

# D R A F T

**DURHAM CONSERVATION COMMISSION**  
**Monday, September 23, 2024**  
**DURHAM TOWN HALL, COUNCIL CHAMBERS**  
**7:00 p.m.**

**MEMBERS PRESENT:** Erin Hardie Hale (Vice Chair); Wayne Burton (Town Council Rep); Alternates: Jacob Cragg, Anne Lightbody, and Steve Moyer.

**MEMBERS ABSENT:** Dwight Trueblood (Chair); Richard Kelley (Planning Board Rep); Nick Lanzer; John Nachilly; and Neil Slepian.

**ALSO PRESENT:** Michael Behrendt, Durham Town Planner and Sara Callaghan, Land Stewardship Coordinator

1 **I. Call to Order**

2 Vice-Chair Erin Hale called the meeting to order at 7:01 p.m. She's chairing the  
3 meeting this evening in Dwight Trueblood's absence.

4

5 **II. Land Acknowledgement Statement**

6 Acting Chair Hale read the statement as adopted by the town's Human Rights  
7 Commission.

8

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

10 Roll call attendance was taken and Acting Chair Hale seated all three alternates as  
11 voting members this evening: Jacob Cragg, Ann Lightbody and Steve Moyer.

12

13 **IV. Approval of Agenda**

14

15 *Ms. Lightbody MOVED to amend the agenda to move up review of minutes earlier*  
16 *(after public comments) since it's been tabled several times;*  
17 *SECONDED by Mr. Burton, APPROVED unanimously, 5-0, Motion carries.*

18

19 **V. Public Comments:** None this evening.

20

21 **VI. Review of Minutes:**

22 Ms. Callaghan will submit correction of a typo for the July 22 minutes to town staff.

23 *Mr. Moyer MOVED to approve the minutes for June 10, 2024; July 22, 2024; and*  
24 *August 26, 2024; SECONDED by Ms. Lightbody and APPROVED 4-0-1, with Mr.*  
25 *Burton abstaining, Motion carries.*  
26

27 **VII. Land Stewardship Update.** Sara Callaghan, Land Stewardship Coordinator  
28

29 Ms. Callaghan has focused recent efforts on resurfacing bog bridges at Longmarsh  
30 Preserve. Tonight she's requesting funding for an additional wetlands crossing at  
31 Longmarsh. Members had received a memo about this in advance.  
32

33 She showed before and after photos of two bog bridges at Longmarsh and said they have  
34 been replaced every three or four years due to water damage. Volunteers recently helped  
35 to resurface the bridges.  
36

37 A third crossing of an old stone bridge needs to be addressed along the Sweet Trail. Ms.  
38 Callaghan gave a brief history of the bridge, dating back to when it was used to transport  
39 stones from the quarry. The Land Stewardship Committee proposes to put in a bridge  
40 over Crommet Creek, extending from boulder to bedrock for a total of about 14-feet.  
41 There would be a railing due to its height above water.  
42

43 The proposal also calls for wooden stairs up to the large boulder and a land bridge  
44 extending out about 10-feet. Ms. Callaghan said the estimated cost is \$10,500 and work  
45 would be done by John Martin Forestry. The project could be completed in November.  
46 She's requesting \$12,000 this evening to be paid from the Land Stewardship Patron's  
47 Trust, with an overage to allow for unforeseen circumstances.  
48

49 She explained the Patron's Trust Fund is comprised of privately donated funds from  
50 individuals specifically for trails projects.  
51

52 Ms. Lightbody asked about the life expectancy of the bridge and Ms. Callaghan replied  
53 probably 30 to 35 years since it's on dry land. Ms. Lightbody asked about the use of  
54 pressure-treated wood in a wetland area. Ms. Callaghan said the work doesn't require a  
55 DES permit because it goes from bank to bank. She's comfortable using pressure-treated  
56 lumber because there's no contact with water.  
57

58 Vice-Chair Hale asked if there's a reason a crossing with a bigger structure is needed.  
59 Can't hemlock boards be put across where people are naturally crossing?  
60

61 Ms. Callaghan said the historic nature of the stone bridge was an important consideration.  
62 The water level has come close to the top due to beaver activity and climate change.  
63 Different options were looked at with the Historic Association and others.

64 She believes any structure installed downstream could end up under water. The proposed  
65 structure will highlight the historic stone bridge and provide views; the addition of stairs  
66 will prevent activities like mountain biking, which is not allowed on the Sweet Trail.

67  
68 Mr. Behrendt noted the Conservation Commission can approve the expenditure on their  
69 own and asked how much is left in the Patron’s Fund. Ms. Callaghan said the balance is  
70 \$15K; this request will nearly deplete it. She discussed the project with Ann Welsh who  
71 raised the money and Ms. Welsh is in favor of using the funds for this purpose.

72  
73 Ms. Callaghan said the Sweet Trail is well-used and loved. It crosses multiple  
74 landowners: The Town of Durham; NH Fish & Game; the Society for the Protection of  
75 NH Forests and The Nature Conservancy. All four entities are coordinating efforts to  
76 refresh the trail, which is eight miles long.

77  
78 ***Mr. Moyer MOVED to approve expenditure of up to \$12,000 from the Land***  
79 ***Stewardship Patron’s Trust Fund for construction of a crossing at the Longmarsh***  
80 ***Preserve stone bridge; SECONDED by Mr. Cragg, APPROVED unanimously, 5-0.***  
81 ***Motion carries.***

82  
83 Ms. Callaghan said work on other bog bridges was supported by grant funding. She then  
84 notified the Commission she’s accepted a position at UNH as Community Conservation  
85 Extension Field Specialist. While she will be leaving her position as Land Stewardship  
86 Coordinator, she will stay on as an alternate on the Land Stewardship Committee. A  
87 search is underway for her replacement.

88  
89 Vice-Chair Hale reported on the Beaver and Fungi Walk, the first of the Discover  
90 Durham’s Trails series, held a few weeks ago. Ms. Callaghan led the walk with Amy  
91 Ross Davis. Nine people registered but more than 30 showed up. The next walk will be  
92 led by Ellen Snyder at Oyster River Forest on October 6th.

93  
94 Vice-Chair Hale thanked Ms. Callaghan for her work on behalf of the town. She also  
95 acknowledged Parks and Recreation for publicizing the successful walk. Ms. Lightbody  
96 echoed her appreciation for Ms. Callaghan’s depth of knowledge and diversity of projects  
97 on behalf of the town.

98  
99  
100 **VII. Wetland and Shoreland Overlay District – Zoning Amendment.** Discussion with  
101 Neil Slepian and Dwight Trueblood about proposed new Wetland and Shoreland Overlay  
102 District (WSOD) to replace the current Wetland Conservation Overlay District (WCOD)  
103 and Shoreland Protection Overlay District (SPOD). A committee appointed by the  
104 Conservation Commission has been working for over a year to rewrite the WCOD and  
105 SPOD. The committee now has a draft to present to the Commission.

106 While Mr. Slepian and Mr. Trueblood are not present, it was agreed discussion would  
107 continue this evening. Acting Chair Hale asked Mr. Behrendt to review the changes he's  
108 proposing to the ordinance. These had been sent to members via email earlier.

109  
110 Mr. Behrendt said the Commission can take their time with the amendment; it doesn't  
111 need to be rushed.

112  
113 He noted one of the "trickier" items was the proposal to increase the buffer on tidal  
114 waters from 125-feet to 330-feet. Consensus was reached that making other changes to  
115 the ordinance might help balance out concerns about the larger buffer.

116  
117 Mr. Behrendt then highlighted some of the proposed changes, including a buffer of 150-  
118 feet (vs. 330-feet) for any changes to vegetation, since this is a sensitive issue for  
119 landowners and takes up considerable time for town staff. (p. 6 of ordinance draft.)

120  
121 He then gave an overview of conditional use and referenced a table of uses that are  
122 allowed by conditional use. Currently, applicants must submit a site plan and show they  
123 will meet eight general criteria. Additionally, the Conservation Commission reviews four  
124 more criteria.

125  
126 With a larger buffer, more activities would be subject to review and conditional use. Mr.  
127 Behrendt said the eight criteria should be eliminated because in his view they're not  
128 relevant; he noted this was already part of the earlier draft presented by the Sub-  
129 Committee.

130  
131 Mr. Burton questioned if the eight criteria are set by the state, not the town. Mr. Behrendt  
132 said he believes the ordinance was written specifically by and for Durham. Mr. Cragg did  
133 a quick online search and said it appears the state allows towns to grant conditional use  
134 permits but it doesn't specify what they will be.

135  
136 Ms. Lightbody questioned if eliminating some of the criteria (e.g. site suitability and  
137 preservation of natural resources) is advisable, especially since the Commission is now  
138 considering allowing single-family homes in the buffer. It seems there would be a need  
139 for more protections, not fewer.

140  
141 Mr. Behrendt pointed out there are still four environmental criteria. [Bottom of page 11  
142 on the draft]. As he sees it, the eight general criteria would apply to something like  
143 structured parking in the central business zone. If members have environmental concerns,  
144 he said they should be added to the four specific criteria reviewed by the Commission.

145 It was clarified that if the Planning Board approves elimination of the eight criteria,  
146 neither the Planning Board nor Conservation Commission would review them for future  
147 projects.

148  
149 Ms. Lightbody recapped the eight criteria briefly: site suitability; external impacts;  
150 character of site development; character of buildings and structures; preservation of  
151 natural and cultural historic resources; impact on property values; availability of public  
152 services and facilities; fiscal impacts.

153  
154 There was back and forth discussion about the eight general criteria as well as the four  
155 specific criteria. Mr. Behrendt said if a house is proposed within a buffer, only the  
156 driveway would be subject to review.

157  
158 Vice-Chair Hale pointed out one of the concerns about increasing the tidal buffer to 330-  
159 feet is that homeowners whose properties would end up entirely in the buffer wouldn't be  
160 free to modify their homes.

161  
162 Ms. Lightbody expressed concern that steep slopes aren't addressed in the specific  
163 criteria and later in discussion pointed out there's no oversight if an applicant wants to  
164 build a house on a steep lot.

165  
166 Mr. Burton said the Planning Board will be hearing a proposal for workforce housing on  
167 the Keefe property on the north side of route 4. He believes the property, which is crossed  
168 by Johnson's creek, may be subject to restrictions from both the proposed WSOD and  
169 workforce housing zoning. He asked how conflicts would be resolved.

170  
171 Mr. Behrendt said the applicant would have to meet both ordinances/zoning  
172 requirements. The lower part of the 117-acre site is non-tidal and subject to a 150-foot  
173 buffer (if approved) and the upper part is tidal and subject to the 330-foot buffer (if  
174 approved).

175  
176 Mr. Burton said before bringing it to the Planning Board, the applicant should be made  
177 aware of serious restrictions that might prevent construction of a single-family home. He  
178 believes the environmental policies the Commission is about to enact would be in  
179 conflict. Mr. Behrendt said the proposal is expected to be for multi-family workforce  
180 housing.

181  
182 Mr. Behrendt continued review of section 175-65; Minor changes are proposed. He  
183 mentioned a lot on Riverview Terrace that is only 150 to 200-feet deep. He said the  
184 owner would have to apply for conditional use in order to build a house there. The ZBA  
185 could grant a special exception to override the 150-foot buffer.

186 There was further discussion about how the determination is made regarding unbuildable  
187 lots. Mr. Behrendt said he and Audrey Klein [Code Enforcement Officer] met with the  
188 ZBA a few months ago regarding this issue, but a final decision hasn't been made about  
189 the ZBA's role in granting exceptions.

190  
191 Acting Chair Hale noted the Commission seems to have reached consensus to put  
192 forward a 330-foot buffer proposal, with some changes to make it more amenable. She  
193 invited those who hadn't spoken yet to share their views, acknowledging three new  
194 members on the Commission.

195  
196 Mr. Moyer said he's very supportive of the work that's been done to date on the  
197 ordinance. Mr. Cragg echoed that sentiment, saying he trusts the hard work and diligence  
198 of the Sub-Committee and feels good about moving it forward. Ms. Lightbody added  
199 she's supportive of the proposed changes.

200  
201 Ms. Callaghan was then invited to share any concerns and questions, since she won't be  
202 in attendance at future meetings. She raised a few points, including:

- 203
- 204 • It's unclear when talking about the width of buffers if it's a linear measurement or  
205 "as the crow flies." Mr. Behrendt said it's always a horizontal measurement.
  - 206 • Re: septic systems [pg. 8 of draft], she said an anticipated rise in ground water can  
207 have a significant impact on the functionality of septic systems. She would like to  
208 see this as well as the life span of septic systems taken into consideration in the  
209 ordinance.
  - 210 • Re: potential adverse impacts on water bodies [pg. 7], she questions who makes  
211 the determination and is it possible to enforce it. She advocates for "measurable  
212 and actionable" items.

213  
214 Ms. Callaghan then addressed definitions on pgs. 1 and 2 regarding invasive plants and  
215 native vegetation and said the "go-to" source for invasive species is the NH Department  
216 of Agriculture. This should be added as the New Hampshire Department of Agriculture,  
217 Markets and Food (website). A comprehensive list of invasive plants including aquatics  
218 is maintained by NH DES.

219  
220 Acting Chair Hale said the Commission will continue its discussion on the WSOD  
221 ordinance next month since Mr. Slepian and Mr. Trueblood may have additional input.

222 **VIII. Plant Species in Site Plan Regulations. Discussion about list of plant species in**  
223 **Site Plan Regulations, including list of invasive plants.**

224 The Acting Chair opened up discussion about Appendix B in the Site Plan Regulations  
225 and asked Mr. Behrendt who had written the document and who's using it now.

226 Mr. Behrendt said plant species lists were part of revisions made to the Site Plan  
227 Regulations in 2015. A number of people had input including Landscape Architect Robbie  
228 Woodburn. The lists come into play when anyone wants to do a multi-family or non-  
229 residential project. Unless otherwise approved, trees have to come from the list.

230 As an environmentalist, Ms. Callaghan said she recommends native trees and plants as  
231 often as possible. The approved lists include both native and non-native species. She  
232 suggests doing away with the lists and instead including a statement saying native plants  
233 are recommended.

234 Regarding the list of prohibited plants, she said they change every year. She advocates a  
235 reference to the NH-DES and Department of Agriculture websites, which maintain  
236 updated dynamic lists.

237 Vice-Chair Hale said she isn't sure all lists should be eliminated. She thinks specific  
238 recommendations may be helpful.

239 Ms. Callaghan said the current list includes species on a watch list; in her view, some  
240 should be prohibited. The state makes a determination to add a plant to the Early  
241 Detection/Rapid Response (EDRR) list based on a number of factors, including if the  
242 plant hasn't spread broadly yet.

243 There was brief discussion about the best online source for invasive species information.  
244 Ms. Callaghan said Native Plant Trust is a good source, but there could be others. She  
245 recommends checking with Roanne Robbins [former commission member].

246 Vice-Chair Hale said she's not fully supportive of recommending native species only.  
247 Some non-native plants are becoming naturalized; plus, our climate is changing. Different  
248 non-native plants can do well.

249 Mr. Cragg said he thinks it's more important to prohibit invasive species [rather than  
250 specify recommended plants]. The Commission can recommend native plants, but not  
251 exclusively. Later in the discussion he said he's in favor of dynamic online lists that are  
252 updated regularly. A bigger question is where the town falls regarding plants on the  
253 EDRR (watch) list. Should those species be prohibited?

254 Vice-Chair Hale said she'll check with Roanne Robbins to get more information about  
255 invasive plant lists and if she hears back, the Commission can continue their discussion  
256 next month.

257 Ms. Lightbody added that cultural notes on the current recommended plants are helpful. It  
258 would be beneficial to use an online source that provides that information.

259 Mr. Cragg suggested publicizing information about invasives in *Friday Updates* to offer  
260 continuing education for homeowners.

261 Ms. Callaghan noted that plants go “in and out” of fashion. It’s helpful for homeowners to  
262 check with their local landscaping company for recommendations instead of relying solely  
263 on online sources, even if they’re updated annually.

264

### 265 **IX. Other Business**

266 Ms. Callaghan referenced a list of conservation easements in town sent out by Mr.  
267 Behrendt a few weeks ago. She said the information came from different directions.

268 The Stewardship and Engagement Sub-Committee would like to create a recreational  
269 map of all trails and land in town with public access. She believes this is a worthwhile  
270 project, but said information from GRANIT mapping (from UNH) needs to be updated. It  
271 doesn’t match up with Strafford Regional Planning Commission, which is also  
272 inaccurate. She encouraged the Commission to create a list of recreational lands.

273 Acting Chair Hale again thanked Ms. Callaghan for the valuable input and hard work she  
274 has put in as Land Stewardship Coordinator for the town.

### 275 **XI. Roundtable**

### 276 **XII. Adjournment**

277 *Mr. Moyer MOVED to adjourn at 9:14 p.m.; SECONDED by Mr. Burton,*  
278 *APPROVED unanimously, 5-0, Motion carries.*

279

280 Respectfully submitted,  
281 Lucie Bryar, Minutes Taker  
282 Durham Conservation Commission