



Londonderry Conservation Commission
Tuesday, June 13, 2023
Draft Minutes

Present: Marge Badois, Chair; Gene Harrington, Vice Chair; David Heafey, member; and Mike Speltz, alternate member.

Absent: Bob Maxwell, member; Deb Lievens, member; Susan Malouin, member; Tiffani Macarelli, member; Jim Leary, alternate member.

Also present: Amy Kizak, GIS Manager/Comprehensive Planner; Glen Aprile, conservation ranger; and Michael Malaguti, Town Manager

Marge Badois called the meeting to order at 7:30pm. She announced that Mike Speltz will vote for Bob Maxwell. She stated there were several topics the public wishes to comment on, so public comment would be taken during the meeting.

Expedited Wetland Permit - 80 High Range Road - Map 6, Lot 109

Luke Hurley, Senior Ecologist with BSC Group, appeared before the Commission representing the Shucks. He presented an expedited wetland application for a driveway access onto the property at 80 High Range Road. The driveway will access the parcel from Thornton Road for safety reasons, per the recommendation of the Fire Chief. Partial access exists that has been through planning several months ago.

The property will be a therapy operation for veterans with PTSD that involves beef cattle. A three-sided structure will be constructed as a shelter for the cattle and a location for the veterans to work with them. The access will encompass an existing cart path, which requires no tree clearing or grading or excavation work. The driveway will be gravel and bark mulch. There is an intermittent stream that goes through the area. The proposed impact is 543 square feet, which will be covered by swamp mats. There are no direct stream impacts, so there are no stream crossing guidelines involved. He noted that there are no priority resource areas at the site. The Natural Heritage Bureau (NHB) has surveyed the area and found no concerns.

M Badois asked if the field would be fenced and if the fence would extend to the edge of the wetlands. L Hurley said the fence can be put on the upland side of the wetlands, to protect them from the cattle.

The Commission questioned the size and location of the wetland buffer and L Hurley offered to obtain this information. M Speltz asked if the Town allowed gravel to be placed on the Town right-of-way. A Kizak said there was a driveway permit issued through the DPW. L Hurley said all erosion control and stormwater treatment is in place and being monitored for the gravel driveway. He noted that alteration of terrain views gravel as impervious, so erosion control was required. He said there is no pollutant expectation or parking involved, so there is no environmental impact.



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32 M Speltz asked how the matting supports will be maintained and monitored over time. L Hurley
33 suggested applying crushed stone or granite slabs under the supports, and said the matting and supports
34 will be monitored. M Badois asked if the detention pond was approved through Town engineering and L
35 Hurley said it was.

36 John Brodeur of 27 Thornton Road, an abutter, read a letter to the Commission into the record. He
37 voiced his objection to the dredge and fill permit application, due to flooding concerns and potential
38 environmental issues with the wetlands and stream. He noted the stream is very active and is concerned
39 that the swamp mats will block debris and cause flooding. He believes it is more dangerous to use
40 Thornton Road than the current access. He said Mr. Shuck approached him in the past regarding building
41 this driveway, which he opposed. They met with Town counsel, who recommended not using Thornton
42 Road. He noted the buffer zone will be impacted and heavy equipment will be needed to install the
43 matting. He asked about the application process and M Badois described it.

44 Julia Brodeur, 27 Thornton Road, said trees will need to be cleared around the retention pond. M Badois
45 asked if the retention pond has impacted their property. John Brodeur said there is a discharge point into
46 the wetlands that the driveway will cross. Julia Brodeur asked how they will be able to drive over the
47 discharge section.

48 Tim St. Gelais, 32 Thornton Road, asked if there is a required buffer between the driveway and the
49 wetlands. The Commission said in this case, it would be a 50-foot buffer. They also noted that the zoning
50 ordinance allows for a Conditional Use Permit where a wetland can be crossed over to access a property
51 that otherwise would not be accessible. T St. Gelais asked why DES would not be at the site walk and M
52 Badois replied the Commission is tasked with being the eyes and ears of DES. He asked about the
53 number of vehicles that will access the property and L Hurley said he did not know the schedule. T St
54 Gelais believes the property should be accessed from High Range Road instead of Thornton Road.

55 L Hurley reviewed the process of applying for an expedited permit for the public and how a site walk is
56 involved.

57 John Brodeur asked if another permit is required for the driveway extension. M Speltz replied they do
58 not know where the driveway is located in relation to the buffer, so do not know if a Conditional Use
59 Permit will be required. He said the Commission would need to know this before a decision can be made.

60 M Badois asked if the buffer was not indicated on the plans as this is not a site plan review. L Hurley said
61 he understood this did not have to go to the Planning Board as it is not a subdivision plan, so he
62 speculated this is why the buffer was not noted. M Speltz said the Commission does not know if the
63 buffer ordinance is involved, which makes it difficult to make a decision.



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- 64 M Speltz asked about the clearance between the bottom of the mat and the seasonal high water level. L
65 Hurley said he believes it will be about two feet. He said there is no stream crossing design, as there are
66 no stream impacts. He said there are no flooding issues due to the openness ratio of the crossing.
- 67 John Brodeur questioned if the matting is truly permanent. L Hurley described how the matting will be
68 installed. He read into the record a letter from 2021 from Donald Whitten, an abutter, 86 High Range
69 Road, who stated he has not seen the stream flood since 1957 and that it normally is dry from June to
70 December. He noted there is no impediment to the flow of water in the stream.
- 71 The resident at 32 Thornton Road asked if the mats will be attached to each other. L Hurley said they can
72 be anchored but it typically is not needed due to their weight.
- 73 Julia Brodeur reiterated trees will need to be cleared to install the matting.
- 74 D Heafey said he believed a site walk is needed before a decision can be made and M Badois agreed. M
75 Speltz asked about the rigidity of the mats. L Hurley did not know, but said utility equipment crosses
76 mats like these with no issues.
- 77 Julia Brodeur asked if the cattle will be brought to the property via this driveway and questioned the size
78 of the vehicle transporting them. L Hurley did not know the number of animals involved and believes a
79 truck with a trailer will transport them.
- 80 Property owner Jerry Shuck noted they will avoid removing trees if at all possible. There will be three or
81 four cattle on the property. There will be a three-sided shed according to best management practices for
82 the animals. Granite slabs will support the matting crossing the stream and he believes this is overkill.
83 According to Ag Extension, they could have used a culvert but chose not to, as it could be plugged. He
84 suffers from PTSD due to his time in Vietnam and he is trying to help other veterans. He said the cattle
85 will not be in the wetlands.
- 86 M Malaguti noted this is not a site plan application; it is an application for a wetlands permit. If the
87 Commission does not feel they have enough information to act, they should ask the applicant if he is
88 comfortable continuing. If not, the Commission should not act on the application at this time. He said
89 there has been discussion about the extent of the Town's jurisdiction. This was processed as a driveway
90 permit application, which does not give the Town plenary jurisdiction to regulate what is happening on a
91 property. It is limited to the impact on a Town's right-of-way. He is unaware of any determinations as to
92 whether a Conditional Use Permit is required. He encouraged the Commission to retain focus on the
93 wetlands permit application.
- 94 J Schuck noted the drainage pond was approved by John Trotter.



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95 M Badois said the next step is to perform a site walk. L Hurley said he would be glad to accompany the
96 Commission on this and any concerns can be addressed at this time.

97 T St. Gelais asked if emergency equipment would be traveling this driveway.

98 J Schuck clarified veterans will be on the property two or three times a week. They will park near the
99 cattle.

100 M Speltz asked L Hurley to add a clear wetland buffer line on the plan and he agreed. M Speltz asked for
101 specifications on the matting and L Hurley agreed to provide this.

102 Julia Brodeur asked if the plans could specify how wide the road around the retention pond will be. L
103 Hurley said it is on the plans, but he will call it out specifically.

104 The Commission will work with L Hurley to schedule a site walk.

105 **DRC – 244 Nashua Rd Condo Conversion – 244 Nashua Rd - Map 3, Lot 135**

106 M Badois noted there was no one present to represent this project, as they felt it had been reviewed on
107 DRC.

108 M Speltz asked if the two buildings are exactly the same. He said the earlier plan does not show the
109 slope from the septic field. He noted the leach field on the new plan shows the down slope buffer
110 extends into the CO district, so leachate will be going into this area. It was identified as a 150-foot down
111 gradient nitrate setback. He asked if the nitrate setback was a new regulation, as it was not in the old
112 plan, and if this was a concern. M Badois asked if it needed to be 150 feet from the brook.

113 A Kizak said the plans should be the same. The only difference is they are creating condos. So, these
114 plans are supposed to show the limited common areas versus the common area.

115 M Speltz noted \$1.5 million is being spent to protect Nesenkeag Brook and he asked if it will be
116 threatened with nitrate pollution. The Commission will ask the DRC to explain the nitrate setback.

117 **Old Business**

118 **35 Gilcreast Road Purchase & Sales Agreement**

119 M Malaguti said the Town Council voted to move this issue forward to the Conservation Commission. He
120 said the Commission is familiar with this transaction, having approved it in the past.

121 In 2003, the Town entered into an agreement with Gilcreast Realty Holdings, LLC, and Gilcreast Realty
122 Holdings II, LLC. Gilcreast proposed building a 361-unit development on two parcels (the project lot,
123 which is the lot that includes the Nevins and a large buffer, and the orchard lot). The legislative body



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124 approved an article appropriating \$2.9 million to acquire development rights from Gilcreast and for
125 Gilcreast to discontinue the 361-unit development and to build a 125-unit age-restricted project
126 confined to the project lot.

127 Open space and conservation restrictions were placed on a portion of the project lot, which is part of the
128 Nevins. A conservation and open space easement was placed on the orchard lot. There is no public
129 access to the orchard lot, which is overgrown, has invasive species, and is contaminated with pesticides.
130 The easement on the orchard lot can be amended or revoked.

131 Gilcreast asked if the conservation restriction could be released on this lot. Two warrant articles
132 appeared on the 2022 ballot that were passed. One sought authority to release the conservation
133 easement for no less than \$2.65 million to be paid to the Town. The second article appropriated
134 \$750,000 of that amount to be used to replace the orchard lot with other parcels of equal or greater
135 conservation value than the orchard lot. The additional \$1.9 million will go to the Town's other general
136 purposes. At the end of the fiscal year, as there are no general purposes, it will lapse to the Unassigned
137 Fund Balance and be used in the fall to lower the tax rate or support taxpayers in other ways.

138 When this was considered as part of the budget process, the consensus of the Commission was that the
139 conservation value of the orchard lot was not significant.

140 M Malaguti asked the Commission to approve this purchase and sales agreement.

141 Members of the Nevins community have sent letters to the Town, asking that they incorporate a
142 prohibition on garden-style apartments into the purchase and sales agreement and to establish a fence
143 along the property line between the two lots. The property line is approximately 600 or 700 feet across
144 the buffer from the nearest Nevins property. The buffer is not part of this transaction and remains as a
145 conservation buffer. The fence has been built into the purchase and sales agreement.

146 Kristin Haroian, 29 Morrison Drive, expressed a concern about buildings being constructed. She is
147 concerned about the contamination in the project lot, and asked how it will be removed and if it will
148 become airborne. M Malaguti said this issue has been raised with the developer, who will comply with
149 DES requirements to prevent contamination from occurring. He noted these concerns were addressed as
150 part of the Planning Board's site plan review process.

151 Alan Haroian, 29 Morrison Drive, noted the general age of the Nevins residents is 75 and older. He feels
152 many of the residents were not in town when the warrant articles passed and they are angry. He asked
153 who will oversee the day-to-day operation of handling the contaminated soil. He said they paid a
154 premium to have conservation land behind their home and believe they were lied to when they were
155 told it would never be built upon. He holds the Commission responsible for ensuring that the oversight
156 of this project is done to the letter of the law.



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157 Martha Tomanelli, 2 Harriet Court, said her house will be most impacted by this development. They were
158 told nothing would be built on the property and the Nevins residents are angry. This was not discussed
159 with the Nevins residents. She feels a fence should be erected, so no one can come into the Nevins.

160 M Badois noted there will be a fence, but had no details about it.

161 A Haroian asked if they could have input regarding the height of the fence. M Malaguti said that would
162 be an issue handled by the Planning Board. M Speltz said the residents will be notified that a
163 development is being proposed and the date to attend the Planning Board meeting.

164 K Haroian asked what kind of remediation is done regarding pesticides. M Badois said the DES is the
165 controlling body and this will be tied into the Planning Board's oversight of the development.

166 M Malaguti acknowledged that Nevins residents could have been told nothing would be built there, but
167 they have to go by the instrument, which indicates that things might change. He said the parcel has no
168 useful purpose, other than to continue to be overgrown. If it can be leveraged to do something that
169 constitutes a net conservation benefit for the Town, this is a motivating factor.

170 M Speltz suggested the Nevins residents speak with the DES to learn about the remediation process.

171 M Badois noted this issue will not close until the planning approval process is completed, which can take
172 years. M Tomanelli expressed concern that this development will negatively impact the sales value of
173 their homes.

174 ***M Speltz moved that the Commission approve the sales agreement as written. G Harrington seconded***
175 ***the motion. A vote was taken. All were in favor. The motion passed 4-0-0.***

176 **Piper Trail**

177 M Badois said Brian Gunderson has reported they are almost done. He asked if two corrections could be
178 made. Portions of the existing trail were prone to erosion, so they straightened a curve so that it would
179 be less likely to wash out. Signs will need to be made, once the project is completed.

180 **Mack's and Kendall Pond Signs**

181 She noted that the signs for Mack's and Kendall Pond are imminent.

182 **New Business**

183 **Conservation Ranger Report**

184 G Aprile reported he was called out three times in the last three weeks for a lost hiker, a 13-year-old dirt
185 biker who hit a pole on the power lines, and a lost dementia patient. A resident at Chestnut Hill and



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186 Mayflower contacted him with concerns regarding parking on his property. He noted that Eversource is
187 erecting a fence around a property on Hickory Hill that has had issues with parking in the past. The
188 Kendall Pond cameras have captured teenagers smoking a bong.

189 **Hickory Hill Rare Plants**

190 M Badois noted that as part of the process in working toward the parking lot on Hickory Hill, the NHB will
191 need to survey for rare plants. The estimated cost of the survey is \$5,600. She spoke with D Lievens, who
192 believes the plants are no longer present, as the last survey was done in 2013. The plants are best
193 identified when they are flowering. One will not flower until the first of July and the other not until the
194 fall, so this survey could delay the project another year. M Badois will ask D Lievens if she can perform
195 the survey. G Harrington noted the area being impacted is small.

196 **Maintenance Cut of Hicks Parcel**

197 M Badois said the logger working on the Plummer parcel asked if the Commission wants a maintenance
198 cut performed on the Hicks parcel. As the Hicks parcel is landlocked, he could access it via the Plummer
199 property and avoid having to do a driveway cut out to High Range, which would require a driveway
200 permit. M Speltz noted the Commission should specify that healthy, mature trees are to remain. M
201 Badois asked if a forest management plan was needed but M Speltz said it is not under easement, so this
202 would not be necessary. She will discuss this with the logger and request a contract.

203 **Changing Banks**

204 M Badois said Justin in Finance recommended moving the Commission's accounts from Citizen's Bank to
205 TD Bank to increase the interest from .15% to 3%. The Commission agreed this was a good plan.

206 **Approval of Minutes**

207 A Kizak noted a correction on line 109 to the minutes that were initially distributed.

208 ***G Harrington made a motion to approve the minutes of May 30, 2023, as presented. D Heafey***
209 ***seconded the motion. The motion passed 3-0-1, with one abstention, M Speltz.***

210 **Non-Public Session**

211 ***M Speltz moved to go into non-public session per 91A:3-2(d) for the purpose of discussing a property***
212 ***acquisition at 9:46 p.m. A roll call vote was taken. Harrington - aye, Badois - aye, Speltz - aye, Heafey -***
213 ***aye. The motion passed 4-0-0.***

214 ***G Harrington moved to close the non-public session. D Heafey seconded the motion. A vote was taken,***
215 ***all were in favor. The motion passed 4-0-0.***



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216 ***G Harrington moved to seal the minutes of the non-public session on the ground that it will render the***
217 ***proposed action ineffective, if it were to be disclosed. D Heafey seconded the motion. A vote was***
218 ***taken, all were in favor. The motion passed 4-0-0.***

219 **Adjournment:** G Harrington made a motion to adjourn the meeting. D Heafey seconded the motion. The
220 motion passed, 4-0-0.

221 Respectfully Submitted
222 Beth Hanggeli
223 Recording Secretary

DRAFT

