

**DURHAM PLANNING BOARD
REGULAR MEETING AGENDA
Durham Fire Station, 6:30 p.m.
May 1, 2024**

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. Pledge of Allegiance
3. Amendments to the Agenda
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: None
6. Other Business:
 - a) Planning Board Discussion of Land Use Policy Issues for Next Town Meeting (Public comment will not be taken)

6. **Other Business:**

a) **Planning Board Discussion of Land Use Policy Issues for Next Town Meeting (Public comment will not be taken)**

- Over the past few years, the Town has been working to improve communication and cooperation between the various boards and commissions involved in the development of land use policy.
- Last year after the Town Meeting, the chairs of the Planning Board, Conservation Commission, Board of Appeals, and Historic District Commission met to discuss Comprehensive Plan recommendations and pressing policy issues to come up with a set of priorities to be addressed in the year leading up to the next Town Meeting, which just happened on April 6th.
- This year, the Select Board would like to be involved in this prioritization process and has scheduled a special workshop meeting for Tuesday May 7th to get it started.
- Limiting participation to the chairs and/or vice chairs of the boards and commissions will ensure that the meeting is effective while also ensuring that all groups have input into the process.
- This policy prioritization process is necessary due to the limited resources available in terms of staffing and the Town Meeting format for policy enactment and amendment.
- It also ensures that an effective public participation process can be conducted starting in the fall to be fully ready to go to the next Town Meeting with well-thought out and vetted policy proposals.
- In the last two Town Meeting cycles, this approach has greatly improved the process and led to good success in addressing the important land use issues facing this growing town.
- The Town Planner put together the attached outline for the Select Board based on his communications with the boards, the projects he has worked on, and his assessment of the Town's regulations.

Joint Workshop on Land Use Policy

May 2024



PARTICIPANTS: Select Board, Planning Board, Board of Appeals, Conservation Commission, Historic District Commission, Agricultural Working Group

INTRODUCTION

Following the annual Town Meeting in April, the leaders of the Town's boards and commissions meet to discuss land use policy issues and set priorities for developing potential changes for consideration at the following Town Meeting. This provides adequate time to research the issues, draft amendments to set a new or adjusted policy direction and conduct an effective public participation process in advance of the Town Meeting.

Over the past few years, experience has indicated the need to limit the scope of issues and warrant articles within the capacity of the community to process and decide in the Town Meeting format. Another limiting factor is the availability of staff support for research on the issues and development of the public participation process and draft Ordinance amendments.

GOALS OF THE SESSION:

- Explore needed changes to the Land Use Ordinance;
- Identify options for responding to land use policy challenges;
- Establish priorities for which challenges to address at the 2025 Town Meeting;
- Assign responsibility for developing a policy direction for each challenge; and,
- Foster communication and cooperation between the Town's land use policy groups.

POTENTIAL POLICY ISSUES & PROJECTS

(Based on, Board and Commission Discussions, Town Planner Assessment, & Comprehensive Plan Recommendations)

SOLAR ENERGY SYSTEMS – PART 2

- During development of the solar energy systems standards, the Conservation Commission deferred consideration of locations where solar energy systems should be limited.
- This could be done through zoning mechanisms, like an overlay zone where solar energy systems would be permitted or restricted, or through financial incentive/disincentive tools like purchase of development rights and/or compensation fees. The Conservation Commission indicated interest in further study of these issues.

BATTERY ENERGY STORAGE SYSTEMS

- The initial research on solar energy systems also brought to the Town's attention the potential for future proposals to develop large battery energy storage systems along the powerlines, either in conjunction with solar energy systems or as stand-alone facilities.
- Such industrial-scale energy storage systems involve special public safety hazards that could be addressed in the Land Use Ordinance.

REFINEMENT OF THE RESOURCE PROTECTION DISTRICT BOUNDARY

- During the public participation process for realignment of the Resource Protection District, significant public comment focused on use of the Beginning with Habitat 6+ Co-Occurrence Map as a basis for putting land into Resource Protection.
- The Maine Department of Inland Fisheries and Wildlife has indicated that this general characterization needs refinement to provide more accurate determinations of natural resources if it is to be used as a basis for zoning regulations.
- The Department is creating a customized co-occurrence analysis for Durham that could serve as a basis for further refining the Resource Protection District boundaries.
- The State's Beginning with Habitat program also recognizes the need to balance protection of natural resources with impacts of such protections on existing development.

- The 2023 refinement of the Resource Protection District did not include consideration of putting “development buffers” around existing homes and businesses, and this has led to multiple land use conflicts.
- In addition to reviewing the updated Co-Occurrence Map, the Conservation Commission could also consider applying the Beginning with Habitat development buffers around existing development.

OVERHAUL OF THE HISTORIC PRESERVATION REGULATIONS

- The 2018 Comprehensive Plan calls for better coordination of the historic preservation programs in the Land Use Ordinance.
- The Ordinance regulates 8 individual properties that are listed or eligible for listing on the National Register of Historic Places and all properties within a quarter mile (1500 feet) of those 8 properties (Section 5.14).
- The Code Officer is responsible for enforcing those regulations.
- The Ordinance establishes the Southwest Bend Historic District that contains just 3 of the 8 official historic properties, and all properties within the District are affected.
- The Historic District Commission is responsible for enforcing the Historic District regulations (Article 12).
- The Planning Board must review the impact of subdivisions and conditional uses on historic resources wherever a project is located (Articles 6, 7, and 8).
- These overlapping jurisdictions have led to confusion and conflict.
- All three agencies lack the technical support needed to deal with the highly complicated subject matter of historic preservation.

DEVELOPMENT OF CELL TOWER PERFORMANCE STANDARDS

- As with solar energy systems and battery energy storage systems, Durham has no specific regulations dealing with installation of transmission towers for telecommunications (commonly referred to as cell towers).
- Unlike energy systems, cell towers have special federal legal requirements that can preempt local authority to regulate placement of cell towers.
- Like commercial and industrial energy systems, cell towers can have significant impacts on rural character that can be mitigated through visual impact analysis.
- Another consideration that most ordinances address is decommissioning of such structures after they reach obsolescence and are abandoned.

REVIEW OF REGULATIONS AFFECTING AGRICULTURE

- Durham’s Comprehensive Plan identifies agriculture as one of the most important cultural resources of the Town, both in terms of rural character and economic development.

- The Plan recommends formation of an Agricultural Commission to review Durham’s land use policies and regulations as they affect agriculture.
- The Maine Farmland Trust has been working with Durham stakeholders and offered to provide logistical support for implementation efforts if the Town decides to pursue them.
- Durham’s current agricultural provisions are outdated and do not account for newer agricultural enterprises such as agritourism.

DIGITAL CODIFICATION OF THE LAND USE ORDINANCE

- Since adoption of the 2018 Comprehensive Plan, the Town has been systematically updating its land use regulations to address outdated provisions, resolve internal and external conflicts in the provisions, and implement policy recommendations of the Plan.
- An initial overhaul was done to consolidate outlier ordinances, like gravel pits and mobile home parks, into the body of the Land Use Ordinance.
- The Ordinance was also reformatted to make it readable and to systematize the review of subdivisions and nonresidential development using model ordinance provisions developed to address State legal requirements.
- In addition to these efforts, important land use policies have been addressed in a reactive manner, such as development of the solar energy systems regulations in the face of developer inquiries.
- Voters at the 2024 Town Meeting approved funding for digital codification of the Land Use Ordinance. This project will parallel the recent conversion of the tax maps to provide online access to assessing information and facilitate annual assessment updates.
- In addition to providing a digital format for the Land Use Ordinance, this project will review all provisions, not just the most pressing ones, to identify areas where the Ordinance is not in compliance with state and federal laws.
- It will provide a comprehensive framework for completion of the Town’s land use regulatory overhaul and recommendations for “fixes” to problems in the Ordinance.
- Once a contractor is selected, the process will take a year to two years to complete.