

[D R A F T]

DURHAM CONSERVATION COMMISSION
Monday, November 24, 2025
DURHAM TOWN HALL, COUNCIL CHAMBERS
7:00 p.m.

MEMBERS PRESENT: Dwight Trueblood (Chair); Neil Slepian (Vice-Chair); Darrell Ford (Town Council Rep); Nick Lanzer; Anne Lightbody; Rob Sullivan (Planning Board Rep); Alternates: Steve Moyer and Ben Phelps

MEMBERS ABSENT: Jacob Cragg and Alternate John Nachilly

ALSO PRESENT: Town Planner Michael Behrendt and Land Stewardship Coordinator Veronique Ludington

I. Call to Order

Chair Dwight Trueblood called the meeting to order at 7:00 p.m.

II. Land Acknowledgement Statement

The Chair read the Land Acknowledgement Statement adopted by the town.

III. Roll Call and Seating of Alternates

Roll call attendance was taken.

IV. Approval of Agenda

Chair Dwight Trueblood MOVED to approve the agenda as presented; SECONDED by Vice-Chair Neil Slepian; APPROVED unanimously by a show of hands, 6-0, Motion carries.

V. Public Comments:

Joshua Meyerwitz, 7 Chelsey Drive, gave a brief power point on the elimination of Church Hill Woods and what he termed a “regulatory gap” in the way it was permitted. He said Church Hill Woods provided a significant sound, light, heat and stormwater buffer. There was a major four-year battle (2019-2023) at the Planning Board, Conservation Commission, ZBA, and Superior Court for a proposal to raise the grade 20 feet and use 16,000 cubic yards of fill for a 150-car parking lot. The application was unanimously denied. Mr. Meyerwitz showed photos of apparent clear cutting that has taken place and said the only permit given was to cut wood or timber. He was unable to find public notice of the cutting, which is required. The permit doesn’t give the property owner (listed as Peter Murphy) the right to remove ground cover or re-grade, especially since it would affect College Brook in this case. He noted, after visiting the property, Mr. Behrendt stated, “there was substantial activity in removing all vegetation over most of the lot.”

Mr. Meyerwitz suggested site plan regulations should be applied to all properties and said there needs to be enforcement.

Chair Dwight Trueblood asked Mr. Meyerwitz to provide Mr. Behrendt with a copy of his presentation and he agreed to do so.

Jim McKiernan, DMV and owner of Great Bay Animal Hospital, and **Peter Spear**, a certified NH wetlands scientist, introduced themselves. Dr. McKiernan, who resides at 2 Riverview Court, said all lots in his neighborhood were developed in the 1960s except for 1 Riverview Court. A proposal to develop 1 Riverview in 2005 was contested and ultimately denied. The property was gifted to a non-profit, which is trying to sell. A number of real estate agents have attempted to sell the property over the years and concluded it's a non-buildable lot.

There is currently a wetlands application pending for the lot with NH DES. The state allows the Conservation Commission a two-week window to request a delay in DES' decision so they can review the application. Dr. McKiernan noted the two-week window ends tonight. He acknowledged the Commission had received short notice and has been very busy. He has two requests this evening: Email Alexander Feuti at DES to request an opportunity to investigate the application and place him (Dr. McKiernan) on the agenda for December 22.

Mr. Spear, a certified wetland scientist, said he was asked to look at the site 20 years ago and again recently and concluded both times it's non-buildable. The most important wetlands regulated by the state are estuaries, sand dunes and bogs, which are found here. He recommends the Conservation Commission inform the state they want additional time to look at the application, which would give the Commission an additional 40 days.

Chair Trueblood asked if DES is reviewing it for a wetlands permit and Mr. McKiernan replied yes. The DES rep said he would delay action until December 29th as a courtesy. The Chair asked if the issue would be closed if DES denies the wetlands permit and Dr. McKiernan replied the decision could be appealed. The current application is for a four-bedroom house, gazebo and two-car garage. It's a very small lot; unclear where septic would go. He recommends a site walk.

Julian Smith, 3 Chesley Drive, noted the irony of the WSOD ordinance being drafted while Town Council prepares to remove Mill Pond Dam and drain the pond. He referenced Goal "f" under 175.59, which states the purpose of the wetland and shoreland overlay district is to preserve natural shoreland vegetation, stabilize banks, and prevent erosion. Given the many acres of water and sediment in Mill Pond, he questioned how dam removal will preserve the natural shoreland and urged the Commission to ensure bank stabilization and erosion control.

He also cited Goal b, which seeks to conserve scenic quality and warned that the area could become overrun with invasive species. He said there is no CIP or budget funding to address the sediment and resulting swamp conditions. He added the proposed ordinance restricts

68 maintenance of viewscapes and encouraged the Commission to consider what will happen to the
69 Mill Pond area once the dam is gone.

70 **VI. Land Stewardship Update**

71 Land Stewardship Coordinator Veronique Ludington gave a report of activities:

- 72 • Meadows at Pike Property, Thompson Forest, and Milne Nature Sanctuary have all been
73 mowed by the contractor.
- 74 • Field work for easement monitoring is nearly complete. She'll finish reports by end of
75 year.
- 76 • The town had 310 volunteer hours in November, valued at approximately \$10,700. Total
77 for this year is 750 hours, valued at \$26K. Seventy middle-schoolers did a fantastic job
78 pulling invasives at Thompson Forest, as did a UNH women's lacrosse team.
- 79 • Ms. Ludington and Mr. Slepian met with Northeast Passage from UNH, along with Parks
80 & Rec Director Rachel Gasowski and Will Page to get suggestions on improving
81 accessibility at Jackson's Landing. This is a follow-up to the accessibility study. They are
82 now working to develop a plan, which she hopes to present at the January meeting.
- 83 • She and Mr. Slepian are working on a project tracker for Land Stewardship
84 Subcommittee to prioritize what can be accomplished next year.
- 85 • Online registrations are open for the Durham Discover Days walk event. John Giaforte,
86 director of the UNH observatory, will lead an astronomy night at Wagon Hill on Friday,
87 Jan. 23 from 5:00 to 7:00 p.m.
- 88 • UNH students working on the BioBlitz will present their capstone project next Tuesday
89 at the Durham Public Library at 6:00 p.m. They've done a fantastic job working on
90 BioBlitz for next May.
- 91 • She said residents have been reaching out about invasives and she suggests the
92 Commission invite a UNH researcher (named) who recently published a paper on the
93 threat of invasives, to give a presentation.

94
95 Chair Trueblood asked how Discover Durham Days are being publicized and Ms. Ludington
96 replied on social media sites for Parks and Recs and the town, as well as in *Friday Updates*.

97
98 Mr. Sullivan asked if the Commission's budget had been approved yet and if additional hours
99 will be funded for Ms. Ludington, as requested. Vice-Chair Slepian confirmed the Land
100 Stewardship position is slated to become full time starting in April 2026 at 35 hours per week.
101 Mr. Sullivan said given her organization of volunteers, Ms. Ludington's position, when fully
102 funded, will pay for itself.

103
104 Vice-Chair Slepian asked Ms. Ludington if the Commission would need to offer payment to the
105 UNH researcher to give a presentation and if so, which fund would be used to pay him. Members
106 briefly discussed if it should be a public program or limited to a Conservation meeting. Ms.
107 Ludington will look into it further.

108 **VII. Limited brush and tree cutting in WCOD and SPOD buffer on Old Landing Road.** 9
109 and 14 Old Landing Road. Request from Gary Hochgraf to remove vegetation in limited area to

enhance the view toward the Oyster River. Consideration as a Permitted Use B application or as allowance per the Performance Standards for buffers and woodlands under sections 175-65.A. and 175-76.A. Subject lot – 15 Old Landing Road, Map 108, Lot 52, Kate Schulten and Holly Neiween, owners. Affected lot – view from 9 Old Landing Road, Map 108, Lot 59, Fred Hochgraf Trust, owner.

Gary Hochgraf, Woodman Road, said his father lives on Old Landing Road and the application concerns clearing vegetation on his neighbor Kate Schulten's property. He and his family have been doing limited hand clearing, but they'd like to hire a contractor to do more aggressive cutting, with ongoing hand maintenance afterward.

In response to a question, Mr. Hochgraf said the biggest tree is about 8 to 10 inches in diameter. He described the area beyond the clearing as a cattail-choked marsh, with water only visible in the winter when vegetation dies down. Mr. Sullivan commented the area is clearly a wetland and should be defined that way. Vice-Chair Slepian asked the distance from the wetland to the proposed clearing area and Mr. Hochgraf said about one meter.

Chair Trueblood said under WCOD 175.60 (b), wetlands greater than 3,000 square feet require a minimum 125-foot buffer, and while limited vegetation removal is allowed, cutting everything to the ground is not. It was confirmed the applicant would like to bring in a brush hog; removal of the larger tree would be separate.

Chair Trueblood said the Commission needs to decide whether the SPOD or WCOD ordinance applies. Under SPOD, the proposal could qualify as Permitted Use B, subject to meeting the criteria and getting Planning Board approval. Alternatively, it could be reviewed under SPOD 175.76 (a,) (Natural Woodland), which would allow the Conservation Commission to make a determination on its own. Otherwise, they can deny the application and the applicant could seek a variance.

Mr. Behrendt said when a homeowner wishes to remove dead trees or toxic invasives, he and/or the tree warden can make a determination. This is different because the applicant wishes to remove vegetation to enhance a view. He said depending on the Commission's interpretation, it might be consistent with Permitted Use B.

Vice-Chair Slepian said he favors making a determination at the Commission level and not sending it to the Planning Board and Mr. Sullivan agreed. He asked Mr. Hochgraf how "selective cutting" would be defined and Mr. Hochgraf replied that he delineated it on the map as what is visible from the most northern edge of the house to the river. Some of the shrubbery is as high as 12-feet. The size of the area is about 150 square meters.

There was discussion with the applicant regarding how he expects to maintain the area after cutting. Chair Trueblood asked members if a site visit would be useful. Mr. Sullivan said he walked the area and half of it is invasives which should be removed and the other half could be selectively cut at a good height. He recommended they review it under 175.71 B, the shoreland provision.

Ms. Lightbody raised concerns about soil compaction from heavy equipment and Mr. Hochgraf said he was unsure how large the equipment would be.

The Commission decided to review the application under 175.76 A, items 1 through 6. Mr. Lanzer noted the buffer width on the river is 250-feet and their determination would only apply to work in that area.

After the Chair read the six criteria for section 175.76 A, Mr. Lanzer noted conflicts in the criteria and what the applicant is seeking to do. It states no trees over 6-inches can be removed, not more than 50 percent of saplings can be removed, and existing vegetation under 3-feet height shall not be removed. Mr. Lanzer said if a brush hog is being used, the last criterion is a non-starter. He suggested Permitted Use B might be more appropriate.

Vice-Chair Slepian said the request was far enough away from the reference line and he thinks it's overkill to send it to the Planning Board. He suggested asking Mr. Hochgraf to come back with a selective cutting plan that would preserve trees six inches or larger. Ms. Lightbody suggested looking into brontosaurus-type equipment instead of a brush hog. Mr. Lanzer questioned whether their recommendations are consistent with the current ordinance.

Mr. Behrendt said the Commission can use reasonable judgement in interpreting 175.76a, but any precise language needs to be followed. In this case, the applicant can't go under 3-feet vegetation, e.g.

Action Taken

After discussion, Mr. Hochgraf agreed to re-submit his application next month, specifying how the 50 percent sapling rule would be met and also stipulating trees over six-inches in diameter will be preserved. He will also provide a picture of the equipment to be used.

Mr. Hochgraf asked for clarification on removal of invasives. It was agreed the current ordinance doesn't provide specificity. Mr. Behrendt said it has been long-standing practice in town that invasives can be pulled, roots and all.

Mr. Sullivan asked what the Conservation Commission's consensus is regarding removal of invasives. Mr. Lanzer noted it can't be said categorically that removal is always best, since in some cases invasives might be stabilizing a bank and preventing erosion. His professional opinion, however, is that 99 percent of the time, residents should be encouraged to remove them. The Chair said this highlights the necessity to address the issue more specifically in the draft ordinance.

VIII. 121 Technology Drive – Two industrial/warehouse buildings. Conceptual discussion of site plan to develop 162,000 +/- square feet industrial/warehouse buildings with impacts in the Wetlands Conservation Overlay District. Map 204, Lot 2. Shawn Smith, c.o. R.J. Kelly property owner and applicant. Office Research Light Industry District.

Shawn Smith, of R.J. Kelly, said they are here to present a very preliminary plan and gather useful input from the Commission before proceeding to a more developed plan. Also present this evening are Brendan Quigley, vice president and wetland scientist at Gove Environmental, and Matt Peterson, senior project manager at Keach Nordstrom.

Mr. Smith gave a short overview of the project and said Mr. Quigley will provide context about buffer and wetland impacts. The applicant said they are seeking to minimize environmental impacts while still developing an economically viable project.

Mr. Smith showed several slides, giving a general overview of the campus at 121 Technology Drive, located at the far northwest corner of Durham. The current R. J. Kelly campus has been completely re-developed, with half a million square feet in the main building. The emphasis is on “unboring” industrial assets, providing workspace and amenities for employees – including murals and a bocce court, e.g. The company has worked closely with DPW to improve stormwater management, adding impervious cover and basins.

The new preliminary plan calls for the addition of:

- Two 162,000-square-foot industrial buildings
- 120 Dock positions in a shared truck court
- Eight drive-in ramps
- Approximately 370 new parking spaces

Mr. Smith showed wetlands and wetland buffers on the plan and acknowledged wetlands surround the entire location. He noted the project will bring in tax revenue and more jobs to Durham.

He said impervious cover has been limited by combining docks into shared driveway access. Preliminary plans would impact less than 5,000 square feet of wetlands over a 20+ acre development envelope.

Vice-Chair Slepian asked the length and width of each building and Mr. Smith replied 900-feet long and 180-feet deep. He showed the 250-foot shoreland protection area on the Oyster River, indicating they get close to it in one area but they believe the area is workable.

Mr. Moyer asked about stormwater management and Mr. Smith said they haven’t defined yet what the features will be since they’re in the midst of a soil-mapping study. They could be detention/retention ponds or something of that nature.

Vice-Chair Slepian asked about runoff from the building roofs. Matt Peterson briefly outlined the long process ahead, including getting soils mapped; doing test pits; going through AOT (Alteration of Terrain permitting); and complying with shoreland protection ordinances pertaining to the Oyster River. With the high level of silt, he doubts there will be infiltration ponds. There could be underground systems.

Brendan Quigley of Gove Environmental Services, came forward to give a description of the wetlands, in particular the Oyster River on the western side. He described the terrain around the proposed buildings as a large contiguous upland area. He described the wetland on the north and south sides, stating flow from the north will be discretely channelized toward the river.

Vice-Chair Slepian asked the highest elevation of the building site (as it currently sits) and the Oyster River. Mr. Smith said 146 feet is the highest, but it will be taken down to 120-124 feet. [Expert speaking off mic.] The elevation of the river is about 70 feet.

Mr. Quigley said there are likely a lot of functions and values that can be assigned to the river, but he believes water quality is the most significant concern, which can be effectively mitigated with good design. Vice-Chair Slepian asked about potential run-off from the slope to the river and Mr. Quigley said it's going in the opposite direction plus there's 250-feet of mature forest. Mr. Smith said the current plan is to collect all stormwater underground and treat it before it flows to wetlands.

Mr. Quigley shared several site photos to show the expected flow of runoff and vegetation. He said any buffer impacts from slope grading can be altered to have many of the same functions as the buffer through re-planting. Ms. Lightbody asked if the wetland shown would cease to exist because it would drain into a proposed parking lot. Mr. Quigley said it's difficult to answer, but it could be mitigated because there's very little water in that particular wetland.

Mr. Sullivan asked to see the topography and forest slide again. He noted there's a hill which will be cut about 15 to 20-feet and questioned where the dirt is going and how they propose to build out the back side during construction to prevent dirt and erosion going into the river – particularly if there's a heavy rainstorm. Matt Peterson replied they will spell it out for the AOT (Alteration of Terrain) DES permit application, but the answers haven't been developed yet.

Mr. Sullivan asked if they are aware of the gravity of not messing up the river and the town's drinking water. He wants assurances they are committed to being hard core about this with their contractors.

Mr. Smith, who shared his background as a civil engineer prior to becoming a developer, said he takes protection of the river very seriously. They have no intention of harming one of the state's most valuable resources. They have a talented civil engineer with extensive experience in erosion control and are committed to protecting the environment.

Mr. Peterson said the EPA tends to hire UNH students to do random inspections on NH sites and overall there's a lot of oversight, in addition to inspections by R.J. Kelly.

The Chair thanked the presenters and asked when they expect to come back before the Commission. Mr. Peterson indicated their timeline is partly dependent on when the town resolves new wetland and shoreland setbacks. He noted they don't need a variance for the buildings, but they need one for parking. Once they have setback information, more design work will take place. It might be May 2026 before they come back.

Ms. Lightbody said she's walked the site a few times and asked if they'd thought about different configurations to minimize impacts in the wetlands and buffers. Mr. Peterson replied they looked at a number of configurations and DES will look at that as well, with an eye toward the viability of the project.

Moving to the next agenda item, Chair Trueblood noted there's only about 20 to 25 minutes left unless the Commission votes to extend the meeting. Ms. Lightbody said she's not able to stay beyond the allotted time.

IX. WSOD Discussion. Discussion about public comments from October 27 meeting and next steps regarding proposed Wetland and Shoreland Overlay District.

The Chair said he and Vice-Chair Slepian categorized all the public comments from the October session and cross-referenced them with the current WSOD draft. This was distributed in advance to members.

Tonight's goal is to develop a plan for incorporating public input. No FAQ has been developed yet. He suggested two potential approaches:

- Re-examine the ordinance section by section, while referring to public questions and deciding how to resolve them;
- Form smaller working teams, each tasked with reviewing a specific set of concerns vis a vis the ordinance and report back with recommendations.

Mr. Ford thanked the Chair and Vice-Chair for their work on organizing public comments and said he favors breaking into smaller teams. Mr. Moyer said concerns should be prioritized so they don't give too much attention to issues that weren't major.

Vice-Chair Slepian said some of the questions, like the buffer widths, are going to require more research. Residents called into question some of the science and it's only fair that they re-examine it to make sure it's solid.

Ms. Lightbody raised the issue of the need to keep the public informed as they proceed. Chair Trueblood suggested doing the initial work and then holding a public charette for feedback. Another option is engaging residents who submitted extensive written comments at this stage in the process.

Vice-Chair Slepian asked procedural questions about how small group meetings would work. Mr. Behrendt said any subcommittees would be considered public bodies subject to right-to-know requirements: Agendas must be posted; meetings must be open to the public and minutes must be produced. Meetings would not be available via zoom or recorded for D-CAT. The minutes (by state law) are very basic. Town budget constraints do not allow for paying professional minute takers for subcommittee meetings. The minutes are taken either by him or a member of the Committee. Notice of meetings and agendas need to be posted in at least two

public places, such as Town Hall and the Library. There may not be resources to post them on the website.

Mr. Sullivan said the Commission shouldn't be defensive about their work or about comments indicating there was animus on their part, which wasn't the case. The ordinance, as written, was not accepted so they will re-work it. The process is working as intended and he sees two tasks: combining the two ordinances and increasing buffer widths. He suggested focusing on the combination of the ordinances first before getting into buffers.

Chair Trueblood reiterated the reason behind combining the two ordinances and noted they were written 20 or 30 years ago and need to be updated using current science. One main goal is to protect Great Bay from further harm from nutrient loading, sedimentation and pollution.

Mr. Lanzer said some public comments asked about the "why." He suggests they clarify this before beginning work in small groups. He asked if the goal is to address nitrogen, provide wildlife habitat, or protect salt marshes, e.g.. Consensus was reached that small teams could work on this.

After further discussion, it was agreed to break into small teams, based on sections of the ordinance, as follows:

175.62-64: Rob Sullivan, Ben Phelps, Jacob Cragg

175.61: Nick Lanzer, Anne Lightbody, Steve Moyer

175.60: Dwight Trueblood, Neil Slepian, Darrell Ford

The Commission discussed whether groups should invite members of the public to join them. It was decided the Commission can appoint team members from the public, if there's interest, but will not recruit them.

Mr. Behrendt will coordinate administrative details for meetings regarding reserving the conference room, publishing agendas, etc.

X. Review of Minutes: October 27, 2025

Ms. Lightbody MOVED to approve the minutes as presented; SECONDED by Mr. Lanzer, APPROVED unanimously by a show of hands, 6-0, Motion carries.

XI. Other Business

Town Planner Michael Behrendt said the Commission heard a request this evening from Dr. McKiernan to be placed on the December 22 agenda regarding a dredge and fill application for 1 Riverview Court. The deadline for requesting an extension from DES is midnight tonight and there was discussion about whether the deadline could be met and if this is an action the Commission wishes to take. Ms. Lightbody asked for clarification on the procedure.

Mr. Behrendt explained there's a vacant lot at 1 Riverview Court with real constraints regarding the shoreland. There's a buyer who wants to build a house but would need a dredge and fill

372 permit from the state. He doesn't believe building would be allowed under the Shoreland
373 Overlay District so the applicant would need a special exception from ZBA as well. The
374 Conservation Commission would be allowed to give comments to the Zoning Board.

375
376 The Chair asked if the Commission would have to devote resources to investigating the property,
377 such as hiring a wetland scientist. Mr. Behrendt said he doesn't think the town would want to
378 spend the money. The Commission could do a site walk and deliberate before providing
379 comments to DES. Ms. Lightbody asked if this is the appropriate time for the Commission to
380 weigh in and Mr. Behrendt said this is the 14-day window to request review of the DES
381 application.

382
383 He further explained there's a "carve out" for a special exception under the ZBA in which case
384 the applicant wouldn't come before the Commission or the Planning Board. The Commission
385 would be alerted and could offer comments, but there are no requirements for the ZBA to solicit
386 or consider their comments.

387
388 *After further discussion, Mr. Ford MOVED that the Conservation Commission request time to*
389 *review and evaluate the DES application for 1 Riverview Court; SECONDED by Mr. Sullivan,*
390 *APPROVED 6-1-0. Mr. Behrendt will send an email before midnight tonight to DES and he will*
391 *distribute the applicant's DES application to Commission members. The item will be included on*
392 *the December agenda.*

393
394 (Mr. Behrendt pointed out an alternate could vote in place of Jacob Cragg and Mr. Moyer was
395 allowed to vote.)

396
397 For the record, Mr. Sullivan said the Commission has a document with two competing
398 professional opinions. One asserts the property is buildable and the other says it isn't. For this
399 reason alone, he thinks the Commission should review it.

400
401 XII. Roundtable. Updates from Conservation Commission members

402 Chair Trueblood reported he attended the IMAC-PFAS presentation given by the contractor who
403 removes and processes sludge from Durham. The IMAC group is looking in a detailed way at
404 how PFAS are being treated and disposed of in town. Disposal is a particular concern because of
405 issues in Maine, where sludge wasn't well-monitored.

406
407 The contractor for Durham said there are PFAS in everything, but concentrations are low (less
408 than 5 parts/million) and sludge is used on farm fields. If the concentration is too high, it goes to
409 a landfill. The Chair invited Commission members to let him know if they'd like to pursue a
410 presentation on the topic.

411
412 Ms. Lightbody asked if they were doing anything on septic tanks and the Chair replied no, but
413 the topic was raised. He said septic waste has more PFAS than town sludge because it's a self-
414 contained system. In his opinion, the only way to eliminate PFAS is to stop using them.

415 On a different topic, Mr. Moyer said he received an email from a real estate agent in the area
416 asking for quick help resolving an issue. He commended Commission members who hustled out
417 to resolve the question and said it's important for people to know the Commission and staff go
418 out of their way to help the community.

419
420 XIII. Adjournment

421 *With no further business, Chair Trueblood adjourned the meeting at 9:52 p.m.*

422
423 Respectfully submitted,
424 Lucie Bryar, Minutes Taker
425 Town of Durham Conservation Commission

426
427 *Note: These written minutes are intended as a general summary of the meeting. For more*
428 *complete information, please refer to the DCAT22 On Demand videotape of the entire*
429 *proceedings on the town of Durham website*