



DEPARTMENT OF PUBLIC WORKS  
TOWN OF DURHAM  
100 STONE QUARRY DRIVE  
DURHAM, N.H. 03824  
603/868-5578  
FAX 603/868-8063

AGENDA ITEM: \_\_\_\_\_

DATE: April 21, 2008

## COUNCIL COMMUNICATION

**INITIATED BY:** Durham Public Works Department

**AGENDA ITEM:** AWARD BIDS FOR EROSION CONTROL/PARKING LOT,  
LANDSCAPING AND BOAT LAUNCH IMPROVEMENTS FOR  
JACKSON'S LANDING RECREATIONAL AREA

**CC PREPARED BY:** Michael Lynch, Public Works Director

**PRESENTED BY:** Todd Selig, Town Administrator  
Michael Lynch, Public Works Director

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### **AGENDA DESCRIPTION:**

The Public Works Department and Jackson's Landing Master Plan Committee have developed a master plan (see attached) for repairs and renovations to the Jackson's Landing Recreational Area. The plan was presented to the Town Council in 2006, 2007, and 2008 and funded by the Town Council in 2007 and 2008. The plan calls for the replacement of the deteriorated boat launch, creation of a park like setting along the waterfront with picnic tables and shade trees, paved access roadway and boat launch area, designated handicapped parking and the control of all storm water run-off and erosion at the site. The plan also builds a new parking lot across the street from the Churchill Rink and additional trailer parking in that area as well. Lastly the project will construct a walking trail system, footbridges and the removal of an invasive plant species called Phragmites. The Town Councils approval of funding was based on the successful application and approval of available grant funds. The Town was just recently awarded a \$20,000 State of New Hampshire, Department of Resources and Economic Development Trails Grant, A \$250 Donation from the Cadmus Group, and a \$257,672 United States Department of Agriculture grant administered by the Natural Resources Conservation Service (NRCS) located here in Durham. The grant is part of the NRCS Wetlands Reserve Program, which is available to

homeowners and branches of municipal government for protection, restoration and enhancement of wetlands. The grant is a 75% reimbursement of all eligible components of the improvements to Jackson's Landing. The only improvements not eligible for reimbursement are lighting, engineering, permitting and picnic tables. The Town's match will be in the form of volunteer labor, Conservation Funds and a small amount of public works labor, equipment and supplies. The project is scheduled for construction in 2008 and was discussed with, and endorsed by University of New Hampshire Officials. The project will need a wetlands permit from the Department of Environmental Services Wetlands Bureau.

The Public Works Department broke out the Project into three separate bids to attract the most qualified contractors. We advertised bids for the erosion control/parking lot components, the landscaping work, and the construction of the nature trails on March 11, 2008. On March 27, 2008 the department received several bids (see financial details) for each scope of work and recommended the following bid awards: For **Erosion Control/Parking Lots**, Britton's Landscaping & Excavating, LLC. Of Sandown, NH for \$94,428. For all **Landscaping Improvements**, A.J. Cameron's Inc. of Farmington, NH for \$72,347. The nature like pathways only total \$11,072 and Town Council approvals are not needed for that dollar amount.

The Durham Town Council on February 18, 2008 approved the asphalt-paving contract of this project to Pike Industries, of Portsmouth, NH for \$63,000.80 as part of the road resurfacing program bid.

**LEGAL AUTHORITY:**

Article 4-20 of the Administrative Code of the Town of Durham requires every purchase or contract in excess of \$15,000 shall be made only after receipt of publicly invited sealed competitive bids on uniform specifications and that all purchases in excess of \$35,000 requires approval by the Town Administrator and Town Council by affirmative vote.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

**2007 Approved Capital Improvements Budget:**

State/Federal Grants	\$106,458
Conservation Funds	\$ <u>70,972</u>
Sub total	\$177,430

**2008 Approved Capital Improvements Budget:**

State/Federal Grants	\$ 84,154
Conservation Funds	\$ 56,102
Sub total	\$140,256
Total approved funds	\$317,686

**2008 BID RESULTS:**

Parking lot, Drainage improvements, Erosion Control and Boat Launch

*Britton's Landscaping & Excavation LLC*  
*Sandown, NH* \$94,428

*CGH Excavating LLC*  
*Newmarket, NH* \$142,000

Landscaping (trees, turf, phragmites removal/revegetation, rain garden, stone walls

*A.J. Camerons Landscaping & Sod Farm*  
*Farmington, NH* \$72,347

*Britton's Landscaping & Excavation LLC*  
*Sandown, NH* \$80,416

**SUGGESTED ACTION OR RECOMMENDATIONS:**

*The Durham Town Council, upon recommendation from the Town Administrator, hereby awards the Jackson's Landing erosion control/parking lot scope of work bid to Britton's Landscaping & Excavating of Sandown, NH at a cost of \$94,428; to be paid from Capital Fund Account #07-0722-502-89-000, and the Jackson's Landing landscaping scope of work bid to A.J. Camerons Landscaping & Sod Farm of Farmington, NH at a cost of \$72,347; to be paid from Capital Fund Account #07-0822-502-89-000.*



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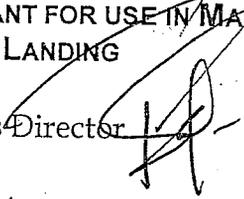
AGENDA ITEM: #9c

DATE: March 3, 2008

## COUNCIL COMMUNICATION

**INITIATED BY:** Durham Public Works Department

**AGENDA ITEM:** PUBLIC HEARING ON AN EROSION CONTROL PLAN AND IMPROVEMENTS FOR JACKSON'S LANDING RECREATIONAL AREA AND ACTION ON RESOLUTION #2008-08 AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF \$257,672 IN UNANTICIPATED REVENUES FROM A NATURAL RESOURCES CONSERVATION SERVICES GRANT FOR USE IN MAKING IMPROVEMENTS TO JACKSON'S LANDING

**CC PREPARED BY:** Michael Lynch, Public Works Director 

**PRESENTED BY:** Todd Selig, Town Administrator  
Dwight Baldwin, John Parry and Robbi Woodburn,  
Members of the Jackson's Landing Master Plan Committee

### **AGENDA DESCRIPTION:**

The Public Works Department and Jackson's Landing Master Plan Committee have developed a master plan for repairs and renovations to the Jackson's Landing Recreational Area. The plan was presented to the Town Council in 2006 and funded by the Town Council in 2007 and 2008. The plan calls for the replacement of the deteriorated boat launch, creation of a park-like setting along the waterfront with picnic tables and shade trees, paved access roadway and boat launch area, designated handicapped parking and the control of all storm water run-off and erosion at the site. The plan also builds a new parking lot across the street from the Churchill Rink and additional trailer parking in that area as well. Lastly the project will construct a walking trail system, footbridges and the removal of an invasive plant species called Phragmites. The Town Councils approval of funding was based on the successful application and approval of available grant funds and the use of monies in the Conservation Fund. The Town was previously awarded a \$20,000 State of New Hampshire, Department of Resources and Economic Development Trails Grant and most recently a \$257,672 United States Department of Agriculture grant administered by the Natural Resources Conservation Service (NRCS) located here in Durham. The NRCS grant is part of the NRCS Wetlands Reserve Program, which is available to homeowners and branches of municipal government for

Council Communication, 3/3/08

Re: Pubic Hearing on Jackson's Landing Erosion Control Improvements and Action on  
Resolution #2008-08

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protection, restoration and enhancement of wetlands. The grant is a 75% reimbursement of all eligible components of the improvements to Jackson's Landing. The only improvements not eligible for reimbursement are lighting, engineering, permitting and picnic tables. The Town's match will be in the form of volunteer labor, Conservation Funds and a public works labor, equipment and supplies. Following a presentation by members of the Jackson's Landing Master Plan Committee at the January 28, 2008 Town Council Meeting, the Town Council called for a public hearing to hear comments regarding the improvements plan. The January 28<sup>th</sup> plan has been revised to address a few concerns raised at the January 28<sup>th</sup> meeting by Councilors and members of the public in attendance. The project is scheduled for construction in 2008 and was discussed with, and endorsed by University of New Hampshire Officials. The project will need a wetlands permit from the Department of Environmental Services Wetlands Bureau, which will require the following reviews:

- ✓ Permit review by Army Corps of Engineers
- ✓ Wetland delineation
- ✓ Title Opinion
- ✓ Abutters notification
- ✓ Phase I Archeological Study
- ✓ New Hampshire Natural Heritage Bureau rare species and exemplary natural communities inventory
- ✓ NH Fish and Game comment and sign-off
- ✓ Durham Conservation Commission comments
- ✓ Durham Planning Board approval
- ✓ Durham Zoning Board of Adjustment

On March 3<sup>rd</sup>, members of the Jackson's Landing Committee will present a revised draft site plan for Jackson's Landing for review and comment by members of the public and the Town Council. The Administrator has not as yet seen the revised plan and will view it for the first time with the Council and the public on Monday.

**LEGAL AUTHORITY:**

NH RSA 31:95-b authorizes the Town Council to apply for, accept and expend, without further action by the town or village district meeting, unanticipated money from the state, federal or other governmental unit or a private source which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority. Resolution #99-19 was adopted which grants this specific authority to the Town Council.

## MEMORANDUM

**TO:** Planning Board

**FROM:** James Campbell, Director  
Planning and Community Development

**DATE:** March 25, 2008

**RE:** Town of Durham, Site Plan Application and Conditional Use Application,  
Jackson's Landing Map 11, Lots 9-2, 11-3, and 11-4

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### SUMMARY OF REQUEST

**Request:** The request is for site plan review/conditional use permit for improvements to the Jackson's Landing Recreational Area to significantly reduce or eliminate erosion and consequent sediment deposition into the Oyster River, rebuild the deteriorated boat launch, remove the growth of Phragmites, move primary parking away from shoreline, upgrade and create walking trails, create handicap parking along waterfront, create a passive park like setting, and create new parking for the Churchill Skating Rink and Boat House Facility.

**Owners:** Town of Durham

**Applicant:** Town of Durham

**Location:** Old Piscataqua Road

**Zoning:** Residence A (RA) and Coe's Corner (CC) (The Shoreland Protection Overlay and Wetland Conservation Overlay Districts are also involved)

**Tax Map Number:** 11-9-2, 11-11-3, and 11-11-4

**Existing Land Use:** There is currently a boat launch, boat house with accessory tent like structure, parking lots, skating rink, and playground.

**Acreage:** 13.2 ± acres or approximately 574,992 square feet.

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## SUMMARY OF SUBMITTAL PACKAGE

In the submittal package the applicant has provided the Planning Board with the following items:

- A completed application for site plan review
- A completed application for conditional use
- A list of abutters
- A letter of intent
- Waiver requests
- A written summary for meeting the requirements of 175-23 (C)
- Copies of the current deed
- Memo from Police Chief
- An engineered drainage analysis performed by MJS Engineering
- A set of plans plan, including a master plan, topographic plan, construction plan, upper parking area grading and drainage plan, and construction detail sheets
- A copy of the Wetlands Bureau Application
- A copy of Tax Map 11

## CONSIDERATION FOR ACCEPTANCE

After a review of the application materials submitted by the applicant for the site plan review and conditional use, the Staff finds that the submittal is appropriate for acceptance by the Planning Board, even though there may be changes and additional information. In addition, this is contingent upon the Planning Board granting the requested waivers. I would suggest you vote on these waivers at the March 26, 2008 meeting. If the Planning Board accepts the application at their March 26, 2008 meeting, they will have 65 days from that date to make a decision. That date would be May 30, 2008.

Although the application meets the requirements for acceptance, the Staff has found several issues during its review that should be addressed by the applicant prior to the Board's final action on the application or made part of the conditions of approval. These issues are as follows.

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### Waivers

The applicant has requested waivers from the Site Plan Regulations 7.02 (D) to include five copies of the 24" X 36" plan and from 7.02 (D)(4)(a) surveyed property lines of the parcel showing their bearings.

### **Staff Review**

**The Fire Department** has not submitted comments at this time.

**The Police Department** has submitted a memorandum that was included in your packet.

**The Department of Public Works** has submitted the applications on behalf of the Town of Durham

**The Code Enforcement Officer/Zoning Administrator/Health Officer** has not submitted comments at this time.

**The Planning and Community Development Department** has found several issues with the plan. The plan is missing the type and location of solid waste facilities, location of the flood hazard boundaries, approximate location of the water line, dimensional area and setbacks, and total area of impervious surface. In addition, the topographic plan has the district listed as the Limited Business District (LBD) and the plans should reference the RA and CC districts. In an effort to save the taxpayers money, I am suggesting that these be added to the plan either for the public hearing or as a condition of approval. I did not want the town to have to keep producing plans. If we can have them put all of the changes on at once, we can save the taxpayers some money.

### **Lot Characteristics**

*Frontage* – The application involves three parcels in two districts. Map 11 Lot 9-2 is in the CC District and Map 11 Lots 11-3 and 11-4 are in the RA District. Both districts require 100' of road frontage and are met with this application.

*Setbacks* – The front setback in CC and RA is 30'. The applicant's plan meets the 30' front setback for both districts. The side setback in CC is 15' and 10' in RA. These appear to be met. The rear setback in both districts is 20' is also being met.

*Height/Coverage* – The maximum height limit is not an issue with this application because no new structures, except for parking, are being built. The applicant will need to give us specific numbers on the coverage for the application.

*Lot Size* – The lot size conforms to the Zoning Ordinance.

### **Open Space and Recreation**

*Open Space/Recreation Area* – No open space is required and the area is a recreational area.

*Sidewalk* – There are no plans for additional sidewalks. There is a sidewalk that currently runs to Jackson's Landing.

### **Wetlands**

There are wetlands associated with this parcel and have been delineated by NH Soils. The applicant is seeking a conditional use for incursion into the wetland buffers for access, parking, and trails. They have also filed a Wetland Permit with the Wetland's Bureau for the wetland impacts that are associated with the application and have also held discussions with the Conservation Commission. In addition, the application is for a conditional use due to work being done within the Shoreland Protection Overlay District.

### **Road Plans**

No new roads are associated with this application but there will be a new asphalt drive, turn-around, and parking areas.

### **Utilities**

*Water* - The site currently uses the Town of Durham water system and no new hook-ups are needed.

*Sewer* - The site currently uses the Town of Durham sewer system and no new hook-ups are needed.

*Electric/gas/telephone/cable* - No new utilities are needed and existing utilities are shown on the plans.

*Storm Water* - The applicant has provided an engineered grading and drainage plan as well as a drainage summary.

### **Easements**

There are no easements associated with this application.

### **Traffic**

The traffic will continue to use Old Piscataqua Road and existing driveway access and traffic patterns. It is assumed the existing traffic will continue to use the facilities.

### **Additional Plan/Project Issues**

No additional issues at this time.

### **Conclusion**

The Staff has found the above issues to be of concern or relevance to the Site Plan Review. Before the Planning Board takes action to approve, disapprove, or approve the Plan with

conditions, the Staff recommends that the applicant clearly address all of the issues outlined in this report and any further issues raised by the Planning Board or the public. As always, I will continue to review the plans and other submissions to ensure compliance.

Cc: Mike Lynch, Director of Public Works  
Peter O'Leary, Fire Chief  
Dave Kurz, Police Chief  
Tom Johnson, CEO/ZA/Health Officer  
Todd Selig, Town Administrator  
Conservation Commission  
Applicant  
File



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TOWN OF DURHAM  
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July 16, 2008 – Revised September 9, 2008

Ms. Dori Wiggin  
East Region Supervisor  
NHDES Wetlands Bureau  
50 International Drive, Suite 200  
Portsmouth, NH 03801

**RE: REQUEST FOR MORE INFORMATION**  
**NHDES Wetlands File # 2008-00287 Town of Durham, Jackson's Landing, Tax**  
**Map/Lot # 11/ 9-2; Response to letter dated May 16, 2008**

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Dear Ms. Wiggin,

Please allow this letter to serve as the Town of Durham's response to your May 16, 2008 letter, which requests additional information regarding our wetlands application for Jackson's Landing. I have included your questions/requests into the format of this letter as requested.

**1. NH Heritage Bureau Species of Concern.** The response from the NH Heritage Bureau ("NHB") listed seven species of concern (one invertebrate, three plants, and three vertebrates) as occurring within the project vicinity. There appears to be one hit labeled only as "sensitive species" located right at the project site. Please coordinate with the NHB (for plant species) and Kim Tuttle at the NH Fish & Game Department ("NHFG") in Concord relative to the insect and animal species, for their comments relative to the potential impact of the project on those species, and demonstrating that you have addressed any concerns raised by those agencies to the satisfaction of the agencies. Additionally, the statement was made in the application that further comments would be coming from NHFG personnel Cheri Patterson or Michael Dionne under separate cover. No comments have been received from NHFG by DES. Please provide DES with their comments, particularly with respect to the proposed use of the herbicide to eradicate the phragmites.

*I met with Melissa Coppola from the Natural Heritage Bureau on May 28<sup>th</sup> followed by an e-mail correspondence on June 3<sup>rd</sup> as well as a letter dated June 12, 2008, which is attached. The conclusions derived from the discussions and site walk eliminated the concerns regarding Pale Duckweed and Water Marigold. On June 6<sup>th</sup>, Ms. Coppola and*

*I met on site and discussed the impact to the Turk's Cap Lily. Following Ms. Coppola's inspection, she has determined that the Turk's Cap Lily will not be impacted by the improvements to Jackson's Landing.*

*Following a phone conversation and e-mail discussion with Kim Tuttle of NHFG (see attached e-mail) I offer the following information: Ms. Tuttle's e-mail from June 3<sup>rd</sup>, 2008, indicates she expects no impacts to any endangered species including Banded Sunfish, East Bittern and Swamp Darter. Ms. Tuttle also requested that no work start before mid July. The Town has no objection to the mid July schedule. Ms. Tuttle's e-mail also recommends the Town "open-up" the channel into the wetland behind the UNH boathouse. This area runs through the phragmites removal/re-vegetation area. As discussed on June 17, 2008 during our site walk with you, Rich Roach (Army Corps of Engineers) and Michael Johnson (US Marine Fisheries), the Town has contracted with Mr. Herb Rice, Arborpro Plant Care Experts of Rochester NH, to cut and remove all of the existing Phragmites. The Town has a contract with Doucet Survéy, Newmarket, NH, to survey the existing wetland behind the Boathouse, the existing swale and the high tide elevation of the Oyster River. The purpose of this survey would be to create a swale, which would allow more tidal flushing to occur. The Phragmites removal is scheduled for the week of July 21<sup>st</sup>. We will provide the Wetlands Bureau with the survey plan and dredging calculations as soon as that scope of work is completed. We assume you will include this scope of work in our Wetlands Permit.*

*Additional information, September 9, 2008 – The Town met with a Wetlands Bureau Official on September 8, 2008 and presented the findings from the Doucet Survey completed on August 19, 2008. The phragmites were cut and removed on August 5, 2008 and the August 18<sup>th</sup> survey revealed no defined drainage swale coming from the wetland behind the boathouse. The topographical survey also showed the wetlands and exiting culvert pipe elevation in the 4.6 – 5.2 range and the highest observable tide at 4.0. These elevations will not allow the tidal flush requested by NH Fish and Game on a regular basis.*

*In regards to the letter from Cheri Patterson of NHFG, I have included her comments regarding this project with this letter. Ms. Patterson recommends that any in-river work to the boat launch be limited to October/November. Ms. Patterson endorses the enhancement of the swale where the current phragmites stand to promote better saltwater flushing behind the boathouse as discussed in the previous paragraph. Regarding herbicidal treatments and as mentioned above, Mr. Herb Rice, NH Herbicide Applicators License #494 will utilize Best Management Practices when applying the herbicidal treatment this fall. Mr. Rice is in the process of applying for his herbicidal treatment permit for this project from the Department of Agriculture. Mr. Rice will use a combination of Rodeo and Habitat for the herbicidal application. I will inform Mr. Rice about contacting Doug Cygan.*

**2. Army Corps of Engineers Comments.** DES has received a copy of a letter to you from the Army Corps of Engineers ("ACE") dated April 23, 2008, indicating that the project would not qualify for the NH Programmatic General Permit at this stage, and would require an individual permit. DES shares some of the same concerns expressed in

the ACE letter, to be discussed in no. 3 below. Please provide DES with copies of any materials you develop to satisfy the comments or concerns of the Federal reviewers.

*I have had several conversations with Mr. Michael Hicks and Mr. Richard Roach of Army Corps of Engineers (ACE). Attached please find a letter dated May 22, 2008 to ACE and copied to NH Wetlands Bureau addressing their concerns. I also met with Mr. Roach on June 3<sup>rd</sup> at Jackson's Landing to discuss, in further detail, the concerns of ACE and Mike Johnson of US Marine Fisheries. I believe that at the June 17<sup>th</sup> Jackson's Landing site walk with you, Mr. Roach, Mr. Johnson and myself, we worked through everyone's concerns and addressed all questions to the group's satisfaction.*

**3. Phragmites Removal/Marsh Restoration.** Please provide more detail about this part of the project, including:

a. Plans, which give the specific restoration, project details. For instance, please address whether the phragmites area shown on the plan is the full extent of all phragmites present. The concern would be that if all the phragmites is not removed, then there is the potential for re-invasion of the restoration area. Please clarify the note on the plan about "reconnecting the wetlands"- does this involve elevation change and dredge? If so, this needs to be identified, in both plan and elevation view.

*The plan identifies 13,000 square feet of phragmites to be removed and eradicated at Jackson's Landing. This represents 100% of all phragmites in the marsh. Once all the phragmites are hand cut and removed off site, the Town will hire Doucet Survey to map elevations in what we believe to be the original drainage swale.*

*See additional information above in #1, paragraph 3, along with the topographic map revised on August 19, 2008 and delivered to NHDES Wetlands Bureau on September 8, 2008.*

b. Description of restoration planting plan, work sequence, timing. Please provide a detailed narrative description.

*The restoration plan, once the phragmites have been removed, the drainage swale has been dredged and two (2) herbicide applications have been applied and time allowed for their success, is as follows:*

*Mr. Gregg Moore, Ph.D. Research Assistant Professor, Department of Plant Biology at the University of New Hampshire Jackson's Estuarine Laboratory has recommended the following plants to be used in the re-vegetation plan; *Spartina alterniflora* and *Spartina pectinata* mixed and planted on an 18" grid pattern. The plan calls for 5,834 plants to be installed.*

***The Town's revised schedule will include the following:***

- ✓ *August 2008- Cut and remove phragmites*
- ✓ *August 2008- Survey*
- ✓ *October 2008- First Rodeo application*
- ✓ *May 2009- Second Rodeo application*

- ✓ *October 2009-Third Rodeo/Roundup application*
- ✓ *May 2010- Plantings installed*

NOTE: *The Town's goal is to have 100% success rate in the eradication of all phragmites. The Town will commit to a third herbicide application if the first two do not accomplish our goal.*

c. Description of Monitoring Methods, Reporting, Determination of Success, and Remedial Strategy. Please provide a narrative description.

*The monitoring plan, once the herbicide applications start, will be a monthly inspection by the Town's Tree Warden with dated pictures to document the success of the application. The Town will retain Mr. Herb Rice under contract if any spot herbicide treatments are needed between the first and second applications. The plan will follow the schedule identified in section B above.*

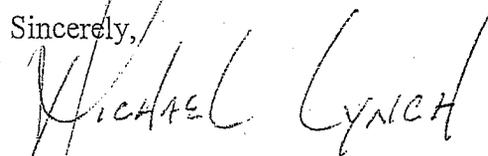
d. Pesticide Usage. Please provide more detail in a narrative about the pesticide plan. What herbicide will be used? Do you have a licensed aquatic pesticide applicator lined up for this work? Have you secured any necessary permits from the NH Department of Agriculture Pesticide Control Division for application of the herbicide? These requirements will be conditions of your wetlands permit.

*The herbicide plan will be administered by Mr. Herb Rice, NH Herbicide Applicators License #494. Mr. Rice is in the process of applying for the permit from the Department of Agriculture for this project. Mr. Rice will apply Rodeo and Habitat as the herbicidal application. The Town will retain Mr. Rice under contract for the duration of this project.*

If I have not supplied you with all the information needed to proceed with our Wetland Application, please contact me directly at (603) 868-5578 so I may immediately respond to your concern.

The Town thanks you for your guidance with this water quality enhancement project.

Sincerely,



Michael Lynch  
Public Works Director

Cc: Durham Conservation Commission  
Sue Hoey, Natural Resources Conservation Service