



Londonderry Conservation Commission
Tuesday, February 24, 2009
PUBLIC HEARING
Minutes

Present: Deb Lievens, Gene Harrington, Mike Considine, Paul Nickerson, Truda Bloom, Ben LaBrecque, George Herrmann and Mike Speltz

Also Present: Harold Estey, Bill Estey, Tom Estey and Brian Farmer, Town Council Liaison

G. Harrington made a motion to open the scheduled public hearing regarding the purchase of a conservation easement on map and lots 3-100, 3-161 and 3-161-2. M. Considine seconded. The motion was approved, 7-0-0.

M. Speltz began by stating the +/-74 acre conservation easement will limit the use of the three parcels to agriculture and forestry with the exception of an excluded area of approximately four to five acres around the existing saw mill operation. This will allow the Esteys to process timber for their business since forestry in the easement area would be restricted to the growing, cutting and stocking of timber only. A forested landscape would therefore be preserved while supporting a viable economic activity in town.

A second goal is the preservation of water quality as well as the decreased potential for flooding that development would threaten. Black Brook and Marsh Brook both traverse different parts of the property. Black Brook in particular, M. Speltz noted, continues southeast and empties into Beaver Brook. That area is a naturally flooded wetland which was built on years ago with the development of Brookview Drive. The Town is currently pursuing grant funding to purchase several houses on Brookview Drive that are virtually uninhabitable because of routine flooding so that they may be razed, allowing the area to return to its natural state and preventing flooding elsewhere. A typical requirement in pursuit of such grant money is matching funds from the Town. This easement could qualify as the Town's in-kind match. B. Farmer stated that although this project did not meet the cost benefit standard for the first grant the Town pursued, they are still hopeful it can be applied to other grants.

The third advantage of protecting these parcels is that it fulfills a goal of the Open Space Plan by preserving a viewshed of both aesthetic and historic value. Residents have repeatedly nominated this land as one of the highest rated parcels to preserve in Londonderry going back to the first Open Space Plan in the late 1990's. Similarly, an objective in the Master Plan is to protect the open space and rural character of the town on the western side of Route 102 to offset development on the eastern side.

Residents will also benefit from the recreational component of public access (except on agricultural portions during growing season and forested areas during any timber harvesting). D. Lievens stated that the easement will help achieve the "ten to ten" objective of the Open Space Plan which is to provide residents with a ten minute or less trip to open space of ten acres or more. Residents closer to Route 102 would not benefit from open space the way those in the southernmost end do with the Ingersoll property and those in the northwest with the Musquash Conservation Area. Wildlife will also enjoy the protection of their existing corridor through the area.

H. Estey commented that his family's intentions were being fulfilled by preventing development on the property. He added that he and his brother Bill purchased lot 3-100 in 1986 precisely to avert a subdivision of any kind and preserve the raw land.



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D. Lievens asked for public comment. Al Baldasaro questioned whether the majority of the land was comprised of wetlands and was therefore not buildable. H. Estey replied that most of the land is, in fact, buildable and that his family simply never chose to erect any structures beyond the mill area. D. Lievens added that the actual wetlands on the property are not named or major wetlands. M. Speltz stated that the appraisal done on the property took into account the existing wetlands as well as the number of house lots that could be subdivided out of the land. T. Estey pointed out the three potential points of access for development from Mammoth Road, Windsor Boulevard and Old Nashua Road. A. Baldasaro then asked if the Town would receive profits from the sale of lumber and the Esteys responded that the income will continue to go solely into their business.

T. Freda asked if the appraisal determined the amount of the offer to the Esteys or merely supported it in negotiations. M. Speltz explained that the appraisal included only lots 3-100 and 3-161 and was done with the assumption that both lots were void of any structures. That meant that the Esteys were not credited with the real estate value of the buildings on 3-161, although the appraisal did include the several acres where the saw mill exists that will now be excluded from the easement. The offer was therefore determined by removing the excluded area from the equation and then using the per acre value of the appraisal to determine the addition of the third lot, 3-161-2. While there was no bargain sale component involved, M. Speltz stated that the offer was no higher than the fair market value of the land.

A. Baldasaro asked when the appraisal was done. H. Estey replied that it was done in January, 2007. Although the recent economic turmoil has impacted property values, M. Speltz offered that the land may have very well appreciated after the appraisal was done, prior to the economic downturn. If, in fact, the value of land had suddenly risen for whatever reason, the LCC would still insist on using the determined offer because that was what was negotiated in good faith over nearly three years. In turn, the LCC feels morally obligated to do the same for the Esteys. M. Speltz added that through his own work with The Society for the Protection of New Hampshire Forests, raw land has not been observed to suffer the kind of losses that home values have seen. D. Lievens noted that the final figure listed in the appraisal document is actually *more* than what was offered because it reflects the \$500,000 +/- valuation for the mill area (if the current structures were demolished and the portion was developed). Additionally, the number in the appraisal was for only two of the lots, while the \$1,028,600 offer was for all three. The Esteys pointed out that the piece not included in the appraisal is, in their opinion, the "best" of the three. A. Baldasaro also asked if the taxpayers have already been paying taxes on the bond used to fund this project. D. Lievens verified that the funds are indeed supplied by a bond voted on at Town meeting several years ago. When asked what the balance would be in the Open Space Fund account after this purchase, D. Lievens replied that approximately \$500,000 would be left.

A. Baldasaro stated that voters have not supported open space bonds at the last two Town Meetings. He then asked when the Master Plan was produced since the LCC has mentioned it as part of their rationale for this project. D. Lievens replied that the Open Space Plan was developed in the late 1990's and has been updated twice since then, the last time being in 2006. When he further questioned the value of using it as a tool, she further stated that Londonderry's plan is being used by the Southern New Hampshire Planning Commission as a model in developing master plans in the southern part of the state.



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If the LCC recommends approval to the Town Council who then approves the purchase of the easement, a Purchase and Sale agreement would need to be drawn up. M. Speltz explained that because the P&S needs to have the easement attached to it yet the final details of the easement still need to be worked out, the P&S will state that a conservation easement is being purchased “substantially in form of the attached”. S. O’Keefe asked if the easement would still apply to the property if the Esteys were to sell the land. D. Lievens verified that it would.

T. Freda asked if there were currently any mortgages on the property. H. Estey replied that there were not. M. Speltz noted that part of the due diligence the LCC must perform includes a title search which will verify that fact. D. Lievens added that title insurance is now also standard practice by advisement of the Town Attorney. A hazardous waste inspection will be completed along with a baseline study that will fully and accurately document the current condition of the land comprising in the easement.

As there were no further questions or input, D. Lievens entertained a motion to close the public hearing. **G. Harrington made a motion to close the public hearing at 8:30 PM. P. Nickerson seconded. The motion was approved, 7-0-0.**

D. Lievens entertained a motion for the LCC to recommend to the Town Council that the Town proceed with the purchase and sale agreement regarding a conservation easement on map and lots 3-100, 3-161 and 3-161-2. G. Harrington so moved. P. Nickerson seconded. The motion was approved, 6-0-1 (Truda Bloom abstained).

With B. Farmer’s input regarding the Town Council’s schedule and considering the time needed to settle specifics and perform the due diligence required, it was decided that the Town Council could perhaps entertain this issue in early April.

D. Lievens stated that she has received a quote from Chris Kane of \$1,215 to perform the baseline study as well as a Phase I hazardous waste inspection. Following some discussion, **D. Lievens entertained a motion to hire Chris Kane at a cost of \$1,215 to perform the baseline study and Phase I hazardous waste inspection on the conservation easement on lots 3-100, 3-161 and 3-161-2. G. Herrmann so moved, P. Nickerson seconded. The motion was approved, 7-0-0.** She will also obtain quotes from surveyors in order to officially monument the excluded area.

Respectfully submitted,

Jaye A. Trottier
Secretary