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Durham Conservation Commission
June 10, 2010
Durham Town Office – Council Chambers
7:00 PM

Members Present: Robin Mower, Dwight Baldwin, Malin Clyde, Larry Harris, Julian Smith, Derek Sowers

Alternates present: Stephen Burns, Peter Smith, Ann Welsh

Members not present: James Houle

Also present: Bob Eckert, Karen Brown, Steven Kimball, Perry Bryant

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

Acting Chair Dwight Baldwin called the meeting to order at 7:03 pm and appointed Peter Smith as a voting member for the evening in place of James Houle.

Dwight Baldwin asked to amend the agenda by adding Jackson Landing update as item 5d) and a discussion of the Thompson property under 5b).

Robin Mower suggested reordering the agenda to have Karen Brown present first.

Robin Mower MOVED to adopt the agenda as amended. This was SECONDED by Julian Smith and APPROVED unanimously.

2) Presentations

- a) Presentation on the work of the Bellamy and Oyster Rivers Watershed Protection Partnership (BORWPP) – Bob Eckert

No discussion at this meeting.

- b) Conditional Use Permit in the WCO for the restoration of a retaining wall at 21 Cutts Road. --Karen Brown of 21 Cutts Road.

Karen Brown, 21 Cutts Road explained that she has an existing set of retaining walls on the back of the property that has experienced storm damage. She distributed a set of maps for the

1 property (plot plan, topographical and sketch of the project). Ms. Brown explained the cinder
2 blocks that construct the walls are failing and the walls are within the 75 ft wetlands setback.
3 She reported speaking with Tom Johnson when she first purchased the property who
4 recommended getting a delineation of the wetlands on her property (which was done). Ms.
5 Brown said the two walls are each 30 feet – and she is proposing to extend the lower wall by 44
6 feet (total 74 ft) in an attempt to stop erosion into the buffer zone.

7
8 The members discussed with Ms. Brown the location of the walls, where the wetlands are
9 located, which erosion controls will be undertaken during the wall reconstruction and when she
10 is scheduled to meet with the planning board. Ms. Brown explained the location of the walls and
11 the wetlands, that she plans to use hay bales to control erosion and that she is scheduled to meet
12 with the Planning Board on June 23rd.

13
14 Dwight Baldwin said the repair or replacement of a retaining wall is a permitted use in the
15 wetlands overlay district. The members noted that the replacement of the one wall at its original
16 length means that it is a permitted use, but the replacement of the other wall at 74 feet does not
17 qualify as a replacement and therefore needs to qualify for a conditional use permit. The
18 members discussed with Ms. Brown other measures that could be used to further erosion control
19 instead of extending the length of the retaining wall, such as using additional vegetation and
20 plantings to stabilize the area. Robin Mower suggested a book titled “Landscaping by at the
21 water’s edge”.

22
23 Ms. Brown said she would rebuild both walls at their original length and investigate adding
24 plantings. The members noted she will still need to seek a permit from the Planning Board for
25 the permitted use of replacing the retaining walls and if at a later point decides to extend the wall
26 she will need to return to seek a conditional use permit.

27
28 Peter Smith suggested that Ms. Brown review the criteria for the conditional use permit and to
29 speak with Jim Campbell prior to the Planning Board meeting to discuss with him the comments
30 made by the Conservation Commission.

31
32 **The consensus of the members was to recommend to the Planning Board to allow the**
33 **replacement of the two 30 feet retaining walls that have been damaged using sediment**
34 **control in the form of hay bales.**

- 35
36 c) Conditional Use Permit in the WCO for 20 Strafford Avenue. -- Steven Kimball, Pine
37 Ledge

38
39 Steven Kimball presented to the commission regarding a redevelopment involving the
40 refurbishing of two existing structures. He noted the project has been completed and included
41 the enlarging of 2 existing structures, the removal and reposition outside of the wetlands buffer
42 of 2 sheds and moving the parking area in the rear to the side with the result that there is one
43 parking space within the wetlands buffer. Mr. Kimball said prior to construction all development
44 was approved by the Planning Board who also suggested reconfiguring the parking. He said
45 after reconfiguring the parking by moving it to the side of the house, the plans were submitted
46 with the building permit application. Mr. Kimball said the Planning Board now says that it never

1 reviewed the new parking configuration and is asking for the Conservation Commission to
2 comment on the parking as a conditional use permit issue.

3
4 Julian Smith read a memo written by Jim Campbell which said in part "...the driveway and part
5 of two parking spaces are within the wetlands buffer – the conservation commission needs to
6 provide advice to the planning board – since the uses of the property are two single family
7 dwellings the ordinance would require two parking spaces per unit – or a total of four spaces –
8 the applicant is requesting 11 spaces..."

9
10 The members and Mr. Kimball discussed the difference between what the memo from Jim
11 Campbell said and what Mr. Kimball has stated at this meeting. Mr. Kimball noted the parking
12 in the front of the house (6 spaces) has historically been there and did not require review because
13 there was no redevelopment to them.

14
15 The members discussed what it is they are asking the Conservation Commission to comment on
16 and that it is appropriate for the Planning Board and not the Conservation Commission to decide
17 the number of spots appropriate for the property. They also discussed that it is not possible for
18 the Commission to comment on the appropriateness of the location of the parking without
19 knowing how many parking spots the Planning Board is approving for the property; since this
20 affects if there is any alternative location for the parking.

21
22 The members expressed their feeling that they needed a more precise request from the Planning
23 Board before making a recommendation to the Planning Board on the driveway and location of
24 the parking spaces.

25
26 **Chair Houle will write a letter to Jim Campbell expressing the Commission's concerns.**

- 27
28 d) Review of request for Conditional Use Permit in the WCO for 262 Mast Road. -- Perry
29 Bryant, Bryant Park West

30
31 Bill Doucette presented to the commission regarding Bryant Park West on Route 155. He said
32 construction has been underway for a couple of months and told the members they are welcome
33 to stop by and look at the site. Mr. Doucette said an application has been submitted to the
34 Planning Board for a modification to the site plan. He explained they are requesting permission
35 to keep the original building on the property which was scheduled to be removed.

36
37 He explained the original project had five buildings and was reduced to two new buildings. Mr.
38 Doucette said they planned to remove the original building because they did not think it would
39 aesthetically match the new buildings being constructed; however it has come to their attention
40 that the buildings are a nice complement to each other and with the number of buildings reduced
41 the original building can be used as office space. Mr. Doucette said the parking lot is scheduled
42 to be built between where the house is located and a residential property next door, with a
43 vegetated buffer being created between the parking lot and the residential property. He said if
44 the original building remains there will not be enough space to build the parking and the buffer
45 promised, so they are requesting to move the parking to the other side of the building. Mr.
46 Doucette distributed plans detailing the five building concept and the three building concept. He

1 noted the proposed parking is on the other side of the house and would be 100% within the
2 buffer; the parking as currently planned is 50% within the buffer. He noted the parking surface
3 will be porous and that they have been working with the UNH Stormwater Center.
4

5 Derek Sowers summarized that there will be less building in the wetland buffer and more
6 pavement, but the pavement will be pervious. He said if the parking was going to be
7 conventional pavement, this plan would not be advisable, but with the planned porous pavement,
8 green roof and plantings this plan is agreeable.
9

10 Perry Bryant and the members discussed the many features of the project including the extensive
11 treatment to water runoff and the reuse of the water. They discussed the environmental effects of
12 keeping the original building. It was noted that the removal of the building and the need to
13 dispose of the building has an environmental cost, as does the existing hard packed gravel
14 driveway (which is similar to pavement); while keeping the building and replacing the parking
15 with a porous surface that treats the water will be a better environmental effect.
16

17 The members discussed the four criteria for the conditional use permit and noted that the planned
18 change meets criteria 2, 3, and 4. The members further discussed if the planned change meets
19 criteria 1, sighting the agreement to provide a dense vegetated buffer and the increased safety by
20 having only one access point.
21

22 **The consensus from the perspective of the Commission was that the modifications to the**
23 **proposal met the requirements of the conditional use permit.**
24

- 25 e) Conditional Use Permit for 10 Pettee Brook Lane, Durham, NH 03824. -- Ionian
26 Properties
27

28 *Peter Smith MOVED to table this item. This was SECONDED by Robin Mower and*
29 *APPROVED unanimously.*
30

31 Julian Smith reported that the Planning Board would be doing a site walk at this location on
32 Saturday June 12, 2010.
33

34 3) Acceptance of minutes

- 35 a) May 13, 2010
36
37

38 Minor grammatical and spelling errors were corrected.
39

40 *Robin Mower MOVED to accept the May 13, 2010 minutes as amended. This was SECONDED by Julian*
41 *Smith and APPROVED unanimously.*
42

43 4) New and Old Business

- 44 a) Discussion of DCC role in Parks & Rec Acoustic Night at Wagon Hill, Friday, June
45 25rd from 6pm-7pm.
46
47

1 Malin Clyde reported the Parks and Recreation Committee asked if the Conservation
2 Commission would like to sponsor a nature walk at Jackson Landing. She volunteered to lead
3 the nature walk along the shoreline at Jackson Landing speaking about the wildlife habitat. Ms.
4 Clyde invited everyone to the walk at 5:15 pm.
5

6 **Robin Mower noted there should be a discussion item regarding Durham Day Activities on**
7 **the agenda for the July meeting.**
8

9 b) Update on Southeast Watershed Alliance Activities
10

11 Derek Sowers gave the members a brief history of the formation, priorities and goals of SEWA.
12 He explained that the alliance is concerned with consistency among towns regarding approaches
13 to storm water management, transportation planning, and open space planning. He said there
14 will be a meeting June 15th at 7 pm of the full alliance membership in Newington at which the
15 advisory committee will make a presentation on the nutrient issue. Derek Sowers explained that
16 he is on the advisory committee and George Rief is Durham's representative to the alliance.
17

18 **The members discussed inviting Mr. Rief to a Conservation Commission meeting to discuss**
19 **SEWA, request that the commission is kept informed of the Town's position regarding**
20 **these issues and to urge a constructive approach to finding solutions to nitrogen pollution.**
21

22 **5) Ongoing Business**
23

24 a) Wetlands Applications - Derek Sowers reported there are no new applications
25

26 Dwight Baldwin reported that DES cc'd the commission on a letter written to the Granite State
27 Shellfish Company asking for more information regarding their application.
28

29 b) Land Protection Activities - no report at this point
30

31 c) Town Owned Land/Conservation Easements –
32

33 Malin Clyde reported receiving the files associated with Town owned land and conservation
34 easements and is in the process of reviewing them.
35

36 The members briefly discussed timber harvesting on town owned land. Robin Mower will check
37 with Mike Lynch on this issue.
38

39 Dwight Baldwin reported the interpretive signs have been installed at Jackson's Landing along
40 the trail and that new salt marsh plants have been put in where the phragmites were removed
41 (and will need a third spraying). Malin Clyde proposed taking photos of the signs and putting
42 them in the Friday updates. She also suggested combining a walk of the area with another event.
43

44 The members briefly discussed water damage on the trails. Derek Sowers suggested the addition
45 of some water bars in appropriate spots.
46

1 Dwight Baldwin reported the property appraisal has been done for the Thompson property and
2 the Thompsons' are considering their options. He noted that the appraisal is valid until July 1st.
3 It was the consensus of the members to discuss this time frame with the Town Administrator.
4

5 **6) Board and Committee Reports**

6 7 a) Town Council – Robin Mower 8

9 Robin Mower said the Council heard a presentation regarding UNH's plans for transportation
10 and alternative transportation.
11

12 She also noted that the report on the dam was received and showed that the concrete has been
13 tested and found to show the type of small cracks that are a sign of alkali silica reaction (asr)
14 deterioration. Ms. Mower said it is important to determine if the reaction has stopped or is
15 ongoing and as such the Council has agreed to have further testing done by an expert in concrete
16 from UNH. She also reported that the right abutment needs complete replacement, but that the
17 report states that if nothing is done to repair the dam it would be adequate and safe for 5-10
18 years.
19

20 b) Planning Board – Julian Smith 21

22 Julian Smith reported that the Planning Board finished responding to the stormwater and site
23 plan regulations. He said Dave Cedarholm met with the Planning Board and agreed to a number
24 of changes.
25

26 c) Water Resource Protection Subcommittee - Houle/Baldwin 27

28 Robin Mower reported that the subcommittee needs to schedule its next meeting to discuss the
29 planning board's action and also the aquifer protection overlay district.
30

31 d) Zoning Board of Adjustments – Ann Welsh said there was no new report. 32

33 e) Lamprey River Advisory Committee – No report at this meeting. 34

35 **7) Other Business**

36 **8) Administrative**

37 38 a) Correspondence 39

40
41 Dwight Baldwin reported that Todd Selig wrote a letter to Strafford Regional Planning
42 Commission nominating the Oyster River to the Water Management Protection Program.
43

44 He also reported that the Commission received a letter informing them that a preliminary
45 engineering meeting will be held on May 25th regarding the design of the fish passage. The

1 members discussed what point in the process this project has progressed to. It was decided that
2 Robin Mower would email Dave Cedarholm to request information.

3
4 b) Next Meeting

5
6 The next regular meeting of the Durham Conservation Commission will be held on July 8, 2010
7 at 7 pm in Town Council Chambers.

8
9 Dwight Baldwin will be unable to attend.

10
11 **9) Adjournment – 10:15 pm**

12
13 *Robin Mower MOVED to adjourn the June 10, 2010 meeting of the Durham Conservation*
14 *Commission at 10:15 PM. This was SECONDED by Peter Smith and APPROVED unanimously.*

15
16 Respectfully submitted by,

17
18
19 Sue Lucius, secretary to the Durham Conservation Commission