



## **BERRY SURVEYING & ENGINEERING**

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April 26, 2022

Town of Madbury Planning Board  
13 Town Hall Road  
Madbury, NH 03823

RE: Presentation of Revised Materials  
Charles Street Holding, LLC & 284 Knox Marsh, LLC  
Madbury, NH  
Tax Map 9, Lots 3 & 4

Madam Chair and Members of the Madbury Planning Board,

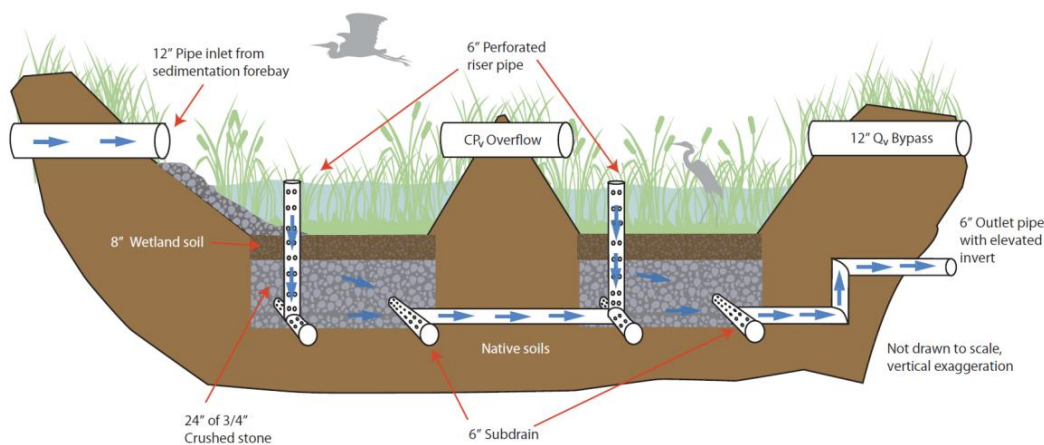
Berry Surveying & Engineering (BS&E) has worked with the applicant since the prior public hearings to revise the plan to further remove impact from the various overlays. Though some of the outstanding questions concerning the overall project are addressed below, the bulk of this presentation is providing information on the proposed impacts within the various overlay zones in a format that is intended to be easy to read and discussable with the board. Please note that we were not able to address all of Ms. Durfee's comments and so we will provide responses and more information as the planning board process continues. So, the applicant can make required applications to the Madbury Zoning Board of adjustment, we would like to focus the efforts of the May 4<sup>th</sup> meeting on the impact areas understanding that the applicant will then need to file the proper Variances and Conditional Use Permits for the two boards to consider further.

As noted above the revised set of plans submitted has modified the storage areas, bin structures, gravel areas and the stormwater Best Management Practices (BMP's) adjacent to wetlands, wetlands buffers, flood zone, and the Shoreland Overlay. These modifications have resulted in further setbacks and proposed removal of disturbance in all of the overlays noted above, and places all structures (bins and proposed cut shop) outside of the require setbacks / buffers. The BMP known as a Subsurface Gravel Wetland, has also been moved away from the Bellamy River, and re-shaped to remove the grading disturbances within the 50' vegetated buffer along the river. A revegetation plan has been updated to include additional plantings proposed between the BMP and the existing tree line.

The question of impoundment and the purpose of the Subsurface Gravel Wetland BMP for the project site was raised at prior meetings and discussed. The overall purpose of the BMP is to capture runoff from the developed site and detain the flow in an

impounded area, so that it is released at a rate that does not exceed the existing flow as of 2011, which is approximately when the owner purchased and controlled both project sites. However, based on the location of the Bellamy and the watershed in which the project is located, the BMP is designed as a Subsurface Gravel Wetland which provides treatment to the water quality volume of flow that comes from the project site. Most notably these systems are highly efficient at removing nitrogen and phosphorous from stormwater. As the water flows into the system from various directions, it is routed to sediment forebays which capture solids and allow for sediments to drop out prior to entering the treatment portion of the cell. As water flows into the treatment portions of the cells it enters a subsurface reservoir of stone. As water flows through the stone over time and storm events nitrogen and other nutrients are removed. This BMP is well studied at the UNH Stormwater Center. The BMP designed on this project site uses the UNH Stormwater Center's design guides as well as the NHDES Alteration of Terrain design requirements. Details for the design can be found in the plan set on Sheet 11 of 23. Below is an exhibit from the UNH Stormwater Center and a link to the document published by the same.

[https://www.unh.edu/unhsc/sites/unh.edu.unhsc/files/NHDOT%20SGW%2002-06-15%20Final%20Report\\_w%20Attchmts.pdf](https://www.unh.edu/unhsc/sites/unh.edu.unhsc/files/NHDOT%20SGW%2002-06-15%20Final%20Report_w%20Attchmts.pdf)



Ms. Durfee sent a message with regard to board requesting assistance from Dr. Thomas Ballestero, PE in review of the stormwater design, its placement and appropriateness for the site. The applicant agrees. BS&E has worked with other staff at the UNH Stormwater Center on projects in the past and would welcome the input of Dr. Ballestero on the design. The intent would be to send the plans and the provided stormwater analysis, after the May 4<sup>th</sup> meeting where we will likely have direction from



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the board on a project path forward. It is typical to receive a written scope of work and anticipated fee for the applicants review prior to the commencement of the review.

At the prior public hearing the board asked Attorney Baum for some information. Below is a summation of the questions and answers.

1. The board requested an authorization from the owner to be represented by Attorney Baum and his firm. Enclosed with this submission is the authorization.
2. The board requested a summary of how two lots with two different owner's works with one site plan for a business with yet a different owner.
  - a. As previously indicated to the Planning Board, for legal and financing purposes, the lots at issue for the pending site plan amendment, are owned by two separate entities, 282 Knox Marsh Road (Map 9, Lot 3) by Charles Street Holding, LLC and 284 Knox Marsh Road (Map 9, Lot 4) by 284 Knox Marsh LLC. Both lots are leased by these owner entities to LandCare Associates, Inc., which operates the LandCare business which is the primary subject of the site plan review. Daniel Gordon is the principal and controlling owner of all three entities (a minority interest in Charles Street Holding, LLC and LandCare Associates, Inc. is held by Amy Trafton). It is Landcare's intention to continue to utilize both parcels for the operation of its landcare business and has submitted its site plan amendment to include both parcels. Thus, the amended site plan as presented, applies to the entirety of the land used for the business, both Lot 3 and Lot 4. Both parcels will be subject to the conditions shown on the plan as it is ultimately approved. As the site plan relates to use of land and not ownership, the underlying owner is not relevant to the approval. While no changes are proposed or anticipated at this time, should any one of the parcels be utilized for a different use in the future (whether by the current or another owner), it is LandCare's belief and expectation that a new site plan amendment, with relevant review by the Planning Board would be required.
3. The board requested information with regard to the retail use of the site whereas the applicant is proposing to increase the use from Wholesale to Wholesale and Retail.
  - a. The retail hours are not limited beyond the 7AM-7PM proposed on the plan however most retail sales end around 4PM which is driven by market and user. Though some physical sale of product takes place on a retail basis, most of the traffic generated to the site is from end retail users viewing and purchasing product to be installed by their installers.

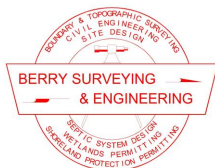


- b. Percentages of sales varies from season to season. The applicant can provide ratios at a future date for the board's review.
4. The board asked if any spaces in the LandCare facility will be rented or used by businesses other than LandCare itself.
  - a. Two offices within the existing commercial building are leased to third parties. An approximately 228 square foot office and a small portion of the storage areas are leased to Landtech Landscaping LLC for its landscaping/lawncare business and an approximately 990 square foot office is leased to Scott Ljungberg Miller d/b/a Naked Guitar Repair for its guitar repair business.
5. The board asked how do setbacks along the property line between the two lots work across one site plan.
  - a. As noted above, the site plan currently under review by the Planning Board applies to both parcels together. In the event of any separation of use between the lots, it is LandCare's understanding and anticipation that a new site plan review would be required and any relevant setbacks applied.
6. The board inquired about the NHDOT process on the project site.
  - a. BS&E has had a discussion with NHDOT District VI on the project site, BS&E was informed that when the use was modified upon purchase in 1999 and then the second parcel purchased and expanded, an NHDOT change of use permit was not filed or granted and therefore it is required of the applicant at this time.
  - b. In the past the applicant has hired a traffic consultant, Steve Pernaw, to conduct work for him in the past. BS&E has reached out to Mr. Pernaw for an updated analysis and report for use with the Planning Board and NHDOT. Once received, a NHDOT permit will be filed with District VI.

We look forward to discussing the particulars of this property, development, and design considerations involved.

Respectfully submitted,  
BERRY SURVEYING & ENGINEERING

  
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April 26, 2022

Town of Madbury Planning Board  
13 Town Hall Road  
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RE: Buffers and Overlay Applicability Narrative  
Charles Street Holding, LLC & 284 Knox Marsh, LLC  
Madbury, NH  
Tax Map 9, Lots 3 & 4

Madam Chair and Members of the Madbury Planning Board,

Berry Surveying & Engineering (BS&E) has worked with the applicant since the prior public hearings where the various buffers and overlays were discussed as it relates to permitted and prohibited uses within the Land Use Regulations. The primary focus of the prior discussion was to determine the need for Variances vs. Conditional Use Permits. This document is intended to itemize out each impact within each overlay zone for the purposes of final determination on permitting path.

Since the prior discussion the following changes have been made to the plan and plan set for review and comment:

### Flood Hazard Overlay District Article XXI:

- The bins that were previously placed within the Graphical FEMA Flood Zone have now been removed.
- The proposed relocated Cut Shop in the northwest corner of the site has been rotated and moved out of the Graphical FEMA Flood Zone.
- Grading for the Constructed Subsurface Gravel Wetland remains, but has been relocated away from the wetlands and Bellamy River. *See below for Conditional Use Permit vs. Variance Discussion.*

It is the assessment of BS&E that with the exception of grading / filling as noted below the site is now compliant with this local regulation. See plan entitled "**Flood Hazard Overlay District**"

### Wet Area Conservation Overlay District -WC Article IX

- The project plan removes the connecting walk through the upland area between the two wetlands pockets found at the center of the site.
- The proposed bins have been relocated on site to be outside the structural setback of 75' from all non-tidal wet areas.

- The proposed bins were moved, re-shaped and placed further than 75' from Very Poorly Drained Soils as well as being placed 50' from onsite Poorly Drained Soils.
- The Constructed Subsurface Gravel Wetland has been moved away from the 25' Wet area buffer so that only the outlet pipe remains within 25' of the wet area boundary, and poorly drained soils boundary. Grading for the same remains between 25' and 75'. *See below for Conditional Use Permit vs. Variance Discussion.*

It is the assessment of BS&E that with the exception of grading / filling as noted below and the existing parking array within the 25' wet area buffer to the central wetland pockets, the site is now compliant with this local regulation. See the enclosed plan entitled "**Wet Area Conservation Overlay District – WC**"

#### Shoreland Protection Overlay District Article X

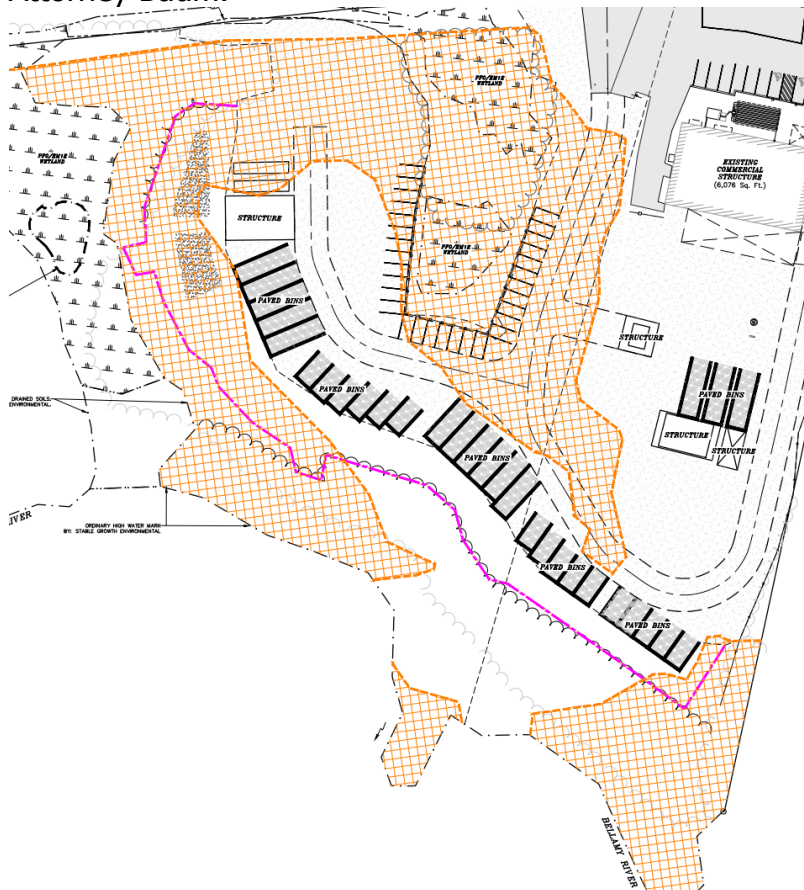
- All bins and structures have been removed from the 100' overlay zone. As discussed at the prior public hearing the bins were considered a structure and therefore would have required a variance. Those items have now been removed. Grading for the Constructed Subsurface Gravel Wetlands still remains within the overlay zone, however, as noted above has been moved further from the river's edge. *See below for Conditional Use Permit vs. Variance Discussion.* See the enclosed plan entitled "**Shoreland Protection Overlay District.**"
- The required buffer strip of 50' within the zone is proposed to be reclaimed in areas and re-planted where currently impacted which is clearly within the spirit and intent of the ordinance. Please find the Proposed Landscaping plan for the area for plantings and reclamation schemes. All of the former grading proposed within 50' of the Bellamy in this overlay zone has been removed and pushed closer to the outer limits of the 100' zone, however there is one area around the poorly drained soils, also located within the 100' zone that requires the 50' buffer which is proposed to be impacted with grading for the Gravel Wetlands. Noted below.



## Areas Requiring either a Conditional Use Permit or a Variance as broken down by Overlay Districts:

### Flood Hazard Overlay District Article XXI:

As noted above all structures have been removed from the Zone. However as noted above grading is required for the purposes of installing a Constructed Subsurface Gravel Wetland. This is known as a Best Management Practice, (BMP) for the removal of nutrients from onsite stormwater as well as detention of onsite stormwater. See separate narrative detailing the BMP proposed for the site. Article XXI, Section 7. Limited Regulated uses, C allows the planning board to grant a CUP for this purpose assuming the criteria and construction requirements have been met. We would submit that the grading impacts as shown on the "Flood Hazard Overlay District" plan, and captured below are under the purview of the Planning Board as a Conditional Use Permit. If this is agreed, BS&E will file a CUP for the boards review with assistance from Attorney Baum.



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Wet Area Conservation Overlay District -WC Article IX

Please find plan entitled **"Wet Area Conservation Overlay District – WC"**.

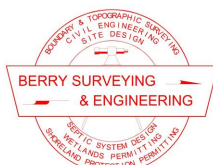
- The project proposes impacts within the 25' wet area buffer to the two central wetlands on site. This impact exists today and is shown on the enclosed site plan to remain. The area is used for and is proposed to be used for parking and flat storage of landscape materials. It seemed that the Planning Board interpreted any disturbance within the 25' to require a Variance from the Zoning Board. If this is agreed the applicant will file a variance for this use in this specific area of the site.
- The project proposes a pipe outlet within the 25' wet area buffer for the purposes of grabbing an outlet elevation grade for the Constructed Subsurface Gravel Wetland. This takes place on the western side of the site on the back side of the Gravel Wetland. Using the interpretation above this outlet would require a Variance from the Zoning Board. If this is agreed, the applicant will file a variance for this use in this specific area of the site.
- The project proposes gravel parking areas material storage areas and traveled ways within the 75' Building and Septic Setback required to the two small central wetland pockets. As Ms. Durfee points out in the planner review, this section also restricts "construction altering the surface configuration of the land..." which is not permitted. The planning board implied at the former hearing that this activity would require a Variance and not a CUP whereas it was not a crossing. If this is agreed, the applicant will file a variance for this use in this specific area of the site.
- The site proposes grading for a Subsurface Gravel Wetland between the 25' wet area buffer and the 75' Building and Septic Setback. In the past we have discussed the fact that Article IX Section 4, specifically permits "impoundments" which is an undefined term in the article. This impoundment would require the "alteration of the surface configuration," which is again a prohibited use. The board asked for additional information with regards to the impoundment, (please find additional drainage narrative) prior to weighing in on if this use would require a Variance or a CUP. We would like clarification on this item, so the applicant has a path to proceed forward.





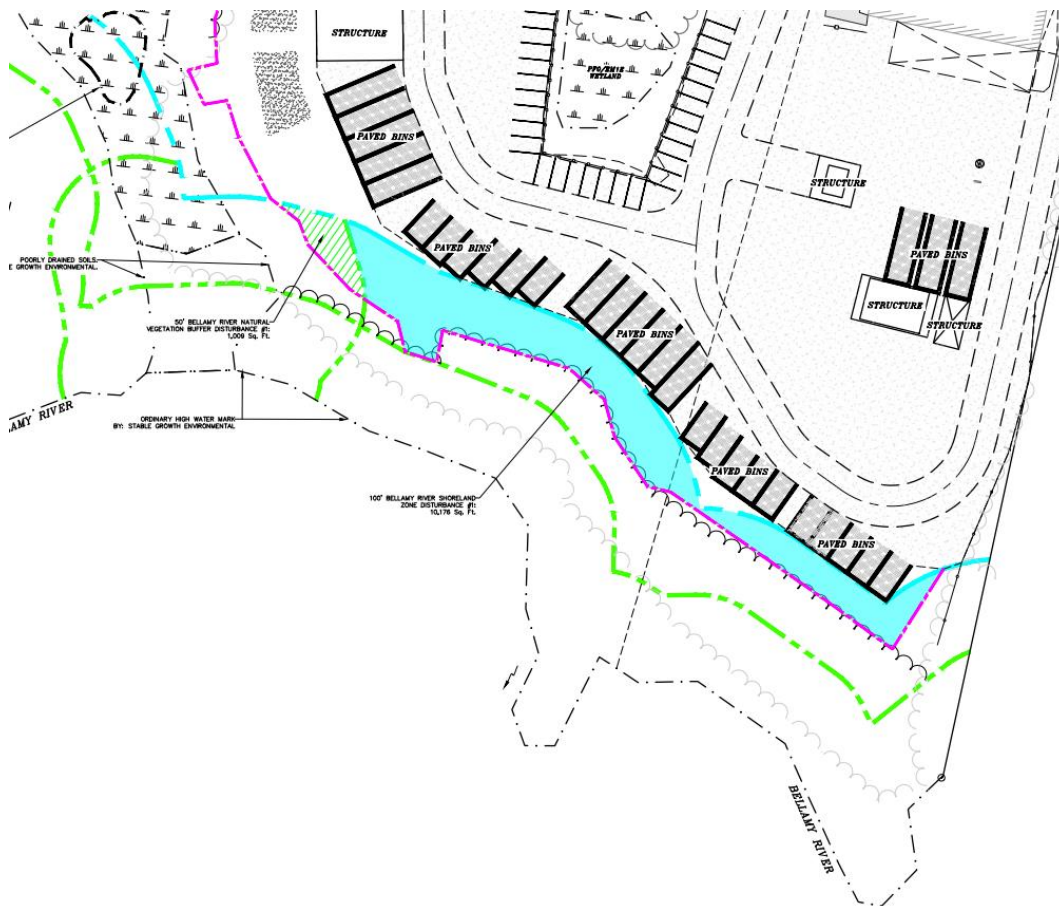


It is important to note that there are existing areas of disturbance within the 25' wet area buffer and the 75' zone that was disturbed prior to LandCare owning the parcel. Those areas are noted on the above plan and on the enclosed color disturbance plans, as the non-hatched areas within the buffer and annotated accordingly. It will important to discuss how we progress with the existing disturbances.



Shoreland Protection Overlay District Article X

- The project proposes the installation of a Constructed Subsurface Gravel Wetlands as a BMP between the proposed development and the Bellamy River. The disturbance is outside of the 50' buffer but still within 100'. Ms. Durfee notes that this falls under the Prohibited Uses, "Alteration of the surface figuration..." and therefore the applicant is required to seek a Variance. If this is agreed, the applicant will file a variance for this use in this specific area of the site.
- As noted above Section 5, applies to a small area of poorly drained soil within the Shoreland Overlay, to be 50'. This poorly drained soil area, outside of the Shoreland Zone is only subject to the 25' wet are buffer and 75' structural setback, however the portion within the overlay also requires the 50' buffer. This disturbance will require a Variance.



Aquifer and Wellhead Protection Overlay District

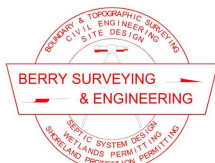
- The project proposes an increased coverage over the maximum of 15% which is regulated in Section 5.c.1.b. This is permitted by Conditional Use Permit. In the past the board and Ms. Durfee agreed.
- The project proposes covered storage of salt outside the NHDES Shoreland Protection Zone and within the overlay. The permitted uses listed cover all uses not otherwise listed as prohibited. Unenclosed storage of salt is strictly prohibited, however covered storage is not listed and is therefore permitted. No Conditional Use Permit is needed for this use.
- The project proposes to store less than 550 gallons of petroleum on-site for onsite use. This is proposed to be undercover and contain secondary containment. Greater than 550 gallons is permissible by Conditional Use, however this is less than that threshold. It does not seem that a Conditional Use Permit is needed for this use.

We look forward to discussing the particulars of this property, development, and design considerations involved.

Respectfully submitted,  
BERRY SURVEYING & ENGINEERING



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