

Durham Conservation Commission
January 14, 2010
Durham Town Office – Council Chambers
7:00 PM

Members Present: Jamie Houle, George Thomas, Jerry Needell, Beryl Harper, Dwight Baldwin, Stephen Roberts, Larry Harris

Alternates Present: Peter Smith, Ann Welsh, Stephen Burns

Public Attendees Present: Julian Smith, Robin Mower, Greg Caporossi, Beth Olshansky, Robin Mower, Sherrie Trefry, Julian Smith, Rachel Rouillard, Steve Riker, David Lemieux, Ernie Nichols, Anne Knight, Filson Glanz, Maggie Bogle

1) Call the meeting to order and acknowledge absentees and those with voting authority.

Chair Houle called the meeting to order at 7 pm

2) Presentations:

1) Presentation on Minimum Impact Expedited Application for work within the 100' upland tidal buffer zone at 571 Bay Road. -- Sherrie Trefry, NHSC on behalf of property owner Dave Lemieux

Sherrie Trefry presented to the Commission on this application. She noted the proposed area is a 3.6 acre single family residence with a shared driveway. She said the majority of the lot is previously landscaped with lawn, some trees and shrubs with existing steps and dock. She presented a copy of the application to the members. She noted the application is proposing to add a small addition to the north side of the house – a second floor deck, a pool and patio, as well as an additional utility pole and the placing of an overhead utility line underground. She said the permanent impact for the project is 1329 sq ft and the temporary impact is 3134 sq ft. with a total impact of 4463 sq ft. to the upper tidal buffer zone. Ms. Trefry said there will be no impact to the wetland on the property. She noted that the CSPA requires a 20% limit on impervious surface cover and this property currently has 15% impervious surface cover. She said the proposed project would increase the impervious surface cover by 2% - keeping within the limits of the CSPA. Ms. Trefry explained since the proposed projects meets the requirements for a "Minimum Impact Expedited Application", it will be reviewed within 30 days (instead of the normal 75 days).

The members discussed the size and location of the proposed pool, the definition of an accessory structure, and an alternative location for the pool.

Dave Lemieux introduced himself as the owner of the property on 571 Bay Road. He said the application currently consists of 3 parts; the pool, the burying of the overhead utility wires and the stairway. Mr. Lemieux explained that the staircase is needed because the house has an internal, curved stairway that prevents the moving of furniture. He noted there will be some wiring work taking place and he had wanted to undertake the stair addition at the same time. Mr. Lemieux offered to remove the pool from the application if it was a concern for the Commission and perhaps bring it back at a later time for discussion. He noted that Tom Johnson has been at the property to review the plans for the stairs, the wiring and the deck.

1 The Commission agreed that the pool is an issue with them. The applicant and Ms. Trefry decided to
2 submit a revised application that did not include the pool. This application would have a total impact of
3 4463 sq ft; with a permanent impact of 381 sq ft and a temporary impact of 4082 sq. ft.

4
5 The members and Mr. Lemieux discussed that this impact and impervious surface coverage would be
6 taken into consideration if an application is later submitted for the construction of the pool.

7
8 Chair Houle requested that the revised application be left with the Commission – and they would
9 deliberate after public session and inform them of the decision.

10
11 2) Steven Riker, GZA Environmental (NHSC), Repair of Culvert under Depot Road parking lot.

12
13 Steven Riker presented for GZA Environmental regarding this project. He thanked the Commission for
14 accepting the presentation of this project on short notice.

15
16 Chair Houle noted the Commission's concern that the abutters were notified today and may not have had
17 sufficient time to be notified of the review. Steven Riker said the Commission can wait until the next
18 meeting to send comments to the DES if they feel that is more appropriate.

19
20 Mr. Riker explained that the Town of Durham hired GZA to prepare a wetlands application for the repair
21 of the culver located under Depot Road parking lot. He said the culvert is a 6 x 60 box culvert, 10 ft long,
22 built between 1920 and 1930 and is currently in very rough shape. He noted there is contaminated soil in
23 the ground water percolating through the cracks in the culvert into the stream and this needs to be
24 addressed.

25
26 Mr. Riker said the engineers plan to slide a 5' round polypropylene pipe into the area and seal both ends,
27 as well as replace the head wall on the outflow site. He said there will be 513 sq ft. of temporary impact
28 and 582 sq ft of permanent impact to wetlands. Chair Houle asked if the plan is to insert a form and then
29 inject moldable polyethylene that conforms to the shape of the form and then remove the form. He noted
30 the project is attempting to improve and eliminate the contaminant which is making its way to Pettee
31 Brooke and the alternatives are reconstruction or repair with concrete or seal the cracks of the culvert
32 (which would be a temporary fix).

33
34 The members discussed the proposed project and specific details regarding the sealing of the pipe, the
35 cavity between the box and the new pipe, any treatments to be used to keep the current material from
36 draining out, data on contaminants found, and the history of the project. Chair Houle noted that it would
37 be nice to have measurable evidence that the problem is being corrected.

38
39 The Commission decided they would like to hear more information on the project. Dave Cedarholm and
40 or Mike Lynch, as well as an engineering representative from GZA will be invited to the next meeting to
41 discuss this project.

42
43 3) Update on the Trust for Public Land proposal for preservation of the Spruce Forest area --
44 Gregg Caporossi

45
46 Greg Caporossi of Trust for Public Land (TPL) introduced Phil Auger to the Commission who will be
47 presenting a brief introduction regarding the Spruce Forest area.

48
49 Phil Auger presented aerial photos of the property to the Commission. He explained that they were
50 approached by the developers with the idea of locating another parcel of land to swap for this which
51 would be closer to the community's center, wouldn't impact natural resources, and would provide a tax

1 base improvement. He noted they met with Town officials and discussed this proposal and understood
2 that the approach would need to include an economic development model. He said they worked with the
3 University of New Hampshire to try to find an appropriate piece of property to swap; they looked at West
4 Lot, Leewood Orchards, spoke to Town officials about Depot Road lot, Industrial Park and other pieces
5 of property.

6
7 Mr. Auger explained the funding source which best matches the project is the Coastal Estuary Land
8 Conservation Program (CELP). He said this program requires a one to one match and is focused toward
9 water shed resources conservation. He explained that with this mind they looked at properties that have
10 the same kind of natural resource features. Mr. Auger then distributed a 2 page sheet listing the natural
11 resource features of this property and discussed these many and important features with the Commission.
12 He summarized that this land contains the recharge area of the aquifer for Durham's water supply, has
13 many natural resources, has fairly unique habitat features, a large water frontage which connects between
14 other conserved lands – making a large block of un-fragmented conserved land.

15
16 Greg Caporossi explained that the proposed project would result in TPL conveying 171 acres to the Town
17 of Durham – the majority which will be conserved by an easement. He said the portion not protected by
18 the easement could be used as recreational fields. He noted the Town's purchase price is to give TPL a
19 free option on the Grange lot – which was appraised at \$659,000. Mr. Caporossi said TPL will take the
20 risk of raising the remaining funds needed. He further explained that presently the Town owns the
21 Grange lot, TPL would be given a free option on the property; TPL would hold the option for the duration
22 of the project (18 months to get through the CELP program); if successful in raising other funds to
23 purchase the property, TPL will transfer that option to the land owners/developers; once the option is
24 assigned to the investors they have 18 months to move forward; if they do not move forward during this
25 time period the option expires and the Grange lot reverts ownership back to the Town of Durham; if TPL
26 fails to raise the needed funds the Grange lot option would expire and ownership would revert back to the
27 Town of Durham. Mr. Caporossi noted that the 18 months begins once closing has occurred on the
28 Sprucewood/Tecee property.

29
30 The Commission members and Mr. Caporossi discussed in great detail the pros and cons of the Grange
31 lot and other properties considered prior to focusing on the Grange lot, the use of Conservation fund
32 monies instead of a land swap, other funding sources, and the need for an economic development portion
33 of the project.

34
35 Gregg Caporossi said he is here to present to the Commission the best way that he knows to structure this
36 project and meet the goals of the community. He noted that the Town of Durham is the applicant on the
37 CELP grant and that TPL will walk the Town through the process. He explained that TPL is very familiar
38 with the process and has been very successful when applying for CELP grants.

39
40 Jerry Needell said the reality of Durham is if this project is only based on conservation efforts it most
41 likely will not succeed, so the economic development portion is important.

42
43 Chair Houle asked Mr. Caporossi what would be helpful from the Commission. Mr. Caporossi responded
44 that building community support and getting the message out, networking and making understood that
45 this is something the Conservation Commission supports would be helpful. He noted that the
46 Conservation Commission would be instrumental in the grant application process with TPL assisting
47 every step of the way – including assisting with the writing of the easement language.

48
49 Public Comments:
50

1 Beth Olshansky noted that there has been very little public discussion of this project and expressed her
2 desire to see a public presentation by Mr. Caporossi so the community can better understand the details of
3 the proposal. She also suggested the Conservation Commission write a letter to the Town Administrator
4 and the Town Council encouraging them to garner public input.

5
6 Filson Glanz said he would love to see the land be protected but can envision some members of the public
7 having an issue with the historical value of the Grange.

8
9 Jerry Needell said he feels the inclusion of the Grange property will show that a motivated developer is
10 interested in property that is abutting the Mill Plaza which should be a motivator for driving development
11 in the Mill Plaza.

12
13 Rachel Rouillard said for seven years she was director of LCHIP (one of the State's largest source for
14 Conservation Funds) and worked with TPL a number of times. She said TPL is very detail oriented, very
15 competent and continue to get grants. She said she has nothing but good things to say about TPL.

16
17 Commission Discussion:

18
19 Chair Houle said this project does not prescribe any specific type of development proposal; rather all
20 proposals are still subject to Town approval.

21
22 Stephen Roberts expressed his concern regarding the Grange property; saying if the Town needs an equity
23 match for another downtown project, the Grange won't be available to use if it is used for this project.

24
25 Larry Harris said he finds this competitive grant process acceptable. He said the Commission's goal is to
26 try to do something that benefits the Town from a conservation point of view and this proposal is very
27 positive.

28
29 The members discussed if they should comment on the conservation portion of the project only or also
30 comment on the business portion of the project. It was decided that the business portion of the project
31 should be commented on briefly.

32
33 Dwight Baldwin said he feels it would be shortsighted of the town not to take advantage of TPL's
34 expertise.

35
36 Ann Welsh commented that it is becoming more difficult to protect water supplies.

37
38 The Commission discussed drafting a short letter of endorsement regarding the project to the Town
39 Council. It was decided the letter should be written to include the sentiment that the Conservation
40 Commission is strongly in favor of the conservation of this land and would fully support the TPL in
41 moving forward in a manner that can accomplish this result. Chair Houle will draft a letter and copy the
42 Commission members for their comments.

43
44 **3) Acceptance of minutes of December 10th Meeting - - -**

45
46 The following corrections were made to the December 10, 2009 minutes:

47
48 Page 5, line 29 to read: "...that would limit water production."

49 Page 5, line 7 to read: "Dori"

50 Page 3, lines 4-5: list title of properties being discussed
51

1 *Dwight Baldwin MOVED to accept the December 10, 2009 minutes as amended. This was SECONDED*
2 *by Peter Smith and APPROVED unanimously.*

3
4 **Stephen Roberts and Stephen Burns abstained as he was not present at the December 10, 2009 meeting*
5

6 **3) New and Old Business**

- 7 a) Report/discussion of new DPB subcommittee work regarding ORLI zoning updates and advanced
8 water resource protection needs.
9

10 Chair Houle reported that David Cedarholm is reviewing wording and will make suggestions to the
11 subcommittee.
12

- 13 b) Update on Thompson Conservation Land
14

15 Chair Houle reported that Todd Selig and David Beaulieu have reported that an appraisal will occur
16 within the next three months and that the appraisal will be paid by the Lamprey River Advisory
17 contributing \$3000 and the Conservation Funds contributing \$1500.
18

19 **4) Ongoing Business**

- 20 a) Wetlands Applications

21 (1) Standard dredge and fill to depot road culvert repair – The Commission decided to invite
22 Dave Cedarholm and/or Mike Lynch to the next Conservation Commission meeting to
23 discuss this application further. Chair Houle will forward that request and copy Steven
24 Riker and request that an engineer from the company be present to answer questions.
25 Peter Smith suggested asking the question: Will the result of the proposal produce a
26 different kind of problem as to where the chemical is going or will it stay put or flow in
27 another way into the river? Chair Houle suggested asking if there is a plan to monitor the
28 effectiveness of the proposed approach.
29

30 (2) Minimum impact expedited application for Dave Lemieux for a staircase, deck and
31 burying of utility lines and utility pole - - 4463 sq ft total impact, 381 sq ft permanent
32 impact.

33 Stephen Roberts noted that he asked the applicant to verify with Tom Johson if a
34 conditional use permit is required for the utility expansion. Chair Houle noted that any
35 subsequent approval by the Planning Board for the installation of a pool within the tidal
36 buffer would include the 381 sq ft modification discussed at this meeting, would be
37 included in the total impervious expansion.
38

39 The consensus of the Commission was to approve the revised application and to have the
40 Chair Sign the expedited application.
41

- 42 b) Land Protection Activities: This was discussed under presentation.
43

- 44 c) Town Owned Land/Conservation Easements:

45 (1) PREP CTAP project final comments

46 Beryl Harper reported that Luke Vincent has posted the stewardship plans on the Town website –
47 it is currently located as a link on the homepage. She said that she presented to the Town Council
48 on Monday evening and informed them of the completion of the plans and that they were
49 available and encouraged the Councilors to read the plans. Ms. Harper said she summarized the
50 report for the Councilors and noted that there were questions regarding forestry and logging. She
51 said she tried to convey the idea that the stewardship plans are a starting point and invited people

1 to come forward with suggestions and comments and the town owning land is actually owning
2 and resource and the intent for owning the land often drives the use of the property.
3 Peter Smith said he watched the presentation and thought it was terrific.
4

5 (2) PREP CTAP applications for 2010

6 Chair Houle noted that CTAP is a recurring grant fund and explained that the Town does have the
7 potential to submit for other CTAP grant monies and suggested submitting a grant application to
8 get financial assistance for writing water resource water regulations. He expressed his feeling
9 that this would be helpful and said he would check on the dates for the next grant cycle.
10

11 Chair Houle said he is also still interested in using exploring the use of Conservation Funds for
12 this purpose and he may ask the Planning Board to request the Conservation Commission
13 consider this.
14

15 **5) Board and Committee Reports**

16 a) Town Council
17

18 Jerry Needell reported that there will be a discussion on TPL and suggested to Commission members if
19 they feel inclined to come and make public comments. Dwight Baldwin asked what some of the problem
20 points for the project with the councilors are. Jerry Needell responded that some feel both the downtown
21 site and Sprucewoods should be developed and feel it may be a waste of money to purchase an easement
22 on the Sprucewoods property. He noted one of the selling points of the TPL project is that the project
23 will spur development downtown.
24

25 Jerry Needell reported that there has been movement on a purchase and sales agreement on the
26 Woodward property by Capstone for a student housing project.
27

28 b) Planning Board
29

30 Stephen Roberts reported that the Planning Board was given a presentation by a developer regarding a
31 major hotel on the ATO fraternity lot on Main Street. He also reported a minor increase in student
32 housing on Route 108 property located next to conservation property.
33

34 c) Zoning Board of Adjustments
35

36 Ann Welsh reported that one building was reviewed for a variance that was located in the shoreline zone
37 – Cedar Point. She said this property has proposed constructing a garage, removing the current driveway
38 and replacing it with new permeable driveway so that the amount of impervious surface coverage would
39 not change. She noted this project will need to go before DES for a permit.
40

41 d) Lamprey River Advisory Committee
42

43 Stephen Burns distributed to the members a handout written by the Lamprey River Advisory Committee
44 describing the Committee and its purpose. He said the LRAC asked him to confirm that the Durham
45 Town Council needs to approve purchases for land protection. Chair Houle replied yes.
46

47 He reported that the LRAC does have number from the appraisal of the Thompson property.
48

49 **6) Other Business – none at this time**
50

51 **7) Administrative**

1 a) Correspondence –
2

3 Chair Houle noted that he received a letter from UNH stating that they will be implementing invasive
4 plant control at the MacDonald Lot. He said he has also received notice that the dues for the 2010 NH
5 Association of Conservation Commission membership are due in the amount of \$361. He has also been
6 informed that the Conservation Commission monthly balance for LUCT is \$465,000 with \$96.00 in
7 interest and \$45,000 in unpaid taxes.
8

9 b) The next regular meeting of the Conservation Commission will be February 11, 2010 at 7 pm.
10

11 **8) Adjournment**
12

13 The January 14, 2010 meeting of the Durham Conservation Commission adjourned at 10:15 pm.
14

15 *Dwight Baldwin MOVED to adjourn the January 14, 2010 meeting of the Durham Conservation*
16 *Commission. This was SECONDED by Jamie Houle and APPROVED unanimously.*
17

18
19 Respectfully submitted by,
20

21
22 Sue Lucius, Secretary to the Durham Conservation Commission