

FINAL

**LEBANON CONSERVATION COMMISSION
REGULAR MEETING MINUTES
Remote Via Microsoft Teams
LebanonNH.gov/Live
April 10, 2025
6:30 PM**

MEMBERS PRESENT: Sarah Riley (Chair), Bruce James, (Vice Chair), Erling Heistad, Barbara Hirai, Chris Johnson, Donald Lacey, Ernst Oidtmann

MEMBERS ABSENT: Susan Almy (Alt.), Sean Dittrich (Alt.), Travis Talbert (Alt.)

STAFF PRESENT: Mark Goodwin (GIS Coordinator),

1. CALL TO ORDER: Chair Riley called the meeting to order at 6:33 PM.

2. APPROVAL OF MINUTES:

None

3. OPEN TO THE PUBLIC:

4. PERMIT REVIEW:

- A. Review & Comment to NH DES and Lebanon Zoning Board of Adjustment: Saxon Real Estate Partners, LLC, 0 Mount Support Rd (Tax Map 24, Lot 1, Plot 100) –** Review and Comment on NH DES Wetland Major Impact Application and the Zoning Board Wetlands Special Exception Application for construction of a new 3-building, 4-story residential apartment complex with podium and surface parking , amenities, and landscape improvements. A total of approximately 106 SF of temporary impacts and 12,623 SF of permanent impacts are proposed by the project development. CC2025-03 DES #2025-00567 (45 minutes)

The following field team joined this Con Com meeting virtually: Ms. Sylvia Driver, Mr. Dave Fenstermacher, and Mr. Brenden Gilmore and Mr. Jake Tinus. They shared maps of the proposed project including building, parking lots, and impacted wetlands.

Vice Chair James went on the site walk on April 3, 2025 (along with a majority of the Conservation Commission members), hosted by the field team. As a result of this, he prepared a document citing his observations and concerns about this project. Mr. Goodwin subsequently shared this with all Commission members as well as the team representing this project. Vice Chair, James, commended the field team for the detail they presented. He read his written statement as follows:

“My comments and suggestions are based on a review of the documents presented by the applicant to the Conservation Commission and on my understanding and observations of the soils, wetlands and hydrology of the site. The latter are based on the site walk, sponsored by the applicant on April 3, 2025, and on my professional experience as a soil and environmental scientist.

My overall impressions: the proposed building site is situated on soils that are shallow to bedrock (see figure 1), consist principally of the Bernardston soil series, 80% of the land area; these soils have impermeable layers, glacial till and bedrock, one to two feet from the surface and at the surface in places. As a result, water likely percolates down to these layers and flows horizontally and downslope, to a small drainage drain behind the recently built apartment complex. This micro catchment also drains a contiguous larger wetlands to the west of the proposed building site that is not presently being planned for development. As a result, the proposed building site is sandwiched between this larger relatively undisturbed wetland upslope and the previously disturbed landscape building and soils downslope (figure 2).

The fact that the proposed project would be positioned between the undisturbed watershed to the west and the buildings to the east presents a situation in which it may be difficult to predict the affects of further disturbance of the hillside on waterflows and wetland functions. This may be particularly important during extreme rainfall events when large volumes of water flow from the uplands of the landmark lands to the west of the site to the large area between Mt. Support Road and Route 120. The applicant indicated during the site walk and it was reiterated in the documents presented, that an alteration of terrain application is being prepared as related to roadways to be built and the filling of the steep ravine, incised into the land's surface just to the west of the existing apartment buildings. More details are needed on how the terrain would be altered. The Bernardston soil is very stony with 15-25% slopes and very limited possibilities of tank absorption fields, shallow excavations, dwellings with or without basements, local roads and streets, and landscaping. Given that landscape alteration and an AOT will be needed to develop this site on such soils and in this wetland watershed complex, I recommend that this wetland permit application and zoning board adjustment be rejected. Any further disturbance of this site with land alteration and buildings is ill advised. There are too many unknown and possibly unpredictable interactions on and off the site between hydrology soils, wetlands, and existing buildings downslope to proceed with this project as proposed."

Mr. James also provided four questions pertaining to the above that are included in his document. These questions were not provided in this meeting.

Chair Riley stated that she agreed with Mr. James' points and added some of her concerns and issues for this project starting with the fact that she and others observed water flowing over the surface on this proposed project site, specifically the southern section of the area that is to be impacted acknowledging that this was ephemeral water after a rainfall event. They saw water flowing on the surface, consistent with the definition that DES has for ephemeral stream. Furthermore, they also saw and heard water flowing under the surface and witnessed puddles. These extend beyond the areas delineated on the wetland map and causes concern about the hydrologic connection between systems. Reference 31303-B3 in statement to DES. She thinks this provides examples of the complications of the wetlands on this site. This project is attempting to put too much on this site. Therefore, she also hesitates to recommend the approval of this project at this time.

Mr. Lacey stated that this is one more of a continuum of projects on Mt. Support Rd. that are having cumulative impact on the wetlands in this area.

Ms. Hirai said that the field team has done a reasonable job to try and avoid surface wetlands. Her concern is the subsurface hydrology and when they were on the site visit, it was not clear how the subsurface water would be addressed.

She will be happy to review a revision of this project at some point in the future, once the above issues are addressed.

Mr. Dave Fenstermacher asked that before the Con Com makes a motion/statement to DES to be allowed to come back and present more. He said his company is committed to the City of Lebanon and further protection of wetlands. He also requested that this project team delay going to the ZBA until June, and meeting with Con Com on this matter in May.

Chair Riley said that she appreciates these comments, but that today, the Conservation Commission is required to address this application with the DES.

Ms. Hirai said that Con Com simply does not have enough information to approve this project. Chair Riley agreed and said that avoidance and minimization hasn't been met completely addressed, reiterating that this project is simply too large for this site. Mr. Heistad concurred.

Mr. Brenden Gilmore asked for the opportunity to address this with Con Com and the board as the owner of this project and discuss the potential of this project both now and in the future. He doesn't think they have had this opportunity. Mr. Goodwin said mitigation could be discussed with Con Com. Mr. Gilmore explained that there would be wetlands dedicated into perpetuity, similar to what they have done previously at on Mt. Support Road, with wetland corridors. It was agreed that the ZBA item is being withdrawn for today, and that they will present it for discussion for the May 8, 2025 Con Com meeting.

The Lebanon Conservation Commission recommends that the NH Department of Environmental Services (DES) not approve the following application:

Saxon Real Estate Partners, LLC, 0 Mount Support Rd (Tax Map 24, Lot 1, Plot 100) – Major Impact Application, for construction of a new 3-building, 4-story residential apartment complex with podium and surface parking, amenities, and landscape improvements that would include 106 SF of temporary impacts and 12,623 SF of permanent impacts CC2025-03 DES #2025-00567

The following reasoning is provided to support the recommendation for not granting approval:

Given that landscape alteration and an Alteration of Terrain (AOT) will be needed to develop this site on the Bernardston soils and in this wetland watershed complex, the plan as proposed with land alteration and building is ill-advised. There are too many unknown and possibly unpredictable, interactions on and off the Site between hydrology, soils, wetlands, and existing buildings downslope to proceed with this project as proposed. During the site visit water was observed flowing above and below the surface beyond the areas delineated on the wetland map. Additional shallow pools of standing water and ephemeral streams were observed within the proposed build of disturbed area that were not mapped.

Mr. Bruce James MOVED to have the Conservation Commission request DES not approve the application for this project. Con Com will provide the above statement to submit to DES. Seconded by Mr. Ernst Oidtmann

****The MOTION was approved unanimously***

5. STUDY ITEMS:

Item D * was discussed first out of consideration for the people attending in person, including Mr. Jerry Rutter, the landowner gifting land to the City of Lebanon, and Mr. Craig Privett, Conservation Project Manager, representing the Upper Valley Land Trust, and Ms. Peg Merrens, Vice President, Conservation (attending remotely).

- A. **Food Truck Task Force** – Proposed Zoning Amendment (7 minutes)
- B. **Care & Treatment of Animals** – Proposed Zoning Amendment (7 minutes)
- C. **Hotels in General Commercial One (GC-1)** – Proposed Zoning Amendment (7 minutes)

“The Conservation Commission is neither in favor of nor opposed to proposed zoning amendments Food Truck Task Force, Care & Treatment of Animals and Hotels in General Commercial One (GC-1), as the proposed use or use change does not have any impact on natural resources.”

Chair Riley *MOVED to approve the above comment.*
Seconded by Mr. Ernst Oidtmann

****The MOTION was approved unanimously***
Mr. Don Lacey had stepped out of the chamber, so he did not vote

- D. ***Upper Valley Land Trust (UFLT) Conservation Project** – Signal Hill lowlands Conservation Project (45 minutes)

Mr. Privett stated that UFLT uses Land Protection Tools, via both Fee Ownership and Conservation Easement. They work to protect working farm and forest lands, as well as lands with significant water resources, wildlife habitat, scenic values and recreational opportunities. He is at this Con Com meeting because UFLT was offered a generous gift of land (22.8 +/- Acres Stevens Road) from Mr. Jerry & Mrs. Sally Rutter.

This is a hybrid project whereby it will include the gift of land to the Upper Valley Land Trust. And then UFLT is seeking to have the City of Lebanon accept the fee ownership of the land gifted from UFLT subject to a conservation easement which would be held and monitored and stewarded by the Upper Valley Land Trust into perpetuity.

Consequently, UFLT is seeking two approvals, one for the Rutter land to be taken in fee interest by the City and added and managed with its Signal Hill conservation area across the street. The second would be the approval of lost funds to cover transaction costs as well as the contribution to the endowment.

This land is worthy of such protection because it offers wetland, wildlife habitat, it has been identified as a significant ecological area, open land habitat, and it offers highly scenic (more than 2,000 feet of frontage) along Stevens Rd. He provided slides and details of the land.

A contribution from the Lebanon Conservation Fund (LOST Fund) could support the transaction costs and long-term stewardship of this gift.

This is a significant land protection opportunity for the City and an inexpensive means of funding and encouraging conservation. Use of LOST funds may be approved by the Conservation Commission following a public hearing. This is a common practice in other Upper Valley towns (Plainfield, Cornish, Orford, Thetford, Hartford, Hartland, Weathersfield, etc.).

They have estimated the project value to be approximately \$20,920, which would include the cost of both the fee conveyance to the City and the stewardship endowment. The UFLT will steward and monitor the land. It will have an open meadow feature but could also require periodic mowing.

The Conservation Commission will set the public hearing for May 8, 2025 (their next meeting), as is customary. Mr. Rutter will be available to attend the May meeting.

Mr. Heistad thanked the entire Rutter family for this gift. Mr. Rutter said that he and his wife Sally feel it is incumbent upon them to do this.

Mr. Ernst Oidtman recused himself from any voting, since he is a trustee on the UVLT. As a private citizen he highly recommended that the Conservation Commission accept this donation and use the LOST fund account to finance these transactions.

Ms. Peg Merrens, Vice President Conservation, of the UVLT said that it would be ideal to have these two transactions happen in close proximity, that being the transfer from the Rutters to the land trust and then the transfer from the land trust to the City to happen close in time (within a matter of days), with the goal to have the transactions completed sometime in the Fall of 2025.

Mr. Mark Goodwin commented on what a fabulous project this is and that the amount of frontage and scenic value is exactly the type of scenario that the City desires.

Mr. Donald Lacey MOVED to have the Lebanon Conservation Commission schedule a Public Hearing to be held Thursday, May 8, 2025 at 5:30 PM, City Hall Chambers, for consideration of the expenditure of \$21,000 from the LOST fund, toward the conservation of the Rutter Signal Hill property in conjunction with the Upper Valley Land Trust (costs breakout details were provided). Seconded by Mr. Erling Heistad

****The MOTION passed unanimously***

Mr. Ernst Oidtman recused himself since he is a trustee of the UVLT

D. Goals and Funding for 2025 (continued) (60 minutes)

Regarding funding, the Con Com needs to move money from the LOST funds to the 8 accounts covering a variety of activities that they are responsible for (reference ConCom Budget Master spreadsheet in Agenda Packet) totaling \$10,120 for 2025. ConCom can move other funds later this year if needed. It was noted that it is important to use these funds in 2025, since ConCom will lose any unused funds to a City of Lebanon account.

Mr. Chris Johnson MOVED that the City administration move \$10,120 from the LOST fund to the General fund to be used for the Conservation Commission operating expenses as detailed in the spreadsheet (included in the Agenda Packet) and shared during the meeting. Seconded by Mr. Ernst Oidtman

****The MOTION was approved unanimously***

Regarding ConCom Goals for 2025, Mr. Oidtman first addressed Education Outreach (hosting Mascoma River cleanup) needs to be corrected to biennial rather than bi-annual.

Regarding Property Stewardship, Vice James said that if they are not going to have a Ranger this year, he thinks their work will need to revert to relying on volunteers, so he suggested that ConCom maintain the current list in the hope that in a future year ConCom will have a Ranger again. Mr. Goodwin stated that the position is still posted but that they have not had applicants.

It was agreed that the three *statements written by Mr. Goodwin will be included in the Strategic Plan for ConCom, which will involve working with DPW (see page 171 under Miscellaneous)

- Continue to advocate for the inclusion of green infrastructure to the max extent possible for the pending Exit 18 project. **
- Incorporate aquatic passage and wildlife friendly designs into culvert replacement projects city-wide in line with NH Stream Crossing Initiative. (MP 5.2.22 MP) **
- Work with DPW to reduce road salt use near sensitive habitat areas. **

6. COMMITTEE REPORTS:

A. Biodiversity Group (Invasives)

April 22, 2025 - There is a public event screening at the Nugget Theatre in Hanover about “A National Park in Your Backyard”, along with an expert Q&A session. Sustainable Lebanon is co-sponsoring it along with other organizations.

DMAP is the deer management option and the opportunity to get additional doe permits in order to reduce the pressure of the deer on the landscape. Hanover already does this. Lebanon could get permits for this as well however, there is an application due by no later than July 1, 2025. The application is straightforward, however it would require a team of people to complete it. There are hunters in Lebanon, interested in helping reduce the deer population. Chair Riley said that the City of Lebanon owns enough land to make sufficient land available to hunters. The requirement is a minimum of 640 acres.

Mr. Lacey spoke about Bakers Crossing and he offered to put a line of stakes in at the mowed area to allow for more grasses to grow and also allow for more riparian vegetation, along with signage so that the public better understands this area. He said that the land there looks good.

Mr. Lacey will send Mr. Johnson an email, and together, they will coordinate with the person from the Outing Club, to facilitate continued communications with Conservation Commission.

B. Stewardship

May 3 and 4, 2025, ConCom has blueberry workdays at Jackson, and ask ConCom members to sign up to participate if they are interested.

April 24, 2025, 10AM – 2PM - Ms. Hirai said that Hypertherm will work at Two Rivers, releasing the crabapple trees and continuing to work on clearing up the trails and removing invasives.

C. Wild About Lebanon

April 25, 2025 4:00PM Starr Hill (Earth Week)

May 2025 (exact date not stated) to coincide with the crabapples blooming. These trees are incredibly valuable to wildlife, and it is a learning opportunity for the public.

D. Amphibian Crossings

Mr. Johnson had the opportunity to observe 17 peepers near the Hanover Street Ext. dead end back on March 31, 2025. Mr. Lacey had a siting recently near the vernal pool at Sunset Rock Rd of a frenzy of wood frogs; he will send a link to a video for other ConCom members to enjoy.

Chair Riley said that soon, there will be solar powered digital signs for ConCom to use (smaller and portable) and the plan to use these at some crossing sites.

E. LUCT/Current Use

Chair Riley is continuing to investigate if/how ConCom can invest the LOST fund money differently. She is talking with the City Finance staff.

F. Other Subcommittees

7. OTHER BUSINESS:

A. FYIs

Liberty Utilities – Wilder Dam – no comments at this time

B. Follow Up

C. Workshops and Educational Opportunities

8. FUTURE AGENDA ITEMS: None

9. ADJOURNMENT

****No MOTION***

***The meeting was adjourned at 9:00 PM by Chair Riley.**

Respectfully submitted,
Cinda Mersel
Recording Secretary