

February 19, 2010



CONSERVING LAND
FOR PEOPLE

Todd Selig
Town Administrator
Town of Durham
15 Newmarket Road
Durham, NH 03824

Matter: Spruce Forest Proposal

Dear Todd and Town Council:

I am writing this letter on behalf of The Trust for Public Land (TPL) in response to the discussion that took place at the Town Council meeting on February 15, 2010.

Over the past year, the Spruce Forest project has garnered broad based community support from the Durham Conservation Commission, state agencies, local land trusts, formal and informal committees within UNH, university faculty and Durham residents. This broad based support reflects a multitude of federal, state and local plans that identify this property as a critical component of Durham's natural and cultural environment. Recognizing this, TPL has worked diligently to create a framework to help the Durham community protect its water supply, create new recreational opportunities, preserve community character and help protect important natural resources. However, we also recognize that Durham has pressing concerns of equal importance that are not addressed in this proposal despite our best efforts.

In light of the misgivings evident Monday night and the Council's desire have more time to consider Durham's participation in the effort to conserve Spruce Forest, TPL has asked NH Fish and Game to be the lead applicant for the CELCP grant, with Durham as a co-applicant. The goal of this strategy would remain the same – for Durham to own the Spruce Forest properties.

While the outcome would be unchanged, this approach would provide additional benefits to Durham and the project. First, adding NH Fish and Game as a co-applicant would strengthen the application, demonstrating a broad based partnership. Second, this approach would give Durham additional time to reach consensus on the various issues raised by the Town Council over the past few months, while also enabling the project to move forward. If the Town Council remains dissatisfied with the project, the Town Council has the right to elect not to participate. On the other hand, if the Town Council chooses to participate NH Fish and Game has committed to act as a pass through agent for the grant with no ownership interest in the property at closing.

In the meantime, TPL will continue to work with the Town Council and will fulfill the commitments made at the Town Council meeting on February 15, 2010, including:

- Capping Durham's contribution at up to \$400,000 or 10% of the final appraised value of the Spruce Forest area at closing, whichever is less, with a minimum contribution of \$300,000.
- Excluding up to 10 acres located off Mill Road from the CELCP easement to be used for potential creation of recreational fields and or/limited economic development.
- Incorporating the Colasante property into the proposal if mutually agreeable terms can be reached with the landowners.
- Retain a Right of Way for Durham to connect municipal infrastructure from the proposed Town well to the existing system.
- Consider ways to accommodate a Transfer of Development Rights (TDR) scheme utilizing the Spruce Forest area to the extent practical without jeopardizing the goals of the project or impacting the value of the subject property.

I am also writing to explain several issues discussed at the two recent Town Council meetings regarding the appraisal commissioned by TPL.

As you may recall, Councilor Stanhope requested a copy of the restricted use appraisal report after the presentation made by Phil Auger on December 22, 2009. TPL expressed reservations about sharing our appraisal as it is preliminary in scope and intended for the sole use of the client under Rule 2-2C of the Uniform Standards of Professional Appraisal Practice (USPAP).

In an effort to build trust and cooperation with the Town Council, TPL asked SED Valuations, LLC for permission to share the restricted appraisal and invited Councilor Stanhope to discuss his concerns with the appraiser. Further, TPL indicated in written communication dated February 1, 2010 and verbally at the Town Council meeting on the same date that the restricted use appraisal should be viewed in the following context:

1. The preliminary appraisal was intended to help TPL reach agreement with the landowners on purchase price and was just that, *preliminary*; and
2. That a final, self contained appraisal would be commissioned prior to closing per federal guidelines for land acquisition under the CELCP program.
3. That the final appraisal would be written to meet the Uniform Standards for Federal Land Acquisitions ("Yellow Book") per CELCP requirements; and
4. That the final, self contained appraisal would determine the final purchase price and would be subject to a rigorous federal review process per Section C 1- 8 of the "Yellow Book".

In addition, TPL requested that any discussion of the appraisal take place in a non-public meeting with the Town Council given the sensitive nature of real estate transactions and as allowed under RSA 91-A:3. The Town Council declined to do so and in the public forum some Councilors chose to attack a preliminary appraisal report never intended for public use. That, TPL feels, is regrettable.

TPL works throughout the country with federal, state and local partners and we understand and expect that people will have questions and sometimes disagree about the appraisal process and findings. In most cases, many of those questions are addressed in the final, self-contained report which clearly discusses the methodology, supporting market data, assumptions, adjustments and reconciliation process used by the appraiser to arrive at his/her valuation. In the event that questions or concerns remain after reading the self-contained report, the appraiser is usually given an opportunity to address those issues directly and/or consider new information brought to his/her attention. Assuming that those concerns are satisfactorily addressed, the appraisal would then be submitted to the relevant federal agency for federal review.

TPL is concerned that members of the public, less familiar with the process, watching the proceedings Monday night may have been given the wrong impression. Based on the discussion, the public could reasonably conclude that the federal review process is insufficient; misinterpret the purpose of the restricted use appraisal; misunderstand TPL's request for confidentiality; and question TPL's independence and integrity (and that of SED Valuations, LLC).

TPL remains committed to addressing legitimate questions and concerns raised by the Town Council regarding the appraisal and we remain confident that SED Valuations will give due consideration to any/all substantive and verifiable data relevant to future appraisals of the Spruce Forest parcels. Further, TPL and SED Valuations are willing to submit the final, self-contained appraisal for peer review by an independent, third party appraiser mutually acceptable to TPL and the Town of Durham.

We sincerely hope that the Town Council will agree with the application strategy and appraisal process outlined in this letter. However, if the Town Council concludes that it does not wish to take advantage of the opportunity presented, TPL will focus on other partnership opportunities to help fulfill our mission of *conserving land for people*.

Should you wish to discuss this matter further, please do not hesitate to contact me at (207) 772-7424 x. 7.

Sincerely,



Gregg Caporossi
Project Manager

Cc: Rodger Krussman, NH State Director
Denise Mullane, TPL Counsel