

Hampden Conservation Commission

MINUTES

Oct. 27, 2009

Attending: D. Katnik (Chair), W. Jakubas, M. McCollough, B. Osborne, M. Robbins

1. Reviewed Implementation Strategies of the Draft Comprehensive Plan assigned to the Conservation Commission to priorities the strategies and to outline what would be required/involved to implement them
 - a. CR1 - Identify Priorities: Within 1 year of approval of this Comprehensive Plan, identify the highest priority natural resources (large, undeveloped blocks of habitat; water resources and riparian habitats; other unique plant/animal habitats; and connections between all these habitats). Priorities will be based on: Size and relative amount of interior area for undeveloped habitat blocks, Habitat quality, Connectivity, Proximity to existing easements and open space, Threat of habitat alteration, Existence of trails and/or public access, Protection status under existing local, state, and federal law
 - i. MEDIUM priority (because we already have a draft completed)
 - ii. We should revisit these priority areas early next year to evaluate changes to shoreland zoning Resource Protection areas and remapping of habitat for endangered, threatened, and special concern species by Maine Dept. Inland Fisheries & Wildlife.
 - b. CR2 - Conservation Plan: Develop a conservation plan for each of the highest priority natural resource areas and for all conservation easements and deeded open space. Develop methods to educate the public about the natural resource values, location, and accessibility of easements and open space.
 - i. HIGH priority
 - ii. There are many areas to consider if we'll need a plan for every deeded open space (but a "plan" could be just to do nothing for an area)
 - iii. Can we just take them as they come (new deeded open space and conservation easements)?
 - iv. Should develop broad goals and objectives for different types of areas (e.g., town lands vs. easements vs. deeded open space vs. large undeveloped blocks, etc.).

- v. Should list the conservation values for each specific area – why is it important and what are the goals/objectives for that specific area?
 - vi. Strategy overlaps significantly with CR9 and LU12. Also the next logical step from CR1.
- c. CR4 - Habitat Blocks: Conserve existing blocks of undeveloped habitat by amending land use ordinances to encourage new development close to existing development and infrastructure (water, sewer, arterial [highways]). In less developed areas, amend land use ordinances to encourage conservation-style development patterns that minimize habitat fragmentation and maximize open space.
- i. MEDIUM priority
 - ii. Hampden does not have many parcels large for conservation-style developments
 - iii. Developers may need to aggregate parcels (there is some recognition by the Town Council of this need)
 - iv. Goes along with CR10, which is a higher priority
 - v. HCC's role will not be wordsmithing ordinance language but helping to develop the concepts
 - vi. Other Committees are involved in this and Town Council views as important; it is unlikely to languish without HCC being the primary driver, so we'll just follow along with their timetable
- d. CR7 - Habitat Protection: Conduct a site-specific review of natural resources for each new proposed subdivision or site plan review project by consulting Beginning with Habitat natural resource maps and/or by consulting with appropriate state agencies. Field surveys and other review methods that would incur prohibitive costs should be used only when deemed necessary by the Hampden Conservation Commission and Town Planning Board. If resources are impacted, require subdivision or non-residential property developers to take appropriate measures to protect those resources, including but not limited to, modification of the proposed site design, construction timing, and/or extent of excavation.
- i. HIGH priority?
 - ii. An expansion of what we already do to review site plans
 - iii. Should develop a guiding document
 - iv. We will continue to do these as plans are submitted

- v. Need to coordinate with Town GIS officer
- e. CR9 - Education: Distribute or make available to residents, landowners, and developers information about local, state, or federal regulations; Best Management Practices; and policies that are applicable to conservation of natural resources.
 - i. LOW priority
 - ii. Overlaps a lot with CR1
 - iii. Much of this information is already available, just need to pull it together.
 - iv. We don't want to be the "source" of this information but rather point users towards the original sources (the regulatory agencies)
 - v. More meaningful if tied to specific parcels (incorporate into Conservation Plan for each area)
- f. CR10 - Open Space Impact Fee: Amend fee-in-lieu policies to require at least market-value compensation for acreage of required open space within new subdivisions. Require market-value fee-in-lieu for required open space when the proposed on-site open space does not contribute significantly to conservation of natural resources and/or the proposed on-site open space is disconnected from other open space/natural areas. Prohibit fee-in-lieu for required open space that would contribute significantly to recreational and natural resources.
 - i. HIGH priority
 - ii. What kind of lands do we want as open space (or in lieu open space)? What kinds of lands do we NOT want?
 - iii. Have a list of priority places we want to acquire (give some real idea about what amount of "in lieu" is required to really accomplish conservation)
 - iv. Can we have different in-lieu rates depending on value of impacted habitat? Perhaps
 - v. Need language that is tangible enough so we can tell whether or not the guidelines are being met
 - vi. How quickly might this change? Town Council is considering contracting someone outside to draft the language

- vii. Who would really oppose this? Economic Development Committee: biggest problem for developers and commercial interests is uncertainty, not the size of the fees
- g. CR11 - Regional Coordination: Continue working with Penobscot County Greenprint, to define a regional approach to land conservation.
 - i. LOW priority
- h. F4 - Town Forest: Develop a town forest bounded by Route 202 and Coldbrook Road to the Bangor line that includes town-owned Tax Map 10 Lot 56-2. Work with private land owners in the area to acquire land to develop this forest concept. Acquisition of land may include strategic land swaps, easements, purchase and transfer of development rights, and outright purchase.
 - i. LOW priority
 - ii. There are Town Council members and others in town who are very interested in doing this
 - iii. SAD will be giving funds to develop trails (as part of their wetland mitigation)
 - iv. Don't want the Town Forest to overshadow other conservation areas. It would be a good thing to have, but this area is very isolated from the other conservation areas in town. This is really a recreational issue more than a real conservation one.
 - v. Not sure whether the mapped Deer Wintering Area is still even there.
- i. F7 - Conserving Forest Lands: Explore/implement the following methods to retain active forest lands: Encourage conservation easements or purchase of developments rights by nonprofit groups or the town for the most important forest lands; Provide information on how to qualify for real estate tax reductions under the Tree Growth Tax Law; or Consider some land use restrictions on land now in woodlots such as requiring larger lot sizes or, conversely, allowing smaller lot sizes when the balance of land is kept as a woodlot as part of a cluster/conservation subdivision.
 - i. MEDIUM value
 - ii. This is more likely to achieve conservation than F4
 - iii. A lot like CR9 and CR2 (just roll this into the Conservation Plans)
- j. LU12 - Critical Resource Area Preservation: To preserve areas of environmental and scenic value, the Town will: Conduct an inventory of

critical habitat land, lots essential to maintaining connectivity, and areas for tree growth and share the information with conservation organizations to guide their prioritization. Consider the establishment of a fund to assist in critical conservation purchases or stewardship endowments. Establish buffers so that corridors can be created along the Souadabscook and Reeds Brook. - Include Critical Resource Areas as identified by the State (07 105 Chapter 208) in the Rural Conservation District where practicable. Where critical resources are included in other districts, include provisions in local ordinances to protect them from development by: Requiring adequate buffers; and Requiring subdivision or non-residential property developers to take appropriate measures to protect those resources, including but not limited to, modification of the proposed site design, construction timing, and/or extent of excavation.

- i. HIGH priority
 - ii. Lots of overlap with CR1 and CR2
 - iii. The “fund” ties into CR10
 - iv. Should change “Consider the establishment of a fund” to “Establish a fund”
 - v. Have most of the in-lieu fees so far going into recreation?
 - vi. Can anyone make a donation to the fund (would it be tax deductible)?
- k. MR1 - State Minimum: Working with local residents and businesses, neighboring communities, the Department of Environmental Protection, and the Department of Marine Resources, develop an action plan to protect fishery habitats and identify and eliminate point and non-point source pollution.
- i. LOW priority
 - ii. There is still discussion at the federal level to investigate Hampden’s alewife population as a possible source for translocating (HCC supports this)
 - iii. MS4: Clean Water Act, EPA has determined that a lot of pollution is being concentrated in storm water drainage systems. This Strategy is key to addressing storm water issues, which are likely to become increasingly important
 - iv. How will non-point sources be determined?

- v. Already have mandatory sweep of streets in spring and sumping out catch basins before spring rains. Visit storm drain outfalls and drainage ditches
 - vi. How would HCC actually be involved in this? Could have a representative on the Bangor storm water meetings (monthly)
- l. MR5 - Regional Cooperation: Continue working with other Penobscot River communities to improve water quality, improve access to the shellfish resources, and manage the commercial fisheries for sustainable yields utilizing tools such as regional ordinances and inter-local agreements. (beyond town's abilities?)
 - i. LOW priority
- m. R4 - Open Space Plan: Develop an open space plan that harmonizes recreation and conservation open space needs.
 - i. HIGH priority
 - ii. Significant overlap with CR2
- n. R6 - State Minimum: Work with public and private partners to extend and maintain a network of trails for motorized and non-motorized uses. Connect with regional trail systems where possible.
 - i. MEDIUM priority
 - ii. Is this really a conservation issue or purely a recreational one?
 - iii. Important for marketing conservation needs to the public
 - iv. Helpful when reviewing site plans (if a trail intersects, easier to propose changes)
 - v. Most trails used by snowmobile club are verbal agreements with current landowner – there is little structure in place to “conserve” these trails long-term
- o. WR12 - Aquifer Protection: Adopt an aquifer protection overlay district to protect important groundwater resources.
 - i. LOW priority
- p. WR15 - Stream Protection: Identify streams and brooks that are not covered by the provisions of the Town's Shoreland regulations and develop guidelines for ensuring appropriate protection for maintaining the town's natural resources.
 - i. HIGH priority

- ii. How many small streams are currently unprotected? Doesn't NRPA protect them all?
 - iii. How much land would be tied up if we buffered every small stream by 75 ft?
 - iv. Ties into MR1
 - v. We should be able to name and rank the most important streams
 - vi. Should really be a watershed approach (just buffering everything by 75 ft may not accomplish real conservation; in some cases it is overkill, in others it is not enough)
 - vii. Roll this into CR2
 - viii. Many of these streams are part of a wetland area so developers are already looking at them (but that only addresses the stretches in the wetlands?)
- q. WR16 - Incorporate the wetland policies identified in Book 2, Section I.5.4 of this Plan into conservation planning and ordinances as appropriate.
- i. UNKNOWN priority (at time of meeting, we didn't have access to these policies)

From Draft Comp Plan Book 2, 5 Aug 2009:

1.5.4 Wetland Policies

Avoidance. It is the policy of the Town of Hampden, whenever and wherever possible, that impacts to freshwater wetlands be avoided. However, it is further understood that to achieve the goals and objectives of the Town of Hampden; (i.e., to provide for a variety of housing types, to provide for industry and commercial development, to facilitate safe access and egress, to provide recreational facilities, trail systems, access to waterways, and other highly desirable objectives) impacts to wetlands will occur.

Limitation of Impact. Wetland impacts should be limited to only those areas absolutely necessary to achieve the above objectives. Further, it should be the burden of the applicant to demonstrate that there will be no adverse impact on the remaining wetlands, in terms of their functional value.

Preservation of Wetland Areas. It shall be the policy of the Town that the best protection from loss, degradation, and future impacts shall be the perpetual preservation of wetland areas through deed restrictions, conservation easements, or other means.

Mitigation Strategies. Whereas the Town has a finite amount of buildable upland area; it is not in the interest of the Town to create additional wetland areas as a means of mitigation (no net loss). However, where other

regulatory agencies find such a scheme advantageous, the Town will cooperate to achieve the best interests of the Town.

Balanced Objectives. While the #1 objective shall be avoidance, the Town's overall approach should be one of balanced objectives. If one element dominates the evaluation of potential development options, secondary issues may be compromised. Safe access and egress, overall land use policy, and other factors should weigh equally in the equation with wetland impacts.

Protection Priorities. Whereby all wetlands do not have the same functional values, the Town shall provide greater protection to those high value wetlands than lower value, smaller, wetlands.

Highest Priority - Open water, emergent vegetation (non-forested wetlands) of greater than 10 acres. These wetlands include those identified in the Shore land Zoning sections of the Zoning Ordinance.

High Priority - Wetlands associated with water bodies, ponds, rivers, streams and brooks.

Moderate Priority - Forested wetlands, shrub-scrub wetlands and wet meadows of greater than 5 acres.

Low Priority - Wetlands of less than 1 acre in size which are not hydrologically connected to a water body.

Site Selection Priorities. Whereby each development site is different, the Town shall provide site selection guidance as they relate to impacting wetlands.

Access - Filling wetlands to accommodate access to substantial upland areas shall be allowed, provided the overall objectives of this policy and the comprehensive plan are met.

Buildable Site - Lots to be approved, under the provisions of the Subdivision Ordinance, shall be demonstrated buildable without impacts to moderate or higher priority wetlands.

Suitable Development Site - Filling wetlands, to accommodate principle uses (building sites) and accessory uses (parking, etc.) on existing lots, shall meet a no practical alternative test. That is, in order to develop the site, there is no practical alternative to avoid or lessen impacts from the proposed development.

Utility Service - Development of public and private utility services (sewer, water, electrical, etc.) in wetlands shall be allowed, provided no reasonable alternative exists to provide the same level of service.

Public Improvements - Where public improvements shall be constructed within wetland areas, it shall be the burden of the applicant to demonstrate that the proposed construction methods are sufficient to overcome any

limitations due to poor soil and groundwater conditions. Further, the applicant shall demonstrate that normal maintenance activities shall not degrade the wetlands.

ii.

2. Town Planner's Report
3. Next Meeting – Nov 24, 7 pm