



Londonderry Conservation Commission
Tuesday, March 24, 2009
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1 **Present: Deb Lievens, Mike Considine, Ken Henault, Paul Nickerson, Truda Bloom, Ben LaBrecque,**
2 **Mark Oswald and Mike Speltz (late)**

3
4 **Also present: Brian Farmer, Town Council Liaison (late)**

5
6 Call to order; 7:30 P.M.

7
8 D. Lievens appointed M. Oswald to vote for Gene Harrington.

9
10 Reed subdivision, Pillsbury Road- Joseph Maynard of Benchmark Engineering returned with a subdivision plan
11 for map and lot 9-63 that the LCC reviewed in September and October of 2008 (see September 23 and October
12 28, 2008 minutes). As had been discussed and eventually approved by the Zoning Board of Adjustment, the
13 100 foot buffer surrounding the proposed house will be reduced to a 50 foot buffer on the north, east and west
14 sides to increase the building envelope while a 2.2 acre area around Indian Brook on the south side would be
15 permanently conserved.

16 Part of the subdivision approval process requires two Conditional Use Permits for intrusions into the
17 Conservation Overlay District buffer. The first area of disturbance will occur where the existing driveway is to
18 be extended a short ways to access the future house. In that same part of the buffer, a trench will be excavated
19 along Pillsbury Road to tap into the public water supply. Likewise, utilities currently running from Pillsbury to
20 an existing pole next to the driveway will be placed underground from that point to the house. This portion of
21 disturbance involving trench work will only be temporary. The second CUP will be required for the grading
22 associated with installation of foundations drains in the new dwelling.

23 As discussed previously with the Board, the property owner has requested ground level monumentation
24 of the buffer surrounding the new house. Under current demarcation requirements, the view from the house
25 would be of an open field with placards on poles placed at 50 foot* intervals. A waiver from the Planning
26 Board will be required to achieve this and recommendation from the LCC would help facilitate that. It was
27 decided that a pin with a cap every 50 feet* would suffice and that the buffer around the existing house could be
28 monumented the same way.

29 **K. Henault made a motion that the LCC recommend approval to the Planning Board of the**
30 **requested Conditional Use Permits as discussed in this presentation. P. Nickerson seconded. The motion**
31 **was approved, 7-0-0.**

32 (*- see "Reed subdivision" on page two of the April 14, 2009 minutes for the correction and
33 clarification of the recommended distance between the pins).

34
35 Higgins easement (9-85)- J. Maynard also made the LCC aware of a CUP that will be required for
36 approximately 700 square feet of buffer impact associated with grading for the proposed driveway on map and
37 lot 9-85 (see October 14, 2008 minutes). A portion of the existing driveway between the Higgins residence on
38 9-85-1 and the house on 9-85 will be discontinued and allowed to naturalize so that the new driveway
39 connecting to the Town right of way on Winding Pond Road will not be a thru street to Pillsbury Road. It was
40 noted that not only would that discontinuation offset the buffer impact but also to a greater degree, the entire
41 rationale behind the subdivision does since it precludes a wetland crossing and disturbance of a popular
42 viewshed.

43
44 M. Speltz arrived.

45



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46 M. Speltz asked if the buffer impact could be avoided by shortening the driveway and accessing
47 Winding Pond Road directly through the adjacent Century Village condominiums. J. Maynard noted that
48 condominium owners abutting 9-85 were already opposed to the current plan even though it makes use of the
49 Town right of way and not Winding Pond Road itself. Their concerns about the driveway being close to their
50 backyards could be alleviated if access were sought directly through their parking area but then other condo
51 owners would in turn be more directly affected and would most likely oppose the idea. He added that in his
52 experience, he would most likely need the approval of upwards of 90% of the association's members, which in
53 this case would be over 300 owners. M. Speltz countered that those condo owners actually affected by a
54 driveway connecting through their parking area could be compensated monetarily since D. Higgins would
55 effectively be purchasing a right of way and it would be at a cost lower than that of the new driveway. J.
56 Maynard said he would convey the idea to D. Higgins.

57
58 NE Cottontail habitat management workshop- D. Lievens stated she would be attending this April 1st workshop
59 being held at Stonyfield's business offices in Manchester, followed by a site walk at their Londonderry plant to
60 exhibit habitat management for the NE Cottontail. She invited fellow members to attend and said they could be
61 reimbursed the \$10 fee through the Conservation Commission's budget.

62
63 Timber trespass- D. Lievens announced that a settlement in the amount of \$7,750 has been reached between the
64 logger and the Town regarding trees cut in the Musquash Conservation Area. Most of the money could be used
65 to clear the invasive bittersweet species that has infested the area, however, D. Lievens outlined the difficulty in
66 finding an individual licensed under New Hampshire's strict pesticide regulations.

67
68 B. Farmer arrived.

69
70 Red Fern Circle flooding- Property owners at 5 Red Fern Circle wrote to the Town Manager with concerns
71 about flooding in their backyard and basement reportedly due to beavers damming in the Musquash. They have
72 asked permission to trap the beavers, which, D. Lievens noted, would most likely result in destroying the
73 animals as opposed to simply relocating them. K. Henault suggested pursuing alternative solutions involving
74 water level regulation that would be more likely to resolve the issue as opposed to a stopgap measure such as
75 trapping. It was also noted that the owners must have been aware of their proximity to the wetlands when they
76 bought the property, particularly since the edge of wet is located well onto the lot in question. On a larger scale,
77 D. Lievens noted, the Town cannot be responsible for flooding that naturally occurs along the edges of an area
78 like the Musquash. Since there was some disagreement over a solution, M. Considine stated he would
79 investigate the specifics of the situation and report back to the LCC.

80
81 Enterprise Drive CUP- Todd Connors of Sublime Civil Consultants presented a conceptual plan to the LCC at
82 the March 10th meeting regarding a CUP for proposed development on map and lot 15-62-3 (3 Enterprise
83 Drive). Because of the amount of buffer impact involved with the proposal (16,980 sf, or nearly half of the
84 entire area of COD buffer on the property), the LCC had asked if an attempt could be made to redesign the
85 scenario and reduce the impact.

86 T. Connors offered the LCC a revision that would drop the total amount of buffer impact to 3,770 sf. He
87 achieved this by decreasing the amount of pavement behind unit five (see attached plan) and by replacing the
88 two previously proposed swales with a single 25 foot long by 13 foot wide level spreader. This will not only
89 meet the requirements of NH Department of Environmental Services for permanent treatment of water runoff
90 but will make more use of the natural area downhill from the spreader for the majority of the treatment unlike
91 the original plan. M. Speltz asked if the berm associated with the spreader would easily erode but T. Connors



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92 explained how the dynamics of the engineering would prevent that. While the pipe itself will run parallel with
 93 the wetland, the runoff will actually run out at a 90 degree angle, meeting the LCC's preference that drainage
 94 within a buffer run perpendicular to the wetland. A disadvantage to the decrease in impact will be the rip rap
 95 needed for the 2:1 slopes leading to the wetland that were going to be allowed to naturalize when they were at a
 96 3:1 ratio. T. Connors noted the extension on the revised plan of the COD boundary line up to Enterprise Drive
 97 as M. Speltz had requested at the last meeting.

98 M. Considine asked why the level spreader was not the first choice for the plan, considering the
 99 significant decrease in impact. T. Connors replied that in his opinion, treatment swales are easier to maintain.
 100 M. Speltz then inquired as to what kind of notation will be placed on the plan for regular maintenance of the
 101 level spreader. T. Connors said that reference will be made on the plan to comply with DES guidelines and that
 102 typically, regular inspections will take place every six months. Once the sediment reaches a height of three to
 103 four inches in a spreader this size, it will need to be shoveled out manually. Catch basins would receive the
 104 same amount of inspection but will be vacuumed out once the sediment reaches a set depth. D. Lievens asked
 105 about general maintenance for the site. T. Connors said that based on the size of the project, a maintenance plan
 106 is not obligatory but due to the amount of soil to be disturbed, the Environmental Protection Agency will
 107 require a review for storm water and a pollution prevention plan which will educate and guide the owner in
 108 reference to ongoing maintenance. When D. Lievens inquired about snow storage, T. Connors pointed out
 109 designated snow storage areas as well as other potential locations. A standard note included on the plan will
 110 direct the owner to remove snow from the site at times when it exceeds the allotted space.

111 In response to the issue of building coverage and green space that was brought up on March 10th, T.
 112 Connors provided the following statistics, noting that 56% of the entire lot is wet:

Town requirements under the zoning ordinance:	Total lot (of which 56% is wetland):	Upland only, <i>including</i> that which is within the COD buffer:	Upland only and <i>outside</i> of the COD buffer:
Green space; 33% minimum required	80% will be green space	56% green space	40% green space
Building area; 25% maximum allowed	5% of lot will be covered	11% will be covered	15% will be covered

114
 115 M. Speltz and K. Henault commented on the significant reduction in buffer impact and D. Lievens
 116 thanked T. Connors for his efforts. **D. Lievens entertained a motion to recommend approval of the**
 117 **requested Conditional Use Permit to the Planning Board. K. Henault so moved. P. Nickerson seconded.**
 118 **The motion was approved, 7-0-0.**
 119

120 Estey easement- LCC members consulted with Town Council Liaison B. Farmer about the upcoming
 121 presentation before the Council on April 6th regarding the purchase of a conservation easement on map 3, lots
 122 100, 161 and 161-2. Some residents have raised concerns regarding use of an appraisal done in 2007 since
 123 house sales have dropped considerably since late 2008. In an attempt to clarify that raw land has not nearly lost
 124 value to the same degree, M. Speltz has acquired data to demonstrate the stability in raw land value through
 125 September of 2008. M. Oswald has been researching sales of vacant land since September of 2008 but has had
 126 difficulty finding an example comparable to the Estey properties. Since raw land is not as common a
 127 commodity as developed property, comparables are hard to come by. K. Henault asked if the appraiser who did
 128 the work could comment on the subject at the presentation. M. Speltz noted that Tom Estey was supposedly
 129 looking into that but added it would probably cost more money to do so. B. Farmer stated that the public also



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130 needs to be educated on the difference between the cost of land and the cost of purchasing an easement on land.
131 Considering the cost and time needed for an appraisal, the stability of raw land values and the amount of time
132 and effort it has taken to coordinate the deal to this point, it is unlikely the Esteys would entertain pursuing a
133 second appraisal. Harold Estey in particular has made it clear that he would forego any deal if another appraisal
134 were required.

135 M. Speltz suggested that before even addressing the appraisal, the conservation value of the land needs
136 to be demonstrated first to explain why the land is worth protecting. Recent photographs will be used to depict
137 the recreational characteristics of the property, its capacity to store floodwaters, the brook that will be protected,
138 the quality forest resource and evidence of various wildlife. After establishing those facts, it can be shown how
139 protection of this land fits into the overall Open Space Plan for the entire town. The next step would be to walk
140 through how the appraiser arrived at his conclusions and then explain how the LCC used that data to produce
141 their offer. At that point, the clarification surrounding the stability of raw land value can be addressed. B.
142 Farmer offered to re-read the appraisal with the mindset of a layman in order to generate potential questions and
143 give the LCC an opportunity to address them beforehand. M. Oswald added that a brief history of the Open
144 Space Plan would be helpful, particularly to point out that the two versions developed since the late 1990's were
145 the result of lengthy public processes. K. Henault stated that the rationale behind the non-public session should
146 be explained as well, since it is used per State RSA to protect both the landowner's privacy as well the Town's
147 bargaining position to arrive at the best deal possible on behalf of the taxpayers.

148 M. Speltz noted that during his recent site walk, he came across several pieces of heavy farm equipment
149 that will need to be cleaned up and doing so should be made a part of the Purchase and Sale Agreement. D.
150 Lievens reported that she has obtained two estimates from surveyors to situate three boundary markers that will
151 delineate the exact limits of the area excluded from the easement around the sawmill. Eric Mitchell Associates
152 and Promised Land Survey will both place pins and generate a survey for approximately \$2,000. It was decided
153 that granite markers would be preferable for defining a permanent easement because of their durability. A site
154 walk will need to be performed with the Esteys to place flags first and M. Speltz stated that it would be
155 preferable to establish a buffer of perhaps 20 feet from the thread of the stream running by Tom Estey's house.
156 In the interest of time, the LCC decided to authorize the Chair now to spend up to \$3,000 to hire a surveyor for
157 the job. **K. Henault made a motion to authorize the Chair to expend an amount not to exceed \$3,000 from
158 the Open Space Protection Fund for a survey of the excluded area. P. Nickerson seconded. The motion
159 was approved, 7-0-0.**
160

161 FRPP- The Natural Resources Conservation Service (NRCS) can provide up to 50 percent of the fair market
162 easement value for the conservation of land under agricultural/farming use through their Farm and Ranch Lands
163 Protection Program. The LCC plans to apply for funds from this program to aid in the purchase of orchard land
164 owned by Andy Mack, map and lots 9-45 and 10-15, which were appraised at a total value of just over \$2
165 million. M. Speltz reported that \$2.2 million will be allocated to New Hampshire through the FRPP with the
166 condition that it be obligated by June 30th. Additional funding may be available if other New England states are
167 not prepared to avail themselves of the resource. Of the remaining 50 percent that the Town must supply if the
168 funding is obtained, half (or 25% of the total cost) must come in the form of cash from the Open Space Fund.
169 With the limited open space funds currently available, the Town could purchase one of the two lots if they
170 receive matching FRPP monies. On top of this, M. Speltz noted, if A. Mack were so disposed as to provide a
171 bargain sale of 25% of the total value of both lots, the Town would then be in a financial position to purchase
172 both 9-45 and 10-15. It is unknown at this time if a bargain sale is even a possibility but M. Speltz urged the
173 LCC to begin work on an application since competition for FRPP grants can be very intense.

174 M. Speltz may be able to work on the application through his job with the Society for the Protection of
175 New Hampshire Forests who would, in turn, hold the easement on the property. Since SPNHF would also



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176 require a \$10,000 endowment from the Town for stewardship of the easement, it was decided D. Lievens would
177 investigate the relative cost for hiring the Rockingham County Conservation District to generate the proposal.
178 Either way, professional assistance is vital due to the complicated nature of the application.
179

180 Musquash signage/trails- M. Considine reported that he performed a preliminary site walk with residents John
181 and Kristine Perez of Wesley Drive who had voiced an interest in improving signage and trail conditions in the
182 Musquash Conservation Area. While the work on the trails themselves will not occur until May, points where
183 signage could be added or improved were noted and M. Considine said he would begin work on those this
184 coming weekend.
185

186 Saving Special Places- D. Lievens announced that this annual event will take place April 4th at the Gilford, NH
187 High School.
188

189 March 10, 2009 minutes- Mike Speltz suggested adding the words “at winning funding” to the last sentence
190 under the subject “CTAP” on page three of the March 10th minutes. **T. Bloom made a motion to approve the**
191 **minutes of the March 10, 2009 public hearing as amended. M. Considine seconded. The motion was**
192 **approved, 7-0-0.**
193

194 **T. Bloom made a motion to adjourn. M. Considine seconded. The motion was approved, 7-0-0.**
195

196 **The meeting adjourned at 9:40 PM.**
197

198 Respectfully submitted,
199

200
201 Jaye Trottier
202 Secretary