

APPLICATION FOR VARIANCE
OR
APPEAL TO BOARD OF APPEALS



Name of Appellant Michael Jewell
Mailing Address 1565 Royalsborough Rd
City or Town Durham State ME Zip 04222
Telephone 207-671-9138 Email Maine.Jewells@gmail.com

Name of Property Owner if Different from Appellant _____

The undersigned requests that the Board of Appeals consider one of the following:

1. Administrative Appeal: Relief from the decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit or violation. The undersigned believes that (check one):
- An error was made in the denial of the permit
 - The denial of the permit was based on a misinterpretation of the Ordinance
 - There has been a failure to approve or deny the permit within a reasonable period of time
 - other _____

Please explain in more detail the facts surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

2. A Variance:
- A. Nature of Variance: Describe the nature of the Variance Ordinance interpretation
We wish to open summer camp and educational programs.
Current zoning map puts property in flood plain,
which we have evidence is untrue according to FEMA Floodmap

In addition, a sketch plan of the property must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographical peculiarities of the lot in question

Signature Michael Jewell Date 5/14/2021

For Office Use Only:

Date Received 5/14/21 Date Paid: _____ Amount Paid: _____

5. Boundaries indicated as being parallel to or extensions of features indicated in Paragraphs (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Any conflict between the Official Zoning Map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in circumstances where the items covered by Paragraphs (1) through (5) above are not clear, the Board of Appeals shall interpret the district boundaries.

B. Division of Lots by District Boundaries - Where a zoning district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot by not more than twenty (20) feet, provided that the more restricted portion is not a Resource Protection District, and provided further, that minimum side setback and yard and rear setbacks and yard requirements for a non-residential use abutting a residential use shall be observed.

C. District Boundaries are defined as follows:

1. **Rural Residential & Agricultural District** is defined as that area not in the Resource Protection District as shown on the Official Zoning Map.
2. **Resource Protection District** boundaries shall be those defined on the Official Zoning Map of the Town for Resource Protection.
3. **Southwest Bend Historical Overlay District** is defined as beginning at the southeast corner of lot 21 as shown on Town of Durham Tax Map 6 and on the westerly right-of-way line of said Route 9. Said point of beginning also being the northeasterly corner of lot 20 on said Map. Thence northerly and northeasterly along said right-of-way line to the most easterly corner of lot 47 on said Map. Thence northwesterly along the northeasterly property line of said lot 47 to the southeasterly line of lot 42 on said Map. Thence northwesterly across said lot 42 on an extension of said northeasterly property line of said lot 47 to the Androscoggin River. Thence southwesterly and westerly along said river and along lots 42, 41, 40, 34, and 31 all of the above referenced Tax Map to a line represented by the northeasterly extension of the northwesterly property line of lot 27 on said map. Thence southwesterly across said lot 31 and state Route 136 on said extension of the northwesterly property line of lot 27 to the most northerly corner of said lot 27. Thence southwesterly along the northwesterly property line of lot 27 to the most westerly corner of said lot 27. Thence southeasterly along the southwesterly property line of lot 27 to the northwesterly property line of lot 26 on said Map. Thence southeasterly across said lot 26 on an extension of the southwesterly property line of lot 27 to the northwesterly property line of lot 25 on said Map. Thence easterly across said lot 25 to the most westerly corner of lot 24 on said Map. Thence southeasterly along the southwesterly property line of lot 24 to the northwesterly property line of said lot 21. Thence southeasterly across said lot 21 on an extension of the southwesterly property line of lot 24 to the southeasterly

Durham Codes

From: George Theborge
Sent: Tuesday, May 11, 2021 11:36 AM
To: Durham Codes
Cc: Kathy Tombarelli
Subject: Appeal of Resource Protection Boundary
Attachments: 2002 Comp Plan Flood Plain Map.pdf; 2018 Comp Plan Flood Plains.png

Bob,

We spoke by phone this morning about a property on Royalsborough Road where the owner would like to apply for conditional use approval of a day care center. The property shows on the current Zoning Map as Resource Protection where the use is not allowed.

I am attaching two maps that may serve as a basis for challenging the accuracy of the Map under Section 2.3.A.6. The current Zoning Map is based on an inventory of flood plains included in the 2002 Comprehensive Plan. That map shows an extensive area of 100-year flood plain in that vicinity, which was the most likely basis for including it in the Resource Protection District.

I am attaching the FEMA flood plain mapping from the 2018 Comprehensive Plan that shows significantly less extensive flood plain in that location. If the new map and the FEMA flood maps show that the subject property where the day care center is proposed is not in the 100-year flood plain, then the Zoning Map is inaccurate, and the Board of Appeals has authority to interpret and apply the correct zoning boundary location.

If there is question as to the boundary of the 100-year flood plain and its applicability to the subject property under both maps, another option would be to have a surveyor or engineer provide a flood elevation certificate showing that the building is not in the 100-year floodplain.

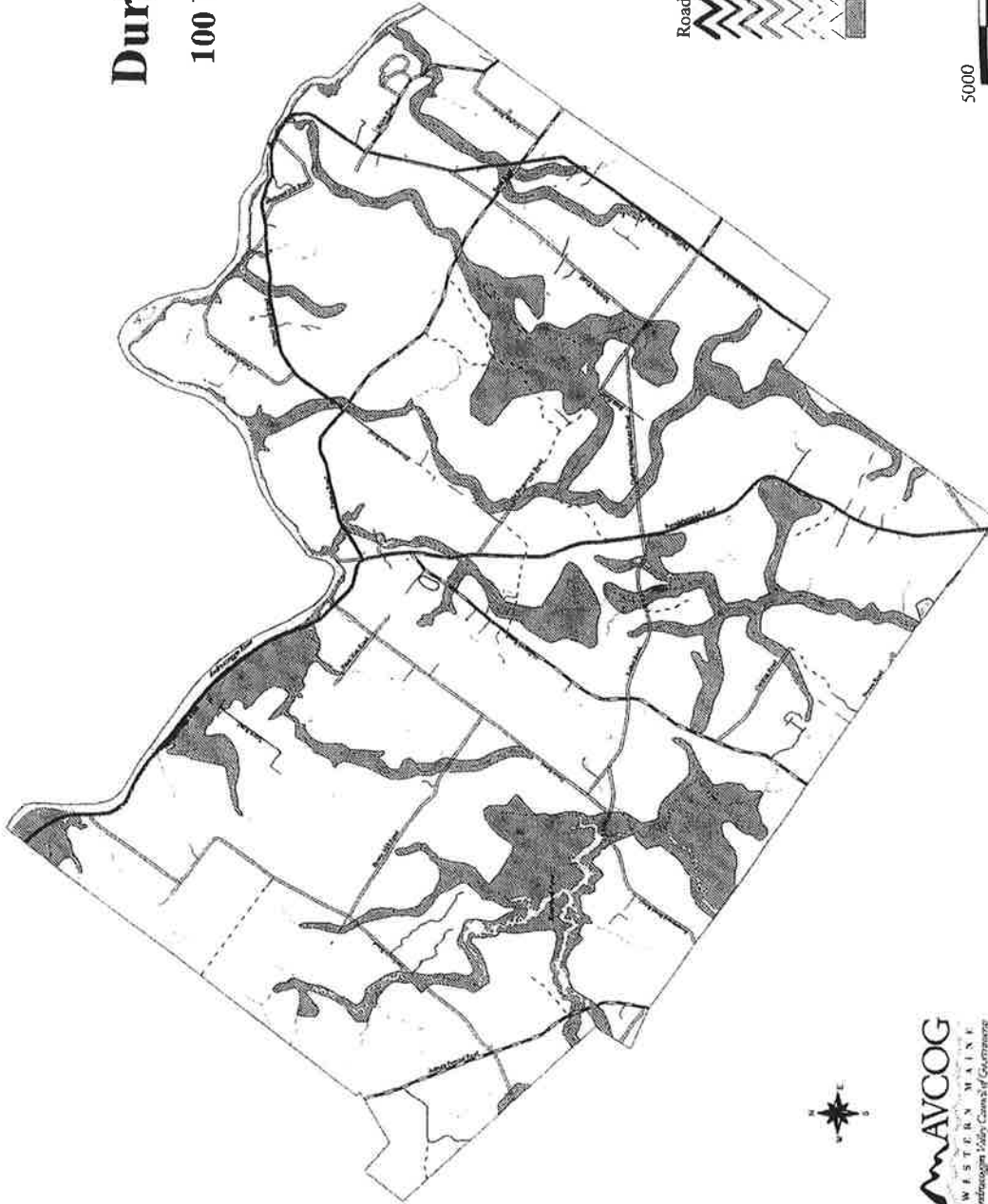
I am available if you or the property owners have questions.

George

George Theborge AICP
Durham Town Planner
630 Hallowell Rd
Durham, ME 04222
townplanner@durhammaine.gov
207-353-2561

Durham, Maine

100 Year Floodplain



- Roads
- Dual Highway
 - Primary Highway
 - Secondary Highway
 - Light Duty Road
 - Unimproved Road
 - Trail
 - Unknown
 - Floodplains

5000 0 5000 Feet

MAVCOG
WESTERN MAINE
Androscoggin Valley Council of Governments



Closest distance to Flood
plain from house is 80'
RE 5/14/21

FALSE

Untitled Map

Write a description for your map.

Legend



1565 Royalsborough Rd

PFO1E

PFO1E

1565 Royalsborough

136



1000 ft

FEMA Flood Map Service Center: Search By Address

Navigation

Search

Languages

Enter an address, place, or coordinates: 

1565 Royalsborough road, Durham maine

Whether you are in a high risk zone or not, you may need [flood insurance \(https://www.fema.gov/national-flood-insurance-program\)](https://www.fema.gov/national-flood-insurance-program) because most homeowners insurance doesn't cover flood damage. If you live in an area with low or moderate flood risk, you are 5 times more likely to experience flood than a fire in your home over the next 30 years. For many, a National Flood Insurance Program's flood insurance policy could cost less than \$400 per year. Call your insurance agent today and protect what you've built.

Learn more about [steps you can take \(https://www.fema.gov/what-mitigation\)](https://www.fema.gov/what-mitigation) to reduce flood risk damage.

MSC Home (/portal/)

MSC Search by Address (/portal/search)

MSC Search All Products (/portal/advanceSearch)

MSC Products and Tools (/portal/resources/productsandtools)

Hazus (/portal/resources/hazus)

LOMC Batch Files (/portal/resources/lomc)

Product Availability (/portal/productAvailability)

MSC Frequently Asked Questions (FAQs) (/portal/resources/faq)

MSC Email Subscriptions (/portal/subscriptionHome)

Contact MSC Help (/portal/resources/contact)

Search Results—Products for DURHAM, TOWN OF

Show ALL Products » (<https://msc.fema.gov/portal/availabilitySearch?addcommunity=230002&communityName=DURI>)

The flood map for the selected area is number **23001C0461E**, effective on **07/08/2013** 

DYNAMIC MAP



MAP IMAGE



([https://msc.fema.gov/portal/downloadProduct?](https://msc.fema.gov/portal/downloadProduct?productTypeID=FINAL_PRODUCT&productSubTypeID=FIRM_PANEL&productID=23001C0461E)

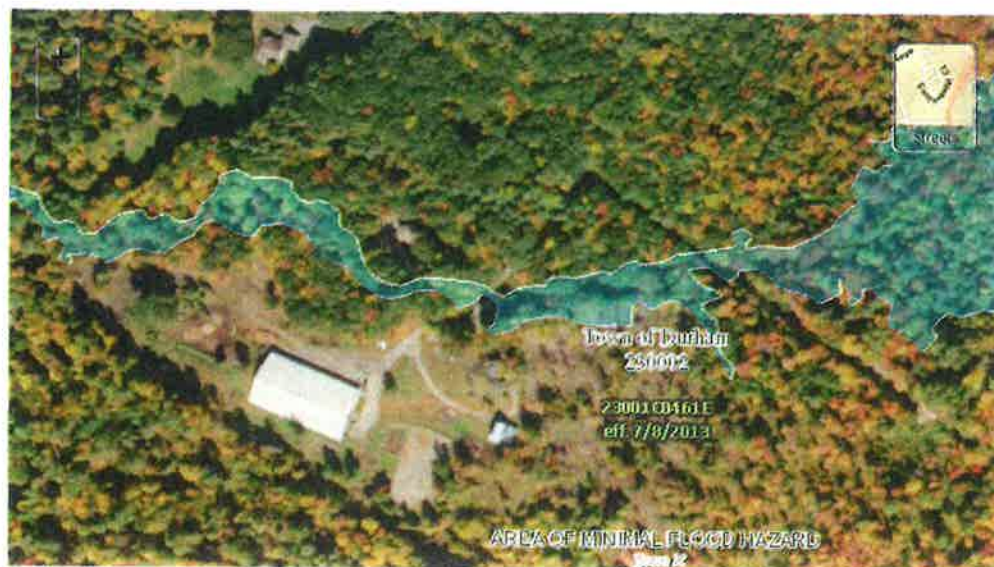
[productTypeID=FINAL_PRODUCT&productSubTypeID=FIRM_PANEL&productID=23001C0461E](https://msc.fema.gov/portal/downloadProduct?productTypeID=FINAL_PRODUCT&productSubTypeID=FIRM_PANEL&productID=23001C0461E))

Changes to this FIRM

- Revisions (0)
- Amendments (0)
- Revalidations (1)

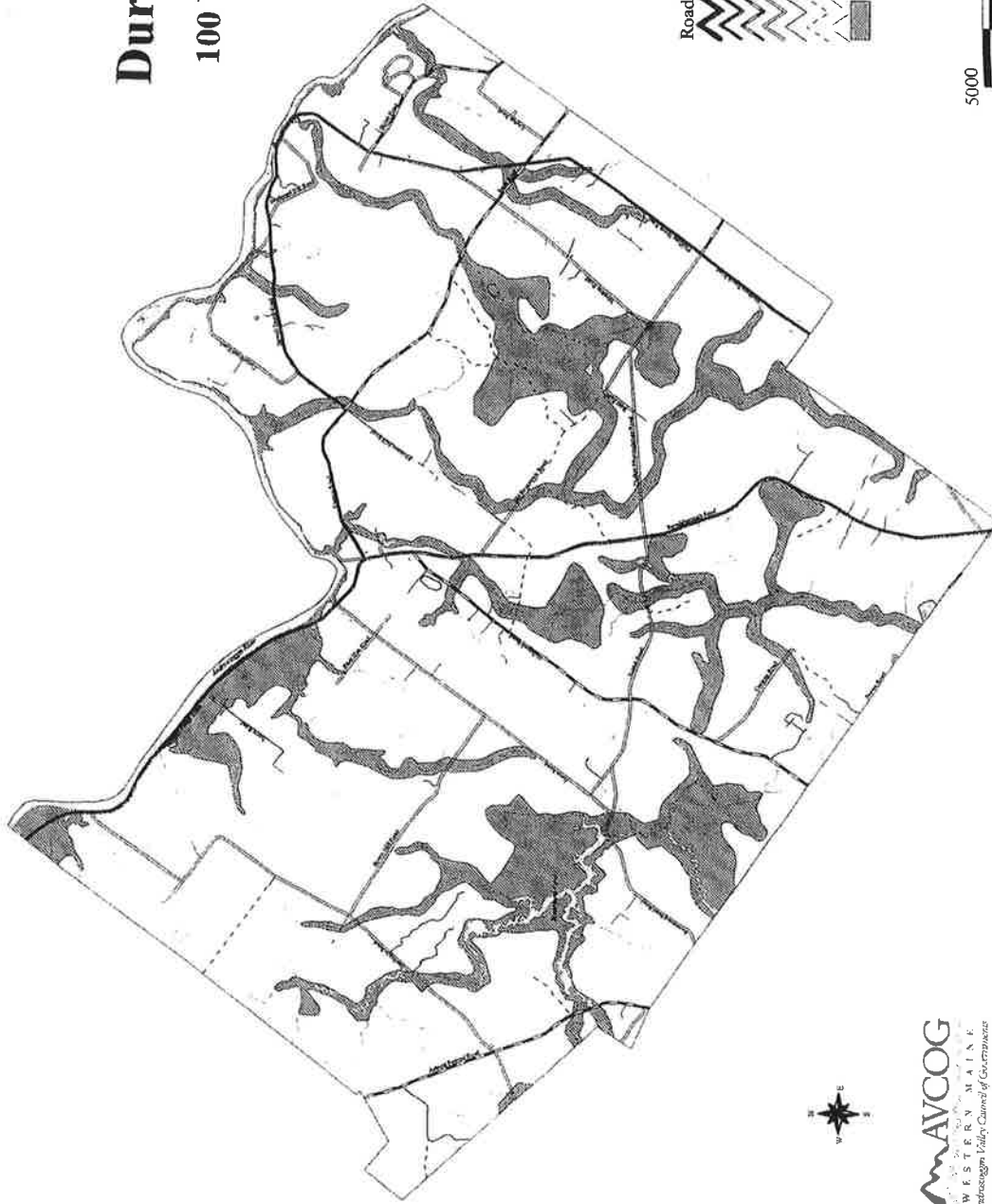
You can choose a new flood map or move the location pin by selecting a different location on the locator map below or by entering a new location in the search field above. It may take a minute or more during peak hours to generate a dynamic FIRMette. If you are a person with a disability, are blind, or have low vision, and need assistance, please contact a map specialist (<https://msc.fema.gov/portal/resources/contact>).

Go To NFHL Viewer » (<https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d>)



Durham, Maine

100 Year Floodplain



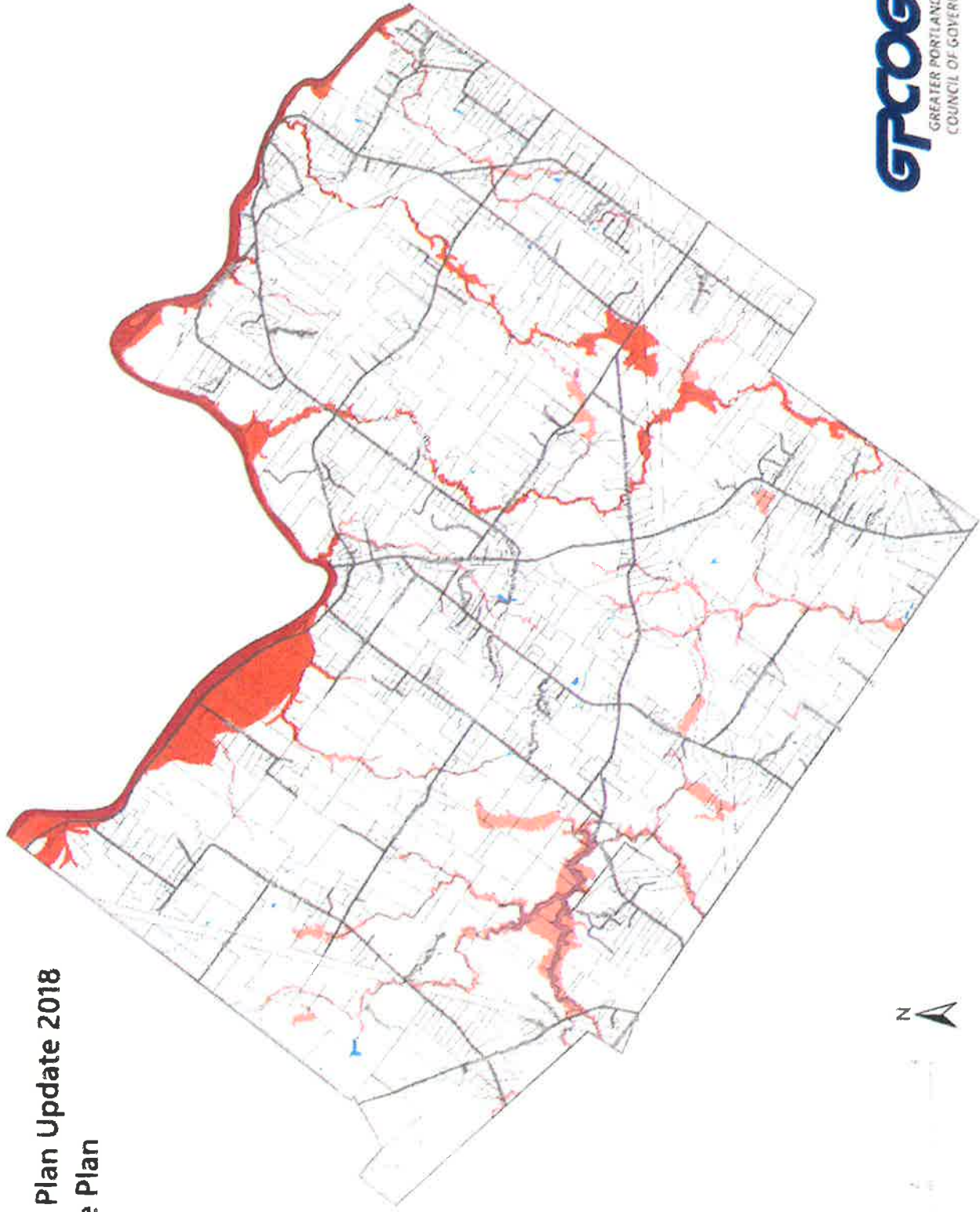
- Roads
- Dual Highway
 - Primary Highway
 - Secondary Highway
 - Light Duty Road
 - Unimproved Road
 - Trail
 - Unknown
- Floodplains



AVCOG
WESTERN MAINE
Androscoggin Valley Council of Governments

5000 0 5000 Feet

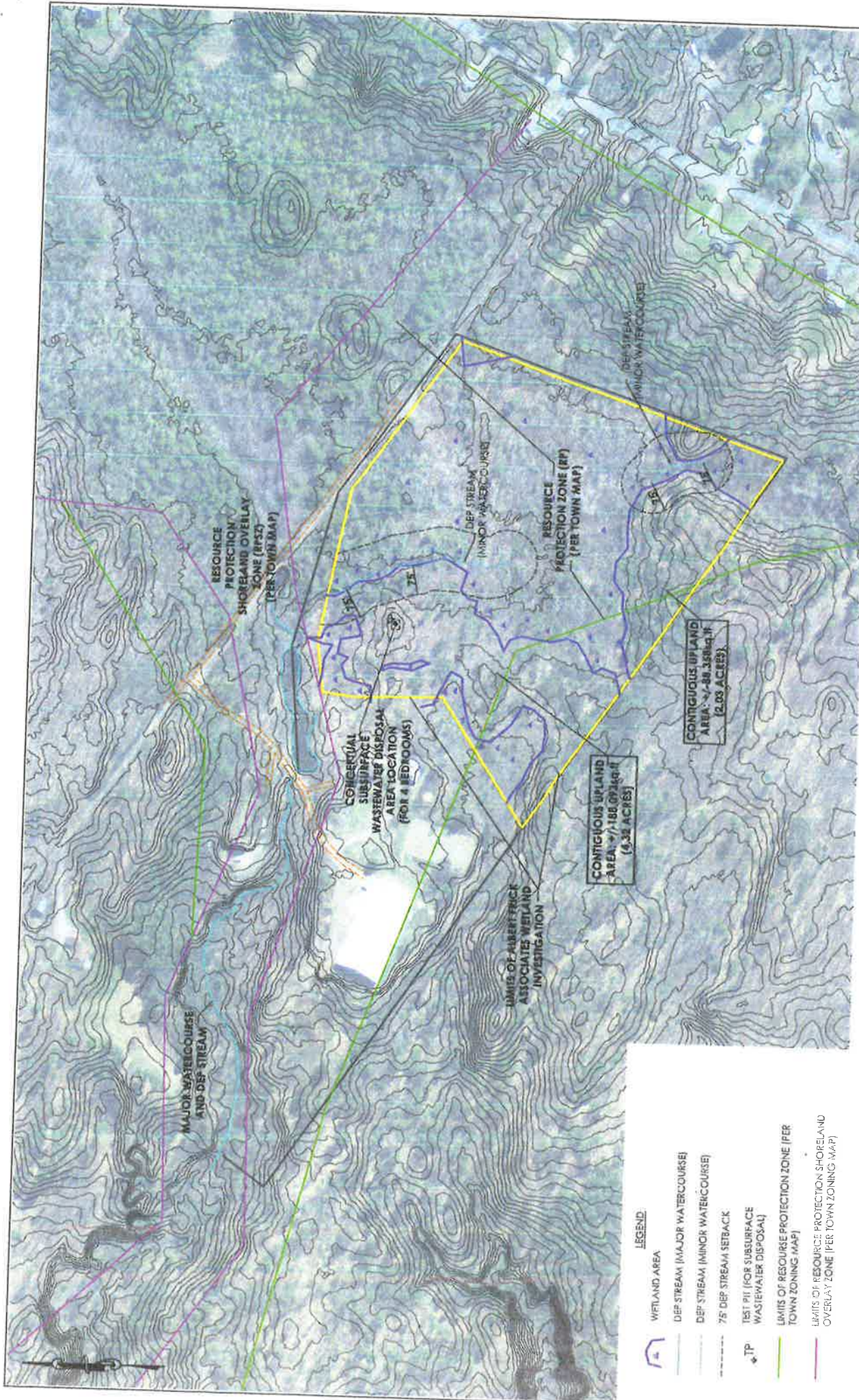
Durham, Maine
Comprehensive Plan Update 2018
Future Land Use Plan



Critical Rural Areas
100-Year Floodplains

- Zone A
- Zone AE





DATE:		SITE PLAN PREPARED FOR MIKE JEWELL ROYALSBOROUGH ROAD DURHAM, MAINE	Albert Frick Associates, Inc. Environmental Consultants Gorham, Maine	Drawn By: B.J.J.	Checked By: C.C.
REVISIONS:				Date: 11/18/2020	Scale: 1" = 100'

MAP COMPILED FROM:
 *TOWN OF DURHAM TAX MAP
 *AERIAL PHOTOGRAPH FROM THE MAINE OFFICE OF GIS
 *2" TOPOGRAPHIC CONTOURS FROM THE MAINE OFFICE OF GIS
 *USGS TOPOGRAPHIC MAP
 *ON-SITE LOCATIONS UTILIZING TRIMBLE GEO7X HANDHELD UNIT

- LEGEND**
- WETLAND AREA
 - DEP STREAM (MAJOR WATERCOURSE)
 - DEP STREAM (MINOR WATERCOURSE)
 - 75' DEP STREAM SETBACK
 - TEST PIT (FOR SUBSURFACE WASTEWATER DISPOSAL)
 - LIMITS OF RESOURCE PROTECTION ZONE (PER TOWN ZONING MAP)
 - LIMITS OF RESOURCE PROTECTION SHORELAND OVERLAY ZONE (PER TOWN ZONING MAP)

