

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF FEBRUARY 11, 2015 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**
4

5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Chris Davies; Jim Butler,
6 Ex-Officio; Rick Brideau, CNHA, Ex-Officio; Al Sypek, alternate member; and Ann
7 Chiampa, alternate member
8

9 Also Present: Cynthia May, ASLA, Town Planner and Planning and Economic
10 Development Department Manager; John Vogl, GIS Manager and Comprehensive
11 Planner; Jaye Trottier, Associate Planner; and Nicole Doolan, Planning and
12 Economic Development Department Secretary
13

14 A. Rugg called the meeting to order at 7:00 PM. He appointed A. Sypek to vote
15 for Laura El-Azem and A. Chiampa to vote for Scott Benson.
16

17 **Administrative Board Work**
18

19 A. Discussions with Town Staff
20

- 21
 - Workforce Housing Analysis – SNHPC Report

22 C. May stated that the contract to retain the Southern New Hampshire
23 Planning Commission to perform an analysis of Workforce Housing is
24 currently being reviewed by the Town Attorney and Town Manager and
25 could be fully executed by the end of the week.
26

- 27
 - Riverview, LLC; Follow-up to Conceptual Presentation of February 4,
28 2015

29 A. Rugg read into the record an email from applicant Cor de Jong of
30 Riverview, LLC who presented a conceptual proposal for a boutique wine
31 and bistro at 6 and 8 Mohawk Drive at the February 4 meeting. The
32 email thanked C. May and Staff for their guidance and efforts in the
33 weeks leading up to the presentation, which he notes was very well
34 received. He described his experience with Town Staff as unlike the
35 "third party commentaries" that formed his initial expectation of entering
36 into a difficult process with a municipality and expressed his appreciation
37 for their support. A. Rugg commended Staff for their level of customer
38 service in general and efforts to work with all parties involved in
39 development within Londonderry.
40

41 **Public Hearings/Workshops/Conceptual Discussions**
42

43 A. Zoning Ordinance Audit Workshop
44

45 C. May stated that consultant Jonathan Edwards, who gave a preliminary
46 presentation to the Board of the Zoning Ordinance audit on November 12,
47 2014, would be providing the Board with a brief summary of those initial

1 findings and recommendations before asking the Board for questions and
2 comments on those conclusions and suggestions. She described the goal of
3 this workshop as twofold; first to receive consensus from the Board as to
4 whether the audit is progressing in the direction preferred and second to take
5 this evening's input and prepare a more detailed analysis. She noted that on
6 December 10, 2014, a facilitated workshop took place at Town Hall for the
7 development community to provide their comments and perspective on the
8 ordinance (as well as site and subdivision plan regulations) and the audit to
9 that point. Those who attended included engineers and attorneys who offered
10 examples of the challenges/difficulties the ordinance has given them over the
11 years. Consensus at that workshop was that the audit was moving in the right
12 direction.

13
14 J. Edwards gave a brief synopsis of his preliminary audit report dated
15 November 5 (see Attachment #1) which he presented at the November 12
16 meeting. Major findings, including positive characteristics and items worth
17 retaining were covered first, (p. 1) followed by concerns (p. 2), most notably
18 the length of the ordinance and the 429 amendments made to it, which have
19 resulted in an ordinance largely created in reaction to individual issues as they
20 have arisen over the years and therefore suffers from matters of ineffective
21 overall structure, contradictions, redundancies, etc. Among the items missing
22 are a variety of housing options, fundamental environmental protection
23 standards and variance criteria, despite the fact that the ordinance routinely
24 creates the need for owners and developers to seek variance relief.
25 Determinations regarding such things as criteria for the different overlay
26 districts are made difficult for both Staff and the public, as are some basic
27 concepts such as calculating how much land is needed in the AR-I zone for a
28 proposed residence. Restructuring could be guided by the list of basic
29 questions noted on p. 5 that landowners and developers would need to
30 understand up front if they are to follow the allowances, procedures and
31 restrictions in it. Improved organization could also be aided by merging such
32 needlessly repetitive sections as those regarding conditional use permits, since
33 there are eight subsections dedicated to them and their differences appear to
34 be minor. Consolidation of such areas will not only clarify and give some
35 predictability to the Town's regulations and procedures for landowners and
36 developers, it will aid Staff in administering the entire review process. J.
37 Edwards reviewed the general conclusions and recommendations of the report
38 (pp. 15-17) which mirror the concerns and suggest how to remedy some
39 specific issues such as the reconsidering and reducing the numerous uses
40 permitted within the separate zones. He noted that since uses eventually
41 come into being that no one would have conceived of before, a provision also
42 be added that would enable Staff to make administrative decisions in certain
43 instances, provided the applicant can appeal the decision to the Zoning Board.

44
45 A. Rugg asked for Staff input.

46
47 On the topic of the of uses allowed by the ordinance, C. May stated that if the
48 overall number of uses is to be reduced, it should be done as J. Edwards
49 described, i.e. with the creation of more general categories along with the
50 ability for Staff to make administrative determinations that are appealable by

1 applicants. Doing so would create better flexibility by removing the level of
2 specificity used in the current ordinance which often makes uses unlisted
3 difficult to categorize. She also reiterated the idea from the previous
4 discussion of removing more regulatory items such as parking, loading, lighting
5 and landscaping from the ordinance and placing them in the site and
6 subdivision regulations since they are issues dealt with and administered
7 regularly by the Planning Board.

8
9 A. Rugg asked for input from the Board.

10
11 C. Davies asked about a possible scenario where Staff makes a determination
12 about a proposed use with which the Planning Board disagrees. J. Edwards
13 said the Planning Board should be allowed to apply its own judgment in such a
14 situation. He offered that it would be more expedient and less expensive for all
15 involved if Staff is allowed to make a decision with the ability of the applicant
16 to appeal that determination rather than having to send the applicant through
17 the (potentially lengthy) Zoning Board process first to obtain a variance for a
18 non-permitted use. C. May added that the current process does not provide
19 the Planning Board with any decision making ability regarding uses. J. Edwards
20 suggested that the Planning Board could be involved in the appeal process in
21 place of the ZBA, since the specifics involved are more subjective, e.g. issues
22 of compatibility and suitability, whereas the ZBA deals with more objective
23 legal principles.

24
25 C. Davies asked about possible consequences of consolidating zoning districts
26 as discussed (p. 4) and suggested (p. 16). C. May explained that consolidation
27 of the very similar zones should provide more flexibility within each to prevent
28 properties and whole areas from becoming non-conforming as a result of the
29 change. Again, the ability to use discretion regarding specific uses would allow
30 for greater flexibility and allow for more logical decision making. J. Edwards
31 stated that those lots in compliance with the ordinance before it is amended
32 can be afforded with a grandfathered-type status so they will remain in
33 compliance after any merging of zones takes place. He recommended that the
34 Board look at the concept as a *merging* of zones rather than as a *replacement*
35 in order to avoid the creation of non-conforming lots.

36
37 C. Davies noted that while the current ordinance contains provisions for
38 workforce housing, there are no stated incentives for affordable elderly
39 housing, particularly rentals. J. Edwards said such ordinances are common
40 elsewhere, noting that the origins of workforce housing are tied to making
41 elderly housing affordable. He said the ordinance is also lacking in a variety of
42 elderly housing options that have evolved. J. Butler asked what incentives
43 (other than through HUD) are available to developers to build affordable
44 elderly housing. J. Edwards replied that tax credit programs are available
45 through the IRS that will provide financing, although he was not aware of any
46 other particular tax incentives for that specific housing type.

47
48 C. Davies verified that if the Town's obligation to administer workforce housing
49 income verification requirements and procedures was eliminated as suggested
50 on p. 15, annual reports would be obtainable through the various financing

1 authorities involved with the individual developments. J. Edwards said that
2 because of the associated mandate on due diligence involved, the Town need
3 not perform auditing that is already being accomplished. The Town could
4 instead require a summary of what is provided to the lending agencies and the
5 IRS. C. May noted that the required retention of affordability of for-sale
6 properties is less likely to be managed by entities such as the NH Housing and
7 Finance Authority, so special attention should be paid to that particular section
8 in a rewrite. J. Edwards suggested that the entire section of the ordinance
9 could be summarized in just a few paragraphs.

10
11 C. Davies noted that some issues such as the size limitation placed on Planned
12 Unit Developments (PUDs) will probably generate a good deal of deliberation
13 and negotiation. The 100-acre minimum in that example was set, he said, to
14 restrict PUDs to specific areas of town, although A. Rugg added that there was
15 also an intent to view the development of PUDs and then possibly revisit the
16 ordinance if need be. C. May noted that the required acreage can conceivably
17 be pieced together if a developer seeks to purchase individual lots over time,
18 resulting in a 100-acre block in areas of town not originally viewed as a
19 potential PUD location. J. Edwards offered that potential exists for the PUD
20 ordinance and process not currently being realized, such as the PUD size being
21 varied depending on the area of town. He suggested that the PUD size can be
22 whatever is deemed to be appropriate and that different areas of town can be
23 zoned for more specific PUD size to provide more control.

24
25 M. Soares expressed overall concern that introducing too much flexibility into
26 the ordinance will lessen the Town's control over what uses and housing types
27 are suitable to specific areas since the Londonderry has been built on years of
28 mindful considerations over 'what should go where.' J. Edwards said there
29 need not be any real risk of a loss of control if the town builds its ordinance
30 with an eye towards what kind of town people prefer it to be. A. Rugg stated
31 that it is a matter of keeping the quality of life that so many residents have
32 moved to town to enjoy. L. Wiles added that that quality of life should be
33 improved by the ordinance, not just maintained. J. Edwards noted the
34 difference between increased flexibility/discretion on the part of Staff and
35 Boards and the idea that providing fewer restrictions will enable residents and
36 developers to "do whatever they want." Recognizing the quality of life desired
37 by residents and using it as a guiding fundamental principle while deliberating
38 specifics in the ordinance and creating regulations is key to rewriting this
39 zoning ordinance. Flexibility can offer more opportunities, for example by
40 allowing the Board to request modifications to a proposed development so that
41 it may better fit the character and scale of a given area, rather than only
42 having the option to allow it or deny it. Judgments made with a variety of
43 available choices and clear criteria, along with an efficient, predictable process
44 can allow applicants to produce more thoughtful proposals, while enabling Staff
45 and the Board to use discretion they cannot currently use to preserve and
46 enhance the quality of life for which Londonderry is known.

47
48 M. Soares also expressed specific concern over maintaining control of the
49 number of elderly housing units in town, mainly because of the amount of
50 investment placed in the school system and its infrastructure over the years.

1 The current cap should be retained, she said, because the Town has created an
2 obligation to provide housing opportunities to those with school aged children
3 who want to take advantage of the significant investments made in the
4 system. Because the cap is expressed as a percentage of the total population,
5 she said, diversity of housing types can still be maintained. J. Edwards noted
6 that the reduction in property-related responsibilities enjoyed by owners within
7 elderly housing developments that have associations may also appeal to
8 younger families, as would the smaller houses themselves, particularly if the
9 family cannot yet afford a larger house with more acreage. J. Butler stated
10 that a proper mix of affordable housing for various ages will result from
11 encouraging greater density such as cluster developments, both for rent and
12 for sale. He agreed with J. Edwards' assessment that younger residents may
13 not want the ongoing work that comes with owning a larger home and/or any
14 significant amount of land. When the Board entertained public comment,
15 resident Richard Flier stated that his recent effort to restore the Naylor house
16 on Pillsbury Road (Map 9 Lot 51) caused him to be aware of a large demand for
17 rental elderly housing options. An additional preference of the elderly, he said,
18 is to be within walking distance of various amenities. He noted that people are
19 returning to New England because of family ties, leading to a need for multi-
20 generational housing. The school system can continue to be used as a draw
21 for younger residents, he said, but those who are older should be recognized
22 for the assets they bring as well. Residents may need to change their way of
23 thinking, especially when the town and quality of life they enjoy was created
24 through "tried and true" regulations, but there are other opportunities, he
25 explained, to do such things as provide more housing options while preserving
26 historic buildings in town. Concepts such as the more communal co-housing
27 choice, cluster developments, smaller PUDs and other untapped options should
28 be explored more deeply and the way to achieve them is through greater
29 flexibility and potential for discretion. Improved technology can be researched
30 with the help of experienced professionals to provide even more opportunities,
31 such as septic systems that can provide expanded residential use on less land.
32 Ted Combes, 23 Holton Circle, stated that the younger generation has a
33 preference for mixed use developments that offer walkability and the prospect
34 of avoiding such costs as those involved with car ownership. Smaller acreage
35 requirements for PUDs, he said, is vital to promoting mixed use developments,
36 particularly when the Master Plan calls for those uses in parts of town that do
37 not offer 100 contiguous acres. Deb Paul, 118 Hardy Road, stated her
38 appreciation that the ordinance could be reworked to provide greater flexibility,
39 introduce concepts such as form based code, and encourage an increased
40 variety of housing, noting a greater diversity in overall lifestyle choices and the
41 trend for several generations to cohabitate. Mike Speltz, 18 Sugarplum Drive,
42 added that the concept of the transfer of development rights should be
43 included in the ordinance since it will provide the ability for a developer to
44 increase the density of their development in one area while preserving open
45 space (and natural resources) in another. A. Chiampa described her own initial
46 resistance to the new concepts outlined in the Master Plan, but said she has
47 since realized the value of the different options when they can be placed in
48 appropriate areas or designed to blend with existing residences. She said she
49 hoped other residents would pay attention to the forthcoming process to avoid
50 being "shocked" by the new ideas and rejecting them before they fully

1 understand them. D. Paul asked what would happen to the application of
2 current ordinances as the Board proposes new language. A. Rugg replied that
3 according to the Town Attorney, once new or different language has been
4 posted in public, it will "hold things steady."
5

6 L. Wiles asked J. Edwards if he reviewed the 2013 Comprehensive Master Plan
7 update when performing the zoning audit. J. Edwards said he did, noting that
8 the document makes clear what residents want for the future of the town. He
9 described the ideas in the Master Plan as design-based, not legally-based,
10 making it very forward-thinking and creative. The current zoning ordinance,
11 however, does not allow for some ideas in the Master Plan to take shape.
12

13 L. Wiles then asked if the ordinance should be rewritten in sections,
14 considering the amount of time that will likely be needed to perform the task,
15 including the time needed to sort out the different preferences for different
16 outcomes. C. May noted the danger in doing so, which could result in another
17 piecemeal, uncoordinated document like the current ordinance. J. Edwards
18 likened the construction of an ordinance rewrite to the building of a house;
19 using the Master Plan as the foundation, the ordinance should be organized to
20 reflect the form the structure will eventually take. Utilities and mechanical
21 systems need to be in place, meaning procedural aspects must be decided, but
22 the specifics of the interior, i.e. the "sticking points" that arise from ordinance
23 specifics, need not be worked out in order to perform the rewrite. Those
24 specifics may require more meetings of the Board and will probably be
25 intensive, but they do not need to be done at the same time as the basic
26 rewrite as long as the issues are incidental to the overall ordinance. While the
27 Board should not allow the finer points to stand in the way, he also advised
28 that specifics not be set aside for any extended period, as it could result in the
29 need for amendments as planning and zoning concepts evolve. C. May added
30 that the level of commitment on the part of the Board and Staff will probably
31 be similar to that experienced during the 2013 Master Plan update if the
32 ordinance is to be rewritten in a year and a half as recommended by J.
33 Edwards.
34

35 A. Sypek and C. Davies stated the importance, as noted in the report, of
36 placing the purposes and intentions of the ordinance at the outset to provide
37 needed context to the reader, especially a layperson. Requirements,
38 allowances and procedures should be presented up front to make the
39 document more user-friendly, lessen the dependence on variances, and
40 provide improved organization and clarity. M. Speltz pointed out the
41 importance of making voters aware of the need to pass the article on the Town
42 Meeting warrant that will fund the rewrite since it cannot be done without that
43 approval. C. Davies added that convincing voters to support the warrant can
44 be done in part by demonstrating how the rewrite will aid them in what
45 improvements they envision for their properties (e.g. putting an addition on
46 their house). M. Speltz suggested that if and when the warrant is approved,
47 the months between that approval in March and the start of the new fiscal year
48 in July should be utilized to develop an efficient but inclusive process for the
49 rewrite, including timelines to keep the Board on task.
50

1 There was no further public input.

2
3 A. Sypek asked J. Edwards how often the ordinance should be reviewed. J.
4 Edwards answered that it could largely depend on how satisfied the town is
5 with the results it produces. Larger portions can be updated as deemed
6 necessary, especially as concepts evolve and situations change. C. May added
7 that there is a State requirement for towns to review their Master Plans every
8 ten years, so a review of the zoning ordinance may be prudent at that time. At
9 other times, the State may also require towns to address certain issues
10 through their ordinances, such as providing workforce housing. To deal with
11 the issue of being unable to envision uses that have yet to be invented, he
12 suggested again the use of Staff discretion so that the Zoning Administrator
13 can liken a new use to an existing use if possible, so long as the ordinance
14 contains the ability for the applicant to appeal the Administrator's decision.

15
16 J. Edwards cautioned the Board not to be distracted by two possible fears
17 during the ordinance rewrite. The first would be the trepidation about possible
18 unintended consequences resulting from new or rewritten portions. The larger
19 unintended consequence to be mindful of, he explained, would be not to
20 change the ordinance because the problems that exist now will only get worse.
21 The second fear to avoid is self-questioning as to whether enough input has
22 been considered (from Staff, the public, or the Board itself) and/or sufficient
23 deliberations taken place in order to render a decision.

24
25 The consensus from the Board was that the rewrite is needed and is moving in
26 the right direction. A. Rugg directed Staff and J. Edwards to take the
27 comments discussed this evening and contribute more detail in order to
28 provoke more discussion.

29
30 B. Zoning and Housing Opportunities in Londonderry – Preliminary Discussion

31
32 A. Rugg explained that housing opportunities were being reviewed because the
33 Southern NH Planning Commission will soon be performing an analysis of
34 workforce housing in Londonderry in order to try and determine if the town has
35 established its "fair share" per State statute, and a framework is needed into
36 which the study can be placed.

37
38 Consultant Jonathan Edwards gave an overview of his preliminary report
39 entitled "Housing Opportunities in Londonderry" (see Attachment #2),
40 beginning with its appendix (see Attachment #3). The first three pages of the
41 appendix provided the Board and public with examples of workforce housing
42 unknown to Londonderry because, as he explained, the current inclusionary
43 housing ordinance does not promote the smaller scale or other multi-family
44 options that exist in other areas of the country, including New England. The
45 smaller buildings and scale of 10 to 15 units per acre associated with the
46 examples on p. 1 also offer a more diverse choice for rental and purchase costs
47 and provide better opportunity to fit into existing neighborhoods in
48 Londonderry. Other options included row houses, two to four dwelling
49 structures with a farm oriented or villa appearance, co-housing (combined with
50 open space in the example shown), small scale quadriplex clusters, and

1 converting old New Hampshire-style farmsteads into multiple living units which
2 could particularly appeal to extended, multi-generational families. C. May
3 noted that the Bedford, NH zoning ordinance could be examined as a model as
4 they allow more varied for-sale options such as these. J. Edwards explained
5 that recent negative public opinion about the workforce housing both approved
6 and proposed in Londonderry is a consequence of an ordinance that
7 unintentionally promotes only large scale workforce housing. While the
8 ordinance purports to provide workforce housing options, its specifics, including
9 the maximum number of units allowed, the percentage of workforce housing
10 units required and the phasing requirements, do not provide economic
11 feasibility. Developers therefore often have to seek variances on the
12 aforementioned specifics and those variances are being granted because the
13 current ordinance is indefensible in its lack of feasibility. This leaves
14 Londonderry with the potential for buildings of a much larger scale than the
15 examples in the aforementioned appendix, and that scale is deemed by many
16 not to fit into the existing residential neighborhoods. Provisions simply do not
17 exist in the ordinance to allow for workforce housing styles and options that
18 would arguably be much more acceptable to the overall public. The current
19 controversy is exacerbated by a second unintended consequence that while
20 market rate multi-family housing is not allowed in the AR-I zone and is
21 restricted to the few areas of R-III zoning in the town, multi-family workforce
22 housing is allowed in, among other zones, AR-I via a Conditional Use Permit
23 (CUP) and with the provisions of a minimum 20 acre tract of land with access
24 to public water and sewer. J. Edwards said the goal of his preliminary report is
25 to provide ideas for corrective action if the Board chooses to rewrite the
26 inclusionary housing ordinance. If a rewrite does occur, he suggested that all
27 specifics be examined to make sure they have not been carried over from past
28 ordinances/regulations but are no longer relevant to public interest and/or
29 needlessly increase the cost of development (e.g. separation requirements
30 between buildings).

31
32 Another main point in the "Summary of Findings" (pp. 1-3) is the fact that
33 workforce housing purchase figures, which are determined on a federal level,
34 are high enough that they can exceed the median market rate for the town,
35 therefore for-sale workforce housing can cost more than half of the current
36 housing stock in Londonderry. Similarly, the maximum rent figure of \$1,400 a
37 month (including utilities) is higher than the median rent in town of
38 \$1,105/month. One could then argue that Londonderry currently provides
39 more affordable housing than what has been presented to date through various
40 proposals as workforce housing.

41
42 J. Edwards noted the limitations in the ordinance for accessory dwelling units
43 (ADUs) that can provide a form of workforce housing that need not impact
44 existing neighborhoods as long as specific criteria are in place to preserve
45 single-family character. ADUs can also provide a source of income for property
46 owners, as well as options for extended families to live together, and even for
47 younger families who may not yet be able to afford their own single family
48 home.

49

1 J. Edwards noted other aspects of the report, including the definition of
2 workforce housing, what population segment it is intended for, the statutory
3 regulations behind it, and the particularities of the Londonderry inclusionary
4 housing ordinance, including where it is permitted, density and parking
5 incentives and approval standards. He noted the redundancy of the two CUPs
6 associated with workforce housing in Londonderry and recommended
7 combining them based on their similarities. (He suggested doing the same for
8 the other six types of CUPs in the overall ordinance). A synopsis of the
9 workforce housing proposals to date is also provided in the report, along with
10 the "emerging issues" that have resulted and four pages of recommendations
11 to help alleviate and correct these issues.

12
13 A. Rugg asked for Staff input.

14
15 J. Vogl noted the lack in town of both single family and smaller scale workforce
16 housing that existing residents might find more appropriate. He pointed to the
17 wide variety of options listed within the section of recommendations that could
18 be added to the ordinance (Attachment #2, p. 12, item 10). C. May
19 encouraged Board members to read the NH Housing and Finance Authority
20 document provided to them entitled "Progress in Workforce Housing" (see
21 Attachment #4), particularly for the description of what the workforce housing
22 State law does *not* do, namely not requiring any community to provide a
23 specific percentage of affordable housing. It also highlights the fact that unlike
24 other states, developers in NH have the burden of proof in the approval
25 process and therefore must show they are meeting the Town's various land use
26 requirements.

27
28 A. Rugg asked for input from the Board.

29
30 A. Chiampa asked if Londonderry's higher purchase and rent limits attract
31 developers because of the potential for a higher return on their investment. J.
32 Edwards acknowledged that developers may view Londonderry as a lower risk
33 compared to other towns because of the higher limits, combined with what is
34 presently a good market for rental housing and a set of regulations that makes
35 the approval process relatively uncomplicated. C. Davies stated that the
36 inclusionary housing ordinance is in need of a rewrite to address issues of scale
37 and location. He described the disagreements and concerns amongst the
38 public are the result of the issue of scale, not necessarily one about workforce
39 housing itself. He also offered a fifth possible viewpoint to the four J. Edwards
40 noted on p. 9 regarding Londonderry's workforce housing provisions, i.e. those
41 who disagree with the areas identified as allowing multi-family workforce
42 housing. L. Wiles suggested reviewing the minutes of the meetings where the
43 requirement of 75% workforce housing within a development was discussed.
44 If the requirement is to be reexamined because developers are routinely
45 seeking relief in the form of a ratio no higher than 50%, it would be prudent to
46 review the original intentions behind that percentage, particularly if what
47 developers are seeking runs contrary to an outcome the Board and public were
48 seeking. During a discussion of the 20-acre and public sewer and water
49 requirements that would logically restrict workforce housing to specific areas in
50 town, C. May pointed out that there are currently areas relatively close to

1 public sewer and water where, if lots were purchased and combined into 20
2 acres or more, could produce a multi-family workforce housing proposal where
3 it was not necessarily intended. Along with the potential decision to no longer
4 permit multi-family workforce housing in the AR-I zone, she advised that the
5 Board decide carefully what it would allow and what appearance it should take
6 in the AR-I zone.

7
8 A. Rugg asked for public input.

9
10 Mike Speltz, 18 Sugarplum Lane, stated that the examples of workforce
11 housing reviewed early on in the discussion (Attachment #3) would be much
12 more acceptable to the general public in comparison to the larger buildings
13 that have been granted approval and others that are currently seeking it. One
14 reason for this, he said, is the open space featured in many of them,
15 something he said is not directly discussed or recommended in the preliminary
16 report. He asked that the concept of open space be included in the workforce
17 housing provisions. He offered the example of including the "transfer of
18 development rights" which would allow developers to have greater density in
19 one area of development where it is appropriate by conserving open space in
20 another area of town where it too is deemed appropriate. He noted that the
21 variance requests to the Zoning Board associated with workforce housing
22 projects have all been based on the rationale of affordability on the part of the
23 developer. A better understanding of their economics is needed to understand
24 what causes the land to cost an amount that causes them to need large scale,
25 high density developments to make them economically viable. That value of
26 that land has only increased, he suggested, because the variances granted to
27 date for workforce housing projects have enabled appraisers to consider the
28 possibility of variances to be granted to other developers of workforce housing.

29
30 There was no further public input.

31
32 A. Rugg asked for guidance from the Board for Staff. C. May stated that Staff
33 and J. Edwards would like consensus from the Board about the report so that
34 draft language for the revised workforce housing ordinance can be brought to
35 the Board at the next meeting. There was agreement that the issue was
36 progressing in the right direction and that Staff and J. Edwards could continue
37 with proposed language.

38
39 [M. Soares left the meeting during the above discussion at approximately 9:00
40 PM].

41 42 **Other Business**

43
44 A. Non-meeting March 4, 2015

45
46 A. Rugg stated that a non-meeting will be held between the Planning Board
47 and the Town Attorney on March 4 at 6 PM, prior to the regular meeting which
48 begins at 7 PM.

49 50 **Adjournment:**

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L. Wiles made a motion to adjourn the meeting. R. Brideau seconded the motion. Vote on the motion: 6-0-0.

The meeting adjourned at approximately 10:10 PM.

These minutes prepared by Associate Planner Jaye Trottier

Respectfully Submitted,

Lynn Wiles, Secretary

**PRELIMINARY REVIEW OF
LONDONDERRY ZONING ORDINANCE
November 6, 2014**

To: Planning Board, Town of Londonderry, New Hampshire
Through: Arnett Development Group LLC
From: Jonathan Edwards
Subject: General Findings, Zoning Audit
Date: November 5, 2014

The Town of Londonderry has conducted a review of the Town's zoning regulations with a view toward discerning what steps would be appropriate to refashion the regulations for clarity, consistency, administrative effectiveness, user-friendliness, consonance with current land-use needs, demographic changes, emerging economic conditions, and facilitation of approaches the Town might choose in implementing all or parts of the Town's recently adopted 2013 Comprehensive Master Plan.

ADG has subcontracted with land-use expert Mr. Jonathan Edwards, who has provided the following Review.

SYNOPSIS OF MAJOR FINDINGS

Positive Findings

- The ordinance adheres closely to its basic police power mandate, wisely avoiding most nuisance and annoyance issues.
- There is a good array of special districts with discretionary flexibility, providing a variety of options to homeowners, businesses, landowners, and investors, though the range of options should be enlarged.
- Some parts of the ordinance are quite progressive in the context of housing and neighborhood diversity, village articulation, business opportunity and efficient commercial-area function, "smart" growth, environmental sensitivity, energy conservation.
- It has the beginnings of a useful combination of review and permitting procedures, particularly with respect to getting Conditional Use Permitting and Site Plan Review to work in tandem; if pursued, this direction can foster beneficial clarity, flexibility, certainty, and promptness to the development review process.
- Improving the comprehensibility, coherence, and efficiency of this ordinance can create a sound basis for implementing whichever aspects of the 2013 Master Plan the Town wishes to undertake, paving the way for form-based approaches to land-use and community evolution, reducing useless constraints, restrictiveness, and lack of options among available uses while providing greater opportunities for Londonderry's neighborhoods, villages, commerce and industry, economic-base, employment-base, tax-base, infrastructure, and open space and natural resource protection.

Areas of Concern

- The ordinance is intimidatingly long and dense, illogically organized, replete with inconsistencies, contradictions, minor and pointless dissimilarities, redundancies, scribes' errors, and outdated or dangling references.
- Despite its bulk and detail, it is not comprehensive, with many issues either unaddressed or inadequately covered.
- The document needs pruning, reorganizing, simplification, and clarification.
- Important requirements are difficult to understand or figure out. It is by no means user-friendly, and it has proven difficult to interpret, administer, and enforce.
- Related provisions, standards, criteria, and procedures, are fraught with insignificant distinctions.
- The basic ordinance is outdated, adopted in 1963, and since then has inconsistently accreted through 429 amendments.
- Parts of the ordinance are antiquated, not having been consistently kept up-to-date with changes in demographics, economics, citizen expectations, state law, and modern land-use and community enhancement concepts and techniques.
- While graphically superb and clear, the zoning map displays a mosaic of jumbled, incoherent zoning patterns, and the map omits some referenced overlay districts.
- It has several lengthy and needless requirements that can be onerous to property owners and developers and that impose unnecessary burdens and responsibilities on the Town.
- Fundamental environmental protection standards are inconsistently applied or are missing.
- Business and industrial areas are indistinct, inadequately focused, and ineffectively complex.
- Density and dimensional requirements promote sprawl, isolate similar businesses, and preclude diversity of housing and among neighborhoods.
- Overlay district criteria and methods of determining uses and standards are difficult to comprehend.
- These issues have resulted in an over-reliance on the Variance process.
- The use of Developer Agreements needs to be defined, understood and, as appropriate, encouraged.

MAJOR FINDINGS

Purpose of this Review

As a vehicle for strategic thinking and discussion, this analysis describes basic attributes of the zoning ordinance and zoning map. As a subsequent phase to this work, we will be ready to detail points that the Town finds worth pursuing, together with examination of promising options and recommendations for revising these regulations.

In the following, action strategies are indicated in *italics*.

Evolution of the Ordinance

Londonderry's zoning ordinance was originally adopted in March of 1963 and has been amended every year since 1969, often extensively. Zoning regulations need to be dynamic in order to keep up with real-world changes, but the current disjointed document has become an accretion of many topic-specific modifications over a long time. As a dynamic document, which has not often been comprehensively examined and overhauled, it has come to contain many inconsistencies, contradictions, minor and perhaps pointless dissimilarities, redundancies, scribblers' errors, and outdated or dangling references.

For instance, workforce housing financing and reporting requirements for lending agencies have changed significantly since the time pertinent ordinance provisions were devised; such changes offer the ability for the Town to relieve itself of much responsibility, mandated by the existing ordinance, with serious resultant potential liability, to take a pro-active role in conducting re-renting and resale income qualification and could be found to be an intimidating disincentive.

Significant topics are not addressed:

The ordinance delves deeply into many detailed aspects of owner-occupied workforce housing, rental workforce housing is scarcely mentioned.

There is a lack of stated criteria or application procedures for variances, and there is no provision for allowing non-conforming uses to be expanded if the degree or type of non-conformity is not increased.

The ordinance has not adequately kept up with changes in market conditions, demographics, citizen expectations, state statute and case law, applicable state and federal programs, and conceptions of best land-use and environmental practices.

For example, the proportion of elderly has become the fastest growing demographic component in our society, yet the ordinance places a cap on the development of elderly housing based on outdated criteria; moreover, the types of elderly housing allowed

does not take into account a growing demand for market-rate age-restricted developments that do not provide a large panoply of social and health services.

In other respects the ordinance has a number of useful and attractive features that promote flexibility and provide a variety of options to landowners, investors, and homeowners.

For instance, an extensive use of Conditional Use permitting allows the Planning Board to relieve some dimensional standards and complements site plan review, thereby offering efficient and thorough project design and a rational means for balancing private-sector needs and public-sector interests. The inclusion of Planned Unit Developments and Conservation Subdivision sections is a beneficial aspect of the ordinance.

The ordinance thus embodies a mixture of both advanced and outdated provisions.

For example, Planned Unit Development requirements offer a realistic approach to project permitting in basing overall review on concept design with specific and detailed review for each phase within the approved concept.

However, its limited applicability, to tracts of 100 acres or more, and not to be served by on-site waste-water disposal, which reduces the potential positive impact on the Town available through this regulatory tool.

The Zoning Map

The zoning map likewise has been changed extensively over the years, in many respects in a piecemeal fashion, no doubt in response to requests for specific types of development, particularly commercial. Thus, the zoning map has become a mosaic of separate small, interspersed, but similar commercial and industrial zoning districts, sometimes on almost a lot-by-lot basis. For land-use purposes some areas thus have become less coherent and internally compatible, such as the stretch of Route 28 to the west of Interchange 5, parts of Route 102 next to Interchange 4 and near the Hudson line, complicated by overlay districts that attempt to impose a degree of functional and visual order.

There are cases of barely used zoning districts, such as the single small C-IV district and a small group of disjointed IND-III districts surrounded by the GB district. An R-III district in that area and a series of IND-I and -II districts to the north and east of the railway right-of-way would seem to be of questionable market potential. Incidentally, the designation of a district as R-III leaves one to wonder why is there no R-I or R-II district; likewise, why the AR-I district is so labeled if there is no AR-II, etc.

Current Structure and Organization of the Ordinance

One's first impression of the ordinance is its intimidating bulk: 240 pages, including appendices and amendment history. Candidates for possible exclusion from the ordinance are Building Code amendments and demolition delay provisions and the two lists of ordinance amendments. These could become separate documents.

The order of the ordinance's sections is somewhat curious. Almost immediately, the ordinance launches into fairly long, complex sections on impact fees, phasing restrictions, growth management, and Board review authority, together with a précis of conditional use permits. Being the first thing that a reader encounters, this adds to the apparent formidability of the ordinance. Because it is a practical document, the ordinance should be structured to be in the likely order in that they are asked by citizens, landowners, and investors--users' typical questions include:

- What are the ordinance's purposes, and why are they important to my community?
- What am I (or my neighbor, or a developer) allowed to do?
- What permits do I need to get?
- How do I obtain these permits?
- Who decides whether I can get the permits?
- What criteria do they go by?
- How do I get a sense of how long will this all take and how much it will cost?
- What can I do if I don't like the decision?
- How does the Town enforce the permits?
- What kind of trouble will I get into if I don't follow the permit stipulations?

A more comprehensible reorganization of the ordinance could be:

1. Statement of Purpose and Authority
2. Zoning District Standards, applicable only to each zone
3. Special Districts (e.g. overlay, historic, environmental, airport)
4. Special Types of Uses, applicable to more than one zone (Mixed Use, Planned Unit Development, Conservation Subdivisions, Back Lot Development)
5. Special Provisions, applicable to all districts (e.g. workforce housing, elderly housing, group quarters, manufactured housing, wetlands, floodplains, home occupations)
6. General Provisions (e.g. signs, agricultural/farm sales, fences, energy, utilities, wireless, excavation, and other dimensional and appurtenance stipulations; with standards pertinent to site design and layout, such as parking, loading, lighting, and landscaping, moved to the Site Plan Regulations)

7. Procedures (e.g. Conditional Use permits; relationship to other regulations (site plan and subdivision review; building, fire, and safety codes), non-conformities, Board of Adjustment (appeals, special exceptions, variances)
8. Definitions
9. Administrative (surety, enforcement, penalties, amending, severance)

A major contributor to the ordinance's size is the many instances of restatements and redundancies. Largely these are the source of various internal contradictions and inconsistencies.

For example, there are specific sets of definitions sprinkled throughout, some repeated. *In most instances these can be included in an overall Definitions section (Section 4.7).*

There are separate Authority and Severability subsections. *The ordinance only needs to contain one of each.*

The ordinance contains eight separate subsections on conditional use permitting, most of which are slightly different from each other. These differences, which seem to be in large part the result of accretion over time, are insignificant. It may well be worthwhile to make their content, particularly as regards review and application procedure, submission requirements, review criteria, and standards, consistent and fully stated in one section. Where particular types of standards or criteria for certain districts or uses are necessary, these can be explicitly itemized in the unified section.

Similarly, many of the zoning district sections each have their own subsections on parking, loading, outdoor structures (which seems to have been a big issue in the recent past), outdoor storage, landscaping, and signs. These individual subsections are largely similar to, but not entirely the same as, each other. Many of the differences are not relevant to the particular purpose or character of the zoning district or do not seem to be based on practical circumstances. This situation invites the accumulation of contradictions and inconsistencies, it enshrines meaningless or insignificant distinctions, it creates opportunities for confusion and conflicting provisions, and it forces the reader to consult both the individual-district requirements and the general provisions.

These topics are already covered by separate portions of the Town-Wide Regulations, to which most of the zoning district sections make reference. *The separate sets of standards in these many district sections should be removed and replaced with a consistent set of standards merged into the General Provisions.* Each section could contain cross-references, as many already do, to the relevant topic section and rely on the stipulations contained there, again with necessary particularities specified there.

This tendency of the zoning ordinance to repeat similar standards and procedures would seem to result from an effort to include in one place all those provisions that pertain to each type of

zoning district. While this is a worthy intent, the results are a substantial increase in the size of the ordinance while not preventing the reader from having to consult the general provisions.

It should be stated that the numbering system for the hierarchy of sections and their nested subsections and clauses can be daunting, with a string of numerals and dots descending as many as seven levels deep. These can be hard to remember when scanning through the document to find referenced clauses. Either the hierarchy could be compressed or a system of letters and numerals in a traditional outline form could be used. In several instances references are made to non-existing subsections or to the wrong ones. Also, there are some references to a previous codification that identified sections by letter.

COMMENTS ON SPECIFIC PROVISIONS

Adherence to Police Powers

Londonderry's ordinance adheres closely to its basic police-power mandate—health, safety, and community welfare. Thus it has resisted the temptation of trying to address incidental and subjective “quality-of-life” nuisance or annoyance issues like yard maintenance, building colors, light-spill, equipment noise, domestic odors, stacks of firewood, and the like.

Impact Fees, Residential Development Phasing and Growth Management

The ordinance devotes much detailed attention to impact fees, residential development phasing and growth management, including phasing of residential (but not commercial or industrial) development. Impact fees are difficult to administer, are of questionable equity, and have generally proven ineffective throughout the state, as enabling statute requires repayment within six years and limits how these funds can be used, such as not being permitted to cover debt-service costs. Such fees tend to increase purchase costs for home-buyers and rental rates for residential and businesses tenants.

The existing impact fee provisions should be eliminated. It should be replaced by a brief impact fee provision, according to case law, which only authorizes the Planning Board to levy developments for the costs of mitigating off-site impacts on public facilities.

Utilization of Development Agreements should be better addressed, in order to clearly provide for and enforce site-specific conditions and factors agreed through Conditional Use permitting and similar discretionary approval processes.

US Census results show that in previous decades the Town went through significant growth, which has abated since the turn of the century. The development phasing and growth management regulations, which stemmed from the fast growth in the past, and which apply only to residential development, have become a cumbersome, unpredictable, and costly solution to a problem that no longer exists.

Experience with the current *residential development phasing stipulations*, which has resulted in many requested and approved variances, indicates that these provisions *should be more realistically calibrated in order to promote a stable rate of growth and accommodation of a broader variety of housing*.

The existing Growth Management and Innovative Land Use Control section is scheduled for sunset on January 1, 2015, which is recommended.

What Section 1.5, Special Development Review Procedures for non-residential development, accomplishes is not clear. Its provisions and criteria echo what is set forth in various other Conditional Use sections, which, along with Site Plan Review, already apply.

Workforce Housing

The ordinance devotes twenty pages (10% of its volume) to Inclusionary and Workforce Housing.

The ordinance is unclear in that the placement of the Workforce Housing provisions within Section 2.3, Residential Districts, and not under more general provisions, may mean that this type of housing is allowed only in AR-I and R-III, even though residential uses are also allowed in four commercial districts. Equally, it could instead mean that a workforce housing development can take place within a commercial district without being subject to these provisions?

The second section, 2.3.4, Retention of Housing Affordability, importantly seeks to ensure that, throughout its life, the inclusionary housing retains the affordability that justified the density and other concessions given to it. However, this section needlessly requires of the Town to assume an active involvement in the ongoing management of an affordable housing development for the purpose of ensuring the sale, re-sale, and renting and re-renting of units to income-qualified households. These tasks are already incumbent on the developers through financing agencies and government programs; developers of rare workforce housing developments that utilize normal market financing can be held to account by the Town for reliable compliance with affordability requirements.

These weighty managerial responsibilities unnecessarily put the Town at considerable potential liability. They need not rest on municipal staff, whose role should be limited to enforcement through periodic monitoring.

These two sections each contain some definitions that are mutually inconsistent. Both sections pay much attention to for-sale affordable housing but scarcely any to affordable rental housing. This lack is odd, to say the least, as the vast majority of multi-family dwelling units in reality are rental.

District Regulations

Enumeration of Uses:

The Use Table (Section 2.2) lists 84 separate land uses. Many of these are very similar to each other, and many are the same but distinguished by size. In some cases, uses that have become customarily associated with each other are not allowed together in the same zoning district (for example motor vehicle sales, repair, and servicing; or motor vehicle station and convenience retail). Some have undefined, indistinct strictures (such as “major” repair or “limited” service; or “group” child care center). Newer uses, such as convenience store, are not listed. The basis for distinguishing between permitted use, conditional use, and special exception use is not apparent.

The number of separate listed uses should be reconsidered and reduced or consolidated when possible. The basis and appropriateness of procedural distinctions should be re-examined and articulated.

Residential:

It is difficult to wend one’s way through the lot size stipulations in AR-1. For lots served by public water and sewer, the minimum lot sizes are larger than what may be necessary, or even desirable, to create attractive denser neighborhoods in potential village areas. Excessive setbacks and frontage standards have the same effect, and thus contribute to sprawl. Also, the difference in lot size depending on the number of bedrooms is an unnecessary complication.

The ordinance has not kept up with changing residential demographics, particularly the aging of single-family households, the increasing number of older households on fixed incomes, the increasing length of time that younger generations remain at or return to home, and growing preferences among younger generations for more compact housing in walkable neighborhoods with access to open space and alternative forms of transportation.

A growing need for accessory dwelling units and multi-generational housing has developed, which the ordinance should be revised to accommodate.

While respecting and preserving the character of the town’s existing neighborhoods and subdivisions, the ordinance should contain provisions that promote greater choice and diversity among housing types and neighborhoods.

Tying minimum lot sizes to soil types makes some sense theoretically, but as presented by the ordinance, it is difficult to determine what sizes would be allowed. The document does not itself contain the needed information, and there are some confusing discrepancies. Homeowners and residential landowners are the largest component of the Town’s citizenry, responsible for 85% or so of the town’s land area, and the least likely group of property owners to be expected to be conversant with land-use law and regulation and the least able to afford experienced counsel; similarly with small local home-builders. Especially with respect to these

groups of citizens, the ordinance should be as straightforward and user-friendly as possible. This ordinance is far from that. In fact, commercial and industrial regulations in the ordinance are far easier to ascertain than residential.

Subsection 2.3.1.3, Residential Lot Size Requirements, is daunting and uncertain. Table 1 sets the minimum lot size at 43,560 square feet for a single- or two-family house not served by a municipal waste water system, regardless of how many bedrooms it has. On the other hand, Table 2 allows sizes down to 31,750 square feet depending on the lot soil types and slopes. If a lot comprises more than one soil type, the lot size is even more uncertain to determine. No basis is given on how to determine slopes. The ordinance does not contain any information about soil types, instead guiding the reader to contact the county Conservation District, with no contact information given and no reference document stated to be available at Town Hall.

The current residential lot size requirements create practical and legal concerns:

- Is the difference in impact between a two-bedroom and a three-bedroom house significant enough to warrant different lot sizes and frontages as set forth in Table 1?
- Does the lot size requirement differ between two- and three-bedroom houses relative to soil type and slope as set forth in Table 2? The ordinance does not say.
- Also, if a homeowner wishes to expand a house from two to three bedrooms but has a lot only legally big enough for a two-bedroom house, this ordinance does not allow the owner to do so without a variance, for which the ordinance gives no standards (Section 4.1). Indeed, such an expansion is likely not to be approved given the statutory definitions of hardship, on which variances depend, and the ordinance does not even mention the rather abstruse legal concept of hardship, let alone explain it.

Because a prospective home builder must obtain septic approval from the New Hampshire Department of Environmental Services (DES), and because a wide variety among types of acceptable septic design has developed over the past two decades, perhaps a better approach would be simply to *provide that the lot must be certified for septic by DES and the agency's restrictions followed, with the provision of an absolute minimum lot size based on neighborhood, infrastructure, and natural resource constraints.*

If basing lot sizes, and thereby development densities on soil types is important for environmental reasons, then why are densities of commercial and industrial uses, which can pose more risk to natural resources than most houses do, and that rely on septic systems and wells, not similarly restricted?

With the increasing development of more topographically marginal lands, the ordinance does not provide that upland areas be big enough to contain the general set of improvements, such

as house, garage, shed, driveway, etc., nor are standards stated for determining the size and configuration of such upland areas.

For this and many other environmental protection purposes, the ordinance should contain a clear and consistent definition of “usable upland”, addressing such factors as buffers, slopes, soil permeability, drainage, vegetation, subsurface characteristics (such as rock), so that it can be ascertained what is needed to accommodate development and how to avoid or mitigate its environmental impacts, and to promote other worthwhile natural resource goals such as ensuring that required open space include more useful land than just what cannot be developed anyway and, to the fullest extent practicable, that it is the ecologically most valuable land that comes to constitute preserved open space

In R-III, an applicant must provide a development plan. As is the case with other districts, the distinction between a 16-unit building and a 20-unit building seems not to be significant enough to warrant special attention; the existing ordinance reserves this issue as the only application of the Conditional Use concept for multi-family.

Because site plan review is required for multi-family residential development, there should be *no separate need for such a development plan*. The two requirements could be *merged and the ordinance simply make reference to the Site Plan Regulations*. Another option would be to set up a *consolidated Conditional Use and Site Plan review procedure*.

Commercial Districts

The five Commercial Districts each appear to have a separate purpose, but the interspersed configuration of them around the zoning map (as mentioned above), the assignment of many of the same uses among them, and unclear descriptions of them all conspire to muddy the distinctions. The large setbacks and lot size standards, not less than one acre, even in a “neighborhood” (C-IV) commercial area, tend to promote physical dispersion of and disconnection between commercial buildings. As is the case for residential areas, actually determining specific minimum lot sizes based on several undetailed factors, is highly problematic and uncertain. In particular the generous front setbacks provide space for parking between the commercial buildings and the fronting streets, a pattern not conducive to smaller-scale and more pedestrian-friendly areas, in ways consistent with the 2013 Master Plan.

Two important characteristics for a zoning ordinance are *clarity and predictability*—these are seriously lacking in this and other parts of this ordinance.

It might be helpful to *consolidate the various interspersed commercial districts more directly by type of location* (highway interchange, arterial street, village center, neighborhood, even rural), enabling them to accommodate different sizes, scales, and forms consistent with the desired nature of such areas.

The regulations should promote more physical connection between adjacent commercial properties, in order to reduce overall quantities of parking spaces and to promote off-street vehicular and pedestrian circulation. As highway-oriented commercial structures tend to have the shortest of lifespans, a more integrated zoning approach can be gradually and realistically achieved.

Industrial Districts

Similar comments to the commercial ones above.

When making decisions as to whether to pursue developing a particular site, how can a prospective applicant know what lot size would be approved? Interestingly, buffer requirements are smaller than for industrial than for commercial.

Overlay Districts

Should the name of the airport be revised in the ordinance to read “Manchester-Boston Regional Airport”? Despite the ordinance text, the Airport District (Section 2.5.2) is shown on the zoning map as an overlay district. The Airport Approach Height (2.6.6) and the Airport Approach Noise (2.6.7) overlay districts are not shown on the zoning map. Besides containing references that are obsolete (e.g. “Section B”) and nigh impossible for a layman to understand, these two sections, while obviously necessary and indeed mandated on the Town, could use *a user-friendly rewrite or at least a guide as to how to apply the restrictions.*

It is difficult to determine what uses are allowed and how they are permitted in the Route 102 and Route 28 overlay districts. These two overlays have similar but not identical standards for site characteristics and to review procedures and criteria. While the current provisions do not achieve the ordinance’s stated goals for the overlay districts, this overlay approach is a step toward form-based zoning by treating specific areas in a zoning district differently from other areas of the same district, for instance as could apply to the Town Center Common and South Villages.

Perhaps the most egregious example of the current ordinance’s ability to obscure its requirements is the difficulty in determining what uses are allowed in these overlay districts and what sort of review is required. The specific sections (2.6.1 and 2.6.2) do not specify which of the land uses allowed in the underlying zoning districts are allowed in the overlay districts, and under what stipulations and by what process. What is not obvious is that the key to this critical issue is actually contained in a most unexpected location: 45 pages earlier in the ordinance as footnote #1 in the Use Table in section 2.2, which says that “any use permitted in the underlying zoning district, but which is not permitted in the Performance Overlay District is considered a Conditional Use [in the

overlay district]”. The practical effect of this restriction is to make the overlay function as a district separate from the underlying district.

The large dimensional standards called for in these overlay district will result in yet more isolated and disconnected commercial properties and a sprawling configuration—the exact opposite of the vision expressed in the 2013 Master Plan in general and for these potential “village centers” in particular.

The historic, conservation, and floodplain overlay districts are straightforward and hopefully effective, and the ordinance gives a useful idea as to where these are located and how to find them more specifically. Has the Town considered prohibiting development entirely within floodplains, except for buildings for which it can be demonstrated that there is no viable alternative location?

Special Districts

The Mixed Use Commercial, Gateway Business, Planned Unit Development, Conservation Subdivision, and Back Lot Development are examples of a flexible and proposal-based permitting approach that should serve the Town well and become a springboard toward the implementation of a number of Master Plan objectives.

It could well be advantageous to *extend the MUC provisions more broadly throughout commercial areas and to apply the GB standards to industrial areas.*

It is not clear why *PUDs* cannot be built *in the GB district*, where it could provide for groups of smaller businesses.

It might be useful to *allow Planned Unit Developments on smaller tracts of land*, so that the concept can be applied to modest-sized developments and even as the basis of a village enhancement or neighborhood.

Smaller setbacks and eliminating the need for separate house lots in Conservation Subdivisions should be considered, as should *allowing open space to house common septic fields*, and to *allow the subdivision of open space* in order that part can remain under owners’ control and other parts could become open space to be donated by the developer for tax credit to a land trust or to the Town.

With judicious amendment, these flexible approaches to land development could *enhance housing diversity (both economically and functionally), facilitate protection of natural resources, provide more open space and foster the interconnection of open space and trails.*

Conditional Use Permits

This approach allows for valuable flexibility in realizing various sorts of development in ways that can be mutually advantageous to landowners, developers, citizens, and the Town. Among the eight separate Conditional Use provisions there is a great deal of minor variation in standards, review criteria, and procedure.

These standards should all be consolidated into one set of standards, criteria, and submission and application requirements.

Because all new development, except single- and two-family residential, is subject to site plan review, both *conditional use and site plan review should coincide*, taking place as a combined process, with one set of public hearings, in order to promote comprehensive review of all aspects of a proposal, to expedite the time and expense for case decision, to discern common benefits and issues presented by a proposal, and to make sensible trade-offs.

To the fullest extent possible, *common conditional use and site plan application requirements, review criteria, and development standards should reside in the Site Plan Review regulations*, that, unlike a zoning ordinance, enable the Planning Board to grant appropriate waivers and readily to adopt amendments as necessary or advisable.

Development Standards

Design and Construction Standards (3.10.13) and general landscaping standards should be moved to the Site Plan Regulations, where they would apply to all new developments and would be easier to amend and keep up to date than as part of the zoning ordinance.

Home Occupations (3.12)

Special Exception criteria could include a *provision whereby any proposal which involves activity that in the judgment of the Board of Adjustment is likely to cause disruption to the neighborhood* by reason of traffic generation, time of operation, noise, fumes, vibrations, lighting, or similar negative off-site effects, *can be modified or denied by the Board.*

Small Wind Energy Systems

Unless there is a particular issue about these in Londonderry, the Town may choose to *replace these extensive provisions*, which stem from the NH Office of Energy and Planning's model ordinance, *and instead rely on standards directly contained in state statute (RSA 674:63).*

General Conclusions:

Improving the comprehensibility, coherence, and efficiency of the ordinance could pave the way for form-based approaches to land-use regulation, facilitating the adoption of those provisions of the 2013 Master Plan which, when, and as the Town chooses to implement, reducing unnecessary restrictiveness while providing greater options for Londonderry's neighborhoods, villages, commercial and industrial areas, and for the town's economy, employment-base, infrastructure, open space, environment, and distinctive character.

As outlined in the foregoing review, Londonderry's zoning ordinance needs thorough pruning, reorganizing, simplification, clarification, and modernization in order to become user-friendly, comprehensible, and effective, with major actions, in no particular order of priority or preference, as follows:

1. Continue to adhere rigorously to allowable police powers—public health, safety, and general welfare.
2. Logically reorganize, simplify, clarify the ordinance and reduce its length.
3. Consolidate definitions.
4. Eliminate redundancies, contradictions, inconsistencies, insignificant dissimilarities.
5. Fully address all critical issues (e.g. variances, environmental factors; character of rural, village, neighborhood, commercial, and industrial areas).
6. Include all information that users need (e.g. variance hardship criteria; soil, slope, hydrology, natural resources, airport noise).
7. Make sure that requirements, procedures, and review criteria are stated clearly and completely.
8. Depict all relevant districts and locational characteristics (e.g. wetlands and floodplains) on the zoning map, including the Airport Approach Height and Airport Approach Noise overlay districts.
9. Eliminate impact fee, growth management, and innovative land use control provisions that have proven to be needless.
10. Abolish the Town's responsibility to administer workforce housing income verification requirements and procedures.
11. Apply workforce housing standards to all districts permitting residential use, and eliminate procedural disincentives.
12. Reconsider and reduce the number of separate listed uses.
13. Re-examine the basis and appropriateness of procedural distinctions among uses.
14. Accommodate the growing need for accessory dwelling units and multi-generational housing.

15. While respecting and preserving the character of the town's existing neighborhoods and subdivisions, promote greater choice and diversity among housing types and neighborhoods.
16. Re-evaluate the value of basing residential lot size on soil types and slopes; if this approach is to be maintained, clarify how it is to be determined, with what distinctions it is to be applied, and whether it should be applied also to non-residential uses which rely on on-site water and septic.
17. Utilize the concept of usable uplands to guard against the encroachment of development on environmentally sensitive areas.
18. Consolidate review standards for multi-family residential development.
19. Provide more comprehensively for accessory and rental housing.
20. Promote broader neighborhood and elderly housing diversity.
21. Consolidate the various interspersed industrial and commercial districts more directly by function and type of location.
22. Provide more user options.
23. Eliminate density and dimensional requirements that promote sprawl, use isolation and separation, and inadequate functional integration.
24. Promote sharing of parking and access between adjacent parcels with similar or complementary uses.
25. Eliminate overlay districts or integrate more rationally within respective underlying districts.
26. Consider prohibiting development entirely within floodplains, except for buildings for which it can be demonstrated that there are no viable alternative locations.
27. Extend MUC provisions more broadly throughout commercial areas and apply GB standards to industrial areas.
28. Eliminate needless limitations on alternative development types (e.g. 100-acre minimum PUD tract size).
29. Extend the applicability and range of discretionary options available through such flexible permitting tools as MUC, GB, PUD, Conservation Subdivision, Back Lot Development.
30. Consider subsuming the above tools into the Conditional Use process.
31. Consolidate similar Conditional Use procedures and criteria.
32. Integrate Conditional Use fully with Site Plan and Subdivision Regulations; move standards pertinent to site design and layout, such as parking, loading, lighting, and landscaping, to the Site Plan Regulations.
33. Promote environmental protection and open space preservation and integration.
34. Consolidate property development standards, such as access, buffers, outdoor structures, temporary structures, accessory structures, and signs.

35. Tailor revisions in order to achieve desired aspects of the 2013 Master Plan—diverse housing options; village centers; community focal points; mixed-use; appropriateness of building size and scale; desired innovative land uses; and open space, pedestrian, bicycle, and vehicular connectivity.
36. Promote a broader range of home occupations with discretionary approval based on exterior effects.
37. Rely on the statutory standards for small wind energy systems.

In pursuing these modifications to the zoning ordinance, prompt attention should be given to correcting inconsistencies and other inefficiencies of the current ordinance. At the same time, the existing ordinance's positive provisions, which have proven to be valuable to the community and which will enable the vision of Londonderry's future to be achieved, should be continued. The goal is to enhance the citizens' understanding, and to reduce the Town's liability.

We look forward to answering questions, and commend the community for this self-evaluation.

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HOUSING OPPORTUNITIES IN LONDONDERRY
Preliminary Report

To: Town of Londonderry, NH, Planning Board
From: Jonathan Edwards, Arnett Development Group LLC
Date: February 11, 2015

The primary focus of this review is workforce housing, but findings and recommendations will include other housing options for Londonderry to address the need for the adequate provision of diverse housing opportunities for the entire Community. In response to court decisions regarding workforce housing and pending codification of such decisions by the legislature, the Town of Londonderry adopted an inclusionary housing section to include provisions for workforce housing in the zoning ordinance on February 1, 2010. Further updates to the multi-family housing sections of the ordinance were adopted later that year. Consistent with recommendations made in the Housing Task Force's Final Report of April 2008, and with relevant state statute, most importantly RSA 674:59, the ordinance was amended with the intent to provide reasonable and realistic opportunities for the development of workforce housing. It included some accommodations in the form of special density and project design standards, together with safeguards to ensure the long-term economic integrity of such housing, as specified in sections 2.3.3 (Inclusionary Housing) and 3.6 (Elderly Housing).

Londonderry's potential for economic growth and fiscal soundness depends on the provision of an adequate and appropriate supply of workforce housing in Londonderry. This has been found to be important to the social and economic well-being of the community, and thus officially recognized as an on-going public policy goal, worthy of special consideration in the Town's practices and regulations.

This report consists of the following sections [*an Appendix contains more specific information*]:

Summary of Findings
Legal and Regulatory Background
Workforce Housing Performance
Emerging Issues
Recommendations

Summary of Findings:

1. After a five year dormant period during the recent recession, there are several projects pursuing approvals in various stages of the process, all introduced within a very short time frame. One is a town-house project of 78 rental units, Londonderry Townhomes, overseen by Neighborworks Southern NH, approved in 2013 and currently under construction. Two are mixed workforce/market rate rental garden style apartment projects: Wallace Farm (240 units total) has been approved with 50% workforce units, and will begin construction in 2015; Stonehenge Road (280 units total), is in the land-use review process and seeking a 50% workforce mix. Hillside Condominiums is a converted elderly housing project and is seeking approval for 98 for sale townhouse units with at least 75% to be workforce.
2. This new wave of workforce housing development is in response to provisions of the current zoning ordinance and the absence of diverse housing opportunities in Londonderry.
3. Median market rate and workforce housing costs/expenses are similar in the Londonderry market at the current time. For example, the median home price in 2013 was identified in the Master Plan as \$300,900, and a \$350,000 home is considered by the New Hampshire Housing Finance Agency to be affordable for a 4-person household.

4. The current ordinance and regulations appear to provide a “reasonable and realistic opportunity” for the development of workforce housing, as set forth in state statute, in terms of where workforce housing can be located, which is in all residential zoning districts along with availability of public water and sewer service. However, despite being permitted over a wide area, developers have repeatedly sought relief for provisions that they have successfully demonstrated are prohibitive to implementing successful workforce housing developments.
5. Workforce housing (single-, two-, and multi-family) is allowed in both residential zoning districts and in four of the five commercial zoning districts, while market rate multi-family are limited to the R-III district, where there is very limited potential for new development. The Town might consider allowing small domestic-scale multi-family housing in more districts, including redirecting multi-family market-rate and multi-family workforce housing near commercial and employment sectors. Both for-sale and rental workforce housing should be encouraged in mixed-use developments. For-sale workforce housing should be encouraged in a variety of forms and in cluster developments.
6. The image of workforce housing has become associated with large multi-family projects, and the ordinance does not provide for more compatible smaller scale proposals.
7. Although state statute only requires that ownership workforce housing be provided throughout the majority of residentially zoned properties, rental workforce housing is also permitted in the AR-1 zone, allowing for multi-family development where it would not be otherwise permitted. This provision beyond statutory requirement may result in the unintended consequence of mixing single family with larger scale high-density developments. Not only has this effect engendered concerns by residential neighbors, but also it is contrary to recommendations of the 2013 Master Plan.
8. Workforce housing standards for rental and for-sale single- and multi-family need to be updated to ensure compatibility with the context of the neighborhood along with appropriate flexibility provided in the standards
9. Every project proposed to include workforce housing to date has sought relief from the Zoning Board of Adjustment for more than one provision of the ordinance. This appears to require an over-reliance on the ZBA for projects to be viable, with regard to percentage of workforce housing required, restrictions on the maximum number of units per building, and phasing requirements. Thus, the zoning ordinance appears to be unable to feasibly provide for what it wishes to allow.
10. Minimum lot sizes are problematic for workforce housing construction. Encouraging smaller lots and buildings are good ways to reduce overall housing costs for single-family homes. Allowing multiple single-family, two-family or multi-plex houses with smaller units on a single lot may be a way to provide desirable lower-density/modest-scale housing in the Community. This type of housing could emulate the characteristics of agricultural housing (some already present in Town) like farmsteads and village center patterns of development.
11. The opportunity for Accessory Dwelling Units (ADU) is limited and ADU’s are another way to provide compatible low impact workforce housing throughout the town, rather than concentrating it in specific locations. ADU’s can also provide financial relief to homeowner’s burdened with too much house at certain stages of life, particularly in an aging community.

12. There is a variety of ways to provide workforce housing in Londonderry, some of which are identified in the Master Plan, but the current regulations preclude the majority of options from being realized. The Housing Task Force Report should be revisited to ensure that appropriate sites are identified for all types of workforce housing. A Visioning Exercise would be useful to this purpose.
13. The current ordinance places the responsibility of policing and monitoring the reporting and tracking of workforce housing compliance on the Town. The Zoning Review, currently under consideration, recommends abolishing the Town's responsibility to administer workforce housing income verification requirements and procedures.
14. The zoning ordinance contains a section on the conversion of unbuilt elderly housing that may no longer be applicable. The Zoning Review, currently under consideration, recommends eliminating this provision.
15. Elderly housing approvals and construction to date have been limited to single-family for sale options, with the exception of the recently approved 'Grand Estate at Londonderry' providing approximately 100 elderly rental garden style units. Like workforce housing, the ordinance appears to promote larger scale multi-family options over more flexible smaller scale elderly housing that would better "fit" within the context of existing neighborhoods and provide housing similar to the homes residents currently enjoy. Older people overwhelmingly prefer to age in place, which can mean a more manageable residence within their current community, especially when it's not practical to continue to maintain larger single-family properties.
16. Assisted Living and Residential Care Homes are not currently permitted in the AR-1 zone. This type of housing is residential and should be permitted near and within residential neighborhoods of all types. Because the ordinance only permits Assisted Living Facilities in locations where commercial and multi-family housing is permitted, it is limited to larger scale proposals. Assisted Living is housing for older people with the provision for supervision and congregate meals. The people who require these additional services would benefit from inclusion throughout the community in smaller more home-like settings.
17. Parking standards need to be reviewed to ensure that adequate parking is available for all housing types without mandating the over-building of impervious surfaces.

Legal and Regulatory Background

[The information in this section will also be addressed as part of the Workforce Housing Analysis to be prepared by Southern New Hampshire Planning Commission in the Spring of 2015.]

What is Workforce Housing?

State law (RSA 674:58-61) defines "Workforce housing" as:

Housing which is intended for sale and which is affordable* to a household with an income of no more than 100 percent of the median income for a 4- person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.

Rental housing which is affordable* to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is

located as published annually by the United States Department of Housing and Urban Development.

*Affordable is defined as no more than 30% of income being spent on housing, meaning rent and utilities or mortgage principle with interest, utilities, taxes, and insurance.

Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing.

Based on the limits for 4-person and 3-person households in New Hampshire’s Workforce Housing Law, the following monthly payments would serve as the maximum limits for workforce housing in Londonderry:

For-Sale: 100% of Median Income; 4 Person Household			
Median Area* Income	Target Income	Annual Housing Cost @ 30%	Estimated Maximum Affordable Purchase Price **
\$103,600	\$103,600	\$31,080	\$350,000
Rental: 60% of Median Income; 3 Person Household			
Median Area* Income	Target Income	Annual Housing Cost @ 30%	Estimated Maximum Monthly Affordable Rent ***
\$103,600	\$55,940	\$16,782	\$1,400

“Target Income” means maximum qualifying household income.

* Londonderry is located in the Western Rockingham County Metropolitan Fair Market Rent Area as defined by the US Department of Housing and Urban Development.

** Estimated maximum price using 30% of income, 5% down payment, 30-year mortgage at 3.66%, 0.7 points, PMI, and estimated taxes and hazard insurance.

*** Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income

Source: New Hampshire Housing Finance Agency: <http://www.nhhfa.org/data-planning/planning/WorkforceHousing/2014WFPurchaseRentLimits.pdf> (see Appendix)

According to Londonderry housing figures in the 2013 Master Plan:

Average Household Income 2013:	\$104,051
% of population less than \$50,000 income:	23.8%
Median home value:	\$300,900
Owner-Occupied houses	88%
Median rent:	\$1,105/mo.

It should be noted that more recent affordability numbers (2014—see Appendix) are available; however,

for the sake of internal consistency, we have opted to utilize reports from the same base year of 2013.

It should be noted that the terms “workforce housing” and “inclusionary housing” are defined in law. A related term, “affordable housing” has no explicit legal definition and is often used more broadly than the other two terms.

Sources of above information: NH RSAs, NHHFA, US HUD, 2013 Master Plan, Londonderry P&ED

Statutory Regulations for Workforce Housing Development (see Appendix for specifics):

The State of New Hampshire mandates that cities and towns provide feasible regulatory opportunities for development of workforce housing. The State also gives a variety of legal tools by which municipalities can do so.

New Hampshire public policy is explicit that the provision of inclusionary housing, also known as affordable housing and workforce housing, throughout the state is an important public goal, as set forth in RSA 672:1, III-e. Its key provision is that “opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers.”

Inclusionary Zoning is explicitly authorized in RSA 674:21 as an “Innovative Land Use Control.” Other authorized innovative land use controls can also be used to facilitate workforce housing, such as timing incentives, intensity (density) and use incentives, planned unit and cluster developments, flexible and discretionary zoning, accessory dwelling unit standards, and village plan alternative subdivisions.

This statute also defines “Inclusionary Zoning” as land use control regulations which provide a voluntary incentive or benefit to induce a property owner to produce housing affordable to families of low and moderate income. It includes such incentives as density bonuses, growth control exemptions, streamlined application procedures, and other techniques intended to further these purposes.

Basic requirements for municipalities are set out in RSA 674:59. Basic stipulations include:

- Ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing.
- Lot size and overall density requirements for workforce housing are to be reasonable.
- Workforce housing is to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses.
- Municipalities have discretion to determine what land areas are appropriate for workforce housing, and a municipality need not allow development of multifamily rental housing in a majority of its residentially zoned land.
- Zoning inducements and requirements must be structured so as not to render workforce housing developments economically unviable.
- If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with RSA 672:1, III-e and 674:59.
- Municipalities are not required to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

Londonderry Regulations Governing Workforce Housing:

Location:

As spelled out in the Zoning Ordinance’s Use Table, section 2.2, ample opportunities are provided for market-rate single- and two-family housing and for workforce single-, two-, and multi-family housing, but in practical terms the ordinance has quite limited opportunity for market-rate multi-family:

In the Agricultural-Residential AR-1 district, single- and two-family market-rate housing is permitted by right. However, the ordinance also permits the development of both rental and ownership single-, two- and multi-family workforce housing throughout the AR-1 zone with a Conditional Use Permit and the availability of public water and sewer. Thus, in this zoning district, market-rate multi-family housing is not allowed, but workforce multi-family is.

In the Multi-Family Residential R-III district market-rate single-, two-, and multi-family residential is allowed by right. Workforce single-, two-, and multi-family residential is allowed by Conditional Use Permit. The zoning map shows only seven relatively small areas zoned R-III, four in the North Londonderry and three in the southeastern part of town, near Winding Pond Road and behind Home Depot. Very little of this land is undeveloped, thus providing limited opportunity for further development of market-rate multi-family housing.

In Commercial districts C-I, C-II, C-III, and C-IV, but not in the Mixed Use (MUC), the only housing that is permitted is workforce single-, two-, and multi-family, subject to Conditional Use Permit.

In all the above zoning districts plus the Route-102 and Route-28 Performance Overlay districts, elderly housing (both market-rate and workforce) is permitted by right, but both market-rate and workforce housing of all types are prohibited.

In all these districts, single-family, two-family multi-family, and elderly residential uses (both market-rate and workforce) are allowed in Planned Unit Developments (PUD) on tracts of at least 100 contiguous acres in size.

Incentives:

Workforce housing incentives (shown in detail in the Appendix, together with comparisons with corresponding standards required of market-rate residential developments) consist of the following factors:

Density (how many dwelling units, and thus indirectly how many residents, are allowed per given area of land) is higher for workforce housing than for market-rate housing:

Allowable Residential Densities (dwelling units per acre):

<u>1- & 2-Family</u>		<u>Multi-Family</u>		<u>Elderly</u>	
<u>market-rate</u>	<u>workforce</u>	<u>market-rate</u>	<u>workforce</u>	<u>market-rate</u>	<u>workforce</u>
1.2	1.5	5	10	6	≤12

Required Parking Spaces per Dwelling Unit are lower for workforce housing than for market-rate housing:

<u>1- & 2-Family</u>		<u>Multi-Family</u>		<u>Elderly</u>	
<u>market-rate</u>	<u>workforce</u>	<u>market-rate</u>	<u>workforce</u>	<u>market-rate</u>	<u>workforce</u>
2	2	2.5	1.75	2.4	≤1.2

Minimum tract sizes are 20 acres for multi-family workforce housing and 15 acres for elderly housing (both market-rate and workforce), but are not specified for market-rate multi-family developments.

Perimeter buffers are 100 feet for market-rate multi-family, but 50 feet for workforce multi-family and 30 feet for elderly, in the same zoning districts.

The Zoning Ordinance specifies that in a multi-family workforce housing development, as defined by the regulations, a minimum of 75% of the housing units must be workforce.

Thus, the main incentives for workforce housing, relative to requirements for market-rate housing, are substantially increased density allowances and reduced parking and landscaped buffer requirements, and for multi-family many more locational opportunities.

Approval Standards:

All workforce housing must obtain a Conditional Use Permit, unlike their market-rate single- and two-family residential counterparts in AR-1 and unlike all their market-rate counterparts in R-III.

There are two sets of Conditional Use Permit criteria and procedures (detailed in the Appendix) governing workforce housing, all of which must be met by an applicant: specified in sections 1.5.2 (applicable to all proposals subject to Conditional Use Permit) and 2.3.3.7 (specifically for workforce housing). These standards are not identical, but they do overlap considerably.

It can be seen that while there is considerable overlap among these sets of approval criteria, they all, within the context of the Planning Board's judgment, provide for:

- Addressing community needs.
- Compatibility with the public interest.
- Suitability to the site.
- Compatibility with the interests and rights of nearby properties.
- Suitability to public infrastructure, including water, sewer, and road capacity.
- Respect for environmental conditions and limitations.
- Consistency with the purposes and objectives of pertinent regulations.

Workforce Housing Performance:

Public Objectives:

The *Housing Task Force's Final Report* of April 2008 recommended several actions that the Town could take to promote the provision on workforce housing in Londonderry, including:

- A higher mix of workforce housing in new construction, specifying a goal of 34% of new housing units.
- Public education and advocacy by public boards.
- Amendment of land-use regulations to include strategies to meet workforce housing needs, including flexible land-use, design, and dimensional standards; mixed-use development in non-residential districts; and density increases in return for guarantees of permanent affordability.
- Reform of development and impact fees and growth-management policies.
- Encouraging and preserving rental units.

- Financial instruments.
- Partnership between Town and housing groups.
- Promotion of a model workforce housing development.

The report suggested twelve possible locations of various sizes throughout the town for an Affordable Housing Zoning District (see attached map). The only one of these sites zoned R-III is on Sanborn Road in North Londonderry.

The *2013 Master Plan* speaks of the need for workforce housing and also a greater diversity in Londonderry's housing stock, offering two recommendations:

- Include new standards in a form-based code that promote neighborhood diversity and greater housing choice to meet the needs of young adults, new families, and elderly residents.
- Permit accessory dwelling units in Growth Sectors G-1 to G-4 (see Appendix for locations) depicted on the Conservation and Growth Map. These units encourage greater housing choice for young adults, new families, and elderly residents.

Recent Workforce Housing Developments:

While not all of these recommendations have been pursued, major revisions to the zoning ordinance were made, the regulatory results of which are summarized above. To a large degree, these revisions have been successful, having resulted in the approval of at least 198 workforce rental housing units during the past two years:

- Wallace Farms garden apartments on Perkins Road: received a variance to reduce the affordable component from 75% to 50%,
=120 workforce garden apartments
- Londonderry Townhomes—Southern New Hampshire Neighbor Works—is 100% workforce:
=78 workforce townhouses

Total =198 approved workforce units

Three additional proposed developments may contain additional future workforce housing:

- Hillside Senior Housing is at a minimum 75% workforce, with a variance approved permitting more buildings to be constructed per each phase:
=98 workforce for-sale townhouses
- Stonehenge Garden Apartments. Requested variances to reduce the affordable component from 75% to 50%, to increase number of dwelling units per building to 24, and alter the phasing requirements, were recently denied, but may be reconsidered by the ZBA in the coming months.
=216 workforce apartments
- Woodmont, a large mixed-use PUD, whose master plan has been approved, has not identified that workforce housing will be included, but may contain an as-yet unknown number of workforce or lower-cost market-rate dwelling units

It is of note that despite this substantial number of workforce housing units that have been proposed or permitted, they are all in multi-family developments. No single-family workforce housing development

has yet been proposed.

Emerging Issues:

Some of these developments have demonstrated that the workforce housing provisions of the zoning ordinance are unsatisfactory with both neighbors and developers.

The hearings on such proposals illustrated concerns by the public, and particularly neighbors, about the compatibility of the size of the development and its buildings with the character of the surrounding single-family neighborhood and of the extent of traffic that could be generated by the development relative to the nature and capacity of the streets that would provide access to it.

These cases have shown that the current zoning requirements promote large-scale multi-family development in single-family areas as the only feasible form for workforce housing, but even so, as written, the regulations are not conducive to project feasibility. An example is the recent Stonehenge proposal, for which three variance requests were denied, although all of the requested variances were similar to those earlier granted to other multi-family workforce developments. It is of note that the Stonehenge development was proposed for a site that was specifically identified for workforce housing in the Housing Task Force's Final Report of April 2008.

These variance requests sought relief from the requirements that:

- At least 75% of the dwellings qualify as workforce units,
- The number of units per building be limited (16 units, or 20 units with a CUP allowance), and
- The production of the units be phased to a maximum of 48 per year.

As far as we can determine:

- No other New Hampshire municipality requires a minimum of 75% of the units to qualify as workforce; the norm is between 25% and 50%+1 unit; by comparison, Massachusetts Chapter 40B workforce housing zoning over-ride standards are 20% to 25%.
- The limitation of units per building (at the normative rate of 16 units, not even justified by fire codes) is arbitrary, promotes site sprawl, and undermines feasibility.
- There is no demonstrated public benefit to the phasing limit, which reflects town concerns that no longer exist (as shown by the recent expiration of the zoning's growth management provisions), which exists nowhere else, and which undermines feasibility.

These hearings have generated interest in reviewing the workforce housing provisions of the Zoning Ordinance, with four separate points of view:

- Those who want the ordinance to be executed as written,
- Those who do not want further workforce housing at all,
- Those who think that the Town has reached the required fair share quota, and
- Those who think that workforce housing is important for economic development and the overall well-being of the Town, but that the ordinance is flawed and needs changing.

While the particular controversies that have raised concern took place in the context of workforce housing, it should also be considered that these concerns may well also arise with respect to the compatibility of larger-scale, higher-density multi-family housing developments, workforce or not, with neighborhoods that have primarily low-density single-family houses on local low-trafficked streets.

With respect to specific issues, it should be considered that all workforce housing proposals have thus far been multi-family, in the AR-1 zoning district. However, the Zoning Ordinance promotes size, scale, and effects of multi-family workforce housing incompatible with most of Londonderry's single-family AR-1 neighborhoods, in a variety of ways:

- Workforce multi-family housing is allowed to be eight times more dense than nominal maximum 1- and 2-family housing.
- The requirement that a multi-family workforce housing development's tract size be at least 20 acres, and thus could contain as many as 200 units, promotes such a development to be of a scale incompatible with single-family neighborhoods. Market-rate multi-family has no such minimum tract size and thus is allowably to be of a smaller size. The economics of real-estate development, with the financial necessity, especially acute for workforce housing, of reducing land and site costs per unit, promotes larger size workforce developments. Market-rate housing development site economics allow for more size and density flexibility for feasible development.
- The provision that the CUP procedures allow for further reductions in dimensional standards contains the possibility of additional degrees of incompatibility.
- In the context of single-family neighborhoods, permitting 16-unit, not to mention 20- or 24-unit, buildings up to 4 stories in height (and the 50-foot height allowance for market-rate multi-family) builds further incompatibility into the regulations.
- The amount of traffic generated by a necessarily large development can, especially at commuting times of day, burden road capacity and increase real or perceived congestion and associated disruptions.

Recommendations

A variety of workforce housing steps can be taken to promote public objectives and to improve:

- Compatibility of developments with their built-up and natural environments;
- Variety of developments and the housing types within them;
- Scope of economic choice for low-, moderate, and middle-income homeowners and renters;
- Economic feasibility;
- Regulatory standards and procedures.

The following actions should be considered:

Policy:

Review, revise, and pursue:

The *Housing Task Force's Final Report* of April 2008 and RSA 674:21:

- Re-examine the higher mix of workforce housing in new construction, including the goal of 34% of new housing units being workforce housing.
- Amend land-use regulations to include strategies and innovative land-use controls to meet workforce housing needs, including flexible and discretionary land-use, design, and dimensional standards; timing incentives; intensity (density) and use incentives; planned unit and cluster developments; mixed-use development in non-residential districts.
- Amend accessory dwelling unit standards; site plan and subdivision allowances to promote project feasibility.

- Reform but preserve guarantees of permanent affordability.
- Reform of development and impact fees and growth-management policies.
- Encourage and preserve rental units.

2013 Master Plan:

- Include new standards in a form-based code that promote neighborhood diversity and greater housing choice to meet the needs of young adults, new families, and elderly residents.
- Permit accessory dwelling units in Growth Sectors G-1 to G-4 (see Appendix for locations) depicted on the Conservation and Growth Map. These units encourage greater housing choice for young adults, new families, and elderly residents.

Statutory Sufficiency/Compliance:

- Ensure that the zoning ordinance and related regulations continue to provide a “reasonable and realistic opportunity” for the development of workforce housing, as set forth in state statute.
- Include a provision in the ordinance to review sufficiency/compliance annually.

Location and Compatibility:

1. Reduce the degree of resulting difference between the size and scale of development and the character of the adjacent neighborhoods and capacity of the servicing streets and roads by calibrating the scope and size of a development to the nature of neighborhood types and street types.
2. Reduce density, height, building size, and dimensional disparities between large-scale workforce housing and nearby neighborhoods.
 - a. Revise site layout standards to promote a visual presence of multi-family developments consistent with the character of the neighborhoods in which these developments are located.
 - b. Building separation requirements should be reduced to the minimum necessary for emergency vehicle access, in order to allow a more compact building pattern and smaller overall developed footprint.
 - c. Large parking areas should be split up to disperse the visual presence of parked and circulating cars.
3. Reduce minimum acreage requirements so that smaller workforce and elderly developments with smaller buildings can be made possible (see Appendix for examples).
 - a. Allow smaller developments by reducing required minimum tract and lot sizes, such as the 20-acre minimum for workforce multi-family and the 100-acre PUD minimum.
 - b. Allow small-scale mixed-type residential cluster developments in residential districts, with moderately higher densities than nearby market-rate housing.
 - c. Promote compact residential village developments with significant housing variety near community focal points, with open space and pedestrian and trail connectivity.
 - d. Relax the density restrictions on elderly and assisted living developments to prevent them from being unnecessarily land consumptive and allow for small neighborhood scaled projects. Allow within all residential neighborhoods. Reduce or eliminate buffers to other residential uses, and

instead rely on stronger parking lot landscaping and architectural standards.

4. Consider increasing the extent of the R-III zoning district toward employment centers as appropriate, with density, size, and dimensional gradations toward AR-1 districts.
5. Promote development of workforce single- and two-family housing in AR-1 district; single- and two-family development could be enabled by workforce and mixed-income overlay districts in appropriate portions of AR-1.
6. Promote more extensive use of accessory dwelling units in owner-occupied residences.
7. Redirect multi-family and multi-family workforce housing near commercial and employment sectors in commercial and POD zoning districts.
 - a. Promote a mixture of commercial use with both high-density market-rate and workforce housing on the same property and even in the same buildings; commercial and market-rate housing could help to subsidize the cost of building and operating the workforce housing components; greater diversity in size of dwelling units could be feasible; parking could be shared; site buffers and landscaping could provide amenity and enjoyable open space to the residents; and more village-like areas could result.
 - b. Locate larger workforce and mixed-income developments in areas directly accessible to arterial and collector streets, and not through local neighborhood roads.
8. Provide for small domestic-scale multi-family, elderly, and assisted living in more districts as compatibility dictates.
9. Reduce the distinctions in zoning between workforce and elderly developments.
10. Allow for the widest appropriate variety of types of workforce housing, such as listed below and with some examples shown in the Appendix:
 - a. Infill within neighborhoods and commercial areas;
 - b. Accessory dwelling units, attached and detached;
 - c. Co-housing;
 - d. Family compounds;
 - e. Single-family houses;
 - f. Duplexes, triplexes, quadriplexes;
 - g. Extended farmsteads (echoing an old rural New Hampshire tradition);
 - h. Mixed commercial and apartments;
 - i. Villages, linear, common-centered, small-lot/narrow-lane, mews; greenlets; private courts; clustered groupings—include common open space (with incentive if publicly accessible) such as green/common/close, farm/pasture/haying fields, playgrounds, pocket parks, nature areas.
11. The *Housing Task Force Report* should be revisited to ensure that appropriate sites are identified for all types of workforce housing; conduct a Visioning Exercise for this purpose.

Feasibility:

The zoning ordinance should feasibly provide for what it wishes to allow:

12. Reduce proportion of dwelling units in developments that must qualify as workforce housing toward

the statewide norm of between 25% and 50%+1 unit; consider a gradation based on size and type of development.

13. Relax the requirements of units per building and separation distances between buildings, consistent with fire codes, as appropriate to the character of the area.
14. Eliminate the phasing requirement limits of number of units that are allowed to be built per year.
15. Eliminate or reduce impediments to feasibility for workforce housing developers and residents, which may be appropriate for market-rate development but make workforce housing feasibility difficult:
 - a. Excessive site analysis requirements;
 - b. Prohibition of phasing site analysis and approvals;
 - c. Excessive or unnecessary infrastructure construction standards, such as wide streets, underground utilities, redundant drainage mechanisms;
 - d. Excessive off-site mitigation costs;
 - e. Developer-funded on-site compliance monitoring;
 - f. Requiring front-end installation of all infrastructure, instead of phasing construction close to sales- or rent-generated cash flow;
 - g. Requiring full up-front surety for site work and infrastructure installation;
 - h. Requiring that streets be private;
 - i. Requiring privately owned and maintained drainage infrastructure;
 - j. Requiring privately owned and maintained open space;
 - k. The above necessitating homeowners' associations and attendant regular costs beyond the costs of renting or owning and maintaining a home;
 - l. Marginally useful or excessive building and safety code requirements.
16. Allow use of on-site water and septic for smaller workforce housing developments.

Approval Standards and Procedures:

17. Review and revise types and degree of workforce housing incentives, such as:
 - a. Gradation of incentives depending on scope of affordability within the spectrum of income levels;
 - b. Gradation of incentives appropriate to the proposed type of development and the character of its environs.
18. Require analysis to determine efficacy of type and degree of proposed incentives for project feasibility.
19. Merge the two sets of Conditional Use Permit criteria and procedures governing workforce housing currently specified in sections 1.5.2 (applicable to all proposals subject to Conditional Use Permit) and 2.3.3.7 (specifically for workforce housing).
20. Develop criteria by which CUP allowance for further reductions in dimensional standards can be judged for compatibility with surrounding areas.
21. Eliminate procedural disincentives by such means as:
 - a. Combining CUP and Site Plan Review application requirements and procedures, and

- b. Other measures that make it no more difficult, expensive, and time consuming, and preferably easier and swifter, to obtain workforce housing development approvals than market-rate, particularly for subdivisions and larger projects.
22. Develop guidelines for site and building design (see Recommendation 2.a; see in the Appendix examples of well-designed compatible workforce housing developments). Form-Based zoning approaches could be very useful for this purpose.
 23. Abolish the Town's responsibility to administer workforce housing income verification requirements and procedures.
 24. Eliminate the provision for conversion of approved and unbuilt elderly housing to workforce housing.

Respectfully Submitted:
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DRAFT

HOUSING OPPORTUNITIES IN LONDONDERRY
Appendix

To: Town of Londonderry, NH, Planning Board
From: Jonathan Edwards, Arnett Development Group LLC
Date: February 11, 2015

Varieties of Workforce Housing—Examples:

Villages, forming new neighborhoods or extending existing neighborhoods, with diverse types and sizes of dwellings, and thus diverse rental and purchase costs—cottage, duplex, detached accessory, small apartments. 10-15 dwellings/acre



Eaton Row

12 dwellings/acre



Harriett Square Rowhouses

10 dwellings/acre



Battle Road Farm

2-4 dwellings/building; 10 dwellings/acre



Dermott Villas

8 dwellings/acre



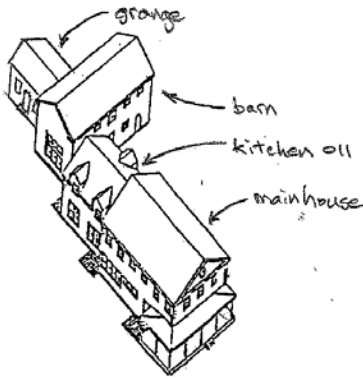
Cobb Hill Co-Housing

5 dwellings/acre



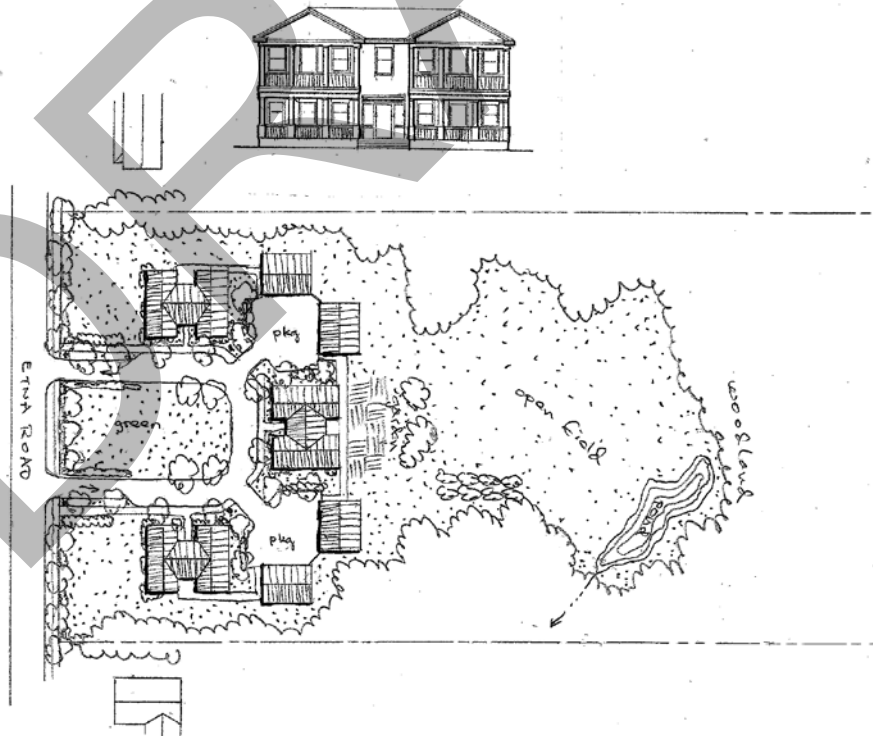
Farmstead:

Echoing an old rural tradition unique to New Hampshire: the main house, followed by a kitchen ell, barn, grange, housing several dwelling units of various sizes and costs; similarly, small structures attached or closely situated to form a coherent group. Density: 8 to 10 dwellings/acre.



Quadriplex Cluster:

Small, house-scale workforce developments in neighborhoods. Example below: new construction of house-scale buildings containing small apartments and common open space. Density 5-8 dwellings per acre.



New Hampshire Statutory Provisions for Workforce Housing:**RSA 672 Planning and Zoning, General Provisions:**

RSA 672:1, III-e. All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing shall not be prohibited or unreasonably discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

RSA 674:21 Innovative Land Use Controls. –

I. Innovative land use controls may include, but are not limited to:

- (a) Timing incentives.
- (b) Phased development.
- (c) Intensity and use incentive.
- (d) Transfer of density and development rights.
- (e) Planned unit development.
- (f) Cluster development.
- (g) Impact zoning.
- (h) Performance standards.
- (i) Flexible and discretionary zoning.
- (j) Environmental characteristics zoning.
- (k) Inclusionary zoning.
- (l) Accessory dwelling unit standards.
- (m) Impact fees.
- (n) Village plan alternative subdivision.

IV(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

RSA 674:59 Workforce Housing Opportunities. –

I. In every municipality that exercises the power to adopt land use ordinances and regulations, such ordinances and regulations shall provide reasonable and realistic opportunities for the development of workforce housing, including rental multi-family housing. In order to provide such opportunities, lot size and overall density requirements for workforce housing shall be reasonable. A municipality that adopts land use ordinances and regulations shall allow workforce housing to be located in a majority, but not necessarily all, of the land area that is zoned to permit residential uses within the municipality. Such a municipality shall have the discretion to determine what land areas are appropriate to meet this obligation. This obligation may be satisfied by the adoption of inclusionary zoning as defined in RSA 674:21, IV(a). This paragraph shall not be construed to require a municipality to allow for the development of multifamily housing in a majority of its land zoned to permit residential uses.

II. A municipality shall not fulfill the requirements of this section by adopting voluntary inclusionary zoning provisions that rely on inducements that render workforce housing developments economically unviable.

III. A municipality's existing housing stock shall be taken into consideration in determining its

compliance with this section. If a municipality's existing housing stock is sufficient to accommodate its fair share of the current and reasonably foreseeable regional need for such housing, the municipality shall be deemed to be in compliance with this subdivision and RSA 672:1, III-e.

IV. Paragraph I shall not be construed to require municipalities to allow workforce housing that does not meet reasonable standards or conditions of approval related to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.

Source. 2008, 299:2, eff. Jan. 1, 2010.

2013 Workforce Housing Purchase and Rent Limits, [RSA 674:58 - 61](#)

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, down payment, mortgage term, taxes, and insurance.

	Ownership 100% of 2013 HUD Median Area Income Family of four		Renters 60% of 2013 HUD Median Area Income Adjusted for a family of three	
	Income	Estimated Affordable Purchase Price ¹	Income	Estimated Affordable Monthly Rent ²
HUD Metropolitan Fair Market Rent Areas (HMFA):				
Boston-Cambridge-Quincy MA-NH	\$94,400	\$355,000	\$50,980	\$1,270
Hillsborough Co. NH (Part)	\$81,000	\$265,000	\$43,740	\$1,090
Lawrence, MA-NH	\$84,900	\$284,000	\$45,850	\$1,150
Manchester, NH	\$75,700	\$258,000	\$40,880	\$1,020
Nashua, NH	\$92,700	\$313,000	\$50,060	\$1,250
Portsmouth-Rochester, NH	\$84,000	\$291,000	\$45,360	\$1,130
Western Rockingham Co, NH	\$103,600	\$350,000	\$55,940	\$1,400
County Fair Market Rent Areas (Non Metro):				
Belknap County	\$69,000	\$248,000	\$37,260	\$930
Carroll County	\$63,900	\$247,000	\$34,510	\$860
Cheshire County	\$68,800	\$222,000	\$37,150	\$930
Coos County	\$56,100	\$188,000	\$30,290	\$760
Grafton County	\$69,400	\$244,000	\$37,480	\$940
Merrimack County	\$79,700	\$265,000	\$43,040	\$1,080
Sullivan County	\$65,900	\$224,000	\$35,590	\$890

¹ Estimated maximum price using 30% of income, 5% down payment, 30year mortgage at 3.66%, 0.7 points, PMI, and estimated taxes and hazard insurance.

² Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.

File: WrkfrchsgPurchaseAndRentLimits2013.xlsx - 2013
Print Date: 1/10/2013

Londonderry is located in the Western Rockingham County Metropolitan Fair Market Rent Area as defined by the US Department of Housing and Urban Development.

2014 Workforce Housing Purchase and Rent Limits, RSA 674:58 - 61

This is an update to information that New Hampshire Housing provided to the Legislature in 2008 as it deliberated on the Workforce Housing statute. The purpose of this table is to assist municipalities in implementing the NH Workforce Housing statute, RSA 674:58 - 61. This analysis incorporates statutory requirements, and includes reasonable market assumptions for the targeted households' income levels such as interest rate, downpayment, mortgage term, taxes, and insurance. Please note that this table provides information about the estimated maximum affordable purchase and rent amounts.

	Ownership 100% of 2014 HUD Median Area Income Family of four		Renters 60% of 2014 HUD Median Area Income Adjusted for a family of three	
	Income	Estimated Maximum Affordable Purchase Price ¹	Income	Estimated Maximum Affordable Monthly Rent ²
HUD Metropolitan Fair Market Rent Areas (HMFA):				
Boston-Cambridge-Quincy MA-NH	\$94,100	\$339,000	\$50,810	\$1,270
Hillsborough Co. NH (Part)	\$82,600	\$260,000	\$44,600	\$1,120
Lawrence, MA-NH	\$82,800	\$266,000	\$44,710	\$1,120
Manchester, NH	\$76,500	\$251,000	\$41,310	\$1,030
Nashua, NH	\$93,800	\$304,000	\$50,650	\$1,270
Portsmouth-Rochester, NH	\$84,300	\$284,000	\$45,520	\$1,140
Western Rockingham Co, NH	\$106,300	\$349,000	\$57,400	\$1,440
County Fair Market Rent Areas (Non Metro):				
Belknap County	\$70,500	\$245,000	\$38,070	\$950
Carroll County	\$63,000	\$236,000	\$34,020	\$850
Cheshire County	\$70,200	\$219,000	\$37,910	\$950
Coos County	\$54,800	\$179,000	\$29,590	\$740
Grafton County	\$67,200	\$229,000	\$36,290	\$910
Merrimack County	\$83,300	\$268,000	\$44,980	\$1,120
Sullivan County	\$66,200	\$215,000	\$35,750	\$890

¹ Estimated maximum price using 30% of income, 5% down payment, 30year mortgage at 3.98%, 0.7 points, PMI, and estimated taxes and hazard insurance.

² Estimated maximum gross monthly rental cost (rent + utilities), using 30% of income.

File: WkfrchsgPurchaseAndRentLimits2014 - 2014
Print Date: 1/30/2014

Source: New Hampshire Housing Finance Agency: <http://www.nhhfa.org/data-planning/planning/WorkforceHousing/2014WFPurchaseRentLimits.pdf>

Londonderry Zoning Standards:

Principal Requirements Relative to Workforce Housing:

Section 2.2 Use Table

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	PUD	POD - 102 ¹	POD - 28 ¹
RESIDENTIAL AND										
Agriculture	P	P						P ⁵		
Assisted Living Facilities		P	P	P	P		P	P ⁵	P	P
Back Lot Development	C							P ⁵		
Dwelling, multi-family	C ³	P, C ³	C ³	C ³	C ³	C ³		P ⁵		
Dwelling, single family	P, C ³	P, C ³	C ³	C ³	S, C ³	C ³		P ⁵		
Dwelling, two-family	P, C ³	P, C ³	C ³	C ³	S, C ³	C ³		P ⁵		
Elderly Housing	P	P	P	P	P	P		P ⁵	P	P
Manufactured housing	P, C ³	P, C ³								
Mixed use residential						P	P	P ⁵		
Mobile homes	P									
Nursing Home and accessory uses		P	P	P	P			P ⁵	P	P
Preexisting manufactured housing parks	P									
Presite Built Housing	P									

3 = Workforce Housing specific requirements, section 2.3.3.

5 = As part of an approved PUD master plan, section 2.8

Sections 2.3.3.10 through 2.3.4

These sections do not contain provisions concerning the size, location, or physical attributes of workforce housing developments. Rather these consist of qualification standards and administrative procedures particular to workforce housing, to ensure that a workforce housing development and its constituent rental and for-sale dwelling units remain affordable for low- and moderate-income households for 40 years.

The Preliminary Review of Londonderry Zoning Regulations, of November 5, 2014, found that these provisions are complicated far beyond what is necessary to achieve their purposes, imposing needlessly burdensome administrative responsibilities onto Town staff and considerable potential liability on the Town, and thus recommends abolishing the Town’s responsibility to administer workforce housing income verification requirements and procedures, so that the staff role becomes limited to enforcement of the purposes of these sections through periodic monitoring.

Sections 2.3.1, 2.3.2, and 3.6—Development Standards (*italics* indicates significant differences):

	<u>1-&2-Family</u>	<u>Multi-Family</u>	<u>Workforce</u>	<u>Elderly</u>
Incentive			<u>Workforce S-F:</u> in AR-1, 25% increase in density, or 50% frontage reduction	
Density	1.2 > /ac S-F 0.8 > /ac 2-F	5 /usable ac. pub. sewer 3 /usable ac. septic	<u>Workforce M-F:</u> 10 /ac	with public sewer: 6 DU /ac. market; 12 BR /ac workforce septic: per DES
Max. DU/bldg. Avg. BR/DU		16; 20 by CUP 2	16; 20 by CUP 2 for 51%+ of DU	16; 20 by CUP 2 avg. market 1 among majority of workforce units
Lot Size	35,000+ S-F 52,500+ 2-F		--	
Tract size	n/a	<i>unspecified</i>	20 ac.	15 ac.
Frontage	100-150' S-F 150-200' 2-F	100' tract	100' tract	50' + 50'?
Setbacks:				
Front/Side Street	40'	40'	40' internal road	
Side	<u>15'</u>	35'	35'	
Rear	<u>15'</u>	30'	30'	
Height max.	<u>35'</u>	50'	4 stories	35'
Bldg Separation	20'	30'	30'	60'M-F; 30'S-F
Bldg Footprint/Lot size		55%	--	
Parking	2 /DU	2.5 /DU	1.75 /DU	1.2 /BR
Perimeter Buffer		100' in AR-1 50' in C	50' in AR-1, C, I	30' AR-1, R-III 50' C, I
Open Space		40% of lot area	40% of lot area	70% market.; 50% workforce
Usable O.S. min.	30,000 sf	25%	25%	
Special Provisions	in R-111, 75% for elderly		75% of units to be workforce per RSA	
Road Design	Subdiv.Reg	Subdiv.Reg		
Other			CUP reduction in any dimensional requirement	

Conditional Use Permit Requirements Regarding Workforce Housing:

All criteria encompassed in both of the following sets must be met to the satisfaction of the Planning Board for a Conditional Use Permit to be granted for a proposed workforce housing development.

1.5.2 Conditional Use Permits

- A. As provided for in RSA 674:21, Innovative Land Use Control, this Section of the Zoning Ordinance allows the granting of conditional use permits, by the Planning Board, as follows:
1. The Planning Board may approve a conditional use permit as presented, approve it with conditions, or deny it.
 2. The Board may require an applicant to submit a performance security in a form acceptable to the Planning Board, depending on the scale of the proposed use.
 3. The Board may assess an applicant reasonable fees to cover the cost of special investigative studies, for review of required documents, reviewed by the Town’s legal counsel, and any third party consultant.
- B. The following criteria must be satisfied for the Planning Board to grant a Conditional Use Permit in the Commercial District:
1. Granting of the application would meet some public need or convenience.
 2. Granting of the application is in the public interest.
 3. The property in question is reasonably suited for the use requested.
 4. The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.
 5. The traffic generated by the proposed use is consistent with the identified function, capacity, and level of service of transportation facilities serving the community.
 6. There must be appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks, so as to assure public safety and to avoid traffic congestion.
- C. Additional Conditional Use Permit procedures and requirements may be found within the specific districts of this Zoning Ordinance (Section 2).

2.3.3.7 Standards and Requirements for Workforce Housing

A. Conditional Use Permit Criteria for Multi-Family Workforce Housing

- “1. In addition to the criteria from Section 2.3.3.4, the following criteria must be met for the Planning Board to grant a Conditional Use Permit for multi-family workforce housing:
- a. Granting of the application is in the public interest.
 - b. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.
 - c. The project shall be serviced by municipal sewer and water service from Manchester Water Works, Derry Municipal Water, or Pennichuck Water and be consistent with the Town’s Sewer Facilities Master Plan.
 - d. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 75% of the units meeting the definition of “workforce housing” under RSA 674:58.
 - e. All workforce units must be designed in such a way as to be indistinguishable (architecturally) from any “market rate” units included in the development. Architectural design of any multi-family buildings must be reviewed by the Heritage Commission for their recommendations to the Planning Board.
 - f. The project must be located on a tract of property or properties of at least 20 acres in size. The

Planning Board may consider a project smaller than 20 acres if the project proposed would be the conversion of a large single family residential structure into multiple units that is identified as a “historic property” and listed in the Historic Properties Preservation Taskforce Report, on file with the Heritage Commission. Such conversions shall not propose any additional structures on the property and shall be required to place a historic preservation easement on the historic structure. Any conversion of a historic structure shall also meet all of the other conditional use permit criteria from this section.

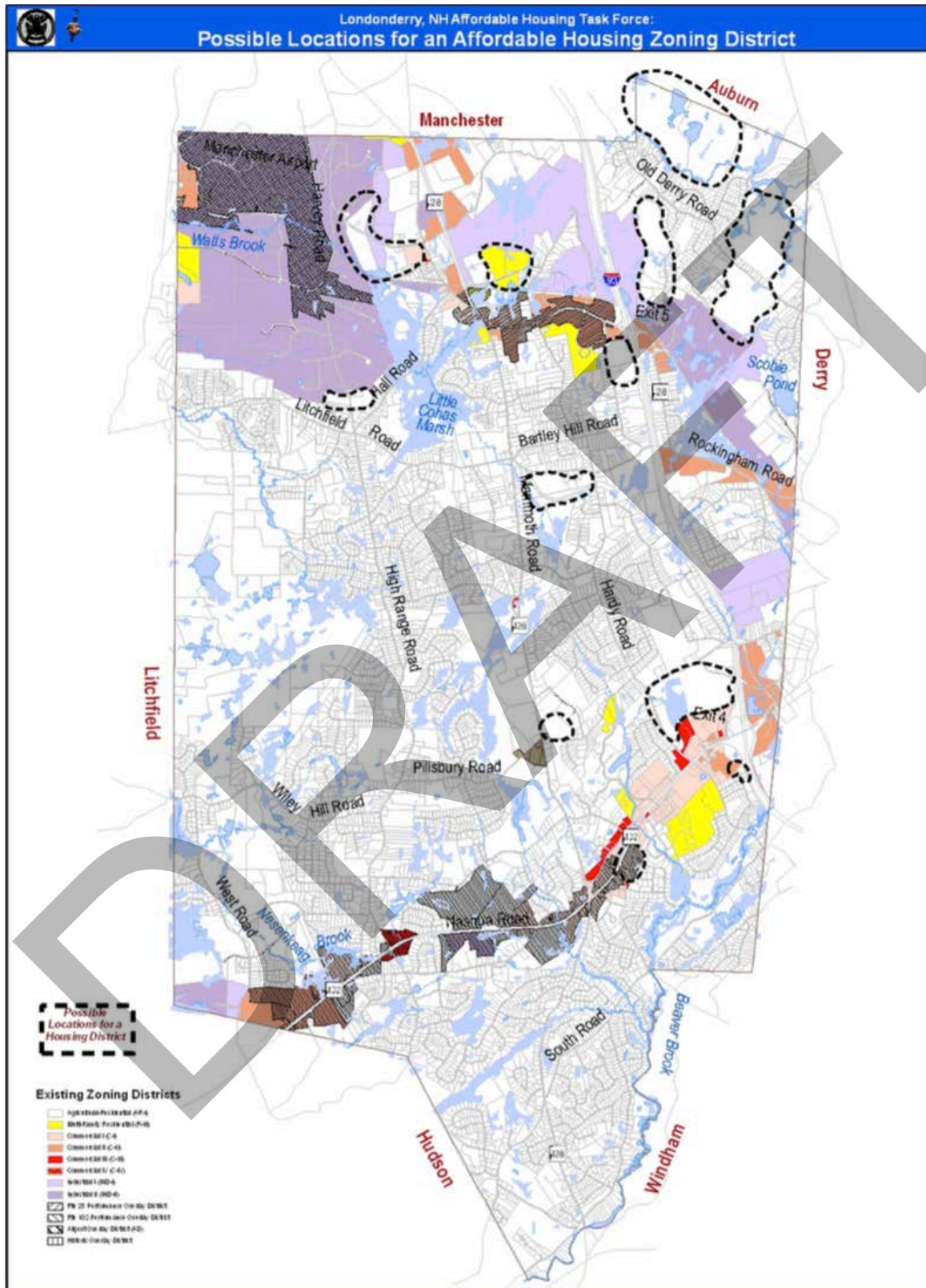
- g. The application demonstrates that project for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance with all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.”

While containing some criteria particularly germane to workforce housing, these approval criteria in section 2.3.3.7 are similar with Conditional Use Permit criteria for other types of developments, although the workforce criteria do not include some criteria that are common to other sets of conditional use criteria, such as:

The proposed use is consistent with the Objectives and Characteristics of the zoning district.

The applicant has demonstrated that the alternative design for which the Conditional Use Permit is sought better achieves the Objectives and Characteristics of the district, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with the Objectives and Characteristics of the district.

Londonderry Affordable Housing Task Force Report, 2008



2013 Master Plan: Sectors Description, page 152

Sectors

O-1 Preserved Open Sector

The Preserved Open Sector is assigned to areas that are permanently protected from development by law, conservation easement, ownership by land trust, or other similar means, and includes surface water bodies. Certain properties may possess reserved rights within existing conservation easements.

O-2 Reserved Open Sector

The Reserved Open Sector is assigned to open space areas that should be, but are not presently permanently protected from development. This Sector is comprised of floodplains and special flood hazard areas, steep slopes, utility corridors, farmlands, and land subject to the Town's Conservation Overlay District.

G-1 Restricted Growth Sector

The Restricted Growth Sector is assigned to areas that are currently vacant but may be subject to development. Future development should be restricted to that permitted under existing zoning or occur in the form of conservation subdivisions containing open space.

G-2 Controlled Growth Sector

The Controlled Growth Sector is assigned to areas that may support mixed use development due to proximity to one or more existing or planned thoroughfares. Development in this Sector should occur in the form of conservation subdivisions containing open space or activity centers.

G-3 Intended Growth Sector

The Intended Growth Sector is assigned to areas that may support substantial mixed used development due to proximity to existing or planned regional thoroughfares or transit. Future development should occur as complete communities in the form of activity centers.

G-4 Infill Growth Sector

Reserved. Not applicable in Londonderry.

G-5 Retrofit Growth Sector

The Retrofit Growth Sector is assigned to areas that are already developed in a suburban development pattern and have potential to be modified or completed as activity centers.

Locations of Growth Centers

See pages 7 & 9 in *Housing Opportunities in Londonderry* report.

G-1 Restricted Growth Sector:

Primarily AR-1

G-2 Controlled Growth Sector:

NE area between Rockingham, Brewster Roads, largely zoned IND-I&II
 Village Center Recreational/Village Center Common
 Route-102 POD Adams/Nashua/Old Nashua Rds west of Common/Town Forest
 C-II/Route-102 POD at Hudson line

G-3 Intended Growth Sector

North Village
 Woodmont
 Young Road/South Fire Station area

G-5 Retrofit Growth Sector

South Village Suburban Corridor Retrofit and East Nashua Road Commercial Corridor C-I&II to
 Exit 4 & Derry line
 Route-28 POD & adjacent commercial areas to east near Exit 5

Conservation & Growth Map



Conventional Suburban

 **Conventional Suburban Neighborhoods**

Conventional Suburban Neighborhoods are assigned to existing residential neighborhoods that contribute to more suburban type development patterns. These existing neighborhoods do not get redesignated as either Sectors or Special Districts, remaining "as is".

∞ PROGRESS IN WORKFORCE HOUSING ∞

A REPORT ON IMPLEMENTATION OF THE NEW HAMPSHIRE WORKFORCE HOUSING LAW

Prepared by the New Hampshire Housing Finance Authority

October 2010

Introduction

Two years ago, the New Hampshire Legislature passed a landmark law that requires every city and town to allow reasonable and realistic opportunities for the development of workforce housing. While the state's Supreme Court had said similar things in its 1991 decision in *Britton v. Town of Chester*, few municipalities in the ensuing years had responded with appropriate land use regulations. Indeed, many had adopted zoning and other land use regulations that were increasingly exclusionary, making it impossible to develop affordable housing.

Over the past decade, the Legislature created a series of study committees and commissions (HB 1199 (2000), SB 21 (2001), SB 190 (2006)), each of which concluded that there was a critical shortage of affordable housing in the state, and that the Legislature must act to compel municipalities to adopt appropriate land use regulations to allow for housing development. These conclusions were bolstered by studies commissioned by New Hampshire Housing and others that demonstrated the serious negative impact that a constrained housing supply was having upon the state's economy. This impact was reflected also in the views of the state's business community, which increasingly recognized that high housing costs were impacting their ability to hire and retain a skilled labor force. As a result of this, affordable housing legislation was the NH Business and Industry Association's top legislative priority for three years, until the Legislature responded in 2008.

2008 Workforce Housing Law

The New Hampshire Workforce Housing law (RSA 674:58-61; Chapter 299, Laws of 2008 (SB 342)) became effective on January 1, 2010. It requires all municipalities to provide "reasonable and realistic opportunities" for the development of homes that are affordable to low and moderate income families. The law is intended to address a statewide shortage of affordable housing, recognized by the Legislature as posing a threat to the state's economic growth,



presenting a barrier to the expansion of the state's labor force, and undermining state efforts to foster a productive and self-reliant workforce.

The new law defines “workforce housing” as homes that are affordable at a 30% cost burden to ownership households of four people making up to 100% of the area median income, or renter households of three making up to 60% of the area median income. The workforce housing law requires all municipalities to consider the economic costs of their land use regulations and to ensure that these regulations provide the opportunity for economically viable workforce housing development in a majority of their residentially-zoned area. The law also requires cities and towns to make provisions for multi-family residential development, and it gives developers the option of an accelerated appeal in superior court.

It is also important to recognize what the Workforce Housing law *does not* do. The law does not require that a certain percentage of housing must be affordable in any community. It does not allow developers to circumvent the local approval process, as is the case in some other states. It does not shift the burden of proof in the approval process—developers still must demonstrate that they are meeting local land use requirements.

The Workforce Housing law supports reasonable local standards related to environmental protection, fire and life safety protection, traffic safety, and standards pertaining to water supply and sanitary disposal. It also identifies “inclusionary zoning” as a means of meeting the standards of the law. Under separate state law, inclusionary zoning is defined as a regulatory inducement that municipalities may provide to encourage developers to voluntarily build affordable housing.

Local Responses to the Workforce Housing Law

Municipal responses to the workforce housing law have been very promising. Despite initial resistance based largely on misunderstanding of the law's requirements, starting with town meetings in 2009 and continuing into this year, several dozen communities have adopted zoning provisions aimed at providing opportunities for the development of workforce housing.

Because of the Workforce Housing statute's inherent flexibility, communities are developing different strategies to meet its requirements, given their own unique circumstances—such as the nature of the local real estate market, existing patterns of development, and peculiarities of the local land use regulations. But the approaches that are being taken can be roughly categorized.



- **Multi-family Housing:** the Workforce Housing law requires that multi-family housing of at least five units per structure be allowed in some location in each community. As a result, some municipalities have chosen to change their definitions, because they had historically not allowed multi-family housing at all or limited it to three- or four-unit structures. Some are establishing a maximum number of units in structures (such as five or eight). Generally, the standards that are being imposed seem consistent with patterns of development that would be expected in such communities. For example, very large structures would seem “out of character” in more rural communities, whereas larger towns could more comfortably accommodate such structures, both from an aesthetic standpoint and also meeting public safety concerns, particularly local fire protection capacity.
- **Inclusionary Zoning:** Several communities have adopted density bonuses or other similar incentives for developers who are willing to allocate a particular percentage of a development toward workforce housing. At the same time, these communities also require the recording of covenants to ensure the long-term affordability of workforce housing.
- **Accessory Dwelling Units:** Many communities, particularly smaller and more rural towns, are adopting standards for accessory apartments or modifying existing standards to make them easier to use. Accessory apartments not only provide an important supply of affordable housing, but they also make homes more affordable to their owner-occupants by providing a regular supply of income. Additionally, as homeowners age they may find that they prefer living in the accessory apartment and renting out the larger portion of the home as their living needs change.
- **Regulatory Flexibility:** In addition to inclusionary zoning, some communities have enacted flexible development standards that allow a workforce housing developer to identify the local regulatory provisions that unnecessarily add costs to a development, and that grant the local planning board the authority to waive those provisions in appropriate circumstances. Once adopted by a community, this flexibility may be exercised through existing statutory provisions for “conditional use permits” granted by planning boards.

Some communities, particularly smaller ones, have found that they have only needed to make minor changes to their regulations, such as altering their road construction standards to allow for more economical construction, and that they did not need to amend their zoning ordinances. Others have evaluated their ordinances and regulations and concluded that they are already providing reasonable



regulatory opportunities for the development of economically viable workforce housing.

Builders and developers are also beginning to understand the implications of the Workforce Housing law, and to evaluate its advantages and drawbacks. While the law does provide developers with certain tools, such as an accelerated appeals process, it also can impose significant requirements. These include increased financial scrutiny by local land use boards and restrictions requiring long-term affordability. The law does not allow developers to circumvent the local planning process. As a result of these requirements, some developers choose not to use the law's provisions. But others are finding that their proposals for high-quality affordable housing are being approved in communities that would have previously rejected them. Progress is being made.

To date at least forty-five communities have made regulatory changes as a result of the Workforce Housing law. The list below is based on anecdotal reports and newspaper accounts. It is not an assessment of the *quality* of the municipalities' efforts at meeting the law's requirements, only that these communities have made some zoning and other regulatory changes in response to the law.

2009	2010	
1. Alton	1. Barrington	15. Mason
2. Amherst	2. Bennington	16. New Durham
3. Atkinson	3. Brentwood	17. Nottingham
4. Auburn	4. Canterbury	18. Plainfield
5. Bedford	5. Chichester	19. Rye
6. Brookfield	6. Dublin	20. Salem
7. Brookline	7. Effingham	21. Sandown
8. East Kingston	8. Epping	22. Sandwich
9. Fitzwilliam	9. Hooksett	23. Sharon
10. Freedom	10. Jackson	24. Stratham
11. Goffstown	11. Kensington	25. Sunapee
12. Hampton Falls	12. Londonderry	26. Tuftonboro
13. Hollis	13. Loudon	27. Warner
14. New London	14. Madison	

In addition to these necessary regulatory changes, developers are finding that they are able to gain approvals for workforce housing developments in communities that have not traditionally been the homes for this sort of development. This is true of places such as Hooksett, Goffstown, Bow, Wolfeboro, Tilton, and



Meredith, where local boards have recently approved proposals for affordable and workforce housing.

The Role of the New Hampshire Housing Finance Authority

Working with the law has been difficult for many local planning boards, partly because it requires thoughtful analysis of the economics of land development and the regulatory fiscal impact of land use regulations. In response to requests for assistance, New Hampshire Housing has devoted substantial staff resources to help in this effort. In addition to many presentations at statewide planning and municipal conferences, New Hampshire Housing staff has also conducted approximately seventy-five meetings with local boards to help municipalities understand the law and address its requirements, and staff also provides recommendations on zoning proposals upon request by planning boards.

Earlier in 2010, New Hampshire Housing produced a guidebook for local land use boards – *“Meeting the Workforce Housing Challenge”* – that provides recommendations for analyzing a municipality’s land use ordinances and regulations and outlines approaches to understanding issues of economic viability. Continuing in this work in the fall of 2010, New Hampshire Housing is conducting a series of workshops on issues related to the workforce housing law. These are aimed at different audiences, including professional planners, developers and builders, real estate and finance professionals, and others.

In 2007, New Hampshire Housing created a grant program for municipalities to hire consultants to assist in the preparation and adoption of inclusionary zoning. This program was partly funded by the NH Charitable Foundation, the NH Community Development Finance Authority, and the NH Department of Transportation’s Community Technical Assistance Program. The objectives of this program were to create a base of knowledge about inclusionary zoning among the state’s professional planners and to develop a variety of models that other communities could consult as they considered creating their own ordinances. This effort was highly successful, and yielded a variety of inclusionary zoning approaches that are now being mirrored in other communities across the state as they work to meet the requirements of the Workforce Housing law.

New Hampshire Housing staff also works with the group of non-profit regional workforce housing coalitions that have been established over the past decade. These are grass-roots organizations that support the development of high-quality workforce housing throughout the state, with a focus on involving the local business community and educating local land use boards. The regional coalitions and New Hampshire Housing are working together to promote the establishment



of local housing commissions, enabled under recent state law to serve as a local voice for housing concerns.

All of this continues New Hampshire Housing's decade-long effort at providing information to local, regional, and state decision-makers on the condition of the New Hampshire's housing market and the factors that influence it. Now, local housing advocates and town planners are credibly voicing concerns over their communities' regulatory barriers to the development of housing that is affordable to New Hampshire's working families.

Conclusions

Some believe that the current economic downturn has solved the problem of housing affordability in New Hampshire. While it is true that the cost of housing has decreased, making home ownership more affordable than it was before, this change has only returned our statewide market to the position where it was a decade ago—the time when many people were expressing concerns about housing affordability. This is compounded by an ongoing shortage of rental housing throughout the state, and rental costs have not declined at all.

The New Hampshire economy is poised for growth. Now is the time for communities to take action to promote a sustainable housing market that fully meets the needs of the state's working families.

It is clear that many communities statewide have made legitimate and earnest efforts to meet the requirements of the Workforce Housing law. The steps taken by these several dozen communities mark an important change in New Hampshire, and many municipalities are finding that compliance with the statute is easier than they initially believed. For some communities, the only necessary changes may be to address multi-family housing and perhaps accessory dwelling units. Others might find that they can change their road construction and other development standards to reduce development costs. And still others might find that the opportunity to develop workforce housing already exists.

Even with these positive changes, much work remains to be done as many other communities face the need to make significant zoning changes to clear a regulatory path for workforce housing. Meeting this continuing challenge will require an ongoing commitment from public officials at state, regional, and local levels, working in concert with housing development professionals and housing advocates.

