



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

1 **Present:** Marge Badois, Chair; Gene Harrington, Vice Chair; Deb Lievens, member; Mike Noone,
2 member; Bob Maxwell, member; Roger Fillio, member; Richard Floyd, alternate member, Mike Speltz,
3 alternate member and Ted Combes, Town Council member
4

5 **Absent:** Mike Byerly, member and Julie Christenson-Collins, alternate member
6

7 **Also present:** Jack Szemplinski, John Kalantzakos, Rich Welch, Ari Pollock and Jeff Kevan
8

9 Marge Badois called the meeting to order at 7:30 pm.

10 **Conservation Land Discussion with Jack Szemplinski and Rick Welch - Cross Farm, Phase 2 - continued**
11 **from the February 13, 2018 meeting:** J Szemplinski addressed the Commission about the piece of
12 wetland at the Cross Farm development site that had been discussed at previous meetings. He pointed
13 out on the map he presented to the Commission an area of about 35 acres of wetland, which has been
14 identified by New Hampshire Fish and Wildlife as the best land for Blanding turtles and rabbits. He
15 stated there is about 3800 SF of wetland impact. He pointed out on the map he presented to the
16 Commission where the detention pond areas would be. He stated that there will be 4 detention ponds
17 that will encroach on wetlands. He reviewed the detention pond areas with the Commission in detail as
18 well as the overall design of a detention pond. G Harrington asked if detention pond 54 could be shrunk
19 in size, which would affect maybe 2 units, but would have less impact on the wetland. J. Szemplinski
20 stated that the developer has stated that he had no problems with losing 2 units, and in his opinion it
21 did not make that much difference. G Harrington stated that there would be more impact to the upland,
22 but less impact to the wetland buffer. J Szemplinski stated that it would be more of a wet pond versus a
23 detention pond, which does not provide ground water recharge into the ground. He stated in his
24 opinion, he thought the amount of wetland impact for the 85 units was pretty small. D Lievens asked if
25 there would be a septic management plan in place. J Szemplinski stated that there would. M Speltz
26 quoted from the ordinance regarding conditional use permits that allow the reduction of the buffer in
27 which one condition stated: "the structure for which the exception is sought cannot feasibly, after
28 consideration of all reasonable alternatives, be constructed on a portion or portions of the lot which lies
29 outside the CO district or the application of the CO district eliminates greater than 50% of the buildable
30 area located on the parcel." He stated that G Harrington pointed out that there may be a reasonable
31 alternative, as the ordinance states, to help lessen the impact to the CO district. J Szemplinski stated
32 that if he was to dig into the hill, he would lose the required water table level, and it would not work. M
33 Speltz asked what the total number of buffer impact was. J Szemplinski stated the four detention pond
34 impacts were 13,450 SF and the road impact is 15,500 SF. J Szemplinski stated that these are draft plans
35 and he is working with public works to cut the slope to 2:1 from 3:1, which would reduce the impact as
36 well. J Szemplinski stated that the developer is willing to plant and landscape these areas. M Speltz
37 stated in his opinion, he would like to see the detention ponds at least 25 feet away from the edge of



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

38 wet. J Kalantzakos asked if the Commission was in support of the current phasing details and what
39 concerns the Commission had. G Harrington stated that as biologists, the Commission wants to see at
40 least the 25 feet from the edge of wet and would really like the developer to stay totally out of the
41 buffer. J Szemplinski stated that he has spent a year and a half on this project and feels as if this current
42 plan is the best it can be. He stated that he thought drainage was an allowed use in the CO district
43 versus a parking lot. D Lievens stated she thought the impact was limited. M Speltz asked if the road
44 could be moved to lessen the impact. J Szemplinski did not think it would work. J Kalantzakos reviewed
45 each detention pond area with the Commission in detail. R Welch asked if the Commission had a lower
46 number, other than 13,450 SF, of impacts that would be acceptable. M Speltz stated that it was not a
47 number, but rather looking at each case and trying to make improvements. He asked if 2 feet could be
48 taken off the road to lessen the impact. J Szemplinski stated that he did not think Public Works or the
49 Fire Department would go for that. M Speltz suggested that Cross Farm come back to another meeting
50 after trying to make the improvements that the Commission recommended. M Badois and G Harrington
51 suggested the developer stay of the buffer to the 25 foot marker. M Speltz asked J Szemplinski to
52 calculate how much impact saved would be by obtaining permission to build a retaining wall before
53 going in front of the Planning Board, as he thought the Commission would recommend Cross Farm be
54 given a waiver for that. R Welch asked J Szemplinski if he thought he would try to make the
55 improvements or if this was the best it could be. D Lievens stated that she did not think the Commission
56 should make the 25 feet requirement for every buffer impact, as she did not think it was feasible. R Fillio
57 echoed M Speltz comment regarding obtaining the calculated saved impact by building a retaining wall.

58 **Woodmont WC-4 & WC-5 DHB Homes (Map 10 Lot 41) DRC comment and Conditional Use Permit**
59 **Recommendation:** D Lievens recused herself from this presentation. Jeff Kevan from TFMoran and Ari
60 Pollock, a lawyer from Gallagher, Callahan & Gartrell addressed the Commission. J Kevan passed out a
61 map for the Commissioners to review while he presented. He stated that the proposal is to develop sub-
62 areas, known as WC-4 and WC-5, in a PUD (Planned Unit Development) by DHB homes totaling 19.8
63 acres. He stated that 10 lots are proposed in WC-5 that runs along Gilcreast and 18 lots in WC-4 that
64 abuts Duck pond. He further explained that the developer would like to create a common area in the
65 middle of the plan and run a path along the pond and out around the wetlands, ultimately down to the
66 detention pond next to Michel's Way. He stated the developer is not looking to cut any trees down in
67 the 50 foot buffer, but rather to change from field to grass or lawn type area. He stated that according
68 to the PUD the developer is going to keep 3 rows of apple trees along Gilcreast Road. M Badois asked if
69 the homes would be condos. J Kevan stated the homes would be single family homes with an
70 association to maintain the roads, etc. M Badois asked if there would be an association fee. J Kevan
71 answered that there would be. M Badois asked to what extent the apple trees will be maintained with
72 her concern regarding the amount of bittersweet in those trees at this point. A Pollock stated that he
73 represents the sellers of the property, but it is his understanding that the buyers will comply with the



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

74 Master Plan regarding maintaining the apple trees, which would be dictated by the town. M Badois
75 stated that does not define maintain. A Pollock agreed there is no definition regarding maintain at this
76 point, however, the owner of the land is going to want to clean up the area to make it attractive for
77 purchasers. A Pollock stated he would be happy to mention the comments regarding invasive species to
78 the owners of the farm and see if they will clean it up before the sale of the land occurs. J Kevan
79 commented that his interpretation of maintain, would be for the developer to maintain the current two
80 rows of apple trees there now and plant a third row. M Speltz asked if these 28 single family lots would
81 have to have an association. J Kevan stated they would have to as it is a private road, which would have
82 to be plowed and maintained, as well as lights and the path to the common area. A Pollock stated that
83 the answer to M Speltz questions is that they do not have to have an association, and the buyer could
84 maintain ownership of the road forever and as the lots were sold off would continue to own the
85 infrastructure, but stated no home developer wants that and, therefore, a home owners association will
86 be created to pass title to the home owners. B Maxwell asked if the apple trees were on private land or
87 common area land. J Kevan stated the trees are on private land and would be a deed restriction
88 regarding the maintenance of the trees for the home owners. A Pollock stated that again, he represents
89 the seller, but if he did represent the buyer, he would put the maintenance of the apple trees on the
90 home owners association. M Speltz asked who would enforce the maintenance. A Pollock stated that
91 the Town would, as well as each individual home owner could sue the association for not maintaining
92 the trees. J Kevan finished reviewing the PUD with Commissioners stating that the Conditional Use
93 Permit (CUP) application is for 53,000 SF where the developer wants to put in an intercepting swale for
94 any water that comes off the roofs would be brought over to the two detention ponds to receive
95 treatment. He stated that he has talked with staff and the suggestion was to post wetlands posting signs
96 at the tree line instead of in a grass of field area. He asked if there were any questions from the
97 Commissioners. A Pollock stated that they were here for this presentation as well as for a DRC later in
98 the agenda, and hoped the Commission would do both at once. M Speltz stated that he thought if the
99 developer marked the buffer at the tree line, everything from the buffer and the tree line would be turf
100 grass, which is not permitted in the CO district. J Kevan stated that there would be little spots of lawn
101 behind some homes. G Harrington stated that lawn is not allowed in the buffer. J Kevan acknowledged
102 his statement. M Speltz asked J Kevan if he investigated keeping the detention pond out of the buffer
103 entirely. J Kevan stated that the developer thought this was the lowest portion of the site to catch the
104 most run off as possible. M Speltz stated that the developer did disclose lawn in the buffer under
105 condition #2. J Kevan stated the lawn issue in the buffer was something that he had not been aware of
106 and he was informed when he sat down with staff. M Badois asked what the vegetation was proposed
107 to be. J Kevan stated grass with grass swales and at the detention ponds there would be side slopes with
108 grass and standing water. M Speltz asked if both detention ponds had forebays. J Kevan stated they both
109 did. B Maxwell stated that it appears the design intent is for lawn to the tree line, which is problematic.
110 G Harrington commented that for the CUP, the Commission recommends removing lawn out of the



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

111 buffer and moving the wetland signs along the edge of the buffer. A Pollock reference the PUD and read
112 from page 47 regarding the CO district impact. He stated that this developer will impact the outer 50-
113 100 feet of buffer, not inside the 50 foot mark. J Kevan read from the PUD that a structure can be right
114 up to the edge of wet, and did not see how some type of turf or grass would also be there. He stated
115 that when he met with staff, the turf question did not arise. He stated staff suggested they keep their
116 structures out the buffer, which they have done, and stated they wanted lawns in the outer 50-100 feet.
117 J Kevan stated he wanted to go back and review with staff why they stated something different from the
118 Commission. M Speltz asked if turf could be called a structure. G Harrington reviewed with J Kevan the
119 CUP application stating that as it stands right now the Commission cannot vote to recommend it and
120 asked if he would like to withdraw the CUP application. J Kevan stated he understood and cannot
121 withdraw, and asked the Commission to act on the current CUP as it stands tonight. M Badois appointed
122 M Speltz to vote for D Lievens and R Floyd to vote for M Byerly. M Speltz informed the Commission that
123 he has an interest in a 1/33 of a property that is up the street from this site and he did not feel the need
124 to recuse himself. A Pollock stated that M Speltz would be receiving notification as an abutter to this
125 parcel. M Speltz stated he was already notified. G Harrington made a motion to recommend denial of
126 the Conditional Use Permit (CUP) due to the turf grass within the buffer and the lack of signs along the
127 outer edge of the buffer. M Speltz added an amendment to the motion for the developer to look at
128 moving both the detention ponds out of the buffer totally. B Maxwell seconded the motion. The motion
129 passed, 7-0-0. M Speltz commented that this was the second applicant to present the Commission a CUP
130 with only three criteria when there should be four. A Pollock stated the he felt as if he has had this
131 conversation with the Commission before and stated the form they used is 4B, which only has three
132 criteria. He asked if there might be a form 4A, which might have four. D Lievens produced form 4A for
133 the Commission, which has 4 criteria and is different than the one use for buffer reduction. M Speltz
134 stated that he brought this up because the fourth criteria states that financial advantage is not the only
135 criteria, and when a developer worries about moving lots because of moving the swale up the hill
136 farther, that could have a financial impact, but losing those lots is not a justification for leaving the swale
137 in place. A Pollock reminded M Speltz that the developer was told to use form 4B, which does not have
138 the fourth impact, and stated the Commission should talk to staff regarding forms. M Badois opened it
139 up to the public for questions. D Lievens asked if the trail would be open to the public. A Pollock stated it
140 would be. D Lievens asked if after this is developed the home owners could petition the Town Council
141 to close the trail to the public and if that did happen, could that be prevented. A Pollock stated that he
142 thought that would not happen, as the Town Council approved the trail as part of the Master Plan. T
143 Combes stated that when someone is buying these homes, that the trail would be brought to their
144 attention.

145 **DRC**



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

146 **DHB Homes - Site Plan (Map 7 Lots 132-3, 4, 5, 6 & 7)** - The Commissioners reviewed the DRC for DHB
147 Homes commenting that there should be signs along the edge of the buffer in the plan and the
148 detention ponds and associated swales should try to be moved out of the buffer totally.

149 **Old Business**

150 **Musquash Field Day recap:** D Lievens returned to the Commission. M Badois stated that it was
151 unfortunately very icy on Musquash Field Day. The Commissioners reviewed how much coffee, cider,
152 hotdogs, marshmallows and snacks were left over. D Lievens suggested writing a letter to R Fillio's
153 grandson's school about his community service. R Fillio stated it would be the Boy Scouts, not the school
154 for the letter, and gave M Badois the contact information.

155 **Kendall Pond:** M Badois stated that the town does not want to pay for the gate and brought the
156 discussion about what to do with Kendall Pond back to the Commission. B Maxwell stated he had been
157 to a place in Litchfield and there is a sign that reads only open from dawn to dusk. M Badois stated that
158 the police department has told her they cannot enforce the dawn to dusk. R Fillio stated that in the
159 town ordinance there is a time designated for when recreational facilities are open and closed, and that
160 is what the police department should enforce. M Speltz suggested that the Commission could wait a
161 year and put it in next year's budget. B Maxwell stated that in his opinion, no one would ever shovel the
162 gate out in the winter with snow. R Fillio commented that two property owners at different meetings
163 said they would help open and close the gate. M Badois reminded the Commission about discussions
164 regarding a non-town employee working the gate and confronting conflict or potentially getting hurt. G
165 Harrington suggested just the pole and camera with no gate. M Badois asked if the Commission should
166 move forward with the Kendall Pond improvement plan. M Noone stated that he felt getting the camera
167 up and working would make the abutters more responsive to the improvement ideas. He also felt
168 getting the ordinance hours changed so the times can be enforced would be a low cost effective
169 strategy. M Badois asked if the Commission would be amending a current ordinance or creating a new
170 one. M Speltz stated that there is a current ordinance in place and the Commission would be adding a
171 clause. M Badois stated she thought it would make sense to have summer and winter hours. B Maxwell
172 commented that he would like the trash and recycling barrels to be removed. M Speltz asked if the
173 police saw anything when they had cameras in place. R Fillio and G Harrington stated the police did not
174 see anything when they reviewed the footage. M Speltz asked what type of camera it would be,
175 continuous versus triggered by motion and who would review the video. G Harrington asked what Steve
176 Cotton had told Marge about the video. She stated that Steve had said the video could be sent to the
177 police department for their review. M Badois concluded that she would get more specifics regarding a
178 camera at Kendall Pond.



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

179 **Open Space Task Force:** M Badois asked the Commissioners if they wanted to ask the town to
180 reestablish this committee. M Speltz stated that about a month ago, the Commission had agreed to
181 form a sub-committee to look at creating an open space task force. B Maxwell stated he thought the last
182 one was done in 2010 and it should be repeated every 5 years. He stated that the Commission could
183 look at the desired conservation land from the old report and update accordingly. M Speltz suggested
184 contacting potential sellers by mail and have the potential sellers come to a meeting for a briefing. He
185 also suggested contacting the Planning Department to see if they are on board to help the Commission
186 with this project. M Badois asked the Commission when they wanted to set up a meeting with the
187 potential sellers. The Commission agreed early May would be best. B Maxwell asked T Combes his
188 observation of the public opinion regarding building a tax base versus buying conservation land. T
189 Combes stated that the public is interested in building a tax base to offset the taxes. He stated that
190 some public opinion is that the Commission should be buying land where buildings could be going or
191 where residential could be going to reduce the tax increases on the town, school, police or fire. He also
192 stated that some residents also say that they cannot find housing anywhere in town. M Badois
193 concluded that she would contact Planning Department to see if they would be on board to help with
194 the project.

195 **Wetland St. Cyr property:** D Lievens stated she received a copy of the wetlands permit, which would
196 expire July 2, 2018. She asked M Badois if she received anything back from the Commission's comments
197 on the wetland permit. M Badois stated she had not.

198 **Proposed Bill from legislature** - D Lievens stated this was about seeds and fertilizer. She read aloud from
199 the proposed bill: "No ordinance or regulation of local government may prohibit or in any way attempt
200 to regulate any matter relating to the registration, sale, formulation, transportation or use of fertilizer."
201 She stated that she asked someone from the New Hampshire Municipal Association if the current
202 ordinance in Londonderry regarding fertilizer would be grandfathered in and he did not know. She has
203 his email address and will follow up with him.

204 **New Business:**

205 **Email problems:** M Badois stated she had spoken with IT regarding the email issue when sending out a
206 group email and some people do not receive it. She asked if everyone had received her test email. The
207 Commissioners stated they had. She stated she would be bringing in her laptop to IT and see if there is a
208 problem.

209 **Griffin Road:** M Speltz asked T Combes if he had any information. T Combes stated he knew nothing
210 other than the lawyers were working on it. M Speltz stated that the property owner had contacted him



Londonderry Conservation Commission
Tuesday, February 27, 2018
Minutes

211 and said there was not a negotiation happening and wondered if something could be done. T Combes
212 stated he would contact Kevin Smith, Town Manager tomorrow.

213 **Trail Maps:** D Lievens made a motion to send a check to the printer for \$512.55 out of the line item
214 budget. B Maxwell seconded the motion. The motion passed, 7-0-0.

215 D Lievens made a motion to authorize reimbursement to Mike Noone for \$30.24 for mailboxes. B
216 Maxwell seconded the motion. The motion passed, 7-0-0.

217 **Wetland permit - Wiley Hill Road Culvert:** M Badois asked if the Commission had spoken to ARM. D
218 Lievens stated the Department of Public Works is concerned that there might be strings attached to this
219 application and if the Commission paid more than it would cost to do it on our own, it would be losing
220 money, which would not be good. M Badois asked if she had to sign the permit. G Harrington stated she
221 would only sign an expedited permit and with this one, she would write a letter to the Wetland Bureau.
222 G Harrington made a motion for the chair to send an approval letter for the wetland permit. M Noone
223 seconded the motion. The motion passed, 7-0-0.

224 **DRC**

225 **SW Cole Site Plan (Map 17 Lot 5):** The Commissioners reviewed the DRC SW Cole Site Plan stating that
226 the plastic shed should be removed from the buffer.

227 **Minutes:** The Commissioners went over the public minutes from February 13, 2018. D Lievens made a
228 motion to accept the minutes as amended. G Harrington seconded the motion. The motion passed, 7-0-
229 0.

230 **Adjournment:** G Harrington made a motion to adjourn the meeting at 11:30 p.m. R Fillio seconded the
231 motion. The motion passed, 7-0-0.

232 Respectfully Submitted,
233 Beth Morrison
234 Recording Secretary