



BERRY SURVEYING & ENGINEERING

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

October 28, 2021

RE: Proposed Site Plan Narrative & CUP Narrative
LandCare Associates
282 & 284 Knox Marsh Road
Madbury, NH
Tax Map 9, Lots 3 & 4

Town of Madbury Planning Board,

LandCare Associates (LCA) has retained the services of Berry Surveying & Engineering (BS&E) and Stable Growth Environmental (SGE) in an effort for the subject parcel to become more nearly conforming to the Town of Madbury Site Plan & Zoning Regulations and conforming to NHDES Shoreland Protection regulations.

Located in the Commercial & Light Industrial Zone (Article VII), Tax Map 9, Lots 3 & 4 are located at 282 and 284 Knox Marsh Road (N.H. Route 155) and is adjacent to the Bellamy River. In addition to the zoning requirements presented in Article VII, the subject parcel is subject to the Wet Area Conservation Overlay District (Article IX), Aquifer and Wellhead Protection Overlay District (Article IX-A), Shoreland Protection Overlay District (Article X), and the Flood Hazard Area Overlay District (Article XXI). Further wet area buffer and building/septic setback requirements required by these articles are shown in note #2 of the Existing Conditions Plan, and are graphically shown on the plan. Sheets #4-5 show the history of the site in respect to disturbance since the enactment of the Shoreland Protection Act in 2008, and the 10-Year AoT "Look-back" Window (2011) required to determine is a NHDES Alteration of Terrain Permit is needed.

The Non-Residential Site Plan, sheet #6, shows measures taken to bring the site into conformance. The following are a list of measures proposed to achieve conformance. Sheets #6, #9 & 10 are supplemental to the following measures:

- The implementation of a subsurface gravel wetland with sediment forebay that provide stormwater treatment in addition to compliant post-construction peak rates of runoff for the 2, 10, 25, 50, & 100 year events and compliant with stormwater volume at the 2 year event (NHDES AoT Standard). This stormwater best management practice (BMP) is partially located within the wet area buffers, which is a permitted use in the ordinance and allows the applicant to maximize

the use of the subject parcel, while providing a full 50' vegetated buffer between site operations and the Bellamy River. The BMP provides a buffer between day-to-day site operations and the Bellamy River. Appropriate erosion and sediment control measures are proposed within these wet area buffers. Material storage bins are proposed to be placed at the limit of BMP grading to act as an additional barrier between machinery/operations and the Bellamy River.

- The applicant is proposed to removing ALL impervious surface and providing revegetation within the 50' primary building setback to the Bellamy River. This reclamation of gravel surface within the 50' primary building setback is 12,110 SQ. Ft. (0.28 Ac.).
- The applicant is proposing 8,267 Sq. Ft. (0.19 Ac.) of disturbance within the NHDES Shoreland Zone and is proposing to restore 32,309 Sq. Ft. (0.74 Ac) of area with vegetation or stormwater BMP.
- The proposed disturbance since 2011 (10-Year AoT "Look-back" Window) is 45,750 Sq. Ft., a NHDES AoT Permit is required at 50,000 Sq. Ft. of disturbance. This threshold is not met, so this permit is not required. Details can be seen on sheet #5.
- The applicant has proposed to reduce impervious on site by 6.7% (24,241 Sq. Ft. / 0.56 Ac.) overall from conditions as of the date of survey field work: October, 2020.
- Reducing impervious surface within the 250' Shoreland Protection Zone from 112,102 Sq. Ft. (2.57 Ac.) (49.7%) to 80,201 Sq. Ft. (1.84 Ac) (35.5%) and placing a stormwater BMP between the Bellamy River and site operations.
- Providing 29,981 Sq. Ft. (0.69 Ac.) (33.4%) of Natural Woodland Buffer Area.
- Relocating structures out of the 100' Bellamy Shoreland Protection District.
- Structures complying with applicable structure & septic setbacks.
- Provide separate parking areas for customers at the front of the building and employees now located away from the building.
- Per FEMA Community #330219, Map 33017C0320E, a portion of the subject parcel falls within the 100 year flood zone. Per Article XXI, water impoundments for the purposed of site detention of stormwater runoff is a limited/regulated use. The proposed stormwater BMP is located within the zone and is the only



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grading proposed for the project. Proposed grading results in an increase of flood storage within the zone due to the BMP proposed.

Four Conditional Use Permit (CUP) will be needed for the application and are as follows:

- Article IX, Wet Area Conservation District – Disturbance within the 25' wet area buffer
- Article IX-A, Aquifer Protection District – Land use with greater than 15% impervious
- Article X, Shoreland Protection Overlay District – Disturbance within 50-100' of Bellamy River
- Article XXI, Flood Hazard Overlay District – Disturbance within the Flood Hazard Overlay District

Berry Surveying & Engineering (BS&E,) on behalf of LandCare Associates respectfully requests the Town of Madbury to accept the following Conditional Use Permits:

Conditional Use Permit #1:

Wet Area Conservation Overlay District (Article IX)

Section 4.C.1

The applicant is seeking a conditional use permit to allow for disturbance within the 25' wet area buffer. The applicant is proposing a walking path (1,631 Sq. Ft. proposed) between two small wetland pockets that are classified as PFO/EM1E. The walking path is proposed to allow for safe employee access from the parking area to the building. The second disturbance is for 6,241 Sq. Ft. of existing gravel parking/storage area around the same two wetland areas. These wetland areas had been subject to buffer disturbance before the current parcel owners purchased the land. A total of 7,872 Sq. Ft. of impact to the 25' wet area buffer is requested between existing and proposed disturbance.

- a. A wetland scientist has provided written evidence that there will be no adverse impact to the wet area.

Please find attached documentation.

- b. The applicant has addressed any recommendations provided by the Madbury Water Resources Board and the Madbury Conservation Commission.



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The applicant is happy to meet with the conservation commission and discuss the project and implement changes that may improve the project.

Conditional Use Permit #2:

Aquifer Protection Overlay District (Article IX-A)

Section 5.C.1.B

The applicant is seeking a conditional use permit to allow for greater than 15% impervious coverage on two existing lots of record within the Aquifer Protection Overlay District. Tax Map 9, Lot 3 has 97,800 Sq. Ft. (84.9%) of impervious area and Lot 4 has 86,557 Sq. Ft. (35.7%) of impervious area. This is combined impervious area of 184,357 Sq. Ft. (51.5%).

- a. The applicant has demonstrated the proposed use and design are consistent with the purpose of this article.

The applicant is seeking to make the subject parcels become more nearly conforming as part of this Site Plan application. In the proposed Site Plan, Tax Map 9, Lot 3 has 89,624 Sq. Ft. (77.7%) of impervious area and Lot 4 has 70,492 Sq. Ft. (29.1%) of impervious area. This is combined impervious area of 160,116 Sq. Ft. (44.8%). This footprint allows for a commercial entity to continue operation while becoming more nearly conforming to Madbury Regulations.

- b. That the proposed use is not a prohibited use (as listed in Section 5B of this Article).

The subject parcels use is not a prohibited use as listed in Section 5B of this article.

- c. Will be in compliance with the Performance Standards in Section 7 of this Article as well as all applicable local, state and federal requirements and the criteria of Article 4, Section 9, D of this ordinance.

The applicant is understands and is proposed to be in compliance with the performance standards in Section 7. The following applicable measures are proposed: A stormwater management plan is proposed for the project. Proposed fueling area is to be gated during non-operation hours. The proposed fueling area is greater than 75' from the subject parcel private well. The fueling area is clearly and visibly labeled. For conformance with Federal requirements, the applicant will be receiving a NHDES Shoreland permit.



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The criteria of Article 4, Section 9, D are as follows:

- 1) The site is suitable for the proposed use. Considerations include:
 - a) Adequate vehicular and pedestrian access for the intended use.
The applicant provides adequate vehicular and pedestrian access. Vehicular access is provided via two driveway cuts on NH Route 155. The applicant is further improving driveway conditions by proposed to move a portion of their operations off site, reducing vehicle traffic. Pedestrian access is improved to the storefront by adding delineated parking spots at the front of the building.
 - b) Adequate public services to serve the intended use including emergency services, schools, and other municipal services.
The applicant provides adequate emergency vehicle access into and around the subject parcel. The applicant relies on WB67 trucks to enter and maneuver around the site, which is a larger wheel base than a municipal fire truck. Schools and other municipal services do not apply to this commercial applicant.
 - c) The absence of environmental constraints.
The subject parcel is does not have steep slopes within the project area. The subject parcel is partially located within a Flood Hazard Overlay District. However, the stormwater BMP that is proposed and is a limited/regulated use within the zone, provides additional flood storage within the zone. The proposed BMP results in 449 CY of cut and 211 CY of fill, creating 6,426 CF (0.15 Ac-Ft) of additional storage within the flood zone. Please find Flood Hazard Overlay District CUP request for additional criteria as requested in Article XXI, Section 7.C.1.
 - d) Appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and utilities.
The subject parcel is serviced by an existing private well, existing private septic, a stormwater BMP system is proposed for stormwater treatment, and is serviced by overhead electrical wires.
- 2) External Impacts
 - a) Are impacts on abutting properties and the neighborhood no greater than the impacts of adjacent existing uses permitted in the zone? (Traffic, noise, odors, vibrations, dust, fumes, hours of operations, external lighting glare)



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Traffic: The subject parcel is proposing a reduction in traffic at the two driveways by relocating a portion of operations to a different location off-site.

Noise: The subject parcel does not generate excess noise other than what is required to operate machinery around the site and the cut shop. The use is consistent with noise generation experienced in the light commercial/industrial district.

Odor: The subject parcel does not contain materials with foul or irregular odors.

Vibrations: The subject parcel does not produce vibrations other than that of normal machine operations.

Dust: LandCare Associates during dry conditions applies water to their gravel areas to tamp dust down.

Fumes: The subject parcel does not produce fumes other than the exhaust from machinery.

Hours of Operation: LandCare Associates operates from 7AM-4:30PM Monday-Friday and Saturday 8AM-3PM. Regular operating hours are not out of the ordinary for this land use. During inclement weather, LandCare is open earlier/later hours to provide salt and sand as needed to clients. This is a seasonal change in hours that is challenging to predict.

External Lighting Glare: The applicant is proposed a lit sign for business operations that will have received approval from the Madbury building inspector.

- b) Does the location, design, nature and intensity of the use not have an adverse effect of the surrounding environment?
The location, design, nature and intensity does not have an adverse impact on the surrounding environment. The stormwater BMP proposed at the rear/low point of the site mitigates the impact of the gravel and other impervious surface on site.

3) Character of the Site Development

The proposed layout and design shall be compatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood.



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LandCare Associates has occupied the subject parcels since 2008. Being located in the Commercial and Light Industrial Zone, the land use is located well within the surrounding area. NH Route 155 provides an excellent collector roadway to several surrounding areas. Without residential neighborhoods in the immediate vicinity of the subject parcels, the land use is compatible with the area.

- 4) Preservation of natural, cultural, historic, and scenic resources
The proposed use including all related development activities shall preserve identified natural, cultural, historic, and scenic resources.
The proposal for the subject parcel preserves natural and scenic resources. An application with the Division of Historical Resources found no historic or cultural resources on the subject parcel. The applicant is proposing to preserve natural and scenic resources by constructing a stormwater BMP that provides stormwater treatment and is a physical buffer between the operations and the Bellamy River.

Conditional Use Permit #3:

Shoreland Protection Overlay District (Article X)

Section 4.C.2.b

The applicant is seeking a conditional use permit to allow for disturbance within the 100' Bellamy River buffer to make the subject parcels more nearly conforming to this overlay district. The applicant is proposing to reclaim area (turn into a wooded state) previously used within the 50' vegetated buffer zone of the Bellamy River. While providing the required 50' vegetated buffer, the applicant is proposing to place material bins against the limit of stormwater BMP grading and the 50' zone to ensure that the buffer remains undisturbed. The applicant is requesting conditional use for disturbance within the 50-100' area of this overlay district. A large area of buffer disturbance had occurred before the current parcel owners purchased the land. As a barrier between the gravel surface and operations of LandCare, a subsurface gravel wetland and conveyance swale is proposed along the majority of the 50' setback to provide protection for the Bellamy River. Material bins would be placed at the limit of the BMP to ensure no disturbance occurs behind this limit. Water impoundments are a permitted use in this overlay district. The applicant is seeking to become more nearly conforming with Madbury regulations by reducing impervious surface by 12,110 Sq. Ft. within the 50' zone.



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- a. The Planning Board shall consider a Conditional use Permit only if the applicant has addressed any recommendations provided by the Madbury Water resources Board and the Madbury Conservation Commission.

By providing a 50' vegetated buffer and a stormwater BMP as a barrier between the subject parcel operations and the Bellamy River, the applicant is seeking to become more nearly conforming to help to preserve and maintain surface water quality in Madbury. The applicant is happy to meet with and implement input from these Comissions.

Conditional Use Permit #4:

Flood Hazard Overlay District (Article XXI)

Section 7.C.1

The applicant is seeking a conditional use permit to allow for the creation of a water impoundment for the purpose of creating on-site detention of stormwater runoff.

- a. The use will result in no increase is base flood levels, flows, peaks, or velocity.
The land use does not result in an increase in any of these factors. The stormwater BMP proposed results in in 449 CY of cut and 211 CY of fill, creating 6,426 CF (0.15 Ac-Ft) of additional storage within the flood zone.
- b. Uses which will not increase potential for flood damage to the owners property or that of others.
The proposed use does not increase the potential for flood damage to the owners property or that of others. As shown in part a, an additional 0.15 Ac-Ft of storage is created in the flood zone.
- c. Uses which will protect the benefits provided to the community by the floodplain.
The land use protects the benefits provided to the community by the flood plain. As shown in part a, an additional 0.15 Ac-Ft of storage is created in the flood zone.
- d. Uses which will result in no increase in erosion and/or sedimentation or other degradation of water quality.
The land use improves erosion/sedimentation considerations to the water quality by providing a buffer between the operations of the site and the Bellamy River.
- e. Uses which will not increase in the cost of public services above costs incurred when not in a floodplain.



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The land use will not increase the cost of public services above cost incurred when not in a flood plan. There is no public service cost increase that would be associated with the use.

The Board may grant a CUP based upon the requirements in Sections 8-13. Section 11 is applicable to this proposal.

Other permits: The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal law.

The applicant understands this requirement and will obtain a NHDES Shoreland Protection Permit.

One Waiver Request will be needed for the application:

- Site Review Regulations, Article VII Section 3.C – Drive lanes within 20' of side property line.

Berry Surveying & Engineering (BS&E,) on behalf of LandCare Associates respectfully requests the Town of Madbury to accept the following Waivers:

Waiver Request #1:

Site Review Regulations (Article VII Section 3.C)

The applicant is seeking a waiver request to allow for a vehicle drive lane within 20' of the eastern boundary line along the eastern edge of the building. The applicant has utilized this drive lane since the purchase of the property 2008 and it is essential to daily site operations. Located against the boundary with the abutting parcel, TM 9, Lot 2A, is a mature row of arborvitae to provide visual and noise screening. As this drive lane has been utilized for at least 13 years and was in use before the property owner occupier the property, the following considerations are made:

- a. The spirit of the regulations and public convenience and welfare will not be adversely effected.

The approved continued use of this drive lane does not jeopardize public health, safety and welfare and provides larger vehicles entering the site a safe means of access to the rear of the parcel.

- b. The waiver shall achieve the purpose of the regulations.

In this application, the purpose of the Site Review regulations is to protect the public health, safety, and welfare along with ensuring sound site utilization. The approved continued use of this drive lane



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does not jeopardize public health, safety and welfare and provides larger vehicles entering the site a safe means of access to the rear of the parcel. The approved continued use of the drive lane helps to ensure sound site utilization by allowing the applicant to continue to utilize their site to the fullest extent. A screening buffer is provided between the subject parcel and the abutting property.

Respectfully Submitted,
BERRY SURVEYING & ENGINEERING



Kevin R. Poulin, EIT
Project Engineer



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