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Durham Conservation Commission

May 13, 2010

Durham Town Office – Council Chambers

7:00 pm

Present: Robin Mower, Dwight Baldwin, Larry Harris, Julian Smith, Malin Clyde*, Derek Sowers, Jamie Houle

Alternates Present: Peter Smith, Stephen Burns, Ann Welsh

Also Present: Tom Sawyer, Tom Elliott, Mike Sievert

1) Call the meeting to order.

The meeting was called to order at 7:01 pm by Chair Jamie Houle. Chair Houle distributed an “orientation packet” containing pertinent information regarding the Conservation Commission and their charge for the new members to review.

*Malin Clyde arrived for the meeting at 7:55 and Peter Smith was charged as a voting member until her arrival.

2) Presentations

2a) Update on Durham Economic Development Committee activities - Tom Elliott, Chairman

Tom Elliott introduced himself to the commission. He noted the Economic Development Committee consists of seven members and several subcommittees. Mr. Elliott said there is a lot of energy and interest in the development of the downtown area, but also in steering the economic development of the town in general. He noted the Committee is working cooperatively with town staff and the Town Council regarding traffic patterns downtown; including the idea of changing Pettee Brook Road, perhaps adding parking and reducing to one lane to slow traffic and calm the area; there are also thoughts about roundabouts and bike lanes. Mr. Elliott said he came to meet with the Commission because he feels the Conservation Commission has an important voice in economic development and he is in favor of cross board discussion. He invited the members to attend some of the Economic Development Committee meetings.

Dwight Baldwin asked if the Committee was advisory to the council. Mr. Elliott said the Committee is advisory only and has no review responsibility.

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2 Chair Houle asked if the University has any representation on the Committee or a subcommittee.
3 Mr. Elliott responded that there is no formal representation from the University at this point, but
4 the Committee has discussed different ventures and ideas with the University. He said the
5 Committee is discussing if there is a need to have a subcommittee focused on transportation and
6 parking. He also noted that the Farmers Market will be located at the Mill Plaza this year and
7 will have an increased number of vendors.
8

9 **2b) Conditional Use Permit for a mixed use building at 9 and 11 Madbury Road - Mike**
10 **Sievert, MJS Engineering**
11

12 Mike Sievert displayed an artist rendering and building plan for the proposed project at 9 and 11
13 Madbury Road. He noted that currently there is 2600 sq ft of commercial space on the lot in the
14 existing building with 9-10 parking spaces. Mr. Sievert said the proposed plan is for a 8200 sq ft
15 footprint, 3 story building; with the first floor being used as a commercial space and the second
16 and third floor being residential (proposed 16 residential units), with no parking for residents, a
17 handicap access to the building, loading and unload zone and 7 public parking spaces in the
18 front.
19

20 Chair Houle asked if parking was one of the variances being requested. Mr. Sievert replied that
21 there is a request for a variance for the 15 ft maximum setback - noting that this is not possible in
22 one spot because of the brook; also there will be construction in the Wetland Overlay District
23 (part of the building is within the zone). He noted that the proposed redevelopment eliminates
24 all impervious coverage that is pavement and eliminates impervious coverage within the
25 Shoreland Protection Overlay District.
26

27 Chair Houle asked if there is any planned encroachment in the SPO or to the wetlands. Mr.
28 Sievert said there is no planned encroachment to the wetlands, but currently there is 600 sq ft of
29 pavement proposed in the SPO. He noted that the proposed redevelopment reduces impervious
30 coverage in the wetlands overlay from 6750 to 5900 sq ft.
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32 The members and Mr. Sievert discussed the amount of runoff created by the proposed project
33 and how it is planned to deal with the runoff. It was noted that all the runoff will be roof runoff
34 which will be travel through a system and be directed to the patio/rain garden area which will act
35 as a retention pond/filtration system. The members asked Mr. Sievert if a green roof was
36 considered for this project. He replied that a green roof was originally in the plans but was
37 deleted when the idea of the patio/rain garden was introduced – believing this would act as both
38 a filtration system and an enhancement if the commercial space is used as a restaurant.
39

40 Chair Houle said another issue to consider is the nonconforming use. He said the conditions that
41 need to be fulfilled for this are: no alternative location on the site, disturbance is minimized,
42 restoration activities will leave the site as close as possible to the original condition, and
43 construction disturbance is minimized.
44

45 Mr. Sievert said there are existing sewer and gas lines that are within the SPO which will be
46 utilized in this project – so there will be some construction within the site, but no building of a

1 structure. He noted the patio will be constructed of pervious block pavers with stone and that the
2 stone retaining wall is close to the 25 ft set back and will require some shallow excavation. Mr.
3 Sievert said there would be excavation to remove the existing pavement and that the area would
4 be replanted.

5
6 Chair Houle asked Mr. Sievert to explain the stream restoration activity. Mr. Sievert said the
7 existing culvert (48") and stone wall will be removed, the bank will be reclaimed and they will
8 rebuild the wall so it is continuous and replace the stones to armor the area. Derek Sowers asked
9 about the need for the armoring. Mr. Sievert said the armoring is not needed, that they were
10 planning on reusing some of the stone excavated. Mr. Sowers suggested having a more gradual
11 slope with wetlands vegetation; which would create a better habitat. Mr. Sievert said this would
12 be possible and will work on it and get back to the Commission.

13
14 The Commission discussed with Mr. Sievert the possibility of recommending to the Planning
15 Board engineering oversight on the project due to the innovative design. Mr. Sievert was open to
16 this suggestion.

17
18 The members and Mr. Sievert discussed the plans for a basement in the proposed plan. Mr.
19 Sievert explained that at this point it is undecided if the building will have a basement or be built
20 on a pile system. He noted the elevation level of the brook is approximately 42 and the elevation
21 of the basement floor would be approximately 38. He said a cost analysis is being run to see
22 which design is more desirable financially.

23
24 The members discussed that this project needs to meet; 1) requirements for a nonconforming
25 existing structure which are - allow to rehabilitate a nonconforming structure as long as not
26 expanding and encroaching more into the wetland conservation district (that is, not making
27 things worse than they currently are); 2) requirements for a nonconforming lot which are – may
28 not result in a new or increased violation; 3) conditional use permit under the SPO overlay (no
29 alternative location outside of the SPO district, amount of soil disturbance minimal necessary for
30 construction as determined by the Planning Board, soil disturbance and erosion during
31 construction will be minimized, construction and maintenance will minimize detrimental impact
32 on wetland, restoration activities leave site as nearly as possible to existing conditions).

33
34 The members reiterated their wish to recommend that armoring not be done, that more
35 vegetation be added to the plan and that engineering oversight be suggested to the Planning
36 Board as a recommendation for this project. It was decided that Chair Houle will write a letter to
37 the Planning Board making these suggestions.

38
39 *Peter Smith MOVED to grant the conditional use permit variance as requested. This was*
40 *SECONDED by Dwight Baldwin and APPROVED unanimously.*

41
42 **2c) Shoreline stabilization on Cedar Point Drive, Durham NH**

43
44 This item was removed from the agenda – the project has been postponed.

45
46 **2d) Tom Sawyer – Goat Shed – Spinney Lane – infringe on small pocket wetland.**

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2 Mr. Sawyer presented to the commission on this proposed project to build a 10 x 14 foot goat
3 shed within the wetland buffer.

4
5 The members and Mr. Sawyer had an in depth discussion regarding the location of the shed, the
6 types of wetlands located on the property, the possible nuisance created by the goat shed to
7 neighbors, the practices of Mr. Sawyer with regard to the grazing of the goats, spreading of
8 manure and composting, as well as the disturbance to soil during construction, if the shed is
9 considered an accessory structure, the Zoning Board's decision on request for variances for this
10 project and if this proposed project is a permitted use.

11
12 *Jamie Houle MOVED to grant a conditional use permit to Mr. Sawyer for construction of an*
13 *accessory structure for agricultural use with the following conditions: best management*
14 *practices are used to minimize erosion with regard to grazing of the goats, manage manure*
15 *outside of the buffer, minimize manure runoff and minimize erosion during construction of the*
16 *accessory structure. This was SECONDED by Derek Sowers.*

17
18 Discussion regarding this project and if there is a need to grant a conditional use permit or if the
19 use is a permitted use continued.

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21 Jamie Houle withdrew his motion.

22
23 It was the consensus of the members to have Chair Houle draft a communication to the Planning
24 Board making the following recommendations; the Conservation Commission feels the proposed
25 project is an acceptable use under 175-60 and with accordance to 175-65a; the Commission
26 recommends best management practices for erosion control during construction and during
27 grazing operations and that the manure be composted outside of the WCO and remain covered
28 and protected.

29
30 **3) Acceptance of April 8, 2010 minutes**

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32 Dwight Baldwin noted the following clarification to the presentation by Kyle Mullaney
33 regarding the observation platform at Jackson's Landing: the location of the deck will be close to
34 the Emerson tomb at the edge of the salt marsh and the interpretive sign will be located looking
35 out over the salt grass marsh.

36
37 Other minor editorial comments were suggested.

38
39 *Robin Mower MOVED to accept the April 8, 2010 minutes as amended. This was SECONDED*
40 *by Dwight Baldwin and APPROVED unanimously.**

41
42 *members Jamie Houle, Peter Smith, Larry Harris, Julian Smith, Derek Sowers and Ann
43 Welsh abstained as they were not present at the April 8th meeting.

44
45 **4) NEW AND OLD BUSINESS**

1 **4a) Welcome to new incoming DCC members**

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3 Chair Houle welcomed new and returning Conservation Commission members. The members
4 introduced themselves to each other.

5
6 **4b) Update on Thompson property conservation proposal to protect the Lamprey River**

7
8 Chair Houle reminded members that the Commission authorized the use of Conservation Funds
9 to pay a portion of the appraisal fee (the Lamprey River Advisory Committee was to pay the
10 remainder of the fee). He said the Thompson family has received the appraisal and is
11 considering it before coming to a decision. Chair Houle said the deadline for the appraisal to
12 remain in effect is July 1st.

13
14 **4c) Discussion of the Bellamy and Oyster Rivers Watershed Protection partnership**
15 **(BORWPP)** - Stephen Roberts was the Durham representative.

16
17 Chair Houle explained that Stephen Roberts had suggested it may be helpful to have a
18 Conservation Commission representative attend the BORWPP meetings (which are held during
19 the day).

20
21 The members suggested that Chair Houle contact BORWPP and invite a member to come speak
22 to the Commission.

23
24 **4d) Mill Pond Dam report – Jamie**

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26 Chair Houle said Dave Cearholm has received the report on the structural integrity of the Mill
27 Pond Dam and will give a formal presentation on the findings of the report to the Town Council
28 on June 7th.

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30 **5) ONGOING BUSINESS**

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32 **5a) Wetlands Applications –**

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34 Chair Houle reported that Derek Sowers has agreed to take over this responsibility from George
35 Thomas. Mr. Sowers said he will be meeting with Mr. Thomas to be briefed on the
36 responsibilities.

37
38 Chair Houle said there have been no new wetlands applications and that the application by Ray
39 Grizzle last month was approved by DES.

40
41 **5b) Land Protection Activities –**

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43 Malin Clyde reported that she viewed some student presentations regarding land protection
44 projects in Durham and Misty Meadows was one of the properties discussed. Ms. Clyde noted
45 this property was purchased in December. She said the presentation included a discussion of the

1 wildlife present and a plant and biological survey of the property. Ms. Clyde said she has the
2 presentation report if any members are interested in receiving a copy.

3
4 **5c) Town owned land/conservation easements**

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6 No further update at this time.

7
8 **6) BOARD AND COMMITTEE REPORTS**

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10 **6a) Town Council – Robin Mower**

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12 Robin Mower reported the Town Council put land protection goals at a higher level than
13 previously. She noted they specifically stated the following: "...pursue long term economic and
14 environmental sustainability by embracing sustainability in its broadest terms and preserving
15 Durham's natural resources..."

16
17 **6b) Planning Board – Julian Smith**

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19 Julian Smith reported the Planning Board heard from Mike Sievert on the Madbury Road project.
20 He said the Planning Board opened and closed the public hearing on the proposal and postponed
21 a decision until after receiving the Conservation Commission's comments on the project.

22
23 He reported the Planning Board discussed for the third time portions of the new storm water
24 regulations and site plan regulations that Dave Cedarholm brought before them. Mr. Smith said
25 the Planning Board is in the process of discussing this and will have some additional questions to
26 direct to Mr. Cedarholm.

27
28 **6c) Water Resource Protection Subcommittee – Dwight Baldwin**

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30 Dwight Baldwin noted there is a draft copy of the aquifer overlay district which reflects
31 conversations with Tom Ballestero (who helped draft the original AOD) ready for review by the
32 subcommittee.

33
34 **6d) Zoning Board of Adjustment – Ann Welsh**

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36 There was no report at this meeting.

37
38 **6e) Lamprey River Advisory Committee – Stephen Burns**

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40 Stephen Burns reported the Lamprey River Advisory Committee discussed three properties in
41 Durham. He said it seems unlikely they will be able to fund 100% of any property.

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43 **7) Other Business**

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45 Chair Houle noted that Beryl Harper had been the Vice Chair of the Commission, so a new Vice
46 Chair needs to be appointed.

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It was the consensus of the Commission to appoint Dwight Baldwin the Vice Chair of the Durham Conservation Commission.

Malin Clyde volunteered to review the documents filed by Beryl Harper in the second floor file room.

8) Administrative – none to discuss at this meeting.

8a) Correspondence – none to report at this meeting.

8b) Schedule the next regular meeting.

The next regular meeting of the Durham Conservation Commission will be held on meeting June 10, 2010 at 7 pm in Town Council Chambers.

9) Adjournment

Dwight Baldwin MOVED to adjourn the May 13, 2010 meeting of the Durham Conservation Commission at 10:20 pm. This was SECONDED b y Robin Mower and APPROVED unanimously.

The May 13th, 2010 meeting of the Durham Conservation Commission was adjourned at 10:20 pm.

Respectfully submitted by,

Sue Lucius, Secretary to the Durham Conservation Commission