

# SUBDIVISION REGULATIONS OF DURHAM, NEW HAMPSHIRE

## *SECTION 1: Authority and Purpose*

### **1.01 AUTHORITY**

Pursuant to the authority vested in the Planning Board by the legislative body of the Town of Durham and in accordance with the provisions of RSA 674:35 of the New Hampshire Revised Statutes Annotated, as amended, the Planning Board adopts the following regulations governing the subdivision of land in the Town of Durham, New Hampshire.

### **1.02 PURPOSE**

These regulations are designed to accomplish the purposes set forth in RSA 674:36 and to protect the health, safety, convenience, and economic and general welfare of our citizens.

## *SECTION 2: Title*

These regulations shall be known and cited as the SUBDIVISION REGULATIONS OF DURHAM, NEW HAMPSHIRE, and supersede the Subdivision Regulations, Town of Durham, New Hampshire, adopted December 12, 1990, as amended prior hereto, and such prior regulations are hereby rescinded.

## *SECTION 3: Definitions*

**Abutter:** any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only, and not for purpose of notification, the term “abutter” shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by the Town of a Planning Board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term “abutter” means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

**Acceptance:** the determination by formal vote of the Planning Board that the application is complete according to the Board’s regulations and that the Board will begin formal consideration of the application.

**Applicant:** all owners of record of the land to be subdivided, including any subsequent owner(s) of record making any subdivision of such land or any part thereof, or the duly authorized agent(s) of such owner(s).

**Approval:** recognition by formal vote of the Planning Board, certified by written endorsement of the Chair of the Planning Board on the plat, that the plat meets the requirements of the Durham Zoning Ordinance, Subdivision Regulations, and other municipal ordinances and regulations.

**Best Management Practices (BMP):** methods and means that have been determined to be the most effective, practical approaches of preventing or reducing pollution and detrimental impacts from stormwater runoff.

**Board:** the Planning Board of Durham, New Hampshire.

**Boundary Line Adjustment:** the exchange of abutting land between two or more lots which does not increase the number of lots.

**Buffer:** a vegetated area or zone separating a development from a sensitive resource or neighboring property in which proposed development is restricted or prohibited.

**Building Envelope:** an area designated on each lot of a subdivision plan as the area where a building may be constructed.

**Building Footprint:** the actual outline of a building as shown to scale on a subdivision plan.

**Certified Soil Scientist:** a person who by reason of special knowledge and experience is qualified to practice soil science and has been duly certified by the New Hampshire Board of Natural Scientists under RSA 310-A:75.

**Certified Wetlands Scientist:** a person who is certified by the New Hampshire Board of Natural Scientists under RSA 310-A:75 to delineate wetlands boundaries and prepare wetlands maps.

**Common Open Space:** land within or related to a subdivision that is set aside to conserve natural resource, scenic, cultural, historic, or archeological values, provide active or passive recreation, or accommodate support facilities related to the subdivision, and that is restricted from significant development or intensive use except for approved recreational or support facilities and protected in perpetuity in a substantially undeveloped state through legally binding fee ownership or conservation easements.

**Completed Application:** the application form and supporting documents, as specified in these regulations, that contains all the information the Planning Board needs to review a subdivision proposal and make an informed decision. All fees and administrative expenses, as indicated in these regulations, must be included. For the submission requirements, see Sections 7, 9, and 10 and Checklist (Attachment 1).

**Conceptual Subdivision Plan:** a preliminary plan showing the major features of the site and the general layout of the conservation areas, lots and roads together with the preliminary layout and design of the infrastructure.

**Conditions of Approval:** a written list of specific conditions which the applicant shall meet as part of the project's approval.

**Condominium:** a building or group of buildings in which units are owned individually, and the structure, common areas, and facilities are owned by all the owners on a

proportional undivided basis. Condominiums shall be considered a subdivision and reviewed accordingly.

**Conservation Easement:** a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural, cultural, or historic resources; or maintaining air or water quality and including preservation easements for historic or cultural resources.

**Conservation Land:** land owned by a public body, land trust, conservation organization, or other group for the purpose of the protection of natural resources or scenic, cultural, historic or archeological values, the provision of open space, and/or for passive recreational use and which is permanently restricted from development or intensive use and protected in perpetuity in a substantially undeveloped state by legally binding arrangements.

**Conservation Subdivision:** a subdivision meeting the requirements of Section 175-107 of the Zoning Ordinance in which a substantial portion of the site is set aside as permanent, common open space.

**Construction Drawings:** the maps, drawings, or plans and profiles necessary to detail the construction of all utilities necessitated by a proposed subdivision, including, but not limited to: streets, sewer, water, storm drainage, electrical and telephone.

**Development:** any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**Disconnected Impervious Cover:** the sum of the proposed areas of impervious cover and pavement that receive runoff and, by means of implementing BMPs and LID strategies, is designed to capture and filtrate the precipitation from a 1-inch 24-hour rain event.

**Disturbance:** any activity that significantly alters the characteristics of the terrain in such a manner as to impede or alter the hydrology or natural runoff pattern, or creates an unnatural runoff.

**Effective Impervious Area (EIA):** the total impervious surface areas less the area of disconnected impervious cover.

**Engineer:** a person who engages in the practice of Civil Engineering and is licensed by the State of New Hampshire under RSA 310-A:11.

**Findings of Fact:** a written list of facts concerning a particular application, with respect to the proposed subdivision and its compliance with the ordinances and regulations of the Town.

**Hydrologic Soil Group (HSG):** a Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from "A" soils, with high permeability and little runoff production, to "D" soils, which have low permeability rates and produce much more runoff.

**Impervious Surface:** a material with low permeability that impedes the natural infiltration of moisture into the ground so that the majority of the precipitation that falls on the surface runs off or is not absorbed into the ground. Common impervious surfaces

include, but are not limited to, roofs, concrete or bituminous paving such as sidewalks, patios, driveways, roads, parking spaces or lots, and storage areas, compacted gravel including drives and parking areas, oiled or compacted earthen materials, stone, concrete or composite pavers, wood, and swimming pools.

**Informational Conference:** a required meeting between a potential applicant and the Director of Planning and Community Development to review the Town's regulations and requirements and the nature of the possible application before any submissions are made or applications filed.

**Licensed Land Surveyor:** a person who engages in the practice of land surveying and is licensed by the State of New Hampshire under RSA 310-A:53.

**Low Impact Development (LID):** site planning and design strategies intended to maintain or replicate predevelopment hydrology through the use of source control and relatively small-scale measures integrated throughout the site to disconnect impervious surfaces and enhance filtration, treatment, and management of stormwater runoff as close to its source as possible. Examples of LID strategies are pervious pavement, rain gardens, green roofs, bioretention basins and swales, filtration trenches, and other functionally similar BMPs located near the runoff source.

**Maximum Extent Practicable (MEP):** to show that a proposed development has met a standard to the maximum extent practicable, the applicant must demonstrate the following: (1) all reasonable efforts have been made to meet the standard, (2) a complete evaluation of all possible management measures has been performed, and (3) if full compliance cannot be achieved, the highest practicable level of management is being implemented.

**Minor Subdivision:** a subdivision that creates three or fewer lots or dwelling units.

**Modified Procedures:** a procedure by which the Planning Board, when considering a Boundary Line Adjustment, may both accept and act on an application at the same meeting without a site visit, without requiring the applicant to post a performance bond, and without a public hearing (RSA-676:4).

**Native plants:** plants that are indigenous to the region, adapted to the local soil and rainfall conditions, and require minimal supplemental watering, fertilizer, and pesticide application.

**Pavement:** areas of a site that are covered with pervious and/or impervious asphalt and concrete.

**Plat:** the map or drawing on which the plan of subdivision is presented to the Durham Planning Board for approval, and which, if approved, will be submitted to the Register of Deeds of Strafford County for recording.

**Porous Media:** material with open connected pore spaces that allows water to percolate through it such as granular soils, gravel, crushed stone, pervious pavements, and woven and non-woven geosynthetics.

**Preapplication Review:** the two steps, Phase 1 - Preliminary Conceptual Consultation and Phase 2 - Preliminary Design Review, that an applicant must follow prior to filing a Phase 3 - Formal Application as permitted in RSA 676:4.

**Primary Conservation Area:** the portion of a site that is unsuitable for development and/or intensive use including the areas that are required to be deducted from the

“Usable Area” of the site in accordance with the Zoning Ordinance. Any portion of a site that cannot be used in determining the allowable density based upon the provisions of the Wetlands Conservation Overlay District, Shoreland Protection Overlay District, Flood Hazard Overlay District or Aquifer Protection Overlay District shall be part of the Primary Conservation Area.

**Public Hearing:** a publicly advertised item on the Planning Board agenda at which public comment on a specific application is heard.

**Public Meeting:** an open meeting of the Planning Board during which public hearings are held, applications are presented, informal discussions are conducted with interested citizens who request such, and the administrative business of the Planning Board is accomplished.

**Redevelopment:** any man-made change to previously improved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, and drilling operations.

**Regular Meeting:** a session of the Board held on regularly scheduled day(s) each month.

**Resource Impact and Conservation Plan:** an assessment of the impact of the proposed subdivision on the identified resources on the site and the actions that will be taken to minimize and mitigate these impacts.

**Riparian:** referring to anything connected or immediately adjacent to the shoreline or bank of a stream, river, pond, lake, bay, estuary or other similar body of water.

**Riparian buffer:** the naturally vegetated shoreline, floodplain or upland forest adjacent to a surface water body. Riparian buffers provide stormwater control flood storage and habitat values. Wherever possible, riparian buffers should be sized to include the 100-year floodplain as well as steep banks and freshwater wetlands.

**Runoff:** stormwater that does not infiltrate into the ground and flows toward a below-ground or surface discharge location.

**Secondary Conservation Area:** the portion of a site that has open space, recreational, natural resource, scenic, cultural, historic, or archeological value, or that should remain undeveloped to protect groundwater and should be considered for inclusion within the common open space of a conservation subdivision but is not within the Primary Conservation Area.

**Site:** a lot, tract or parcel of land on which a development is located that includes but is not limited to the proposed area of disturbance and development activities.

**Site Inventory and Analysis:** the Site Inventory Map, Site Analysis Map, and Site Analysis Narrative and supporting data describing the site proposed to be subdivided and analyzing the opportunities and constraints for open space preservation, subdivision, and development. The inventory and analysis are typically submitted for preliminary review prior to submitting a formal application for subdivision approval.

**Sketch Plan:** a plan showing the general concept for land conservation and development, Primary and Secondary Conservation areas, and the conceptual layout of lots and roads in a proposed subdivision.

**Soil Survey, Medium Intensity:** the Natural Resources Conservation Service's County Soil Survey Map, or other soil map prepared and certified by a New Hampshire Certified Soil Scientist that meets similar mapping standards.

**Soil Survey, High Intensity:** a soils map and related materials prepared and certified by a New Hampshire Certified Soil Scientist in accordance with the most recent standards for high intensity soils surveys and/or mapping published by the Society of Soil Scientists of Northern New England.

**Stewardship Account:** an account established and funded by the applicant to assure that funds are available to pay for the monitoring of conservation restrictions on common open space on a perpetual basis.

**Stewardship Fund:** an account established and managed by the Town of Durham into which payments made by applicants to pay for the monitoring of conservation restrictions held by the Town on common open space are deposited.

**Stormwater:** water that originates from precipitation events and accumulates on land.

**Stormwater Management Plan:** a written plan describing the proposed methods and measures to be implemented to prevent or minimize water quality and quantity impacts from stormwater associated with a development or redevelopment project both during and after construction. It identifies selected BMPs, LID source controls, and treatment practices to address those potential impacts, and contains the engineering design plans, specifications, and calculations of the management and treatment practices, and maintenance requirements for proper performance of the proposed practices.

**Subdivision:** the division of the lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance, or building development. Subdivision includes re-subdivision and, when appropriate, relates to the process of subdividing or to the land or territory subdivided.

The division of a parcel of land, held in common and subsequently divided into parts among the several owners, shall be deemed a subdivision under these regulations.

The granting of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters, and supporting apparatus, including any unstaffed structure which is less than 200 square feet, shall not be construed as a subdivision under these regulations, and shall not be deemed to create any new division of land for any other purpose.

**Water Quality Treatment:** the capture of sediment, nutrients, metals and hydrocarbons suspended in stormwater runoff from impervious surfaces before being conveyed to a storm sewer network or to another water quality treatment system. In most cases where no other local water body impairments exist, adequate treatment refers to documenting the treatment systems ability to remove 80% of the total suspended solids (TSS) on an annual basis. Where water quality impairments do exist adequate treatment refers to a system's ability to meet maximum load allocations or not further impair the receiving water.

**Water Quality Volume (WQv):** the storage volume needed to capture and treat the runoff from the 1-inch 24-hour rainstorm for a specific contributing area. WQv shall be

calculated using the following equation:  $WQ_v = (P)(R_v)(A)$ , where:  $P = 0.083$  ft,  $R_v$  = the unitless runoff coefficient,  $R_v = 0.05 + 0.9(I)$ , where  $I$  = the percent impervious surface draining to the discharge point, in decimal form, and  $A$  = total site area in square feet draining to the discharge point.

**Workshop:** an informal session of the Board, either as an agenda item during a regular meeting or as a separately scheduled meeting. Such sessions are held to discuss subdivision applications, administrative matters, draft changes to ordinances and regulations, provide preliminary conceptual consultation and design review consultation, and to consider other matters such as the Town Master Plan. No votes are taken and no final decisions are made.

#### ***SECTION 4: General Provisions***

**4.01** Before any subdivision is made, or before the transfer or sale of any part thereof, and before any subdivision plat may be filed in the office of the Register of Deeds of Strafford County, the owner or authorized agent shall apply in writing to the Planning Board on a form provided by the Board (Attachment 1) and secure approval of such proposed subdivision in accordance with these regulations.

**4.02** Land of such character that it cannot, in the judgment of the Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions, shall not be platted for residential, commercial, or industrial subdivision, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard. Land with inadequate characteristics or capacity for sanitary sewage disposal may not be subdivided for residential, commercial, or industrial subdivision purposes unless connected to a municipal sewerage system.

**4.03** The Board may disapprove any application that, in the Board's opinion, would create such scattered or premature development of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services.

#### ***SECTION 5: Application Procedures***

##### **5.01 Informational Conference**

All applicants for subdivision review must schedule an informational conference with the Director of Planning and Community Development. The purpose of this activity is to familiarize the applicant with the Town's procedures and requirements and to familiarize the Town's representatives with the nature of the project. If the proposed project will be a residential subdivision, the Director of Planning and Community Development will discuss the concept of a conservation subdivision with the applicant and shall provide the applicant with information about conservation subdivisions and give the applicant the opportunity to review other information about conservation

subdivisions. Such review shall not cause the plan to be a pending application or proceeding. No decisions relative to the plan shall be made at this meeting. At this meeting, the applicant shall be prepared to discuss his/her plans for the development in a general nature.

The informational conference shall be held by the Director of Planning and Community Development. The Director may ask the Town Administrator, the Zoning Administrator, and/or other Town staff and consultants to participate in the informational conference if warranted by the scale and/or nature of the proposal. As part of the meeting, the Town representative(s) and the applicant may visit the proposed site.

## **5.02 Preapplication Review Phases (RSA 676:4 II)**

Applicants are required to complete the preapplication review phases to expedite review of the formal application. The preapplication review process consists of the following activities:

- A. Phase 1 - Preliminary Conceptual Consultation
- B. Phase 2 - Preliminary Design Review

### **A. *Phase 1 - Preliminary Conceptual Consultation***

1). Following the informational conference with the Director of Planning and Community Development, the applicant shall request a meeting with the Board to discuss the site and its suitability for conservation and development and a proposal, in conceptual form and in general terms, for the use of the site. In addition, the applicant is encouraged to seek input from the Conservation Commission at this time, especially with regards to the secondary open space to be provided as part of the application. Phase 1 shall be informal, focus on the Site Inventory and Analysis and Sketch Plan as described in Section 7.01, and be directed toward:

- a. evaluating the suitability of the site for conservation and development,
- b. reviewing the basic concepts of the proposal,
- c. reviewing the proposal with regard to the Master Plan and Zoning Ordinance,
- d. determining whether the proposal is a major or minor subdivision, and,
- e. guiding the applicant relative to state and local requirements.

2). The Preliminary Conceptual Consultation shall not bind the applicant or the Board. The Phase 1 discussion must occur at a posted meeting of the Board after identification of and notice to abutters, holders of conservation, preservation, or agricultural restrictions on the site or abutting parcels, and the general public as required by RSA 676:4 I(d).

3). Prior to the Phase 1 discussion, the applicant must submit the materials set forth in

Section 7.01 including a Site Inventory and Analysis and Sketch Plan. The Planning Board may waive this requirement or reduce the amount of information required for the revision of previously approved plans and for Minor Subdivisions or when the information is not required due to the scale or scope of the subdivision.

4). The applicant shall request a Phase 1 discussion by submitting the appropriate form (Attachment 2 Request for Preapplication Review) and the following information to the Director of Planning and Community Development:

- a. a list of abutters and their addresses from municipal records not more than five days before submission,
- b. a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property and abutting parcels,
- c. a check or cash to cover mailing and advertising costs as per the fee schedule,
- d. any requests for waivers of the submission requirements of Section 7.01, and
- e. the material set forth in Section 7.01.

Upon receipt of a request for a Phase 1 discussion, the Director of Planning and Community Development shall review the submitted material and determine whether the submission is complete. If the Director determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for discussion by the Board until the additional information is submitted. These steps shall be repeated until the submission is determined to be complete. When the submission is determined to be complete, the Director shall notify the applicant and the Chair of the Planning Board in writing of this finding. The Chair of the Planning Board shall place the item on the agenda for discussion by the Planning Board, and the Director shall distribute copies of the submission to the Zoning Administrator, Town Engineer, Code Enforcement Officer, Health Officer, Public Works Director, Police Chief, Fire Chief, and Conservation Commission for their review and comment. In addition, the Director of Planning and Community Development shall notify all abutters of the pending request and the date, time, and place of the meeting at which the Planning Board will review the Phase 1 submission.

5). The Planning Board may hold a public on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the preliminary development proposal. The Board may schedule this visit either before or after the meeting at which Phase 1 is considered. The Board may decide not to hold an on-site inspection.

6). The Phase 1 - Preliminary Conceptual Consultation including the review of the Site Inventory and Analysis and Sketch Plan shall be informational and shall not result in any formal approval or disapproval of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used,

areas that are appropriate for conservation including Primary and Secondary Conservation Areas, and areas that are appropriate for development. The Board shall also consider any input received from members of the Staff, Conservation Commission, or abutters to the project. During the review, the Planning Board may provide an opportunity for abutters to provide written and/or oral input on the submission. The Preliminary Conceptual Consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying them or invalidating any action taken. The outcome of the review process shall be the identification by the Board of the issues and constraints that must be addressed in the layout and design of the subdivision.

***B. Phase 2 - Preliminary Design Review***

- 1). Prior to submission of a formal application pursuant to Section 5.03 for Planning Board action, an applicant shall submit a preliminary design of the subdivision and meet with the Board for non-binding discussions beyond the conceptual and general, involving more specific design and engineering details of the potential application.
- 2). Phase 2 may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural restrictions on the site or abutting parcels, and the general public as required by RSA 676:4 I(d).
- 3). Prior to the Phase 2 review, the applicant must submit the materials set forth in Section 7.02. The Planning Board may waive this requirement or reduce the amount of information required for the revision of previously approved plans and for Minor Subdivisions or when the information is not required due to the scale or scope of the subdivision. In addition, the applicant shall meet with the Conservation Commission to discuss the secondary open space prior to submission of a Phase 2 application to the Planning Board.
- 4). Persons engaged in pre-application Preliminary Design Review shall submit a "Request for Pre-application Review" (Attachment 2) to the Director of Planning and Community Development. The request shall include:
  - a. a list of abutters and their addresses from municipal records not more than five days before submission,
  - b. a check or cash to cover mailing and advertising costs as per the fee schedule,
  - c. a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property and abutting parcels,
  - d. any requests for waivers of the submission requirements of Section 7.02, and
  - e. the material set forth in Section 7.02.
- 5). Upon receipt of a request for a Phase 2 review, the Director of Planning and Community Development shall review the material and determine whether the submission is complete. If the Director determines that the submission is incomplete, he/she shall notify the applicant in writing of this finding, shall specify the additional

material required to make the submission complete, and shall advise the applicant that the item will not be scheduled for review by the Board until the additional information is submitted. These steps shall be repeated until the submission is found to be complete. When the submission is determined to be complete, the Director shall notify the applicant and the Chair of the Planning Board in writing of this finding. The Chair of the Planning Board shall place the item on the agenda for review by the Planning Board, and the Director shall distribute copies of the submission to the Zoning Administrator, Town Engineer, Code Enforcement Officer, Health Officer, Public Works Director, Police Chief, Fire Chief, and Conservation Commission for their review and comment. In addition, the Director shall notify all abutters of the pending request and the date, time, and place of the meeting at which the Planning Board will review the preliminary design of the subdivision.

6). All discussion in Phase 2 shall be informal and non-binding. The Board shall consider any input received from members of the Staff, Conservation Commission, or abutters to the project. During the review, the Planning Board may provide an opportunity for abutters to provide written and/or oral input on the submission. The Board may provide the applicant with advice as to revisions that will be necessary for approval of the plan or determine additional information that will be required as part of the formal application. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.

### **5.03 Formal Application**

A. A formal application shall consist of the forms and data as shown in Sections 7, 9 and 10 of these regulations. It shall also include all fees required by the Town under the provisions of RSA 676:4 I(g).

B. Upon receipt of a formal application at least twenty-one (21) days prior to the next regularly scheduled meeting of the Planning Board, the Director of Planning and Community Development will review it using the Subdivision Application Checklist. Within five (5) business days of submitting a formal application, the applicant shall meet with the Director of Planning and Community Development to discuss issues related to completeness and acceptance of the application. If this review discloses that all requirements specified on the Subdivision Checklist have not been met, the applicant will be notified in writing what specific items are still needed. When all requirements have been met, the application will be scheduled for submission to the Planning Board by placing it on the Board's agenda. This must occur not less than fifteen (15) days prior to the meeting at which the application will be considered.

C. A formal application shall only be submitted to the Planning Board at a regular meeting after notification has been given as required by RSA 676:4 I(d). The Planning Board shall determine if the application is complete and act to accept it for consideration and review by the Board or reject it as incomplete, within 30 days of receipt by the Director of Planning and Community Development. Such action shall be by a majority vote of those Board members present.

D. The Director of Planning and Community Development shall distribute copies of the completed application to the Zoning Administrator, Town Engineer, Code Enforcement Officer, Health Officer, Public Works Director, Police Chief, Fire Chief, and Conservation Commission for their review and comment. Prior to the meeting of the Planning Board at which the application will be discussed, the applicant, at the discretion of the Director of Planning and Community Development, shall meet with the appropriate department heads of the Town of Durham to discuss the implications the application will have for the various departments of the Town.

#### **5.04 Board Action on a Formal Application**

A. Once a formal application is determined to be complete, the Planning Board shall consider the application at its regular meetings or at workshop meetings if required, and a site visit will be scheduled. Additional reports or studies may be required by the Board, including but not limited to, high intensity soil survey, traffic, school, fiscal, and environmental impact analyses, and legal interpretations to allow the Board to make an informed and educated decision concerning the application.

B. Prior to the approval of a subdivision, a public hearing shall be held as required by RSA 676:4 I(d) with notice given to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, every engineer, architect, land surveyor, wetlands scientist, or soil scientist whose professional seal appears on the plan submitted to the Board, abutters, and the public.

C. The Board shall act to approve, conditionally approve, or disapprove the formal application within sixty-five (65) days of acceptance of the completed application by the Board (see Attachment 4) unless an extension is requested and granted by the Town Council in accordance with E. An applicant may waive the requirement for Board action within the time period specified in these regulations and consent to such an extension as may be mutually agreeable. A conditional approval will be stated in the form of "Findings of Fact and Conditions of Approval" (see definitions).

D. The Board may apply to the Town Council for an extension of the sixty-five (65) day time period, not to exceed an additional ninety (90) days, before acting to approve, conditionally approve, or disapprove an application.

E. If the Board has not taken action on the formal application within sixty-five (65) days after acceptance of the completed application by the Board, and the Board has not obtained an extension, the applicant may obtain an order from the Town Council directing the Planning Board to act within fifteen (15) days. Failure of the Board to act on the order shall constitute grounds for the applicant to petition the Superior Court as provided in RSA 676:4 I(c).

F. Approval of the application shall be certified by written endorsement on the plat and signed and dated by the Chair of the Board. The Planning Staff shall ensure that a copy of the plat, with such approval endorsed in writing thereon, is transmitted to the Register of Deeds of Strafford County. The applicant shall be responsible for the payment of all recording fees.

G. A financial surety, adequate to cover the construction of all infrastructure improvements approved as part of the subdivision, shall be posted with the Town prior to signing and recording the approved subdivision plat. The following financial sureties are acceptable to the Town: cash, passbook savings account in the Town's name, letter of credit, or a bond.

H. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Board and in written notice given to the applicant within 72 hours (see Attachment 4b). Applications may be disapproved by the Board without public hearing on the grounds of failure by the applicant to supply information or to pay fees as required by these regulations.

#### **5.05 Notices**

A. Notice of a Preliminary Conceptual Consultation, a Preliminary Design Review, submission of a formal application, or of a public hearing, shall be given by the Board to the abutters; holders of conservation, preservation, or agricultural preservation restrictions; every engineer, architect, land surveyor, wetlands scientist, or soil scientist whose professional seal appears on the plan submitted to the Board; and the applicant. The notice shall be provided by certified mail, and mailed at least ten (10) days prior to the meeting (see Attachment 3a).

B. The public shall be given notice at the same time, by posting in two public places and in a newspaper of general circulation in the Town.

C. The notice shall give the date, time, and place of the Planning Board meeting at which the application or other item(s) will be formally submitted to the Board, shall include a general description of the proposal which is to be considered, and shall identify the applicant and the location of the proposal (see Attachment 3b).

D. If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a public hearing provided that the date, time and place of the adjourned session was made known at the prior public hearing.

#### **5.06 Boundary Line Adjustment - Modified Procedure**

A. The applicant shall submit a formal application as required in Section 5.03 but shall not be required to submit a Site Inventory and Analysis, a Sketch Plan, or a Conceptual Subdivision Plan of the subdivision.

B. Notice of Submission shall be given.

C. No application shall be approved without full notice to abutters.

### ***SECTION 6: Fees***

**6.01** A formal application for subdivision shall be accompanied by an initial filing fee.

**6.02** Pursuant to RSA 676:4 I(g), it shall be the responsibility of the applicant, if the Board deems it necessary, to pay reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses, and other matters which may be required to make an informed decision on a particular application.

**6.03** The application submittal fees are adopted by reference as part of these regulations.

### ***SECTION 7: Submission Requirements***

The following material shall be submitted for the appropriate phase of the process. If an applicant believes that any of the required information is not needed for the review of his or her application, the applicant may request, in writing, that the Planning Board waive the requirement. If the Director of Planning and Development determines that any of the submission requirements are not applicable to an application, the applicant must still formally request a waiver from the Planning Board.

The applicant shall provide eighteen (18) copies of the application if the application is exempt from the Conservation Subdivision ordinance. The applicant shall provide five (5) copies of the appropriate plan of the parcel(s) at a scale of not more than fifty (50) feet to the inch plus thirteen (13) legible, reduced size copies (11"X17"). If the application is not exempt from the Conservation Subdivision ordinance, or needs a conditional use permit per 175-61 of the Wetland Conservation Overlay District or 175-72 of the Shoreland Protection Overlay District, then the applicant shall provide twenty-seven (27) copies of the application. The applicant shall provide seven (7) copies of the appropriate plan of the parcel(s) at a scale of not more than fifty (50) feet to the inch plus twenty (20) legible, reduced size copies (11"X17"). All copies of the application should be three-hole punched to allow for the filing of the application in a three-ring binder.

#### **7.01 Phase 1 - Preliminary Conceptual Consultation Submission**

The Preliminary Conceptual Consultation phase is intended to provide the applicant, the Planning Board, and the staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. It is anticipated that this analysis will result in a subdivision plan that reflects the conditions of the site; those areas most suitable for conservation and open space will be preserved, those areas most suitable for the proposed use will be utilized, while those that are not suitable for development or that present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that the applicant submit basic information about the site, an analysis of that information, and a sketch plan in the form of an overlay sheet.

The submission must contain, at a minimum, the following information unless a waiver has been granted pursuant to Section 5.02 A. 3):

- A. A completed request form (Attachment 2) including the following:
  1. The names, addresses, and phone numbers of the record owner(s)

- and the applicant,
  2. The names and addresses of all consultants working on the project,
  3. A list of the names and addresses of all the abutters, as shown in town records not more than five (5) days before the day of filing; and a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property and abutting parcels, and
  4. Evidence of right, title, or interest in the property.
- B. A Site Context or Locus Map drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
1. Existing subdivisions in the proximity of the proposed subdivision.
  2. Locations and names of existing streets.
  3. Boundaries and designations of zoning districts.
  4. An outline of the proposed subdivision and any remaining portion of the owner's property if the formal application will cover only a portion of the owner's entire contiguous holding.
- C. An accurate scale Site Inventory Plan of the parcel at a scale of not more than fifty (50) feet to the inch showing as a minimum:
1. The proposed name of the development, north arrow (True Meridian), date, and scale.
  2. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
  3. Existing restrictions or easements on the site (if none, so state).
  4. The topography of the site at an appropriate contour interval depending on the nature of the use and character of the site as determined by the Director of Planning and Community Development.
  5. The *major* natural features of the site and within five hundred (500) feet of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, scenic views or areas, significant geological features, prime agricultural soils, unfragmented forest blocks, resources identified by the New Hampshire Natural Heritage Bureau or other important natural features. Wetlands on the site shall be identified and delineated by a New Hampshire Certified Wetlands Scientist and shall be certified by the person performing the delineation. Information on adjacent properties may be from published sources.
  6. The soils on the site through a high intensity soil survey (HISS).

The Planning Board may allow the submission of a medium intensity soils survey if it determines that a HISS is not required to determine that the proposed density of development conforms to the zoning requirements or to evaluate the appropriate use of the property.

7. Vegetative cover conditions on the property according to general cover type.
  8. Watershed and sub-watershed boundaries.
  9. Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, fences, trails, graveyards, and cemeteries (if none, so state).
  10. Locations of all culturally, historically or archaeologically significant buildings, features, or sites .
  11. The location and size of existing utilities or improvements servicing the site (if none, so state).
  12. Any potential sources of fire protection water supply within one half mile of the site including public water mains, existing fire ponds, or possible sources of water supply.
- D. A Site Analysis Map at the same scale as the inventory plans (see C. above) highlighting the opportunities and constraints of the site in a bubble diagram or annotated format. This plan should enable the Planning Board to determine: which portions of the site are unsuitable for development or use (Primary Conservation Areas); which areas of the site have potential conservation or open space value (Secondary Conservation Areas) that should be addressed in the subdivision plan; which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available; which areas of the site may be subject to off-site conflicts or concerns (noise, lighting, traffic, etc.); and which areas are well suited for the proposed use.
- E. A Site Analysis Narrative describing the existing conditions of the site, the constraints and opportunities created by the site, the open space conservation potential of the site, and the proposed development. The narrative must include a calculation of the "Usable Area" of the site based upon a High Intensity Soil Survey in accordance with Section 175- 55 of the Zoning Ordinance and the maximum number of units that can be included in the subdivision based upon this calculation and the dimensional requirements of the zone. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site including wetland delineations, traffic studies, market studies, or other information that will help the Board understand the project.
- F. A Sketch Plan, drawn at the same scale as the site analysis plan, and in a

form that allows it to be overlain on the site analysis plan, showing the general concept for land conservation and development, the location of identified Primary and Secondary Conservation Areas, and the conceptual layout of lots and roads in accordance with the four step design process set forth in Section 9.08.

## **7.02 Phase 2 - Preliminary Design Review Submission**

The Preliminary Design Review phase is designed to allow the applicant, Board, and staff the opportunity to review the proposed layout of the subdivision and to identify any issues or concerns with the layout before final engineering design is completed and the formal application is submitted. The submission requirements therefore focus on the overall utilization of the site and the layout of the subdivision rather than engineering details.

The submission must contain, at a minimum, the following information unless a waiver has been granted pursuant to Section 5.02 B. 3):

- A. A completed request form (Attachment 2) including the following:
  - 1. The names, addresses, and phone numbers of the record owner(s) and the applicant,
  - 2. The names and addresses of all consultants working on the project,
  - 3. A list of the names and addresses of all the abutters, as shown in town records not more than five (5) days before the day of filing; and a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property and abutting parcels,
  - 4. Evidence of right, title, or interest in the property, and
  - 5. Copies of the most recently recorded deed for the parcel and of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- B. The Site Context or Locus Map submitted in Phase 1 or a Site Context or Locus Map meeting the requirements of Section 7.01 B.
- C. An updated Site Analysis Map meeting the requirements of Section 7.01 D. reflecting any new or updated information developed since the inventory and analysis phase together with an updated calculation of the Usable Area and maximum number of units that may be developed on the site.
- D. A Conceptual Subdivision Plan, based upon the updated calculation of the Usable Area and related maximum density, and supporting documentation showing:
  - 1. The proposed name of the subdivision and the assessor's map and

- lot numbers.
2. The names and addresses of the record owner(s), applicant, all consultants who prepared the plan, and adjoining property owners.
  3. The date the plan was prepared, north point, and graphic map scale.
  4. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
  5. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
  6. The location of all soil tests pits as may be required under these regulations or the provisions of the zoning ordinance including all failed test sites or pits as well as those approved. All approved sites shall be clearly distinguished from unapproved sites.
  7. The *approximate* location and dimensions of proposed common open space, playgrounds, public areas, and parcels of land proposed to be dedicated or reserved for public use.
  8. The *approximate* location of existing and proposed lot lines, easements, and rights-of-way.
  9. The *approximate* location, alignment, width, and tentative names of all existing and proposed streets and street rights-of-way, including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas.
  10. Typical street cross-section drawing(s) for all proposed streets including details relating to thickness, crowning, and construction materials.
  11. The *approximate* location of proposed swales, retention ponds, drainage easements, and other stormwater management facilities.
  12. Where public sewer service is to be provided, the conceptual layout of proposed sewage systems, including but not limited to, the tentative locations of sewer mains and pump stations.
  13. Where public water service is to be provided, the conceptual layout of proposed water distribution facilities including water mains, fire hydrants, storage tanks, and, where appropriate, wells or other water sources.
  14. The exact locations of existing utility easements and *approximate* locations of proposed utility easements.
  15. Where installation of the improvements is proposed to be done in phases, a delineation of the proposed sections within the Conceptual Subdivision Plan and a schedule of deadlines within which applications for formal approval of each section are intended to be filed.
  16. An estimate of the amount and type of vehicular traffic that will be generated by the project.

- E. Documentation of the four-step design process for determining the layout of proposed conservation lands, house sites, streets, and lot lines, as described in Section 9.08.
- F. A Resource Impact and Conservation Plan meeting the following requirements:
  - 1. The Resource Impact and Conservation Plan shall categorize the impacts of the proposed activities and physical alterations on those resources shown on the Site Analysis Map. All proposed improvements, including, but not necessarily limited to grading, filling, streets, buildings, utilities, and stormwater detention facilities, as proposed in the Conceptual Subdivision Plan and related documents, shall be taken into account in preparing the Resource Impact and Conservation Plan. This plan shall clearly demonstrate that the Conceptual Subdivision Plan will minimize site disturbance and the impacts on identified resources to the greatest extent practicable.
  - 2. The Plan shall identify the potential impacts of the proposed development on identified resources, how the subdivision is being designed to minimize the impacts, and the activities that will be undertaken to mitigate any potential adverse impacts. The plan shall address the potential impacts on the following:
    - (a) primary impact areas (i.e., areas directly impacted by the proposed subdivision),
    - (b) secondary impact areas (i.e., areas in proximity to primary areas that may be impacted), and
    - (c) designated protected areas including proposed common open space.
- G. A Preliminary Common Open Space Ownership and Stewardship Plan that includes, but shall not necessarily be limited to, the following if the subdivision contains any proposed common open space:
  - 1. A description of all common open space and any other lands and facilities proposed to be owned by the Town, or a conservation organization, or a home owners association, or that will be permanently protected by conservation easements. This description shall include a map indicating the approximate location of these lands and facilities.
  - 2. A description of proposed ownership arrangements for the parcels identified in 1.
  - 3. A description of the proposed conservation restrictions that will permanently protect these parcels.
  - 4. A description of proposed arrangements for the long-term stewardship of the common open space including management

objectives and techniques for each parcel or area together with an indication of who will have the primary and secondary responsibilities for this.

- H. The Board may request additional information be submitted as part of the Phase 2 review or as part of the formal application where it finds it necessary in order to determine whether the Conceptual Subdivision Plan is likely to result in a final plan that meets the requirements of these regulations. This may include, but is not limited to, the following:
1. An hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology.
  2. A projection of the amount and type of vehicular traffic to be generated on an average annual daily basis and during peak hours. The trip generation rates used shall be taken from the most recent edition of *Trip Generation Manual*, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates to the Planning Board that these sources better reflect local conditions.
  3. A traffic impact analysis prepared by a Registered Professional Engineer with experience in traffic engineering. The analysis shall evaluate traffic impacts based upon typically daily peak hour traffic and any special traffic conditions identified by the Planning Board. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions to the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

### **7.03 Phase 3 - Formal Application Submission**

A Formal Application shall be filed with the Planning Board or its designated agent at least twenty-one (21) calendar days prior to a regularly scheduled meeting of the Board. A Formal Application shall be submitted using the form available from the Planning Office (Attachment 1), and shall be accompanied by:

- A. A letter of intent detailing the proposal;
- B. A list of the names and addresses of all the abutters, as shown in town records not more than five (5) days before the day of filing; and a list of all holders of conservation, preservation, or agricultural preservation restrictions on the subject property and abutting parcels;
- C. Any additional documents, as requested by the Planning Office;

D. A plat which shall be prepared by a land surveyor, using a scale of 1 inch equals 100 feet or larger (i.e., 1 inch equals 50 feet, 1 inch equals 20 feet, etc.) and shall include:

- 1) proposed subdivision name or identifying title;
- 2) name and address of the applicant and the owner ( if different from the applicant);
- 3) names of owners of abutting properties;
- 4) North Arrow (True Meridian);
- 5) locus plan showing general location of the total tract within the Town;
- 6) name, address, license number, telephone and seal of the surveyor;
- 7) boundary survey including bearings, distances, and the location of permanent markers;
- 8) location of property lines, including entire undivided lot, lot areas, and frontage on public right-of-way; each lot shall be numbered according to the tax map numbering system;
- 9) deed restrictions;
- 10) open space to be preserved;
- 11) existing and proposed streets with class, names, and right-of-way widths;
- 12) evidence that an application has been submitted for State subdivision approval, if applicable; and
- 13) an approval block meeting the specifications of the Town.

E. The current deed, purchase and sale agreement, and copies of all easements, deed restrictions, rights-of-ways, or other encumbrances currently affecting the property together with explicit authorization by the owner(s) for the applicant to submit the application if the owner(s) is (are) not the applicant.

F. A Final Common Open Space Ownership and Stewardship Plan that includes but is not limited to the following if the subdivision contains any proposed common open space:

- 1) The boundaries, acreage, and proposed ownership of all proposed common open space and any other land that is proposed to be owned by the Town or other entity.
- 2) Provisions for the management of the common open space detailing the entities responsible for maintaining various elements of the property and describing management objectives and techniques for each parcel or part of the property.
- 3) Copies of proposed deeds, conservation easements, and other legal documents relating to the ownership and stewardship of the common

open space.

- 4) Evidence that a municipal organization or an independent party will be designated to assure compliance with all conservation restrictions and that the designated party is willing to assume this responsibility including provisions for the creation and funding of a Stewardship Account to defray the cost of such oversight.
- 5) If ownership of any of the common open space will rest with a homeowners association, community association, or similar group, the following documents and evidence shall be provided:
  - a. A description of all lands and facilities to be owned by the homeowners or community association. This description shall include a map of the proposal indicating the precise location of those lands and facilities.
  - b. Provisions setting forth the powers, duties, and responsibilities of the association, including the services to be provided.
  - c. A Declaration of Covenants, Conditions, and Restrictions, giving perpetual easement to the lands and facilities owned by the association. The Declaration shall be a legal document that also provides for automatic association membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the association, including voting, elections, and meetings. Furthermore, it shall give power to the association to own and maintain the common property and to make and enforce rules.
  - d. Provisions prescribing the process by which association decisions are reached and setting forth the authority to act.
  - e. Provisions requiring each owner within the subdivision or land development to become a member of the association including statements establishing cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
  - f. Requirements for all owners to provide a pro rata share of the cost of the operations of the association.
  - g. A process of collection and enforcement to obtain funds from owners who fail to comply.
  - h. A process for transition of control of the association from the developer to the unit owners.
  - i. Provisions describing how the lands and facilities of the Community Association will be insured, including limit of liability.
  - j. Provisions for the dissolution of the association, in the event the association should become non-viable, including provisions for the disposition of any common open space or other land and facilities owned by the association.

- G. The Board may request additional information be submitted as part of the formal application where it finds it necessary in order to determine whether the Subdivision Plan meets the requirements of these regulations. This may include, but is not limited to, the following:
1. An hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology.
  2. A projection of the amount and type of vehicular traffic to be generated on an average annual daily basis and during peak hours. The trip generation rates used shall be taken from most recent edition of *Trip Generation Manual*, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
  3. A traffic impact analysis prepared by a Registered Professional Engineer with experience in traffic engineering. The analysis shall evaluate traffic impacts based upon typically daily peak hour traffic and any special traffic conditions identified by the Planning Board. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions to the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

#### **7.04 Ground Control (both on the site and on the plat)**

Prior to the submission of the formal application, ground control shall be installed at the site. The ground control shall consist of numbered flags, stakes, walls, trees, or other easily identifiable points on the property. These points shall be well distributed throughout the site at a density of not less than four points per lot and identified by number on the plat. The purpose of this requirement is to provide easy identification for all parties required or interested in examining the site.

#### **7.05 Construction Plan**

A Construction Plan shall be submitted when it is necessary to detail the following information in conjunction with the subdivision application.

- A. location and profiles of existing water mains, sewers, culverts, drains, and proposed connections or alternative means of providing water supply (including location of proposed wells, if applicable), disposal of sewage, and surface drainage;
- B. location of existing wells and septic systems, both on and off-site, within 100 feet of any designated leach field on any proposed lot;

- C. existing and proposed easements, right-of-ways, buildings, water courses, ponds, standing water, rock ledges, stone walls and other essential site features;
- D. existing and proposed topographic contour boundaries at 2-foot intervals or less (i.e., 1-foot contour intervals);
- E. location of ground water, and percolation tests and test results;
- F. soil mapping types/slopes and boundaries including location of soil tests and test results;
- G. existing buildings and other structures to remain;
- H. final road profiles and cross-sections;
- I. State highway/municipal access permit, as applicable; and
- J. Name, address, license number, telephone, and seal of all professional surveyors, engineers, wetlands scientists, soil scientists, and septic designers who participated in the development of the construction plan.

#### **7.06 Verification of Soils Data**

A High Intensity Soils Survey submitted as part of a pre-application submission or an application shall be prepared by a New Hampshire Certified Soil Scientist and shall be verified by one of the following methods prior to its consideration by the Planning Board in the review of the project:

- A. Written evidence provided by the applicant that the Strafford County Conservation District or its designee has reviewed the soils data and mapping and agrees that it accurately represents the soil conditions on the site, or
- B. Written evidence that the Town's independent certified soil scientist has reviewed the soils data and mapping and agrees that it accurately represents the soil conditions on the site.

If the applicant desires to use the Town's independent certified soil scientist to verify the soils data, the applicant or his representative shall contact the Director of Planning and Community Development prior to conducting any on-site soils investigations or mapping to arrange for this review. The Director shall arrange for the independent soil scientist. The Town's soil scientist shall be provided with the opportunity to observe the field work and any test holes that are used to prepare the soil survey or mapping.

The applicant shall be responsible for the cost of the review. The applicant shall deposit an amount equal to 125% of the Town's estimated costs for the review by the Town's soil scientist or the review by the conservation district with the Planning and

Community Development Department prior to commencing any field work or mapping. Any unused portion of the deposit shall be refunded to the applicant within thirty (30) days of the submission of the mapping to the Planning Board.

### ***SECTION 8: Construction Guarantee***

**8.01** The applicant shall post an acceptable financial surety prior to final Subdivision approval by the Planning Board. The financial surety shall be in an amount sufficient to ensure the completion of all roads (public or private), water service, sewage disposal, drainage, landscaping and/or any other improvements required by the Town. The financial surety shall be effective for a period mutually agreed upon by the Planning Board and the applicant, but shall not end earlier than sixty (60) days following the final completion date.

**8.02** The financial surety shall be approved by the Town as to the form and type. The Town will accept cash, pass book savings in the Town's name, letter of credit or a construction surety bond. At its discretion, the Planning Board may require approval of the construction guarantee by the Town Attorney. A sample Construction Guarantee contract is included as Attachment 5.

**8.03** The construction guarantee shall be released in phases as portions of the secured improvements or installations are final in accordance with the plan approved by the Board.

### ***SECTION 9: Design Standards***

**9.01 Sewage Disposal:** All proposed subdivisions must comply with the NH DES Subsurface disposal standards for subdivision approval and the Town of Durham's standards for septic systems as set forth in the Zoning Ordinance. Evidence shall be provided to the Planning Board that the applicant has secured, or has begun the process of securing, the sewer permits necessary for the application.

**9.02 Water Supply Systems:** Any proposed community water system shall comply with the Durham Municipal Water Supply System Standards and be sanctioned as an approved expansion of the Municipal Water System, whether or not it is tied into the existing municipal water supply. Evidence shall be provided to the Planning Board that the applicant has secured, or has begun the process of securing, the water permits necessary for the application.

### **9.03 Road Access and Construction Regulations**

A. Driveways shall not serve more than two lots, except on porkchop lot subdivisions. Each driveway shall have a minimum right-of-way of 30 feet if the driveway crosses one lot to reach another. In this case, the driveway may not extend beyond the

- B. New roads and/or driveways serving a proposed subdivision that intersect with the following main roads shall be spaced not less than 1,200 feet from each other and from any existing road or driveway on either side of the road: Routes 4, 108, 155-A, Durham Point Road, Mill Road, Bennett Road, and Packers Falls Road. Where such spacing would cause undue hardship, the Board may modify this requirement. (For the purposes of these regulations Durham Point Road is considered to extend to the Newmarket Town line.)
- C. All other roadway related regulations are contained in: Road Construction Regulations, Town of Durham, New Hampshire, adopted by the Durham Planning Board on April 17, 1996, as amended.

**9.04 Utilities:** The boundaries of proposed permanent utility or other facility easements over or under private property shall not be less than 15 feet in width and shall have satisfactory access to existing or proposed public ways. Water courses, including perennial stream crossings and drainage ways, proposed for public control shall have a permanent easement of not less than 20 feet from the edge of normal flow.

#### **9.05 Non-Municipal Utilities**

- A. General Requirements - The applicant is responsible for all coordination with utility companies to assure that non-municipal utilities are installed in accordance with plans approved by the Board pursuant to these regulations.
- B. Design Standards - All utility facilities, including, but not limited to, electric power and telephone, shall be located underground throughout the development. Whenever existing utility facilities are located above ground, they shall be removed and placed underground. Existing utilities which are located within public rights-of-way are exempted from this provision. The Board shall review and approve the location of all non-municipal utility lines.

#### **9.06 Stormwater Drainage**

A. General Requirements - All developments shall provide adequate management of stormwater runoff and prevent the discharge of stormwater runoff from creating or contributing to a water quality impairment. All applications shall be accompanied by a completed Site Plan Review Checklist (provided in Attachment 6 of these regulations) to the Planning Board prior to consideration for review. Developments that disturb 10,000 or more square feet must submit to the Planning Board for review and approval, a Stormwater Management Plan (Plan) describing all proposed stormwater management system elements, practices, and associated designs, including all calculations and analyses of said designs. However, if the applicant submits an approved Alteration of

Terrain (AOT) permit, there would be no need for the town requiring a Stormwater Management Plan. The applicant must still provide an operation and maintenance plan as provided for in (C) (5) below. The Planning Board reserves the right to require any development that disturbs less than 10,000 square feet to submit and then implement an approved Stormwater Management Plan (complete as described below or abbreviated) to prevent degradation of local water resources. All elements of the Plan must be designed/prepared by a New Hampshire Registered Professional Engineer in accordance with the Design Standards below. The Plan must contain the following parts and presented in the order listed below:

#### B. Stormwater Management Plan - Part I

- 1) An Existing Conditions Site Plan showing all pre-development surface water bodies and wetlands, drainage patterns, and watershed boundaries, buffer zones, topographic contours with minimum 2-foot intervals, scale bar, north arrow, title block with project name, applicant's name, and map and parcel number, designer's stamp and wetland scientist's stamp (if applicable), legend, locus plan, benchmarks, and appropriate notes with datum and other plan references, instructions, and detail descriptions. The Existing Conditions Site Plan shall be provided in hard copy (minimum 22-inch by 34-inch) at an appropriate scale in tens of feet per inch (maximum of 100 feet per inch) such that all important site and hydrologic features are easily recognized. Existing buildings, structures, pavement, utilities, and soils information with coding as HSG-A, B, C, or D shall be included on the Existing Conditions Site Plan. High Intensity Soil Survey (HISS) mapping may be required per request by the Planning Board.
- 2) A Proposed Conditions Site Plan showing all proposed post-development temporary and permanent stormwater management system elements and erosion and sediment control BMPs and all important hydrologic features. The Proposed Conditions Site Plan must be at the same scale as the Existing Conditions Site Plan with consistent title block, plan features, and descriptors including but not limited to the following:
  - a. Existing and proposed topographic contours (2-foot minimum contour interval; 1-foot contour intervals may be required for sites with limited relief and/or where proposed stormwater outfalls are located adjacent to buffer zones)
  - b. Proposed areas of disturbance with total area of disturbance clearly labeled in square feet
  - c. Existing and proposed buildings and structures
  - d. Stormwater discharge locations keyed to drainage analyses
  - e. Wells and sanitary protective radii
  - f. Septic systems
  - g. Plan references and notes (including sequence of soil disturbance)
  - h. Proposed and existing public and private utilities
  - i. Proposed project components to become property of or the responsibility of the Town shall be labeled as such

- j. Existing and proposed impervious surfaces and pavements with areas used to calculate EIA clearly identified and the square footage of each type identified and labeled.
- 3) Details of individual design elements shown on separate plan sheets following the Proposed Conditions Site Plan.

#### C. Stormwater Management Plan - Part II.

- 1) Drainage Analysis that includes calculations comparing Pre- and Post-Development stormwater runoff rates (cubic feet per minute) and volumes (cubic feet) based on a 1-inch rainstorm, and the 2-year, 10-year, and 25-year 24-hour frequency storms. Calculations shall include, but not be limited to, the sizing of all structures and BMPs including of sizing of emergency overflow structures based on assessment of the 100-year 24-hour frequency storm discharge rate. Phased applications for the original parcel apply as though the development of the entire parcel were proposed in one application at one time.
- 2) Drainage Analysis Results Summary tabulated for each proposed outfall or catchment outlet point including runoff rates and volumes for each storm event analyzed above.
- 3) An Erosion and Sediment Control Plan for all proposed construction activities in accordance with the most current New Hampshire Stormwater Manual.
- 4) Copies of any additional permits or plans required for compliance with Environmental Protection Agency (EPA) and/or New Hampshire Department of Environmental Services (NHDES).
- 5) A comprehensive Operation and Maintenance Plan for long-term maintenance of all proposed stormwater management elements and BMPs including the proposed schedule of inspections and anticipated maintenance.

#### 9.06.1 Design Standards

- A. The Stormwater Management Plans submitted to the Planning Board shall meet the following minimum requirements:
  - 1) Where applicable, the Plan must comply with the EPA Phase II Stormwater Rules and the Town's MS4 Stormwater Discharge Permit, as amended.
  - 2) All proposed measures shall be in accordance with the NH Stormwater Management Manual volume (December 2008 or current revision) a copy of which is available from NHDES:  
[des.nh.gov/organization/divisions/water/stormwater/manual.htm](http://des.nh.gov/organization/divisions/water/stormwater/manual.htm)

- 3) Water Quality Protection: All aspects of the application shall be designed to protect the water quality of the Town of Durham's water bodies as follows:
- a. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, noxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, harm, impair or contribute to an impairment of such waters.
  - b. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials shall meet the standards of the New Hampshire Department of Environmental Services (NHDES).
  - c. All projects under review by the Planning Board of such magnitude as to require a stormwater permit from EPA or NHDES shall comply with the standards of EPA and/or NHDES AOT program, with respect to the export of total suspended solids and other pollutants.
- 4) Stormwater Management For New Development: All proposed stormwater management and treatment systems shall meet the following performance standards:
- a. Existing surface waters, including lakes, ponds, rivers, perennial and intermittent streams (natural or channelized), and wetlands (including vernal pools) shall be protected by the minimum buffer setback distances specified in the Zoning Ordinance. Stormwater and erosion and sediment control BMPs shall be located outside the specified buffer zone unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible. When necessary, as determined by the Planning Board or their representative, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to flow and enhance animal passage (see University of New Hampshire Stream Crossing Guidelines May 2009, as amended [http://www.unh.edu/erg/stream\\_restoration/nh\\_stream\\_crossing\\_guidelines\\_unh\\_web\\_rev\\_2.pdf](http://www.unh.edu/erg/stream_restoration/nh_stream_crossing_guidelines_unh_web_rev_2.pdf)).
  - b. LID site planning and design strategies must be used to the MEP in order to reduce the generation of the stormwater runoff volume for both new and redevelopment projects. An applicant must document why LID strategies are not appropriate if not used to manage stormwater.
  - c. All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to promote proper treatment of the proposed runoff.

- d. All areas that receive rainfall runoff must be designed to drain within a maximum of 72 hours for vector control.
- e. Salt storage areas shall be covered or located such that no direct untreated discharges to receiving waters are possible from the storage site. Snow storage areas shall be located such that no direct untreated discharges to receiving waters are possible from the storage site. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater.
- f. Runoff shall be directed into recessed vegetated and landscape areas designed for treatment and/or filtration to the MEP to minimize Effective Impervious Cover (EIC) and reduce the need for irrigation systems.
- g. The Plan shall make provisions to retain stormwater on the site by using the natural flow patterns of the site. Effort shall be made to utilize natural filtration and/or infiltration BMPs (i.e., bioretention areas, subsurface filtration/infiltration systems, ponds, swales, etc). Proof of such effort shall be provided to the Planning Board.
- h. Measures shall be taken to control the post-development peak rate runoff so that it does not exceed pre-development runoff for the 2-year, 10-year and 25-year, 24-hour storm events. Similar measure shall be taken to control the post-development runoff volume to filtrate the WQv according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: HSG-A: 1.0; HSG-B: 0.75; HSG-C: 0.4; HSG-D: 0.15. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment. Infiltration structures shall be in locations with the highest permeability on the site. Measures shall be taken to protect against on and off-site peak flow to prevent overloading of existing downstream facilities.
- i. The biological and chemical properties of the receiving waters shall not be degraded by the stormwater runoff from the development site.
- j. The design of the stormwater drainage system shall provide for the disposal of stormwater without flooding or functional impairment to streets, adjacent properties, downstream properties, soils, or vegetation.
- k. The design of the stormwater management systems shall take into account upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed and provide for this contribution of runoff.

- l. Appropriate erosion and sediment control measures shall be installed prior to any soil disturbance such that the area of disturbance shall be kept to a minimum. Disturbed areas shall be stabilized within thirty (30) days.
  - m. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.
  - n. All temporary control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized prior to removal of temporary control measures.
  - o. Every effort shall be made to use pervious parking surfaces as an alternative to impervious asphalt or concrete for general and overflow parking areas. Pervious pavement shall be appropriately sited and designed for traffic and vehicle loading conditions.
  - p. Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.
  - q. Whenever practicable, all subsurface filtration BMPs shall include perforated underdrains positioned a minimum of 8-inches above the bottom of the filter bed to prevent extended periods of saturated conditions.
- 5) Redevelopment Project Requirements: Because redevelopment may present a wide range of constraints and limitations, an evaluation of options may be proposed to work in conjunction with broader state watershed goals and local initiatives. Stormwater requirements for redevelopment vary based upon the surface area of the site that is covered by existing impervious surfaces. In order to determine the stormwater requirements for redevelopment projects, the percentage of the site covered by existing impervious areas must be calculated.

For sites meeting the definition of a redevelopment project and having less than 40% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects with the important distinction that the applicant can meet those requirements either on-site or at an approved off-site location, within the same watershed within the Town of Durham, provided the applicant satisfactorily demonstrates that impervious area reduction and LID strategies and BMPs have been implemented on-site to the MEP.

For redevelopment sites with more than 40% existing impervious surface coverage, stormwater shall be managed for water quality in accordance with one or more of the following techniques, listed in order of preference:

- a. Implement measures onsite that result in an EIA of at least 30% of the existing impervious surfaces and pavement areas, and 50% of the additional proposed impervious surfaces and pavement areas through the application of porous media; or
  - b. Implement other LID techniques onsite to the MEP to provide treatment for at least 50% of the redevelopment area; or
  - c. Implement off-site BMPs to provide adequate water quality treatment for an area equal to or greater than 50% of redevelopment areas may be used to meet these requirements provided that the applicant satisfactorily demonstrates that impervious area reduction, LID strategies, and/or onsite BMPs have been implemented to the MEP. An approved off-site location must be identified, the specific management measures identified, and an implementation schedule developed in accordance with local review. The applicant must also demonstrate that there is no downstream drainage or flooding impacts as a result of not providing on-site management for large storm events. To comply with local watershed objectives the mitigation site should be situated in the same subwatershed as the development and impact the same receiving water.
- 6) Responsibility for Installation and Construction: The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the provisions of these regulations. Site development shall not begin before the Stormwater Management Plan receives written approval by the Planning Board. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.
- 7) Plan Approval and Review: The Planning Board shall approve the Stormwater Management Plan if it complies with the requirements of these regulations and other requirements as provided by law. At the discretion of the Planning Board, a technical review by a third party may be required of any stormwater management and erosion control plan prepared under these regulations. The technical review shall be performed by a qualified professional consultant, as determined by the Planning Board, and the expense of which shall be the full responsibility of the applicant.
- 8) Maintenance and Inspection:
- a. After final Planning Board approval and as a condition precedent thereto, the owner of record of the property shall cause notice of the requirements for maintenance pursuant to the stormwater management and erosion

and sediment control plans, as approved by the Planning Board, to be recorded at the Registry of Deeds sufficient to provide notice to all persons that may acquire any property subject to the stormwater management and sediment control plans. See RSA 477:3-a. The notice shall comply with the applicable requirements for recording contained in RSA 477 and 478. The notice need not set forth the requirements at length, so long as it is sufficient to provide notice to prospective purchasers of the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board. The Planning Board may require routine inspections to insure compliance with the Stormwater Management, Groundwater Protection, Impervious Surfaces, and Erosion and Sedimentation Control sections of these regulations. Such inspections shall be performed by a designated agent with appropriate certifications at reasonable times to the landowner.

- b. If permission to inspect is denied by the landowner, the designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.

#### **9.06.2 - Reimbursement**

The applicant shall reimburse the Town for the Planning Board's administrative expenses and costs of special investigation and the review of documents and other matters that may be required by particular applications. This includes, but is not limited to, review by consulting engineers or other consultants to assess the environmental impact, hydrological impact, ground water quality impact, traffic impact, or any other study deemed necessary by the Planning Board in order to make an informed decision.”

#### **9.06.3 Waivers & Exceptions**

For reasons heretofore well demonstrated, the Planning Board may waive one or more of these regulations. The following activities are considered exempt from preparing and submitting stormwater management plans:

1. Agricultural practices located outside the wetland and surface water buffers
2. Road and parking lot resurfacing.

**9.07 Special Flood Hazard Areas:** All subdivision proposals governed by these regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the Town of Durham, N.H." together with the associated Flood Insurance Rate Maps and Flood boundary and Floodway maps of the Town of Durham shall meet the following requirements:

- A. Individual lots of a subdivision, including their utilities and drainage, shall be located and designed to be consistent with the need to minimize flood damage.

- B. All public utilities and facilities, such as sewer, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage shall be provided to reduce exposure to flood hazards.
  - 1) New and replacement water systems (including on-site systems) shall be located, designed and constructed to minimize infiltration and avoid impairment.
  - 2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- D. Within the altered or relocated portion of any watercourse, the applicant shall submit to the Planning Board certification provided by a registered professional engineer assuring that the 100 year flood carrying capacity of the watercourse has been maintained.

All site plan proposals shall include 100-year flood elevation data.

#### **9.08 Subdivision Layout and Design**

Subdivisions shall be designed in accordance with the following four step process. The submission for the Phase 2 - Preliminary Design Review and/or Phase 3 - Formal Application shall include documentation of the four-step design process for determining the layout of the subdivision including proposed conservation lands, house sites, streets, and lot lines in accordance with the following process. Applicants shall submit four separate sketch maps indicating the findings of each step of the design process, if so requested by the Planning Board.

##### **Step 1: Delineation of Common Open Space**

If the subdivision is a Conservation Subdivision or will provide common open space, the area to be designated, as common open space shall be delineated based upon the Primary and Secondary Conservation Areas identified in accordance with the following:

1. The minimum percentage and acreage of required common open space shall be calculated by the applicant and submitted as part of Conceptual Subdivision Plan in accordance with the provisions of these regulations and the Zoning Ordinance.
2. The proposed common open space shall be designated using the Site Analysis Map.
3. The Primary Conservation Areas on the site shall be delineated and shall be incorporated into the common open space. Other areas with significant natural resource value or which are identified as potential open space in the Master Plan shall also be considered for inclusion as Primary Conservation Areas.
4. The Secondary Conservation Areas on the site shall then be delineated.

In delineating Secondary Conservation Areas, the applicant shall *prioritize* natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed common open space in consultation with the Planning Board and Conservation Commission.

5. On the basis of those priorities and practical considerations related to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, sufficient Secondary Conservation Areas shall be identified to be included in the common open space to meet at least the minimum area percentage requirement for common open space. This delineation shall clearly indicate the boundaries as well as the types of resources included within them.
6. The proposed common open space shall include all Primary Conservation Areas and the Secondary Conservation Areas with the highest resource significance as identified in 5.

### **Step 2: Location of Building Sites**

Potential building sites shall be tentatively located taking into consideration the proposed common open space identified in Step 1 as well as other relevant data from the Site Inventory Plan and Site Analysis Map, such as topography and soils. Building sites should generally be located at least 100 feet from Primary Conservation Areas and at least 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences and other uses.

### **Step 3: Alignment of Streets and Ways**

Based upon the designated building sites, a street plan shall be designed to provide vehicular access to each site. The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision.

### **Step 4: Drawing in the Lot Lines**

Upon completion of the preceding three steps, lot lines shall be drawn as required to delineate the boundaries of individual lots.

## **9.09 Ownership and Stewardship of Common Open Space**

When a subdivision will create common open space, the provisions for the ownership and stewardship of that land shall conform to the following requirements:

- A. ***Ownership.*** Common open space may be owned in fee or less than fee by any of the following, subject to the approval of the Board as part of the approval of the formal application:
  - 1) a homeowners or community association,
  - 2) the Town of Durham, subject to acceptance of the land by the Town Council,
  - 3) an established land trust or conservation organization that owns interests in conservation land, or
  - 4) a private landowner, subject to the approval of the Planning Board.
- B. ***Executory Interest.*** If any common open space will be owned by a homeowners or community association or a private landowner, the owner(s) shall convey an executory interest with power of termination to the Town of Durham
- C. ***Conservation Provisions.*** The common open space shall be protected from development or intensive use and shall be maintained as undeveloped open land and/or active or passive recreation land but may include other support uses as provided for in 175-107 of the Zoning Ordinance and approved by the Planning Board as part of the approval of the subdivision. Permanent conservation restrictions shall be established, subject to approval by the Planning Board, to assure that the future use and maintenance of the common open space is consistent with the subdivision approval. These provisions may include deed restrictions or covenants, conservation easements, the sale or transfer of development rights, or other legal mechanisms approved by the Planning Board.
- D. ***Stewardship Provisions.*** Legally binding provisions shall be established in the conservation restriction tool (e.g., deed, easement) for the periodic monitoring of the use and maintenance of the common open space to ensure that the terms of the restrictions are being met. The monitoring shall occur at least once every two years on an ongoing basis. The party or organization designated to conduct the monitoring shall be qualified in land conservation and resource management, shall have an established record in land management or the oversight of conservation easements or restrictions, shall be willing to assume the review obligation, and shall be subject to approval by the Planning Board. The stewardship arrangements shall provide for the enforcement of the conservation provisions by the Town of Durham against the owner of the property if the reviewer finds that the conservation provisions are not being met and for the ability of the Town to charge the owners of the property with the costs of enforcement of the provisions.
- E. ***Stewardship Account.*** A Stewardship Account shall be established by the applicant for all land with conservation restrictions and shall be held and

managed by the property owner or grantee. The purpose of this account shall be to pay the costs of the biennial monitoring. If the Town holds an executory interest in a property with conservation restrictions or is asked to take ownership of a property, the applicant shall place a sum of money in the Town's Stewardship Fund the amount of which shall be determined by the Planning Board based upon the fee schedule established by the Town Council. Prior to release of the approved plan, the applicant shall provide the Director of Planning and Community Development with evidence that the Stewardship Account has been established and funded, or that full payment has been made to the Town's Stewardship Fund.

#### **9.10 Fire Protection**

All subdivisions, except residential minor subdivisions, shall be provided with an adequate supply of water for fire protection purposes at the applicant's cost. This requirement can be met by any of the following subject to the approval of the Fire Chief:

A. Fire hydrants meeting the Durham Fire Department Hydrant Specifications connected to a public water main with adequate fire flows and pressures appropriate to the type and scale of the proposed use that meets the requirements of the Durham Fire Department.

B. Private fire protection water supply systems when the provision of hydrants connected to a public water main as set forth in A. is infeasible or economically unreasonable as determined by the Planning Board. Private fire protection water supply systems may include the following:

1) *Non-residential, institutional, and multi-unit residential developments* - storage and distribution systems appropriate to the type and scale of the proposed use that comply with the standards of the National Fire Protection Association (NFPA) and the Durham Fire Department.

2) *Single-family residential subdivisions* - individual residential sprinkler systems meeting the standards of NFPA in each dwelling unit or underground cisterns and associated dry hydrants providing at least fifteen thousand (15,000) gallons of useable fire protection water supply per cistern. The location, design, and provisions for ownership, maintenance, and all season access to the cistern and supporting facilities shall conform to the Durham Fire Department Hydrant specifications. A cistern shall be located within three thousand (3,000) feet of every building within the subdivision as measured along the lines of streets or other ways with year-round emergency vehicle access.

C. Any other public or private fire protection water supply system approved by the Fire Chief and determined by the Planning Board to provide a similar or greater level of fire protection than the options provided in A. and B.

***SECTION 10: Independent Studies and Investigations***

**10.01** The Planning Board reserves the right to require additional studies to determine the potential impact of the proposed subdivision. Studies may include, but are not limited to, Traffic Impact Analysis, Fiscal Impact Analysis, and Environmental Impact Analysis. All such studies shall be conducted in accordance with a written scope of services that is approved, in advance, by the Director of Planning and Community Development. The Director may retain outside services to review the proposed scope at the applicant's expense.

The Planning Board shall review any such studies and may retain, at the applicant's expense, the services of an outside agency or firm for the purposes of reviewing any impact analysis submitted and advising the Board on the findings and applicability.

**10.02.** Wherever, in the opinion of the Board, traffic or other factors generated by a development will adversely impact existing public streets, water systems, sewers, or drainage facilities, the Board may require improvements to be made to such streets and intersections or infrastructure in an effort to mitigate such impacts.

***SECTION 11: Post-Construction Requirements***

**11.01** All deeds covering land to be used for public purposes, easements, and right-of-ways over property to remain in private ownership, and rights of drainage across private property shall be submitted in a form satisfactory to the Town Attorney.

**11.02** Two (2) sets of record construction drawings, including plan and profile, of all infrastructure improvements, together with all information in a digital format compatible with the Town of Durham's computer system, shall be submitted to the Director of Planning and Community Development. The drawings should be at a horizontal scale of 1" to 20' and a profile vertical scale of 1" to 4', shall be signed and sealed by the professional surveyor or engineer who prepared the plans, and shall include, but not be limited to:

- A. Underground Utilities (sewer lines, storm drains, water lines, electrical, phone, cable, natural gas lines, etc.).
- B. Drainage ways, ditching, impoundments, swales, etc.
- C. Road construction.

**11.03** Prior to the issuance of a Certificate of Occupancy for a building or structure on any lot within a subdivision, three (3) copies of a certified plot plan shall be filed with the Zoning Administrator. The plot plan shall be prepared by a professional surveyor, engineer, or architect and shall be signed and sealed by the professional(s) preparing the plan. The plot plan shall show the post development conditions of the lot including, but not limited to, the following information:

- A. The actual lot layout, dimensions, and lot area.
- B. The required setbacks for the zone in which the lot is located and the actual setbacks of the building(s) and structure(s) as constructed.

C. The actual location of the building(s) on the lot including the building footprint and any appurtenant structures such as decks, porches, basement entry door structures, sidewalks, driveways, and aboveground utility facilities.

D. The actual location of underground utilities such as septic systems, wells, water, sewer, and gas lines, electric, phone, and cable facilities, and stormwater drainage systems.

E. The location of any significant natural features on the lot such as wetlands or floodplains, any required setback or buffer from the natural feature, and the actual setback or buffer provided.

**11.04 Maintenance Guarantee**--a financial surety to guarantee that all site work was properly done shall be posted by the applicant with the Town. Such maintenance guarantee shall be in an amount of two percent (2%) of the estimated project cost and shall remain in force for two (2) years after site improvements are completed. If repairs are needed and are not satisfactorily installed by the developer, then such guarantee shall be used to complete and/or install such improvements.

## ***SECTION 12: Administration and Enforcement***

### **12.01 Administration: Application for Subdivision of Land**

These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested in the Town Council.

### **12.02 Waivers**

The requirements of the foregoing regulations may be waived when, in the opinion of the Board, specific circumstances surrounding a subdivision, or a condition of the land of such subdivision, indicate that such waivers will insure that the purpose and intent of the Master Plan, the Durham Zoning Ordinance, and these regulations are properly carried out.

### **12.03 Penalties and Fines**

Any violation of these regulations may be subject to civil fines and other remedies as provided in RSA 676:15-17, as amended. The Town Council and the Zoning Administrator are designated as the local authorities to institute appropriate action under these provisions.

## ***SECTION 13: Conflicting Provisions***

Where these regulations are in conflict with other local, state, or federal ordinances, the more stringent shall apply.

***SECTION 14: Validity***

If any section or part of section or paragraph shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or sections or part of a section or paragraph of these regulations.

***SECTION 15: Amendments***

These regulations may be amended by the Planning Board following a public hearing on the proposed changes. Such changes shall not take effect until a copy of said changes, as approved by a majority of the Board, are filed with the Town Clerk.

The following attachments referenced in these regulations follow:

***Attachment 1: Formal Application for Subdivision***

***Attachment 2: Request for Preapplication Review***

***Attachment 3: Notices***

- a) Design Review
- b) Submission of Formal Application

***Attachment 4: Notice of Decision***

- a) Approve
- b) Disapprove

***Attachment 5: Sample Construction Guarantee Contract***

File # \_\_\_\_\_

**Attachment 1**

**APPLICATION FOR SUBDIVISION OF LAND**

Note: This form and all required information must be filed at least 20 calendar days before the date of the meeting at which it is to be submitted to the Board. Filing is to be done at the Planning Office, Durham Town Office Building or by mail to 15 Newmarket Road, Durham, NH 03824.

1. Name, mailing address and telephone number of applicant  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Name, mailing address and telephone number of owner of record if other than applicant  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Location of Proposed Subdivision \_\_\_\_\_  
\_\_\_\_\_
4. Town of \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot Number \_\_\_\_\_
5. Name of Proposed Subdivision \_\_\_\_\_
6. Number of lots and/or units for which approval is sought  
\_\_\_\_\_ Lots \_\_\_\_\_ Units (if applicable)
7. Name, mailing address and telephone number of surveyor and/or agent  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Abutters: Attach a separate sheet listing the Durham Tax Map number, Lot number, name, and mailing address of all abutters, including those across a street, brook or stream. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4(I)(d). Names should be those of current owners as recorded in the tax records five (5) days prior to the submission of this application.  
  
*Note: Names submitted on the Request for Preapplication Review may not be current. No application shall be heard unless all abutters as described herein have been notified.*
9. Items on the attached checklist
10. Payment of all applicable subdivision fees:

each lot/parcel or dwelling unit	\$ _____
(whichever is greater)	
advertising/posting costs	_____
abutter notification (each)	_____
proposed road (per foot)	_____
administrative and technical review costs	_____
TOTAL	\$ _____

The applicant and/or owner or agent, certifies that this application is complete and includes all required attachments and requirements, and that any additional costs for engineering or professional services incurred by the Planning Board or the Town of Durham in the final subdivision process of this property, shall be borne by the applicant and/or owner.

If this application is determined by the Planning Staff to be complete, it will be placed on the agenda on \_\_\_\_\_ for submission.

*Date* \_\_\_\_\_

*Applicant and or Owner or Agent* \_\_\_\_\_

"I hereby authorize the Durham Planning Board and its agents to access my land for the purpose of reviewing this subdivision plan, performing road inspections and any other inspections deemed necessary by the Board or its agents to ensure conformance of the on-site improvements with the approved plan and all Town of Durham ordinances and regulations."

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Owner/Agent**

\*\*\*\*\*

For Planning Staff Use Only:

Filing Fee:           \$\_\_\_\_\_ Date\_\_\_\_\_

Admin. Review:       \$\_\_\_\_\_ Date\_\_\_\_\_

Mailing Fee:    \$\_\_\_\_\_ Date\_\_\_\_\_

Tech. Review Fee:    \$\_\_\_\_\_ Date\_\_\_\_\_

Formal Application Filed                   \_\_\_\_\_

Fees Paid                                   \_\_\_\_\_

Notices Mailed                             \_\_\_\_\_

Formal Application Submitted            \_\_\_\_\_

Application Accepted/Rejected         \_\_\_\_\_

Public Hearing date                        \_\_\_\_\_

Date approved/disapproved             \_\_\_\_\_

Letter sent                                 \_\_\_\_\_

\*\*\*\*\*

File # \_\_\_\_\_

*Attachment 2*

**REQUEST FOR PREAPPLICATION REVIEW**

1. Name, mailing address and telephone number of applicant  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Name, mailing address and telephone number of owner of record if other than the subdivider  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Location of Proposed Subdivision \_\_\_\_\_  
\_\_\_\_\_
4. City/Town of \_\_\_\_\_ Tax Map \_\_\_\_\_ Lot Number \_\_\_\_\_
5. Type of development \_\_\_\_\_ Conservation \_\_\_\_\_ Conventional  
\_\_\_\_\_ Porkchop
6. Is this a request for \_\_\_\_\_ Conceptual Consultation \_\_\_\_\_ Design Review

*Note: If this is a request for Design Review, the applicant and the public must be notified. (See Subdivision Regulations, Section 5.02.)*

7. Abutters: Attach a separate sheet listing the Durham Tax Map, Lot number, Name and Mailing Address of all abutters, including those across a street, brook or stream. Names should be those of current owners as recorded in the Tax Records five (5) days prior to the submission of this application.

**Advertising Costs** \_\_\_\_\_

Abutter Notification (each) \_\_\_\_\_

(Including applicant and/or owner)

\_\_\_\_\_  
**Owner/Agent**

\_\_\_\_\_  
Date

File # \_\_\_\_\_

**Attachment 3a**

**NOTICE OF DESIGN REVIEW**

Planning Board, Town of Durham

Notice to Applicant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice to Abutter: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Location of Proposal: \_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

Chairman or Secretary  
Durham Planning Board

Date:  
\_\_\_\_\_

*NOTE: The applicant has requested preapplication discussion with the Board concerning the above proposal. The posted agenda will list the proposal when it is to be discussed. No public hearing is required. No material is submitted. No decisions are made. You will be notified when, and/or if, a formal application is submitted for review.*

File # \_\_\_\_\_

**Attachment 3b**

**ABUTTER'S /LEGAL NOTICE  
SUBMISSION OF FORMAL APPLICATION FOR  
SUBDIVISION OF LAND**

Planning Board, Town of Durham

Date \_\_\_\_\_

Notice to Applicant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice to Abutter: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Location of Proposed Subdivision: \_\_\_\_\_  
\_\_\_\_\_

Description of Proposed Subdivision: \_\_\_\_\_  
\_\_\_\_\_

Public meeting Date: \_\_\_\_\_

Public Meeting Time and Place: \_\_\_\_\_

This is a meeting to decide acceptance of the application **only**, no public comment will be solicited. If the Planning Board chooses to accept the application, the Board will schedule a site walk of the property and a Public Hearing. A separate notice of the Public Hearing will be sent and public comments will be solicited during the Public Hearing.

Signed: \_\_\_\_\_

Director of Planning, Zoning, and Code Enforcement

Date: \_\_\_\_\_

*NOTE: Abutters are invited to attend for their own benefit and information. They are not required by law to attend. Planning Board meetings are scheduled for the first and third Wednesdays of each month.*

File # \_\_\_\_\_

**Attachment 4a**

**NOTICE OF DECISION - APPROVAL**

Planning Board, Town of Durham

You are hereby notified that the application of

\_\_\_\_\_

to subdivide land located on Tax Map \_\_\_\_\_, Lot # \_\_\_\_\_; with an address of \_\_\_\_\_ in the Town of Durham has been approved by majority vote of the members of the Planning Board on \_\_\_\_\_ with the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Chairman

Date: \_\_\_\_\_

File # \_\_\_\_\_

**Attachment 4b**

**NOTICE OF DECISION - DISAPPROVAL**

Planning Board, Town of Durham

You are hereby notified that the application of

\_\_\_\_\_

to subdivide land located on Tax Map \_\_\_\_\_, Lot # \_\_\_\_\_; with an address of \_\_\_\_\_ in the Town of Durham has been disapproved by majority vote of the members of the Planning Board on \_\_\_\_\_ .

As stated in the Planning Board Minutes the motion to disapprove stated that the application was disapproved for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman

Date: \_\_\_\_\_

File # \_\_\_\_\_

**Attachment 5**

\*\*\*SAMPLE\*\*\*

**CONSTRUCTION GUARANTEE**

KNOW ALL MEN BY THESE PRESENT THAT \_\_\_\_\_,  
\_\_\_\_\_ Street, \_\_\_\_\_NH, "Developer" of  
\_\_\_\_\_, is held and firmly bound unto the  
\_\_\_\_\_ Planning Board in the sum of \_\_\_\_\_  
(\$\_\_\_\_\_), for the payment of which Developer binds himself, his heirs, executors,  
and successors in interest and assigns by these present.

The Condition of this obligation is such that, if the Developer, his assigns or successors in  
interest, shall in all things, well and truly and properly perform and complete the  
following improvements and to be constructed on a Subdivision Plat known as  
"\_\_\_\_\_" Tax Map\_\_\_\_\_,  
Lot(s)\_\_\_\_\_, to which conditional approval was granted by the Durham  
Planning Board on \_\_\_\_\_, 20\_\_, then this obligation shall be void; otherwise to  
remain in full force.

<u>Bond</u>	<u>Required Date of</u>	<u>Amount of</u>
<u>Improvements</u>	<u>Final Completion</u>	<u>Bond Required</u>
1.		
2.		
3.		
	Total:	\$ _____

Final Completion Date: \_\_\_\_\_

Signature of Developer: \_\_\_\_\_

Date: \_\_\_\_\_<sup>1</sup>

<sup>1</sup> This Construction Guarantee shall not be effective until a financial surety acceptable to the Town has been posted with the Town in the amount set forth above. Additionally, the Construction Guarantee shall not expire and will be available to the Town as security for the proper performance of the Guarantee until sixty (60) days following the final completion date.