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

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

Alternates Present: Ann Welsh, Stephen Burns

Members Not Present: Jamie Houle

Alternates Not Present: Peter Smith

Also Present: Sherrie Trefy, Raymond Holmes, Valerie Shelton

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

Dwight Baldwin called the meeting to order at 7:05 pm and appointed Ann Welsh as a voting member in place of Jamie Houle for the evening.

2) Presentations

- a) Presentation on a NHDES Minimum Impact Expedited Wetlands proposal to construct a garage and a deck at 20 Cedar Point Road. – Raymond Holmes, R.B. Holmes, Inc.

Mr. Baldwin noted the plan for this project was distributed to the members. Ray Holmes presented the project to the Commission members. He noted the project involves a deck on the waterside and a garage on the street side. Mr. Holmes said he went before the board of adjustment and requested three variances which were all granted. He said the project also needs a shoreland permit, wetlands permit and a conditional use permit from the town of Durham.

Mr. Holmes said Tom Johnson suggested changing the orientation of the planned garage to provide a safer exit from the garage to the street. Dwight Baldwin asked if putting the driveway over the septic system would cause access problems later if there are any issues. Mr. Holmes said the driveway would not be asphalt – so access will not be a problem.

Mr. Holmes noted the deck does not require a permit as 1-2 story decks are permitted if there are not permanent windows. He said the deck boards would be spaced by a quarter inch and there will be crushed stone under the deck area.

The members discussed that this proposal would produce more than 20% impervious surface and therefore would require a stormwater management plan. Mr. Holmes noted the proposal with the new driveway configuration produces 22% impervious surface. He said he contacted the State and acquired some information regarding stormwater management practices and attempted to address them in the

1 proposal. Derek Sowers noted that his concern is that the new plan significantly increases the amount of
2 impervious on the lot – he said he does recognize the safety concerns and the reason for the increase in
3 impervious surface. He said what is needed for that much of an increase in impervious surface is a
4 stormwater management plan that can demonstrate the extra runoff from the increased impervious surface
5 will be treated on site.

6
7 The members discussed with Mr. Holmes that the Town of Durham has its own shoreland protection
8 overlay and the project will need to be reviewed with Town regulations in mind and decide if it meets the
9 criteria for a conditional use permit.

10
11 The members discussed what procedure occurs if the Commission does not sign the Minimum Impact
12 Expedited Wetlands Proposal. It was noted that the application would then be proceed through the normal
13 permitting process of the DES, which in this instance would require a stormwater management plan.

14
15 *Ann Welsh MOVED to recommend that the Durham Conservation Commission refrain from signing the*
16 *Minimum Impact Expedited Wetlands application. This was SECONDED by Derek Sowers and*
17 *APPROVED with one member opposing.*
18 (Julian)

19
20 Mr. Holmes discussed with the members his next course of action. The members suggested he proceed
21 with DES permitting process before proceeding with a request for conditional use from the Town of
22 Durham. It was also suggested that he speak with the Town Planner for any recommendations regarding
23 the project and the process.

24
25 Derek Sowers will write DES with the Commission comments regarding this proposal.

- 26
27 b) Presentation on a NHDES Minimum Impact Expedited Wetlands proposal for the construction of
28 an addition, and a deck with associated staircase at 571 Bay Road. – Sergio Bonilla, Wetland
29 Ecologist/Wildlife Biologist, GZA GeoEnvironmental, Inc.

30
31 Sherrie Tefry presented this project to the members. Ms. Tefry said she originally presented this project
32 on January 14, 2010 with the Commission voting to recommend the project. She said the ownership of
33 the property has changed since that time. Ms. Tefry said an application was submitted to the Shoreland
34 Board for the portion of the addition within the shoreland district. She reported this has been approved
35 and now the owners are submitting a Minimum Impact Expedited Wetlands proposal for the portion of
36 the addition that falls within the tidal buffer. Ms. Tefry noted there will be 684 sq ft. of temporary impact
37 to install utilities underground. She said they are requesting the Conservation Commissions
38 recommendation and signature for the Minimum Impact Expedited Wetlands proposal.

39
40 Derek Sowers asked where the project is in the Town process of building permit and conditional use.
41 Ms. Tefry replied that the building permit has been approved for the addition.

42
43 The members noted they had reviewed this project for the previous owners and recommended approval.

44
45 *Julian Smith MOVED to recommend the approval of the Minimum Impact Expedited Wetlands proposal*
46 *for the construction of an addition and a deck with associated staircase at 571 Bay Road as presented.*
47 *This was SECONDED by Larry Harris and APPROVED unanimously.*

- 48
49 c) Presentation on a NHDES Minimum Impact Expedited Wetlands proposal to replace a retaining
50 wall and sewer line at 569 Bay Road – Valerie Shelton 569 Bay Road

1 Valerie Shelton presented this project to the Commission. Ms. Shelton distributed photos of the property
2 to the Commission members and noted that the house is within the Shoreland Overlay District. Ms.
3 Shelton said a retaining wall on the west side of the property has broken away from the building and the
4 owners are requesting they be allowed to replace it. She explained a permit by notification was filed and
5 approved for the wall replacement and two extensions were requested and granted. When a third was
6 requested the DES asked the owners to file a minimum impact application for the wall replacement. She
7 noted the second portion of the application is for the construction of a sewer line to a new septic system.
8 Ms. Shelton noted the septic system is awaiting approval from the ZBA. She explained that the code
9 enforcement officer ruled that a variance is required since a portion of the system lies within the overlay.
10 Ms. Shelton said she is asking for the Commissions' support and comments relative to the septic system
11 tank, the removal of the leach field and replacing it outside the zone.
12

13 Julian Smith asked why the retaining wall failed. Ms. Shelton responded that the wall was built in the
14 1970s and natural settling and frost caused it to pull away from the house. She said the wall will be
15 removed and replaced with a precast wall and the stone wall will be rebuilt. Ms. Shelton said access to
16 the site will not require removal of any vegetation or any disturbance to vegetation and that silt fencing
17 would be used during the removal of the retaining wall to decrease any disturbance.
18

19 Julian Smith noted the application states the new leach field will not be connected at this time. Ms.
20 Shelton responded that the leach field is being permitted but not installed at this time. Derek Sowers
21 asked to clarify what the new line is being used for. Ms. Shelton said the replacement tank for the new
22 system is in need of the line.
23

24 The members discussed with Ms. Shelton why the permitting of the leach field is being done at this time
25 and how long the permit is effective. The members also asked for assurance that the current leach field is
26 not failing. Ms. Shelton noted that a full assessment was done on the property by NH Soils and a septic
27 inspector also inspected the leach field.
28

29 The members noted that the bid for the work did not include a line item for erosion and sediment control
30 and that this would be necessary. Ms. Shelton said the contractor chosen is aware that this will be an
31 added cost to the project and that it is required by the permit.
32

33 *Malin Clyde MOVED to approve the Minimum Impact Expedited Wetlands proposal to replace a*
34 *retaining wall and sewer line at 569 Bay Road. This was SECONDED by Larry Harris and APPROVED*
35 *unanimously.*
36

37 **3) Acceptance of minutes**

38
39 a) September 9, 2010
40

41 A minor correction to the September 9, 2010 minutes was suggested.
42

43 *Larry Harris MOVED to accept the minutes as amended. This was SECONDED by Derek Sowers and*
44 *APPROVED unanimously.*
45

46 **4) New and Old Business**

47 a) October 18th, DCC Annual Report to the Durham Town Council – Houle
48

49 Chair James Houle will appear before the Town Council on Monday to submit the annual report
50 on the Commission to the Durham Town Council.

1
2 b) Discussion of remaining work at Jackson’s Landing Boat Launch – background and
3 additional information provided by Mike Lynch
4

5 Dwight Baldwin briefly reviewed the history of the project; noting discussions began in 2005, a
6 committee was formed to gather ideas and suggestions for the area and to look into funding
7 sources. He noted the plan that was decided upon was essentially measures to curb erosion and
8 protect the water quality through sediment control. Mr. Baldwin noted the only recreational
9 expense incurred was for a new trail, which was funded through separate sources.
10

11 Mr. Baldwin said the Commission is going to be asked to authorize an additional expenditure to
12 pay for work that has been completed, as well as for funds to extend the boat ramp. He noted he
13 views these as two separate items.
14

15 **First Request:** Official approval of request to pay for work completed at Jackson Landing
16

17 Mike Lynch, reviewed the financial aspects of the project; noting that the project was funded by;
18 1) in-kind service from Public Works (materials, managing the project, etc.), 2) NRCS grant
19 monies and 3) Conservation Funds. He explained the project was budgeted at \$317,686 with
20 NRCS grants agreeing that approximately \$257,000 of work on the project was allowable based
21 on their criteria – they would then pay 75% of that portion, the Conservation Commission voted
22 on March 13, 2008 to approve the allocation of \$127,000 from the Conservation Fund for the
23 Jackson Landing Project. Mr. Lynch said on August 14, 2008 the Town requested additional
24 funds from the Conservation fund not stating a specific dollar amount and the business office
25 noted this discrepancy and are now requesting specific approval of the additional funds in the
26 dollar amount of \$36,056.82.
27

28 The members discussed if there were other sources of funds to pay this amount. Robin Mower
29 noted (as the Town Council Representative) that she does not believe there is another source of
30 funds and that the Town went forward with this project with the understanding that there was
31 support from the Conservation Commission to cover the portion that would not be covered by
32 the grants obtained. The members discussed if this was the understanding of the members on the
33 Commission that were on the Commission at that time as well. The consensus from the
34 members was this was the agreement from the members on the Commission at that time.
35

36 Dwight Baldwin noted the Conservation Commission felt this was a project that was needed and
37 that the site was an environmental issue that needed to be addressed because of issues with
38 erosion, sedimenting and phragmites.
39

40 *Ann Welsh MOVED to allocated \$36,056.82 from LUCT funds to complete the Jackson Landing*
41 *project. This was SECONDED by Robin Mower and APPROVED unanimously.*
42

43 **Second Request:** Request for funding to pay for extension to boat ramp at Jackson Landing
44

45 Mike Lynch explained the history of the design and permitting of the new boat ramp at Jackson
46 Landing. He noted that NH DES originally permitted 60 ft of boat ramp – this was designed,
47 permitted and built. Mr. Lynch said in 2009 when this portion of the project was completed

1 there was a group of citizens concerned about the length of the ramp and they began to lobby to
2 modify the ramp. He said DES was brought back out to review the site and make
3 recommendations regarding any modifications. Mr. Lynch said DES suggested they would
4 permit a 23-foot extension to the ramp.

5
6 The members discussed the impact the construction of the extension would cause since dredging
7 would be required and how the issue of sediment filling in the area would be dealt with. Mike
8 Lynch noted there would need to be ongoing maintenance provided by Public Works and paid
9 for from their budget.

10
11 The members discussed if they viewed this project as a conservation issue. The argument was
12 made that the current design allows for sediment disturbance since the new ramp is placed over a
13 section of the old ramp – with a portion of the old ramp uncovered and in an area that allows for
14 sediment disturbance when boat trailer tires enter it. The members concluded that the area has so
15 much sediment in it that is frequently moving, that covering this section with the extension
16 would not have much of an impact. Malin Clyde noted that she does not believe Conservation
17 Funds should be used to fund this project. She said adding pavement to disturb the river goes
18 against the goals of the Conservation Commission.

19
20 Derek Sowers noted that the Commission discussed the boat ramp extension impact at a previous
21 meeting. He said the Commission commented to the NH DES that the Commission has no
22 objection to the permit, but did not provide a statement of support for the project.

23
24 The members discussed the possibility that alternate funds could be found to pay for the
25 extension. Derek Sowers noted there are Coastal Zone program grants targeted at providing
26 access to waterways.

27
28 The members discussed the history of the Town Council seeking to use Conservation Funds for
29 the general fund and not Conservation uses. The members noted the Conservation Fund has
30 already expended over \$163,000 toward this project.

31
32 *Derek Sowers MOVED for the Conservation Commission to respectfully decline to provide an*
33 *additional \$12,000 from the Conservation Fund to extend the Jackson Landing boat ramp. This*
34 *was SECONDED by Robin Mower and APPROVED with one member opposing.*

35
36 c) Selection of a DCC representative to the Town’s Master Plan Advisory Committee

37
38 Dwight Baldwin reported that Chair Houle received a letter introducing what process would be
39 involved for a DCC representative to the Town’s Master Plan Advisory Committee. The letter
40 from Jim Campbell requesting a representative was read to the members further detailing what
41 the request would consist of.

42
43 The letter read in part:

44 “The full MPAC will then meet once a month through the beginning of next year, which would
45 be around five (5) meetings. These meetings will most likely be around two (2) hours. The
46 MPAC members will also be asked to work on one of two subcommittees. The first
47 subcommittee will be working on setting up the visioning forum. The visioning forum will be a

1 public forum that will allow citizens to provide their vision for a variety of topics that will be
2 related to the chapters being updated after the visioning process have been completed. The
3 second subcommittee will be working on the citizen survey. We would like to create a user-
4 friendly web-based survey (hard copies will also be available) to allow citizens to provide their
5 opinions on a variety of topics helpful for planning the future of Durham. These subcommittees
6 may meet biweekly and will meet until about mid November. You should estimate another 6-8
7 meetings for the subcommittees and these meetings may be an hour or two (2).”

8
9 Julian Smith noted the Planning Board discussed this request at their last meeting, and will take
10 the issue up again at their next meeting, as a volunteer was not immediately forthcoming.

11
12 Derek Sowers noted the members are being asked to plan a meeting and/or plan a survey. Robin
13 Mower said this raises the question if it is the best use of the expertise of a representative from
14 the Conservation Commission. Derek Sowers suggested it would be more meaningful for the
15 Conservation Commission member to comment on sections appropriate to the Commission.

16
17 Malin Clyde suggested it would be useful to have individuals involved in the planning process
18 from outside existing Town committees and commissions. Robin Mower agreed saying it is best
19 to get as much participation as possible.

20
21 Dwight Baldwin reported that Chair Houle had attended the first meeting of the Master Plan
22 Advisory Committee and it may be helpful to hear his perspective.

23
24 Derek Sowers suggested responding to the request by noting that:

25 a) it may not be the best use of the Conservation Commission’s time to plan the visioning
26 meeting and oversee development of the Survey,

27 b) the members are interested in participating in the Master Plan process, particularly the
28 Environmental and Cultural Resources chapter and would be able to assist with the component of
29 the survey that addresses this chapter.

30
31 The members decided that Chair Houle should write a response to Jim Campbell’s request
32 outlining the members’ feelings regarding the request. Julian Smith suggested the commission
33 members read the current document and comment on what needs to be improved, updated,
34 and/or removed. He asked that a discussion of this be included on the agenda for next month’s
35 meeting.

36
37 d) Discussion of a possible second meeting on Thursday October 28

38
39 The members noted this would not be necessary this month.

40
41 e) Durham Day 2010 Review

42
43 Dwight Baldwin said he felt Durham Day was a big success. He noted Malin Clyde conducted a
44 nature walk for a group of 15-18 individuals and that he and Larry Harris “manned” a table.
45 Larry Harris said the Oyster exhibit was well done.

1 Malin Clyde said she prepared a sheet, which gave a summary of the stewardship plans with a
2 map on the back. She asked if any of the members could think of another use for them. Robin
3 Mower suggested posting it on the Town website and possibly having a link to them on the
4 “Friday Updates”.

5
6 The members began a discussion regarding the recommended projects from the stewardship
7 plans. It was decided a “Stewardship Subcommittee” would be formed to institute the
8 recommended projects.

9
10 **5) Ongoing Business**

11
12 a) Wetlands Applications

13
14 Derek Sowers reported that all applications were discussed earlier in the meeting.

15
16 b) Land Protection Activities

17
18 Dwight Baldwin said there was no news to report. Ann Welsh said there is a tentative date of October
19 25th or 26th for a site walk of the TPL property.

20
21 c) Town Owned Land/Conservation Easements

22
23 No further report discussed at this meeting.

24
25 **6) Board and Committee Reports**

26
27 a) Town Council

28
29 Robin Mower reported that the Town Council voted to initiate a zoning change – to extend the application
30 of the Conservation Subdivision to Residential Subdivision in the ORLI and MUDOR commercial zones.
31 She noted the Council received a presentation from Dave Cedarholm and Paul Currier (Watershed
32 Bureau) regarding Durham’s section 401 Water Quality. Ms. Mower said this presentation focused on
33 human needs and there was not a discussion regarding natural flow paradigm or ecological integrity. She
34 noted she feels these issues need to be addressed. Ms. Mower reported that the Council agreed not to
35 pursue future discussion on the 401 certificate. Derek Sowers asked when the 401 would expire. Robin
36 Mower responded that it would expire when the new Instream Flow Regulations take effect. Derek
37 Sowers noted the Town of Durham is represented on the working group and asked if the Council made a
38 statement against the process. Robin Mower noted there was no formal statement, but any expression of
39 concern is in regard to the wish that the Town of Durham’s drinking water supply not be adversely
40 affected by any of the upcoming regulations.

41
42 b) Planning Board

43
44 Julian Smith reported that the Planning Board would hold a public hearing on the 27th regarding applying
45 the Conservation Subdivision Regulation requirements in the ORLI and MODOR zones for residential
46 subdivisions. He explained the Planning Board previously turned down a Planning Board member
47 initiated effort to request this. Mr. Smith said with that having occurred the Town Council has now asked
48 the Planning Board to give advice to the Council on this issue. The Planning Board suggested holding a
49 public hearing and then giving its recommendation to the Town Council.

1 Mr. Smith noted that discussions with the student housing developer, Capstone have occurred. He
2 suggested the members view the area under discussions. Mr. Smith noted that a formal application has
3 not been received and that a site walk will not be scheduled until after an application is received. The
4 members requested that the Conservation Commission be kept apprised of the progress of this issue
5 through communications with the Planning Board Representative or the Town council
6 representative to see at what point the Conservation Commission will want to discuss it and
7 comment to the Town Council.

8
9 c) Water Resource Protection Subcommittee

10
11 Dwight Baldwin reported there was a meeting on September 24th that included a lengthy discussion of the
12 definition of an aquifer. Robin Mower noted that the subcommittee has decided to focus on
13 characterizing aquifers. Mr. Baldwin said the next meeting of the subcommittee is October 22nd at 7:30
14 am.

15
16 d) Zoning Board of Adjustments

17
18 Ann Welsh reported that the last meeting of the ZBA contained a large number of wetland-associated
19 applications. She noted the board has a set of criteria they take in to consideration when deliberating if an
20 adjustment will be allowed. Ms. Welsh said the criteria do not review how construction is done and if
21 there will be protection provided during the construction (no consideration given to the damage that may
22 be done during construction).

23
24 The members began a discussion of when the Conservation Commission should become involved with an
25 application and if the ZBA should be requesting comment from the Conservation Commission.

26
27 Dwight Baldwin noted that the Commission began this discussion last month and that Chair Jamie Houle
28 said he would check in with the ZBA. The Commission will remind Chair Houle of this discussion.

29
30 e) Lamprey River Advisory Committee

31
32 Stephen Burns reported that LRAC has a new Chair. He explained that his position as a member on the
33 Committee seems to be somewhat informal (he does not always receive meeting notices and minutes) and
34 asked for some advice from the members regarding his role on this committee. The members reviewed
35 how the Conservation Commission's representation on this committee began. It was noted that LRAC
36 requested a representative from the Conservation Commission. Malin Clyde suggested that Stephen
37 Burns see if he can get some clarification and report back to the commission next month.

38
39 Dwight Baldwin suggested that he could use Mr. Burns help cutting brush along the peninsula at Mill
40 Pond. This led to a discussion of what is being cut along the peninsula and if this is the best approach.
41 Mr. Baldwin requested that a discussion of this be on next month's agenda.

42
43 **7. Other Business**

44
45 There was no other business brought forward at this time.

46
47 **8. Administrative**

48
49 a. Correspondence

1 There was no discussion of the correspondence at this meeting.

2

3 b. Next regular meeting of the Durham Conservation Commission will be on November 11,
4 2010 at 7:00 pm.

5

6 **9. Adjournment**

7

8 *Robin Mower MOVED to adjourn the October 14, 2010 meeting of the Durham Conservation*
9 *Commission at 10:26 pm. This was SECONDED by Malin Clyde and APPROVED unanimously.*

10

11 Respectfully submitted by,

12

13

14 Sue Lucius, Secretary to the Durham Conservation Commission