



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING
93 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

June 20, 2019

Kevin Nadeau, Board of Selectmen / Comprehensive Plan Committee
Durham Town Offices
603 Hallowell Road
Durham, ME 04222

Dear Mr. Nadeau;

The Department of Agriculture, Conservation & Forestry thanks the Town of Durham for submitting its 2018 Comprehensive Plan for review for consistency with the Growth Management Act.

Once we accepted your plan for review, we invited your regional planning organization, neighboring municipalities, members of the public, and other state agencies to review it and submit written comments. This invitation resulted in written comments from the Maine Departments of Health & Human Services (DHHS), Agriculture Conservation & Forestry (DACF), Transportation (DOT), and Environmental Protection (DEP). Those written comments, which contain suggestions for improving the plan, are attached to this letter.

We now have completed our review and are pleased to inform you that we find the *2018 Durham Comprehensive Plan* to be **complete**, and **consistent** with the Growth Management Act.

Our decision is in no way conditional, but we urge the Comprehensive Plan Committee to consider revising the plan to reflect suggestions found in the state agency comments. This Finding of Consistency extends to revisions made pursuant to those suggestions, so such revisions will not alter the plan's "consistent" status or require further review by our office.

We appreciate the efforts of the Committee members, the Town Planner, other Town staff, planning consultants, and the citizens who contributed to this plan. Thanks to the skill and hard work of all involved, this plan will provide important guidance to the Town's decision-makers for years to come.

Again, thank you for submitting your plan for our review. Please don't hesitate to contact me at 287-3860 or phil.carey@maine.gov if you have any questions.

Sincere Best Wishes,

Phil Carey
Senior Planner
Municipal Planning Assistance Program

cc (via email): George Theborge, Town Planner

MUNICIPAL PLANNING ASSISTANCE PROGRAM
22 STATE HOUSE STATION
18 ELKINS LANE, HARLOW BUILDING
AUGUSTA, ME 04333



PHONE: (207) 287-3860
WWW.MAINE.GOV/DACF/MUNICIPALPLANNING



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
MAINE FOREST SERVICE
 22 STATE HOUSE STATION
 AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

June 11, 2019

Phil Carey
 Land Use Planning
 22 State House Station
 Augusta, ME 04333-0022

RE: Maine Forest Service, Maine Natural Areas Program review of the Town of Durham Comprehensive Plan

Dear Phil:

The Maine Forest Service (MFS) and Maine Natural Areas Program (MNAP) have reviewed the Town of Durham draft comprehensive plan. We believe that Durham has largely addressed agriculture, conservation, and forestry comprehensive planning objectives; however, we note some missing information and inaccuracies below that Durham’s planners should consider.

Current Maine Tree Growth current use taxation data:

Town_Name	Total Acres	Number of Landowners	Number of Parcels	Date_Recd
DURHAM	3,666.00	54.00	57.00	8/20/2018

While the plan refers to the amount of land in the Maine Tree Growth current use taxation program on page 3.17, it seems there is some inconsistency with the numbers reported to the state. On page 3.17 the plan states there are 48 parcels and 2,412 acres enrolled in the Maine Tree Growth current use taxation program. The plan goes on to say that 3,670 acres are used for timber harvesting. This latter number appears more consistent with the number of acres enrolled reported to the state. Please verify the correct number of acres enrolled.

The plan does not refer to timber harvesting as part of Durham’s shoreland zoning ordinance. Durham has taken no action to repeal timber harvesting regulations at the local level (Option 1) and follow statewide standards for timber harvesting in the shoreland zone. In taking no action, Durham falls under Department of Environmental Protection shoreland regulations, and the local code enforcement officer is responsible for enforcement of those regulations. Under option 1 of statewide standards for timber harvesting in the shoreland zone, the MFS administers and enforces these standards. This rule establishes statewide standards for timber harvesting and related activities in shoreland areas. In general, timber harvesting activities in shoreland areas must protect shoreline integrity and not expose mineral soil that can be washed into water bodies, including nonforested freshwater and coastal wetlands and tidal waters. Timber harvesting and related activities in

PATTY CORMIER, DIRECTOR
 MAINE FOREST SERVICE
 18 ELKINS LANE, HARLOW BUILDING



PHONE: (207) 287-2791

WWW.MAINEFORESTSERVICE.GOV

shoreland areas below the 300 acre drainage point must leave windfirm stands of trees that provide adequate shade. If located in shoreland areas, roads used primarily for timber harvesting and related activities must be constructed and maintained to standards designed to minimize the chance of exposed soil washing into water bodies, including wetlands. Stream crossings must not disrupt the natural flow of water and must not allow sediment into water bodies. Refer to the MFS website for a copy of the rule:

http://www.maine.gov/dacf/mfs/policy_management/water_resources/sws/sws.html

Timber harvest data was referred to accurately.

Summary of Timber Harvest Information for the town of:

Durham

YEAR	Selection harvest, acres	Shelterwood harvest, acres	Clearcut harvest, acres	Total Harvest, acres	Change of land use, acres	Number of active Notifications
1991	39	30	59	128	55	6
1992	105	0	0	105	0	3
1993	80	0	0	80	0	5
1994	145	35	0	180	5	6
1995	182	10	3	195	10	8
1996	150	25	2	177	0	6
1997	403	50	0	453	80	13
1998	480	0	10	490	1	19
1999	148	0	0	148	2	19
2000	401	10	0	411	21	23
2001	547	0	0	547	1	22
2002	436	0	0	436	86	20
2003	309	0	0	309	2	20
2004	546	0	0	546	83	20
2005	327	10	0	337	0	16
2006	207	120	0	327	59	17
2007	325	21	0	346	3	21
2008	245	15	5	265	10	21
2009	193	0	20	213	6	16
2010	263	0	0	263	0	20
2011	465	0	0	465	33.9	28
2012	385	125	0	510	2.75	28
2013	542	10	0	552	10	33
2014	115	60	0	175	15	23
2015	560	100	0	660	10	25
2016	295	0	0	295	10.67	15
2017	117	0	20	137	0	8
Total	8010	621	119	8750	506.32	461
Average	297	23	4	324	19	17

Data compiled from Confidential Year End Landowner Reports to Maine Forest Service.

Department of Agriculture, Conservation and Forestry - Maine Forest Service
We help you make informed decisions about Maine's forests

**** To protect confidential landowner information, data is reported only where three or more landowner reports reported harvesting in the town.***

Maine Natural Areas comments are as follows:

Generally the plan is well-written and easy to read. Please note that any comments regarding animals or animal features is for continuity of thought, but that input on these topics should come from the Maine Department of Inland Fisheries and Wildlife (MDIFW). Specific comments follow. **Suggested additional text in green.**

In several places the Plan discusses using the Beginning with Habitat (BwH) maps for permitting purposes (page 1.25, page 2.9-item 3.2, page 2.10-item 4.3). These maps are to be used for conservation planning efforts versus permitting. From the BwH website:

Beginning with Habitat (BwH), a collaborative program of federal, state and local agencies and non-governmental organizations, is a habitat-based approach to conserving wildlife and plant habitat on a landscape scale. The goal of the program is to maintain sufficient habitat to support all native plant and animal species currently breeding in Maine. BwH compiles habitat information from multiple sources, integrates it into one package, and makes it accessible to towns, land trusts, conservation organizations and others to use proactively. Each Maine town is provided with a collection of maps, accompanying information depicting and describing various habitats of statewide and national significance found in the town, and with tools to implement habitat conservation in local land use planning efforts. BwH is designed to help local decision makers create a vision for their community, to design a landscape, and to develop a plan that provides habitat for all species and balances future development with conservation.

Page 1.23 (and 1.25): The text about the maps refers to Critical Rural Areas. Should this be Critical **Natural** Areas?

Page 1.27: the legend for the map is indicating that all parcel lines are rural areas. That subheader in the legend "Rural Areas" should be removed, and the title for the parcel lines (the clear polygon with gray lines) should be renamed "Tax Parcels" or similar versus "Rural Areas".

Page 2.8: Dry Land Sedge and Narrow-leaf Arrowhead need to be added to the bulleted list

- **Rare plants documented in and near Durham include Dry Land Sedge (edge of a field near the Androscoggin River) and Narrow-leaf Arrowhead (on the Topsham side, below Lisbon Falls in shallow water near a floodplain). Both are listed as Special Concern in Maine.**

Page 2.9-item 3.2: The BwH maps are not intended for use for permitting. The Town should instead require applicants for subdivision or conditional use permits to consult the agencies that maintain the data on these features.

3.2. Require analysis by applicants for subdivision or conditional use permits consult **the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program** ~~using the Beginning with Habitat maps~~ to identify any rare or endangered plant and animal **species, significant or essential**

wildlife habitat, or rare or exemplary natural community types on project sites and the need for mitigation of development on such habitat.

Page 2.9-item 3.3: Include Maine Natural Areas Program in consult.

3.3. When ~~such rare and endangered plant and animal habitats~~ rare animals, significant or essential wildlife habitats, rare plants, or rare or exemplary natural communities are identified on a project site, require consultation with the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program and consider the safeguards and design modifications they recommend.

Page 2.10-item 4.3: The BwH maps are not intended for permitting purposes. This should be struck.

Page 2.10-item 4.4: Strike this too.

Page 3.12, the section about Endangered Species: Delete the sentence about MNAP. MNAP is within Department of Agriculture, Conservation and Forestry (not Conservation), and only maps plants and natural communities and ecosystems. Animals are the purview of MDIFW, and you are referencing a turtle in this section.

~~"...The Maine Natural Areas Program (MNAP), a program of the Maine Department of Conservation, maintains information on the status and location of rare and endangered habitats and species in Maine. The Blanding's Turtle..."~~

Page 3.14, the Plant Habitats section: Michaux's blue-eyed grass was dropped from listing in 2008. Dry Land Sedge is NOT threatened, but rather Special Concern. The location for Narrow-leaf Arrowhead noted in the plan is incorrect. Suggested re-write:

Two rare ~~and exemplary~~ plant features species have been identified in Durham by the Maine Natural Areas Program. Dry land sedge, ~~considered threatened in Maine,~~ (Special Concern) has been seen near the edge of a forested buffer along the river near the Auburn line. ~~Michaux's blue-eyed grass has been spotted in the vicinity of Libby Hill between tributaries of Runaround Pond. Narrow leaved~~ Narrow-leaf arrowhead, a rare aquatic perennial, has been found in the shallows of the Androscoggin River south of Lisbon Falls on the Topsham side of the river in the northeastern corner of the Town. Other rare features may exist in Durham but have not been identified. . The MNAP only surveys with landowner permission, and this lack of additional botanical data for the Town may indicate minimal survey efforts rather than confirm the absence of rare plants and rare or exemplary natural communities here.

Page 3.14, the Undeveloped Habitat Blocks section. MNAP is not the data source for these habitat blocks. Please remove that reference at the beginning of the second paragraph in this section. FMI these data, https://www.beginningwithhabitat.org/the_maps/map3-undev_habitat.html and https://www.beginningwithhabitat.org/the_maps/data_sources.html.

~~"The Maine Natural Areas Program (MNAP) has identified many large unfragmented habitat blocks in Durham, the largest of which~~ The largest unfragmented habitat block in Durham is 2053 acres surrounding Runaround Pond. There are six other unfragmented habitat blocks in Town larger than 1000 acres each, and thirteen blocks ranging from 100 to 1000 acres."

Reviewing agency and review coordinator contact information:

Department of Agriculture, Conservation and Forestry - Maine Forest Service

Jan Santerre

22 State House Station

Augusta, ME 04333-0022

207-287-4987

jan.santerre@maine.gov

Department of Agriculture, Conservation and Forestry – Maine Natural Areas Program

Lisa St. Hilaire

22 State House Station

Augusta, ME 04333-0022

207-287-8044

lisa.st.hilaire@maine.gov

If you have any questions regarding these comments, please contact one of the review coordinators directly.
Thank you for your consideration of our comments.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET MILLS
GOVERNOR

JERRY REID
COMMISSIONER

To: Phil Carey, Municipal Planning Assistance Program, Department of Agriculture, Conservation and Forestry

From: Amanda Pratt, Watershed Management Unit, Division of Environmental Assessment, Department of Environmental Protection

Re: Durham Comprehensive Plan Review

Date: May 8, 2019

I have reviewed Durham's Comprehensive Plan as it relates to surface waters. The plan does a good job of mapping water resources and recommends several solid strategies for protecting these resources. There are a few areas, such as road infrastructure and the promotion of rural agriculture, that would benefit from more detail in regard to non-point source pollution and water resource protection.

Appropriate use of data provided by the DEP Division of Environmental Assessment

- The plan could include more water quality information about Runaround Pond and several streams within the town. For example, Chandler Brook is on DEP's 303(d) list of impaired streams and is part of DEP's Statewide TMDL for NPS Pollution (2016) as it suffers from low dissolved oxygen. The headwaters of this brook are located in Durham.
- The plan states that the Androscoggin River "receives a C for its water quality and is thus not suitable for drinking water" (sec. 3, pg. 3.8). A more accurate statement would be that the lower Androscoggin River is designated as a Class C waterbody under the Maine Water Classification Law. According to M.R.S.A. Title 38, §465, "Class C waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment," therefore, the statement that the river is not suitable for drinking water is false.
- Greater detail on non-point pollution sources would be beneficial. The report notes that NPS and erosion have not increased significantly in the town, but does not go into detail about past or present areas or sources such as roads and agricultural operations.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

How the plan's policies and implementation strategies promote the State goals relating to DEP's principal objectives and directives

The plan highlights a desire to promote the rural character of Durham and to encourage greater agricultural activity within the town, but does not list specific ways in which water resources will be protected as agricultural activity increases. Highlighting best management practices for water quality and providing this material to farmers and loggers is recommended as a way to protect water resources. Further, local ordinances related to agricultural and silvicultural BMPs could help to ensure that these practices are used.

The plan's Agriculture & Forestry Strategy of "consider[ing] allowing on-farm processing, agri-tourism, and retail sales of products 'by right' without requiring a permit or site plan review as long as best practices for soil and watershed protection are adhered to" (sec. 2, pg. 2.12) is a concern. The town should spell out these best practices and have some way of confirming that they are being used (such as requiring them through an ordinance as recommended above).

Specific strategies to consider for the protection of water quality in agricultural areas are: creating setbacks to streams that are not currently in shoreland zoning, ensuring that manure piles are covered and/or located far from water resources, conservation tillage, cover crop usage, and grazing land management.

Considering that most of the town's roads are paved, erosion from road surfaces is not likely an important issue in Durham. However, road shoulder and ditch erosion may be occurring in the town and it could be a source of NPS pollution in the watershed. Eroding or unstable ditches carry polluted water directly into streams and lakes. Undersized, old, or otherwise failing culverts may also be a significant problem in regard to habitat and water quality. The comprehensive plan should discuss the adoption of water quality protection practices and standards for construction and maintenance of public roads and properties and require their implementation by the community's officials, employees, and contractors.

Consistency of plan with DEP's programs and policies; Measures DEP recommends the town take to ensure its plan addresses and identifies deficiencies and inconsistencies

The Town's Comprehensive Plan is consistent with the DEP Division of Environmental Assessment programs.

Please feel free to contact me directly at (207) 699-9279 or amanda.pratt@maine.gov if you have additional questions or would like more information.

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
286 Water Street
Augusta, Maine 04333-0011
Tel: (207) 287-8016; Fax (207) 287-9058
TTY: Dial 711 (Maine Relay)

May 13, 2019

Phil Carey, Senior Planner
Municipal Planning Assistance Program
Dept. of Agriculture, Conservation, & Forestry
22 State House Station
Augusta, ME 04333

Re: Comprehensive Plan Review
Town of Durham

Dear Mr. Carey,

Please see the listed suggestions concerning the 2019 Comprehensive Plan for the Town of Durham.

- The Maine CDC Drinking Water Program's database lists the American Veterans Post 13 (ME0011244) as an inactive public water system. The Town should consider only listing active public water systems or identify the American Veterans Post as an inactive system. (Section 3, page 3.58);
- The Town should consider updating the Water Resources and Riparian Habitats map in the Appendix to include only active public water system supply wells;
- The Town should consider implementing a Wellhead Protection Ordinance(s) to protect any current or future public drinking water resources; and
- Future development, such as cluster developments, restaurants, and schools, may result in the creation of additional public water supplies. This potential need for additional non-municipal water supply should be addressed in the plan.

Thank you for your review of the above and please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads 'Sophia Scott'.

Sophia Scott
Source Water Protection Coordinator
Maine CDC Drinking Water Program



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

Janet T. Mills
GOVERNOR

Bruce A. Van Note
COMMISSIONER

June 6, 2019

Phil Carey, Senior Planner
Department of Agriculture, Conservation and Forestry
Office of Land Use Planning
22 State House Station
Augusta, ME 04333

Dear Mr. Carey:

I have completed my review of the Transportation section of the of the **Durham Comprehensive Plan Update**. The plan provides a thorough inventory and analysis of the transportation network in Durham and provides a comprehensive review of goals, policies, and strategies to plan for, finance, maintain, and develop an efficient transportation system to accommodate growth and economic development in the town and region. The transportation section of this comprehensive plan meets the policy objectives of the Sensible Transportation Policy Act and Access Management Regulations.

MaineDOT supports the town in developing a long-term capital improvement plan, a road maintenance plan, and for investigating options for encouraging carpooling for commuters and volunteer driver networks to provide needed transportation for underserved populations. The department also commends the town for identifying the following coordination activities with MaineDOT:

- Coordinating the Town's road maintenance and reconstruction programs with the State's road improvement projects where possible;
- Using training provided by MaineDOT Local Roads Center for Public Works staff;
- Notifying MaineDOT of high risk or troublesome areas;
- Submitting projects to address high risk or troublesome areas for inclusion in MaineDOT's Capital Work Plan (these project candidates should be provided to MaineDOT's Region 1 Planner);
- Reporting needed road maintenance to MaineDOT; and
- Working with MaineDOT to consider bike lanes and bicycle safety signage on Route 9 and 136.

We would request that the town coordinate with MaineDOT when developing a strategy to develop a sign upgrade plan based on road use, accident rates, and state recommendations.

We also request that strategy 4.1. be corrected. The strategy is to "review whether Durham's transportation needs can be best met by participation in PACTS, LACTS, and/or BACTS." Durham does not fall within any of these MPO boundaries and thus at this time the town cannot participate in an MPO. The town may reevaluate this strategy should the 2020 U.S. Census change the MPO boundaries and include Durham.

Thank you for providing MaineDOT the opportunity to review and comment on the Durham Comprehensive Plan Update. Please be in touch with any questions.

Sincerely,

Jennifer Brickett
Regional Planner
Bureau of Planning
16 State House Station
Augusta, ME 04333-0016
(207) 624-3285