



Town Of Durham

Planning Board Minutes

Fire Station Meeting Room, 6:30 pm

April 24, 2024

1. Roll Call & Determination of a Quorum

In attendance: John Talbot (Chair), Juliet Caplinger (Vice Chair), Allan Purinton, Brian Lanoie, Marc Derr and George Thebarger (Town Planner).

Absent (excused): Tyler Hutchison and Anne Torregrossa

Guest(s): Eric Dube (Professional Engineer at Trillium Engineering Group) representing Tom Cushman owner of Maine Custom Woodlands and Richard Meek (Senior Project Engineer, Terradyn Consultants, LLC)

2. Acceptance of the Minutes of prior meeting (April 10, 2024)

Allan Purinton moved to accept the April 10, 2024 meeting minutes, **Juliet Caplinger seconded**, motion carried **5 – 0**.

3. Amendments to the Agenda: None

4. Continuing Business:

a.) Conditional Use Application for Maine Custom Woodlands LLC to Expand a Business at 1326 Hallowell Rd., Map 8, Lot 12

Tom Cushman – Owner of Maine Custom Woodlands, LLC

- Owns and operates Maine Custom Woodlands and MCW Trucking on Route 9 in Durham.
- The facility is a 7600 square foot maintenance shop and office which is used to store wood and equipment.
- The owner would like to build another building and install a small sawmill inside.

Eric Dube – Trillium Engineering Group

- Commercial Use area is surrounded by CMP and gravel pits on Route 9, the owner has access for his truck routes and the ability to have the road handle those trucks.
- Existing building sits off the road and is buffered by woods, power lines on one side and the roadway on the other side.
- New Building – 6000 square feet with a small sawmill inside (operated by a diesel generator).
- No bathrooms
- Truck Scale was added and there will be plenty of room to maneuver around that, and there is good, compacted gravel and good slope for drainage for adding a retention pond or a treatment pond.
- Both buildings are pre-engineered metal structures, which means they are not framed with wood or wood trusses.

- Spoke with the Durham Fire Chief – make sure that we’re addressing the actual fire flow for this site. Total square footage of both buildings combined, falls within the 1750 gallons per minute for essentially two hours or 120 minutes. The existing pond will be utilized to address that flow as a supplement.

George Theborge (Town Planner)

- Maine Custom Woodlands is seeking conditional use approval to expand their existing business on Hallowell Road.
- In 2009, the Planning Board granted conditional use approval for an equipment maintenance facility with offices.
- The applicants are proposing to construct a lumber sawmill operation in an existing graveled area of the property.
- The hours of operation will be 7 am to 7 pm Monday through Saturday.
- The sawmill will be powered by an external generator shown on the site plan. The conditional use application, however, indicates the generator will be enclosed in an insulated building to mitigate sound levels.
- The Fire Chief in 2009 indicated that the original building and use did not require any special fire protection measures.
- The proposed sawmill is a different use that may involve greater fire hazards.
- The updated Land Use Ordinance calls for an on-site fire protection water supply source.

Fire Chief Rob Tripp

- Pipe access to the pond will need to be installed to meet the fire protection requirements.
- Two dry hydrants will be installed, one on Mr. Cushman’s property behind the locked gate and one will be closer to Hallowell Road, which the town can use at any time.
- The pond currently meets the minimum requirements for fire flow.
- A site walk visit with the owner, engineering firm and the Fire Chief was conducted.

Section 7.4 CONDITIONAL USE REVIEW CRITERIA

1. Public Health Impacts:

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

Findings:

- a. The applicants stated in their application that there is no change in conditions from the original conditional use permit.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for public health impacts.

Motioned seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

2. Traffic Safety Impacts:

The proposed use will not create unsafe vehicular or pedestrian traffic conditions when added to existing and foreseeable traffic in its vicinity.

Findings:

- a. There will be an increase in traffic in and out of the existing entrance on State Route 9 by approximately 20 trips per day.
- b. The measured site distances at the project entrance on Route 9 are 650 feet plus looking South and 1500 plus looking North.
- c. Direct access to Cushing Road will be for emergency vehicles only.

Motion made by John Talbot: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for traffic safety impacts.

Motion seconded by Allan Purinton: Votes to approve: 5 Votes to deny: 0

3. Public Safety Impacts:

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

Findings:

- a. The proposed building is being constructed at the site of an existing timber harvesting and trucking company.
- b. Abutters consist primarily of gravel pits, power lines, and undeveloped land.
- c. The closest residential structure is +/- 1400 feet away.
- d. The sawmill facility will not require any municipal services.

Motion made by Marc Derr: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for public safety impacts.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

4. Environmental Impacts:

The proposed use will not result in sedimentation or erosion or have an adverse effect on water supplies.

Findings:

- a. The sawmill is being constructed on an existing cleared and graveled surface.
- b. During construction all necessary erosion control resources will be utilized, as defined by Maine DEP Best Management Practices (BMPs).
- c. Disturbed areas will be stabilized at project completion.
- d. The sawmill facility will not require more water supply than is currently being used on the property.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for environmental impacts.

Motion seconded by Brian Lanoie: Votes to approve: 5 Votes to deny: 0

5. Scale & Intensity of Use:

The proposed use will be compatible with existing uses in the neighborhood, with respect to physical size, visual impact, intensity of use, and proximity to other structures.

Findings:

- a. Maine Custom Woodlands has been established and operating at 1326 Hallowell Road since 2009.
- b. The sawmill building will match the existing structure on site.
- c. There will be no impact on the neighborhood.
- d. The closest residential structure is +/- 1400 feet away.
- e. Current surrounding uses are large power lines, gravel pits, and a mulch/firewood, wood waste facility.
- f. The sawmill is being constructed on a site approved for equipment maintenance, wood storage, and offices.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for scale and intensity of use.

Motion seconded by Brian Lanoie: Votes to approve: 5 Votes to deny: 0

6. Noise & Hours of Operation:

The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.

Findings:

- a. No change in hours of operation: Monday - Saturday, 7 AM to 7 PM.
- b. Additional noise would consist of the sawmill and the generator to run the sawmill.
- c. The generator will be contained in an insulated steel structure and all noise will be below the allowable threshold listed in the Durham Town Ordinance - 55dba per the noise study.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for noise & hours of operation.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

7. Right, Title, or Interest:

The applicant has sufficient right, title or interest in the site of the proposed use to be able to carry out the proposed use.

Findings:

- a. Maine Custom Woodlands is the owner of the property and is constructing the building.

Motion made by Marc Derr: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for right, title, or interest.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

8. Financial & Technical Ability:

The applicant has the financial and technical ability to meet the standards of this Section and to comply with any conditions imposed by the Planning Board pursuant to subsection 7.5.

Findings:

- a. The estimated cost is \$500,000 per the attached project budget and supporting financial estimates.
- b. The applicants submitted a letter from Key Bank confirming sufficient funds available to complete the project.

Motion made by Allan Purinton: The applicant has satisfied a reasonable burden of proof of compliance with the criterion for financial & technical ability.

Motion seconded by Marc Derr: Votes to approve: 5 Votes to deny: 0

Section 7.5 CONDITIONS OF APPROVAL

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

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

Motion seconded by Marc Derr: Votes to approve: 5 Votes to deny: 0

1. The project is to be constructed in accordance with the plans, maps, diagrams, specifications, textual submissions, and testimony presented by the applicant and approved by the Board.
2. Increased traffic impacts shall be limited to a total of approximately 20 trips per day.
3. Direct access to Cushing Road will be limited to emergency vehicles.
4. Noise will meet the standards in Land Use Ordinance.
5. Exterior lighting will comply with Land Use Ordinance.
6. Prior to occupancy the applicant shall provide a fire protection water source meeting the recommendations of NFPA1142 standards for suburban and rural fire protection acceptable to the Durham Fire Chief.

PLANNING BOARD DECISION

Motion made by Allan Purinton: The Planning Board grants conditional use approval of the CMP Transmission Line Section 62 Rebuild and Transmission Line Section 64 Rerate project subject to the adopted conditions of approval.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

b.) Completeness Review of Site Plan Review Application for Maine Custom Woodlands LLC to Construct a Nonresidential Building at 1326 Hallowell Rd., Map 8, Lot 12. (Public comment will not be taken)

- Maine Custom Woodlands is seeking site plan approval to construct a 6000 square foot lumber sawmill on their current site.
- The applicants have submitted a survey and site plan, along with associated documentation.
- The first three pages of the Site Plan Review Checklist contain the list of mandatory submissions for site plan applications. The following checklist items are not addressed in the application:
 - Water supply system for fire protection purposes.
 - Traffic entering and exiting sight distances at the project entrance.
 - The location of exterior lighting.
- The Fire Chief in 2009 indicated that the original building and use did not require any special fire protection measures.
- The proposed sawmill is a different use that may involve greater fire hazards.
- The updated Land Use Ordinance calls for an on-site fire protection water supply source.
- The applicants provided no sight distances measurements for the project entrance on Route 9, but they appear to be more than adequate with no horizontal or vertical curves in the roadway that would limit sight distances.
- The Planning Board approved using floodlighting to illuminate the site in 2009.
- The packet contains draft complete and incomplete application letters.
- If the Board by majority vote determines that the submissions are adequate to determine compliance with the site plan review standards, you can proceed with substantive review of the application.

c.) Substantive Review of Site Plan Review Application for Maine Custom Woodlands LLC to Construct a Nonresidential Building at 1326 Hallowell Rd., Map 8, Lot 12. (Public comment will not be taken)

DRAFT SITE PLAN APPROVAL FINDING OF FACTS AND DECISION

A. SUBMISSION REQUIREMENTS

Section 8.5. SITE PLAN REVIEW MANDATORY SUBMISSIONS

The following items shall be submitted as part of the Site Plan Review Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Section 8.7.A. The applicant submitted and the Board reviewed the following documents:

1. Project Narrative by Trillium Engineering Group dated March 19, 2024
2. Site Plan Review Application for Building & Site Improvements by Trillium Engineering Group dated March 14, 2024, Revised March 19, 2024
3. 2009 Conditional Use Permit with Supporting Documentation
4. Warranty Deed & CMP Easement

5. Abutter Notifications and Receipts
6. Boundary Survey Plan by Andrew C. Bradford Land Surveying Inc. dated September 2008
7. Parcel 2 Survey Plan by Andrew C. Bradford Land Surveying Inc. dated September 2008
8. MIF&W Documents Addressing Natural Resources dated March 4, 2024
9. Letter from Andrew Brunner of Key Bank dated March 13, 2024
10. Project Cost Estimates
11. Technical Qualifications of Maine Custom Woodlands Principals
12. Maine Custom Woodlands Sound Level Testing 2024
13. Generator Specifications
14. Lighting Specs
15. Structural Docs

Motion made by John Talbot: The **application** is complete contingent upon getting the wetlands report submitted.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

B. SITE PLAN REVIEW CRITERIA

Section 8.6. SITE PLAN REVIEW APPROVAL CRITERIA & DESIGN STANDARDS

A. Utilization of the Site:

1. The proposed building and stormwater improvements will be located on currently cleared portions of the project site that lack any environmentally sensitive areas.

Motion made by John Talbot: The site plan reflects natural capabilities of site to support the development, buildings and parking are located on suitable land, environmentally sensitive portions of site have been avoided & protected, and **natural** drainage is maintained to the maximum extent practical.

Motion seconded by Allan Purinton: Votes to approve: 5 Votes to deny: 0

B. Adequacy of Road System:

1. The project is located on State Route 9, an arterial with adequate capacity to accommodate the proposed development.
2. The existing facility employs 10 employees generating 20 daily vehicle trips and 5 trucks per day generate an additional 20 trips for a total of 40 trips per day.
3. With the proposed expansion, vehicle trips per day will increase to 60.
4. Traffic generation is well below the 100 trips per day threshold for an MDOT permit.

Motion made by Allan Purinton: Access roads have capacity to take the added traffic proposed and the project does not generate peak hour trips **that** affect traffic safety on those roads.

Motion seconded by Marc Derr: Votes to approve: 5 Votes to deny: 0

C. Vehicular Access into the Site:

1. The project entrance on Route 9 appears to have good sight distances looking north and south.
2. Direct access to Cushing Road will be limited to emergency vehicles.

Motion made by Marc Derr: Access roads have capacity to take the added traffic proposed and the project does not generate peak hour trips that affect traffic safety on those roads.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

D. Internal Vehicular Circulation

1. The site is relatively level with adequate room for safe operations.
2. The building locations and configurations provide access to fire fighting vehicles on multiple sides.

Motion made by Brian Lanoie: The site plan minimizes cut and fill alterations and provides adequate room for safe operations, the entrance and circulation are adequate for the types of vehicles anticipated, and fire lanes around buildings are adequate and clearly marked.

Motion seconded by Marc Derr: Votes to approve: 5 Votes to deny: 0

E. Parking Lot Layout & Design: **No parking proposed.**

F. Utilities

1. Existing sanitary and water services are available on site.
2. Electrical lines are underground.
3. The generator specifications indicate that the noise level of the generator ranges from 70 to 73 dba.
4. The site plan shows the generator being located outside on the north side of sawmill.

Motion made by Allan Purinton: Adequate utilities are provided.

Motion seconded by Brian Lanoie: Votes to approve: 5 Votes to deny: 0

G. Lighting Design Standards

1. The applicant submitted specifications for building mounted lighting.
2. No lighting plan has been submitted to show existing and proposed illumination levels on the project site.

Motion made by Allan Purinton: Adequate lighting is provided for the proposed use.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

H. Signage: **No signage proposed.**

I. Fire Protection

1. The project has no on-site water source for fire protection.
2. The conditional use approval in 2009 was based in part on a letter from the former Fire Chief that there were no special requirements for the proposed use.
3. The applicant has proposed to add two dry hydrant requirements to the location.

Motion made by Allan Purinton: The water supply will sustain fire suppression requirements of NFPA 1142, Water Supplies for Suburban & Rural Fire Fighting.

Motion seconded by John Talbot: Votes to approve: 5 Votes to deny: 0

J. General Buffering Standards

1. The developed portions of the project site are located approximately 500 feet from Route 9 with natural vegetation as buffers between it and Cushing Road on the south side of the property.
2. The CMP power line is the abutting property on the north and east.
3. Another wood products and processing facility is the abutter to east.

Motion made by John Talbot: The applicant's plan adequately buffers abutters and the public from views of parking, garbage storage, utilities, and **outdoor** storage and is designed for adequate long-term maintenance.

Motion seconded by Juliet Caplinger: Votes to approve: 5 Votes to deny: 0

K. Historic & Archeological Resources: **No historic or archeological resources.**

L. Financial Capacity

1. The applicants submitted project cost estimates totaling approximately \$500,000.
2. The applicants submitted a letter from a financial institution stating that adequate financial resources are available for the project.

Motion made by John Talbot: The applicant has adequate financial resources to construct improvements in keeping with the standards.

Motion seconded by Marc Derr: Votes to approve: 5 Votes to deny: 0

M. Technical Ability

1. Maine Custom Woodlands submitted documentation of technical capacity to operate the proposed facility.
2. The development team includes Trillium Engineering (designers), Irish Span Industries (building construction), Second Generation Construction (foundation work), and L&M Electrical.

Motion made by John Talbot: The applicant has adequate experience with site development and/or has retained qualified consultants & contractors to complete the project in keeping with the standards.

Motion seconded by Allan Purinton: Votes to approve: 5 Votes to deny: 0

PLANNING BOARD DECISION

Motion made by John Talbot: The Planning Board grants site plan approval of the Maine Custom Woodlands subject to the following conditions of approval to be noted on the site plan:

1. The project is to be constructed in accordance with the plans, maps, diagrams, specifications, textual submissions, and testimony presented by the applicant and approved by the Board.
2. Per Section 8.4.K., if the applicant wishes to make any changes to the approved site plan, the applicant must meet all the requirements for a site plan approval for that changed part of the application, i.e., the applicant will go through the site plan review process only for the section of the permit they want changed.
3. Per Section 8.4.L., the applicant shall commence construction of the required improvements within twelve (12) months of plan approval and shall complete said improvements within thirty-six (36) months.
4. Per Section 8.4.M., one copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved site plan, including any conditions of approval.
5. Prior to issuance of a building permit, the applicant shall submit a Wetlands Report verifying that the pond is manmade.
6. The water supply will sustain fire suppression requirements of NFPA 1142, Water Supplies for Suburban & Rural Fire Fighting.
7. Direct access to Cushing Road will be limited to emergency vehicles.

Motion seconded by Allan Purinton: Votes to approve: 5 Votes to deny: 0
Date of Decision: April 24, 2024

5. New Business:

a) Completeness Review of Ruby Farmview Subdivision Amendment to Add 4 Lots, Map 5, Lot 78-B. (Public comment will not be taken)

- The applicant is requesting amended approval of the Ruby Farmview Subdivision on Swamp Road to add a small spur road and four additional lots.
- The Planning Board conducted a sketch plan review of the project and a site walk in September of last year.
- The applicant has submitted a preliminary plan checklist that tracks submission requirements on pages 1 through 3 of the checklist.
- The applicant has requested waivers for a high intensity soil survey and hydrogeological analysis (Pg. 3 of the Preliminary Subdivision Plan application). These are not mandatory submissions but studies that may be required if the Board deems them necessary. Therefore, no waivers are needed for these two items.
- On April 10, the Board determined that the application cannot be considered for completion until the applicant clarifies the status of compliance with the original Ruby Farmview Subdivision approval conditions and the subdivision regulations.
- A copy of the letter of incomplete application is included in the packet.

Rick Meek (Sr. Project Engineer from Terradyn Consultants) representing Mike Copp (Applicant)

- The applicant is in the process of updating the original performance bond to include the increase in the engineer's estimate from \$109,000 to \$142,000.
- Currently waiting to hear from the Town Attorney on whether the Bond is acceptable to the town.

George Thebarger, Town Planner

- If the Board agrees to go forward, the Board will approve this project as a Phase Subdivision, subject to the Town Attorney’s confirmation, with Phase One being completed by September 30th of 2024 and then Phase Two, which is the four lot expansion would be subject to the standard time limit of one year to start, three years to complete.

Motioned by John Talbot: The application is complete on the condition that the applicant provides the test pit locations with the final plan submission.

Motion seconded by Allan Purinton: Votes to approve: 5, Votes to deny: 0

b) Substantive Review of Ruby Farmview Subdivision Amendment to Add 4 Lots, Map 5, Lot 78-B. (Public comment will not be taken)

- By waiting five years since the original Planning Board approval, the proposed expansion is exempt from the DEP’s site location law permitting.
- By waiting five years to complete the infrastructure improvements of the original subdivision, the applicant is in violation of Section 6.10.I, which requires developers to complete construction of the subdivision’s infrastructure within 36 months of approval. Under Section 6.10.A, the Planning Board cannot grant final approval of this project as long as the applicant is in violation of a previously approved subdivision plan.
- The Board may be able to grant an extension of the time limit for completion to a time certain with a performance guarantee for the remaining improvements. The packet includes a request for that extension. The applicant has requested an extension to September 30, 2024 with a performance bond in effect through December 29, 2024.
- In making that decision, the Board may want to get an engineering assessment of the remaining improvements and a cost estimate for completing them.
- The Board may also want to get an attorney’s opinion on whether the current performance guarantee and any future proposal are enforceable.
- The subdivision performance bond issued on December 29, 2020 required the developer to complete the subdivision improvements within one year of the approval date, which was either the date of the bond issuance or the Planning Board subdivision approval.
- The applicant submitted two “Bond Verification” documents that theoretically extended the terms of original bond through December 23, 2023 and now will extend it through December 29, 2024, despite a lapse of at least a year in the performance guarantee. This document may or may not legally establish current and future obligation to complete the project.
- Another problem with this form of performance guarantee is that it requires the developer to complete the improvements within one year of the date of approval. It then requires that any legal action by the Town for a default to be taken within that same timeframe. Under these terms, one could argue that the Town can’t claim a default until the year is up and then can’t act on it per the one-year time limit for legal action.
- A third problem with this form of performance guarantee is that it requires the Town to undertake a lawsuit or action for recovery, meaning the Town will need to incur legal costs in enforcing the bond if it is enforceable.
- For all of these reasons, the Land Use Ordinance was updated in 2020 to apply the following requirements for subdivision performance guarantees:

The proposed form of performance guarantee to ensure proper and complete construction of the streets, utilities, and other improvements required by the regulations in a form approved by the Town Attorney. Any changes to the standard format approved by the Town Attorney shall be submitted for their review and approval at the expense of the applicant (Section 6.9.B.16).

- The standard irrevocable letter of credit prepared with assistance of the Town Attorney requires that the subdivision improvements be completed and certified at least 60 days prior to expiration of the performance guarantee, which provides adequate time for the Town to act in cases of default. A claim against the performance guarantee for default can be taken directly to the issuing institution and does not require court action.
- The applicant could be required to use that Town Attorney-approved instrument or pay for a review of the proposed subdivision bond by the Town Attorney.
- Another option is for the applicant to request a conditional agreement under Section 6.34.C, whereby no performance guarantee is required for the improvements, but a restriction is placed on the plan that no lot can be sold and no building permit issued until the improvements are completed or a performance guarantee for the remaining improvements is approved by the Board.
- The applicant is requesting a waiver of the requirement for an on-site water source for fire protection. The Fire Chief supports this waiver based on the policy of the Department at the time of the original subdivision approval and per the requirement to provide the homes with individual sprinkler systems.
- The applicant is also requesting a waiver of the requirement to provide for future street interconnection with adjacent parcels.
- The Board should consider requesting an engineering peer review of the project design.
- Per the project plans, the road construction will require alteration of 4,735 square feet of wetlands, which should require a DEP permit and will potentially be considered as an extension of prior wetland alterations in the original subdivision.
- The letter dated January 30, 2024 from IF&W indicates that species on the State's Endangered and Special Concern lists have been documented in the area of the project and they recommend that a 300-foot buffer be maintained along named and unnamed streams or a biological survey of the project site be conducted. There do not appear to be any named or unnamed streams within the project site or on adjacent parcels.
- The submissions do not include a map showing the septic system test pit locations as required by Section 6.7.C.6.
- The packet contains a set of draft conditions of approval. Draft findings of fact will be prepared for the final plan decision.

The applicant is requesting a waiver for the requirement for on-site fire protection water supply. The applicant has worked with the Fire Chief (the original subdivision was approved without it) and his recommendation is that each lot dwelling in the subdivisions required to be protected by a residential sprinkler system meeting the requirements of NFPA 13 D.

Motioned by Brian Lanoie: To approve the waiver.

Motion seconded by Allan Purinton: Votes to approve: 5, Votes to deny: 0

The applicant is requesting a waiver for the requirement to provide a future street connect interconnection with adjacent parcel.

Motioned by Brian Lanoie: To approve the waiver.

Motion seconded by Allan Purinton: Votes to approve: 5, Votes to deny: 0

PRELIMINARY SUBDIVISION APPROVAL

Ruby Farmview Subdivision Phase 2

Draft Conditions of Approval

1. Per Section 6.6.C, the Planning Board will request technical peer review of the following submissions:
 - a. Engineering plans;
 - b. Stormwater management plans; and,
 - c. Engineer's estimates for project construction.
2. Per Section 6.6.L.1., the applicant shall make the following changes to the preliminary plan as directed by the Planning Board decision:
 - a. Vegetated buffer – Lots 1 and 2 – conduit will need to be moved into the right of way (Transformer will be moved further onto lot two to avoid that buffer).
3. Per Section 6.6.L.3., the Board considers that the engineer's construction estimates and performance guarantee for the project will include the following common improvements:
 - a. Completion of Ruby Lane construction;
 - b. New Access road construction;
 - c. Electrical service;
 - d. Stormwater management system; and,
 - e. Erosion and sedimentation control system.
4. Per Section 6.7.C.6, the final plan application shall include a map showing the locations of all sewage disposal test pits.
5. Per Section 6.8.A. the final plans shall be submitted within six (6) months of preliminary plan approval and shall be consistent with the preliminary plan except for changes required by the Planning Board or outside reviewing agencies (such changes will be reviewed per the subdivision review criteria & standards). Failure to submit a final plan application within six (6) months shall require resubmission & re-review of the preliminary plan. Prior to expiration of the preliminary plan approval, the applicant may request an extension accompanied by explanation of the causes for delay, documentation of progress made in fulfilling the preliminary plan approval conditions, and confirmation that the Land Use Ordinance has not been amended such that changes affect the project approval.
6. Per Section 6.10.F and Section 6.10.I, the Planning Board will consider a phased subdivision approval with completion of Phase 1 by September 30, 2024. Phase 2 will be subject to the standard time limits for completion provided that acceptable performance guarantees are in place for both phases.
7. Per Section 6.17.C., areas intended for vegetation clearing shall be shown on the final plan plans to support the stormwater management plan assumptions and required buffers along wetlands and along Ruby Lane shown on the recording plan and referenced in the plan notes.
8. Per Section 6.18.C.2., the applicant shall obtain and submit with the final plan written approval for the street name and all other requirements of Article 13. by the Durham Street Addressing Officer.
9. Per Section 6.21.A.1 & 2., the final plan shall delineate and note the limits of tree clearing.
10. Per Section 6.23.A. and 6.34.A, the applicant shall submit an engineer's construction cost estimate to cover the full costs of all required improvements, including roads, utilities,

stormwater management, and erosion and sedimentation controls along with a letter of commitment from a lending institution referencing said engineer's cost estimates.

11. Per Section 6.34.B., the final plan application shall include the proposed form and amount of the performance guarantee needed to cover the costs of all improvements noted in COA #9 above, which can be a cash deposit, irrevocable letter of credit in a form satisfactory to the Town Attorney (template provided), or a conditional agreement per Section 6.34.C. Any other proposed performance guarantee must be reviewed by the Town Attorney at the applicant's expense.
12. All buffers required shall be referenced in the deeds.
13. The applicant is to provide a plan for solid waste disposal.

Motioned by Allan Purinton: To grant preliminary approval subject to these draft amendments as amended.

Motion seconded by John Talbot: Votes to approve: 5, Votes to deny: 0

6. Adjourn:

Juliet Caplinger motioned to adjourn the meeting. **Allan Purinton seconded;** motion carried **5 – 0**. Meeting adjourned at 9:35 pm.