

[D R A F T]

DURHAM CONSERVATION COMMISSION
Monday, May 19, 2026
DURHAM TOWN HALL, COUNCIL CHAMBERS
7:00 p.m.

MEMBERS PRESENT: Dwight Trueblood (Chair); Darrell Ford (Town Council Rep); Anne Lightbody (on zoom); Ben Phelps; Rob Sullivan (Planning Board Rep); Alternates: David Hadley, Steve Moyer and John Nachilly

MEMBERS ABSENT: Vice-Chair Neil Slepian and Jacob Cragg

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

1 **II. Call to Order**

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

3

4 **II. Land Acknowledgement Statement**

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

6

7 **III. Roll Call and Seating of Alternates**

8 Roll call attendance was taken and Alternates David Hadley and John Nachilly were seated as
9 voting members. All votes will be by roll call because Ms. Lightbody is on zoom.

10

11 **IV. Approval of Agenda**

12 Chair Trueblood noted there were no minutes to review so this item can be removed from the
13 agenda.

14

15 *Mr. Nachilly MOVED to approve the agenda as amended; SECONDED by Mr. Hadley;*
16 *APPROVED unanimously by roll call vote, 7-0, Motion carried.*

17 **V. Public Comments:** There were none.

18

19 **VI. Land Stewardship Update.** Monthly update. Veronique Ludington, Land Stewardship
20 Coordinator.

21

22 Ms. Ludington distributed stickers and key chains with the new logo and said they were also
23 handed out during the Bio Blitz. No other merchandise has been ordered until an issue can be

24 resolved regarding handwriting on the logo and embroidery. She reported on activities for the
25 month:

26

27 • The Bio Blitz went very well. She thanked everyone on the Commission who helped or
28 participated. More than 200 observations were received, with an estimated 125 species
29 noted. Once results are tallied, she'll publish a list on the Bio Blitz webpage.

30

31 • Upcoming workdays: Seventh graders from Durham Middle School will remove
32 invasives at Thompson Forest (May 21st). Members of the Rotary and other volunteers
33 will replace a bog bridge and repair another one (June 6th). A grant obtained from Great
34 Bay Resource Protection Partnership will cover materials.

35

36 • French conversation walks will continue; the first two were very successful. At least half
37 of participants had never visited the properties. The next walk is Thursday, May 28th at
38 Doe Farm. Walks will continue every three weeks through the summer.

39

40 • A butterfly walk will be led by Steve Myrick on Sunday, June 7th at 11:00 a.m. at the
41 Old Reservoir off Spinney Lane, which is on UNH land.

42

43 • Discover Durham Trails Walks will take a summer break, to resume in September.

44

45 • Ms. Ludington will lead a walk with Great Bay Changemakers from Doe Farm to the
46 Lamprey River on August 5th at 5:00p.m. She will discuss the Doe Farm management
47 plan and another individual will talk about the river.

48

49 • She borrowed mapping equipment from Steve Letterman, Durham's GIS coordinator, so
50 that she can re-map all conservation property trails and amenities. Once re-mapping is
51 complete, Mr. Letterman will re-design the maps to make them more user friendly.
52 Expected completion date is the end of November.

53

54 • DPW fixed their mowing equipment and mowed The Meadows. A second beehive was
55 added there recently. She will approach Pollinator Pathways to do a presentation on
56 pollinator habitat, hopefully in late summer or early fall.

57

58 • Southeast Land Trust (SELT) informed her the management plan for Thompson Forest
59 should be reviewed since it's nearly 10 years old. Ms. Ludington is looking into a Great
60 Bay Resource Protection Partnership grant to pay someone to update the plan. She and
61 Vice-Chair Neil Slepian will look at all other management plans to see when they were
62 last updated.

63

64 • Ms. Ludington and Ted Howard are discussing a grant for an invasives mapping and
65 action plan protocol. SRPC [Strafford Regional Planning Commission] has some
66 potential funding.

67

68 • Society for Protection of NH Forests (SPNHF) is looking to acquire an additional 133
acres in Madbury, to expand the existing 300- protected acres at Powder Major Forest.

69 They are pursuing grants but also appealing to the public for the last \$150,000, as the
70 matching portion. They asked Durham to help publicize it. She proposed an article in
71 *Friday Updates* and promotion through social media.

72
73 Mr. Sullivan commented that the Durham Conservation Fund contributed to the
74 acquisition of Powder Major along with Madbury and Lee about eight years ago, because
75 a corner of the property was in Durham. He said the town can't contribute to the current
76 proposal because it isn't in Durham proper. He sees it nonetheless as an important
77 protection since the parcel buffers both sides of the Oyster River, which will potentially
78 be affected by three upcoming projects: Technology Drive, Riverwoods, and removal of
79 the dam. He thinks this is an important acquisition and they should encourage people to
80 donate.

81
82 **VII. Riverwoods Trails.** Stone Quarry Drive. Permitted Use B application to upgrade trails at
83 Riverwoods Phase II. Riverwoods Durham, property owner. Erik Saari, Altus Engineering,
84 agent. Map 209, Lot 33. Office Research District.

85
86 Erik Saari, Altus Engineering, came forward on behalf of Riverwoods Durham. He noted there's
87 an extensive trail network on the Riverwoods Durham parcel, as well as on the parcel across
88 Stone Quarry Drive. He showed a map of the area, pointing out trails, a dog park, and burial
89 grounds.

90
91 Mr. Saari noted during the 18-month construction of Phase II, access to the trails would be cut-
92 off – which hadn't been considered until it was brought to their attention by the Riverwoods
93 Trail Committee. They are now proposing to reconnect some trails on a temporary basis and
94 permanently eliminate other trails due to the project.

95
96 He showed a diagram with a proposed temporary connection to trails and described the terrain.
97 Filter fabric will be put down on top of existing surface to minimize any soil disturbance. He
98 identified a small wooded trail (made naturally through use) that they are now proposing to make
99 permanent. Brush will be cleared and bark mulch will be put down. There will be no wetland
100 impacts. He noted the trails are open to all town residents and are not exclusive to Riverwoods.

101
102 Mr. Saari noted how the applicant will meet three criteria for Permitted Use B:

- 103 1.) Appropriate erosion control measures: The project is minimally invasive; no digging is
104 involved and erosion control measures will be used in one small area near a crossing in
105 order to protect a wetland.
- 106
107 2.) Any disturbed area will be restored: Fields will be mowed. The temporary crossing will
108 be restored, with materials removed and area raked and re-seeded.
- 109
110 3.) Activity will be conducted to minimize impact on wetland: There are no wetland impacts.

111 Chair Trueblood asked if access to the temporary trails will be blocked after construction. Mr.
112 Saari said there's a drainage ditch there now, so access for older residents isn't practical. They
113 considered leaving it permanent, but there's already an existing sidewalk network which is safer.

114

115 ***Chair Trueblood MOVED to approve the proposed temporary changes to the trails around***
116 ***Riverwoods development; [No second was obtained.] APPROVED unanimously by roll call***
117 ***vote, 7-0, Motion carried.***

118

119 Mr. Saari then noted he had several other small plan changes for review, which he described as
120 de minimus. Information had been distributed to members in advance.

121

122 • The first change is expansion of a previously-approved impact limit of 32 square feet on
123 Stone Quarry Drive for fire service installation to the building. A drain was moved so
124 water line connection needs to move.

125

126 • The second change to the plans is five HVAC units to be installed on pedestals, on
127 crushed stone. They're within the limits of surface previously approved. Mr. Sullivan
128 confirmed it will be a permeable surface.

129

130 • The third change is moving a generator across the parking lot, out of the wetlands buffer.

131

132 • Mr. Saari then showed the proposed Community Center and exterior kitchen door, which
133 needs a sidewalk for loading and trash removal. It's a net increase of impervious surface
134 of 162 square-feet, but the total disturbance in the buffer was dropped by 526 square feet.
135 All runoff from the sidewalk will be treated by the stormwater system.

136

137 Members had questions about the generator and Mr. Saari said it had been moved because
138 emergency services require diesel fuel on-site, which necessitates a tank. The tank will be
139 concealed by siding and landscaping. The Chair asked what happens if the tank leaks and Mr.
140 Saari replied it's a double-walled tank under contract for regular maintenance.

141

142 Mr. Sullivan asked if there will be a sidewalk to the dog park and Mr. Saari said there's a mowed
143 trail and no other plans for that area right now.

144

145 Mr. Behrendt recapped the Commission doesn't need to vote on these items, which are minor
146 alternations within the Permitted Use B application. Mr. Sullivan asked Mr. Saari for a project
147 timeline and he said they're looking to start clearing mid-June, with expected completion in
148 about 18 months. He noted Riverwoods Phase II sold out in one day.

149

150 **VIII. WSOD Discussion. Update on subcommittee meetings about proposed Wetland and** 151 **Shoreland Overlay District.**

152

153 Chair Trueblood reported the subcommittee met two weeks ago and finished reviewing the
154 buffer matrix. They feel confident in proposing the 250-foot buffer for fourth-order streams and

155 tidal waters. They are meeting again tomorrow. The next step is to tackle some of the smaller
156 rivers and streams to see if modifications are necessary.

157
158 He said David [Hadley] is working on a project on his own to map some of the state regulations.
159 Mr. Hadley explained there are state laws as well as environmental laws that delegate authority
160 to DES to create administrative rules that help communities and individuals interpret the RSAs.
161 In brief, there are RSAs and administrative rules, which are very complicated, that make up the
162 regulatory body from the state. He's attempting to build a tool for the subcommittee to navigate
163 state regulations more effectively.

164
165 The Chair said they are trying to "ground truth" the ordinances related to the administrative rules
166 and state laws. This was raised during public comment, when some residents asked on what basis
167 the proposed changes are being made. Mr. Hadley said Durham has every right to extend state
168 laws and administrative rules. It's a challenge, however, to find the demarcation between state
169 law and Durham ordinances.

170
171 Mr. Moyer asked about an email on the capstone mapping project. The Chair said four capstone
172 students from UNH created a GIS map showing buffer widths on agricultural properties in
173 Durham. Essentially, they mapped buffers through seven farms, examining rivers that run
174 through the areas. They mapped the current existing setback, the proposed 250-foot buffer, and
175 the originally-proposed 330-foot buffer. He thinks their work provides a good visual. The
176 students' report and presentation are both available to the Commission. Mr. Hadley cautioned
177 that the Commission needs to be careful what they share with the public, since the 330-foot
178 buffer is no longer under consideration and could cause confusion.

179 Mr. Moyer proposed that the Conservation Commission spend time at a later date reviewing the
180 students' report and maps. Chair Trueblood said the report was given to the Agriculture
181 Committee, which discussed how much farm land would be potentially taken out of production
182 by expansion of the buffers. Some on the Agriculture Committee said it should be looked at as
183 protecting the waterways in sensitive areas.

184 **IX. Review of Minutes – None to Review**

185 **X. Other Business**

186
187 Discussion on Town Attorney's Opinion on Vested Properties

188 The Chair invited Mr. Behrendt to present information from the town attorney's recent decision
189 about vesting of certain properties going back to the 1960s. Mr. Behrendt said this pertains to a
190 current proposal for a vacant lot at 1 Riverview Court, which is affected significantly by
191 shoreland and wetlands, and appears to be non-buildable. An existing provision in the zoning
192 ordinance says if a property in the wetland or shoreland zone isn't suitable for a single-family
193 home, the owner can potentially build on it by special exception from the Zoning Board, if they
194 meet specific criteria.

195 Mr. Behrendt assumed the proposal for 1 Riverview Court would be handled by special
196 exception. Since there are abutters in opposition to the plan, however, he decided to consult
197 Town Attorney Laura Specter. She gave her opinion that since Riverview Court is part of an
198 established subdivision in which the infrastructure and improvements were substantially
199 complete and the plan was approved by the Planning Board and recorded with Registry of Deeds
200 – then the project is protected against future changes in zoning.

201 Mr. Behrendt said he interprets state law somewhat differently, but Attorney Specter advised that
202 vesting applies to individual lots within a subdivision from the date the subdivision was
203 approved—in this case, 1960. Because the wetland and shoreland ordinances were adopted after
204 that date, Mr. Behrendt informed applicant Gretchen Meisner that the property is vested and
205 would not require additional review by the town. It's his understanding that Ms. Meisner has
206 received all state permits – including wetland, shoreland and septic approval. He added that two
207 abutters to 1 Riverview Court submitted an appeal to the State today.

208 The town attorney conveyed her opinion about vesting in a meeting with town staff, which
209 included Mr. Behrendt, Audrey Cline [Code Enforcement Officer] and Town Administrator
210 Todd Selig. Since some aspects weren't clear, they asked her to follow up with a written memo
211 explaining the statute and her recommendations.

212
213 There was lengthy discussion on this topic, with some Commission members questioning how
214 far-reaching the attorney's opinion might be for the town. Mr. Ford questioned if her opinion
215 could potentially exempt any established subdivision from all ordinances not in place at the time
216 they were built. Mr. Behrendt stressed that more clarification is needed but the tentative
217 understanding is this would exempt subdivisions from any ordinances not in effect at the time
218 they were approved and recorded.

219
220 Mr. Hadley offered some observations: he said the town attorney issues opinions and assertions,
221 but final determinations are made by the Town Administrator. The statute being quoted is from
222 RSA 674.39, called the Seven-Year Exemption. As he sees it, if a property is vested, it's only
223 exempted [from new ordinances] for seven years.

224
225 As it would affect the Commission, Mr. Hadley said this pertains to DES Administrative Rule
226 ENV-WQ 1406.03, Exemption for Vested Rights. DES has carved out specific rules for how to
227 evaluate a property with vested rights in the wetlands, which includes 1 Riverview Court. It sets
228 out specific criteria based on what has happened on the property on specific dates.

229
230 Mr. Hadley asked how the building permit for 1 Riverview Court would have been handled, if
231 the attorney's opinion had not been sought. Mr. Behrendt said a special exception would have
232 been used and it would likely have come before the Conservation Commission for comment.

233 Mr. Sullivan said the town attorney's opinion on this one lot seems to cascade through the whole
234 regulatory structure of the town. Mr. Behrendt said he doesn't have complete clarity at this point.

235 Mr. Hadley asked if the town has taken any administrative action as a result of the town
236 attorney's opinion and Mr. Behrendt said he conveyed to applicant for 1 Riverview Court that
237 the wetland and shoreland ordinances don't apply to her property. Therefore, along with state
238 permits, she only needs a building permit from the town.

239
240 Mr. Behrendt then disclosed a conversation he had with Mr. Hadley in a private meeting, in
241 which a question arose about the appeal process for 1 Riverview. He noted that while the
242 abutters appealed the state permits, residents can also appeal the town's decision, i.e., his
243 administrative decision. Anyone with standing can appeal to the town within 30 days, which
244 expires this Thursday. It's unclear to him if such an appeal would be handled by the Zoning
245 Board.

246
247 Chair Trueblood said he read the appeal to DES and essentially the plaintiffs are challenging the
248 time limit for the application, which they claim had run out after the initial request. The other
249 challenge pertains to the location of the high tide line, which they maintain is incorrect.

250
251 Mr. Ford said he's interested in learning more about the seven-year vesting. Mr. Behrendt said
252 with all due respect to Mr. Hadley, he doesn't believe he's interpreting the statute correctly.
253 Further discussion was then tabled pending the memo from the town attorney.

254
255 In other business, Chair Trueblood reported that Town Administrator Selig asked him to put
256 forward a name to serve on the search committee for the new Town Planner to replace Mr.
257 Behrendt when he retires. He's received quite a few responses from people who want to serve,
258 but he's not sure how to select one. Mr. Ford said it's the Chair's job to make the selection.

259
260 There was brief discussion about members' interest and availability to serve. The Chair said it's
261 important to select someone who has a good understanding of what the Commission does and
262 how Mr. Behrendt facilitates their work.

263 The position is already being advertised and they speculated interviews might take place in
264 August/September, with the hope of getting someone on board by October. Mr. Behrendt's last
265 day is November 30th.

266
267 **XI. Roundtable. Updates from Conservation Commission members.**

268
269 Chair Trueblood said he and Vice-Chair Slepian notified Town Council that they do not want a
270 2003 warrant to be expired. The \$2.5 million warrant was passed by the town with 75 percent
271 support to purchase conservation land. Within five years of the warrant, several large properties
272 were purchased, leaving \$880K.

273 Mr. Ford added the Council is trying to remove any bonding capacity that isn't going to be used.
274 The Chair said he thinks it's important to keep that warrant open so the Commission can
275 continue to enter into partnerships to protect land.

276 Mr. Sullivan asked about the balance in the Conservation Fund and the Chair said it's less than
277 \$100,000 because they spent a large sum on the SELT partnership project. The only funds
278 deposited into the Fund are from the Change in Use tax. There was a question about whether the
279 Technology Drive project has paid or will pay into the fund and Mr. Ford said he'll look into it.
280

281 Technology Drive Project – informal update/discussion

282 Mr. Sullivan reported the clear cut is done at Technology Drive, involving 12 acres. He
283 encouraged members who haven't visited the site to do so. Final plans haven't been submitted,
284 but he said they all need to walk the property because it's easier to understand the proposed plans
285 now that it's been cut. He believes the impact to the river is going to be the biggest they've seen
286 in quite a while.
287

288 Mr. Nachilly said the informal trail network, used extensively by UNH track and field and the ski
289 team, provides access to Powder Major Forest and has been in use for years. The recent cut
290 wiped out about one-quarter to one-third mile of the trail. As part of their review process, he
291 proposed the Conservation Commission ask for a formal green space with the trails
292 grandfathered. There's also an opportunity to create a corridor, which he described briefly.
293

294 Mr. Sullivan agreed there's an opportunity to put a trail along the Oyster River from Technology
295 Drive all the way to Powder Major. Mr. Nachilly said the Moores own the property abutting
296 Powder Major and he believes they were working on an agreement with the Forest Society.

297 In other business, Mr. Phelps reported he attended the UNH Extension Coverts project a few
298 weeks ago. It was a fantastic three-day program covering wildlife, habitat management, forest
299 ecology, historic land uses, effective outreach, and volunteer engagement. He learned a lot and
300 said he can now direct people to resources on specific topics. Coverts participants are asked to
301 complete 40 hours of volunteer service in the next year, which includes his service on the
302 Conservation Commission.
303

304 Mr. Nachilly reported that UNH has re-routed some of the sensitive trails he's been suggesting
305 for a while. They moved an eroded trail by the reservoir up to higher ground, using university
306 resources.

307 **XII. Adjournment**

308 ***With no further business, Mr. Ford MOVED to adjourn the meeting at 8:24 p.m.;***
309 ***SECONDED by Chair Trueblood, APPROVED unanimously, 7-0, Motion carried.***
310

311 Respectfully submitted,
312 Lucie Bryar, Minutes Taker
313 Town of Durham Conservation Commission