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Michael Behrendt
Durham Town Planner
8 Newmarket Rd
Durham, New Hampshire 03824
mbehrendt@ci.durham.nh.us

VIA: email
REFERENCE: Conservation Commission

Dear Mr Behrendt,

The Conservation Commission is doing important work in revising the existing Wetland Conservation Overlay District (WCOD) and the existing Shoreland Protection Overlay District (SPOD) ordinances.

I recommend the Conservation Commission develop separate recommendations for the WCOD and the SPOD.

The State treats wetlands and shoreland separately. Durham wetlands are included in RSA 482-A, while Durham shoreland is included in RSA 483-B.

The State defines "Wetlands" as:

"Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

The State defines "Protected shoreland" as:

"Protected shoreland" means, for natural, fresh water bodies without artificial impoundments, for artificially impounded fresh water bodies, except private garden water features and ponds of less than 10 acres, and for coastal waters and rivers, all land located within 250 feet of the reference line of public waters. For river segments of third order or lower designated as protected under RSA 483:15 which are either designated after or for which specific exemptions are repealed after December 31, 2015, "protected shoreland" means all land located within 50 feet of the reference line of public water.

State guidance regarding water management and protection is extensive. A review of the State's water management and protection regulations shows the Town of Durham has many roles and responsibilities in the enactment of these laws.

Durham has an obligation to comply with the State. The Town should seek ordinances which make it clear that Durham is following the path set out by the General Court. As State regulation defines and treats "wetlands" and "shoreland" separately, the Town should move forward with revising a separate Wetland Conservation Overlay District ordinance and a separate Shoreland Protection Overlay District ordinance.

Any proposed combined Wetland and Shoreland Overlay District ordinance will generate unnecessary confusion and more work for the Commissioner of the NHDES.

Yours very truly,

David Hadley

External links:

RSA CHAPTER 482-A: FILL AND DREDGE IN WETLANDS

<https://gc.nh.gov/rsa/html/L/482-A/482-A-mrg.htm>

RSA CHAPTER 483-B: SHORELAND WATER QUALITY PROTECTION ACT

<https://gc.nh.gov/rsa/html/L/483-B/483-B-mrg.htm>