



Londonderry Conservation Commission
Tuesday, May 25, 2021
Minutes

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

Absent: George Herrmann, alternate member

Also present: Amy Kizak, GIS Manager/Comprehensive Planner; Deb Paul, Town Council, Liaison; Mike Malaguti, Town Solicitor; and Beth Morrison, Recording Secretary

Marge Badois called the meeting to order at 7:30 pm with a roll call vote.

DRC – Apple Tree Mall Outdoor Seating SP Amendment – Map 007, Lot 040-2 – 4 Orchard View Dr – Brian Jones, P.E. from Allen & Major Associates, Inc., 400 Harvey Road, Manchester, NH, addressed the Commission. B. Jones informed the Commission that this proposal is to allow some outdoor seating to continue since that was put in place during COVID. He said that the property owner is looking to make this a permanent feature to the site. He shared his screen with the Commission noting the restaurants that currently use the outdoor seating as Lucciano's, Coffeeberries, Troy's Kitchen and Game Changers. He pointed out that there is another aspect of this plan regarding a landscape island near Game Changers. He went on stating that there is fire hydrant in the corner of the island that ends up getting hit when trucks are turning and it is something that the owner would like to fix. He explained that they are proposing enlarging the landscape island and moving the fire hydrant so it will not be hit. He said that from a drainage standpoint they are not interrupting the flow. D. Lievens expressed her opinion that she likes the creativity to help the local small businesses. G. Harrington asked if there was going to be plantings in the new landscape island. B. Jones replied that it is just bark mulch now, but now since it is larger, they could add some plantings. The Commissioners commented that they would like to see plantings in the new landscape island in front of Game Changers.

Unfinished Business

Moose Hill Update: M Malguti told the Commission that he has been having discussions with Kyle Chrestensen, the new manager of Moose Hill Orchards. He noted that Kyle would like to come to a Commission meeting in the future, as he is busy with the farm currently. He informed the Commission that there was a meeting with himself, Kevin Smith, Town Manager, M Badois, M Speltz, D Lievens and Kyle Chrestensen. He explained that there was discussion around dogs in the meeting because Kyle has seen some things that concern him on the farm, as he has been there for about a year learning about the operation. He commented that there is new United States Department of Agriculture (USDA) guidance that frowns against dogs in agricultural areas, specially dog waste. He noted that people are not picking up after their dogs at the orchard and Kyle is worried that he would get into trouble with the USDA. He added that Kyle has concerns about dogs off leash running everywhere and causing problems.



Londonderry Conservation Commission
Tuesday, May 25, 2021
Minutes

37 He mentioned that Kyle was concerned about parking as well at the orchards, noting that Kyle would
38 like to try and regulate parking there. M Badois remarked that M Speltz suggested that they write an
39 article in the Times about a general notice that all orchards need to comply with no dogs because of the
40 USDA guidance. M Malaguti noted that the conservation easements that the town has on the various
41 parcels are similar in guaranteeing public access onto the lands with reasonable times and reasonable
42 restrictions not to interfere with the agricultural operations. He said that most people think that this is
43 public land, which it is not, but instead allows public access. M Badois said that Kyle told them there are
44 people riding through the orchard on horses, which also interferes with the work. She stated that Kyle is
45 primarily concerned about safety and following all the Occupational Health and Safety Administration
46 (OSHA) rules for the safety of the farm workers, as well as the town residents. M Byerly asked if the
47 town regulations on dogs would address Kyle's concerns. M Badois claimed that according to USDA you
48 are not supposed to have dogs at all on the orchards. M Malaguti said that there are state laws and
49 town ordinances that can be enforced with dogs and possibly the Conservation Ranger could assist with
50 this in terms of enforcement. He pointed out that Kyle is looking to bring some structure to the farm
51 that has not been there before. M Badois commented that she believed that the Commission can
52 support Kyle with this. M Speltz mentioned that in the conservation easements there is pedestrian
53 public access, but other than that, someone does not have the right to bring their car, dog or horse on
54 the property. M Malaguti noted that there is a lack of clarity in some of the conservation easements
55 from the early 1990s, but said that they are much better written today. M Noone mentioned that there
56 is parking near the Adams Pond trail and asked if the Commission should clarify if people can still park
57 there. D Lievens asked about parking in the right-of-way. M Malaguti replied that there are a number of
58 laws that can apply, but the Londonderry Police Department (LPD) is not likely to take a hard stance,
59 unless the car is a traffic hazard or has been there for a long time. J Demas asked if the issues being
60 discussed this evening are the Commission's responsibility or the new owner's responsibility. M
61 Malaguti replied that it is the owner's responsibility, subject to the Commission's objection, if he is doing
62 something against the conservation restriction. M Speltz stated that Kyle is not forbidding cars on his
63 property, but would like to control where the parking is allowed. B Maxwell commented that he has
64 never seen anyone not honor the parking allowed near Adams Pond, noting that they put up ropes
65 during mud season to block it off. He added that in all the time he has been in the farm/orchard, he has
66 never seen a horse or signs of a horse. He expressed his opinion that he has some problems with what
67 Kyle has identified as problems and feels uncomfortable with the Commission enforcing this. M Badois
68 said that Kyle mentioned there was a problem mowing in the orchard as the dog waste goes flying. B
69 Maxwell remarked that in all his daily walks through the orchard, he has not seen a lot of dog waste. J
70 Demas agreed that she feels that it is not the Commission's place to enforce the issues brought up this
71 evening. M Byerly agreed that it is fine for the owner to enforce these rules, but he is not comfortable
72 with the Commission enforcing them. M Speltz said that if he writes the article for conservation matters,
73 he will circulate it to the Commission before to see if it has the right tone. He added that the
74 Commission has an interest in seeing all the orchards succeed, noting that there is nothing in the
75 easements that would prevent that. M Byerly said that the Commission does not want to scare off
76 people with dogs from using the Commission's trails, etc. M Malaguti told the Commission that they are



Londonderry Conservation Commission
Tuesday, May 25, 2021
Minutes

77 well underway drafting a lease and closing on July 2, 2021. He said that he will present the lease
78 document to the Commission before the closing date.

79 M Badois asked about the Green Team. M Malaguti commented that it was difficult to determine the
80 correct ownership structure in front of the Moose Hill School. D Lievens mentioned that she thought
81 there was a Quitclaim deed and asked if it should be written again. M Malaguti replied that would be
82 one potential solution to clear things up, but as there are many conservation easements on the property
83 any substantial changes would need to go before The NH Attorney General's Trust Division Trust, which
84 is a long process. He noted that they are currently investigating the documents. He said that the town
85 has a conservation easement over the parcel that is similar to the other easements in town.

86 M Speltz told the Commission that he circulated a draft of the baseline documentation report and asked
87 for feedback. He asked if anyone else had any feedback or concerns, as he would like to submit this to
88 New Hampshire Department of Environmental Services (NHDES). S Malouin asked when this was sent. M
89 Speltz replied about three weeks ago. A Kizak stated she could resend it to her. G Harrington asked for A
90 Kizak to send it to him again as well.

91 M Noone asked what the outcome was regarding the wells on conservation property that were found
92 recently. M Malaguti replied that Pennichuck agreed to remove both wells from the parcel, but he
93 cannot remember the timeframe. M Noone mentioned that he thought the Commission was supposed
94 to discuss what they wanted to do with the wells. M Badois mentioned that the Commission agreed with
95 the wells being removed, as it was a liability to keep them there. M Noone said that he thought the
96 Commission needed to get back to M Malaguti formally about this. M Malaguti clarified that the
97 Commission does not want to keep the wells. M Badois replied that was correct.

98 **Events:** M Badois asked the Commission if they were still interested in having an event for the new
99 Moose Hill property. She asked when they are closing on this. M Speltz replied they are closing on July 2,
100 2021. B Maxwell asked if the Commission should make sure the new owner is okay with this. M Speltz
101 clarified that the new owner does not own the land they would have the event in. M Badois asked if
102 they should coordinate the event at the new property with Old Home Days. D Paul commented that she
103 was going to suggest this. J Demas also agreed this would be good paired with Old Home Days. D Paul
104 noted that Old Home Days is the third Saturday in August, which would be August 21, 2021.

105 **Camera:** B Maxwell told the Commission that they are on back order and possibly will be in June.

106 **Gilcreast Road:** M Noone asked about the next round of testing. M Speltz replied that they are waiting
107 on NHDES to approve the work plan submitted by the contractor. He commented that he would reach
108 out and talk to Steve Cotton, Administrative Support Coordinator, to see if there is anything to do.

109 **South Road:** M Noone asked if S Malouin had heard anything regarding this parcel. S Malouin replied
110 that she has not heard anything. M Noone informed the Commission that he reached out to the person
111 who wrote the last report, as he had seen some cars going down the road a couple weekends ago, and



Londonderry Conservation Commission
Tuesday, May 25, 2021
Minutes

112 asked if they wanted him to check it out. He went on stating that when he spoke to the person, he made
113 is sound like the decision was made not to transfer the property, but he was not 100% sure. S Malouin
114 asked when M Noone saw someone there. M Noone replied that it was probably about three weeks
115 ago, noting that a road was left along the fence that leads directly to the back, and when he drove down
116 it, two other cars were there as well. He commented that is why he reached out and asked them if they
117 wanted him to monitor the property, as they are not monitoring it anymore. He added that he would
118 keep the Commission informed as to his findings.

119 **New Business**

120 **Email:** M Badois asked if the Commission had an issue with someone doing research in the Musquash
121 tracking furbearing animals by camera. M Noone asked if the camera height of four feet that they are
122 proposing would be an issue, as the Commissions cameras were at eight feet. B Maxwell commented
123 that they should put a note or sign around it describing the project. J Demas mentioned that she
124 thought the cameras would be more hidden out of sight on the trails. M Speltz explained that the
125 cameras would be set up in a line to get the most data. He said that the Commission should ask for them
126 to share the report with them.

127 **Meetings:** M Badois said that she believes the Governor is going to lift the emergency order allowing
128 meetings by Zoom and asked the Commissions thoughts on meeting in person. A Kizak noted that
129 Moose Hill will be available for the Commission for the rest of the year. M Badois asked if the
130 Commission would like to go back to in-person meetings for June. The Commission agreed to go back to
131 in-person meetings starting on June 8, 2021.

132 **Other Business**

133 **Minutes:** The Commissioners went over the public minutes of April 27, 2021. B Maxwell made a motion
134 to approve the minutes as amended. G Harrington seconded the motion. The motion passed, 7-0-0, by
135 a roll call vote.

136 **Adjournment:** M Byerly made a motion to adjourn the meeting at 8:35 p.m. G Harrington seconded
137 the motion. The motion passed, 7-0-0, by a roll call vote.

138 Respectfully Submitted,
139 Beth Morrison
140 Recording secretary
141