

**CALL TO A SPECIAL TOWN MEETING  
TOWN OF DURHAM**

A SPECIAL TOWN MEETING of the Electors and Citizens qualified to vote at Town Meetings of the Town of Durham will be held the Julian B. Thayer Auditorium, Cogenchaug Regional High School on Monday, December 14, 2015 at 8:00 p.m. for the following purpose:

1. To transfer \$31,000 from #9530 Old Indian Trail Water Tank Reserve to #6700-353 CIP Old Indian Trail Water Tank as recommended by the Board of Finance at their meeting of November 17, 2015.
2. To adopt a Groundwater Management Zone Ordinance effective January 1, 2016.

Laura L. Francis, First Selectman  
John T. Szewczyk, Selectman  
Steven A. Levy, Selectman

**RETURN OF THE CALL**

Return is hereby made, that the Undersigned, on the 24<sup>th</sup> day of November caused to be posted on the Public Signpost in the Town of Durham, a written warning by the Selectmen, and on the 3<sup>rd</sup> day of December, caused to be published in the Middletown Press, a newspaper having a circulation in the Town of Durham, a like warning of the SPECIAL TOWN MEETING to be held the 14th day of December 2015.

Laura L. Francis  
First Selectman

**SPECIAL TOWN MEETING**

Date: December 14, 2015  
Time: 8:00 pm  
Place: Town Hall, 3<sup>rd</sup> Floor Meeting Room  
Moderator: Norm Hicks  
Clerk: Kim Garvis, Town Clerk  
Call: The call to the meeting was accepted as read by the clerk.

**Synopsis of Action**

Item 1: To transfer \$31,000 from #9530 Old Indian Trail Water Tank Reserve to #6700-353 CIP Old Indian Trail Water Tank as recommended by the Board of Finance at their meeting of November 17, 2015.

Motion: Motion by Laura Francis, seconded by Harry Hall

Discussion:

This is a replacement of the water tank shared with the Town of Middlefield because of contamination by the Transfer Station. This project has been discussed for many years. The low bidder was River Valley Construction with a bid of \$68,825.00. There were three other bids: Xenelis Construction, \$88,200.98; Schumack Engineered Construction, \$88,489.50; and L. Holzner Electric, \$130,175.00.

To date approximately \$27,000 in engineering costs have been incurred. The overall cost of the project is now expected to be in the area of \$110,000. \$12,000 of operating money is on hand, Durham's portion is \$49,000 so an additional \$31,000 is needed.

Middlefield is the lead town on this project and we share a town engineer. Middlefield has already voted in favor of this project. Verification of the contractor's license was part of the bid package process.

Action: On a voice vote, with none in opposition, the moderator declared the motion unanimously passed.

Item 2: To adopt a Groundwater Management Zone Ordinance effective January 1, 2016.

Motion: Motion by Laura Francis, seconded by Bob Moore.

Discussion:

Laura Francis stated there will be no formal presentation tonight as there have been two public hearings and three letters sent to homeowners in the affected area. The purpose of this ordinance is the requirement of the abandonment of a private well when the property owner makes the connection to the public water system. The cost of the abandonment will be a cost of the project and won't take place until the project is complete. Laura urged support of this project. Anyone who is eligible to vote at town meetings may vote tonight whether or not you live in the affected zone.

The purpose of this ordinance is to protect the health and safety of the residents of Durham; protect the integrity of the Durham Meadows Superfund Site, and to prevent further expansion of the contaminated groundwater plume. This ordinance shall become applicable to any property within the Groundwater Maintenance Zone (GMZ).

There was extensive discussion regarding this ordinance. To various questions asked the following clarifications were made:

- Existing well pumps must be abandoned when connection is made
- Homeowners may apply for an Exception to the public water hook-up if their well water is testing negative for contamination. Contact the Town Sanitarian, Health Department, if you need assistance with this application process.
- Durham Center Water customers will be connected
- Fire protection will be included
- The Army Corps of Engineers will be responsible for the contracts involving the installation of the water system insuring appropriate licensing, etc.
- 16-inch water mains down Main Street.
- 12-inch water main loop around Pickett Lane
- Water Company is responsible for the pipe from the main to the curb
- Homeowner is responsible for the pipe from curb box to home
- Limited warranty on pipe from street to home
- Existing homes that have polluted wells must hook up to the water system and existing wells abandoned.

Suggestions/comments from audience members:

- There should be an automatic exemption granted to residences within the GMZ who have tested negative and that are outside of the plume so there is not a burden, financial or otherwise on the homeowners in applying for the exemption.
- Homeowners who are sensitive to chlorinated water should be exempt from hooking up to the water system, especially if their well water is testing negative.

- People along Main Street have been dealing with this hazardous issue for decades and it's time that something is done. Many people have had cancer, some have died. Balancing cancer against chlorine, chlorine is the lesser of two evils.
- Chlorine can be filtered out at the tap.

Motion: Motion by Francis Willett, seconded by several to move the question.

Action: On a voice vote with none in opposition the moderator declared the motion to cease debate passed.

Action: On a voice vote, with a couple in opposition, the moderator declared the main motion passed.

Motion & Action: Motion made, seconded and passed, with one in opposition, to waive the reading of the minutes.

Adjourn: Motion made, seconded and passed to adjourn at 9:20 p.m.

Attest: *Kim Garvis*  
*Town Clerk*

**TOWN OF DURHAM, CONNECTICUT  
GROUNDWATER ORDINANCE**

I. Title

This Ordinance shall be known and be cited as the Groundwater Management Zone Ordinance of the Town of Durham, Connecticut.

II. Purpose

The purpose of this Ordinance is to protect the health and safety of the residents of Durham and to protect the integrity of the Durham Meadows Superfund Site remedy by identifying a Groundwater Management Zone ("GMZ") to prevent the use of and public exposure to contaminated groundwater drawn from the GMZ, and to prevent further expansion of the contaminated groundwater plume. In consultation with the United States Environmental Protection Agency (EPA) and the Connecticut Department of Energy & Environmental Protection (CT DEEP), the boundaries of the GMZ are set forth on Figure 1 attached hereto.

III. Scope and Authority

As authorized by Connecticut General Statutes Section 7-148, once this ordinance is applicable to a property located within the boundaries of the GMZ, comprised as set forth in this Ordinance, no groundwater shall be extracted, consumed or utilized from the ground at that property, except as otherwise provided within this Ordinance. This Ordinance shall apply to the GMZ notwithstanding the provisions of any other Town ordinance adopted.

IV. Applicability

This Ordinance shall become applicable to any property within the GMZ on the date that the City of Middletown's water supply becomes available for connection to the property, by virtue of the presence of a curb box at the property boundary and the initiation of water delivery to the Durham Meadows Superfund Site.

## V. Definition

Groundwater: All the water found beneath the surface of the ground including all subsurface water stored in bedrock and overburden aquifers and recharge areas within the GMZ. Groundwater does not include waters found in fire ponds or any other surface water bodies within the GMZ.

## VI. Groundwater Management Zone ("GMZ")

There is hereby established within the Town of Durham the GMZ as depicted in Figure 1. The particular properties contained within the GMZ are generally located on or adjacent to Main Street as depicted in Figure 1 and can be identified using assessor's maps that are on file at the Town of Durham Office of Assessor, and can be viewed on the Town of Durham's website. The GMZ depicted in Figure 1 is subject to future amendment. Any future amendment to Figure 1 of this Ordinance is subject to all notice and procedural requirements applicable to a municipal ordinance amendment in the Town of Durham.

## VII. Use Regulations

Within the GMZ, except as specifically provided in Section VIII (Exceptions), the following regulations shall apply:

- A. The extraction, consumption, or utilization of groundwater for any purpose, including residential wells is prohibited in the GMZ.
- B. Unless an exception is granted pursuant to Section VIII E, all existing groundwater wells must be abandoned in accordance with the provisions of the Connecticut Well Drilling Code and Rules, Sections 25-126 through 25-137 of the General Statutes and Regulations of the State of Connecticut and all applicable regulations of the Town of Durham Health Department within thirty (30) days of connection to the public water supply made following authorization granted pursuant to part C of this Section.
- C. Unless an exception is granted pursuant to Section VIII E, for all properties located within the GMZ that contain any habitable structures (residential, commercial or industrial) with running water the owner or such other duly authorized person must within thirty (30) days of receiving notice that a connection from the building or buildings served by existing groundwater wells will be provided to the public water system either: 1) provide written authorization on the form contained in the notice that the connection can be installed; or 2) file an application for an exception under Section VIII E of the Ordinance. In the event that the application for an exception is denied, written notice of authorization must be provided within thirty (30) days of denial on the form contained in the original notice of the availability of the connection to the public water supply.
- D. Nothing in this regulation shall prohibit any party from developing property within the GMZ provided that any development proposal requiring on-site drinking water shall demonstrate the ability to connect to public water at such party's expense and be approved by the Town of Durham Health Department.

## VIII. Exceptions

- A. Groundwater in the GMZ may be used for the purpose of evaluating groundwater quality for environmental investigation.
- B. This Ordinance shall not apply to any investigation or monitoring wells installed or required to be installed, by any federal, state, or local government authority.
- C. Nothing in this regulation shall prohibit the use of a closed-loop system for geothermal heating purposes.

- D. An exception is granted for the continued use of the Durham Manufacturing Company industrial well provided the Durham Manufacturing Company remains in compliance with the conditions of the final Environmental Land Use Restriction established for the property, or the draft Environmental Land Use Restriction established for the property as attached to the Consent Decree between the United States and the State of Connecticut, and The Durham Manufacturing Company, Civil No. 3:13-cv-01319.
- E. Any person who owns property within the GMZ may request from the Town of Durham Department of Health an exception to Sections VII.A, VII.B, and VII.C of this Ordinance for continued use of a well in existence on the effective date of this Ordinance or installation of a new well after the effective date of the Ordinance, subject to the following conditions. An exception under this Paragraph does not apply until granted in writing by the Town of Durham Department of Health.
- a. A property owner seeking an exception under this Paragraph must comply with the following requirements:
    - i. The property owner shall submit a plan that shall include, but not be limited to, the property boundaries, the location of the proposed or existing well, all other water lines and connections, septic systems, a detailed description of the anticipated use of the well, and the anticipated maximum and sustained pumping rates. The plan shall be signed by a person qualified as a Licensed Environmental Professional (LEP) in the State of Connecticut who certifies that the location of the proposed or existing well is not within an area of Contaminated Groundwater (defined below) and use of this proposed or existing well is not reasonably likely to cause migration of the groundwater contamination plume at the Durham Meadows Superfund Site or of other known areas of contamination. Any testing of existing and proposed wells shall be performed at the property owner's expense using methods acceptable to EPA, CT DEEP and the Town of Durham Department of Health. The testing must be performed at a laboratory certified by the State of Connecticut Department of Public Health or EPA to perform drinking water analytical testing for volatile organic compounds.
    - ii. For an existing well, the property owner shall provide sampling results that document that the existing private water supply does not contain contamination above the more stringent of the following standards: (i) federal or state drinking water and groundwater standards (Maximum Contaminant Levels), which standards are currently codified in Sec. 19-13-B102 or Sec. 19-13-B101 of the State of Connecticut Public Health Code, (ii) Drinking Water Action Levels established by the State of Connecticut Department of Public Health pursuant to Section 22a-471 of Connecticut General Statutes, and (iii) Groundwater Protection Criteria as described in Connecticut Remediation Standard Regulations pursuant to Section 22a-133k- through 22a-133k-3 of the Regulations of Connecticut State Agencies, as such standards may be amended from time to time. Groundwater in excess of any such standard shall be herein referred to as "Contaminated Groundwater". For existing wells, the sample must have been collected and analyzed within 6 months of the date of the request for an exception. For a well that has not yet been installed, the property owner may be granted a conditional exception that allows installation of a well based on the information available at the time of the submission of the request to install the well, however, the property owner must provide sampling results within 60 days after installation of the well that document that the newly installed well does not contain Contaminated

Groundwater. The exception to allow use of this well will not be granted until the results have been reviewed by the Town of Durham Department of Health and all other applicable requirements of the exception provision have been met.

- iii. For existing wells or proposed wells, the property owner shall certify that the property is not connected to a public water line.
  - iv. For a proposed well on a property that is connected to the water line, the property owner must certify that any well that may be subject to the exception is permanently and physically separated from the internal plumbing system of the premises and a reduced pressure device is installed to protect against a cross connection with the public water supply.
  - v. The property owner shall certify that they have read the information provided by EPA and CT DEEP regarding the decision not to connect to the water line. This information includes:
    1. Notice that EPA and CT DEEP cannot assure that the private well will not be contaminated in the future;
    2. Notice that EPA and CT DEEP will not be performing regular monitoring of the private water supply well; and
    3. Information relating to the implications under EPA policy and regulations for non-compliance with a cleanup action or for actions that may cause migration of groundwater contamination.
  - vi. The property owner shall perform monitoring of the water supply as described in this Paragraph. The monitoring shall be performed twice per year for the initial five years after the approval of the exception and then annually, thereafter. The well must be sampled and tested for volatile organic compounds using methods acceptable to EPA, CT DEEP and the Town of Durham Department of Health. The testing must be performed at a laboratory certified by the State of Connecticut Department of Public Health or EPA to perform drinking water analytical testing for volatile organic compounds. Results of testing must be transmitted to the Town of Durham Department of Health within 30 days of the receipt of the sampling results by the property owner or within 90 days of the sampling of the water supply, whichever is sooner.
- b. An exception granted under this Paragraph shall expire within 60 days of property transfer, and any new owner shall re-apply for the exception in order to receive approval to continue the use of the well. Such an exception shall also expire if Contaminated Groundwater is detected in the private well at any time in the future. If such exception expires, the property owner shall be required to connect to the water line at their expense.
  - c. Upon approval of an exception granted under this Paragraph, the property owner shall record a notice in the Town of Durham property records, which notice is noted on the most current deed for the property, in such form as provided in Appendix A, within 30 days of the approval of the exception. The notice shall state that the property is subject to this Ordinance, is within the Groundwater Management Zone for the Durham Meadows Superfund Site, and that the exception that allows the continued use of the private water supply well expires upon change in ownership of the property.

- d. An exception granted under this Paragraph shall be terminated by the Town of Durham Department of Health if any of the following conditions, in the opinion of the Town of Durham Department of Health, occur:
    - i. the water supply is determined to contain Contaminated Groundwater as a result of testing by the property owner, EPA, the State of CT, or the Town of Durham;
    - ii. a cross-connection with the public water supply is identified by the Town of Durham; or
    - iii. EPA or CTDEEP notify the Town of Durham Department of Health that Contaminated Groundwater is migrating in the direction of the water supply, or the water supply may be influencing the migration of the contamination.
  - e. If an exception granted under this Paragraph expires or is terminated, the property owner shall abandon the well at the property owner's expense within 30 days of the notice from the Town of Durham Department of Health. The well abandonment shall be conducted in accordance with the provisions of the Connecticut Well Drilling Code and Rules, Sections 25-126 through 25-137 of the General Statutes and Regulations of the State of Connecticut and all applicable regulations of the Town of Durham Health Department. The documentation of well abandonment shall be submitted to the Town of Durham Health Department within 30 days after the completion of well abandonment.
  - f. No exceptions shall be granted under this Paragraph if Contaminated Groundwater is present beneath the property or if a well is reasonably likely to cause migration of the groundwater contamination plume at the Durham Meadows Superfund Site and other areas of contamination.
- F. Failure to comply with the conditions of any exception granted under this Section shall constitute a violation of this Ordinance and may subject the property owner to penalties as identified in Section IX.

IX. Violations

- A. The Town of Durham may institute or cause to be instituted, in the name of the Town, any and all actions, legal and equitable, that shall be appropriate or necessary for the enforcement of the provisions of this Ordinance.
- B. Any person, firm or corporation, being the owner or occupant of, or having control or the use of land within the GMZ who is found to violate any provision of this Ordinance, may be cited in the amount of \$250 per day in accordance with the citation ordinance adopted in accordance with Connecticut General Statutes Section 7-152c. Each day such violation is permitted to exist shall constitute a separate offense.

X. Effective Date

This Ordinance shall take effect on January 1, 2016.

Appendix A: Draft Notice

Re: Insert Property Owner  
Insert Property Address  
Insert Tax Assessor’s Map, Block, and Lot

**NOTICE OF GROUNDWATER CONTAMINATION AND  
EXCEPTION TO GROUNDWATER ORDINANCE**

This **Notice of Groundwater Contamination and Exception to Groundwater Ordinance** (“Notice”) is made this \_\_\_ day of \_\_\_ 20\_\_\_, by \_\_\_\_\_ (Property Owner) to provide information concerning groundwater contamination and an exception to the Groundwater Ordinance of the Town of Durham, Connecticut (the “Groundwater Ordinance”) affecting that certain parcel(s) of real property located at \_\_\_\_\_ (the “Property”).

**WHEREAS**, EPA has identified the existence of a plume of contaminated groundwater at the Durham Meadows Superfund Site, in Durham, Connecticut; and

**WHEREAS**, the Town of Durham’s Groundwater Ordinance identifies a Groundwater Management Zone that prevents the use of and public exposure to contaminated groundwater drawn from the Groundwater Management Zone, and that protects the integrity of the Durham Meadows Superfund Site remedy by preventing further expansion of the contaminated groundwater plume; and

**WHEREAS**, the taxing authority of the Town of Durham identifies the Property as Block \_\_\_\_\_, Lot \_\_\_\_\_, on the Town of Durham’s Tax Assessor’s map # \_\_\_\_\_, as shown on the figure attached as Exhibit “B,” attached hereto and made a part hereof, and identifies the current owner of the Property as \_\_\_\_\_; and

**WHEREAS**, on \_\_\_\_\_(DATE), the Town of Durham Department of Health granted, in writing, an exception under Paragraph VIII.e of the Groundwater Ordinance for the following well(s) on the Property: \_\_\_\_\_. The exception is subject to the following conditions:

\_\_\_\_\_.

**NOW, THEREFORE**, the \_\_\_\_\_ (Property Owner) provides notice that:

**FIRST**, the Property is subject to the Groundwater Ordinance of the Town of Durham, Connecticut, which prevents the use of contaminated groundwater drawn from the Groundwater Management Zone.

**SECOND**, the Property is located within the Groundwater Management Zone as defined in the Groundwater Ordinance of the Town of Durham, Connecticut.

**THIRD**, the Property has been granted an exception under Paragraph VIII.e of the Groundwater Ordinance by the Town of Durham Department of Health for the (continued) use of the following well(s) \_\_\_\_\_.

**FOURTH**, the exception that has been granted to the Property under Paragraph VIII.e of the Groundwater Ordinance is subject to the following conditions: \_\_\_\_\_.

**FIFTH**, the exception that has been granted to the Property under Paragraph VIII.e of the Groundwater Ordinance expires upon change in ownership of the Property, and any new owner must reapply for an exception under the Groundwater Ordinance.

**IN WITNESS WHEREOF**, the undersigned has executed this instrument the day written below.

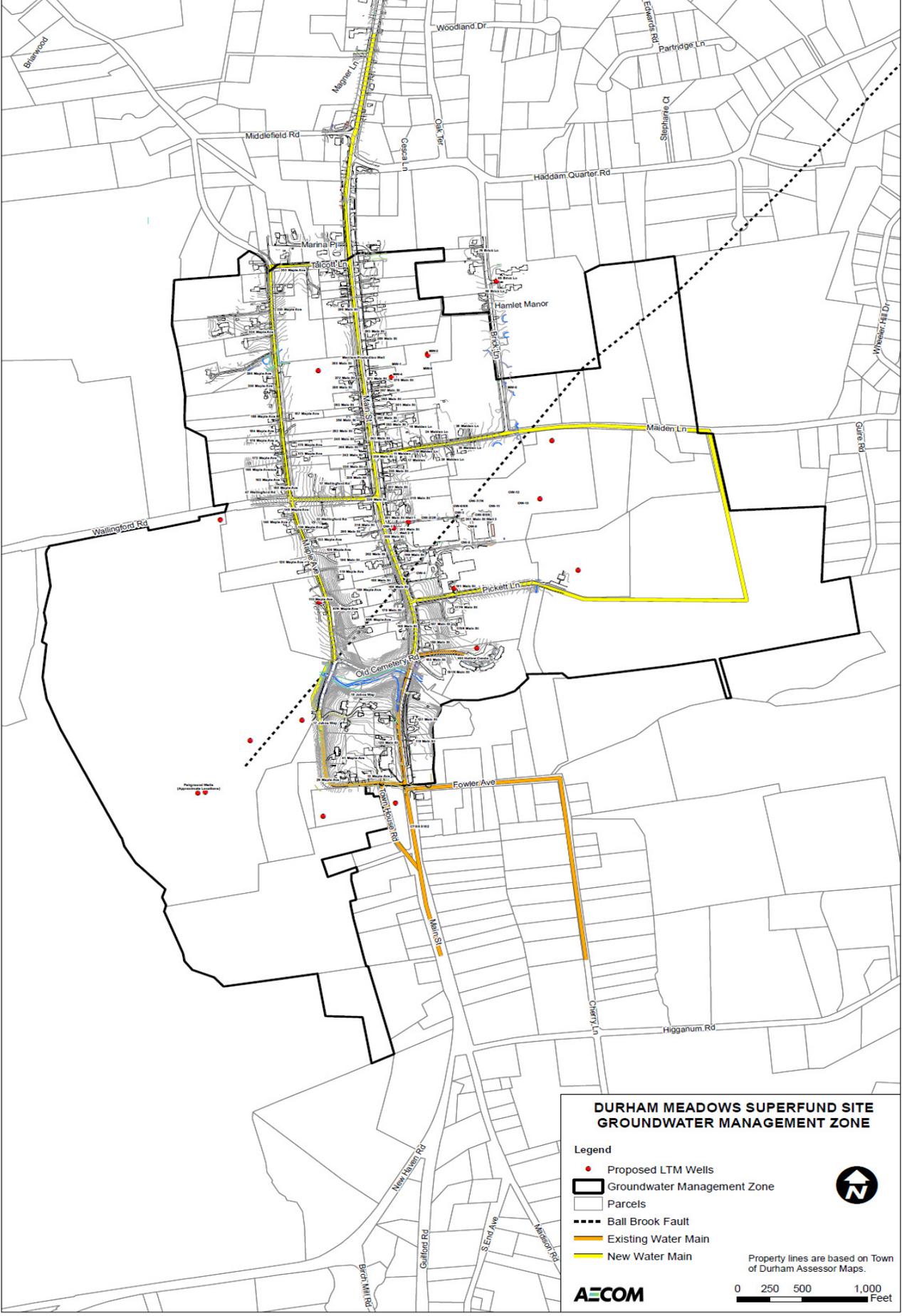
\_\_\_\_\_

\_\_\_\_\_

Date

Notary Block

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**DURHAM MEADOWS SUPERFUND SITE  
GROUNDWATER MANAGEMENT ZONE**

- Legend**
- Proposed LTM Wells
  - ▭ Groundwater Management Zone
  - ▭ Parcels
  - - - Ball Brook Fault
  - Existing Water Main
  - New Water Main



Property lines are based on Town of Durham Assessor Maps.

