



MADBURY WATER RESOURCES BOARD

13 TOWN HALL ROAD
MADBURY, NEW HAMPSHIRE 03823

March 13, 2022

Madbury Planning Board
13 Town Hall Rd
Madbury NH 03823

Re: Application for Conditional Use Permits
LandCare
282 and 284 Knox Marsh Road
Madbury, NH 03823
(Tax Map 9, Lots 3 and 4)

Dear Planning Board,

The Madbury Water Resources Board (WRB) is pleased to comment on the Conditional Use Permits (CUP) requested for the site plan review for LandCare, at 282 and 284 Knox Marsh Road, Madbury, NH. Specifically, the Planning Board (PB) requested input from the WRB on CUPs related to Zoning Article IX, Article IX-A, and Article X.

The properties in question abut the Bellamy River, which upstream, provides about sixty percent of the fresh water supply for the City of Portsmouth and a potential source of water for the Town of Madbury (Hicks Hill Water System). Downstream the Bellamy River abuts fresh water supply wells for the City of Dover, and is used for the recharge for some of those wells. Across the river from the LandCare properties, the New England Metal Recycling facility is the source of contaminants that have affected at least one of Dover's wells and is the subject of extensive water studies and cleanup efforts. We note this to highlight the often overlooked value of this water resource, now and into the future.

The property at 284 Knox Marsh Rd (Map 9 Lot 4) has in the past been the subject of wetland and shoreland violations and has been subject to restoration efforts imposed by the Town of Madbury. This activity occurred prior to the ownership of Lot 4 by LandCare. We believe the current use of the properties is governed by two

separate site plan reviews. Lot 3 was last before the Planning Board in 1999, and Lot 4 in 1990. There has been un-reviewed expansion and change of use on these lots. In 2012, the Board of Selectmen met with the owner and indicated that the owner go to the Planning Board for a review. We note this because the application assumes current conditions or the State's 10 year "look back" limit for Alteration of Terrain permits are a starting point for their CUPs. The previous alteration and surface configuration of the land was not permitted and the PB should not allow the applicant to now request CUP's for lesser perceived impacts.

Conditional Use Permit #1.

Zoning Article IX. Wetland Area Conservation Overlay District.

Section 4. C. 1.

The first request is to disturb the 25' wet area buffer for an 8' wide paved walking path between two wetlands to allow the employees safe access to parking. The second request is to disturb the 25' buffer area for parking.

The Water Resources Board offers the following comments.

1. The wet areas are delineated as poorly drained, and a 50' setback should be illustrated on the plans. The 50' setback from each wet area would seem to overlap in the area of the proposed path and parking. If the proposed path and parking area are in the wet area setbacks they would be prohibited uses, as alteration of the surface configuration of the land by the addition of fill or dredging is prohibited except for agricultural land drainage.
2. The width and the need for the employee walking path to provide access to 1/3 of the parking area is not substantiated. Is the applicant also proposing gravel inventory storage in the 25' buffer and 50' setback? If so, that should also be in the request and evaluated. The path is detrimental as it fragments any connection between the two wetlands. Also winter maintenance will result in salt contamination to the wetlands further reducing their viability.
3. While the applicant's wetland scientist describes the wet areas of low function and value, the applicant has indicated that the State would require mitigation if they were filled. The two wet areas are each individually greater than 3,000 square feet and also not excluded from Madbury's wet area protections.

Conditional Use Permit #2.

Zoning Article IX-A. Aquifer and Wellhead Protection Overlay District.

Section 5. C. 1. B.

The second CUP request is for an impervious area of greater than 15%. The applicant proposes a 45% combined impervious area on the two lots.

1. The purpose of the Aquifer and Wellhead Protection Overlay District is to protect the water resources from contamination, depletion and disfigurement.

2. The use is not a prohibited use.
3. The applicant has offered a stormwater management plan that is presumably adequate to protect the sensitive nature and important water resource of the Bellamy River. We comment on the location of the stormwater management structure in comment for CUP #3.
4. The stormwater management will not mitigate any salt usage on the large traffic and work area proposed for the site.
5. It might be informative for the applicant to provide the area calculation for impervious area if the site conformed to all the pertinent overlay districts.
6. The applicant has not demonstrated the need for the size of the parking area and material storage.
7. The processing of rock or other material (loam) should not introduce dust that could be hazardous or harmful to water resources, humans, or wildlife.
8. The PB should require routine monitoring and inspection activities to assure, confirm, and document compliance. This should be done at the applicant's expense and subject to town oversight.

Conditional Use Permit #3.

Zoning Article X. Shoreland Protection Overlay District. Section 4. C. 2. b.

The third CUP request is to allow a disturbance within the 100' Bellamy River district. The applicant proposes to construct a stormwater management structure, locate storage bins, have a gravel inventory storage area, and traffic use in the shoreland district.

1. The allowance for a CUP in this ordinance is all about crossings to gain access to land that is otherwise available for permitted uses. The applicant is proposing uses that are not crossings.
2. A CUP is permitted if the use is consistent with ordinance. The purpose of this district is to conserve and address aquatic and terrestrial habitat that is associated with riparian areas, preserve and enhance those aesthetic values associate with the natural shoreland. The loss of buffer for both water quality and habitat is not consistent with this ordinance and not appropriate for a CUP.
3. The question of the definition of impoundment has been raised, as it appears in a list of permitted uses. It could be agreed that the intended function of the impoundment should be the focus of any need for interpretation. The stormwater treatment impoundment is not consistent with Section 4. A. Permitted Uses of this article, where all other uses are about conservation areas and trails, wildlife habitat development and management, natural drainage ways, parks and recreational uses consistent with the purpose of the article. The section also discusses well water supplies. The allowance for impoundments seems most in line with enhancement of wildlife habitat and water supplies (such as an impoundment like the one known as the Bellamy Reservoir). The discussion by the PB in 1989, at the time of the enactment of the Shoreland Protection District, indicates that the allowance for

impoundments and their purpose was for water supplies. The WRB believes stormwater facility is not of the type permitted, and does not believe this is a correct use of CUP

In conclusion, the WRB recommends that the PB engage a 3rd party to evaluate the stormwater management system, and losses to the values of the riparian area caused by placing the system within the shoreland setback.

Sincerely,



Garret Ahlstrom

Madbury Water Resources Board, Chair