
HCPC NEWSLETTER

Hancock County Planning Commission
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PLANNING BOARD NEWS

By Tom Martin

More Wetlands Maps Available for Shoreland Zoning

We have reported in previous issues that the Maine Department of Inland Fisheries and Wildlife is revising the maps of moderate and high-value wetlands that will now be subject to a Resource Protection zoning buffer. As of August 2008, maps have been completed for Blue Hill, Brooksville, Bucksport, Ellsworth, Orland, Otis, Penobscot, Sedgwick, Sullivan and Verona Island. We expect to have access to all maps by October 31, 2008.

We continue to work with various towns in drafting revisions to shoreland zoning standards to meet the DEP guidelines, which take effect July 1, 2009. We would be happy to help your town with the revisions. Feel free to contact Tom Martin if you have any questions.

Striking a Balance Workshop on Developments of Regional Impact Scheduled for October 30.

The thirteenth Striking a Balance workshop is scheduled for October 30 from 5:00 PM to 8:30 PM at the VFW Hall on Washington Junction Road in Ellsworth. The topic will be how to assess developments of regional impact. We all know that new development is occurring across Hancock County even during the current economic slow

down. How do surrounding towns prepare for the impacts from increased traffic, stresses on natural resources and changes to the economy? We will have speakers address these topics. We will mail registration materials a few weeks before the workshop. **Please note that registration at the door is not possible since we must plan for food and meeting material hand-outs.**

RECENT COURT CASES

reprinted from the Southern Maine Regional Planning Commission Newsletter Spring 2008. Case Notes by Madge Baker, Esq.

Frederick G. Trudo v. Town of Kennebunkport
Maine Supreme Judicial Court decision February 21, 2008

Shoreland zoning case

Facts: The Trudos have a nonconforming house in the critical edge overlay zone. They applied for and received a permit to make some renovations. When the work had been completed the CEO visited the site and cited them for violating the ordinance by enclosing with glass a formerly screened-in open porch. The Trudos challenged the CEO's order before the Zoning Board of Appeals. The ZBA upheld the CEO. The landowners went to Superior Court. That Court reversed the ZBA's ruling. The Town appealed to this Court.

Issue: Was there a zoning violation?

Ruling: Yes.

The Court said it must defer to the Zoning Board of Appeal's assessment of the evidence that the enclosure of the porch with glass was an expansion because the porch could be used for a longer season. Extended use in time is defined by the ordinance as an expansion.

Bog Lake v. Town of Northfield et al.

Maine Supreme Judicial Court decision February 28, 2008

Shoreland zoning case

Facts: Bog Lake Company owns shorefront property in Northfield. In 1987 the Town passed an ordinance and a Comprehensive Plan. Bog Lake owned the property at the time. That ordinance zoned some of Bog Lake's property as resource protection. Bog Lake in 2005 sought to have the property rezoned to

residential/recreational. Both the Planning Board and Town Meeting refused to amend the zoning ordinance. Bog Lake appealed to Superior Court. That Court dismissed the complaint for declaratory judgment. Bog Lake then appealed to Maine's highest court.

Issue: Was the landowner entitled to have its property in resource protection rezoned?

Ruling: No.

The Court said the Statute of Limitations did apply. Bog Lake had waited 18 years to challenge the zoning classification of some of its property. The Statute of Limitations gave Bog Lake six years from the 1987 passage to do so which was ample time to meet all due process requirements. Without a constitutional challenge to the ordinance as applied the Court had no authority to disturb a procedurally valid legislative decision.

Lane Construction Corp. v. Town of Washington et al and Land Association of Washington et al. V. Town of Washington et al.
Maine Supreme Judicial Court decision March 11, 2008

Zoning case

Facts: Lane Construction Corp. applied to the Planning Board for a conditional use permit to construct and operate in the Farm and Forest District a hard rock quarry with a rock crusher and bituminous hot mix and concrete batch plants as accessory uses. The PB approved the application for the quarry and rock crusher but denied applications for the plants because they were manufacturing operations and therefore prohibited in the zoning district. The decision was appealed to the ZBA. It agreed the quarry was permitted but not the other uses. It assessed a fee of \$20,000 on the applicant to cover costs of the review. Land Association of Washington (LAW) appealed the approval of the quarry and Lane Corp. appealed the denial of the rock crusher and the plants, and the imposition of the fee. Superior Court upheld the PB decision to approve the quarry but disapproved the rock crusher. It remanded the case to the PB. The PB agreed with Superior Court this time. Appeals were filed again.

Issue: Which decisions should be affirmed or overturned.

Ruling: The Superior Court decision was overruled. The Court remanded the case to Superior Court for that Court to: affirm the PB's initial approval of the rock crusher as part of the conditional use permit for the quarry; vacate that portion of the PB decision regarding fees over the initial \$50 filing fee; and throw out the LAW appeal. The opinion is very lengthy. Please read it if you are interested.

Timothy Toomey v. Town of Frye Island Maine Supreme Judicial Court decision March 11, 2008

Shoreland zoning case

Facts: Toomey owns two nonadjacent lots. The undeveloped lot at issue was purchased in 1997, sold, and repurchased in 2003. It is a shoreland lot which cannot be built upon without a variance. Toomey applied for and received the variance he needed Sept. 23, 2005. On October 7 the Board notified Toomey that it had voted to reconsider. On October 14 the ZBA concluded that because the lot provided the owner with recreational benefits the parcel provided him with a reasonable return. Toomey appealed. Superior Court decided the ZBA had abused its discretion by voting to reconsider outside the 10-day period imposed by the Maine Statutes 30 MRSA 2691 (3)(F). It reinstated the variance. The Town appealed.

Issues: Was the reconsideration timely, and was the variance denial supportable?

Ruling: The reconsideration was timely, and the variance denial was supported by the evidence.

MAPPING

By Jim Fisher

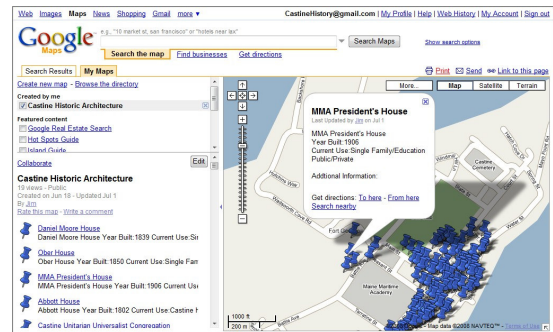
Castine Historic Inventory and Website Launched

The Hancock County Planning Commission recently completed a project with the town of Castine and supported by the Maine Historic Preservation Commission that uses an innovative mix of software tools to inventory information on historic properties in Castine. The project may be a model for other towns in Maine that are interested in identifying historically

significant properties. The final product involves distinct modules:

1. An inventory of all structures in the historic district, and someday to include all structures in the town. This database summarizes significant features, such as architectural style, building materials, age and location. HCPC attached a new color photograph to each of the structures.
2. A series of geographic information system (GIS) maps indicating locations and salient features of these structures.
3. A web-based map, using Google, which enables browsers to locate each of the structures and learn more about them.
4. A website, that ties together the data, maps, photographs and links to additional information.
www.hpcme.org/landuse/castine/history

Readers are encouraged to visit the website and explore historic Castine. Contact HCPC if you have questions or comments about this innovated approach to historic preservation.



CDBG NEWS

by Tom Martin

Proposed 2009 Program Rules Released

The proposed Program Statement, which summarizes the rules for the 2009 Community Development Block Grant (CDBG) Program has been released. Copies were mailed to all municipal offices and can also be found on-line at:

http://www.maine.gov/tools/whatsnew/index.php/topic=OCD_News&id=8653&v=NewsItem.

The CDBG program has been used by Maine communities for over 35 years for a variety of community and economic development projects. Rehabilitated housing, revitalized downtowns, water and sewer system improvements and job creation/retention projects are among the many examples of how CDBG funds have been used.

What Changes Have Been Made to this Year's Program?

Most of the changes are administrative in nature. The biggest change is reduced funding. The anticipated budget for 2009 is approximately \$9.9 million compared to \$13 million for 2008. *This makes the grant programs more competitive than ever.* This means that it is important to start identifying projects, doing income surveys and finding matching sources of funds now. The HCPC staff will be happy to provide a general overview to those unfamiliar with the program and also discuss any aspect of a particular grant competition. We can also help draft grant applications and identify potential sources of match.

What are the Deadlines for This Year's Grant Competitions?

Program	Letter of Intent Due Date (All dates are on or before)	Application Due Date
Public Facilities	December 5, 2008	January 23, 2009
Public Infrastructure	December 5, 2008	January 23, 2009
Economic Development (Rd 1)	January 9, 2009	March 6, 2009
Economic Development (Rd 2)	April 3, 2009*	June 5, 2009
Economic Development (Rd 3)	June 12, 2009*	August 14, 2009
Development Fund Loan	N/A	First Friday of each month
Downtown Revitalization	January 9, 2009	February 20, 2009
Community Enterprise	January 9, 2009	February 20, 2009

Housing Assistance	January 23, 2009	March 3, 2009
Public Service	February 6, 2009	April 3, 2009
Non-Profit Development	N/A	February 20, 2009*
Community Planning	N/A	April 21, 2009
Urgent Need	N/A	Beginning on March 13, 2009

** April 4, 2009 and June 13, 2009 Economic Development Program Letter of Intent dates are subject to funding availability.*

** Non-Profit Development application date of February 20, 2009 will be contingent on final 2009 CDBG allocation from HUD.*

In the Past, We've Been Told That Our Town Income Levels are Too High to Qualify for CDBG, Can We Still Apply?

All towns may apply provided that their project primarily benefits low to moderate income people (LMI). In order to qualify for a facility of town-wide benefit such as a fire station or community building, 51 percent of the household must meet the definition of LMI. The only towns in Hancock County that meet this threshold are Amherst, Aurora and Osborn. Other towns may apply for projects such as water and sewer system upgrade and job creation and retention if the primary beneficiaries are LMI. Some programs such as housing assistance and social services must be targeted exclusively at LMI residents. Please contact Tom Martin for details on how your town might qualify for CDBG funding.

SOLID WASTE NEWS

by Tom Martin

Ellsworth Area Household Hazardous and Universal Waste Event Collects Record Volume

Thanks to a group of hard working volunteers, who supplemented the HCPC staff, the August 16, 2008 Household Hazardous and Universal Waste event

was able to collect 254 units of hazardous waste and 3,998 units of universal waste. Hazardous waste includes items such as motor fuel and oil, paint thinner, certain household cleaning products, pesticides and related materials used in home and yard projects. Universal waste includes rechargeable batteries, computer monitors, other computer equipment and television receivers. Due to the switch to digital television signals in February 2009, it is not surprising that 2,201 television receivers were collected including one relic from the early 1950s. At our last HHW/UW collection in 2006, 152 TV's were collected to be recycled; indicating an increase of over 1300% for this collection.

Mount Desert Island Collection Scheduled for October 11

Members of the Acadia Disposal District (Mount Desert Island area) have a collection scheduled for October 11 from 9:00 AM to 1:00 PM at the MDI High School. Others may join this collection on a fee basis. For information on accepted items, pre-registration requirements and other details, please contact Tony Smith at 276-5743 or contact director@mtdesert.org. Bar Harbor residents must pre-register at the Bar Harbor Highway Department.

HCPC Working on Shellfish Composting Venture

Wet, odorous loads of solid waste are difficult to handle and cause stress on the PERC incinerator. At the same time, there is a high demand for good quality compost. The HCPC staff is working with a local shellfish generator and an area compost vendor to see if shellfish waste can be diverted from the solid waste stream into a valuable soil amendment. We are available to help facilitate other compost operations. Contact Tom Martin for more information.

The worse the state, the more laws it has

Tacitus, 56-120 CE

BROWNFIELDS NEWS

by Tom Martin

Brownfields Committee Members Needed

As we have reported in our last newsletter, the HCPC has been awarded a three-year brownfields assessment grant. Most of the funds will be used to hire an environmental consultant to assess contaminated sites and prepare clean-up plans for a limited number of sites. As part of that grant, we are recruiting members of a brownfields advisory committee. We expect that the committee will meet quarterly and be involved in recommending sites to be investigated. We are aiming for a cross-section of business, municipal, environmental and other community leaders to serve on the committee. Contact Tom Martin for more information.

Suggestions on Potential Brownfields Sites Welcome

Are there abandoned automobile repair shops, old industrial sites or long-disused quarries in your town? These are just some examples of sites that might qualify for a brownfields investigation. The preliminary investigation can determine if the site has serious contamination problems. There is also a limited amount of funding available through our current grant to prepare clean-up plans. Separate grants are available for conducting the actual clean-up.

HEALTH NEWS

by Jim Fisher

Common Health

Fall Programs

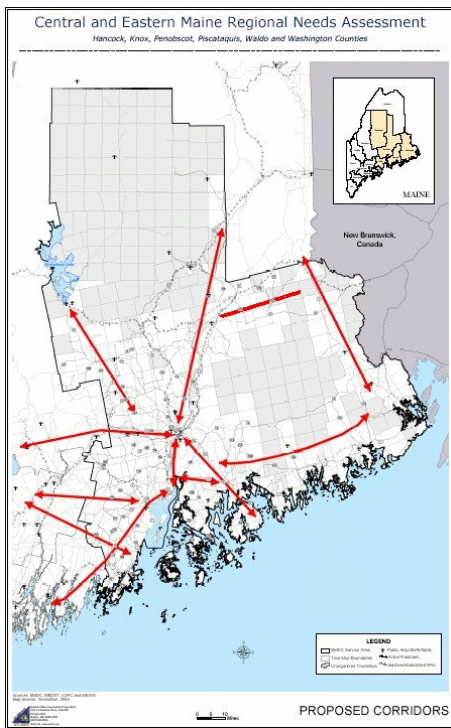
HCPC continues to host a monthly public affairs program. Our fall series of programs will feature diverse topics including adolescent health, creating accessible communities for people with disabilities, keeping warm this winter and managing healthy wildlife while protecting our health. Common Health airs the third Wednesday of every month from 10:00 – 11:00 AM on WERU 89.9 FM and on the web at www.commonhealth.org.

TRANSPORTATION NEWS

by Jim Fisher

Downeast Coastal Corridor Plan

The Hancock County Planning Commission, in cooperation with Washington County Council of Governments and Eastern Maine Development Corporation is preparing a corridor plan that covers a broad east-west swath from Bucksport to Eastport. The corridor is more than a single highway, and includes Route 9, Route 1, and the Downeast Sunrise Trail, several state roads that serve as connectors and even some emerging marine transportation.



The accompanying map shows this and several other corridors of regional and economic significance in eastern Maine.

The plan covers a number of issues, including transportation opportunities, population and economic trends, and land use changes. Like all plans, we are attempting to look ahead to see what is likely to happen in regional markets and at the same time consider how public investments and policies can help us to improve local quality of life and encourage economic prosperity.

We are employing two new methods for this project, the analysis of “driving forces” and creating “future scenarios.” Driving forces include: population change, economic restructuring such as job losses in some industries and growth in others, change in demands for services such as the needs our growing ranks of senior citizens, changes in energy prices and consequently changes in the types of transportation that we need. Some patterns are clear.

Hancock County continues to grow, but only through migration. Washington County continues to lose population, though migration into the county will increase if economic conditions improve.

Scenarios are thumbnail sketches of our possible futures. A scenario tells a story by knitting strands of change into whole cloth. One example of a scenario for the Downeast Coastal Corridor is continued regional inequality, with economic growth concentrated in select areas and economic struggles in other sub-regions. A more focused scenario is energy driven change, with our region emerging as a center for wind and tidal power and a trans-shipment point for liquid natural gas. Clearly there are many such possibilities.

Participation in the corridor management planning process is open to the public, and we will be taking our analysis of driving forces and future scenarios on the road this fall with meetings in Bucksport, Ellsworth, Machias and Calais. You can learn more about the process and see draft documents at www.hcpcme.org in the transportation section.

Acadia Gateway Center Update

The Maine Department of Transportation has completed a Preliminary Design Report for phase 1 of the Acadia Gateway Center. The Acadia Gateway Center, proposed for Route 3 in Trenton will feature a multi-modal transportation facility where visitors to the region will stop for information, to catch the Island Explorer or other regional buses, and to purchase a pass for Acadia National Park.

Phase 1 creates some of the basic infrastructure, including entrance roads and landscaping, and will include a bus operations and maintenance center for Downeast Transportation, Inc., the operators of

regional buses and the Island Explorer system. Emphasis in phase 1 has been placed on creating a “LEED” Certified structure. LEED, standing for Leadership in Environmental Design, entails careful attention to reducing energy consumption, minimizing harm to the landscape and in other ways creating an eco-friendly facility.

This facility is an important step in improving Hancock’s County’s capacity to reduce traffic congestion, air pollution and enhance tourism. Construction of Phase 1 is expected to begin in 2009. Detailed plans are available at www.acadiagatewaycenter.com.

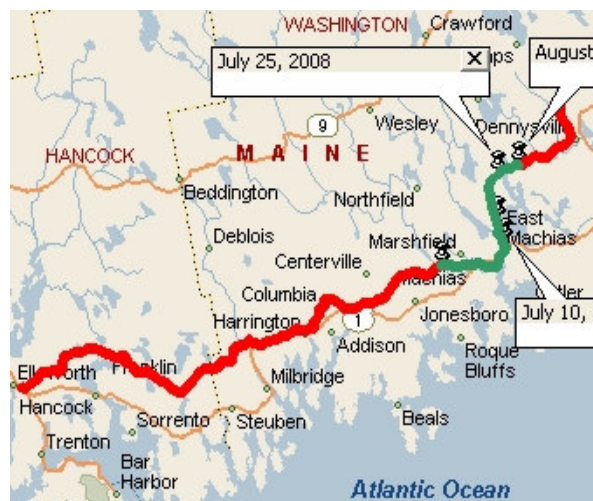
The Hancock County Planning Commission recently published a newsletter with more information about Phase 1 which is available online at www.hcpcme.org/landuse/trenton/trentonplan.htm.

Downeast Sunrise Trail Update

The rail to trail conversion has begun along the 82-mile corridor between Washington Junction, in Hancock and Ayers Junction, 30 miles west of Eastport in Washington County. The process began in late June in Whitneyville, Washington County and is proceeding east to Ayer’s Junction. Subsequent work will head west toward Hancock County, with completion planned for fall of 2009. The Hancock County Planning Commission prepared a summer newsletter for the Downeast Sunrise Trail Coalition which is available at HCPC or online at www.sunrisetrail.org.

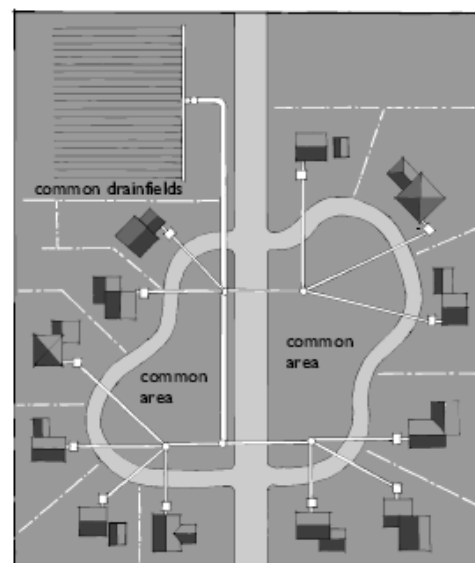


This fall we will be working with the Maine Departments of Conservation and Transportation to create a trail management committee. Our goal is to have each of the towns along the corridor actively engaged in establishing rules, maintenance priorities and other managerial decisions. Please contact Jim Fisher at HCPC if you are interested in being involved.



A Handbook for Local & Inter-Community Transportation Planning in Maine

The Maine Department of Transportation has released a pre-publication copy of a guide to help local governments to coordinate transportation and land use. The body of the guide lays out several key steps to managing the planning process to engage the public, identify resources and needs and establish goals objectives and strategies for the future. A large appendix is devoted to solving common problems such as retrofitting a village area to meet new uses,



managing congestion and anticipating the impacts of dispersed development (sprawl).

HCPC staff participated on an advisory committee for this guidebook and is interested in working with your town to improve coordination between transportation and land use.

A draft copy of the guidebook is available on our website at www.hcpcme.org/transportation/stpa.

DATES TO REMEMBER

HHW/UW Collection for MDI Residents

Saturday, October 11th 9 AM – 1 PM

MDI High School Parking Lot

Participating Towns include: Bar Harbor, Cranberry Isles, Southwest Harbor, Tremont, Trenton, and Mt. Desert. Pre-Registration is required. Permits can be obtained from your local town office.

NOTE: Bar Harbor residents must register at the Highway Division garage at 135 Ledgelawn Avenue, 7:30 AM - 4:00 PM; Monday through Friday.

Striking A Balance Workshop

Thursday, October 30th

VFW Hall on Washington Junction Road

Ellsworth, ME

\$17.00 Registration fee.

5:00 – 6:00 Dinner

6:00 – 8:30 Workshop

Topic: How to Assess the Regional Impacts of Large-Scale Developments.

Pre-Registration is required. Call 667-7131 for more information.

Observe always that everything is the result of change, and get used to thinking that there is nothing Nature loves so well as to change existing forms and make new ones of them.

- **Marcus Aurelius**, emperor of Rome (121-180 AD)

Hancock County Planning Commission is a partner with local and county government to: protect our heritage and resources, plan for the future and promote a sound economy for the people of Hancock County.

Fall 2008 Newsletter

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Change Service Requested