floyd, M Speltz and M Badois.

290 Respectfully Submitted,

291 Beth Morrison

292 Recording secretary

293