

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 verified 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 on the Town website.

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.