

**DURHAM PLANNING BOARD
REGULAR MEETING AGENDA
Durham Town Offices, 6:30 p.m.
November 2, 2022**

NOTE: No public comment will be taken on individual applications at the meeting unless the Board schedules a formal public hearing with required notice posted. Comments on applications can be submitted in writing to the Town Planner and will be forwarded to the Planning Board and the applicants.

1. Roll Call & Determination of a Quorum
2. Amendments to the Agenda
3. Acceptance of the Minutes of Prior Meetings (October 5 & 12, 2022)
4. Informational Exchange on Non-Agenda Items:
 - a) Town Officials
 - b) Residents (Public comment will be taken)
 - c) Non-Residents (Public comment will be taken)
5. Continuing Business
 - a) Substantive Review of Conditional Use Application of Celebration Tree Farm for Camping, Public Workshops, & Events at 125 Bowie Hill Rd Map 10, Lot 43. (Public comment will not be taken)
6. New Business:
 - a) Completeness Review of Final Plan Application for the Deer Creek Crossing Subdivision Map 7, Lot 32A (Public comment will not be taken)
 - b) Substantive Review of Final Plan Application for the Deer Creek Crossing Subdivision Map 7, Lot 32A (Public comment will not be taken)
7. Other Business:
 - a) Review of draft citizen survey on possible Durham responses to Maine's new affordable housing law requiring zoning changes to increase housing density (Public comment will not be taken)

3. Acceptance of the Minutes of Prior Meetings (October 5 & 12, 2022)



Town Of Durham

Planning Board Minutes

Town Offices, 6:30 pm

October 5, 2022

1. Roll Call & Determination of a Quorum

In attendance: John Talbot (Chair), Juliet Caplinger (Vice Chair), Allan Purinton, and George Thebarga (Town Planner).

Absent: Ron Williams, Tyler Hutchinson and Anne Torregrossa

2. Amendments to the Agenda: None

3. Acceptance of the Minutes of prior meeting (September 7, 2022)

Allan Purinton moved to accept the minutes from September 7, 2022 meeting as presented. John Talbot seconded; the Board approved 3-0.

4. Informational Exchange on Non-Agenda Items:

a.) Town Officials

The Planning Board will meet next Wednesday, October 12th at the Fire Station for an Informational Workshop on the new Affordable Housing Law at 6 pm. The workshop is set up to help the public understand the new law and to give the Planning Board input on the direction the town will take moving forward.

b.) Residents – None

c.) Non-residents – None

5. Continuing Business

a.) Public Hearing on Conditional Use Application of Celebration Tree Farm for Camping, Public Workshops, & Events at 125 Bowie Hill Road, Map 10, Lot 43.

The Board conducted a Site Walk at Celebration Tree Farm with the members of the farm. Planning Board members in attendance: John Talbot, Juliet Caplinger, and Allan Purinton. Town Officials in attendance: George Thebarga & Fire Chief Tripp

Town Planner Comments:

Mr. Thebarga opened with a discussion about the confusion on how to determine what uses are being proposed in the application. The Town Planner and Code

Enforcement Officer looked at the Ordinance and discussed the uses. The Durham Land Use Ordinance defines agriculture, and it defines other uses as well, which this application may fall under, but the composite doesn't fit into anything completely.

Composite Use is agritourism, which is not a listed use in the Ordinance, therefore it best falls under the general category that's Item Number 31 in the Land Use Table ["other commercial, not specifically listed."]

The Town Planner suggested moving the limited parts of this agritourism business use out of the Resource Protection to the rural residential and agricultural. This would eliminate the whole discussion and a need for a decision on the zoning issue. Since Agritourism is a commercial use not specifically listed, it is permitted if it can meet the conditional use criteria for traffic impacts and all the conditional use criteria. The Planning Board could approve it, with or without conditions; or if the Board determines that even with conditions it cannot meet any of the criteria, then you would deny the application.

- The applicants have developed a supplemental packet of information addressing some of the concerns raised by the Road Commissioner on site distances on the road and parking along with fire safety concerns addressed by Fire Chief Tripp on the determination of maximum loading of the building.
- At the Site Walk, the applicants presented a revised site plan that moved the "Celebration Bus" and associated parts out of the Resource Protection Zone.
- The packet contained a list of events that the applicants would like to hold at 125 Bowie Hill Road.

Jonah Fertig (Applicant ~ Celebration Tree Farm

- Agreed to limit events to 2 per month, with amplified music (total of 12 days of the year), April through October.
- Reduce the number of people in attendance from 100 to 50 people or less, except for the Celebration Market (Annual Craft Market) held during the Christmas Tree season.
- The applicants have decided not to host weddings and focus on smaller events, such as a monthly variety shows (sharing talent and creativity), renting out the Barn and Yurt for recorded or acoustic music, workshops and retreats during the daytime hours, no more than 50 people, and all events will end at 9 pm.

John Talbot opened public comment at 6:56 pm.

In Person Comments:

Greg Grisby (Bridgeton, Maine)

“Jonah is a man of character, honest and he cares for his community.”

Written/Email Comments

Jane Rice (Bowie Hill Road)

Ms. Rice is concerned about the traffic on the road, space for parking, noise and the concern of the farm adding more members.

Applicant’s response to Ms. Rice:

In 2021, the Farm launched a Membership of 90 community supported forest members. Some of these members volunteer at the farm and year-round access to the trails are included in the membership (currently only 5 members are accessing the trails). Members also receive a weekly share of vegetables and a Christmas wreath and tabletop Christmas tree as part of their membership. Members can also hold events at the farm.

The Farm currently has 4 owners (cooperative ownership). The community members could apply for ownership, with an additional \$1,000 investment, and they would have to be approved by the existing working owners. They would have a minority position on the Board. The majority would still be in control of the workers. Management controls the operations of the farm.

“Land in Common Land Trust” own the 110 Acres. They have a membership separate from our forest membership. They do not have general access rights to the land. They provide financial support only.

Space for parking ~ 20 or so lots, 125 feet/6-foot space

Noise ~ The applicant is committing to ending events at 9 pm.

Mr. Talbot closed the public hearing at 7:06 pm and opened discussion to the Planning Board.

b.) Substantive Review of Conditional Use Application of Celebration Tree Farm for Camping, Public Workshops, & Events at 125 Bowie Hill Rd, Map 10, Lot 43. (Public Comment will not be taken.)

The Board discussed Item 31 of the Ordinance “commercial uses” and some concerns they have after conducting the Site Walk.

- Smoke Detectors in the Barn
- Site Distance on the road for traffic safety
- Sanitation of the composting toilet

The Board suggested creating a formal site plan, delineating the parking spaces, showing that the applicant has enough space available. They asked whether site plan approval is required.

The Town Planner stated that the current use is permitted under agricultural use for the Celebration Tree Farm. Section 8.1 under the Land Use Ordinance states “construction or expansion of non-residential parking areas and access drives, involving an area of more than 2500 square feet, within a 3-year period, excluding gravel areas used for agricultural uses.” The applicant is not proposing construction of a parking area and agricultural parking is specifically exempted. The Board can, however, apply any pertinent standards of Article 8 (site plan review) that it deems necessary to address the conditional use criteria without requiring a formal, complete site plan review process.

The Board recommended that the applicant draft up a parking plan that meets the design criteria in section 8.6.

The Town Planner will draft proposed Conditions of Approval for the next Planning Board Meeting that were discussed during the Site Walk.

- Public Health Impact
- Traffic Safety
- Public Safety
- Environmental Impacts
- Scale and Intensity of Use
- Noise and Hours of Operation
- Right Title and Interest

6. New Business:

a.) Request for amended approval of the Bowie Hill Subdivision Plan to Remove Note #11 Prohibiting Removal of Existing Structures, Map 10, Lot 38

Jonathan Lobo, the developer of the subdivision stated he met with members of the Historic District Commission and Historical Society to discuss ways to memorialize the Parker Hill Schoolhouse and the Historical District Commission has asked for any artifacts that are salvageable or of value to be given to them before the demolition process. They agreed that the school is beyond salvage, can't be moved, and needs to be demolished.

John Talbot entertained a motion to amend the Bowie Hill Subdivision Plan to remove Note #11. Juliet Caplinger moved, Allan Purinton seconded, and the motion carried 3-0.

7. Adjournment

Juliet Caplinger moved to adjourn, Allan Purinton seconded, and the motion carried 3-0. The meeting ended at 7:58 pm.

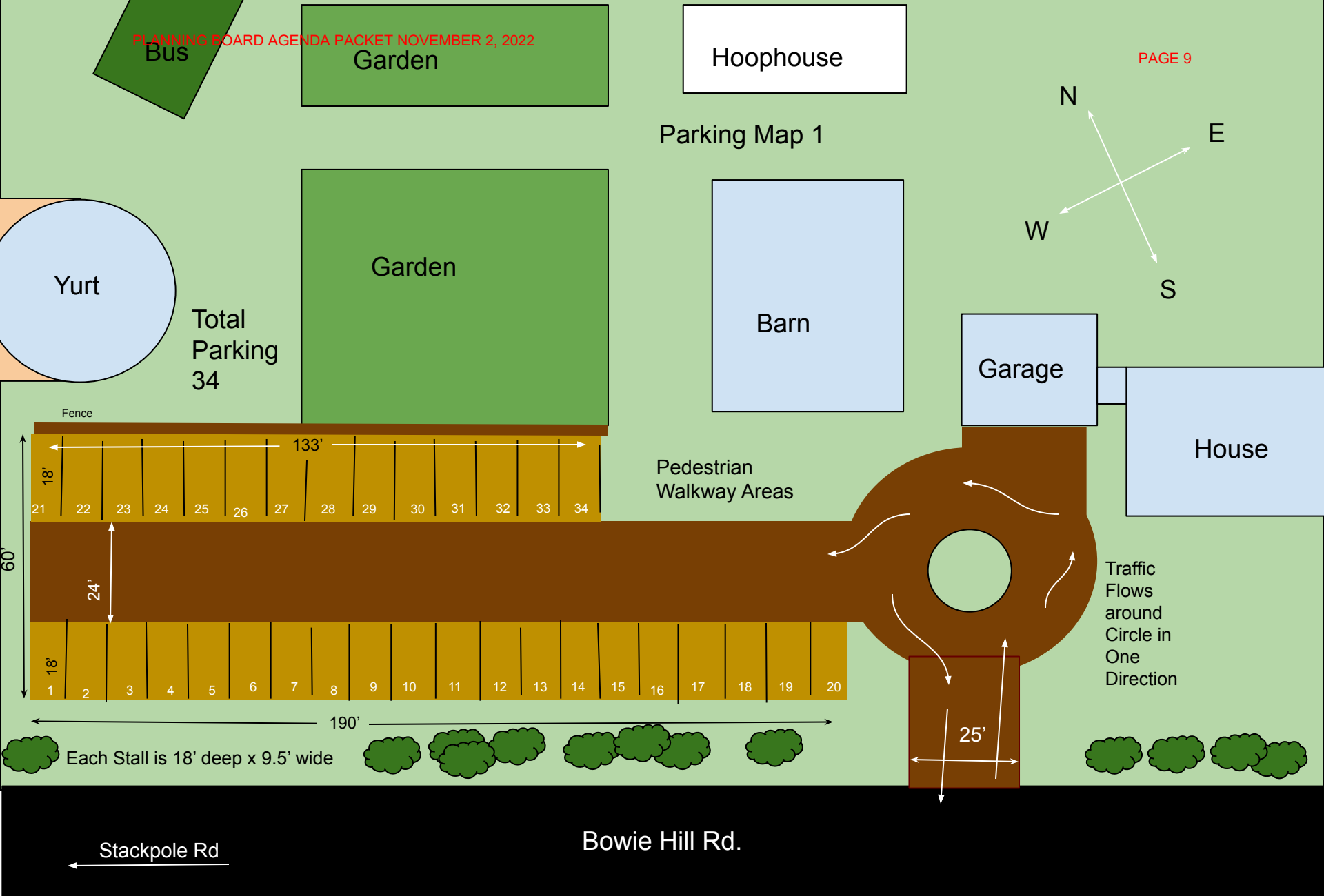
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5. Continuing Business:

a. Substantive Review of Conditional Use Application of Celebration Tree Farm for Camping, Public Workshops, & Events at 125 Bowie Hill Rd Map 10, Lot 43.

TOWN PLANNER COMMENTS:

- The Planning Board conducted a substantive review of the application on August 3, 2022.
- The application was tabled on September 7 at the applicant's request.
- The Planning Board conducted a site walk at 5 pm on October 5th.
- The Planning Board continued substantive review of the application at the October 5 meeting.
- The Board tabled the application to allow the applicant to prepare formal parking and lighting plans meeting the requirements of Article 8.
- The Board also directed the applicant to seek permits or input from the Road Commissioner to verify sight distances from the driveway entrances onto Bowie Hill Road.
- The applicant submitted a computer-generated diagram of the proposed parking showing thirty parking spaces with dimensions of 9.5 feet by 18 feet with an aisle width of 24 feet and an overall parking area width of 60 feet to the left of the main entrance.
- The applicant submitted a computer-generated diagram of a second, overflow parking area showing eighteen parking spaces with dimensions of 9 feet by 18 feet with aisle widths of 24 feet and 46 feet on either side of the tree farm entrance.
- The applicant submitted computer-generated lighting diagrams for both parking areas showing solar lights at the entrances, wall mounted fixtures on the garage, barn, and yurt, and a line of lights along one side of the two parking areas.
- No specifications were provided for the lighting plans indicating fixtures to be used or illumination levels to be provided.
- The Road Commissioner determined that the sight distances on Bowie Hill Road meet the Ordinance standard of 305 feet for a 35 mph speed limit except for the main parking area access drive looking east, where vegetation must be removed to achieve the specified sight distance and a mailbox must be moved.
- The Town Planner drafted findings of fact and conditions of approval for Board consideration.



Yurt

Total
Parking
34

Garden

Hoophouse

Parking Map 1

Garden

Barn

Garage

House

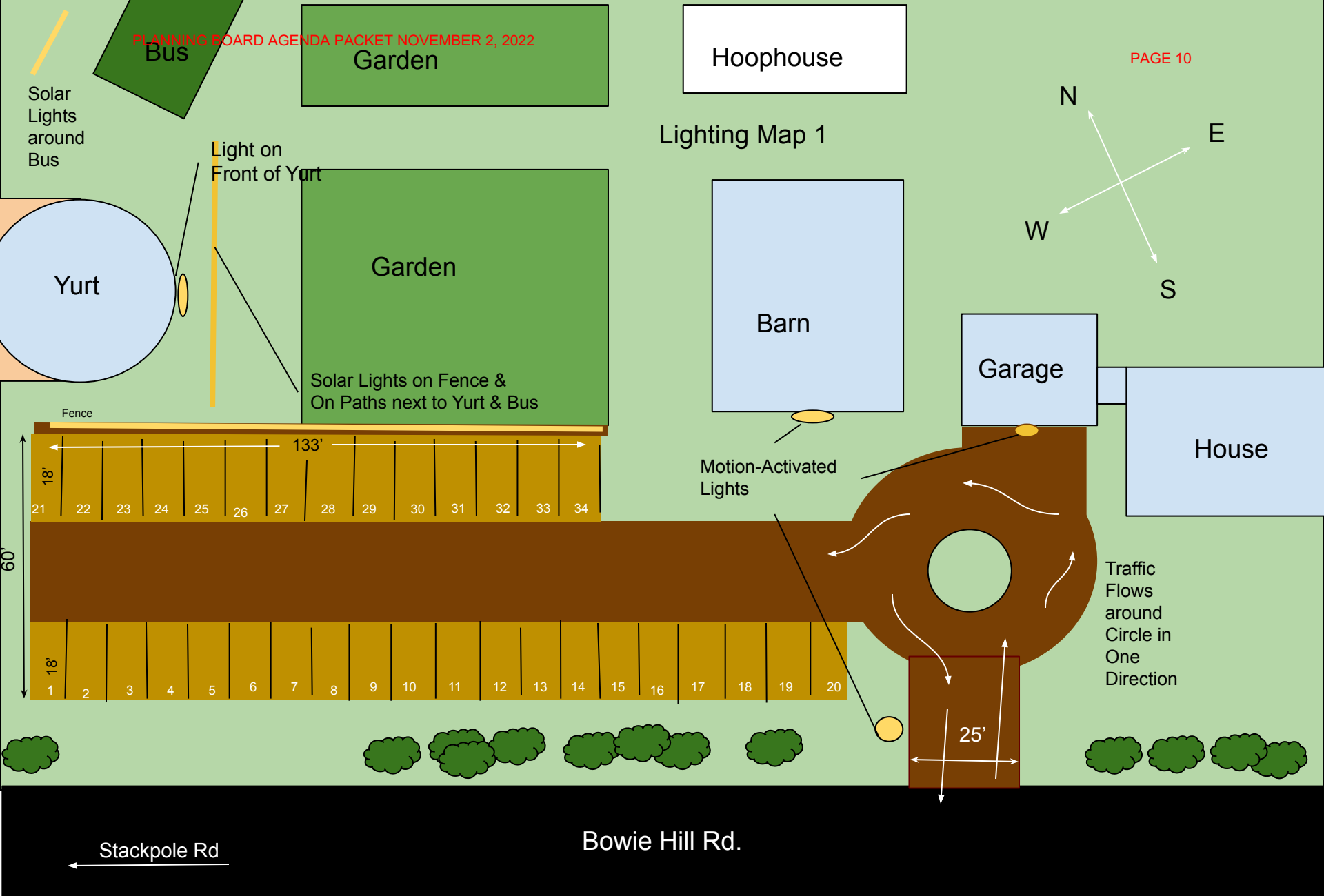
Pedestrian
Walkway Areas

Traffic
Flows
around
Circle in
One
Direction

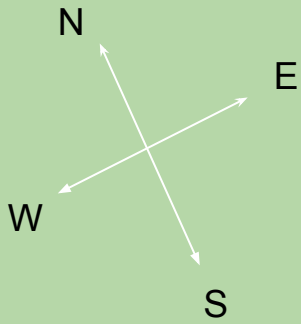
Each Stall is 18' deep x 9.5' wide

Bowie Hill Rd.

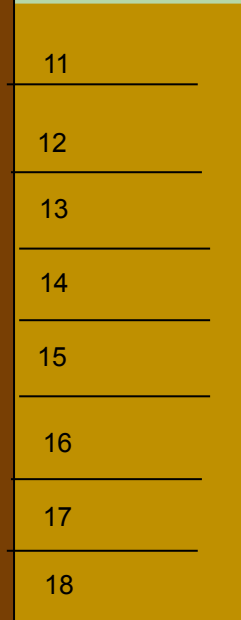
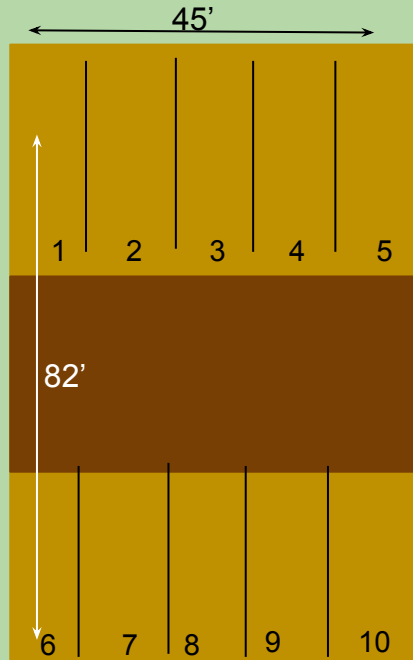
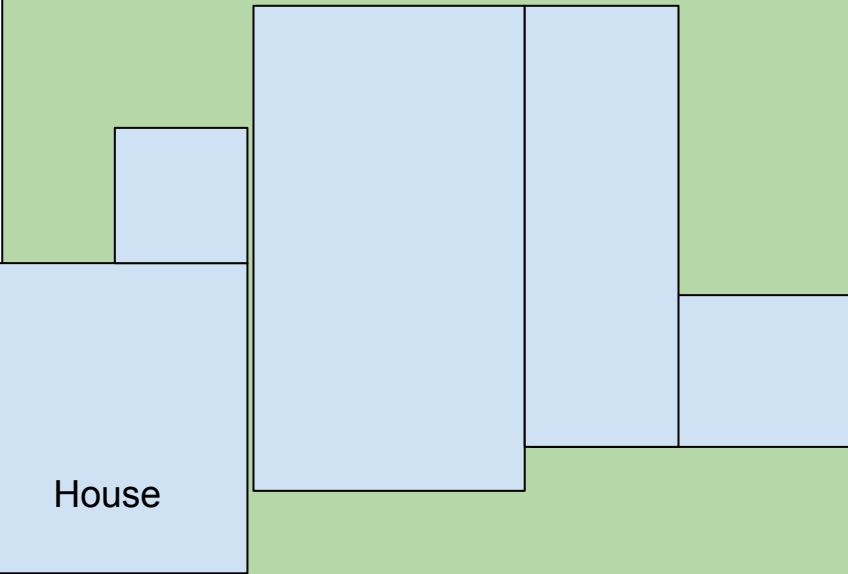
Stackpole Rd



Parking Map 2



Overflow Parking-
18 spots



Stalls are 18'x9'
Aisle is 46'



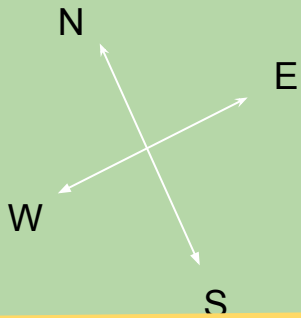
24'

Bowie Hill Rd.

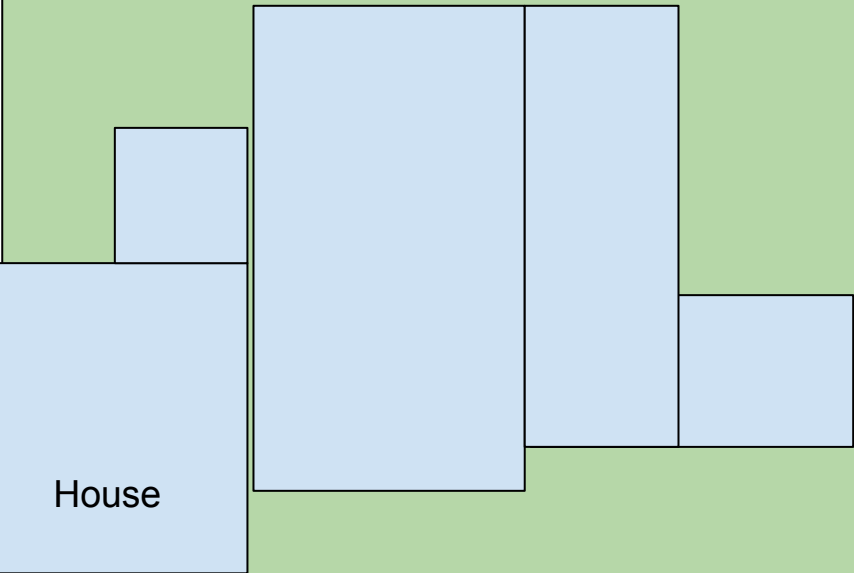
Davis Rd.



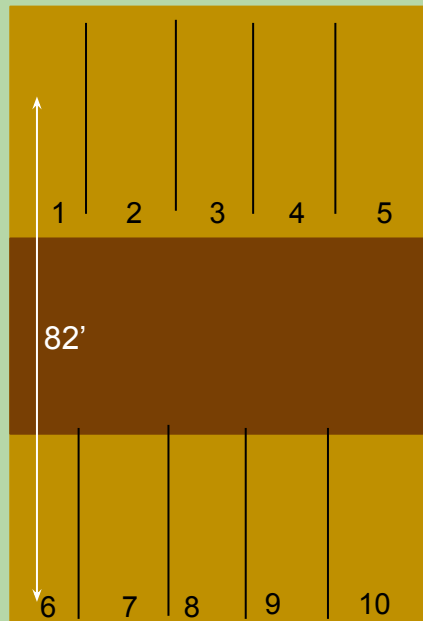
Lighting Map 2



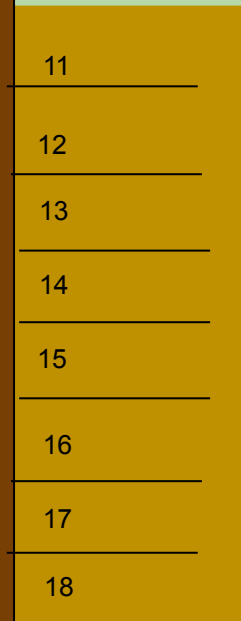
Solar Lights



House



Solar Lights



24'

Bowie Hill Rd.

Davis Rd.





TOWN OF DURHAM
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Durham, Maine 04222**

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CONDITIONAL USE APPROVAL DECISION FINDING OF FACTS

PROJECT NAME: Celebration Tree Farm & Wellness Center

Section 7.4 CONDITIONAL USE REVIEW CRITERIA

A. **Review Criteria:** Before it issues a conditional use permit, the Planning Board shall find, as a matter of fact, that the proposed use meets the following criteria:

1. **Public Health Impacts:** The proposed use will not create unsanitary or unhealthful conditions by reason of sewage disposal, emissions to the air or water, or other aspects of its design or operation.

Findings:

- a. The applicants propose to install a leach field to handle wastewater from the proposed sink and outdoor shower.
- b. The applicants propose to install composting toilet outhouses and will compost all human waste.

Motion made by _____: The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for public health impacts.

Motion seconded by _____:

Votes to approve: _____ Votes to deny: _____

Site Plan Approval Findings of Fact – Project Name: Celebration Tree Farm & Wellness Center

- 2. **Traffic Safety Impacts:** The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

Findings:

- a. The applicants submitted a parking diagram showing a parking lot for 34 cars with parking space and aisle width dimensions meeting the standards of Section 8.6.E to the west of the main entrance parallel to Bowie Hill Road with an existing forested buffer between the parking area and public roadway.
- b. The applicants submitted an overflow parking diagram for 18 cars accessed by the easterly entrance that meets the parking space and aisle width dimensional requirements of Section 8.6.E.
- c. The applicants submitted lighting plans for the main parking and overflow parking areas showing locations of solar lights.
- d. The applicants have testified that the substrate of the proposed parking areas is adequate to support the weight of vehicles without construction of gravel parking areas and access aisles.
- e. The Road Commissioner has reviewed the existing site entrances and determined that the easterly entrance (overflow parking) meets the minimum sight distance requirement for a 35 mph speed limit (305 ft) of Section 1.4 of Appendix 1 of the Land Use Ordinance (Street Standards).
- f. The Road Commissioner has determined that the westerly entrance (main entrance) does not meet the minimum sight distance requirement for a 35 mph speed limit (305 ft) unless existing vegetation is cleared in the road right of way and the mailbox is relocated.
- g. A condition of approval is needed to ensure that once trees are removed, the increased sight distance will be maintained by the applicants.

Motion made by _____: The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for traffic safety impacts.

Motion seconded by _____:

Votes to approve: _____ **Votes to deny:** _____

Site Plan Approval Findings of Fact – Project Name: Celebration Tree Farm & Wellness Center

- 3. Public Safety Impacts:** The proposed use will not create public safety problems which would be substantially different from those created by existing uses in the neighborhood or require a substantially greater degree of municipal services than existing uses in the neighborhood.

Findings:

- a. The applicants have testified that they will limit maximum site occupancy during the annual craft fair to 100. The occupancy limits will be monitored and enforced by staff.
- b. The applicants have testified that they will post no parking signs on Bowie Hill Road. Staff will enforce the no parking areas.
- c. The applicants have testified that they will work with the Fire Chief and Code Officer to address life safety code requirements for public assembly.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for public safety impacts.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

- 4. Environmental Impacts:** The proposed use will not result in sedimentation or erosion or have an adverse effect on water supplies.

Findings:

- a. The applicants testified that the substrate of proposed access aisles and parking spaces are adequate to support vehicles. No construction will be involved in those areas which are currently vegetated (per site walk observation) and show no signs of sedimentation or erosion.
- b. Water requirements for the water and wastewater services will be minimal.
- c. The applicants have testified that all wastewater and composting will comply with public health standards.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for environmental impacts.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

Site Plan Approval Findings of Fact – Project Name: Celebration Tree Farm & Wellness Center

- 5. Scale & Intensity of Use:** The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, and proximity to other structures.

Findings:

- a. The applicants are requesting conditional use approval to expand activities to include a yurt and camper and community events.
- b. The applicants have testified that they will limit maximum site occupancy for the annual craft fair to 100 and will enforce those attendance limits.
- c. Up to two monthly events will occur between April and October and will be limited to 50.
- d. No weddings will be hosted.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for scale and intensity of use.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

- 6. Noise & Hours of Operation:** The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

Findings:

- a. There will be a 9 pm cutoff for all events.
- b. Only recorded or acoustic music, no amplified bands.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for noise & hours of operation.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

Site Plan Approval Findings of Fact – Project Name: Celebration Tree Farm & Wellness Center

- 7. **Right, Title, or Interest:** The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

Findings:

- a. The applicants submitted a copy of a warranty deed conveying the property from Brian and Patricia Milliken to Jonah Thayer Fertig and Elizabeth Armentino-Burd.
- b. The Durham 2022 Tax Commitment lists Jonah T Fertig and Elizabeth A Armentino-Burd as the owners of record for Map 10, Lot 43.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for right, title, or interest.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

- 8. **Financial & Technical Ability:** The applicant has the financial and technical ability to meet the standards of this Section and to comply with any conditions imposed by the Planning Board pursuant to subsection 7.5.

Findings:

- a. The applicants have submitted a cost estimate for improvements of \$47,500.
- b. The applicants have stated that they have \$20,000 in available cash and an equity line of credit of \$55,000 available and may apply for an additional loan from the Cooperative Fund of the Northeast.
- c. The applicants have stated that they have prepared 5-year cash flow projections showing that the project is financially sustainable.

Motion made by _____ : The applicant has (or has not) satisfied a reasonable burden of proof of compliance with the criterion for financial & technical ability.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

Section 7.5 CONDITIONS OF APPROVAL

- A. **Planning Board Approval Conditions:** Upon consideration of the criteria listed in subsection 7.4, the Planning Board may by majority vote attach such conditions, in addition to those required by other provisions of this Ordinance, as it finds necessary to ensure compliance with those criteria and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance.

Site Plan Approval Findings of Fact – Project Name: Celebration Tree Farm & Wellness Center

Motion made by _____ : To apply the following conditions of approval to the permit for conditional use.

Motion seconded by _____ :

Votes to approve: _____ **Votes to deny:** _____

1. No more than one annual event with a maximum occupancy of 100.
2. No more than two monthly events with a maximum occupancy of 50.
3. Recorded and acoustic music only, no amplified bands.
4. Cut-off time for all events is 9 p.m.
5. “No parking” signs to be posted on Bowie Hill Road during all events.
6. Vegetation in the right of way of Bowie Hill Road to be removed and clearing maintained to achieve a sight distance of 305 feet or greater for the westerly, main entrance driveway.

DRAFT

6. New Business:**a. Completeness Review of Final Plan Application for the Deer Creek Crossing Subdivision Map 7, Lot 32A**

- The Planning Board granted preliminary approval of this 13-lot cluster subdivision on September 7, 2022.
- The applicant submitted a final plan application on October 19, 2022.
- The Town Planner has conducted a review for completeness and identified the following items not included in the application:
 - Section 6.8.C.2 – DEP approval of the new stream crossing and removal of the existing stream crossing
 - Section 6.8.C.3 – ACOE approval of the new stream crossing
 - Section 6.8.C.4 – MDOT permit for the road entrance
 - Section 6.8.C.5 – Review comments by MHPC for historic resources
 - Section 6.8.D – Written approval of the street name by the Street Addressing Officer
 - Section 6.9.B.2 – Assessor’s map & lot number of the subject parcel in the Title Block
 - Section 6.9.B.16 – Proposed method of financial performance guarantee meeting Town Attorney requirements
 - Section 6.9.B.17 – Letter of commitment from lending institution for performance guarantee
- The Town Planner has notified the applicant of some of these deficiencies and the Board may receive additional submissions to address them.
- Pages 1 through 3 of the Final Plan Checklist contain the submissions needed for a determination of complete application.
- Under Section 6.8.F., the Planning Board must make a determination on completeness within 30 days of receipt of the application.
- The Town Planner has included draft letters of complete and incomplete application for the Board’s consideration.

DEER CREEK CROSSING SUBDIVISION

**TOWN OF DURHAM, MAINE
FINAL APPLICATION**

**PREPARED FOR:
JACK DOUGHTY**

**PREPARED BY:
CHARLIE BURNHAM P.E.
241 ROWE STATION ROAD
NEW GLOUCESTER, MAINE
04260**

October 2022

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Attachment C – Erosion and Sedimentation Control Plan

Attachment D – Declaration of Covenants, Conditions and Restrictions

Attachment E – Agency Letters

Attachment F – FEMA Map

Attachment G – Stormwater Management Report

Attachment H – Technical Capacity

Attachment I – Cost Estimate and Financial Capacity

Attachment J – Plan Set

- Figure 1
- Subdivision Plat
- C-100 Existing Conditions
- C-101 Overall Site Layout Plan
- C-102 Grading and Erosion Control Plan
- C-200 Plan and Profile 1
- C-201 Plan and Profile 2
- C-300 Erosion Control Notes
- C-301 Civil Details 1
- C-302 Civil Details 2
- C-303 Civil Details 3
- D-100 Existing Stormwater Plan
- D-101 Proposed Stormwater Plan

PROJECT NARRATIVE

Our vision for Deer Creek Crossing Subdivision is to create a safe, environmentally friendly neighborhood that allows its habitants to enjoy both the positives of living in a close community while still having the opportunity to enjoy the large area of open space surrounding the development.

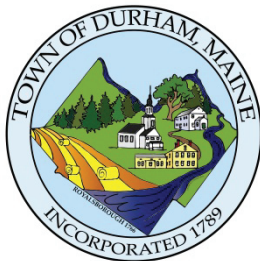
The following application is for a thirteen-lot subdivision off Hallowell Road. There is an existing gravel road the runs across the site. The southern end of the property has a very defined stream running along it. The stream will need to be crossed to access the site (NRPA Permit has been submitted). The proposed subdivision is a clustered layout with each lot being at least 45,000 square feet. The open space wraps around the perimeter of the site and includes the areas along the stream. The intent is to protect the more vulnerable areas and develop on the higher central land. The trail looping around the open space will provide recreational opportunities (hiking, cross country skiing, the observation of wildlife etc.). The open space protects important natural features (streams, hills, forested wetlands, existing rock walls etc.) from the adverse impacts of development. It is for these reasons that we believe this project is a near perfect candidate for a cluster subdivision to be approved by the town.

The regulations of a cluster subdivision allow us to put over 50% of the property into “open space” that belongs to the Homeowner’s Association and can never be developed. In this scenario the “open space” consists of large dry wooded areas along with the stream around the perimeter of the site.

SECTION 6.2 SUBDIVISION REVIEW CRITERIA

1. **Pollution** – The proposed subdivision has been treated to meet the Maine DEP standards. There is an underdrained soil filter and level spreader with buffers that treat 80% of the proposed impervious area (75% is required by DEP). There are no other anticipated sources of pollution associated with the project.
2. **Sufficient Water** – A report from the Maine Geological Survey database shows the wells in the area. The wells shown yielded from 0.5 gpm to 100 gpm with an average of 19 gpm. It is our opinion that there is sufficient water in the area.
3. **Erosion and Sedimentation Control** – An Erosion Control Plan has been provided as Attachment C.
4. **Traffic** – There is an existing street entrance with over 700 feet of site distance in both directions. The traffic generated by a 13-lot subdivision does not trigger any Traffic Movement permits.
5. **Sewage Disposal** – Individual septic systems are proposed for each lot. Test pits have been dug and the soils were deemed acceptable for subsurface wastewater disposal systems (Attachment B).
6. **Municipal Solid Waste Disposal** – The residents of Deer Creek Crossing Subdivision will be required to enlist the services of a private waste hauler to dispose of any solid waste. This requirement has been included the HOA documents (See Attachment D).
7. **Aesthetic, Cultural, and Natural Values** – The open space for the subdivision is located in a way to protect all such areas. The open space along the perimeter creates a buffer around existing streams and wetlands that provide important habitats. Maine Fish and Wildlife has been contacted as part of the project and their response is included in Attachment E.
8. **Conformity with Local Ordinances and Plans** – The project has been designed with Local Ordinances in mind and has aimed to meet all requirements set forth by the Town. An effort has been made to go above and beyond some of the ordinances to accommodate some of the abutters' concerns/desires.
9. **Financial Capacity** – A letter stating the financial capacity of the applicant will be included as part of the Final Application.
10. **Surface Waters** - The proposed subdivision has been treated to meet the Maine DEP standards. There are two underdrained soil filters that treat 80% of the proposed impervious area (75% is required by DEP). Our vision for Deer Creek Crossing Subdivision is to create a safe, environmentally friendly neighborhood that allows its habitants to enjoy both the positives of living in a close community while still having the opportunity to enjoy the large area of open space surrounding the development.

11. **Groundwater** – A report on the wells in the area is included in Attachment B. The size of the lot in relation to the number of proposed lots is insignificant. There are no adverse effects to the groundwater anticipated.
12. **Flood Areas** – The FEMA Panel for the area has been included as Attachment F. The Stormwater Treatment for the sight reduces the peak runoff from the site during the 2-year, 10-year, and 25-year storm.
13. **Freshwater Wetlands** – The freshwater wetlands have been mapped and are included on the Attached Plan set. As part of the subdivision there will be no impacts to any wetlands and the areas of special significance have been placed into the “open space” to provide additional protection.
14. **Farmland** – There is no farmland associated with this project.
15. **River, Stream, or Brook** – The streams on the property have been identified and are shown on the attached Plan Set. The streams were avoided and included in the Open Space to the maximum extent practicable.
16. **Stormwater** – The stormwater treatment for the proposed subdivision has been designed to meet the Maine DEP standards. A Stormwater Report is included as Attachment G.
17. **Spaghetti-Lots Prohibited** – There are no spaghetti lots proposed.
18. **Great Pond Phosphorous Concentration** – The project is not associated with any Great Ponds.
19. **Impact on Adjoining Municipalities** – The project does not cross a municipal boundary.
20. **Land Subject to Liquidation Harvesting** – The timber has not been harvested in violation of the rules adopted pursuant to 12 MRSA 8869.14 to the best of the applicant’s knowledge. The land was logged in 2019 by Cote’s Forestry (a licensed forestry service).



TOWN OF DURHAM
630 Hallowell Road
Durham, Maine 04222

**Office of Code Enforcement
and Planning**

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PRELIMINARY SUBDIVISION APPROVAL

Deer Creek Crossing Subdivision

Conditions of Approval

1. Per Section 6.6.C, the Planning Board will request technical peer review of the following submissions:
 - a. Determination of the need or lack thereof for a high intensity soil survey to confirm the wetland delineation and engineering designs;
 - b. Recommendation on the optimum location of the proposed stormwater detention basin with respect to the stream and associated wetlands;
 - c. Review of the engineering designs for road construction, utilities, stormwater management, erosion & sedimentation controls, and the proposed fire pond; and,
 - d. Review of the engineer's construction cost estimates for the project infrastructure.
2. Per Section 6.6.L.1., the applicant shall make the following changes to the preliminary plan as directed by the Planning Board decision:
 - a. A right of way shall be extended from the turnaround to the southwest tract boundary for future road connection; and,
 - b. A fire pond meeting the requirements of Section 6.16.C shall be constructed near the road turnaround but outside of the proposed road right of way extension.
3. Per Section 6.6.L.3., the Board considers that the engineer's construction estimates and performance guarantee for the project will include the following common improvements:
 - a. Access road construction;
 - b. Electrical service;
 - c. Stormwater management system;
 - d. Erosion and sedimentation control system; and,
 - e. Fire protection system.
4. Per Section 6.7.C.3. the applicant submitted a certified boundary survey showing all existing easements. That survey clearly indicated the areas of questionable title and calculation of the area that should be deducted from the proposed open space due to questionable title. The Board granted a waiver of the preliminary plan submission requirements to allow the applicant to place monuments on the corners of the subject parcel dividing Lot 32A from Lot 32L of Tax Map 7 after final approval when the monuments are set for the individual lots.
5. Per Section 6.7.E., to address concerns raised at the public hearing and in written comments, the applicant shall provide the following additional information with the final plan as required by Planning Board to verify compliance with the subdivision standards:

Preliminary Approval Conditions Deer Creek Crossing 9/7/2022

- a. Survey Accuracy – See draft approval condition #4 above.
 - b. Drainage Concerns – Engineering peer review of the stormwater and erosion control plans
 - c. Location of Stormwater Basin – See draft approval condition #1.c above.
 - d. Sensitivity of Stream Crossings – DEP & ACOE permits for stream restoration and new stream crossing.
 - e. Concern for Impacts on Aquifer – Review by the Durham Code Officer of standards applicable to portions of project in the Aquifer District boundary.
 - f. Concern for Continuing Zoning Violations – Review by the Durham Code Officer for zoning violations.
6. Per Section 6.8.A. the final plans shall be submitted within six (6) months of preliminary plan approval and shall be consistent with the preliminary plan except for changes required by the Planning Board or outside reviewing agencies (such changes will be reviewed per the subdivision review criteria & standards). Failure to submit a final plan application within six (6) months shall require resubmission & re-review of the preliminary plan. Prior to expiration of the preliminary plan approval, the applicant may request an extension accompanied by explanation of the causes for delay, documentation of progress made in fulfilling the preliminary plan approval conditions, and confirmation that the Land Use Ordinance has not been amended such that changes affect the project approval.
 7. Per Section 6.17.A & B., an erosion and sedimentation plan meeting the requirements of Appendix 2 shall be submitted with the final plans.
 8. Per Section 6.17.C., areas intended for vegetation clearing shall be shown on the final plan plans to support the stormwater management plan assumptions and required buffers along water bodies shown on the recording plan and referenced in the plan notes.
 9. Per Section 6.18.B.1 & 2., the final plan application shall include required MDOT permits. The applicant shall ask MDOT to address the safety of the intersection offset from Patriot Way.
 10. Per Section 6.18.C.2., the applicant shall obtain and submit with the final plan written approval for the street name and all other requirements of Article 13. by the Durham Street Addressing Officer.
 11. Per Section 6.18.D.2., the final plans shall include engineered drawings of the road meeting the requirements of Appendix 1.
 12. Per Section 6.21.A.1 & 2., the final plan shall delineate and note the limits of tree clearing.
 13. Per Section 6.21.B.1., the applicant shall seek consultation with the Maine Department of Conservation, Agriculture, and Forestry's Maine Natural Areas program for information on rare and exemplary botanical features in the project area and shall provide any response from the Department with the final plan application.
 14. Per Section 6.21.B.2., the applicant shall seek consultation with the Maine Historic Preservation Commission for information on any historic or prehistoric resources in the project area and shall provide any response from the Commission with the final plan application.
 15. Per Section 6.21.C., the applicant shall seek consultation with the Maine Department of Inland, Fisheries, and Wildlife for information on habitat for species appearing on the official state or

Preliminary Approval Conditions Deer Creek Crossing 9/7/2022

federal lists of endangered or threatened species in the project area and shall provide any response from the Department with the final plan application.

16. Per Section 6.21.D., the final recording plan notes and the deeds shall include notice of the clearing restrictions for lots including areas covered by shoreland zoning or resource protection.
17. Per Section 6.23.A. and 6.34.A, the applicant shall submit an engineer's construction cost estimate to cover the full costs of all required improvements, including roads, utilities, stormwater management, fire protection water supplies, and erosion and sedimentation controls along with a letter of commitment from a lending institution referencing said engineer's cost estimates.
18. Per Section 6.28.B., the final plans shall include the DEP stormwater permit and shall be consistent with requirements of that permit.
19. Per Section 6.32.D. the final plans shall include copies of covenants, articles of incorporation, and homeowner association bylaws using the template prepared by the Town Attorney or a version reviewed and approved by the Town Attorney at the applicant's expense.
20. Per Section 6.33.B.8, the applicant shall provide detailed grading plans for the building sites on Lots 6 and 7 which shall become part of the final subdivision approval conditions that can be amended with further subdivision review.
21. Per Section 6.34.B., the final plan application shall include the proposed form and amount of the performance guarantee needed to cover the costs of all improvements noted in COA #17 above, which can be a cash deposit or irrevocable letter of credit in a form satisfactory to the Town Attorney (template provided). Any other proposed performance guarantee must be reviewed by the Town Attorney at the applicant's expense.



TOWN OF DURHAM
630 Hallowell Road
Durham, Maine 04222

*Office of Code Enforcement
 and Planning*

Tel. (207) 376-6558
Fax: (207) 353-5367

SUBDIVISION PLAN REVIEW CHECKLIST
SECTION 6.9 FINAL PLAN SUBMISSIONS
SECTION 6.14 – PERFORMANCE STANDARDS

SUBDIVISION NAME _____ **DATE** _____

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 6 of the Land Use Ordinance. The Planning Board also will be using the checklist to make sure that your application is complete and meets all standards. **Fill out all shaded columns in the checklist by initialing a box in each row.** Indicate if the information has been submitted or if a waiver is requested. The perimeter survey, subdivision plan and general engineering plans may be contained on the same drawings for final plan approval. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans should be presented on separate sheets from the recording plan, as should detailed contours that would obscure reading the plan for informational purposes.

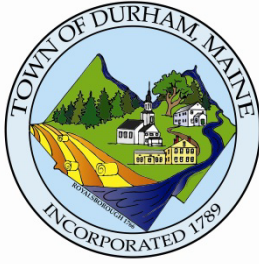
SUBDIVISION REGULATIONS	Submitted by Applicant	Waiver Requested (with waiver request form)	Received by Planning Board	Waiver Granted
6.6 D.&E.	Required public notice sent to: 1) abutting property owners, 2) abutting town if project abuts or crosses boundary, and 3) Durham Elementary School if within well source water protection area (30-A MRSA §4403.3.A)			
6.9	FINAL PLAN SUBMISSIONS REQUIRED FOR COMPLETENESS REVIEW (10 Copies of application form & all materials)			
A.	Final plan meets specifications for recording at Registry of Deeds		NOT WAIVABLE	NOT WAIVABLE
B.1	Completed application & checklist submitted		NOT WAIVABLE	NOT WAIVABLE
B.2	Subdivision name, town, & map & lot no.		NOT WAIVABLE	NOT WAIVABLE
B.3	No. of acres in subdivision, property lines, existing buildings, watercourses, & other site features depicted			

Subdivision Name: _____

SUBDIVISION REGULATIONS		Submitted by Applicant	Waiver Requested (with waiver request form)	Received by Planning Board	Waiver Granted
B.4	Plan for sewage disposal		NOT WAIVABLE		NOT WAIVABLE
B.5	Plan for water system(s)		NOT WAIVABLE		NOT WAIVABLE
B.6	Septic system locations with well exclusion zones				
B. 6	Hydrogeological evaluation if preliminary plan approval condition				
B.7	Date of plan preparation with north point & graphic scale		NOT WAIVABLE		NOT WAIVABLE
B.8	Names & addresses of owner, applicant, and plan preparer(s)		NOT WAIVABLE		NOT WAIVABLE
B. 9	Zoning for subdivision & zoning boundaries		NOT WAIVABLE		NOT WAIVABLE
B.10	Location of setbacks & buffers (w/o contours)				
B.11	Deed restrictions & covenants in form approved by Town Attorney				
B.12	Location & size of culverts, all drainageways indicated				
B.13	Sealed survey plan with bearing and length of all property & street lines and monuments shown		NOT WAIVABLE		NOT WAIVABLE
B.14	Street plans meeting Appendix 1 standards by engineer				
B.15	Engineer's cost estimate for all required improvements				
B.16	Proposed financial performance guarantee tied to engineer's cost estimate in form approved by Town Attorney (issued prior to mylar release)				

Subdivision Name: _____

SUBDIVISION REGULATIONS		Submitted by Applicant	Waiver Requested (with waiver request form)	Received by Planning Board	Waiver Granted
B.17	Letter of commitment from a lending institution referencing engineer's cost estimate & willingness to provide a performance guarantee for the named applicant				
B.18	All required legal documents for ownership and maintenance of streets & common land (if any)				
B.19	Any flood areas and flood boundaries shown on plans		NOT WAIVABLE		NOT WAIVABLE
B.20	Proposed locations & plan for stump & construction disposal (if on site)				
B.21	Erosion & sedimentation control plan (per Appendix 2) unless no roads constructed & impervious surfaces less than 5% of site (calculations submitted) & not in Runaround Pond watershed				
B.22	Stormwater management plan (per Appendix 3) unless no roads constructed & impervious surfaces less than 5% of site (calculations submitted) & not in Runaround Pond watershed				
B.23	Phosphorus management plan (per Appendix 4) if in watershed of Runaround Pond				



TOWN OF DURHAM
630 Hallowell Road
Durham, Maine 04222

**Office of Code Enforcement
 and Planning**

Tel. (207) 376-6558
Fax: (207) 353-5367

NOTICE OF COMPLETE APPLICATION

Date: November 4, 2022
 Name: Jack Doughty
 Address: 231 Flying Point Road, Freeport, Maine

Dear Mr. Doughty;

The Planning Board of the Town of Durham has reviewed your application for preliminary subdivision review of a project on Hallowell Road (Map 7. Lot 32A). In accordance with Section 6.8.F, the Board has determined that your application is complete and ready for formal review.

The Planning Board has scheduled a meeting for _____ at 6:30 p.m. at which time your application will be reviewed for conformance with the criteria and performance standards of the Town of Durham site plan review regulations.

Sincerely,

George Theborge, Town Planner



TOWN OF DURHAM
630 Hallowell Road
Durham, Maine 04222

**Office of Code Enforcement
and Planning**

Tel. (207) 353-2561
Fax: (207) 353-5367

NOTICE OF INCOMPLETE APPLICATION

Date: November 4, 2022
Name: Jack Doughty
Address: 231 Flying Point Rd. Freeport, Maine

Mr. Doughty:

The Planning Board of the Town of Durham has reviewed your application for preliminary subdivision review of a project on Hallowell Road (Map 7, Lot 32A). In accordance with Section 6.8.F., the Board has determined that your application is incomplete, and the Board cannot begin a formal review of your application until all information stated in the application checklist is submitted.

For your application to be considered complete and adequate for review by the Planning Board, the following materials must be submitted:

- a. Section 6.8.C.2 – DEP approval of the new stream crossing and removal of the existing stream crossing
- b. Section 6.8.C.3 – ACOE approval of the new stream crossing
- c. Section 6.8.C.4 – MDOT permit for the road entrance
- d. Section 6.8.C.5 – Review comments by MHPC for historic resources
- e. Section 6.8.D – Written approval of the street name by the Street Addressing Officer
- f. Section 6.9.B.2 – Assessor's map & lot number of the subject parcel in the Title Block
- g. Section 6.9.B.16 – Proposed method of financial performance guarantee meeting Town Attorney requirements
- h. Section 6.9.B.17 – Letter of commitment from lending institution for performance guarantee

Respectfully,

George Theberge, Town Planner

6. **New Business:**

b. Substantive Review of Final Plan Application for the Deer Creek Crossing Subdivision Map 7, Lot 32A

7. The Planning Board granted preliminary approval of this 13-lot cluster subdivision on September 7, 2022.
8. The applicant submitted a final plan application on October 19, 2022.
9. To facilitate electronic posting and transmission of the application, the Town Planner has prepared 6 packets with the following application components
 - Deer Creek 1 – Title & Environmental
 - Deer Creek 2 – Erosion, Bylaws, Agency Comments
 - Deer Creek 3 – DEP Stream Crossing
 - Deer Creek 4 – Flood & Stormwater Management
 - Deer Creek 5 – Financial & Tech Capacity
 - Deer Creek 6 – Plan Set
10. The applicant submitted the final plan application to Gorrill Palmer for engineering peer review of the following items:
 - Determination of the need or lack thereof for a high intensity soil survey to confirm the wetland delineation and engineering designs;
 - Recommendation on the optimum location of the proposed stormwater detention basin with respect to the stream and associated wetlands;
 - Review of the engineering designs for road construction, utilities, stormwater management, erosion & sedimentation controls, and the proposed fire pond; and,
 - Review of the engineer's construction cost estimates for the project infrastructure.
 - Per preliminary plan approval condition #5.d and the applicant's assertion that DEP and Army Corps of Engineers formal permits are not required for the stream crossing, the Town Planner requested a determination by the peer reviewer on the need for permits.
11. On October 20, 2022, the Town Planner requested review comments on the final plan application from the Road Commissioner, Fire Chief, and Code Officer.
12. The Fire Chief has requested that the homeowners association bylaws specifically address ownership and maintenance of the proposed fire pond.
13. The primary purposes of the final plan review are to:
 - Finalize the engineering design of the project infrastructure;
 - Determine that all applicable outside agency reviews are complete;
 - Ensure that proper legal documents and financial surety is available to protect lot purchasers and the Town from developer default and to

- assure long-term maintenance of the project infrastructure; and,
- Make a final determination of compliance of the proposed subdivision with the subdivision review criteria and performance standards.
 - The completed final plan checklist provides an outline for review of the subdivision criteria and standards.
 - The Chairman can review each Section of the Ordinance in the checklist (e.g., Sec. 6.16 Sufficient Water) and ask if any Board member has concerns about any of the specific requirements noted in the subsections (e.g., proposed fire protection water supply).
 - For any item where there is concern that the applicant has not met the requirements of the Ordinance, the Chairman can entertain a motion to make a finding to that effect.
 - If a majority of the Board finds that the applicant has not met their burden of proof of compliance with the Ordinance, the Board can consider appropriate approval conditions that would mitigate impacts of the project, again with a majority decision by the Board.
 - For any proposed condition of approval, the Chairman should ask the applicant whether they are willing to accept the proposed approval condition.
 - If a majority of the Board finds that the application cannot meet any criterion or standard, or the applicant is not willing to accept approval conditions the Board deems necessary to assure compliance, the Chairman can entertain a motion for denial of the application.
 - The Board should review all of the Ordinance sections on the checklist before making a decision to approve or deny the application.
 - The Town Planner will prepare draft formal findings and a notice of decision based on the Board's deliberations.
 - The Planner will include standard final approval conditions such as submittal of the performance guarantee prior to release of the recording plat.

To facilitate electronic posting and transmission of the agenda packet the Town Planner has broken the applicants submissions into the following individual submission packets for separate review:

Deer Creek 1 - Title & Environmental Review

Deer Creek 2 - Erosion, Bylaws, Agency Comments

Deer Creek 3 - DEP Stream Crossing

Deer Creek 4 - Flood & Stormwater Management

Deer Creek 5 - Financial & Tech Capacity

Deer Creek 6 - Plan Set

Subdivision Name: _____

SUBDIVISION REGULATIONS	Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
6.6.I.1	(THE APPLICANT HAS INCORPORATED REQUIRED CHANGES CONTAINED IN THE PRELIMINARY APPROVAL CONDITIONS)			
6.8.A	(THE APPLICANT HAS SUBMITTED THE FINAL PLAN APPLICATION WITHIN 6 MONTHS OF PRELIMINARY APPROVAL)			
6.14	REVIEW STANDARDS TO BE ADDRESSED BY THE APPLICANT'S SUBMISSIONS AFTER THE APPLICATION IS DEEMED COMPLETE BY THE PLANNING BOARD			
6.15	POLLUTION STANDARDS (addressed by compliance w/ 6.16, 6.17, 6.19, 6.24, 6.25 & 6.28)			
6.16	SUFFICIENT WATER			
A.	Note on plan prohibiting dug wells		NOT WAIVABLE	NOT WAIVABLE
B.	Wells & septic in accordance with Maine rules		NOT WAIVABLE	NOT WAIVABLE
C.	Proposed fire protection water supply			
6.17	EROSION & SEDIMENTATION IMPACTS			
A. & B.	Erosion & sedimentation plan to be submitted w/ final plans			
C.	Areas intended for vegetation clearing shown on plans			
C.	Required buffers along water bodies shown on plans and referenced in notes			
D.	Statement of intent for topsoil removal or retention			
6.18	TRAFFIC CONDITIONS & STREET STANDARDS			
A.	Meets general standards for safety, congestion, level of traffic, and avoiding large cuts and/or fills			
B.	Meets or will meet any MDOT permit requirements & does not drop service level of access roads (larger projects will require a traffic study)			
C.1	Streets laid out for existing & future interconnections unless major cut-through traffic results			

Subdivision Name: _____

SUBDIVISION REGULATIONS		Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
C.2	Street names meet addressing requirements		NOT WAIVABLE		NOT WAIVABLE
C.3	Clearing in road rights of way limited and stump disposal areas (if any) noted on plans				
D.	Final plans to contain engineered drawings of streets meeting all requirements of Appendix 1				
6.19	SEWAGE DISPOSAL STANDARDS				
A.	Test pit logs by site evaluator indicate suitable site for septic system on each lot with no variance or easement required				
6.20	SOLID WASTE STANDARDS				
	Level of waste generation within Town's capacity or alternative arrangement				
6.21	IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORIC SITES, WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO THE SHORELINE STANDARDS				
A.	Final plans to delineate & note limits of tree clearing & 50-ft buffer along existing roads				
B.1	If any portion is in a designated unique natural area, appropriate preservation measures included in plans				
B.2	If any portion in designated historic or archaeological area or site, appropriate preservation measures included in plans				
B.3	Proposed open space (if any) suitable for intended purposes				
B.4	Intent to transfer any open space to the Town stated if planned				

Subdivision Name: _____

SUBDIVISION REGULATIONS		Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
C.	If any portion within 250 ft of endangered or threatened species habitat, no adverse impacts documented per:				
C.1	75-ft buffer maintained along habitat (if along or within property)				
C.2	Consultation with IF&W with written comments				
C.3	If recommended by IF& W, wildlife biologist's report on potential impacts & recommended mitigation measures				
D.1	Any existing public access to water bodies maintained with legal protections				
D.2	Final plan notes and deeds to list restrictions on clearing within 100 ft of any resource protected under shoreland zoning				
6.22	CONFORMITY WITH LOCAL ORDINANCES AND PLANS STANDARDS				
	All lots meet zoning dimensional standards & other Land Use Ordinance requirements		NOT WAIVABLE		NOT WAIVABLE
6.23	FINANCIAL AND TECHNICAL CAPACITY STANDARDS				
A.	Bank letter of commitment or equivalent documentation to be provided with final plan (intent indicated)				
B.	Applicant and consultants have documented experience to properly carry out project & no prior violations				

Subdivision Name: _____

SUBDIVISION REGULATIONS	Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
6.24	IMPACT ON GROUND WATER QUALITY OR QUANTITY STANDARDS			
A.	If required by vote of Planning Board, hydrogeological study to document project will meet safe drinking water standards			
B.	If required by vote of Planning Board, hydrogeological study to document project will have adequate water & not lower the water table			
6.25	FLOODPLAIN MANAGEMENT STANDARDS For projects with identified flood-prone areas:			
A.	Utilities located to avoid flood damage		NOT WAIVABLE	NOT WAIVABLE
B.	Drainage provided to avoid flooding		NOT WAIVABLE	NOT WAIVABLE
C.	Final plan to contain note prohibiting structures in floodplain			
D.	Road crossings & driveways evaluated for emergency access & will withstand 100-year flood			
E.	Project complies with Article 11 floodplain management regulations		NOT WAIVABLE	NOT WAIVABLE
6.26	IDENTIFICATION OF FRESHWATER WETLANDS, RIVERS, STREAMS, OR BROOKS STANDARDS			
	All wetlands delineated by qualified professional & all streams within or abutting project mapped		NOT WAIVABLE	NOT WAIVABLE
6.27	IDENTIFICATION OF FARMLAND STANDARDS			
	All active farmland or prime farmland soils of 5 or more acres mapped			

Subdivision Name: _____

SUBDIVISION REGULATIONS	Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted	
6.28	STORMWATER MANAGEMENT STANDARDS				
A.	If DEP Site Location Permit required, permits submitted with final plan		NOT WAIVABLE		NOT WAIVABLE
B.	If DEP Stormwater Permit required, permit & plans meeting Appendix 3 submitted with final plan		NOT WAIVABLE		NOT WAIVABLE
C.	Engineer's erosion & sedimentation control plan meeting Appendix 2 to be submitted with final plan				
D.	Projects within watershed of Runaround Pond to submit phosphorus management plan meeting Appendix 4				
E.	If potential for downstream flooding, Board to vote on hydrologic analysis				
6.29	SPAGHETTI-LOTS PROHIBITED STANDARDS				
	No lots within shoreland zone have lot depth to shore frontage ratio in excess of 5 to 1				
6.30	IMPACT ON ADJOINING MUNICIPALITIES STANDARDS				
	If project crosses town boundary, no unreasonable traffic or unsafe conditions in adjoining community				
6.31	COMPLIANCE WITH TIMBER HARVESTING RULES STANDARDS				
A.	No liquidation harvesting on property in the past 5 years		NOT WAIVABLE		NOT WAIVABLE
B.	If question of violation, DACF to be consulted or applicant must submit a licensed forester's letter.				

Subdivision Name: _____

SUBDIVISION REGULATIONS	Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
6.32	RESERVATION OR DEDICATION AND MAINTENANCE OF OPEN SPACE AND COMMON LAND, FACILITIES AND SERVICES			
A.	Proposed ownership and maintenance of open space (if any)			
B.	Proposed use and restrictions on open space (if any) clearly stated			
C.	Terms of open space to be noted on final plans			
D.	Final plans to include draft covenants, articles of incorporation & bylaws for homeowners association using Town Attorney approved template (applicant may pay for review of proposed changes)			
E.	Legal documents to adequately address legal responsibility & authority of association			
6.33	CLUSTER DEVELOPMENT ALTERNATIVE			
A.	Planning Board reviewed and endorsed pursuing cluster development at sketch plan stage			
B.1	Site plan integrates home sites and open spaces for views and recreational opportunities of subdivision residents			
B.2	All cluster lots have at least 50% of required road frontage & lot size		NOT WAIVABLE	NOT WAIVABLE
B.3	Maximum number of lots established with net residential acreage calculations		NOT WAIVABLE	NOT WAIVABLE
B.4	Net residential acreage calculations deduct areas for roadways, flood areas, all non-buildable areas, and land in easements		NOT WAIVABLE	NOT WAIVABLE

Subdivision Name: _____

SUBDIVISION REGULATIONS		Submitted by Applicant	Waiver Requested (with waiver request form)	Approved by Planning Board	Waiver Granted
B.5	Open space at least 50% of parcel & no more than 50% wetland				
B.6	No reduction of shore frontage for lots in shoreland zone				
B.7	Shore frontage & access included in open space in shoreland zone				
B.8	Dry, suitable building sites provided that are relatively level and provide room to build outside required buffers		NOT WAIVABLE		NOT WAIVABLE
B.9	Common open space to be properly managed (see 6.32)				
6.34	PERFORMANCE GUARANTEES				
A.	Engineer's construction cost estimates for all improvements, stormwater & erosion controls to be submitted with final plan				
B.	Performance guarantee in form of cash or bank letter of credit approved by Town attorney for all costs in 6.34.A to be submitted with final plan application, issued prior to release of recording plan				
C.	Conditional agreement restricting lot sales & building permits prior to completion of improvements proposed & approved by Planning Board with notes on plan & performance guarantee for site stabilization				

Subdivision Name: _____

SUBDIVISION REGULATIONS	Submitted by Applicant		Approved by Planning Board	Waiver Granted
6.35	WAIVERS (Based on review of individual waiver requests)			
A.	For submission waivers, applicant has demonstrated all performance standards have been met	(Attach waiver requests)		
B.	For procedural waivers, no streets proposed, no DEP permits required, no stormwater plan, & all preliminary & final plan submissions met	(Attach waiver requests)		
C.1	For waivers of performance standards, the applicant has provided sound engineering and/or environmental analysis to support the request	(Attach waiver requests)		
C.2	The waivers will not have the effect of nullifying any regulation			
C.3	All performance standards are substantially met without application of the regulation waived			
C.4	Any performance standard waivers are noted on the final plan		NOT WAIVABLE	NOT WAIVABLE

7. Other Business:**a. Review of draft citizen survey on possible Durham responses to Maine's new affordable housing law requiring zoning changes to increase housing density**

- The Planning Board conducted a public information meeting on the new law and three possible response options (less restrictive, neutral, more restrictive).
- The Town Planner prepared draft survey questions to solicit broader public participation.
- Upon Planning Board approval of the survey questions, the Planner will work with IT staff to put a survey on the Town website.
- The Planner is working on the back lot and private way standards and will prepare a similar survey for that land use policy.

DURHAM LAND USE POLICY CITIZEN SURVEY ON MAINE'S NEW AFFORDABLE HOUSING LAW

DRAFT

MAINE'S NEW AFFORDABLE HOUSING LAW

The Maine Legislature passed a law in 2022 that goes into effect in 2023 requiring all towns to change their zoning to allow greater housing options to address the housing crisis. The new law requires that up to 3 units of housing be allowed on any lot where there is an existing dwelling. Two housing units must be allowed on any vacant lot. Towns are allowed to increase lot sizes for the added units. Durham currently allows one accessory apartment with any existing single-family home that is limited in floor area to 50% of the size of the home it is accessory to. Duplexes are allowed on any lot, but the lot size increases from 2 acres to 2.5 acres. Under the new law, Durham will need to allow two additional housing units on any lot with an existing home or duplex up to a total of 3 units. Subdivisions with private covenants restricting the number and types of homes will not be affected by the new law.

The Planning Board has identified three possible approaches to compliance with the new State law:

Option 1 – BE LESS RESTRICTIVE TO ENCOURAGE MORE DIVERSE HOUSING OPTIONS IN DURHAM

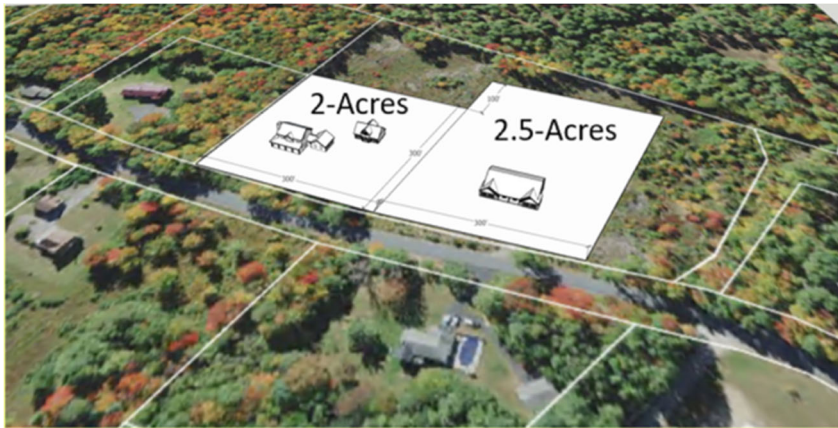
Follow the Durham 2018 Comprehensive Plan recommendations and allow a second accessory apartment for any single-family dwelling and one accessory apartment with any duplex for a total of 3 housing units on any lot, treating all landowners equally. This option would attempt to control the design of new housing units to make them fit in with the existing character of Durham's single-family homes and duplexes and will likely comply with the new law.

Option 2 – BE NEUTRAL ON THE HOUSING ISSUE AND JUST DO WHAT THE STATE REQUIRES

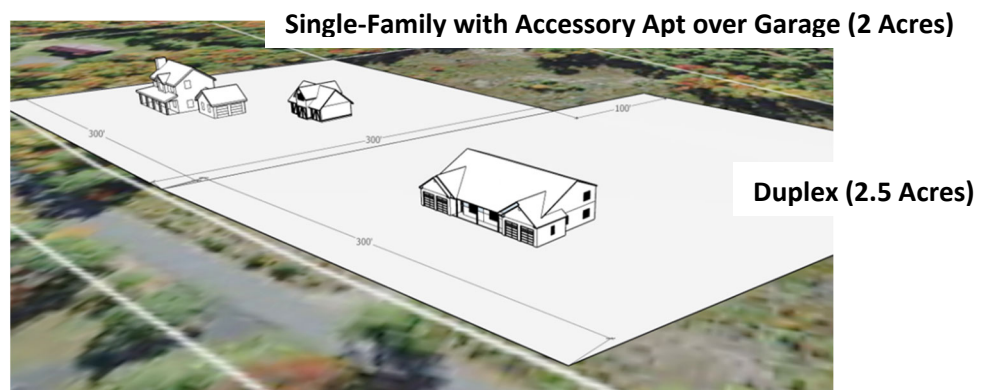
Add whatever language that is in the law or rules being developed to implement it and allow up to 3 housing units on any lot with a single-family home or duplex without trying to influence their design and allow only 2 units on vacant lots, thereby giving preference to landowners with existing residences. This option would be in full compliance with the law.

Option 3 – BE AS RESTRICTIVE AS POSSIBLE UNDER THE LAW TO LIMIT GROWTH IN DURHAM

Increase lot sizes as allowed by the law to offset required increases in the number of housing units to the maximum extent permitted.

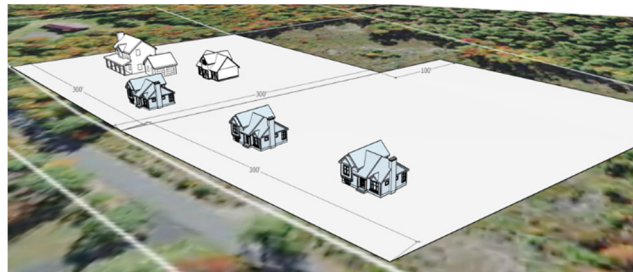


CURRENT ZONING



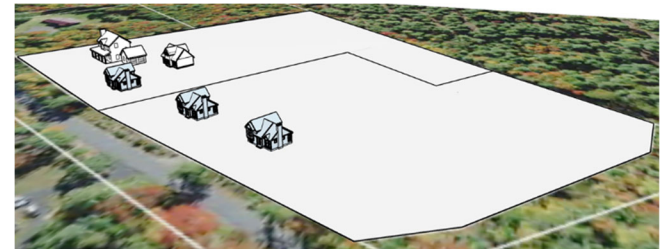
OPTION 1 – LESS RESTRICTIVE

Allow a 2nd accessory apartment on a single-family lot and 1 accessory apt. with a duplex and reduce the duplex requirement from 2.5 acres to 2 acres.



OPTION 2 – NEUTRAL

Allow a 2nd accessory apt. or house on the single-family lot and a duplex or 2 single-family homes on a vacant lot.



OPTION 3 – MORE RESTRICTIVE

Allow the added housing units required by the State but increase lot sizes to offset the increase in housing.

SURVEY QUESTIONS ON HOUSING POLICY

On a scale of 1 to 5 with 1 being not concerned at all and 5 being very concerned, please circle your level of concern on the following questions:

	Not Concerned at All	Not Too Much	Neutral	Concerned	Very Concerned
1. Are you concerned that children of current residents will not be able to find or afford housing in Durham?	1	2	3	4	5
2. Are you concerned retired parents of current residents will not be able to find or afford housing to move to Durham to be close to their children?	1	2	3	4	5
3. Are you concerned that the Town is growing too fast, and that new housing will cause increases in taxes?	1	2	3	4	5
4. Are you concerned that new housing is changing the character of Durham from rural to suburban?	1	2	3	4	5
5. Based on these concerns, which of the three options identified by the Planning Board to respond to the requirements of the new State affordable housing law do you think Durham should implement? (Check the Option You Prefer)					

Option 1 – Less Restrictive to Encourage Housing Options _____

Option 2 – Neutral, Just do What the State Requires _____

Option 3 – More Restrictive to Limit Growth in Durham _____