



**TOWN OF DURHAM**  
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**Town Planner's Project Review**  
**Wednesday, June 10, 2020**

VIII. **Public Hearing - Subdivision off Gerrish Drive.** Parcel at 91 Bagdad Road (address). Preliminary design review application for conservation subdivision for houses on 16-acre lot off Gerrish Drive. Marti and Michael Mulhern, property owners. Mike Sievert, engineer. Robbi Woodburn, Landscape Architect. Map 10, Lot 8-6. Residence B District.

➤ I recommend that the board discuss the project and close the design review.

Please note the following:

- The Planning Board conducted a site walk at the property on May 27. The draft minutes are on line. The Planning Board and Conservation Commission are meeting with the Town Attorney June 4 in closed session for her to provide parameters to guide their review of the project.
- After the design review is closed the applicant will submit a formal application when they are ready.
- Planning Board comments. I suggest going around the table and inviting each Planning Board member to share their thoughts at this point. The project is still preliminary and it is subject to change. But it is helpful for board members to give their general sense of the project and point to issues of concern, including information that they would like to see to address specific conditional use criteria.
- The board can start the discussion of what kind of outside review, if any, should be done at the formal stage.
- Does the applicant have any updated information about extending the sewer?
- Development of Regional Impact. The board should vote on whether or not this is a Development of Regional Impact as suggested by one of the neighbors. The board could vote when the formal application comes in but I suggest addressing the question now.

A subdivision of a dozen houses is not ordinarily considered a Development of Regional Impact. If it is deemed a DRI then there is an additional process to be followed at the

formal stage including notices and a report from the Strafford Regional Planning Commission.

In the time that I have been the Town Planner, since 2012, there have been only two projects deemed to be a Development of Regional Impact – The Lodges and Riverwoods. The question was raised with Madbury Commons but it was deemed to not be a DRI.

### **Review of Developments of Regional Impact statute**

#### **36:54 Purpose. –**

The purpose of this subdivision is to:

- I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.
- II. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the municipality having jurisdiction.
- III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

#### **36:55 Definition. –**

In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:

- I. Relative size or number of dwelling units as compared with existing stock.
- II. Proximity to the borders of a neighboring community.
- III. Transportation networks.
- IV. Anticipated emissions such as light, noise, smoke, odors, or particles.
- V. Proximity to aquifers or surface waters which transcend municipal boundaries.
- VI. Shared facilities such as schools and solid waste disposal facilities.

#### **36:56 Review Required. –**

- I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.
- II. Each regional planning commission may, with public participation following the public posting of notice of the intent to develop guidelines, including notice published in a newspaper of general circulation in the planning region, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines as needed and provide them, as voted by the regional planning commissioners, to all municipalities in the planning region.

**36:57 Procedure. –**

I. Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.

II. Not more than 5 business days after reaching a decision regarding a development of regional impact, the local land use board having jurisdiction shall, by certified mail, furnish the regional planning commission and the affected municipalities with copies of the minutes of the meeting at which the decision was made. The local land use board shall, at the same time, submit an initial set of plans to the regional planning commission, the cost of which shall be borne by the applicant.

III. At least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.

IV. Notwithstanding the foregoing, when the building inspector determines that a use or structure proposed in a building permit application will have the potential for regional impact and no such determination has previously been made by another local land use board, he or she shall notify the local governing body. The building inspector shall also notify by certified mail the regional planning commission and the affected municipalities, who shall be provided 30 days to submit comment to the local governing body and the building inspector prior to the issuance of the building permit.

**36:58 Applicability. –** The provisions of this subdivision shall supersede any contrary or inconsistent provisions of local land use regulations enacted under RSA 155-E and RSA 674.

- Here is more information about Developments of Regional Impact prepared by the Strafford Regional Planning Commission. See pages 3-6 for more guidelines about determining whether a project is a DRI.

[http://strafford.org/cmsAdmin/uploads/Final\\_SRPC-Approved-Guidelines-9-29-2011.pdf](http://strafford.org/cmsAdmin/uploads/Final_SRPC-Approved-Guidelines-9-29-2011.pdf)