



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT AGENDA

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, 288 Central Avenue, Dover, NH 03820  
Meeting Date: **Thursday, December 20, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

### 2. APPROVAL OF PRIOR MINUTES OF NOVEMBER 15, 2012

### 3. HEARING – CONTINUED FROM NOVEMBER 15, 2012

- A. \* Z 12-23 Changing Places, LLC (Owner: Estate of Rita T. Taylor), 72 Durham Road (Tax Map I, Lot 12), located in the Low Density Residential (R-20) District and the Suburban Density Multi-Residential (RM-SU) District. Applicant proposes to construct a twenty (20) unit townhouse residential development in addition to the existing residence for a total of twenty-one (21) units. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 and RM-SU District Tables of Use and Dimensional Requirements to permit +/- 6,331 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.

### 4. HEARING – NEW

- A. \* Z 12-25 Thornwood Commons, LLC and Varney Brook Lands, LLC, Thornwood Lane (Tax Map M, Lot 4), located in the Executive Technology Park (ETP) District, and subject to the Residential-Commercial Mixed Use (RCM) Overlay District, has approval to construct 62 residential units which were approved as part of development plan that also included non-residential structures. Per the RCM Overlay District requirements, only 50% of the residential units may be occupied prior to construction of a portion of the non-residential structures. To date, none of the proposed non-residential structures have been constructed. Accordingly, the applicant requests a variance from **Section 170-28.2.E** of the Zoning Ordinance to allow 46 residential units (approx. 75% of the total 62 permitted) to be constructed and occupied where only 31 residential units (50% of the total 62 permitted) are allowed to be occupied prior to construction of the non-residential structures.

### 5. RE-HEARING REQUEST – Z 12-09 ROBERT E. FISHER, 49 LITTLEWORTH ROAD (TAX MAP G, LOT B)

### 6. ADJOURN

**\* If the application is accepted for discussion, the public hearing will be held that evening.**

Persons with questions or interested in reviewing the application materials are invited to visit the Planning Department located in City Hall, open Monday-Thursday from 8:30 am to 5:30 pm. The application materials are also available on-line at [www.dover.nh.gov](http://www.dover.nh.gov). A map showing project locations can be found at [www.dover.nh.gov/planhome.htm](http://www.dover.nh.gov/planhome.htm).

Follow us on Twitter @DoverNHPlanning and find us on Facebook at [www.facebook.com/pages/Dover-NH/City-of-Dover-NH-Planning/446789895351](https://www.facebook.com/pages/Dover-NH/City-of-Dover-NH-Planning/446789895351).



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, City Hall, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2012**  
Meeting Time: **7:00 pm**

### 1. ATTENDANCE

**Members Present:** Sam Reid (Chair), William Colbath (Vice Chair), Otis Perry, Jennifer Stone, James Kelley, Chris Prior (Alternate).

**Members Not Present:** Frank Landford, Joshua Cote (Alternate).

**Staff Present:** Timothy Corwin (Assistant City Planner), Gail Pare (Recording Secretary)

The Chair called the meeting to order at 7:05 p.m. The Chair opened the meeting, introduced the Board and staff members to the audience, and described the process used to hear cases.

Chair Reid advised the audience that case 4A has requested a continuance until the December 20, 2012 meeting date. Otis Perry suggested that case 4A be heard ahead of the other cases.

### 2. APPROVAL OF PRIOR MINUTES OF OCTOBER 18, 2012

**Motion:** O.Perry motioned to accept the October 18, 2012 minutes. Seconded by J.Kelley.  
Vote: U/A.

### 3. HEARING – CONTINUED FROM OCTOBER 18, 2012

A. ~~\* Z 12-23 Changing Places, LLC (Owner: Estate of Rita T. Taylor), 72 Durham Road (Tax Map I, Lot 12), located in the Low Density Residential (R-20) District and the Suburban Density Multi-Residential (RM-SU) District. Applicant proposes to construct a twenty (20) unit townhouse residential development in addition to the existing residence for a total of twenty-one (21) units. Applicant requests a variance from **Section 170-12.A** of the Zoning Ordinance and the R-20 and RM-SU District Tables of Use and Dimensional Requirements to permit +/- 6,331 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.~~

**Motion:** O.Perry motioned to postpone the case until the December 20, 2012 meeting with the understanding that this would be the last postponement. Seconded by J.Stone.

Discussion on the motion.

J.Kelley questioned why we are limiting the number of postponements.

O.Perry and J.Kelley discussed the reasons.

The Chair commented that it is unfair to have the abutters attend two meetings and have those meetings continued with no notice to the abutters.

Board discussion ensued.

Atty. James Schulte confirmed that he will be ready to go for the December 20<sup>th</sup> meeting. Schulte stated the reason for the delay was they were trying to reach out to those most affected. They met with the Board of Directors last week, which led to some issues they are now trying to resolve. He understands there are



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, City Hall, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2012**  
Meeting Time: **7:00 pm**

other owners in addition to the board members that would like to be involved and time is needed to schedule that.

Alfred Catalfo, 78 Durham Road, stated that he came down for both meetings. He has not been contacted by anybody in two months and wants that on the record.

Chair Reid called for a vote on the motion on the floor. Vote: U/A.

#### 4. HEARING – CONTINUED FROM SEPTEMBER 20, 2012

\* Z 12-09 Robert F. Fisher (Owner: Anne E Tucker Revocable Trust), 49 Littleworth Road (Tax Map G, Lot 29) located in the Low Density Residential (R-20) District, requests a variance from Section 170-12.A of the Zoning Ordinance and the R-20 District Table of Use and Dimensional Requirements to permit a lunch cart on the property where lunch carts are not a permitted use in the R-20 District.

**Motion:** O.Perry motioned to remove from the table. Seconded by C.Prior. Vote: U/A.

Robert Fisher represented the applicant. He provided an aerial survey of the property, which was provided by the Community Services Dept. Fisher discussed the parking which would be behind the lunch cart towards the end of the property. He did not indicate the actual parking or the roped off areas. He indicated the hours of operation would be 11 a.m. to dusk year round. The food items have not been chosen yet and would be provided by the actual vendor.

S.Reid questioned Fisher as to why this location was chosen.

Fisher confirmed there is heavy traffic on that road and there was previously a lunch cart located across the street 5-10 years ago. The cart was later moved to this location and it has not been used since. In 2000, Mr. Hentzel applied for a variance for the lunch cart and it was denied.

W.Colbath confirmed with Fisher the hours of operation would be 11 am to dusk. He was concerned that during the summer, dusk is much later asked about extended hours.

Mr. Fisher stated that he is willing to limit the hours of 11 a.m. to dusk, but no later than 8 p.m., if that is the will of the Board. He asks the Board for a reasonable response.

Discussion ensued between Board members about the lack of special conditions that warrant the variance.

#### **Reason for Staff Recommendation**

Staff believes that there are no special conditions of the property that distinguishes it from any other property similarly zoned. The property is already being used for a multi-family residence, and there are several other uses permitted in the R-20 District that the property could be used for, if desired. A similar request was made to the ZBA in 2000 and was denied where the ZBA concluded that the application failed to meet all five (5) of the variance criteria.

Reid asked Corwin if food services are allowed in the R-20 zone. Corwin confirmed that eating and



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, City Hall, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2012**  
Meeting Time: **7:00 pm**

drinking establishments are not permitted in residential districts, however, it is allowed in all four of the commercial districts, including the I zone, which is across the street, the Cochecho Waterfront District and the downtown.

*Public hearing closed.*

S.Reid pointed out that the property is in a residential use zone, across the street is the I-2 zone.

J.Stone confirmed with the Board that the area is very busy and questioned traffic concerns.

T.Corwin advised if the Board grants the variance, he would suggest it go to the TRC for a traffic review.

C.Prior feels that because the truck is mobile, he suggested that the lunch cart be moved to a zone that does permit such a use.

O.Perry stated that the hardship has changed since the Simplex time. He does not support the variance.

**Motion:** O.Perry motioned to deny the variance. Seconded by W.Colbath. Vote: U/A.

### 5. HEARING – NEW

- A. \* Z 12-24 Phil & Donna Rinaldi, 13 Riverdale Avenue (Tax Map I, Lot 74-Z), located in the Medium Density Residential (R-12) District, propose to remove the existing home and construct a new single family dwelling. Applicants request a variance from **Section 170-12.A** of the Zoning Ordinance and the R-12 District Table of Use and Dimensional Requirements to permit the proposed single family dwelling to be located not more than fifty (50) ft. from the front lot line, where a build to line of not closer than five (5) ft. and not further than twenty-five (25) ft. from the front lot line is required.

*Chair Reid appointed alternate Jennifer Stone to vote on the case.*

Phil Rinaldi presented his case. He and his wife Donna have lived at 14 Riverdale Avenue for the past 38 years. They purchased the property across the street at 13 Riverdale Avenue and removed the existing home. He submitted a signed petition from neighbors who support the variance.

S.Reid confirmed that trees would need to be cut down to allow the 25 ft. front line as required.

Robert Bryan, 18 Riverdale, pointed out that all of the homes have at least a 40-60 foot setback and stated that he felt the 25 foot requirement was not well thought out by the City.

#### **Reason for Staff Recommendation**

Tim Corwin explained that the applicants wish to locate the proposed home 50 ft. from the front lot line in order to maintain a large landscaped front yard in keeping with the character of the neighborhood. Although our calculations place the average setback for the abutting properties closer to thirty-five (35) feet, it is our view that the request is a reasonable one which will have no discernible negative impact on the neighborhood. The purpose of the “build to” requirement is to encourage homes to be located closer



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting  
Meeting Location: Council Chambers, City Hall, Dover, NH 03820  
Meeting Date: **Thursday, November 15, 2012**  
Meeting Time: **7:00 pm**

to the street in order to maintain the integrity of older neighborhoods. Here, however, the applicants are asking to place the home in a similar location to the house that formerly occupied the lot, and it is clear that the abutting properties generally are set significantly farther back from the 25 ft. maximum setback requirement. Therefore, staff does not believe there is any relationship between the purpose of the build to requirement and its application to the subject property.

### **Recommendation**

The Planning Department supports the variance request. There would be no negative impact for the neighborhood.

**Motion:** J.Kelley motioned to approve the variance. Seconded by O.Perry. Vote: U/A.

### **ADJOURN:**

**Motion:** O.Perry motioned to adjourn at 7:37 p.m. Seconded by W.Colbath. Vote: U/A.

DRAFT



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-23)

Application Type:	Variance
Applicant:	Changing Places, LLC
Owner:	The Estate of Rita T. Taylor
Location:	72 Durham Road (Tax Map I, Lot 12)

**INTENT:** Applicant proposes to construct a sixteen (16) unit townhouse residential development on the portion of the lot zoned RM-SU. Multi-family is a permitted use provided that the lot contains at least 10,000 sq. ft. of uplands for each dwelling unit. For sixteen (16) units, the uplands portion of the RM-SU lot would need to be at least 160,000 sq. ft. Because the RM-SU portion of the lot only contains 126,637 sq. ft. of uplands, applicant requires a variance to permit +/- 7,915 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.

**UNITS PROPOSED:** Sixteen (16) townhouse style multi-residential units

**AGENDA ITEM #:** 3-A

**ZONING DISTRICT:** RM-SU and R-20

**EXISTING LAND USE:** single family residential

**PROPOSED LAND USE:** single family residential and multi-family residential

**SURROUNDING LAND USE:** single family residential and multi-family residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL REQUIRED:** Yes

**ATTACHMENTS:** Application (with narrative), Plan Set (3 sheets, letter from 11/3/12 letter from Garrison Condo. Assoc.

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department supports the variance request.

### Summary of Request and Background

The subject property is 4.714 acre lot located between Dover Middle School and Dover High School on the south side of Durham Road, and is improved with a single family dwelling. The lot is split zoned: the front portion is located in the Low Density Residential (R-20) District, and the rear is located in the Suburban Density Multi-Residential (RM-SU) District, comprising the majority of the lot at 3.804 acres. The applicant proposes to construct a sixteen (16) unit townhouse residential development on the portion of the lot zoned RM-SU. Multi-family is a permitted use in the RM-SU District provided that the lot contains at least 10,000 sq. ft. of uplands for each dwelling unit. For sixteen (16) units, the uplands portion of the RM-SU lot would need to be at least 160,000 sq. ft. Because the RM-SU portion of the lot only contains 126,637 sq. ft. of uplands, applicant requires a variance from Section 170-12.A of the Zoning Ordinance and the RM-SU District Table of Use and Dimensional Requirements to permit +/- 7,915 sq. ft. of land per unit where a minimum of 10,000 sq. ft. is required.<sup>1</sup>

### Reason for Staff Recommendation

Staff's view is that the Applicant's application demonstrates compliance with the five (5) criteria. As depicted on Sheet DE-1 of the applicant's plan set, the proposed density of the project (7,914 sq. ft. per unit) is far less than the average density of other multi-family developments in the vicinity (3,988 sq. ft.). Note the average density is conservative number in that for most of the lots, the lot size *includes* wetlands. If the wetlands were deducted from these lots, the overall density of these multi-family developments would increase, providing even more of a contrast with applicant's relatively low density project (at 7,915 sq. ft.). Given the disparity between the proposed density of this project and that of the surrounding multi-family developments, staff believes that the applicants request for sixteen (16) units (only four (4) more than they are permitted to have by right) is reasonable. Staff is concerned about the impact these additional units will have on the traffic conditions along Durham Road, however, these concerns will need to be satisfactorily addressed at the Planning Board level.

### Recommendation

The Planning Department supports the variance request and recommends the Board hold the public hearing.

<sup>1</sup> Note that the abutter's notice and application reflect an earlier request to construct 20 units. The applicants have since scaled down their request to 16 units. Because this change resulted in a reduced variance request and did not change that section of the ordinance from which a variance is required, a new abutter's notice was not prepared for the 12/20/12 hearing.



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 212-23 Date Received:
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Changing Places, LLC Phone # (603) 749-3800

Address of Applicant: 42J Dover Point Road, Dover, NH 03820

E-Mail Address: changingplacesllc@gmail.com

PROPERTY OWNER (if different from applicant): The Estate of Rita T. Taylor

Address: c/o George Taylor 248 Littleworth Road, Madbury NH 03823 Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: 72 Durham Road

Brief Directions: 4.6 +/- acre parcel with an existing residential home

Zoning District: RM-SU, R-20 Assessor's Map # 1 Lot(s) # 12

TYPE OF APPEAL: (Please check one)

- X Variance from Section 170-12A of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section of the Zoning Ordinance
Special Exception per Section of the Zoning Ordinance
Appeal of Administrative Decision regarding Section of the Zoning Ordinance
Equitable Waiver per Section of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

Construct a 20 unit residential development and retain the existing home.
The development will be set back 500' from the road and will have no wetlands impact.

# VARIANCE REQUIREMENTS

***THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY***

## **A. Variance Requested**

A variance is requested from Section(s) 170-12.A of the Zoning Ordinance to permit:

We are requesting a variance to allow 20 new residential units with 6,331 square feet of upland in the RM-SU where 10,000 square feet of upland is required.

## **B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))**

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

See Attached

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

See Attached

3. Granting the variance would do substantial justice because:

See Attached

## VARIANCE REQUIREMENTS:

### 1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

The applicant seeks a variance to allow the construction of 20 new residential units in the RM-SU Zone while retaining the existing residence in the R-20 Zone for a total of 21 units on this property.

This property is located in an area of the City where there has been intensive residential development. The Density Exhibit shows the density calculations for nearby residential developments. Those projects range in size from 15 units to 163 units, and the average amount of land per unit ranges from 3,034 square feet to 15,471 square feet. Taking all of the projects into consideration, the average amount of land per unit is 4,856 square feet. The property which is immediately adjacent to this site has 62 units with 3,770 square feet per unit in the RM-SU Zone which includes wetlands. The proposal for this property is 20 units on 126,637 square feet of upland in the RM-SU Zone so that each new unit would have 6,331 square feet of uplands associated with it where 10,000 square feet is required.

The public interest is affected if the proposed use would constitute a fundamental change in the neighborhood or if there would be a substantial impact on health and safety. The proposed variance will allow development of this multi-family project with greater amounts of land per unit than is the average for other multi-family developments in this area. Granting this variance will not constitute a fundamental change in the neighborhood, but would allow development at a lesser density than already exists. The residential use is allowed in this zone and would not cause a substantial impact on health and safety. City utilities are adequate to provide service for the number of units proposed in this request.

### 2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the ordinance because:

The spirit of the ordinance is to allow multi-family development which is consistent with other multi-family projects in the neighborhood. The proposed density will be less intensive than other projects in the area, and provides substantially more land per unit than is the average for existing developments in this area. City utilities are adequate to provide service for number of units proposed in this request. This project is consistent with other properties in the neighborhood.

### 3. Granting the variance would do substantial justice because:

Substantial justice is done if the benefit to the applicant exceeds any detriment to the general public. The proposed use is less intensive than the average of other similar projects in the neighborhood. Those existing projects have existed for many years without any detrimental impact on abutting properties or on the neighborhood. This project will not have any detrimental impact on the neighborhood or on the City in general.

4. The value of surrounding properties will not be diminished because:

The proposed use is less intensive than the average of other similar projects in the neighborhood. Those existing projects have existed for many years without any detrimental impact on abutting properties or on the neighborhood. This project will not have any detrimental impact on the neighborhood or on the City in general since it is the same type of use as is existing in the neighborhood.

The existing house near Durham Road will be retained, although it may be converted to a duplex. The new residences to be constructed will be set back more than 500 feet from Durham Road and will not be readily visible from Durham Road. The immediate abutter is the multi-family project known as The Garrison, which is more intensively developed than what is proposed for this site.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(i) The following special conditions of the property distinguish it from other properties in the area:

This parcel is 4.714 acres which is bisected by the R-20 and the RM-SU zones. The immediate abutter is the multi-family project known as The Garrison, which is more intensively developed than what is proposed for this site. The parcel is larger than other underdeveloped lots having frontage on Durham Road. The property has areas of wetlands which make the siting of new residences more difficult. The property is located in a neighborhood in which the existing development is more intensive than what is currently allowed.

(ii) No fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application of that provision to the property because:

The general purpose of the ordinance is to limit the density of multi-family development of land. However, this property is located adjacent to or near other multi-family projects which already have a greater density than what is being requested for this.

(iii) The proposed use is a reasonable one because:

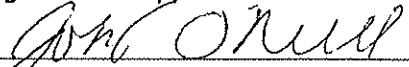
The proposed use will be less intensive than what exists in the neighborhood and what exists on the adjacent lot. The proposed use is consistent with other properties in the neighborhood, but will have less density than the average of those other projects. City utilities are adequate to provide service for the number of units proposed in this request.

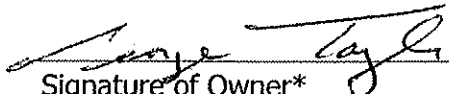
## SIGNATURE PAGE

**THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS**

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

<p><b>IMPORTANT</b></p> <p>PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 5 DAYS PRIOR TO HEARING. FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED.</p>
---

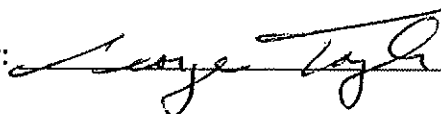
  
\_\_\_\_\_  
Signature of Applicant\*

  
\_\_\_\_\_  
Signature of Owner\*

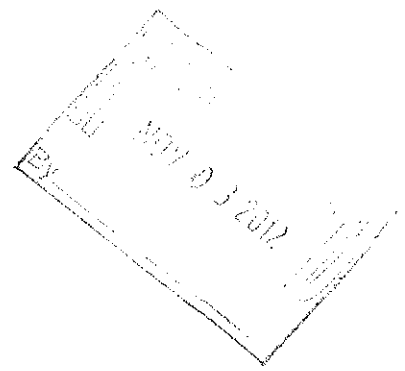
\*Both Signatures Required

### AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner:  \_\_\_\_\_ Date: 10-3-12

212-23



## *THE GARRISON IN DOVER, A CONDOMINIUM*

November 3, 2012

City of Dover  
Planning Department  
Zoning Board  
288 Central Ave.  
Dover, NH 03820

Dear Members of the Zoning Board,

I am Charlene Courtemanche, President of the Garrison Condominium Association representing the Association and homeowners located at 56 Durham Road. I am writing this letter in response to the density zoning request for the property located at 72 Durham Road known as the Rita Taylor Property. This lot abuts 13 of our homeowners at the Garrison Condominium Association and there are several issues that we would like to address concerning this density request for the development known also as "Changing Places". Below is a list of those concerns:

### **Tritech Plans:**

The plans that were provided to us by the Planning Office and done by Tritech Corp. do not show our property to scale or buildings located properly. I do not know how these plans are used in determining the decision of the Zoning Board, but the building design does not show the decks on our buildings, the correct placement in alignment with the abutting lot, the scale of the buildings in conjunction with all of the other buildings on the plans or the distance between the abutting buildings to the driveway proposed for entering the development.

### **Water:**

One of the primary concerns is the amount of water that settles and drains from the abutting property. The Garrison Condominium currently has over 50% of their homeowners with sump pumps that work steadily all year. With the development and construction of foundations, parking lot black top, and even the storage of snow, the potential for additional drainage on our property is very high. The Association and abutting homeowners could be facing an expensive future of cracked foundations, sump pumps unable to handle additional water, and hydro-static water pressure.

### **Entrance Driveway:**

The driveway for the entrance of 72 Durham Road is close to our property line. With the development of 20 units which allow 2 vehicles per unit along with the guest parking spaces could mean up to 60 vehicles

*56 Durham Road • Dover, NH 03820*



### *THE GARRISON IN DOVER, A CONDOMINIUM*

coming and going day and night. These lights can directly light into the living rooms of homeowners! Noise with utility vehicles such as waste management, delivery trucks etc. are added to the traffic.

#### **Lighting:**

Lighting is the necessary part of a multi-family development. Currently, there should be entrance lighting along the driveway that abuts our property, lighting in the parking lot, trash and mailroom lighting, and lighting on homes. All reflecting into our homes located abutting the property.

#### **Traffic:**

Traffic counts do not reflect the frustration of leaving and entering The Garrison property. School opening and closing at the Middle School and High School, along with events at night and weekends are a challenge to anyone leaving their homes at the Garrison Condos. You are now adding to the problem by the development and 40 + more cars.

#### **Snow Removal:**

The driveway entering the proposed development closely abuts The Garrison Condominium property line. Very close. Snow pushed aside by plows will inevitable be pushed onto our property. Adding fencing, unless it is a stone wall, will not withstand the weight of large amounts of snow.

Looking at the property development and layout, there is no or little room for snow to be piled or stored. Random locations (based on a quick decision) could have serious consequences for our property. Melting snow, salt, and sand could destroy vegetation and water adds to the already problem of too much water.

#### **Property Values:**

The most important issue of all...the value of our homeowners property. Along with the above listed issues and the loss of privacy, water damage, noise, and the beauty of the grounds, property assessments will drop and resale value will be lost.



*THE GARRISON IN DOVER, A CONDOMINIUM*

We understand that Durham Road is a mixed single family and multi-family zoned area. However, zoning does not mean that development is always right for every lot. We ask that you please review our concerns. If you have any questions or if I can assist any of you, please feel free to contact me at any time.

Thank you.

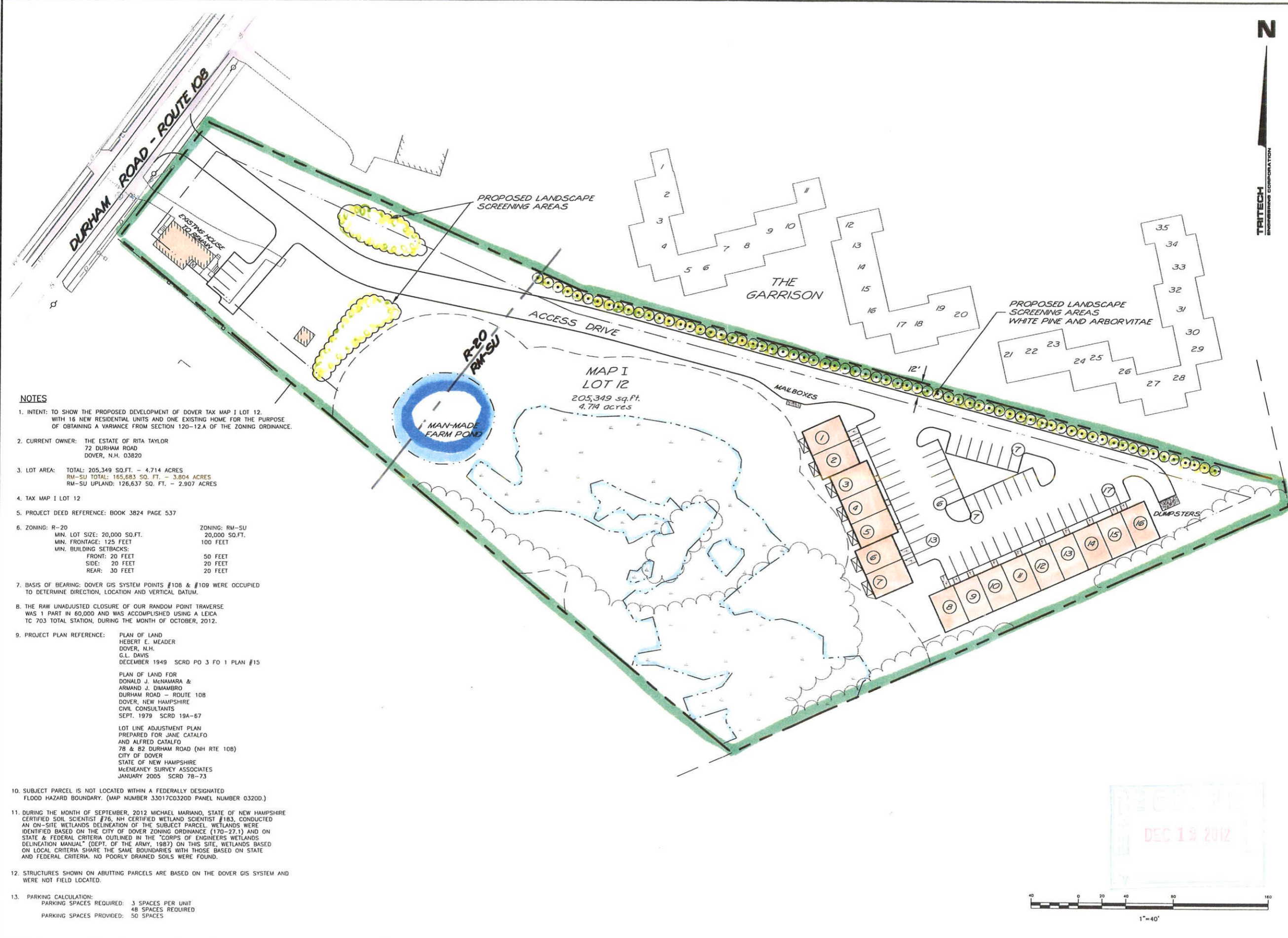
*Charlene Courtemanche*

Charlene Courtemanche  
President, Garrison Condominium Assoc.  
56 Durham Road. #47  
Dover, NH 03820

(h) 740-8484  
© 312-0056

Cc: Mayor Dean Trefethen  
Councilor Dot Hooper

Cc: email to John O'Neill 11-7-12 (GP)



- NOTES**
- INTENT: TO SHOW THE PROPOSED DEVELOPMENT OF DOVER TAX MAP 1 LOT 12, WITH 16 NEW RESIDENTIAL UNITS AND ONE EXISTING HOME FOR THE PURPOSE OF OBTAINING A VARIANCE FROM SECTION 120-12A OF THE ZONING ORDINANCE.
  - CURRENT OWNER: THE ESTATE OF RITA TAYLOR  
72 DURHAM ROAD  
DOVER, N.H. 03820
  - LOT AREA: TOTAL: 205,349 SQ. FT. - 4.714 ACRES  
RM-SU TOTAL: 163,683 SQ. FT. - 3.804 ACRES  
RM-SU UPLAND: 126,637 SQ. FT. - 2.907 ACRES
  - TAX MAP 1 LOT 12
  - PROJECT DEED REFERENCE: BOOK 3824 PAGE 537
  - ZONING: R-20 RM-SU  
MIN. LOT SIZE: 20,000 SQ. FT. 20,000 SQ. FT.  
MIN. FRONTAGE: 125 FEET 100 FEET  
MIN. BUILDING SETBACKS:  
FRONT: 20 FEET 50 FEET  
SIDE: 20 FEET 20 FEET  
REAR: 30 FEET 20 FEET
  - BASIS OF BEARING: DOVER GIS SYSTEM POINTS #108 & #109 WERE OCCUPIED TO DETERMINE DIRECTION, LOCATION AND VERTICAL DATUM.
  - THE RAW UNADJUSTED CLOSURE OF OUR RANDOM POINT TRAVERSE WAS 1 PART IN 60,000 AND WAS ACCOMPLISHED USING A LEICA TC 703 TOTAL STATION, DURING THE MONTH OF OCTOBER, 2012.
  - PROJECT PLAN REFERENCE:  
PLAN OF LAND  
HEBERT E. MEADER  
DOVER, N.H.  
G.L. DAVIS  
DECEMBER 1949 SCRD PD 3 FO 1 PLAN #15  
  
PLAN OF LAND FOR  
DONALD J. McNAMARA &  
ARMAND J. DIMAMBRO  
DURHAM ROAD - ROUTE 108  
DOVER, NEW HAMPSHIRE  
CIVIL CONSULTANTS  
SEPT. 1979 SCRD 19A-67  
  
LOT LINE ADJUSTMENT PLAN  
PREPARED FOR JANE CATALFO  
AND ALFRED CATALFO  
78 & 82 DURHAM ROAD (NH RTE 108)  
CITY OF DOVER  
STATE OF NEW HAMPSHIRE  
McEENEAY SURVEY ASSOCIATES  
JANUARY 2005 SCRD 78-73
  - SUBJECT PARCEL IS NOT LOCATED WITHIN A FEDERALLY DESIGNATED FLOOD HAZARD BOUNDARY. (MAP NUMBER 33017C0320D PANEL NUMBER 0320D.)
  - DURING THE MONTH OF SEPTEMBER, 2012 MICHAEL MARIANO, STATE OF NEW HAMPSHIRE CERTIFIED SOIL SCIENTIST #76, NH CERTIFIED WETLAND SCIENTIST #183, CONDUCTED AN ON-SITE WETLANDS DELINEATION OF THE SUBJECT PARCEL. WETLANDS WERE IDENTIFIED BASED ON THE CITY OF DOVER ZONING ORDINANCE (170-27.1) AND ON STATE & FEDERAL CRITERIA OUTLINED IN THE "CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL" (DEPT. OF THE ARMY, 1987) ON THIS SITE, WETLANDS BASED ON LOCAL CRITERIA SHARE THE SAME BOUNDARIES WITH THOSE BASED ON STATE AND FEDERAL CRITERIA. NO POORLY DRAINED SOILS WERE FOUND.
  - STRUCTURES SHOWN ON ABUTTING PARCELS ARE BASED ON THE DOVER GIS SYSTEM AND WERE NOT FIELD LOCATED.
  - PARKING CALCULATION:  
PARKING SPACES REQUIRED: 3 SPACES PER UNIT  
48 SPACES REQUIRED  
PARKING SPACES PROVIDED: 50 SPACES

RECEIVED  
DEC 13 2012

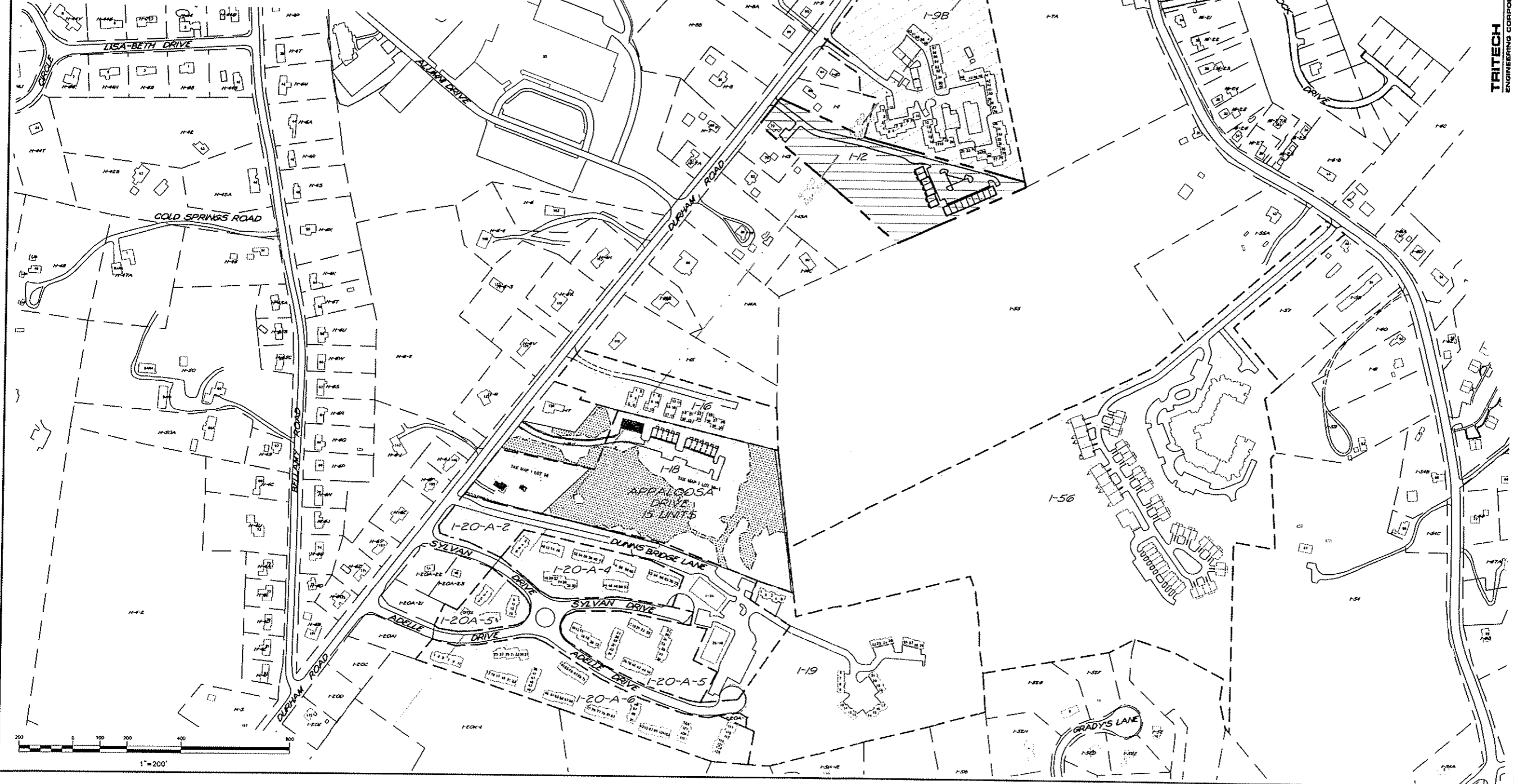


<b>TRITECH</b> ENGINEERING CORPORATION		755 CENTRAL AVENUE DOVER, NEW HAMPSHIRE 03820 TELEPHONE 603 742 8107 FAX 603 742 3860	
REVISIONS	DATE	DESCRIPTION	
ZONING VARIANCE PLAN <b>THE ESTATE OF RITA T. TAYLOR</b> <b>CHANGING PLACES, LLC.</b> 72 DURHAM ROAD DOVER, NEW HAMPSHIRE DECEMBER 12, 2012 JOB No. 12127 SCALE: 1" = 40'			
SHEET NO.	<b>N-16</b>		

**DENSITY OF DEVELOPED PROPERTIES  
COMPARISON TABLE**

MAP / LOT	AREA	UNITS	DENSITY (SQ. FT. PER UNIT)
1 / 7B	159,760	40	3,994
1 / 9B	233,765*	62	3,770
1 / 16	77,990*	30	2,600
1 / 18	176,117**	15	11,741
1 / 19	448,672	29	15,471
1 / 20A-2	218,555	48	4,553
1 / 20A-4	11,215	36	3,089
1 / 20A-5	165,023	43	3,838
1 / 20A-6	194,178	64	3,034
1 / 56	732,980**	163	4,497
AVERAGE	223,368	56	3,988
1 / 12	126,627**	16	7,914

\* RM-SU AREA ONLY  
\*\* UPLAND AREA ONLY



**TRITECH**  
ENGINEERING CORPORATION

**TRITECH**  
ENGINEERING CORPORATION

765 CENTRAL AVENUE  
DOVER, NEW HAMPSHIRE 03820  
TELEPHONE 603 742 8707  
FAX 603 742 9800

REVISIONS	DATE	DESCRIPTION	REVISED NUMBER OF UNITS
	12/12/12		

DENSITY EXHIBIT  
**THE ESTATE OF RITA T. TAYLOR**  
**CHANGING PLACES, LLC.**  
72 DURHAM ROAD  
DOVER, NEW HAMPSHIRE  
OCTOBER 3, 2012 JOB No. 12127  
SCALE: 1" = 200'

SHEET NO. **DE-1**



CITY OF DOVER

## ZONING BOARD OF ADJUSTMENT – STAFF MEMO (Z12-25)

Application Type:	Variance
Applicant:	Thornwood Commons, LLC and Varney Brook Lands, LLC
Owner:	Thornwood Commons, LLC
Location:	Thornwood Lane (Tax Map M, Lot 4)

**INTENT:** The applicants have approval to construct 48 detached condominium units. Per the requirements of the Residential-Commercial Mixed use (RCM) Overlay District, a certain portion of the non-residential structures must be constructed prior to occupying more than 50% of the permitted residential. Applicant requests a variance from Section 170-28.2.E of the Zoning Ordinance to allow up to 75% of the permitted residential units to be constructed where only 50% are permitted prior to construction of the non-residential structures.

**UNITS PROPOSED:** 48 single family style condominium units (approved as part of the “Thornwood Commons” mixed use development, Planning Board file: P 06-55)

**AGENDA ITEM #:** 4-A

**ZONING DISTRICT:** ETP and RCM Overlay

**EXISTING LAND USE:** Single Family Residential

**PROPOSED LAND USE:** Single Family Residential and Commercial

**SURROUNDING LAND USE:** Single Family Residential

**PREVIOUS ZBA ACTION:** None

**PLANNING BOARD APPROVAL REQUIRED:** No (Planning Board approval already received – P 06-55)

**ATTACHMENTS:** Application with approved Site Plan and Yield Plan

**APPLICATION IS COMPLETE:** Yes

**NOTICES AS REQUIRED:** Yes

**STAFF RECOMMENDATION:**  
The Planning Department supports the variance request.

**Summary of Request and Background**  
Applicants received site plan approval for “The Village at Thornwood Commons”, a

development for Tax Map Lots M-4 and K-19 containing both residential and non-residential uses, including 48 detached condominium units. As required by the Residential-Commercial Mixed Use (RCM) Overlay District, a certain portion of the non-residential structures must be constructed prior to occupying more than 50% of the permitted residential. For Thornwood Commons, this means that only 31 of the 62 approved residential units (50%) are permitted to be occupied prior to constructing a certain portion of the non-residential structures.<sup>1</sup> To date, none of the non-residential structures have been constructed. Applicant, however, desires to increase to 75% the number of residential units that can be occupied prior to constructing the non-residential structures. Therefore, the applicant requests a variance from Section 170-28.2.E of the Zoning Ordinance to allow up to 75% of the permitted residential units to be constructed where only 50% are permitted prior to construction of the non-residential structures. The variance would permit up to 46 of the 48 condominium units to be occupied without construction of any of the commercial structures.

**Reason for Staff Recommendation**

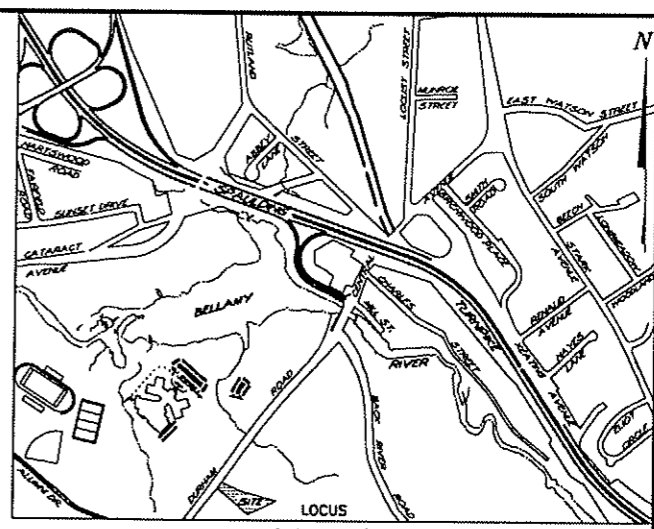
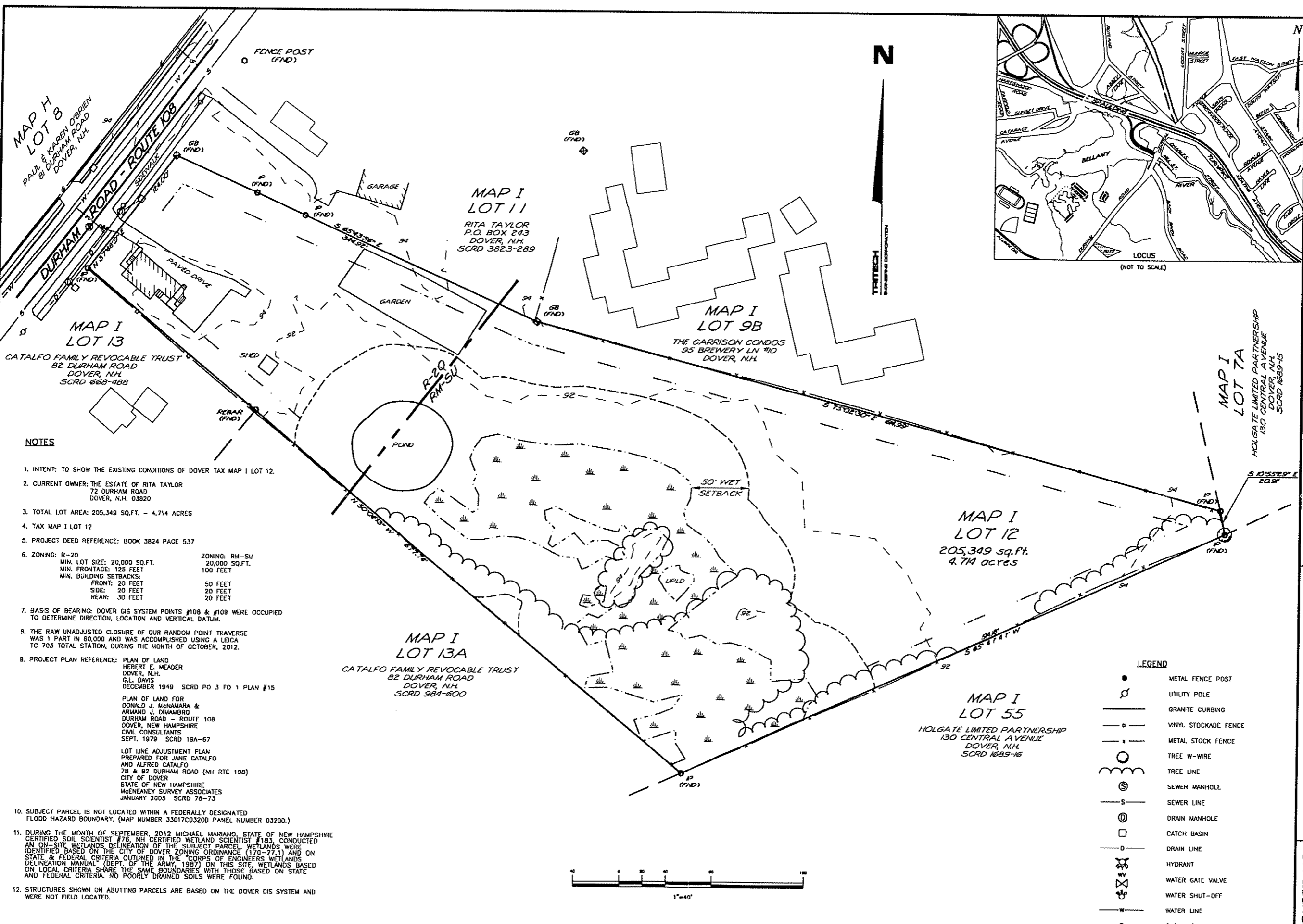
The Village at Thornwood Commons plan was conceived of and approved during a time of solid economic growth and just prior to the economy taking a substantial and sustained turn for the worse. Although a significant amount of non-residential construction is envisioned for this project, the economic reality is that the demand for such buildings remains low. At the same time, there is a robust market for the detached, age-restricted condominium units that the Applicant has constructed at Thornwood Commons, and there is demand for more. Although the 50% limit at issue here was designed to help ensure that the project’s commercial components were actually constructed, the hand of regulation can only push so far until it asks for the impossible. Staff recognizes that due to the very difficult state of the economy, it is simply not realistic to expect the non-residential components of the project to be constructed at this time, and that it makes more sense to permit the Applicants to continue constructing the residential units for which a market actually exists. It is also significant to note that RCM Overlay District requirements have recently been amended to change the requirements for calculating density. Under the current requirements, the yield plan would have permitted approximately four (4) times the number of single family dwellings, thereby pushing the 50% limit well above the 46 units requested by the applicant.

**Recommendation**

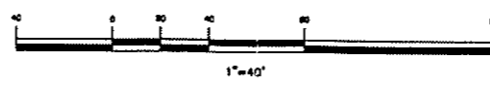
The Planning Department supports the variance request and recommends the Board hold the public hearing.

---

<sup>1</sup> Note that when this development was approved in 2008, it was determined that the percentage of units that could be occupied prior to the construction of the non-residential structures would be based off of the amount of residential units that *could* fit on the lot per the yield plan (i.e. 62 units) and not the number of units actually proposed (i.e. 48 units). The result is that by right, applicants are permitted to build and occupy 31 units (50% of 62) prior to the construction of the non-residential structures, even though they are only proposing to *actually* build 48 units. With this variance request, they are asking to construct and occupy 46 (75% of 62) of the 48 units.



- NOTES**
- INTENT: TO SHOW THE EXISTING CONDITIONS OF DOVER TAX MAP I LOT 12.
  - CURRENT OWNER: THE ESTATE OF RITA TAYLOR  
72 DURHAM ROAD  
DOVER, N.H. 03820
  - TOTAL LOT AREA: 205,349 SQ.FT. - 4.714 ACRES
  - TAX MAP I LOT 12
  - PROJECT DEED REFERENCE: BOOK 3824 PAGE 537
  - ZONING: R-20  
MIN. LOT SIZE: 20,000 SQ.FT.  
MIN. FRONTAGE: 125 FEET  
MIN. BUILDING SETBACKS:  
FRONT: 20 FEET  
SIDE: 20 FEET  
REAR: 30 FEET
  - BASIS OF BEARING: DOVER GIS SYSTEM POINTS #108 & #109 WERE OCCUPIED TO DETERMINE DIRECTION, LOCATION AND VERTICAL DATUM.
  - THE RAW UNADJUSTED CLOSURE OF OUR RANDOM POINT TRAVERSE WAS 1 PART IN 60,000 AND WAS ACCOMPLISHED USING A LEICA TC 703 TOTAL STATION, DURING THE MONTH OF OCTOBER, 2012.
  - PROJECT PLAN REFERENCE: PLAN OF LAND  
HEBERT E. MEADER  
DOVER, N.H.  
G.L. DAVIS  
DECEMBER 1949 SCRD PO 3 FO 1 PLAN #15  
  
PLAN OF LAND FOR  
DONALD J. MANAMARA &  
ARMAND J. DIMANGRO  
DURHAM ROAD - ROUTE 108  
DOVER, NEW HAMPSHIRE  
CIVIL CONSULTANTS  
SEPT. 1979 SCRD 19A-67  
  
LOT LINE ADJUSTMENT PLAN  
PREPARED FOR JANE CATALFO  
AND ALFRED CATALFO  
78 & 82 DURHAM ROAD (NH RTE 108)  
CITY OF DOVER  
STATE OF NEW HAMPSHIRE  
McENEANEY SURVEY ASSOCIATES  
JANUARY 2005 SCRD 78-73
  - SUBJECT PARCEL IS NOT LOCATED WITHIN A FEDERALLY DESIGNATED FLOOD HAZARD BOUNDARY. (MAP NUMBER 33017C0320D PANEL NUMBER 0320D.)
  - DURING THE MONTH OF SEPTEMBER, 2012 MICHAEL MARIANO, STATE OF NEW HAMPSHIRE CERTIFIED SOIL SCIENTIST #76, NH CERTIFIED WETLAND SCIENTIST #183, CONDUCTED AN ON-SITE WETLANDS DELINEATION OF THE SUBJECT PARCEL. WETLANDS WERE IDENTIFIED BASED ON THE CITY OF DOVER ZONING ORDINANCE (170-27.1) AND ON STATE & FEDERAL CRITERIA OUTLINED IN THE "CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL" (DEPT. OF THE ARMY, 1987) ON THIS SITE, WETLANDS BASED ON LOCAL CRITERIA SHARE THE SAME BOUNDARIES WITH THOSE BASED ON STATE AND FEDERAL CRITERIA. NO POORLY DRAINED SOILS WERE FOUND.
  - STRUCTURES SHOWN ON ABUTTING PARCELS ARE BASED ON THE DOVER GIS SYSTEM AND WERE NOT FIELD LOCATED.



- LEGEND**
- METAL FENCE POST
  - UTILITY POLE
  - GRANITE CURBING
  - VINYL STOCKADE FENCE
  - METAL STOCK FENCE
  - TREE W-WIRE
  - TREE LINE
  - SEWER MANHOLE
  - SEWER LINE
  - DRAIN MANHOLE
  - CATCH BASIN
  - DRAIN LINE
  - HYDRANT
  - WATER GATE VALVE
  - WATER SHUT-OFF
  - WATER LINE
  - GAS LINE

**TRITECH**  
ENGINEERING CORPORATION

706 CENTRAL AVENUE  
DOVER, NEW HAMPSHIRE 03803  
TELEPHONE 603 746 8707  
FAX 603 746 8650

REVISIONS	DESCRIPTION
DATE:	

EXISTING CONDITIONS PLAN  
**THE ESTATE OF RITA TAYLOR**  
DURHAM ROAD  
DOVER, NEW HAMPSHIRE

SHEET NO. **EX-1**

OCTOBER 9, 2012  
JOB No. 12127  
SCALE: 1" = 40'



City of Dover, New Hampshire
ZONING BOARD OF ADJUSTMENT APPLICATION

[Adopted: August 16, 2012]

Office Use Only Case #: 212-25 Date Received: RECEIVED DEC 04 2012
Amount Paid: \$ Time Received:

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Thornwood Commons, LLC Phone # 603-749-3800

Address of Applicant: 42 J Dover Point Road, Dover, NH 03820

E-Mail Address:

PROPERTY OWNER (if different from applicant): Same

Address: Phone #

E-Mail Address:

PROPERTY/PARCEL INFORMATION

Address: Thornwood Lane

Brief Directions: Thornwood Commons Condominium at Sawyer Green

Zoning District: ETP Assessor's Map # K Lot(s) # 4-23 to 4-33

TYPE OF APPEAL: (Please check one)

- XX Variance from Section 28-2 (E) of the Zoning Ordinance
Physical Disability Variance (RSA 674:33-V) from Section of the Zoning Ordinance
Special Exception per Section of the Zoning Ordinance
Appeal of Administrative Decision regarding Section of the Zoning Ordinance
Equitable Waiver per Section of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

The applicant has approval to construct 48 detached condominiums on this property, but the ordinance limits how many units maybe occupied prior to the construction of commercial structures on other portions of the property. The applicant is seeking a variance to allow up to 75% of the total residential units to be built where the ordinance limits that to 50 % of the total. The total units in the entire project are 62, so the variance would allow 46 units to be built and occupied now.

# VARIANCE REQUIREMENTS

***THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY***

**A. Variance Requested**

A variance is requested from Section(s) 28-2 (E) of the Zoning Ordinance to permit:

The development and occupation of 46 units where the ordinance limits the  
number of residential units to 31 until 25 % of the commercial structures  
have been constructed.

**B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))**

Please demonstrate compliance with the following:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

See attached

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:

See attached

3. Granting the variance would do substantial justice because:

See attached

## VARIANCE REQUIREMENTS:

### 1. Waiving the terms of the Ordinance will not be contrary to the public interest because:

The applicant is developing a portion of a larger parcel of land which is located within the Residential-Commercial Mixed Use Overlay District. The approved master plan and conditional use permit for this larger parcel provides for commercial development together with residential development. The existing approvals for this larger parcel provide for the development of 62 residential units. Of that total amount, the applicant is developing a condominium project which has been approved to contain 48 detached units.

The developer of the remainder of the larger parcel has accomplished substantial site improvements and environmental remediation, but due to changes in the economy which occurred shortly after approvals were obtained that developer has been unable to develop the commercial buildings which were contemplated for this property. That developer recently appeared before the Planning Board and reached agreement with the Planning Board for an extension of his approvals for the establishment of a committee to consider and propose changes to the development plan for his portion of the overall property.

The City Council recently approved changes to the zoning ordinance which will allow for substantially more residential units on the overall parcel.

Of the 48 condominiums in the applicant's project, 24 have been sold. The applicant has purchase and sales agreements for additional units.

The zoning ordinance for the overlay district provides that no more than 50 % of the total number of residential units may be occupied until at least 25 % of the commercial structures have been constructed. Because the commercial structures have not yet been constructed, the limitation on the residential units means that only 31 of the applicant's 48 approved units may be occupied.

The residents who have already purchased homes in this age-restricted project have a reasonable expectation that the project will be completed so that construction activity can be finished.

The applicant's portion of the overall development plan for the larger parcel has obtained all necessary approvals, meets all City requirements, and can be completed within the next 12 to 18 months. The only restriction on the completion of the applicant's portion of the project is the limitation concerning the timing of the commercial construction within the overall project.

The applicant appeared before the Planning Board at the meeting where the commercial developer reached agreement with the Planning Board for the approach to the re-design of the commercial portion of the property. At that meeting, the Planning Board members unanimously supported a waiver of the timing requirements in order to permit this applicant to construct up to 75 % of the overall residential units, so that this applicant could build up to 46 units. However, the Planning Board members were aware that the Planning Board does not have the authority to

grant a waiver from the zoning ordinance, and their vote is only a recommendation to the Zoning Board that granting a variance to the timing requirements of the zoning ordinance would be within the public interest.

2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the ordinance because:

The spirit of the ordinance is to allow residential development as part of the overall development plan for large parcels of land that are within the overlay district. Due to reasons beyond the control of this applicant and beyond the control of the residents who have already purchased homes within this condominium, the commercial development has been delayed. However, the commercial developer has reached agreement with the Planning Board for a process that will lead to a revised design for the remainder of the larger parcel. The amount of residential development will not be affected if this variance is granted. Only the timing of when that residential development will occur will be affected.

3. Granting the variance would do substantial justice because:

Substantial justice is done if the benefit to the applicant exceeds any detriment to the general public. The requested variance will allow the substantial completion of this adult only, age 55 residential project. The commercial developer is proceeding with an approved process to redesign the commercial portion of the overall property. This applicant and the current residents in this project have been proceeding in good faith in the expectation that commercial development would proceed more quickly than has in fact occurred. This applicant and these residents should not be prejudiced because of factors beyond their control. As an adult only, age 55 residential neighborhood, this project generates substantial tax and fee revenues for the City of Dover with very limited demand on City services.

4. The value of surrounding properties will not be diminished because:

There will be no change in the approved use and design of this residential neighborhood. The variance is requested only for the timing as to when the residences can be completed and occupied.

5A. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(i) The following special conditions of the property distinguish it from other properties in the area:

The overall parcel is one of only two parcels in the City which are subject to the overlay district. The applicant's residential project has access from Middle Road, while the remainder of the property will obtain access from Dover Point Road. This property is the only one in this area which is subject to the timing restriction related to the commercial development.

(ii) No fair and substantial relationship exists between the general public purposes of the ordinance provisions and the specific application of that provision to the property because:

The general purpose of the ordinance is to have residential development occur in tandem with commercial development of property within the overlay district. For reasons beyond the control of this applicant or the control of the commercial developer, the commercial development of the larger parcel has been delayed. However, the Planning Board has approved a process to address a redesign of the commercial portion of the property and that should allow the commercial development of the Dover Point Road portion of the property. While the applicant's property is part of the overall property and is generally subject to the provisions of the overlay district, this residential neighborhood is physically separated from the commercial portion of the property.

(iii) The proposed use is a reasonable one because:

The proposed variance will allow 75% of the total 62 units to be developed, which means that 46 of the applicant's 48 approved units can be constructed now. There is substantial demand for the applicant's residences. The current residents in this project have a reasonable expectation that the project will be completed in a timely manner so that construction activity can be finished. If the variance is granted, no more residences will be constructed than are allowed. They simply will be built now instead of later.

# SIGNATURE PAGE

***THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS***

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

<p><b>IMPORTANT</b></p> <p>PROPERTY IDENTIFICATION SIGN MUST BE POSTED ON THE PROPERTY FOR THE 5 DAYS PRIOR TO HEARING. FAILURE TO POST MAY RESULT IN APPLICATION NOT BEING ACCEPTED.</p>
---

*Scott A O'Neill*

Signature of Applicant\*

*Scott A O'Neill*

Signature of Owner\*

\*Both Signatures Required

## AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Dover Zoning Board, Planning Department and other pertinent City Departments and boards to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post-approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner: *Scott A O'Neill* Date: *12/4/2012*

P12-33

= INDICATES TRAILER PARK, 1<sup>ST</sup> CLASS MAIL

10/9/12  
JH

Abutter's List - Village at Thornwood - October 9, 2012

(Owner)

**Map K Lots 6, 19 & 19-1**  
Varney Brook Lands, LLC  
340 Central Avenue, Suite 202  
Dover, NH 03820

**Map K Lots 19A & 26**  
800 Central Avenue, LLC  
24 Chestnut Street  
Dover, NH 03820

**Map K Lot 25A**  
Public Service Company  
of New Hampshire  
PO Box 330  
Manchester, NH 03105

**Map K Lot 23**  
Market Square Condominium  
c/o River Valley Dev. Corp.  
9 Patriot Drive  
Dover, NH 03820

**Map K Lot 22B**  
Christopher W. Lara &  
Leigh-Anne Sapienza  
48 1/2 Dover Point Road  
Dover, NH 03820

**Map K Lot 21-3**  
Ethel E. Huse  
6 Constitution Way  
Dover, NH 03820

**Map K Lot 21-6**  
Charles M. Sweeney  
104 Merrimans Place  
Winchester, VA 22601

**Map K Lot 21-9**  
Darlene Matthews & Valerie Hefler  
18 Constitution Way  
Dover, NH 03820

**Map K Lot 21-12**  
Blanche T. Lecesse  
24 Constitution Way  
Dover, NH 03820

**Map K Lot 21-64**  
Geraldine & Norman Mathieu  
25 Constitution Way  
Dover, NH 03820

**Map M Lots 4 & 4-23 to 4-33**  
Thornwood Commons, LLC  
42 J Dover Point Road  
Dover, NH 03820

**Map K Lot 19C**  
2830 Holdings, LLC  
340 Central Avenue, Suite 202  
Dover, NH 03820

**Map K Lot 25B**  
William R. Dube, Trustee  
252 Dover Point Road  
Dover, NH 03820

**Map K Lot 23**  
Paolini Brothers Development, LLC  
15 Briarwood Lane  
Dover, NH 03820

**Map K Lot 21-1**  
Lucille R. Hanscom  
2 Constitution Way  
Dover, NH 03820

**Map K Lot 21-4**  
Sandra L. Nicholson &  
Erminie W. Keenan  
8 Constitution Way  
Dover, NH 03820

**Map K Lot 21-7**  
Tara L. & John Wright, Jr.  
14 Constitution Way  
Dover, NH 03820

**Map K Lot 21-10**  
Carol L. & Charles F. McAdams  
20 Constitution Way  
Dover, NH 03820

**Map K Lot 21-13**  
Patricia A. & William E. Copeland  
26 Constitution Way  
Dover, NH 03820

**Map K Lot 21-55**  
Dianne G. & Werner Vogt  
23 Constitution Way  
Dover, NH 03820

**Map K Lots 19-2 & 25**  
Dover Point Road 252, LLC  
40 Dover Point Road  
Dover, NH 03820

**Map K Lot 19B**  
JBack Realty, LLC  
34 Dover Point Road  
Dover, NH 03820

**Map K Lot 24**  
Dover Point Office Park Assoc.  
42 Dover Point Road  
Dover, NH 03820

**Map K Lot 21**  
Doverbrook, LLC  
306 Dahlia Drive  
Wayland, MA 01778

**Map K Lot 21-2**  
Patricia A. & Chris D. Karas  
5 Sylvester Street  
Portsmouth, NH 03801

**Map K Lot 21-5**  
Anthony D. & Nancy L. Wallingford  
10 Constitution Way  
Dover, NH 03820

**Map K Lot 21-8**  
Sandra A. Brighenti  
16 Constitution Way  
Dover, NH 03820

**Map K Lot 21-11**  
Gloria A. & Laurits S. Carlsen  
22 Constitution Way  
Dover, NH 03820

**Map K Lot 21-14**  
Don C. Zay, Trustee  
28 Constitution Way  
Dover, NH 03820

**Map K Lot 21-54**  
Lydia & Leonardo Ciano  
21 Constitution Way  
Dover, NH 03820

Abutter's List -- Village at Thornwood -- October 9, 2012

**Map K Lot 21-53**

Mary R. & Vincent M. Penzo  
6 Fords Landing Drive  
Dover, NH 03820

**Map K Lot 21-50**

Linda R. Souliere  
13 Constitution Way  
Dover, NH 03820

**Map K Lot 21-45**

Phoebe A. Hansen  
3 Constitution Way  
Dover, NH 03820

**Map M Lot 5**

Mark & Sharon Wentworth  
161 Middle Road  
Dover, NH 03820

**Map M Lot 6**

Helen F. Preston, Trustee  
130 Middle Road  
Dover, NH 03820

**Map K Lot 17B**

Olivann Lucas  
35 Applevale Drive  
Dover, NH 03820

**Map K Lot 17H**

Ha & May Outhit &  
Tha Visouk Viraranh  
29 Applevale Drive  
Dover, NH 03820

**Map K Lot 18-2**

Tam & Nancy Doan  
16 Dover Point Road  
Dover, NH 03820

**Map K Lot 27**

John K. & Melissa D. Morin  
16 Hall Road  
Barrington, NH 03825

**Map K Lot 37**

South Dover Investment Group, LLC  
40 Godfrey Cove Road  
York, ME 03909

**Map K Lot 21-52**

Rosemary A. & Kenneth L. Hanson  
PO Box 1609  
Dover, NH 03820

**Map K Lot 21-49**

Robert B. Lyons  
11 Constitution Way  
Dover, NH 03820

**Map K Lot 21-46**

Howard M. & Anne M.  
MacDonald, Trustees  
1 Constitution Way  
Dover, NH 03820

**Map M Lot 5A**

David Yarrington  
163 Middle Road  
Dover, NH 03820

**Map K Lot 49A**

Meadow Wood at Dover  
c/o Thomas E. Humphrey  
17 St. Andrews Circle  
Dover, NH 03820

**Map K Lot 17I**

Rose McKenzie  
33A Applevale Drive  
Dover, NH 03820

**Map K Lot 17A**

Ida M. & William S. Gibbons  
27 Applevale Drive  
Dover, NH 03820

**Map K Lot 28**

David M. Fortuna &  
Carolyn Asselta-Fortuna  
16 Cedar Street  
Stony Brook, NY 11790

**Map K Lot 35**

Hebert E. & Marilyn Follansbee  
25 Dover Point Road  
Dover, NH 03820

**Map K Lot 38**

STF Development Corp.  
242 Central Avenue  
Dover, NH 03820

**Map K Lot 21-51**

Anne Marie Rousseau  
15 Constitution Way  
Dover, NH 03820

**Map K Lot 21-44**

Nancy S. Merritt  
5 Constitution Way  
Dover, NH 03820

**Map K Lot 21-15**

Deborah & Roger Dirck, Trustees  
30 Constitution Way  
Dover, NH 03820

**Map M Lot 3**

Ann T. & Craig R. Williams  
154 Middle Road  
Dover, NH 03820

**Map K Lot 17J**

Patrick & Kelly Nevins  
37 Applevale Drive  
Dover, NH 03820

**Map K Lot 17H-1**

Lori Beth & John W. Adams III  
31 Applevale Drive  
Dover, NH 03820

**Map K Lot 18A-10**

City of Dover  
288 Central Avenue  
Dover, NH 03820

**Map K Lot 26-1**

Lynn K. Devlin  
26 Dover Point Road  
Dover, NH 03820

**Map K Lot 36**

Robert Paolini &  
Stephen Wilkinson, Trustees  
15 Briarwood Lane  
Dover, NH 03820

**Map K Lot 39**

Roman Catholic Bishop  
of Manchester  
577 Central Avenue  
Dover, NH 03820

Abutter's List -- Village at Thornwood -- October 9, 2012

**Map K Lot 29**  
Charles E. Purpura  
23 Daigles Way  
Rochester, NH 03868

**Map K Lot 15Z**  
Jacin R. & Colleen A. Demers  
2413 Shiraz Lane  
Charleston, SC 29414

**Map K Lot 17S**  
Mary C. Norris  
20 Applevale Drive  
Dover, NH 03820

**Map K Lot 17N**  
Tracy M. & Guy Allyn Mermet  
29 Moose Hollow Road  
Danville, NH 03819

**Map K Lot 49A-19**  
Vasilike Demopoulos, Trustee  
63 Augusta Way  
Dover, NH 03820

**Map M Lot 4-2**  
Kathleen E. & Donald A. Rippey  
4 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-5**  
Diane W. Ruger, Trustee  
16 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-8**  
Joan & Harold K. Rice Jr.  
15 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-11**  
Andrea G. & Craig S. Rowley  
3 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-14**  
Sandra L. Beauchesne  
5 Cobble Hill Drive  
Dover, NH 03820

**Map K Lot 15X**  
Henry M. Boulette  
21 Applevale Drive  
Dover, NH 03820

**Map K Lot 17V**  
Pamela B. Daidone  
PO Box 72  
Dover, NH 03820

**Map K Lot 17L**  
Joan M. Stevens  
22 Applevale Drive  
Dover, NH 03820

**Map K Lot 49A-21**  
Linda L. Small, Trustee  
59 Augusta Way  
Dover, NH 03820

**Map K Lot 49A-18**  
Delores J. & Richard A. Barrett  
64 Augusta Way  
Dover, NH 03820

**Map M Lot 4-3**  
Marianne E. & Robert A. Crawford  
8 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-6**  
Diana & John F. Whalen  
19 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-9**  
Charlotte K. Hill, Trustee  
9 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-12**  
Josephine & Frank J. Fulhan Jr.  
1 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-15**  
Hattie Anne & Robert P. Huggins  
6 Sonia Drive  
Dover, NH 03820

**Map K Lot 15Y**  
Pamela D. & Howard B. Hallett, Jr.  
23 Applevale Drive  
Dover, NH 03820

**Map K Lot 17M**  
Aaron E. Buell  
18 Applevale Drive  
Dover, NH 03820

**Map K Lot 17Q**  
Marsha M. Beedy  
24 Applevale Drive  
Dover, NH 03820

**Map K Lot 49A-20**  
Frederick W. &  
Carol E. Atwood-Lyon  
61 Augusta Way  
Dover, NH 03820

**Map M Lot 4-1**  
Jane A. & Kent E. Howard  
2 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-4**  
Julie H. & Gerald Banach, Trustees  
14 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-7**  
Jane & Allan Griffin, Trustees  
17 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-10**  
Cynthia L. Colvin  
5 Jacqueline Drive  
Dover, NH 03820

**Map M Lot 4-13**  
Gail N. & William E. Dickson  
2 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-16**  
Daniel & Christine Sprague  
8 Sonia Drive  
Dover, NH 03820

Abutter's List – Village at Thornwood – October 9, 2012

**Map M Lot 4-17**

Richard T. Carter, Trustee  
10 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-20**

Virginia A. & Ronald G. Demo,  
Trustees  
5 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-46**

Dorothea P. & Daniel J. Hess  
71 Cold Spring Road  
Avon, CT 06001

**Applicant**

Summit Land Development  
340 Central Avenue, Suite 202  
Dover, NH 03820

**Map M Lot 4-18**

Robert Howard, Trustee &  
Bea Morris, Trustee  
9 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-21**

Beth D. & Kenneth M. Graf  
3 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-26**

Susan D. & Richard T. Spence  
5818 Independence Drive  
Jamesville, NY 13078

**Map M Lot 4-19**

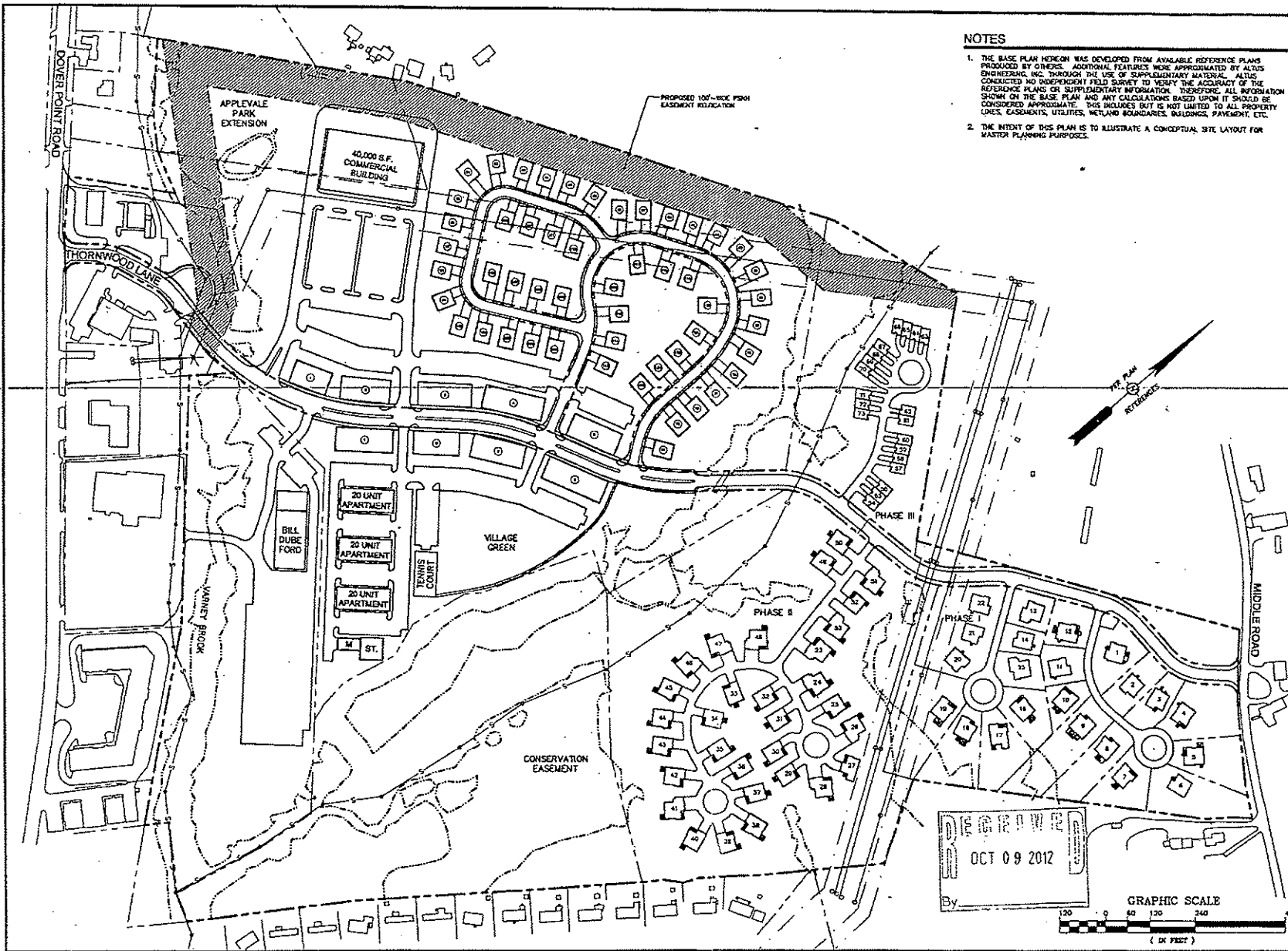
Maureen E. & Robert J. Blair  
7 Sonia Drive  
Dover, NH 03820

**Map M Lot 4-22**

Paula C. & John R. Roberge  
1 Sonia Drive  
Dover, NH 03820

**Engineer**

Altus Engineering, Inc.  
133 Court Street  
Portsmouth, NH 03801



**NOTES**

1. THE BASE PLAN HEREON WAS DEVELOPED FROM AVAILABLE REFERENCE PLANS PRODUCED BY OTHERS. ADDITIONAL FEATURES WERE APPROPRIATED BY ALTUS ENGINEERING, INC. THROUGH THE USE OF SUPPLEMENTARY MATERIAL. ALTUS CONDUCTED NO INDEPENDENT FIELD SURVEY TO VERIFY THE ACCURACY OF THE REFERENCE PLANS OR SUPPLEMENTARY INFORMATION. THEREFORE ALL INFORMATION SHOWN ON THE BASE PLAN AND ANY CALCULATIONS BASED UPON IT SHOULD BE CONSIDERED APPROXIMATE. THIS INCLUDES BUT IS NOT LIMITED TO ALL PROPERTY LINES, EASEMENTS, UTILITIES, NEIGHBOR BOUNDARIES, BUILDINGS, FENCES, ETC.
2. THE INTENT OF THIS PLAN IS TO ILLUSTRATE A CONCEPTUAL SITE LAYOUT FOR MASTER PLANNING PURPOSES.

**ALTUS**  
ENGINEERING, INC.

193 DOWRY STREET    PORTSMOUTH, NH 03801  
(603) 433-3333

THIS DRAWING HAS NOT BEEN RELEASED FOR CONSTRUCTION

ISSUED FOR: **MASTER PLAN**

ISSUE DATE: **OCTOBER 9, 2012**

REVISIONS:  
NO. DESCRIPTION BY DATE  
0 MASTER PLAN ERS 10/09/12

DRAWN BY: **ERS**  
APPROVED BY: **EDM**  
DRAWING FILE: **5290-CDS.1.dwg**

SCALE: **22"x34" 1" = 120'**  
**11"x17" 1" = 240'**

OWNER:  
**VARNNEY BROOK LANDS, LLC**  
P.O. BOX 788  
DOVER, NH 03821

APPLICANT:  
**SUMMIT LAND DEVELOPMENT**  
340 CENTRAL AVE., #502  
DOVER, NH 03820

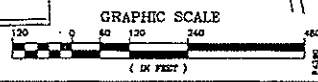
PROJECT:  
**VILLAGE AT THORNWOOD**  
DOVER POINT ROAD, MIDDLE ROAD & THORNWOOD LANE  
DOVER, NH

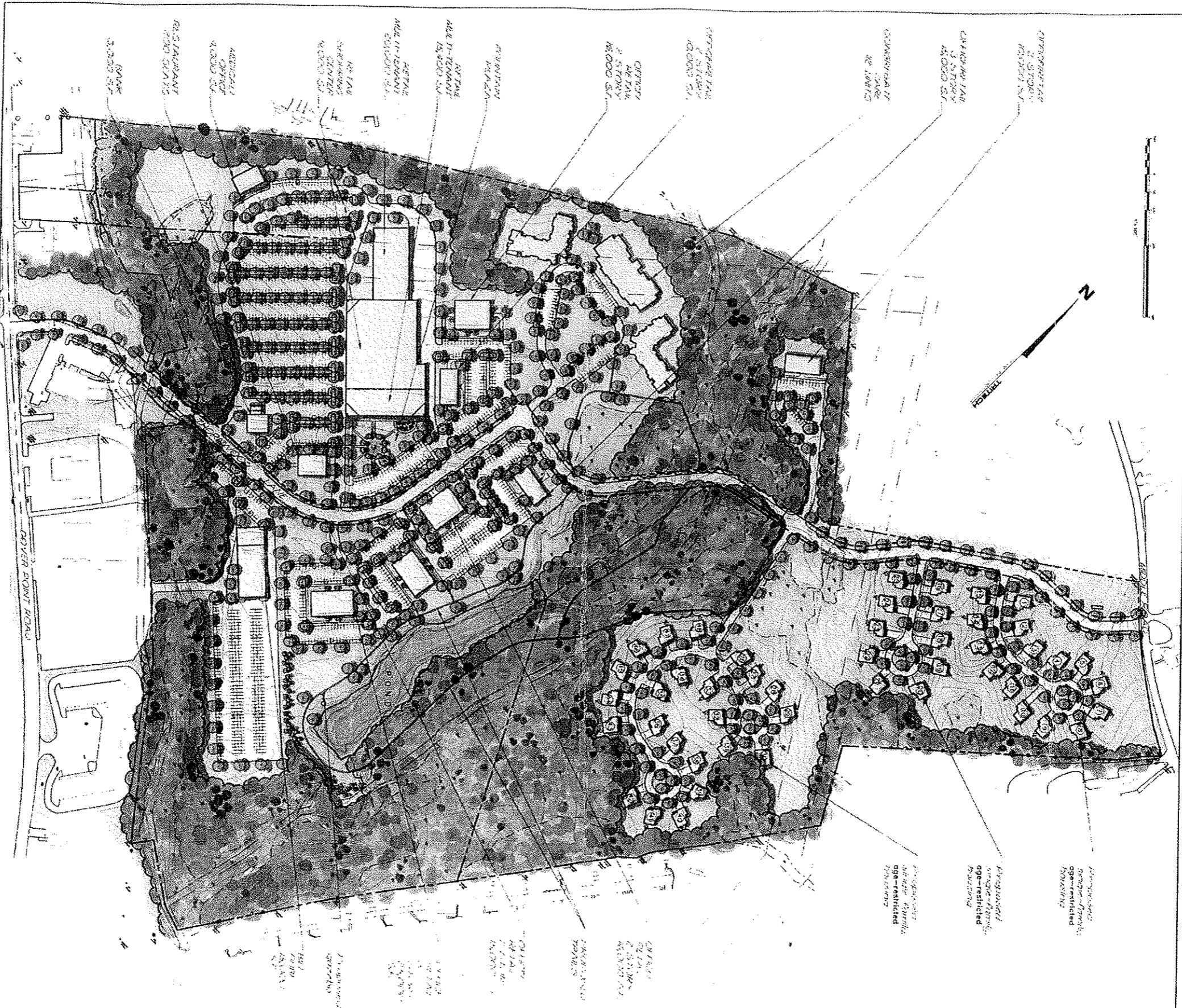
TITLE:

**MASTER PLAN**  
SHEET NUMBER:

**C-1**

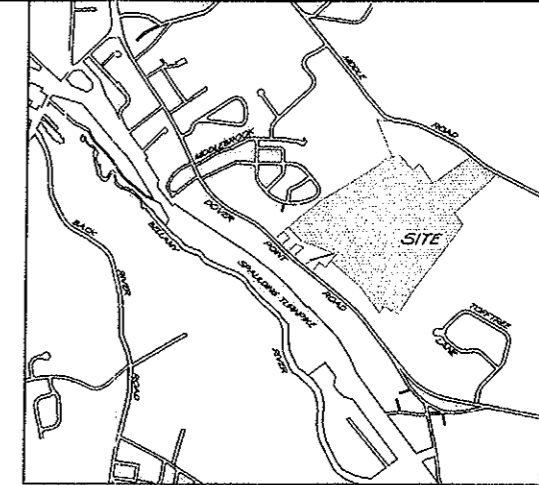
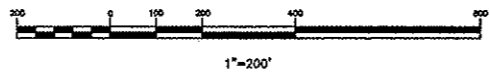
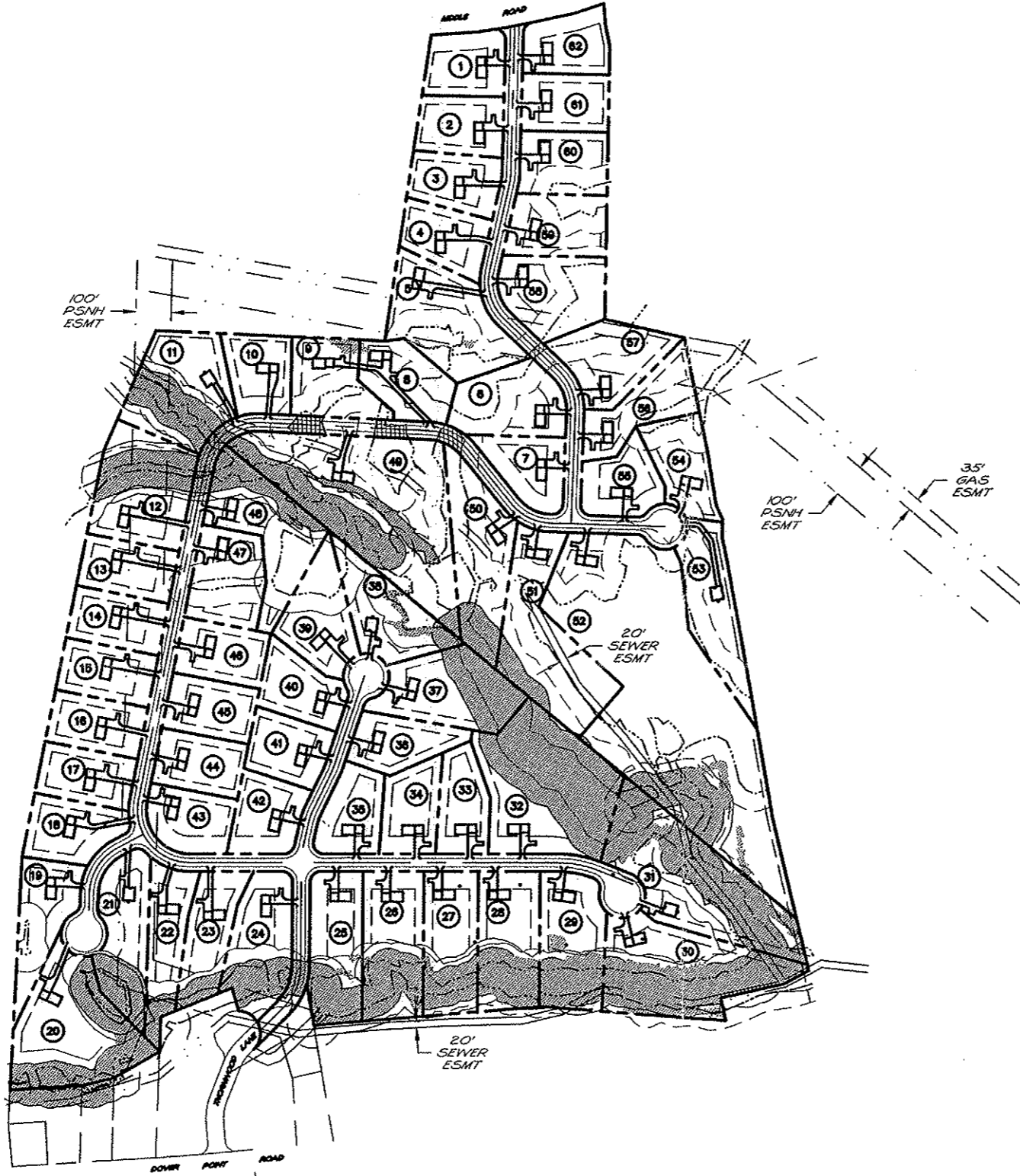
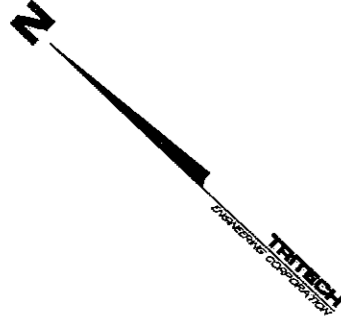
DATE: **OCT 09 2012**





SHEET NO. <b>MP-1</b>	<b>MASTER PLAN</b> <b>THORNWOOD</b> DOVER POINT ROAD, THORNWOOD LANE & MIDDLE ROAD DOVER, NEW HAMPSHIRE OCTOBER 1, 2008 JOB NO. 2322 SCALE: 1" = 200'	<table border="1"> <tr> <td>REVISION</td> <td>DATE</td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </table>	REVISION	DATE					<b>TRITECH</b> ENGINEERS CORPORATION 788 CENTRAL AVENUE DOVER, NEW HAMPSHIRE 03820 TEL: 603-862-7400 FAX: 603-862-7401	PREPARED FOR <b>CHAD KAGELEIRY</b> P.O. BOX 185, DOVER, NH <b>MICHAEL BRIGHAM</b> 233 CENTRAL AVE., DOVER, NH <b>JOHN O'NEILL</b> 233 CENTRAL AVE., DOVER, NH	SHEET NO. <b>MP-1</b>
REVISION	DATE										

10/10/08



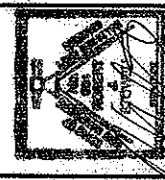
LOCATION PLAN

Lot #	Total Area	Wet Area	Non-Wetland Conservation	Net Area	Contiguous Developable	Frontage
1	40,038	0	0	40,038	40,038	214.59
2	40,058	0	0	40,058	40,058	174.00
3	40,062	0	0	40,062	40,062	180.84
4	40,106	0	0	40,106	40,106	187.46
5	84,512	17,507	3,435	63,570	62,175	263.14
6	58,156	17,831	0	40,523	40,523	264.17
7	40,010	0	0	40,010	40,010	585.03
8	46,764	5,341	444	40,379	40,815	150.00
9	49,279	5,928	2,631	40,720	40,720	291.15
10	40,028	0	0	40,028	40,028	151.32
11	79,978	9,963	20,373	50,642	40,152	155.59
12	82,186	6,076	23,723	52,387	40,006	282.82
13	40,097	0	0	40,097	40,097	150.00
14	40,111	0	0	40,111	40,111	150.00
15	40,088	0	0	40,088	40,088	150.00
16	40,065	0	0	40,065	40,065	150.00
17	40,090	0	0	40,090	40,090	150.29
18	43,069	0	0	43,069	43,069	223.62
19	42,011	1,432	0	40,579	47,260	189.18
20	105,254	20,424	7,842	84,830	59,370	150.02
21	61,456	8,049	9,442	43,965	40,957	430.44
22	48,446	6,286	2,090	40,070	40,070	150.00
23	47,715	3,179	4,504	40,032	40,033	150.00
24	64,101	10,577	9476	44,048	40,710	559.28
25	64,619	15,459	8,150	41,310	41,010	457.76
26	72,713	14,116	13,155	45,442	40,235	173.00
27	62,228	5,812	11,988	44,428	40,218	163.00
28	69,781	13,325	11,531	43,925	40,652	175.00
29	69,138	12,422	13,033	43,681	40,087	264.17
30	139,694	53,032	22,752	63,910	40,115	150.41
31	129,667	47,777	41,782	40,108	41,002	313.38
32	132,669	48,985	41,924	41,760	40,458	319.36
33	40,006	0	0	40,006	40,006	150.03
34	40,036	0	0	40,036	40,036	159.01
35	40,034	0	0	40,034	40,034	456.99
36	40,138	0	0	40,138	40,138	150.00
37	72,718	18,330	13,512	40,876	40,844	183.76
38	58,088	10,653	7,015	40,420	40,045	164.35
39	53,468	13,032	0	40,436	40,436	150.37
40	41,058	0	0	41,058	41,058	156.87
41	40,384	0	0	40,384	40,384	179.65
42	41,051	0	0	41,051	41,051	367.93
43	40,183	0	0	40,183	40,183	377.43
44	40,000	0	0	40,000	40,000	160.00
45	40,123	0	0	40,000	40,000	160.00
46	40,004	0	0	40,004	40,004	160.00
47	53,234	4,487	0	48,747	48,747	266.89
48	77,322	24,718	12,423	40,181	40,115	239.10
49	186,848	62,640	29,613	94,395	59,120	628.03
50	77,519	25,194	6,366	45,959	40,406	310.88
51	99,421	29,461	10,749	59,211	58,346	150.78
52	337,930	185,884	27,415	124,631	40,055	313.29
53	60,974	8,315	0	52,659	52,657	150.42
54	43,977	3,842	0	40,035	40,034	160.55
55	40,286	0	0	40,286	40,286	390.87
56	48,072	6,182	0	41,890	41,890	150.00
57	55,154	8,373	0	46,781	46,781	227.57
58	60,962	20,862	0	40,100	40,100	303.77
59	48,508	7,984	0	40,524	40,524	180.86
60	44,474	4,417	0	40,057	40,068	180.69
61	40,101	0	0	40,101	40,101	164.00
62	40,091	0	0	40,091	40,091	155.86

**TRITECH**  
ENGINEERING CORPORATION

7555 CENTRAL AVENUE  
DOVER, NEW HAMPSHIRE 03801  
TELEPHONE 603 742 8007  
FAX 603 742 9830

REV. NO.	DESCRIPTION	DATE	REV. PER	TRC
10/19/06				



TRADITIONAL YIELD PLAN  
CONDITIONAL USE APPLICATION  
THORNWOOD  
DOVER POINT ROAD, THORNWOOD  
LANE AND MIDDLE ROAD  
DOVER, NEW HAMPSHIRE  
OCTOBER 2, 2006 JOB NO. 04210  
SCALE: 1" = 200'

SHEET NO. **Y-1**

212-09(R)

**FISHER & FULLER**

ATTORNEYS-AT-LAW

600 CENTRAL AVENUE  
DOVER, NEW HAMPSHIRE

MAILING ADDRESS:  
P.O. BOX 70  
DOVER, NEW HAMPSHIRE  
03821-0070  
603-742-6131

LEWIS J. FISHER  
1937-1977  
HAROLD D. MORAN  
1949-1986

FAX NO.  
603-749-0542

ROBERT E. FISHER  
SARAH FISHER FULLER

December 6, 2012

Timothy J. Corwin, Assistant City Planner  
City of Dover  
Department of Planning and Community Development  
288 Central Avenue  
Dover, NH 03820

**Re: Z-12-09 Robert E. Fisher/Ann E. Tucker Revocable Trust, 49 Littleworth Road (Tax Map G, Lot B)**

Dear Mr. Corwin:

Could you kindly consider this letter to be a Motion for Rehearing for the following reasons:

1. The Board did not specify the facts justifying its decision.
2. The Board ignored the fact that the lot was large.
3. The Board ignored the fact that the lot was located across the street from an industrial zone.
4. The Board ignored the fact that no one spoke against the granting of the variance.
5. The Board did not specify any facts that granting the variance would be contrary to the public interest, in violation of the spirit of the ordinance, not result in substantial justice or not result in diminution of surrounding property values.

December 6, 2012

6. The Board did not find that the special conditions mentioned above distinguished it from other residential properties in the zoning district.
7. The Board did not find that there was a relationship between the general purpose of the statute and the proposed use.
8. The Board did not find that the proposed use was unreasonable.
9. 3 members of the Board, namely, Otis Perry, Sam Reid and Bill Colbath was biased against the Plaintiff and were familiar enough with myself that they should have recused themselves.
10. The 3 page Denial Statement is inadequate as a matter of law and cannot justify the denial of the variance application.

For the reasons mentioned, I request that a Rehearing be granted and that the variance application be granted.

Very truly yours,

  
ROBERT E. FISHER

REF/cg