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February 16, 2021

Lorne Parnell, Acting Chair  
Durham Planning Board  
8 Newmarket Road  
Durham, NH 03824

Sally Needell, Chair  
Durham Conservation Commission  
8 Newmarket Road  
Durham, NH 03824

Dear Chairs Parnell and Needell and Members of the  
Board/Commission:

At the Planning Board meeting of February 10, 2012, mention was made by several abutters that the proposed portion of the road which was conveyed to the Town by Walter Cheney in 1972 is a "town owned wetland". This statement, together with similar statements made at prior meetings, suggests that the portion of the proposed road extending from Gerrish Drive cannot be used because it contains wetlands. This assertion is completely inaccurate and without merit.

The land in question was conveyed to the Town in 1972 and the description of the property is based on a plan which references the area as a "Future Street". The plan together with the deed clearly indicate that the reason the property was conveyed was to create a road. The Planning Board's task now is to determine whether the proposed road complies with the standards and requirements for road construction pursuant to the subdivision regulations. As well, their task is to determine whether the portion of the proposed road which contains wetlands can be constructed in a way which will be consistent with the town wetland regulations and thus be appropriate to grant a

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RETIRED

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Lorne Parnell, Acting Chair  
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Sally Needell, Chair  
Durham Conservation Commission  
February 16, 2021  
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conditional use permit. Neither the Planning Board nor the Conservation Commission has the jurisdiction to go further and analyze the proposed road or wetlands as if it is a parcel of conservation land owned by the Town or is otherwise completely restricted from further development.

We trust that the Planning Board and Conservation Commission understands their jurisdictional limits. We also trust that they will continue to diligently perform their review of the conditional use permit application which, if approved, will be the first step in authorizing the construction of the proposed road.

We appreciate the opportunity to clarify the record on this point and would be happy to answer any further questions which you may have.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC

A handwritten signature in cursive script that reads "Sharon Cuddy Somers".

Sharon Cuddy Somers  
SCS/sac

cc: Michael and Marti Mulhern  
Michael Sievert  
Mark West

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