

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF MAY 13, 2015 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**
4

5 Members Present: Art Rugg; Lynn Wiles; Laura El-Azem; Chris Davies; Rick
6 Brideau, CNHA, Ex-Officio; Scott Benson; Leitha Reilly, alternate member; Al
7 Sypek, alternate member; and Ann 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 7:01 PM. He appointed L. Reilly to vote for
15 M. Soares.
16

17 **Administrative Board Work**
18

19 A. Regional Impact Determinations – Stage Crossing Subdivision, Map 12 Lot 137;
20 2 Boyd Road Subdivision, Map 3 Lot 170
21

22 C. May stated Staff recommends that neither of the above mentioned projects
23 are developments of regional impact, as they do not meet any of the regional
24 impact guidelines prepared by Southern NH Planning Commission (SNHPC).
25

26 **L. Wiles made a motion to accept Staff’s determination that this**
27 **project is not a development of regional impact. R. Brideau seconded**
28 **the motion. No discussion. Vote on the motion: 7-0-0.**
29

30 B. Discussions with Town Staff
31

32 Staff had no topics to bring to the Board.
33

34 **Public Hearings/Workshops/Conceptual Discussions**
35

36 A. Proposed Zoning Ordinance Amendments – Public Hearing [Continued from
37 April 8, 2015]:
38

39 J. Vogl began by discussing the Housing Inventory Assessment memo that was
40 provided to the Board in April. He stated that the purpose of the memo was to
41 review the existing housing supply in Londonderry, as well as the recent
42 history of new construction, sales and rentals, in an attempt to conclude
43 whether demonstrated opportunities exist to construct workforce housing per
44 the requirements of the State RSA on workforce housing. J. Vogl emphasized
45 that the attempt was not to assess whether Londonderry has ‘met its fair
46 share’ quota under State law, but simply to document existing housing
47 conditions within the Town. When L. Wiles asked whether the term “fair share”
48 in the State RSA is a concrete concept, J. Vogl replied that no definition exists

1 to clarify what it means per se. A. Rugg added that the most relevant way to
2 ascertain its meaning is through the accumulation of case law. C. May further
3 explained that the concept of "fair share" is rooted in the overall nationwide
4 attempt to provide evenhanded housing opportunities to minority groups.
5 Because the economic variables associated with the concept are always in flux,
6 however, a definition is problematic as it is always a "moving target" based on
7 changing conditions within a given region. While some states have adopted a
8 concrete notion of the term, the NH State legislature made a conscious
9 decision not to do so.

10
11 J. Vogl presented a brief review of housing data specific to Londonderry. Using
12 the most recent town assessing data, a breakdown of housing types shows that
13 the majority of the town's 9,116 housing units are single family dwellings
14 (64%) and non-age restricted condominiums (19%) (see Attachment #1, p.
15 4). American Community Survey (ACS) data further identified that 88% of
16 those 9,116 units are owner-occupied. While one rental workforce housing
17 project is currently under construction in Londonderry (Map 12 Lot 59-3) and
18 another has been approved by the Board (Map 16, Lot 3), there are presently
19 no dedicated rental workforce housing units in town as defined under the
20 zoning ordinance. Multi-family structures, defined by the State as having 5
21 units or more, account for 162 of the town's total dwellings and are chiefly
22 condominium complexes. Sixty six percent of those dwellings were built in the
23 1970's, while an additional 20% were constructed during the 1980's.

24
25 The term "affordable," as it relates to housing in Londonderry at this time, can
26 be defined as a purchase price of \$349,000 for an annual family income of
27 \$106,300. An affordable rental cost is currently assessed at \$1,440 per
28 month, based on an income of \$57,400 per year. Since approximately 55% of
29 Londonderry households earn under \$100,000, workforce housing is relevant
30 to the majority of Londonderry residents. Of all house sales that took place in
31 town between 2013 and the present, from single family to condominiums to
32 mobile homes, 77% fall under the category of affordable according to those
33 figures. Only 29% of new home sales within the same time frame would be
34 considered affordable. With a median rental cost of \$1,035, nearly all rental
35 properties in Londonderry are below what would be deemed as affordable. J.
36 Vogl noted that while these existing units can be considered affordable, their
37 costs are subject to market conditions and are not restricted by the
38 requirements of the workforce housing ordinance. He also pointed out that
39 most rental units were constructed 40 years ago, which begs the question as to
40 whether what is defined in Londonderry as affordable apartments can
41 adequately meet the demands of today's workforce population who typically
42 desire more modern accommodations.

43
44 A. Rugg asked for questions and comments from the Board.

45
46 C. Davies offered that while most condos and condominiumized rentals are 30
47 to 40 years old, many have most likely been renovated by their owners to one
48 degree or another. J. Vogl agreed, but stated the data reveals that
49 opportunities for new affordable construction are relatively sparse. C. Davies
50 offered that several larger multi-family developments built over the past

1 decade, such as the Vista Ridge apartments (which were condominiumized),
2 have surely provided significant affordable opportunities. C. May noted that
3 while the State statute allows for a town's current housing stock to be included
4 in their demonstration of whether they are providing affordable housing
5 opportunities, the State generally views the spirit of the affordable requirement
6 in terms of what reasonable and realistic affordable housing opportunities a
7 town is *currently* providing, not necessarily what it provided in the past. She
8 said it is generally when a town is defending its regulations in court that the
9 entirety of the housing stock is examined. Town consultant Jonathan Edwards
10 of ADG explained that a town's ordinance must be viewed for legal purposes as
11 providing the economic incentive to builders to construct affordable housing
12 since the costs of land, construction, permits, etc. have made the majority of
13 new housing less than affordable by definition based on median incomes. If
14 the town cannot adequately encourage construction (as well as maintenance in
15 the case of rental units) of new affordable housing, the overall stock of
16 affordable units will begin to diminish and the town will be at a greater risk of
17 having to defend the adequacy of its workforce housing ordinance. While this
18 may appear, as some Board members stated, to only benefit the developer, J.
19 Edwards said their financial ability to provide affordable housing in turn
20 benefits residents and potential residents who cannot afford new construction.
21 J. Vogl noted that the recent variances granted by the Zoning Board of
22 Adjustment have underscored the inability of the current ordinance to provide
23 reasonable conditions under which a developer can afford to build what would
24 be considered affordable while still being able to realize a reasonable return on
25 their investment.

26
27 C. May explained that the current ordinance was apparently designed to assist
28 the town in fulfilling the requisite amount of reasonable and realistic
29 opportunities more quickly through such means as requiring a minimum lot
30 size of 20 acres and requiring a minimum ratio of workforce units of 75%.
31 Instead of "getting there faster," the unintended consequences were that large
32 scale developments were proposed that required variances to lower the
33 percentage of workforce housing units in the project so that the developer
34 could make a reasonable return. The ordinance was therefore unrealistic in
35 terms of economics and encouraged developments not viewed as compatible
36 with the overall character of Londonderry. One of the proposed changes to the
37 workforce housing ordinance would help to provide more reasonable and
38 realistic opportunities by allowing smaller scale affordable housing
39 developments in the AR-I zone that can blend with existing residential areas.
40 Larger, multi-family developments would be only be permitted on AR-I zoned
41 properties that are adjacent to commercial and industrial lots where their scale
42 and number of units would be more appropriate and act as a transitional area
43 between the two zones. Multi-family workforce housing would also be allowed
44 within the commercial zones themselves, where a mixed-use approach would
45 make more sense, and otherwise restricted to the R-III zone so that their scale
46 and form do not infringe on the established residential character in the
47 majority of the AR-I zone. In all these cases, the availability of public water
48 and sewer would be a requirement under the ordinance. Amending the
49 ordinance to encourage the use of accessory dwelling units is another example

1 of making changes that will provide better affordable housing opportunities. It
2 is also an issue being promoted by the State legislature.

3
4 L. Wiles questioned how Londonderry could adjust what region they are
5 considered to be a part of since a given town's median incomes and targeted
6 housing costs are impacted by being grouped with communities that may have
7 greater or lesser affluence and rural character. C. May replied that the regions
8 are set by the US Department of Housing and Urban Development (HUD), and
9 A. Rugg added that the town's Congressional delegation would therefore be the
10 group to appeal to. L. Wiles noted that it makes little sense for a town like
11 Windham to have a lower targeted rental rate than Londonderry, while
12 Windham residents on average earn more than their Londonderry counterparts.
13 A. Rugg suggested inviting the Director of HUD in NH, resident Greg Carson, to
14 a meeting to explain how the determinations are made.

15
16 A. Rugg entertained public input.

17
18 Pauline Caron, 369 Mammoth Road, noted that the State workforce housing
19 RSA states that existing housing stock can be considered when assessing a
20 given town's compliance with State law. A. Rugg stated that a town's
21 ordinance must provide "reasonable and realistic opportunities for the
22 *development* of workforce housing (emphasis added), indicating that the intent
23 is also to look to the future of a town's development and ensure that it
24 continues to conform to State law. The intent of the revisions to the town's
25 ordinance is to fulfill the town's obligation, but do so in a way that restricts
26 large multi-family workforce housing developments and thereby maintains
27 Londonderry's present character.

28
29 Martin Srugis, 17 Wimbledon Drive, expressed concern that the terminology
30 being used in the presentation and discussion was too "bureaucratic" and
31 should be less formal in order for the public to follow and support it. A. Rugg
32 pointed out the need to communicate in legal terms in order to comply
33 appropriately with the law and avoid legal difficulties. J. Vogl explained that
34 the intent is to identify the current housing supply in town and examine
35 whether it does and will continue to meet the demands of various different
36 groups of people (employers/employees, younger generations, 'downsizers,'
37 those below and above the median income, etc.) for different types of housing,
38 particularly new construction. The changes proposed to the ordinance
39 therefore also attempt to meet the varying needs of varying demographic
40 groups.

41
42 Deb Paul, 118 Hardy Road, stated her concern that the opinions of residents
43 are not being considered sufficiently by the Board, despite the Board's
44 invitation for the public to speak. She also stated that the workforce housing
45 case law that shapes the ordinances and regulations does not necessarily apply
46 to Londonderry because those cases involve more rural, less populated towns.
47 D. Paul and M. Srugis asserted that the issue the Board should focus on is that
48 of developers being granted variances from an ordinance that was presented
49 as being legally defensible when it was created. They stated the appearance
50 that developers are granted variances because they choose not to comply with

1 the ordinance and request relief from it. Board members and Staff, however,
2 maintained that the issue is one where variances are granted to developers
3 precisely because the current workforce housing ordinance is not defensible
4 since it does not allow for developers to create economically viable workforce
5 housing developments and therefore does not provide the reasonable and
6 realistic opportunities for workforce housing as required by the RSA.

7
8 Staff's presentation continued with a review of proposed changes to the
9 ordinance. J. Vogl gave a brief history of the development of the proposed
10 changes (Attachment #1, p. 11), stating that their origins are based on the
11 town's economic development needs, including the ability to recruit and retain
12 a qualified workforce and to meet the changing demands and preferences of a
13 younger generation. It is not legal under the RSA for a town to have zoning
14 requirements that make the development of workforce housing cost
15 prohibitive. The law also requires that some form of workforce housing be
16 allowed in a majority of the residentially zoned area of a given town, and
17 further states it is each town's responsibility to demonstrate their conformity to
18 State law. The goal of the amendments is therefore to allow greater flexibility
19 in order to demonstrate conformity with State law in a way that does not
20 frustrate the traditional design of Londonderry.

21
22 J. Vogl reviewed each proposed amendment, along with the rationale behind
23 them (Attachment #1, pp. 15-32). They include the removal of restrictions
24 that currently make workforce housing economically unviable, including those
25 related to phasing and minimum acreage requirements. Also proposed are new
26 housing types to Section 2.2, the Use Table, to diversify housing opportunities
27 and promote the mixed use encouraged by the town's Master Plan. The
28 retention of affordable units over a 40 year period (Section 2.3.4), was
29 rewritten to place the responsibility of demonstrating continued affordability on
30 the property owner instead of on the Town, which does not have the expertise
31 or resources to meet those obligations and would be exposing itself to liability
32 by attempting to do so. Instead, the Town will be provided with annual reports
33 and legal documentation by owners in order to monitor compliance. Additional
34 changes consist of "housekeeping" items that will remove outdated material,
35 clarify and streamline sections, and expand existing sections with increased
36 flexibility. Elderly housing, nursing homes and assisted living facilities are also
37 addressed in the amendments, to respond to community needs and concerns
38 expressed during the Master Plan Comprehensive Update process and treat
39 similar uses with consistency in the ordinance.

40
41 A. Rugg asked for Board input.

42
43 A. Chiampa verified with J. Edwards that independent elderly housing includes
44 a requirement for handicapped accessibility. She also received clarification on
45 several practical specifics within the existing and proposed language, including
46 the fact that increasing the number of units allowed on a residential lot
47 serviced by on-site septic will still require the developer to show that the soil
48 type(s) can support the proposed number of units. C. May added that doing so
49 is one of the criteria for the Conditional Use Permit (CUP) approval needed to
50 develop any small workforce housing. A. Rugg noted that the requisite CUP

1 will give the Planning Board the ability to examine and control the overall
2 suitability of such developments to their surroundings.

3
4 L. Reilly received clarification that accessory dwellings are not designated
5 workforce housing per se, therefore while they provide additional options for
6 workforce housing stock within the town, they are not subject to the
7 restrictions of the workforce housing ordinance and will not place those
8 restrictions on the homeowner adding the accessory unit. C. May added that
9 the State is in the process of approving legislation that would remove existing
10 restrictions on such things as the size of an accessory dwelling in order to
11 encourage their use. L. El-Azem verified that accessory units would, however,
12 be regulated by the AR-I zoning requirements, e.g. height limitation, building
13 setbacks, etc.

14
15 L. El-Azem also confirmed Staff's findings that Londonderry is the only NH town
16 that requires a 75% rate of workforce housing units in a building, and that
17 most only require as much as 33%, which resulted in the recommended
18 amendment from 75 to 33%. She verified that Staff only knew of two towns
19 that require a rate of workforce housing units of 50%.

20
21 L. Wiles asked that Staff and ADG verify whether the proposed language
22 restricting large multi-family workforce housing from residential lots (except for
23 those with public water and sewer abutting non-residential zones) will actually
24 produce those results. C. Davies made the same request to carefully vet
25 proposed language, noting the several unintended consequences the town has
26 encountered because of the current ordinance. He also expressed his concern
27 for the scale of multi-family buildings, even in the commercial zones, and said
28 he did not support removing the limitation on the number of units in a building.
29 L. Wiles stated that building size should not be controlled by limiting the
30 amount of units and that some other type of method should be developed. A.
31 Rugg noted that the requirement for a CUP in those cases would still give the
32 Board significant controls. Staff encouraged Board members with similar
33 concerns over scale and the number of units to consider what limitations they
34 would prefer. C. May added that another way to control size would be to allow
35 the Board flexibility, via the CUP criteria, in making adjustments deemed
36 appropriate with proper justification.

37
38 A. Sypek asked if any investigation had been done to determine whether the
39 proposed housing types would be able to comply with building fire codes. J.
40 Edwards stated there are separate codes required when separate full units are
41 added to a single family dwelling, but otherwise nothing beyond typical fire
42 codes would apply. C. May noted that the issue of fire codes would be
43 addressed in the process of obtaining a building permit.

44
45 R. Brideau noted that four rental units on a single piece of land would be
46 categorized as a commercial building for tax assessing purposes and confirmed
47 with J. Edwards that from a land use and zoning ordinance standpoint, they
48 would still be considered residential as long as they are used as living space.

49

1 C. Davies received clarification on the reasoning behind the limitation of 72
2 units per year in multi-family workforce housing. C. May explained that the
3 economic feasibility studies prepared for the ZBA in their cases regarding
4 workforce housing shaped this decision, coupled with the lack of public benefit.
5 It was determined that the more restrictive phasing limitations were unrealistic
6 for financing purposes on the part of the developer, while also a burden on
7 abutting residential owners who had to unnecessarily endure additional years
8 of development. When he asked why footnote 6 in the Use Table (Section 2.2)
9 was added, it was clarified that those two projects (on Map 12 Lots 120 and
10 131 and Map 10 Lot 92) would actually not be protected under State law from
11 the proposed changes since they had not submitted an actual application to the
12 Planning Board. Under Section 2.3.1.7, Accessory Dwellings, C. Davies asked
13 how item M could be enforced, i.e. the loss of accessory use status when the
14 primary dwelling is not owner-occupied for more than one year. C. May
15 acknowledged that enforcement would be problematic, but added that
16 neighbors often act as the key to initiating enforcement action when
17 disturbances are created. C. Davies suggested adding the specific percentage
18 to the term "proportional" under Section 2.3.3.4.A.6, where the relationship
19 between market rate and workforce housing units is discussed, since that
20 percentage is noted elsewhere in the ordinance. He also recommended
21 increasing the permitted density in elderly housing projects of eight units per
22 acre to ten units to match the permitted density of multi-family workforce
23 housing under Section 2.3.3.4.B.4. C. May stated that Staff agreed with that
24 point. C. Davies also asked that Staff confirm whether his interpretation of
25 Section 2.3.3.4.B.11.a is correct. i.e. that no buffer exists in those instances
26 when a multi-family workforce housing project on an AR-I lot abuts a
27 commercial or industrial lot when those incompatible uses are separated by a
28 highway. He also questioned the need for proposed Section 2.3.3.7, Live-
29 Work Units, as he did not think there would be a demand for that type of
30 housing in Londonderry. C. May noted the lack of demand may be due to the
31 fact that it is not a currently permitted use and noted the flexibility within the
32 language could appeal to those interested in a small scale, mixed-use
33 workforce housing choice. Staff and A. Rugg pointed to areas in the northwest
34 part of town, including the Old Village and Pettengill Road, where this kind of
35 use may succeed. C. Davies questioned the requirement under Section
36 2.3.3.6, Small Workforce Housing Developments, that each unit must contain
37 at least two bedrooms. C. May answered that the requirement is State law. He
38 confirmed that the definitions under the Elderly housing ordinance, Section
39 3.6.3, will be expanded. He expressed the need to encourage opportunities for
40 smaller scale, independent affordable elderly housing for those seniors who
41 wish to stay in Londonderry and for whom assisted living is not yet a need. C.
42 May stated that Staff is looking into that concept and that two new definitions
43 related to elderly affordable housing have been added to the ordinance. She
44 agreed that more work can be done to promote affordable elderly housing. C.
45 Davies also suggested lessening the open space requirements for elderly
46 housing (Section 3.6.4.E) in order to encourage that type of development.

47
48 Lastly, J. Edwards pointed out for clarification that on p. 55 of the amendments
49 (see Attachment #2), the reference to Section 2.3.3.7 under item number 5
50 should read 2.3.3.4 instead.

1
2 A. Rugg asked for public input.
3

4 Richard Flier, 9 Isabella Drive, gave high praise to the proposed amendments,
5 stating they are "in keeping with the most livable communities across the
6 country." He said they will help preserve Londonderry's character and way of
7 life, while balancing it with the economic benefits of non-residential
8 development that will share the tax burden.
9

10 M. Srugis asked what assurances the Planning Board could give to residents
11 that the specifics of the workforce housing ordinance would not be changed
12 again in the near future if a developer argues that the proposed ordinance is
13 not economically feasible. A. Rugg and J. Vogl noted the flexibility of the
14 proposed language will offset that possibility, along with the language being
15 based in part on economic facts presented to the Town via the ZBA. Since the
16 original ordinance was claimed by the then Town Attorney to be defensible, he
17 questioned whether this proposed ordinance will experience the same problem.
18 He also suggested developers use lower cost materials for their developments
19 instead of the "high end" materials seen in the workforce housing
20 developments brought to the Planning and Zoning Boards.
21

22 D. Paul stated her belief that a disconnect exists between the Planning and
23 Zoning Boards since at a recent ZBA meeting, Board members did not appear
24 to be aware that the Planning Board was reexamining the workforce housing
25 ordinance. She echoed M. Srugis' concern that developers will continue to
26 request variances based on economic reasons, therefore the Planning Board
27 should ensure that the ZBA is aware of the amendments and their intent. A.
28 Rugg noted the ZBA's focus is a very narrow one by and is based on the
29 ordinance in place at that time, but that the ZBA does have input on proposed
30 ordinance changes and the two Boards share information through Staff as well.
31

32 David Nease, 11 Faye Lane, stated his lack of confidence in both the Planning
33 Board and the ZBA to enforce the ordinance based on the amount of relief
34 granted recently to workforce housing projects by the ZBA. A. Rugg replied
35 that the number of variances granted to those projects is more a reflection that
36 the existing ordinance is not effective. D. Nease questioned whether the
37 proposed ordinance amendments were to benefit those looking for workforce
38 housing or are intended to encourage developers to build in the industrial area
39 around the airport because workforce housing would be provided to their
40 employees.
41

42 P. Caron stated her objection to lowering the workforce housing unit ratio from
43 75% to 33%. If developers who obtained variances from the ZBA
44 demonstrated that their project could make money with a 50% ratio, then she
45 said the Town need not lower it past that.
46

47 John Curran, 6 Faye Lane, asked if the case law referred to during the meeting
48 could be compiled for the public. A. Rugg suggested Staff contact the Town
49 Attorney. C. May clarified that Staff was not referring to case law, but that

1 going forward, there will be workforce housing projects in place to serve as
2 case studies.

3
4 Chris Paul, 118 Hardy Road, questioned whether the opportunity for workforce
5 housing in the commercial areas or on specific AR-I parcels abutting non-
6 residential lots was a valid opportunity if town water and sewer would be
7 required on the part of the developer. A. Rugg replied that although it would
8 not be the Town's responsibility to provide public water and sewer, the Town
9 would still be fulfilling its duty to provide the opportunity to develop workforce
10 housing. C. Paul also agreed with others who felt the ratio of workforce
11 housing units in a building should be 50% in order for it to be truly serving the
12 workforce. Later in the meeting, **A. Rugg polled Board members on the**
13 **issue in order to direct Staff accordingly. Consensus from the Board**
14 **was to increase the percentage of workforce housing units from 33%**
15 **to 50%.**

16
17 Mike Speltz, 18 Sugarplum Lane, noted to the Board that the detailed economic
18 analyses performed at the request of the Zoning Board can help the Planning
19 Board determine what costs drive workforce housing projects and therefore
20 help shape the ordinance to comply with the State RSA. He noted that land
21 acquisition costs in the two reports were low (approximately 4% at the most),
22 therefore reducing land area requirements should not be of great benefit to
23 developers. Costs appear to be driven by such things as phasing, building size
24 and the number of units per building. He therefore responded to Board
25 concerns about allowing an unlimited number of units in a building and
26 suggested a cap be determined through an ordinance that allows flexibility; a
27 sliding scale could be created where the more units a developer seeks per acre,
28 the greater the building setbacks must be, combined with a further
29 requirement to vegetate the resulting buffers. C. May replied that the idea
30 could be examined and if used, might be best addressed as one criteria within
31 the Conditional Use Permit process. Along the same aesthetic lines, M. Speltz
32 also cautioned allowing nursing homes and multi-family elderly housing in the
33 AR-I district because of their typical larger size. Nursing homes in particular,
34 he said, are more suited to commercial districts because of the numerous
35 services they provide as well as the fact that most need to be larger in scale to
36 make the business profitable. If they are to be permitted in the AR-I zone, he
37 recommended that like multi-family workforce housing, they be placed on
38 larger AR-I parcels abutting non-residential zones. C. May stated her
39 agreement with possibly restricting nursing homes to where their size is more
40 appropriate. M. Speltz's final suggestion was to dispose of the detailed
41 requirements in the parking ordinance and simply obligate a developer to
42 provide the minimum amount of parking needed for his specific use. A guide
43 based on some industry standards can be used by the Board to aid in
44 approving the proposal, but both parties, he noted, are interested in
45 minimizing pavement. Less impervious surface keeps the developer's costs
46 down and protects water quality and aesthetics for residents. C. May noted
47 that the parking ordinance will be addressed in its entirety at a later date,
48 including the removal of parking requirements from the zoning ordinance itself
49 and transferring them to the site plan regulations where they are better suited.
50

1 There was no further public input.

2
3 C. May asked for consensus from the Board regarding the following items to
4 allow Staff to post additional amendments to also be considered at the next
5 public hearing:

- 6 • Adding a "C" to the "6,7" under the AR-I zone in the "Dwelling, multi-
7 family workforce" category of the Use Table, Section 2.2, so that the
8 issue would be addressed through a Conditional Use Permit;
- 9 • Adding the date of May 13, 2015 in that footnote associated with item 6
10 above to better clarify for the user when the "first public hearing on
11 these amendments" took place;
- 12 • Replacing the original wording of footnote 6 with the three separate
13 points presented in tonight's amendments (see Attachment #2, p. 19) to
14 better clarify the conditions within that footnote;
- 15 • Amending the 1,000 square foot limitation on accessory dwellings to say
16 "The maximum size for an accessory dwelling unit shall be in accordance
17 with NH RSA 674:68 and as amended" to comply with proposed State
18 legislation if it is approved;
- 19 • Adding a subsection to the accessory dwelling ordinance stating "Every
20 accessory dwelling shall be deemed a unit of workforce housing" ;
- 21 • Amending the definition of elderly affordable rental housing to read
22 "Housing units that are intended for elderly leasehold residential
23 occupancy by those age 62 and over, as provided for in RSA 354-A:15,
24 where rent plus utilities for the dwelling unit does not exceed 30% of the
25 allowed individual household income as defined by the US Department of
26 Housing and Urban Development";
- 27 • Amending the definition of elderly affordable owner occupied housing
28 similarly;
- 29 • Including wording in Subsection 3.6.4.I.B that states "For sites without
30 municipal water and/or sewer: The minimum necessary to comply with
31 NH Code of Administrative Rules Chapter ENV-Ws 1000 (ENC-Ws
32 1005.03 Minimum Lot Sizes) Latest Revision." Doing so will match lot
33 sizing for elderly housing with that of other residential housing;
- 34 • Making minor typographical changes (see Attachment #3, p. 2).

35 Consensus from the Board was for Staff to add the proposed
36 amendments to be reposted for the June 10, 2015 public hearing.
37

38 **A. Rugg entertained a motion to continue the public hearing to June**
39 **10, 2015. L. Wiles so moved. R. Brideau seconded the motion.** No
40 discussion. **Vote on the motion, 7-0-0.**

41
42 A. Rugg stated the June 10, 2015 public hearing would begin at 7 PM in the
43 Moose Hill Council Chambers and that this would be the only official public
44 notice.
45

1 B. Hillside Senior Housing (Owner and Applicant), Map 10 Lot 92 - Public Hearing
2 to consider the applicant's request to rezone Lot 92 from Agricultural-
3 Residential (AR-I) to Multi-Family Residential (R-III) at 105 Hillside Avenue.
4

5 Developer Joe Caldarola of Portsmouth, NH spoke for owner Mike Lehrman of
6 Hillside Senior Housing. He said:

- 7 • The parcel is 16 acres on Hillside Avenue. It abuts AR-I on two sides,
8 and R-III on two sides;
- 9 • The original intent of the project was to qualify as workforce housing
10 with seven to eight townhouses and up to 96 units. Two variances were
11 received from the Zoning Board, however the project was then put on hold
12 when proposed amendments to the workforce housing ordinance were
13 announced;
- 14 • During project discussions, the applicant and owner determined that
15 there would be more advantages to rezoning the parcel to R-III, particularly
16 since the project would not have to meet the various conditions of the
17 workforce housing ordinance;
- 18 • The lot has a steep thirty foot grade slope. The topography lends itself
19 to smaller, higher value buildings that would still sell under as market rate
20 housing;
- 21 • The new conceptual site plan shows duplexes on the down hillside with
22 townhouses on the upper hillside. The duplexes would be offered both as
23 one level, senior friendly units with a one car garage, and for families with
24 three bedroom units and a second floor. This would address a need in the
25 market currently not being met;
- 26 • The owner has met with the abutters to hear their concerns regarding
27 the previous project of ninety six units.

28
29 A. Rugg asked for Staff input.
30

31 J. Vogl read into the record a letter from abutter Brenda M. Kelly of 100
32 Hillside Avenue who was unable to attend the meeting (see Attachment #4).
33

34 A. Rugg noted that this hearing was solely about rezoning of the property. He
35 explained that the applicant would need to go before the Heritage Commission
36 for recommendations on building design and landscaping, and then to Planning
37 Board for site plan approval.
38

39 C. May stated Staff supports a Planning Board recommendation to the Town
40 Council that they approve the rezoning of Map 10 Lot 92 currently zoned
41 Agricultural-Residential (AR-I) to Multi-Family Residential (R-III) as discussed
42 at the May 15, 2015 Planning Board meeting because:
43

- 44 • It reduces the number of units that could potentially be built if the
45 applicant pursued their aforementioned workforce housing project;
- 46 • It addresses the need in Londonderry for that type of housing and its
47 price point;
- 48 • It makes for a better community in terms of layout;
- 49 • The proposed duplexes and townhouses have a similar scale to single

1 family homes.

2
3 A. Rugg asked for Board input.

4
5 C. Davies inquired as to what is permitted in R-III in the event this project did
6 not proceed and another developer chose to develop the lot. C. May explained
7 the rezoning could be made subject to this specific conceptual proposal (see
8 Attachment #5) and its final approval (plan signature) by the Board. She told
9 C. Davies that the resolution to be voted on by the Town Council contains that
10 kind of project specific detail in the rationale for the change. J. Caldarola
11 stated his engineer, Eric Mitchell & Associates, calculated that the maximum
12 number of units allowed on this lot with an R-III zoning would be 57.
13 J. Caldarola said he would be willing to give up the option of qualifying the plan
14 under workforce housing with ninety six units, especially since this new
15 proposal offers elderly housing in addition to family housing.

16
17 L. El. Azem asked J. Caldarola about the two points of access, one from Hillside
18 Ave and the other from Beacon Street. J. Caldarola stated they have meet
19 with Staff and the Fire Department regarding the access at Beacon Street. He
20 said it would have an automatic gate and would only be used by Fire and
21 Safety vehicles.

22
23 L. Reilly stated she likes the transition, that it is a good use of the space, and
24 that the neighbors would likely appreciate the buffer to commercial lots.

25
26 A. Rugg asked for public input.

27
28 Bob Ross of 2 Holmes Street stated:

- 29 • Other than the first meeting, he has had limited conversations with J.
30 Caldarola. He stated discussions were mainly held with residents that live
31 on Hillside;
- 32 • The project was originally for senior housing, then changed to workforce
33 housing, and is now multi-family;
- 34 • Of the 16.4 acres, he was told only 11 were considered buildable
35 because of wetlands on the property;
- 36 • He has concerns regarding the proposed entrance having been moved
37 further southwest along Hillside Ave compared to previous plans because
38 that is the narrowest part of the road and winter snow drifts tend to
39 accumulate there;
- 40 • He is in favor of the proposal for fewer units;
- 41 • He has concerns about the visibility of roof tops from the rear of his
42 house on Holmes Street, about only having a vegetated buffer of 20-30
43 feet, about whether the buffer of trees can be removed by the owner, and
44 whether the development will have an association

45
46 A. Rugg stated that site plan review before the Board would occur if and when
47 the re-zoning is approved by the Town Council. At that time, a separation
48 using fencing and vegetated buffer will be reviewed, traffic and soil studies will
49 be performed, and off-site improvements for safety will be addressed. He
50 encouraged the applicant to continue to work directly with the abutters.

1
2 Robert Holden of 6 Homes Street stated:

- 3 • He is also in favor of fewer units;
- 4 • He echoed B. Ross concerns regarding the project going from senior
5 housing to workforce housing to multi-family;
- 6 • He questioned the density factor and any future proposed changes to the
7 number of units allowed. A. Rugg reiterated C. May's comment t that the
8 rezoning of the lot would be made subject to the specifics of this conceptual
9 proposal and final site plan approval. . C. May stated the rezoning would go
10 to the Town Council with two meetings, the second meeting being a public
11 hearing.
- 12 • He inquired about light pollution. C. May explained that such issues
13 would be addressed during the site plan review before the Board.

14
15
16 Dennis and Eva Marvell of 53 Hillside Avenue in Derry stated:

- 17 • They share the same concerns in regards to the trees, traffic, roof tops,
18 etc.
- 19 • E. Marvell asked what would happen if the rezoning is not approved and
20 whether it could go back to workforce housing. C. May explained that
21 under the proposed workforce housing ordinance, the workforce housing
22 project proposed for this lot was one of two that would not be made subject
23 to the proposed changes. Neither project had officially submitted an
24 application to the Planning Board, but had initiated the site plan process in
25 good faith with Staff and had first needed to seek relief from the Zoning
26 Board. They therefore could go back to the workforce housing proposal,
27 however under the ordinance, a variance in this situation would only be
28 valid for a year and under the language proposed for the workforce housing
29 ordinance amendments, the applicant would have 18 months to complete
30 the site plan process.

31
32 A. Rugg brought the discussion back to the Board.

33
34 R. Brideau stated that when a previous developer, Elmer Pease, owned the
35 property, his proposal for elderly housing included widening Hillside Ave. J.
36 Caldarola stated the approval for those two buildings in the prior application
37 required reconstruction of Hillside Ave from Londonderry Road up to Wyman
38 Street in Derry. He stated they fully expect to have to address that. C. May
39 indicated that the applicant had discussed traffic issues with Staff.

40
41 L. Reilly asked for permission to go on the property to view the slope and
42 topography. M. Lehrman, stated he had no objection to Board members or any
43 abutters performing a site visit, and that he would arrange a tour. C. May
44 explained a site walk would not be appropriate at this stage since no site plan
45 has been submitted for review. If a quorum of members were to attend at the
46 same time, she added that it would have to be an officially noticed meeting of
47 the Board.

48
49 A discussion ensued about the number of proposed units allowed and their
50 configuration.

1
2 **C. Davies made a motion that the Planning Board make a**
3 **recommendation to the Town Council that they approve the rezoning of**
4 **Map 10 Lot 92, currently zoned AR-I, to R-III as discussed at the May**
5 **13, 2015 Planning Board meeting, with the stipulation as noted in the**
6 **Applicant's rezoning application that the housing density be limited to**
7 **a density six units per acre or no more than 57 units and restrict the**
8 **housing to townhouse style. L. Wiles seconded the motion.**
9

10 As the Board was in the process of voting, J. Caldarola asked to be heard
11 because of a concern over the restriction as stated. He asked if the style
12 stipulation could be amended to say townhouses or duplexes of no more than
13 six units to allow him more flexibility. Following more discussion, it was
14 decided by the applicant, Staff and the Board that the style should be
15 described as being limited to no more than 6 units per building in a row house
16 configuration and a total of 57 units.
17

18 **C. Davies made a motion to reconsider. L. El-Azem seconded the**
19 **motion. No discussion. Vote on reconsideration of the motion, 7-0-0.**
20

21 **C. Davies made a motion that the Planning Board make a**
22 **recommendation to the Town Council that they approve the rezoning of**
23 **Map 10 Lot 92, currently zoned AR-I, to R-III as discussed at the May**
24 **13, 2015 Planning Board meeting, with the restriction as noted in the**
25 **Applicant's rezoning application that there be no more than 57 units**
26 **and that they be no greater than six units per building, attached in a**
27 **row house configuration, and that the approval be subject to Planning**
28 **Board approval of a site plan. L. Wiles seconded the motion. No**
29 **discussion. Vote on the motion, 7-0-0.**
30

31 A. Rugg stated the recommendation to rezone Map 10 Lot 92 from AR-I to R-
32 III with the conditions stated would be forwarded to the Town Council.
33

34 **Other Business**

35
36 A. Second reading - Proposed Amendments to Planning Board Rules of Procedure:
37 Proposed Section 3.3, Appointment of Liaisons:
38

39 C. May read proposed Section 3.3, i.e. "The Board shall appoint regular
40 members as liaisons to various Boards, Committees, Commissions and Ad-Hoc
41 Committees by majority vote as needed."
42

43 L. Reilly stated that history of the Board shows that several of the alternates
44 have made significant contributions to the Board, and that they take an oath
45 just like regular members. She said she is not opposed to the change, but
46 explained that as an alternate, she has voted and been appointed to vote more
47 than 50 percent of the time she has been in attendance. She asked the Board
48 to consider that fact as the Board has only so many full members who may or
49 may not be available at a given time. She suggested that alternates could be
50 appointed to at least committees and sub-committees. A. Rugg explained the

1 intent was to clarify that only full members can be appointed as liaisons
2 because unless an alternate is specifically appointed at a meeting to vote in
3 place of an absent full member, alternates cannot vote. He also clarified that
4 Ex-Officio members can vote because they have already been appointed. He
5 said the Town Attorney said liaisons should be a member who has authority to
6 vote.

7
8 R. Brideau and C. Davies stated their agreement with L. Reilly's argument and
9 that alternates have made significant contributions. C. Davies also stated that
10 no matter what capacity a member is, they should be allowed to vote and be
11 appointed to various committees.

12
13 After much discussion, it was suggested that proposed Section 3.3 be reworded
14 to state that possibly "The Board shall appoint regular members as liaisons to
15 Boards and Commissions, by majority vote as needed. Both regular members
16 and alternates may be appointed to Committees and Ad-Hoc Committees, by
17 majority vote as needed."

18
19 The issue will be revisited at the June 3, 2015 meeting.

20
21 **Adjournment:**

22
23 **R. Brideau made a motion to adjourn the meeting. S. Benson seconded**
24 **the motion. Vote on the motion: 7-0-0.**

25
26 The meeting adjourned at approximately 11:08 PM.

27
28 These minutes prepared by Associate Planner Jaye Trottier and Planning and
29 Economic Development Department Secretary Nicole Doolan.

30
31 Respectfully Submitted,

32
33
34
35 Lynn Wiles, Secretary
36



Housing Opportunities Zoning Amendments

Presentation to the Londonderry Planning Board, May 2015

John Vogl

Cynthia May, ASLA, PLA

Jonathan Edwards (ADG)

Agenda



- DISCUSSION POINTS:
 - Housing Opportunities Assessment Memo
 - Workforce Housing Ordinance Status
 - Amendment Goals and Objectives
 - Review of Amendments by Section

Housing Opportunities Assessment

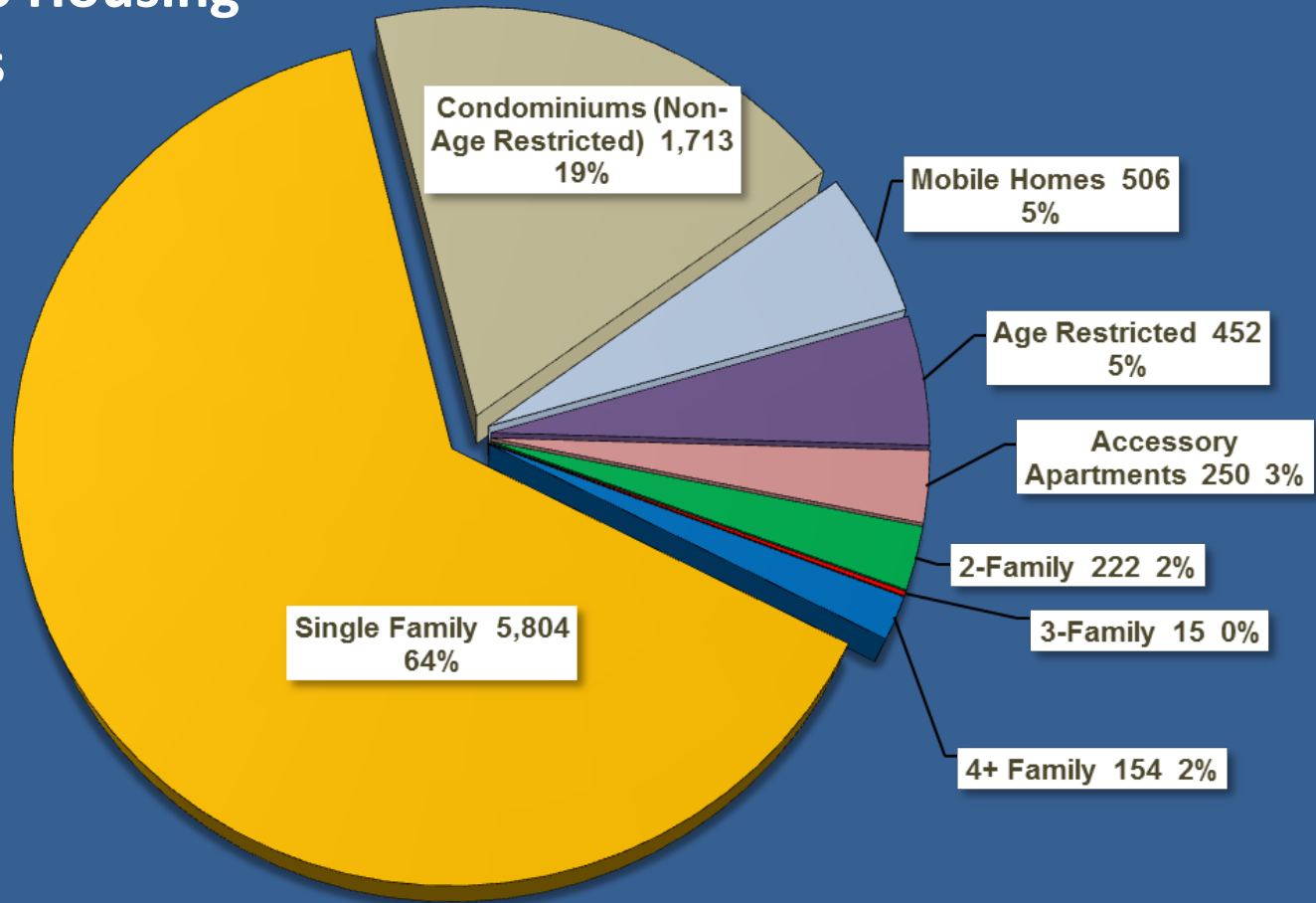


- Staff completed a review of existing housing supply and costs to identify whether there are demonstrated opportunities to construct workforce housing in accordance with State Statutes
 - Reviewed existing housing supply
 - Looked at recent history of new construction, sales and rentals as a determinant of opportunity
 - *NOT a fair share assessment*

Housing Opportunities Assessment



9,116 Housing
Units



Housing Opportunities Assessment



– Tenure:

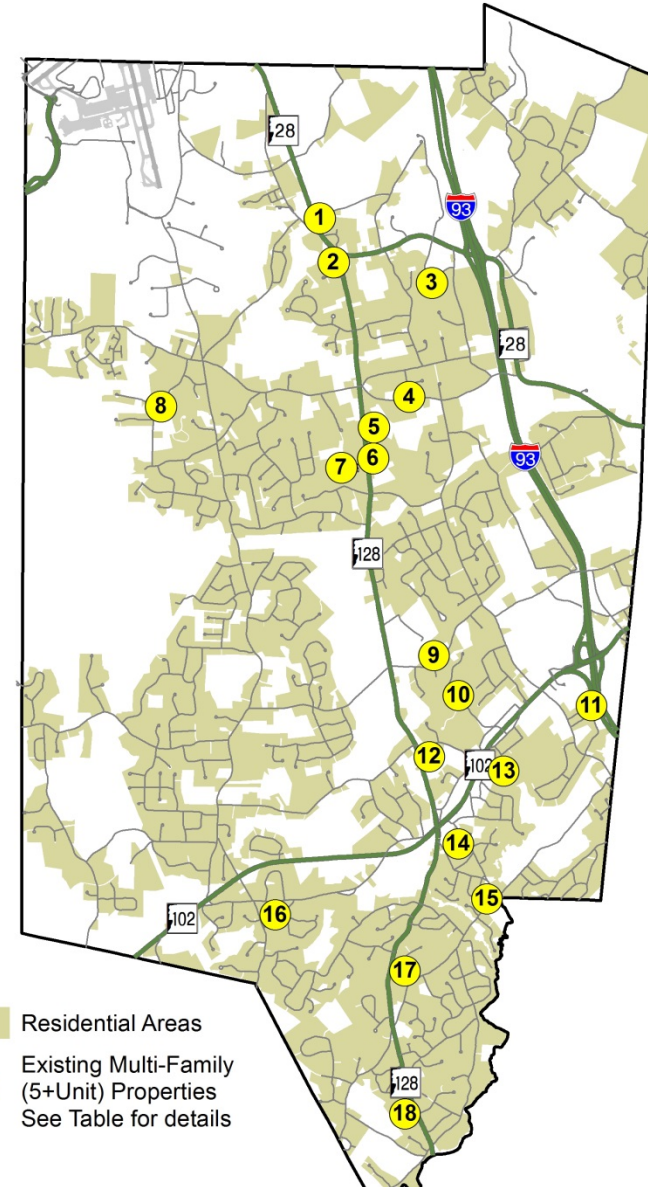
- **88% Owner-Occupied, 12% Renter-Occupied (ACS 2009-2013)**
- Reviewed stock to identify Affordable Units
 - None existing at present; approved projects will represent 2% of the total units
 - Reviewed existing Multi-Family Structures with 5+ units
 - » 162 structures, most within condominium complexes
 - » **Average age of the structure is 34 years**
 - 66% constructed in the 70's
 - 20% constructed in the 80's
 - 5% constructed in the 90's
 - 9% constructed in the 2000's



Housing Opportunities Assessment



Site	Location	Total # Units	# Units per Structure	App. Year Built	Condominium/ Rental	Age Restricted
1	Wyndmere	32	3 to 10	1990	Condo	No
2	Cohas Landing	38	4 to 8	1995-1997	Condo	Yes
3	Vista Ridge	243	3 to 24	2003-2007	Condo	No
4	Stonehenge at Londonderry	48	6	1972	Rental	No
5	Townhomes at Whittemore Place (Neighborworks)	78	5 to 7	2014 (under construction)	Rental	No
6	Trail Haven Estates (formerly Whittemore Estates)	6	6	2006	Condo	Yes
7	Mountain Home Estates	200	4 to 8	1974-1978	Condo	No
8	39 Kimball Rd	8	8	1970	Rental	No
9	Southview	15	5 to 10	1970	Condo	No
10	Century Village	343	2 to 8	1983-1989	Condo	No
11	13 & 25 Charleston Ave	48	18 to 30	1973	Rental	No
12	Midridge	40	8	1974	Condo	No
13	Woodland Village	195	24 to 48	1970	Condo	No
14	Kendallwood	132	6 to 14	1972-1973	Condo	No
15	75, 79, 83 South Road; 44 Kendall Pond Rd	48	12	1969-1972	Rental	No
16	Rolling Meadows	150	4 to 10	1970-1974	Condo	No
17	Olde Country Village	52	6 to 8	1975-1977	Condo	No
18	Oakridge Condos	100	6 to 8	1977	Condo	No



Housing Opportunities Assessment



- Per NHHFA, the maximum affordable purchase price is **\$349,000** with a family income of **\$106,300**
- Targeted Rental Income is **\$57,400**; affordable rent is **\$1,440/month**
 - Per US Census ACS (2009-2013) Roughly 55% of Londonderry households earn less than \$99,999; 45% earn more. Median Household Income: \$90,263 (less than regional value)

Housing Opportunities Assessment



All validated sales, 2013-2015

	# Sales	Median Price	Mean Price	# Below Affordable Purchase Price	% Below Affordable Purchase Price	Average Home Age (years)
Single or Two-Family	411	\$305,000	\$313,509	276	67%	30
All Condominiums	218	\$148,000	\$195,881	186	85%	26
Non-Age Restricted	152	\$135,650	\$141,603	152	100%	34
Age Restricted	66	\$344,400	\$320,885	34	52%	7
Mobile Homes	29	\$35,000	\$50,028	29	100.0%	29
All Non-Age Restricted	658	\$264,500	\$256,464	457	77%	31

All New Home sales, 2013-2015

Single or Two-Family	42	\$407,450	\$384,727	10	24%
All Condominiums	24	\$386,100	\$365,081	3	13%
Non-Age Restricted	0	-	-	-	-
Age Restricted	24	\$386,100	\$365,081	3	13%
Mobile Homes	3	\$90,500	\$89,333	3	100%
All Non-Age Restricted	45	\$404,700	\$365,034	13	29%

- Roughly 77% of existing homes are considered affordable
- Average age of 1-2 family home: 30 years; Condo: 26 years
- 1 out of 4 new homes are considered affordable

Housing Opportunities Assessment



- Local Rents:
 - Rent for a 2-bedroom apt in Londonderry ranges from \$760-1,150
 - Rents in Londonderry are generally below what is considered affordable
 - *Housing supply is aging; most units were constructed in the '70s*

	Rockingham County Source: NH Housing Residential Rental Cost Survey, 2014			Londonderry Source: Assessing Department		
Unit Size (Bedrooms)	Sample Size	Rent Range	Median	Sample Size	Rent Range	Median
0	96	\$475 - \$1,751	\$768	--	--	--
1	793	\$500 - \$2,128	\$933	21	\$552 - \$1,020	\$680
2	1,314	\$803 - \$2,460	\$1,229	92	\$760 - \$1,150	\$1,035
3	209	\$929 - \$2,637	\$1,526	4	\$960 - \$1,620	\$1,290
4+	27	\$990 - \$2,637	\$2,001	--	--	--
All	2,439	\$475 - \$2,637	\$1,123	117	\$552 - \$1,620	\$1,035



Questions?

Workforce Housing Amendments



- CURRENT STATUS:
 - The need to update the workforce housing section was identified following project discussions and the comprehensive zoning audit
 - Staff contracted with ADG to solicit ideas and draft ordinance language
 - Zoning Amendment was legally noticed following 3/11 PB Meeting
 - Subsequent amendments added at 4/8 PB Meeting; document re-noticed
 - *Ready for Public Hearing*

Role of Workforce Housing



HOUSING IS AN IMPORTANT COMPONENT OF ECONOMIC & COMMUNITY DEVELOPMENT

- Business leaders have indicated that housing is a key problem faced in **recruiting and retaining a qualified workforce**
- Next generation has different housing demands and preferences
- *Does Londonderry match those demands or provide enough housing choices?*
- Who is the Target Audience?
 - Future Workforce – Echo Boomers, Gen X/Y
 - Businesses Londonderry seeks to recruit
 - Baby Boomers & Downsizers

Responding to RSA Requirements



- Municipalities must provide **reasonable and realistic opportunities** for the development of workforce housing, including rental and multi-family housing.
 - *Zoning inducements and requirements must be structured so as not to render workforce housing developments economically unviable.*
 - Workforce housing of some type **must be allowed in a majority of land area** where residential uses are permitted
 - It is the responsibility of municipalities to demonstrate their compliance with this law



Amendment Goals

- Addresses RSA 674:59-61 in a way that accommodates housing affordability through promoting choice and diversity for residents, offering new opportunities for existing properties and fostering traditional community design
 - Addresses Zoning Audit findings by consolidating definitions, promoting flexibility, simplifying language and reorganizing contents to an intuitive flow
 - Responds to input and testimony from ZBA hearings
 - *Less reactive amendment and more forward thinking*

1.3.3 Phasing of Developments



- 1.3.3.C Remove limit on the # of buildings and increase unit count from 48 to 72
 - *Phasing adds cost to projects by lengthening borrowing period with little public benefit*
- 1.3.3.E Remove provisions regarding conversion of unbuilt elderly projects to affordable projects
 - *Language is obsolete; no unbuilt elderly projects remaining*



2.2 Use Table

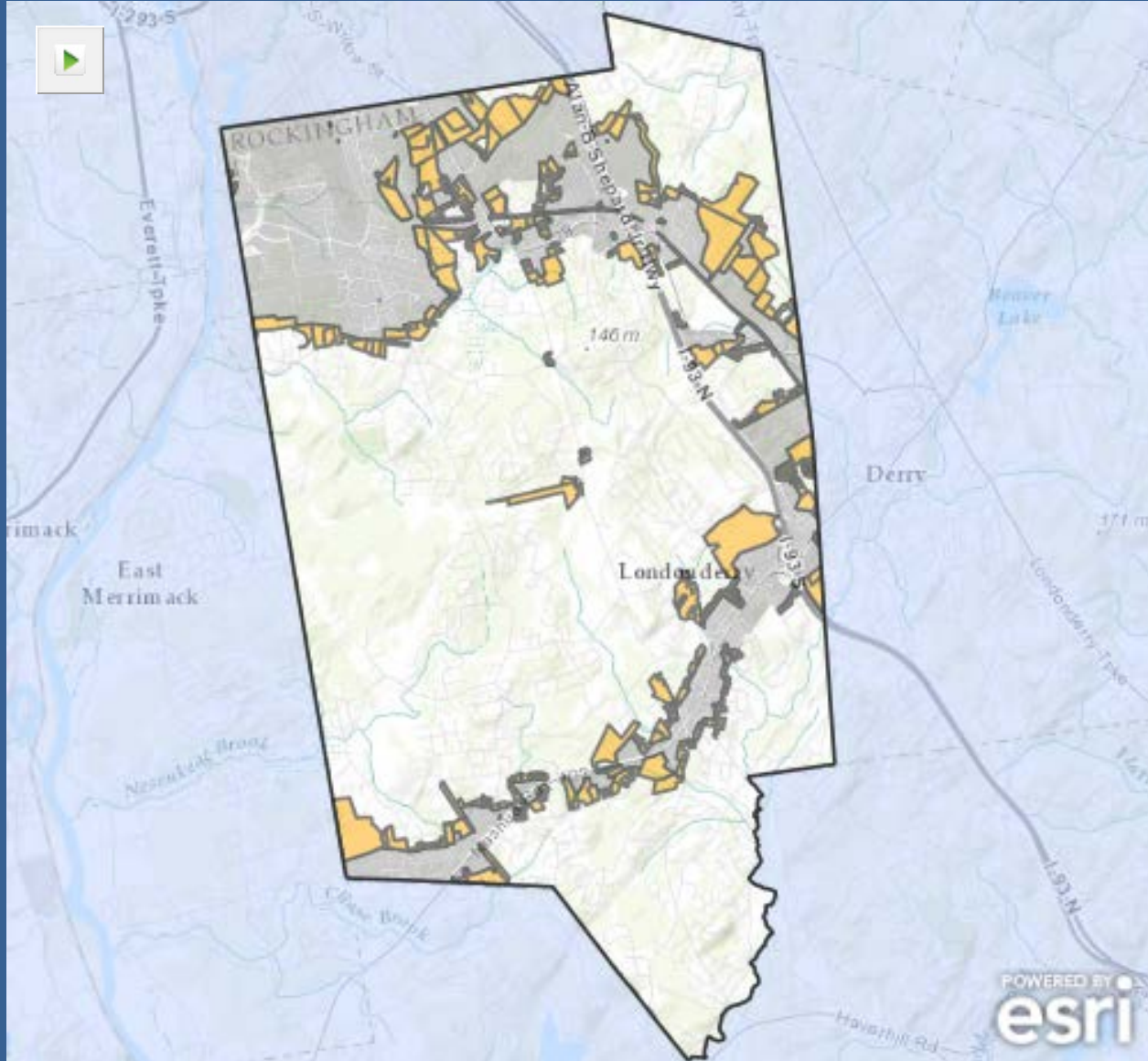
- Permit **Assisted Living Facilities** in AR-1 by CUP
- Permit **Multi-Family dwellings** in commercial districts by CUP
 - *Encourages true mixed use projects per Master Plan*
- Add new category for “**Small workforce housing development**”
 - Permitted in AR-1
 - Up to 4-units on a single lot, compatible with existing neighborhoods
 - *Meets requirement for workforce housing opportunity in majority of residential districts*



2.2 Use Table



- Add new category for “**Dwelling, Multi-Family workforce**”
 - Permitted by CUP in commercial districts
 - Permitted in AR-1 lots abutting non-residential districts
 - *Addresses concern over increasing project costs by locating them on more expensive sites*
 - Projects currently under review exempted from these changes





2.2 Use Table

- Add new category for **Elderly Housing, Affordable**
 - Permitted by CUP in commercial districts
 - *Encourages development of age-restricted, affordable units*
- Add new category for “**Live-Work units**” (defined in section 2.3.3.7)
- Permit **Mixed Use Residential** on C-IV, MUC and PODs by CUP
 - *Encourage mixed use developments/suburban retrofit per Master Plan*
- Permit **Nursing Home and Accessory Uses** in MUC



2.3.1 Agricultural-Residential District



- Amend to comply with pending NH RSA changes re: **Accessory Dwellings**
 - Increase unit size to match state requirements; removed limit of 1-bedroom
 - Allows creation of units at time of construction
 - ***Maintains community character while providing opportunities for workforce, in-law, multi-generational or income units in existing neighborhoods***



2.3.3 Inclusionary Zoning

- Removed language regarding conversion of unbuilt elderly housing projects
- Merged criteria for CUP into one section, including general workforce criteria and criteria for multi-family workforce
- Removed minimum 20-acre limit; removed limit on # of units per building; increased parking requirement; limited multi-family structures to 3 stories;
- Lowered the minimum share of workforce units from 75% to 33%
- ***Responds to concerns/testimony heard at ZBA hearings***





2.3.3 Inclusionary Housing

- **Small Workforce Housing Developments**
 - New housing type that can permits smaller scale projects in AR-1 district that are compatible with existing neighborhoods
 - Permits 1 to 4 units per lot with minimum $\frac{1}{4}$ acre per unit if on public sewer; if not, lot sizing is tied to DES rules
 - Same height and dimensional requirements as AR-1
 - *Encourages infilling in existing neighborhoods and is a more appropriate scale for Londonderry; responds to RSA requirement for provision of workforce units in majority of residential district area*



2.3.3 Inclusionary Housing



- Add new category for “**Live-Work units**” (defined in section 2.3.3.7)
 - Permitted by CUP in commercial and industrial districts
 - New housing/commercial type for Londonderry
 - *Encourages entrepreneurial, small business or artists/craftsman; popular and successful in other parts of the country; possible in-fill on smaller industrial sites*

2.3.3 Inclusionary Housing



2.3.4 Retention of Housing Affordability



Re-write of entire section

– For-Sale Workforce Housing:

- Requires written certified confirmation of income eligibility prior to town issuing CO, in form of an affidavit
- Resale price is limited to ceiling defined by NHHFA annually. Limitation protected through deed language attached to the property. Future sales require submission of affidavit of compliance to Town certifying income eligibility and qualifying selling price
- Ongoing responsibility transferred from Town to lending agencies and title holders per deed restrictions

- *Consistent with audit goals and recommendations; removes onerous requirement for subsidies; removes monitoring fee requirement; limits Town responsibilities including setting initial selling prices and certifying future prices and owners; Overall simplifies and clarifies responsibilities. Forestalls Town liability*

2.3.4 Retention of Housing Affordability



– Rental Workforce Housing:

- Property owner remains responsible for continued affordability.
- Requires submission of annual reports to Town to enable determination of gross rents and income qualifications of tenants
- Annual rent increases limited to increases on area median income
- Enforcement in accordance with other zoning violations



Hidden Pond, Amherst

2.4.5 General Standards for MUC Sub-District



- Permits multi-family in MUC district either as market rate or workforce, per CUP
- Residential uses can be incorporated above commercial or as separate structures
- *Encourages true mixed-use developments per Master Plan vision*





3.4.1 Backlot Development

- Remove section limiting uses to single family homes and prohibiting accessory dwellings
- *Encourages development consistent with entire AR-1 district*





3.6 Elderly Housing

- 3.6.1 ELDERLY HOUSING
 - Adds assisted living as a permitted use, treated in the same manner as an elderly housing project
 - *Responds to interest and concerns expressed during the Master Plan process*



Residence at Riverbend Living, Ipswich, MA

3.6 Elderly Housing



- 3.6.4 REGULATIONS AND DESIGN CRITERIA
 - Assigns a parking calculation (0.5 spaces per bed and 1 per employee) to assisted living projects
 - Eliminates required support facilities/services for elderly projects
 - Density maintained at 6 units per acre in AR-1, 8 units per acre elsewhere
 - Tied lot sizing calculations back to NH DES standards
 - ***Responds to realistic needs for parking and design while encouraging this type of housing***

3.6.5 Conditional Use Permits (Elderly)



- Section B Language deleted to be consistent with changes made elsewhere in ordinance

3.7 Assisted Living Facilities and Nursing Homes



- Simplified language so Assisted Living and Nursing Homes are treated the same as other Elderly Housing
- *Responds to community need; treats similar forms and uses consistently (design criteria, siting)*



Role of Workforce Housing



HOUSING IS AN IMPORTANT COMPONENT OF ECONOMIC & COMMUNITY DEVELOPMENT

- Business leaders have indicated that housing is a key problem faced in **recruiting and retaining a qualified workforce**
- Next generation has different housing demands and preferences
- *Does Londonderry match those demands or provide enough housing choices?*
- Who is the Target Audience?
 - Future Workforce – Echo Boomers, Gen X/Y
 - Businesses Londonderry seeks to recruit
 - Baby Boomers & Downsizers



Questions?

Planning Board Meeting Minutes - May 13, 2015 - Attachment #2

TOWN OF LONDONDERRY PLANNING BOARD

The Londonderry Planning Board will hold a Public Hearing on Wednesday, May 13, 2015 at 7:00 p.m. in the Moose Hill Council Chambers, 268B Mammoth Road, Londonderry, NH to consider the following:

A. Proposed Zoning Ordinance Amendments – Public Hearing:

The Town of Londonderry seeks to amend the zoning ordinance to more fully comply with NH RSA 674:58-61, Workforce Housing; provide for enhanced housing opportunities throughout Town; amend Conditional Use Permit criteria to promote project feasibility; and to carry out other associated administrative changes consistent with the 2013 Master Plan goals, **as updated by the Planning Board on April 8, 2015**. The following sections (inclusive of subsections) are proposed to be amended:

- Table of Contents
- 1.3.3 Phasing of Developments
- 2.2 Use Table
- 2.3.1 Agricultural-Residential District
- 2.3.3 Inclusionary Housing
- 2.3.4 Retention of Housing Affordability
- 2.4.5 General Standards for MUC Sub-district
- 3.4.1 Backlot Development
- 3.6 Elderly Housing
- 3.6.5 Conditional Use Permits
- 3.7 Assisted Living Facilities and Nursing Homes
- 3.10.10 Minimum Parking and Loading Required

(The full text of the proposed can be found on the Town's web page, and is available for viewing in the Town Clerk's Office, Planning and Economic Development Department, and Leach Library during regular business hours.)

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- C. To phase in or control the implementation and development of tracts of land and future subdivisions thereon, at a rate which will be compatible with the orderly and gradual expansion of community services, including but not limited to education, fire protection, road maintenance, waste disposal, police protection and recreation; and
- D. To provide a mechanism to allow for phased development of residential projects to manage the impact on municipal services.

1.3.3 Phasing of Developments

A phasing plan shall be submitted for Planning Board approval for all residential developments of more than fifteen (15) lots or dwelling units (unless exempted under **§1.3.4**), and at the applicant's option may be submitted for smaller developments. Such plans shall comply with the following phasing requirements:

- A. For development proposed under the provisions of **Section 3.3 Conservation Subdivisions**: twenty five (25) dwelling units per year from the date of final approval;
- B. For development located in the R-III district: Three (3) multi-family buildings, the total number of dwelling units not to exceed forty eight (48) per year from the date of final approval;
 - 1. In the event that the Planning Board grants a conditional use permit to allow more than 16 units per building in the R-III District: such developments shall be permitted two (2) multi-family buildings, the total number of dwelling units not to exceed forty (40) units per year from the date of final approval.
- C. For multi-family development meeting the definition of “workforce housing” as defined by [RSA 674:58](#), and approved by the Planning Board per the procedures outlined in [RSA 674:60](#): ~~Three (3) multi-family buildings, the~~The total number of dwelling units ~~shall not to exceed forty eight (48)~~seventy-two (72) per year from the date of final approval;
 - ~~1. In the event that the Planning Board grants a conditional use permit to allow more than 16 units per building in a multi-family development meeting the definition of “workforce housing” as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60: such developments shall be permitted two (2) multi-family buildings, the total number of dwelling units not to exceed forty (40) units per year from the date of final approval.~~
- D. For single family development approved under the requirements of “Inclusionary Housing (**Section 2.3.4**): twenty five (25) dwelling units per year from the date of final approval;
- ~~E. For conversions of previously approved and unbuilt Elderly Housing developments to “workforce housing” as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60: The Phasing shall be one of the following:

 - ~~1. If the project was approved in Phases as part of the Elderly Housing site plan, the phasing shall be consistent with the approved phasing plan approved by the Planning Board for the Elderly Housing site plan. Each phase in such situation shall mean the number of dwelling units permitted in each year subsequent to final approval of the conversion by the Planning Board.~~
 - ~~2. If the Project was not subject to phasing as part of the approval for Elderly Housing, the appropriate requirements of either **Section 1.3.3(C)** of **1.3.3(D)** shall apply.~~~~
- ~~F.E.~~ For other residential development proposed to be serviced with public water and public sewerage, and proposing no dwelling structures within 200 feet of a street other than one created by that development: twenty (20) dwelling units per year from the date of final approval;
- ~~G.F.~~ For all other residential developments: fifteen (15) dwelling units per year from the date of final approval.

resulting in conforming lots. The subdivision shall be subject to Planning Board approval in accordance with the Subdivision Regulations.

- C. If a zoning district boundary line runs through any lot and the lot is not of sufficient size and configuration to permit conforming lots in each district, the lot cannot be subdivided and the entire lot is deemed to be in the more restricted district. For purposes of this section, the order of most restrictive to least restrictive is as follows: CO, AR-I, R-III, C-IV, POD, C-III, C-I, C-II, IND-I and IND-II, AD."
- D. If a zoning district boundary line runs through a lot and one of the zoning districts within the lot is the Conservation Overlay District, **Section 2.6.3** applies.

2.2 USE TABLE

2.2.1 Accessory Uses

With the exception of residential district, all uses permitted for each district shall be permitted as accessory uses within that district provided the combination of uses shall meet all other provisions of this Zoning Ordinance.

2.2.2 GB District Services Table (Follows Use Table below)

Londonderry Zoning Ordinance Use Table																		
P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception																		
														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹	CO	AH	AZ	FP
RESIDENTIAL AND AGRICULTURAL																		
Agriculture	P	P										p ⁵						
Assisted Living Facilities	<u>C</u>	P	P	P	P		P					p ⁵	P	P				
Back Lot Development	C											p ⁵		See specific district regs.				
Dwelling, multi-family	<u>C³</u>	P, <u>C³</u>	<u>C³C</u>	<u>C³C</u>	<u>C³C</u>	<u>C³C</u>	<u>C</u>					p ⁵	<u>C</u>	<u>C</u>				
<u>Dwelling, multi-family workforce</u>	<u>6.7</u>	<u>C³</u>	<u>C³</u>	<u>C³</u>	<u>C³</u>	<u>C³</u>	<u>C³</u>					<u>P⁵</u>	<u>C³</u>	<u>C³</u>				
<u>Small workforce housing development</u>	<u>C³</u>																	
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	<u>C</u>					p ⁵	P	P				
<u>Elderly Housing, Affordable</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>						<u>P⁵</u>	<u>C</u>	<u>C</u>				
<u>Live-Work Units</u>			<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P⁵</u>						
Manufactured housing	P, C ³	P, C ³																
Mixed use residential						P, <u>C³</u>	P, <u>C³</u>					p ⁵	<u>C³</u>	<u>C³</u>				
Mobile homes	P																	
Nursing Home and accessory uses		P	P	P	P		<u>P</u>					p ⁵	P	P				

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹	CO	AH	AZ	FP
Preexisting manufactured housing parks	P																	
Presite Built Housing	P																	
	P																	
CIVIC USES																		
Community center			P	P		C					p ⁴							
Cemetery	P																	
Public Facilities	P		P	P		C		P	P	P	p ⁴	P						
Public Utilities	P	P	P	P				S	S	S	p ⁵	S						
Recreational Facilities, Public	P			P							p ⁴		P	P				
Religious Facilities	P		P	P	P	P					p ⁵		P	P				
Cultural Uses and Performing Arts							C			P	p ⁴							
BUSINESS USES																		
Aeronautical Facilities												P						
Assembly, testing, repair and packing operations up to 250,000 sq. ft.								P	P	P	p ⁴							
Assembly, testing, repair and packing operations 250,001 sq. ft. or larger								P	P	C	p ⁴							
Bed and Breakfast Homestay	P										p ⁵							
Business center development			P	P			P			P	p ⁴		P	P				
Conference/Convention Center							C			P	p ⁴							
Day Care Center, Adult							C	C			p ⁴							
Drive-thru window as an accessory use			P	P			C											
Drive-in establishments			P	P														
Drive-in theatres				P														
GB District Services										(See GB District Services Use Table, Section 2.2.2)								
Financial institution			P	P			P			P	p ⁴							
Funeral homes			P	P	P													
Education and Training Facilities							C			P	p ⁴							
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.	P		P	P	P			P	P			P						
Group Child Care Center					P	C		S	S		p ⁴		C	C				
Home Occupation	S										S							
Hotels				P			C			P	p ⁴							

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹	CO	AH	AZ	FP
Manufacturing, Heavy									P	P		P						
Manufacturing, Light up to 250,000 sq. ft.				P				P	P	P	P ⁴	P						
Manufacturing, Light 250,001 sq ft or larger				P				P	P	C	P ⁴	P						
Membership club			P	P							P ⁴							
Motels				P														
Motor Vehicle Maintenance, Major Repair and Painting									P			P						
Motor vehicle rental												P						
Motor Vehicle Station, Limited Service				P		C ²					P ⁴	P						
Recreation, commercial			P	P			P				P ⁴		P	P				
Retail sales establishment up to 75,000 sq. ft			P	P		P	P				P ⁴		P	P				
Retail sales establishment 75,001 sq. ft. or larger			P	P			C				P ⁴							
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use										C								
Professional office			P	P	P	P	P	P	P	P	P ⁴	P	P	P				
Rental Car Terminal up to 50,000 sq. ft										P	P ⁴							
Rental Car Terminal 50,001 sq. ft. or larger										C	P ⁴							
Repair services			P	P		P		P	P		P ⁴	P	P	P				
Research or Development Laboratories				P			P	P	P	P	P ⁴	P						
Restaurant			P	P		C	P				P ⁴	P	P	P				
Restaurant, fast food			P	P			C				P ⁴							
Sales of Heavy Equipment or Heavy Trucks as an accessory use								C	C	C								
School, Private					P						P ⁴		P	P				
Service establishment			P	P			P	P	P		P ⁴	P	P	P				
Sexually oriented businesses			P	P														
Storage, self serve				P				P	P				C	C				
Terminal, Airplane												P						
Terminal, Trucking up to 100,000 sq. ft.									P	P	P ⁴	P						
Terminal, Trucking 100,001 sq. ft. or larger									P	C	P ⁴	P						

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

														Overlay Districts				
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹	CO	AH	AZ	FP
Vehicle Sales Establishment				P														
Warehouses and Storage up to 250,000 sq. ft.				P				P	P	P	P ⁴	P	C	C				
Warehouses and Storage 250,001 sq. ft. or larger				P				P	P	C	P ⁴	P	C	C				
Wholesale Businesses up to 250,000 sq. ft.				P				P	P	P	P ⁴	P						
Wholesale Businesses 250,001 sq. ft. or larger				P				P	P	C	P ⁴	P						

1 - Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use

2 - See **Section 2.4.1(B)(4)** for additional dimensional requirements related to fuel dispensers

3 - See **Section 2.3.4** for specific requirements (workforce housing)

4 - As part of an approved PUD Master Plan, See **Section 2.8**

5 - As part of an approved PUD Master Plan (where the underlying zoning is not GB), See **Section 2.8**

6 - This change of use shall not apply to workforce housing projects that were granted variances in the twelve months immediately preceding the first public hearing on these amendments, provided that: (1) the proposed development would otherwise have been permitted in AR-I under Sec. 2.3.3 of this Ordinance; (2) at the time of the first public hearing on the amendments, no additional variances would have been required under the former Ordinance for the project to submit a completed plan to the Planning Board for approval; and 3) a Conditional Use Permit is approved by the Planning Board within eighteen months following the adoption of these amendments.

7 - Multi-family workforce housing may be permitted on lots adjacent to commercial and industrial districts, provided that the proposed development meets the Conditional Use criteria for workforce housing.

GB District Services Use Table

	GB
Accessory Uses up to 5,000 sq. ft. - Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use	P
Accessory Uses from 5,001 – 20,000 sq. ft.-Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use	C
Automotive Repair up to 5,000 sq. ft.	P
Automotive Repair from 5,001 to 10,000 sq. ft.	C
Computer Services up to 5,000 sq. ft.	P
Computer Services from 5,001 to 10,000 sq. ft.	C
Service/Commercial Businesses up to 5,000 sq. ft. (Including restaurants and gas stations)	P
Service/Commercial Businesses from 5,001 to 20,000 sq. ft. (Including restaurants and gas stations)	C
Daycare up to 5,000 sq. ft.	P
Daycare from 5,001 to 10,000 sq. ft.	C
Health Clubs up to 5,000 sq. ft.	P
Health Clubs from 5,001 to 20,000 sq. ft.	C
Personal Service Businesses up to 5,000 sq. ft.	P
Personal Service Businesses from 5,001 to 20,000 sq. ft.	C

2.3 RESIDENTIAL DISTRICTS

2.3.1 Agricultural-Residential (AR-I)

2.3.1.1 Objectives and Characteristics

The Agricultural-Residential District is designed to permit uses that are compatible with and protective of certain areas that have been and are being developed for agricultural and forestry uses, water quality preservation, residential use, and public use.

2.3.1.2 Uses

See **Use Table Section 2.2**

- A. No lot in the agricultural-residential (AR-I) district may be used for the outside storage of more than one unregistered motor vehicle (in accordance with [RSA 236:92](#)) or the outside storage of more than one boat other than a rowboat, canoe or other boat less than twenty (20) feet in length.
- B. In instances where a dwelling located in the agricultural-residential (AR-I) district has been damaged by fire or other catastrophe, and is being rebuilt or repaired, it shall be permissible to occupy one manufactured housing unit on a lot for a period not exceeding 12 months, or until a certificate of occupancy for the replacement structure is issued, per [RSA 674:32 II](#).

2.3.1.3 Residential Lot Size Requirements

A. Minimum Lot Area

1. Single or two-family lots served by municipal water and sewer will not be subject to the high intensity soils survey requirements described below. Minimum lot sizes and frontage requirements for lots with municipal water and sewer shall be according to Table 1 listed in this section

Dwelling Type	Bedrooms	Frontage Requirements	Minimum Lot Size
Single Family	1 – 2	100 LF	35,000 SF
Single Family	3 or more	150 LF	40,000 SF
Duplex	2 – 4 (total of both dwelling units)	150 LF	52,500 SF
Duplex	5 or more	200 LF	60,000 SF

2. The minimum lot size for a single or two family residence not served by a municipal wastewater system shall be 43,560 SF
3. All land to be included as part of the lot shall be contiguous
4. In the absence of a municipal wastewater system, to protect ground water quality for the purpose of public health and safety, minimum lot sizes shall, in addition to the Zoning Ordinance requirements listed in [2.3.1.3\(A\)\(2\)](#), also meet such additional lot size requirements as specified by “minimum lot size by soil type” in Table 2 which are based on high intensity soil Maps and specified in this Section of the Town ordinance. This requirement is subject to the following:
 - a. Each lot shall have a soil carrying capacity of one or greater, which is calculated by dividing the given area of any soil type to be used by the required are for the soil type found in Table 2 of this section.
 - b. Where more than one soil type is found on the lot, a soil carrying capacity of those soils occurring on the lot shall be used to determine the minimum lot size.
 - c. Areas designated as poorly drained (type b hydric) soils may be utilized to fulfill the minimum lot site required by the Town ordinance and subdivision regulations provided that a minimum of 30,000 SF of

a contiguous non-wetland area with proper configuration to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided.

- d. Areas designated as type a hydric soils (very poorly drained soils, fresh or saltwater marsh or surface water areas) may not be utilized to fulfill minimum lot size requirements.
- e. No subsurface wastewater disposal system shall be constructed with seventy five (75) feet of any type a hydric soil or fifty (5) feet from any type b hydric soil.
- f. Slopes greater than twenty five percent (25%) may be used in the computed lot size according to the following: areas designated with slopes of greater than twenty five percent (25%) may be utilized to fulfill the minimum lot size required by the Town ordinance and subdivision regulations provided that a contiguous area of a minimum of 20,000 SF with less than fifteen percent (15%) slopes and proper configuration to adequately accommodate all housing and required utilities such as sewage disposal and water supply to include setbacks, is provided.
- g. For duplex use, where the total number of bedrooms in the building shall not exceed five (5), the lot size shall be increased by forty percent (40%) of the minimum lot size as determined by the appropriate table. For each bedroom exceeding five (5) the lot size shall be increased by fifteen percent (15%).
- h. For single family homes with greater than four (4) bedrooms, the required lot size will be increased fifteen percent (15%) for each additional bedroom exceeding four (4).
- i. Soils information shall be provided by high intensity soil Maps and prepared by a field examination performed by a certified soil scientist and so stamped.
- j. The area of drainage easement located on the lot shall not be included as part of the minimum lot size calculation.
- k. Each residential lot shall have at least 22,000 SF of contiguous land above the 100-year flood elevation as determined by the flood insurance rate Maps and flood boundary and floodway Maps of the Town of Londonderry as prepared by the U.S. department of housing and urban development, federal insurance administration.

TABLE 2

Note: the following may not be a complete list of soil types. Contact the Rockingham county conservation district for assistance. (lot sizes in square feet)

Soil Type	Slope B	Slope C	Slope D	Slope E
111-H	31,750	35,250	40,000	46,000
112-H	31,750	35,250	40,000	46,000
114-H	77,000	89,000	106,000	132,000
117-H	54,500	60,500	67,500	77,000
118-H	65,750	74,750	86,750	104,500
121-H	31,750	35,250	40,000	46,000
122-H	31,750	35,250	40,000	46,000
124-H	77,000	89,000	106,000	132,000
127-H	54,500	60,500	67,500	77,000
128-H	65,750	74,750	86,750	104,500
161-H	31,750	35,250	40,000	46,000
164-H	77,000	89,000	106,000	132,000
167-H	54,500	65,000	67,500	77,000
168-H	65,750	74,750	86,750	104,500
211-H	31,750	35,250	40,000	46,000
212-H	31,750	35,250	40,000	46,000
214-H	77,000	89,000	106,000	132,000
217-H	54,500	60,500	67,500	77,000

TABLE 2

Note: the following may not be a complete list of soil types. Contact the Rockingham county conservation district for assistance. (lot sizes in square feet)

Soil Type	Slope B	Slope C	Slope D	Slope E
218-H	65,750	74,750	86,750	104,500
221-H	40,000	46,000	54,500	67,500
222-H	40,000	46,000	54,500	67,500
223-H	54,500	60,500	67,500	77,000
224-H	77,000	89,000	106,000	132,000
227-H	54,500	60,500	67,500	77,000
228-H	65,750	74,750	86,750	104,500
231-H	40,000	46,000	54,500	67,500
234-H	77,000	89,000	106,000	132,000
237-H	54,500	60,500	67,500	77,000
238-H	65,750	74,750	86,750	104,500
243-H	54,500	60,500	67,500	77,000
247-H	54,500	60,500	67,500	77,000
248-H	65,750	74,750	86,750	104,500
253-H	54,500	60,500	67,500	77,000
257-H	54,500	60,500	67,500	77,000
258-H	65,750	74,750	86,750	104,500
261-H	40,000	46,000	54,500	67,500
263-H	54,500	60,500	67,500	77,000
264-H	77,000	89,000	106,000	132,000
267-H	54,500	60,500	67,500	77,000
268-H	65,750	74,750	86,750	104,500
275-H	40,000	46,000	54,500	67,500
311-H	54,500	60,500	67,500	77,000
312-H	54,500	60,500	67,500	77,000
313-H	54,500	60,500	67,500	77,000
314-H	77,000	89,000	106,000	132,000
317-H	54,500	60,500	67,500	77,000
318-H	65,750	74,750	86,750	104,500
321-H	54,500	60,500	67,500	77,000
322-H	54,500	60,500	67,500	77,000
323-H	54,500	60,500	67,500	77,000
324-H	77,000	89,000	106,000	132,000
325-H	54,500	60,500	67,500	77,000
327-H	54,500	60,500	67,500	77,000
328-H	65,750	74,750	86,750	104,500
331-H	54,500	60,500	67,500	77,000
332-H	54,500	60,500	67,500	77,000
333-H	54,500	60,500	67,500	77,000
334-H	77,000	89,000	106,000	132,000
337-H	54,500	60,500	67,500	77,000
338-H	65,750	74,750	86,750	104,500
343-H	54,500	60,500	67,500	77,000
344-H	77,000	89,000	106,000	132,000
347-H	54,500	60,500	67,500	77,000
348-H	65,750	74,750	86,750	104,500
353-H	106,000	132,000	N/A	N/A

TABLE 2

Note: the following may not be a complete list of soil types. Contact the Rockingham county conservation district for assistance. (lot sizes in square feet)

Soil Type	Slope B	Slope C	Slope D	Slope E
354-H	106,000	132,000	N/A	N/A
357-H	106,000	132,000	N/A	N/A
358-H	106,000	132,000	N/A	N/A
361-H	54,500	60,500	67,500	77,000
363-H	54,500	60,500	67,500	77,000
364-H	77,000	89,000	106,000	132,000
367-H	54,500	60,500	67,500	77,000
368-H	65,750	74,750	86,750	104,500
374-H	77,000	89,000	106,000	132,000
375-H	54,500	60,500	67,500	77,000
411-H	77,000	89,000	106,000	132,000
412-H	77,000	89,000	106,000	132,000
413-H	77,000	89,000	106,000	132,000
414-H	77,000	89,000	106,000	132,000
417-H	77,000	89,000	106,000	132,000
418-H	77,000	89,000	106,000	132,000
421-H	77,000	89,000	106,000	132,000
422-H	77,000	89,000	106,000	132,000
423-H	77,000	89,000	106,000	132,000
424-H	77,000	89,000	106,000	132,000
427-H	77,000	89,000	106,000	132,000
428-H	77,000	89,000	106,000	132,000
431-H	77,000	89,000	106,000	132,000
432-H	77,000	89,000	106,000	132,000
433-H	77,000	89,000	106,000	132,000
434-H	77,000	89,000	106,000	132,000
437-H	77,000	89,000	106,000	132,000
438-H	77,000	89,000	106,000	132,000
443-H	77,000	89,000	106,000	132,000
444-H	77,000	89,000	106,000	132,000
447-H	77,000	89,000	106,000	132,000
448-H	77,000	89,000	106,000	132,000
453-H	106,000	132,000	N/A	N/A
454-H	106,000	132,000	N/A	N/A
457-H	106,000	132,000	N/A	N/A
458-H	106,000	132,000	N/A	N/A
461-H	77,000	89,000	106,000	132,000
463-H	77,000	89,000	106,000	132,000
464-H	77,000	89,000	106,000	132,000
467-H	77,000	89,000	106,000	132,000
468-H	77,000	89,000	106,000	132,000
475-H	77,000	89,000	106,000	132,000
511-H	106,000	132,000	N/A	N/A
512-H	106,000	132,000	N/A	N/A
513-H	106,000	132,000	N/A	N/A
514-H	106,000	132,000	N/A	N/A
517-H	106,000	132,000	N/A	N/A

TABLE 2

Note: the following may not be a complete list of soil types. Contact the Rockingham county conservation district for assistance. (lot sizes in square feet)

Soil Type	Slope B	Slope C	Slope D	Slope E
518-H	106,000	132,000	N/A	N/A
521-H	106,000	132,000	N/A	N/A
522-H	106,000	132,000	N/A	N/A
523-H	106,000	132,000	N/A	N/A
524-H	106,000	132,000	N/A	N/A
527-H	106,000	132,000	N/A	N/A
528-H	106,000	132,000	N/A	N/A
531-H	106,000	132,000	N/A	N/A
532-H	106,000	132,000	N/A	N/A
533-H	106,000	132,000	N/A	N/A
534-H	106,000	132,000	N/A	N/A
537-H	106,000	132,000	N/A	N/A
538-H	106,000	132,000	N/A	N/A
543-H	106,000	132,000	N/A	N/A
544-H	106,000	132,000	N/A	N/A
547-H	106,000	132,000	N/A	N/A
548-H	106,000	132,000	N/A	N/A
553-H	N/A	N/A	N/A	N/A
554-H	N/A	N/A	N/A	N/A
557-H	N/A	N/A	N/A	N/A
558-H	N/A	N/A	N/A	N/A
561-H	106,000	132,000	N/A	N/A
563-H	106,000	132,000	N/A	N/A
564-H	106,000	132,000	N/A	N/A
567-H	106,000	132,000	N/A	N/A
568-H	106,000	132,000	N/A	N/A
575-H	106,000	132,000	N/A	N/A

The soil types listed below have one or more limiting characteristics that make the soil type “NA” or require onsite investigation, no matter what other characteristics of the soil may be present:

Soil Type	Minimum Lot Size
6***H	NA, very poorly drained soil
*66*H	NA, fill does not meet the standards for fill material (see key to soil types)
76**H	Onsite evaluation needed (Usually filled, excavated or regarded sites)
<p>The soil type symbols are explained in “High Intensity Soil Maps for New Hampshire, Standards and Origins. SSSNNE Special Publications No. 1”, as most recently amended.</p> <p>“N/A” - means not allowed (Doesn’t count at all toward lot size).</p> <p>“*” - means any slope or any number</p>	

B. Minimum Frontage On A Class V Or Better Road

1. Single Family Dwelling - 150 Feet
2. Two Family Dwelling - 200 Feet

C. Minimum Setback Distances For Structures From Property Line (All Uses)

1. Front - 40 Feet
2. Side - 15 Feet
3. Back - 15 Feet
4. If a property abuts more than one existing and/or proposed right of way, the building setback will be forty (40) feet from each right of way.

D. **Maximum height of structure (all uses with the exception of agricultural purposes)** is thirty-five (35) feet.

2.3.1.4 Livestock

- A. Agricultural livestock, poultry, and horses will not be permitted except on lots containing two acres or more. All buildings, runs, pens, and kennels (excluding pastures) will be located a minimum of 25 feet from any property line. This lot size and setback requirements also pertain to dog kennels.
- B. At no time shall a public nuisance be created as to sight, sound, smell, or any other action which would interfere with nearby property owner's rights. Exempted from this provision are domestic pets as defined in this ordinance.
- C. Commercial piggeries or mink farms established for the raising, care, and keeping of pigs or minks as business in any district shall not be permitted. The raising of pigs for one's own home consumption shall be permitted, providing that in so doing, a public nuisance is not created and the operation does not offend by reason of the emission of smoke, noise, odors, or fumes.

2.3.1.5 Location of Religious Facilities

- A. Religious facilities in residential districts must be on lots of two acres minimum and must have traffic access onto arterial or collector streets.
- B. All buildings and the parking lot associated with a religious facility will be set back a minimum of 20 feet from all adjacent residential lots, in accordance with Section 5.02 of the Site Plan Regulations. The landscaping of this setback buffer zone will be approved by the Planning Board
- C. Prior to construction or occupation, a sewage disposal plan will be approved and signed by the New Hampshire water supply and pollution control commission.
- D. Parking for religious facilities shall be determined by the requirements of **Section 3.10**, Table 1 of this ordinance.

2.3.1.6 Parking Requirements

A minimum of two parking spaces per dwelling unit shall be provided in the AR-I district.

2.3.1.7 Accessory ~~apartments~~ Dwellings

~~To increase housing alternatives while maintaining neighborhood aesthetics and quality, one accessory apartment within a detached single family dwelling shall be permitted provided the following conditions are met:~~

~~To increase housing alternatives while maintaining neighborhood aesthetics and quality, one accessory dwelling is permitted on any property containing an owner-occupied single-family dwelling, provided the following conditions are met:~~

- ~~A. Accessory Dwellings shall be permitted only on properties containing an owner-occupied single-family dwelling.~~
- ~~B. There shall be not more than one accessory dwelling per lot.~~
- ~~C. An accessory dwelling shall not be considered to be an additional dwelling unit for the purposes of determining minimum lot size (of Section 2.3.1.3) or development density of the property.~~

- D. The owner of a property containing an accessory dwelling shall reside in either the principal or the accessory dwelling.
- E. The accessory dwelling shall contain fully self-sufficient living quarters, consisting of adequate sleeping, bathing, and eating accommodations.
- F. The accessory dwelling shall not exceed 1,000 gross square feet.
- G. The accessory dwelling shall be subsidiary in size and function to the principal dwelling and be consistent with the principal dwelling in appearance, design, colors, and materials.
- H. The accessory dwelling may be located within or added to the principal structure, or attached to an accessory structure such as a free-standing garage, or may itself be a free-standing accessory structure.
1. If contained within or added to the principal structure, exterior entry to the accessory dwelling shall not face the street as a second door.
2. If a free-standing structure or attached to a free-standing structure, the accessory dwelling shall be located only in the side or rear yard of the property.
- I. All required setbacks shall be complied with.
- J. If the accessory dwelling is not on public water and sewer, then well and septic provisions shall comply with New Hampshire Department of Environmental Services regulations.
- K. There shall be one parking space in the rear or side yard for the accessory dwelling and no additional curb cut.
- L. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal single-family dwelling.
- M. If the property ceases to be owner-occupied for a period exceeding one year, then the use of the accessory dwelling shall be discontinued until owner-occupancy is restored.
- ~~A. Maximum of one (1) accessory apartment per lot.~~
- ~~B. The property owner must occupy one of the two units.~~
- ~~C. The exterior appearance and entrances of the dwelling shall be consistent with a single-family residence.~~
- ~~D. Only one (1) bedroom is permitted in the accessory apartment and to qualify as an accessory apartment under this section, the apartment may not exceed 750 Sq. Ft. of floor space.~~
- ~~E. Where municipal sewer is not provided, the total number of bedrooms shall not exceed the capacity of the septic system~~
- ~~F. Off-street parking shall be provided for at least four (4) vehicles. Garage and "piggy-back" parking is encouraged.~~
- ~~G. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the existing single-family dwelling. Accessory apartment use shall be recorded by deed addendum.~~
- ~~H. The accessory apartment shall be allowed only within an existing building which has been certified for occupancy for at least three (3) calendar years prior to date of application.~~
- ~~I. No accessory apartment shall be permitted on a lot created as part of a back lot development, per the requirements of **Section 3.4.1.3(G)** of this ordinance.~~

2.3.1.8 Bed and Breakfast Homestay

- A. Bed and breakfast homestay uses shall be subject to the following regulations.
1. With the exception of homes or historic barns located within the Town of Londonderry cultural resources survey or listed on the national register of historic places, there shall be no more than four guest rooms

2. Up to six guest rooms may be allowed for homes or historic barns located within the Town of Londonderry cultural resources survey or listed on the national register of historic places.
3. The bed and breakfast homestay is subordinate and incidental to the main residential use of the building.
4. The only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging in the facility.
5. Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes
6. No exterior alterations, other than those required by law to ensure safety of the structure shall be made to any building for the purpose of providing a bed and breakfast homestay
7. The homestay operation shall not use more than 50% of the floor area of the principal residence. Common areas such as kitchens are not included in this calculation.
8. Adequate sewage disposal service shall be provided.
9. A minimum of two parking spaces for the dwelling unit and one additional for each guest room shall be required.
10. Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than thirty (30) days in any one year period

2.3.1.9 Portable Storage Structures:

The use of portable storage structures are allowed in the AR-I District under the following conditions:

- A. There must be no more than one portable storage structure per property.
- B. The portable storage structure must be no larger than ten feet wide, twenty feet long, and 10 feet high.
- C. A portable storage structure shall not remain at any property in excess of 6 consecutive months in any calendar year. A building permit is required for placement of a portable storage structure on a property.
 1. The Permit for a portable storage structure may be extended upon approval by the Building Department when an applicant demonstrates a reasonable hardship necessitating the extension. Such extension shall be made in writing to the Building Department, and if granted, shall not result in any additional permit fees.
- D. The portable storage structure shall be set back a minimum of 15 feet from any side or rear lot lines, and 40 feet from any front property line.
- E. The portable storage structure shall be set back a minimum of five feet from the nearest wall of a building.
- F. The portable storage structure shall be required to be placed on a paved, concrete, other appropriate impervious surface, or be placed on blocks.
- G. Portable storage structures associated with construction at a property where a building permit has been issued are permitted for the duration of construction activities on the property and shall be removed from the property within fourteen days of the issuance of a certificate of occupancy. Portable storage structures associated with construction are exempt from **Sections 2.3.1.9(A) through 2.3.1.9(F)**.

2.3.2 Multi-Family Residential (R-III)

2.3.2.1 Objectives and Characteristics

The Multi-Family (R-III) district is designed to permit an increased residential density in areas where municipal services make it appropriate and to promote flexibility in the design of residential projects with various housing types, reduced lot sizes and modified dimensional requirements, while maintaining a fixed maximum density. Flexible design can provide for the appropriate use of the land, facilitate the economical and efficient provision of

3. *Other allowed uses* - yard dimensions for all other uses shall be as per the development lot external lot standards referenced in **subsection 2.3.2.3(B)(6)** (dimensional requirements) above.

2.3.2.4 Conditional Use Permits

- A. The Planning Board may through the granting of a Conditional Use Permit allow the maximum number of dwelling units in a single building to be increased from sixteen (16) to no more than twenty (20) in the R-III District.
- B. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.
- C. **Application Procedure** - Applications for conditional use permits (CUP) for increased units per building for multi-family housing in the R-III District shall be made in accordance with the following procedures:
 1. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.
 2. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.
 3. The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.
- D. The following criteria must be met in order to increase the maximum number of units in a multi-family building in the R-III District from 16 to not more than 20.
 1. The proposed use is consistent with the Objectives and Characteristics of the district, **Section 2.3.2.1**;
 2. Granting of the application is in the public interest;
 3. The property in question is reasonably suited for the larger buildings 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.
 4. The application demonstrates that the 20-unit buildings 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 will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.
 5. There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such that the parcel is limited to less than 60% of the permitted density allowed by **Section 2.3.2.3(B)(1)** utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).

2.3.3 Inclusionary Housing

2.3.3.1 Purpose:

The purpose of this Section is to encourage and provide for the development of workforce housing within Londonderry. It is intended to ensure the continued availability of a diverse supply of home ownership and rental opportunities for persons meeting the definitions established in the State of NH's "Workforce Housing Statutes,"

RSA 674:58-61. Additionally, in implementing this Section, Londonderry has considered the region's affordable housing need as defined in the Southern NH Planning Commission Housing Needs Assessment.

2.3.3.2 Authority:

This Section is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision, as defined in RSA 674:21(I)(k) and 674:21(IV)(a).

2.3.3.3 Applicability

A. Development in accordance with the provisions of this Section is permitted by conditional use permit ~~within the following zoning districts~~ as defined in this Zoning Ordinance: ~~AR-I, R-III, and C-IV, and~~ as listed in the Permitted Use Table, **Section 2.2**.

~~1. Conversion of previously approved and unbuilt "Elderly Housing" developments to workforce housing are permitted by conditional use permit in the AR-I, R-III, C-I, C-II, C-III, and C-IV districts, as listed in the Permitted Use Table, Section 2.2. See Section 2.3.3.8 for standards and requirements.~~

B. Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

2.3.3.4 Conditional Use Permit Criteria for Workforce Housing

~~The Criteria of Section 1.5.2 shall be utilized by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing projects. Additional criteria for multi-family workforce housing development is found in Section 2.3.3.7, and additional criteria for the conversion of previously approved unbuilt Elderly Housing is found in Section 2.3.3.8. In addition to the Criteria of Section 1.5.2, the following criteria shall be used by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing, including Workforce Housing projects:~~

A. General:

1. The proposed development is fully compliant with all pertinent requirements of this Ordinance.
2. The proposed use is consistent with the Objectives and Characteristics *of the zoning district* and of this Inclusionary Housing Section 2.3.3.4.
3. 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.
4. The application demonstrates that project for which the Conditional Use Permit is sought does not impact the 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.
5. The applicant has demonstrated that an alternative design for which dimensional relief 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.
6. Workforce housing units must be constructed in proportional relationship to market-rate units in the development.
7. All workforce housing units must be completed and made available for sale or rental before the final 10% of the market-rate units are approved for occupancy within the same development.
8. At least 51% of dwelling units on a development lot in any inclusionary housing development must contain at least 2 bedrooms.

9. 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.
10. The Planning Board may consider a project that 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 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.

B. Multi-Family Workforce Housing:

1. The project shall be served 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.
2. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of ~~75%~~ 33% of the units meeting the definition of "workforce housing" under RSA 674:58.
3. 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.
4. Permitted density - the maximum permitted number of dwelling units ("permitted density") allowed in the development lot shall not exceed 10 units per acre.
5. There are no maximum number of dwelling units that may be contained in one building, as long as applicable fire, safety and building codes are adhered to.
6. Open space - no less than the area calculated below shall be retained as unoccupied space free of all buildings, parking and pavement, including street access, drives and walks paved with impervious materials, (but such unoccupied open space may include so-called nature walk areas and the like and other recreational uses approved by the Planning Board.) Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for the walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.
 - a. Total open space shall not be less than forty percent (40%) of the total development lot area
 - b. Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.
 - c. Usable open space shall not be less than twenty-five percent (25%) of the total development lot area. "Usable open space" shall not include "unusable land" which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.
7. Road design - internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town's Subdivision Regulations, but may be waived by the Planning Board.
8. Building separation - single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi-family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment.

9. Dimensional requirements:

- a. Minimum structure setbacks from the perimeter of the development lot shall be as follows: front - 40 feet; side - 35 feet; rear - 30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way.
- b. The maximum building height shall be flexible, based on recommendations from the Senior Building Official and the Fire Marshall, but no residential structure shall be greater than 3 stories.
- c. The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.

10. Parking

- a. A minimum of 2.0 parking spaces per dwelling unit shall be provided for all dwelling units in an inclusionary multi-family development.
- b. Parking areas shall be designated in accordance with requirements for parking areas set forth in **Section 3.10** of the Zoning Ordinance (parking).

11. Perimeter buffer - a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:

- a. Agricultural-Residential, Commercial, or Industrial: fifty feet (50') where directly abutting, no buffer where highway separates the development lot and a "C" or "I" district.
- b. R-III: no buffer.

12. Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing

- a. The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement for multi-family workforce housing (including but not limited to: setback, density, green space, frontage, roads and driveways, or parking) for projects that are truly supportive of the purpose and objectives of the Inclusionary Housing section as noted above, and where such adjustments would allow the developer to more fully meet these goals and objectives.
- b. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

13. Application Procedure - Applications for conditional use permits (CUP) for dimensional relief for multi-family workforce housing shall be submitted as part of the Site Plan application in accordance with the following procedures:

- a. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.
- b. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.
- c. The application will then begin Pre-Application Design review, which will include the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.

d. Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.

14. Approval of Applications Requiring a Conditional Use Permit - Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approvals. A conditional use permit shall be issued only if the development complies with all of the requirements of Section 2.3.3.4. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or of the most recently adopted Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law.

2.3.3.5 Definitions Specific to This Section.

Workforce Rental Housing – where the rent plus utilities for the dwelling unit does not exceed 30 percent of the allowed individual household income (60% of the Area Median Income adjusted for a family of 3, as defined by the US Department of Housing and Urban Development as required by RSA 674:58).

Workforce Owner-Occupied Housing – where the total cost of mortgage principal and interest, mortgage insurance premiums, property taxes, association fees, and homeowner’s insurance does not exceed 30 percent of the maximum allowed income of the purchaser (100% of the Area Median Income adjusted for a family of 4, as defined by the US Department of Housing and Urban Development as required by RSA 674:58). The calculation of housing costs shall be based on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the region.

Area Median Income (AMI) – is the median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which Londonderry belongs, as is established and updated annually by the United States Department of Housing and Urban Development.

~~**Assets** – As defined as “Net Family Assets” by 24 CFR Part 5, Subpart F, and as amended from time to time.~~

~~**Income** – As defined as “Annual Income” by 24 CFR Part 5, Subpart F, and as amended from time to time.~~

Market Rate Housing – Any unit within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

Owner-occupied Housing – Any dwelling unit intended to be conveyed in fee simple, condominium or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

Rental Housing – Any dwelling unit intended for leasehold occupancy.

~~**Small Workforce Housing Development** – Workforce housing permitted in residential zones to accommodate structures with up to 4 units on an individual lot, and designed to be compatible with the context of the neighborhood.~~

~~**Live-Work Unit** - A single unit consisting of both a work space for occupations like commerce, professional services, artisan, or similar, along with a residential component that is occupied by the entrepreneur. The live/work unit shall be the primary dwelling of the occupant and is intended for non-residential zones as applicable.~~

~~**2.3.3.6 Single Family & Duplex Workforce Housing Categories and Incentives**~~**Small Workforce Housing Developments**

~~A. A Site Plan or subdivision plan that will guarantee a designated percentage of units, reserved as workforce housing, may be approved with an increase in the density of the site or a reduction of the minimum site frontage as is set forth in Table 1. The developer shall specify in the application whether the density bonus or~~

the frontage reduction is the option being sought for the development. These bonuses shall not apply to multi-family workforce housing development, which is governed by the provisions of **Section 2.3.3.7**.

Table 1		
	Minimum Set-Aside	Density Bonus or Frontage Reduction[*]
Workforce Owner-occupied Housing	25%	25% Density Bonus or 50' Frontage Reduction

* At no point shall a frontage reduction reduce a lot's frontage to less than 50' total.

- A. Single-family, duplex, triplex, or quadriplex workforce dwellings are permitted in the AR-1 Agricultural and Residential zoning district, according to the following:
 - 1 Provisions of Section 2.3.1.3 to the contrary notwithstanding, minimum area of a lot containing 1 to 4 workforce units shall comprise:
 - a. 10,890 square feet (1/4 acre) per workforce dwelling unit if the property is served by public water and sewer, or
 - b. The minimum area necessary to comply with NH Code of Administrative Rules Chapter ENV-Ws 1000 (ENV-Ws 1005.03 Minimum Lot Sizes) Latest Revision, if the property is not serviced by either public water or sewer or both.
- B. A duplex structure containing one market-rate unit and one workforce unit may be developed on a 21,780 square-foot (1/2 acre) lot if served by public water and sewer, or the minimum area necessary to comply with NH Code of Administrative Rules Chapter ENV-Ws 1000 (ENV-Ws 1005.03 Minimum Lot Sizes) Latest Revision, if the property is not served by either public water or sewer or both, provided that the workforce dwelling unit shall be similar in exterior appearance and otherwise visually indistinguishable from the market-rate unit.
- C. Minimum lot frontage shall be 75 feet for any lot containing 1 to 4 workforce dwelling units.
- D. Each workforce dwelling unit shall contain at least two bedrooms.
- E. All height and setback dimensional requirements of the AR-1 zoning district shall apply.
- F. A Conditional Use Permit is required for Small Workforce Housing Developments.

2.3.3.7 Standards and Requirements for Multi-Family Workforce Housing 2.3.3.7 Live-Work Units

The business component of live/work units are intended for use by entrepreneurs and professionals in occupations including but not limited to : accountants; architects; artists and artisans; attorneys, computer software and multimedia-related professionals; consultants; engineers; fashion, graphic, interior and other designers; hair stylists; insurance, real estate and travel agents; one-on-one instructors; photographers; and for light manufacturing/assembly and similar occupations;

- A. Live/work units are permitted by conditional use permit in the Commercial and Industrial Zones.
- B. In addition to the permitted uses above, the zoning administrator may authorize other uses using reasonable discretion, as long as such other uses are not otherwise precluded by law;
- C. The residential and the commercial space must be occupied by the same tenant, and no portion of the live/work unit may be rented or sold separately;
- D. Residential areas are permitted above the commercial component, to the side or in back of the business component, provided that there is internal access between the residential and commercial space;
- E. The commercial component as designated on the floor plan approved through the conditional use permit shall remain commercial and cannot be converted to residential use;

- F. The residential component as designated on the floor plan approved through the conditional use permit shall remain residential and cannot be converted to commercial use;
- G. The commercial component shall be restricted to the unit and shall not be conducted in the yard, garage or any accessory structure;
- H. Signage intended to promote on-site commercial uses shall be restricted to a single four--square foot signs permanently affixed to the door or wall of the business component;
- I. The live/work unit shall be required to provide parking at least 3 spaces per unit.

~~A.I.~~

~~B. 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 in order 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 will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.~~

~~C. Development Plan~~

- ~~1. The applicant shall prepare and submit to the Planning Board for approval a development plan of the tract proposed for development ("development lot"), which locates the proposed types of residential development, utilities, access roads and streets. ("development plan")
 - a. The development plan shall include general, conceptual site and architectural plans sufficiently detailed to show the intended land uses, structures, improvements, and other features necessary to demonstrate compliance with this Section and other applicable provisions of the Zoning Ordinance.
 - b. The applicant may elect to develop the development lot in phases.
 - c. Final approval of development of any portion of the development lot shall require site plan approval according to the Site Plan Regulations of the Planning Board.~~

- d. ~~Once development of any portion of the development lot begins, no portion of the development lot may thereafter be developed or used except in conformity with the approved development plan, or an amended development plan approved by the Board.~~

~~D.—Density, Design and Dimensional Standards for Development Lot~~

1. ~~Permitted density~~— the maximum permitted number of dwelling units (“permitted density”) allowed in the development lot shall be as follows:
 - a. ~~The maximum number of dwelling units permitted on the development lot shall 10 units per acre.~~
 - b. ~~The maximum number of dwelling units per multi-family building in an inclusionary development shall be sixteen (16).~~
 - i. ~~The maximum number of dwelling units in a single building may be increased from sixteen (16) to no more than twenty (20) if the applicant is granted a conditional use permit from the Planning Board, in accordance with **Section 2.3.3.7(D)**.~~
 - c. ~~At least 51% of dwelling units on a development lot in an inclusionary development must contain at least 2 bedrooms.~~
2. ~~Screening, Landscaping and Glare~~— the development plan shall be designed to screen parking lots from streets by building location, grading or screening and to minimize glare on adjoining properties. Glare from any use of land, including site illumination, shall not exceed 0.2 foot candles, measured at ground level, at or beyond the perimeter of the development lot. Lighting fixtures shall be designed for downward casting of light. Major topographic changes or removal of existing trees shall be avoided wherever possible, and water, wetlands and other scenic views shall be preserved wherever possible.
3. ~~Open space~~— no less than the area calculated below shall be retained as unoccupied space free of all buildings, parking and pavement, including street access, drives and walks paved with impervious materials, (but such unoccupied open space may include so-called nature walk areas and the like and other recreational uses approved by the Planning Board.) Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for the walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.
 - a. ~~Total open space shall not be less than forty percent (40%) of the total development lot area~~
 - b. ~~Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.~~
 - c. ~~Usable open space shall not be less than twenty five percent (25%) of the total development lot area. “Usable open space” shall not include “unusable land” which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.~~
4. ~~Road design~~— internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town’s Subdivision Regulations.
5. ~~Building separation~~— single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Up to three (3) buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment.
6. ~~Dimensional requirements~~
 - a. ~~Minimum structure setbacks from the perimeter of the development lot shall be as follows: front—40 feet; side—35 feet; rear—30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way.~~

- b. ~~The maximum building height shall be flexible, based on recommendations from the Senior Building Official and the Fire Marshall, but no residential structure shall be greater than 4 stories.~~
- c. ~~The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.~~

~~7.—Parking~~

- a. ~~A minimum of 1.75 parking spaces per dwelling unit shall be provided for all dwelling units in an inclusionary multi-family development.~~
- b. ~~Parking areas shall be designated in accordance with requirements for parking areas set forth in **Section 3.10** of the Zoning Ordinance (parking).~~

~~8.—Perimeter buffer—a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:~~

- a. ~~Agricultural Residential, Commercial, or Industrial: fifty feet (50') where directly abutting, no buffer where highway separates the development lot and a “C” or “I” district.~~
- b. ~~R-III: no buffer.~~

~~**E.—Dimensional Relief by Conditional Use Permit for Multi-Family Workforce Housing**~~

- 1. ~~The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement for multi-family workforce housing (including but not limited to: setback, density, green space, frontage, or parking) for projects that are truly supportive of the purpose and objectives of the Inclusionary Housing section as noted above, and where such adjustments would allow the developer to more fully meet these goals and objectives.~~
- 2. ~~The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.~~
- 3. ~~Application Procedure—Applications for conditional use permits (CUP) for dimensional relief for multi-family workforce housing shall be made in accordance with the following procedures:~~
 - a. ~~It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town’s Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.~~
 - b. ~~The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.~~
 - c. ~~The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.~~
 - d. ~~Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.~~
- 4. ~~Approval of Applications Requiring a Conditional Use Permit—Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if the development complies with all of the requirements of **Section 2.3.3.7(5)[e]**. The Planning Board may also condition its approval on additional, reasonable~~

~~conditions necessary to accomplish the objectives of this section or of the 2004 Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law.~~

~~5. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit for dimensional relief in a multi-family workforce housing development. The applicant shall demonstrate that:~~

- ~~a. The proposed use is consistent with the Purpose of the Inclusionary Housing Section, **Section 2.3.3.1**;~~
- ~~b. Granting of the application is in the public interest;~~
- ~~c. 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.~~
- ~~d. 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; and~~
- ~~e. The application demonstrates that the alternative design 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.~~

~~6. *Additional Criteria to increase the maximum number of units allowed in a multi-family building.* In addition to all the criteria listed in **Section 2.3.3.7(E)**, the following additional criteria must be met in order to increase the maximum number of units in a multi-family inclusionary building from 16 to not more than 20.~~

- ~~a. There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such that the parcel is limited to less than 50% of the permitted density allowed by **Section 2.3.3.7(C)(1)(a)** utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).~~
- ~~b. The applicant must demonstrate to the Planning Board that the limitation of the number of units per building at 16 per building makes the overall project unfeasible such that the development costs exceed the ability of the applicant recover development costs through rent/sales and any applicable tax credits or subsidies. The applicant must demonstrate this to the Planning Board through an independent Project Cost Estimate which includes the cost of the land, development and construction costs; financing, profit, and sales costs, and any other cost factors.~~

2.3.3.8 Conversion of Previously Approved Unbuilt Elderly Housing Development to Workforce Housing Administration, Compliance and Monitoring: Assurance of Continued Affordability

Each workforce housing lot or dwelling unit in a subdivision, conservation subdivision, multi-family residential development, mixed use residential development, or Planned Unit Development shall remain affordable, as defined in RSA 674:58-61, for a period of not less than 40 years. This section shall be administered by the Planning Board.

A. For-Sale Workforce Housing:

- 1. No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the buyer and the selling price of**

the workforce housing unit. An executed purchase and sale agreement shall be used to document selling price. Income eligibility of the buyer shall be certified by a qualified third-party entity with expertise in determining the eligibility of the prospective owners to purchase workforce housing, and provided to the Town in the form of an affidavit of compliance prior to closing on the unit.

2. There shall be a limitation on the resale price of an affordable lot or unit consistent with the annual NHHFA Workforce Housing Purchase Limits (current year), and in every transfer of the lot's or unit's ownership. A restriction of resale to an income-eligible buyer is required by means of legally enforceable deed restrictions, restrictive covenants, contractual arrangements established to meet these continued affordability requirements, or other suitable methods specified in a legally enforceable document, applicable to the development and to each affordable lot or dwelling unit, found by the Planning Board to be appropriate and effective for ensuring such affordability, and filed in the Rockingham County Registry of Deeds. For each sale or re-sale of a workforce unit, the deed shall reflect submission of an affidavit of compliance to the Town certifying income eligibility and qualifying selling price.
3. The documents specifying such legally enforceable methods shall provide that the Town of Londonderry has legal rights on its own volition, or through its duly designated agent, to monitor and ensure the continuing validity of such covenant or document and to renew or cause renewal of such covenant or document for the purpose of extending for as many times as necessary the continuing affordability of lots or dwelling units as originally approved by the Planning Board.

B. Rental Workforce Housing:

1. The property owner, successor, or assign, shall be responsible for the continued affordability of workforce rental dwelling units consistent with RSA 674:58-61 and aforementioned covenants and documents, as certified by a qualified third-party entity with expertise in determining the eligibility of the prospective renters. Annual reports shall be submitted to the Planning and Economic Development Department by December 31st of each year. These reports shall contain all pertinent information relative to determination of gross rents and respective income qualification of tenants in accordance with the RSA's.
2. Annual rent increases for workforce housing rental units shall not exceed any increase in Area Median Income as reported by the US Department of Housing and

C. Enforcement and penalties for non-compliance shall be in accordance with Sections 4.4 and 4.3 of the zoning ordinance.

~~D. Conditional Use Permit Criteria for Conversion of Previously Approved Unbuilt Elderly Housing to Workforce Housing~~

- ~~1. In addition to the criteria from **Section 2.3.3.4**, the following criteria must be met in order for the Planning Board to grant a Conditional Use Permit for a conversion of an unbuilt, previously approved Elderly Housing project into workforce housing:
 - ~~a. The property must have received a final approval from the Planning Board for development of Elderly Housing, and must not have constructed any dwelling units on the property since receiving approval.~~
 - ~~b. The approval for the Elderly Housing development must still be valid. Elderly Housing developments that have expired approvals shall not be eligible for conversion to Workforce Housing.~~
 - ~~c. Granting of the application is in the public interest;~~
 - ~~d. 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.~~
 - ~~e. 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.~~
 - ~~f. The project is designed to meet the requirements of RSA 674:59, and provides a minimum of 100% of the units meeting the definition of "workforce housing" under RSA 674:58.~~
 - ~~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.~~~~

~~E. Density, Design, and Dimensional Standards~~

- ~~1. The Planning Board may allow for design and density changes from the approved Elderly Housing project when a conversion is sought, however under no circumstances shall the density of the project exceed that which is permitted in **Section 3.6 (Elderly Housing)**. The project must meet all other applicable requirements from **Section 3.6**, except for those relative to occupancy of the units by those considered to be "Elderly."~~
- ~~2. All conversions from Elderly Housing to Workforce Housing must follow the declaration procedure as outlined in RSA 674:60 and **Section 2.3.3.12(A)**, and must receive both a conditional use permit and site plan approval in order to proceed with conversion of the units.~~

~~2.3.3.9 General Requirements of Workforce Units~~

- ~~A. The dwellings qualifying as workforce housing shall be compatible in architectural style and appearance with the market rate dwellings in the proposed development. The workforce units should be interspersed throughout the overall development.~~
- ~~B. To ensure that the application is completed as permitted, the dwellings qualifying as workforce housing shall be made available for occupancy on approximately the same schedule as a project's market units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the workforce housing units. A schedule setting forth the phasing of the total number of units in a project under this Section, along with a schedule setting forth the phasing of the~~

~~required workforce housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this Section.~~

- ~~C. To ensure that only eligible households purchase/rent the designated workforce housing units, the purchaser/renter of an workforce unit must submit copies of their last three years' federal income tax returns and written certification verifying their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance in **Section 2.3.3.5** of this Section. The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in this Section and **Section 2.3.4** if applicable, within 30 days following the transfer of title.~~
- ~~D. All applicants under this section must submit the following data to ensure project affordability:~~
- ~~1. Calculation of the number of units provided under this Section and how it relates to its provisions.~~
 - ~~2. Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.~~
 - ~~3. Description of each unit's size, type, estimated cost and other relevant data.~~
 - ~~4. Documentation of household eligibility as required in **section 2.3.3.9(C)** of this Section.~~
 - ~~5. All agreements established as part of **sections 2.3.3.10** and **2.3.4** as applicable~~
 - ~~6. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability of this Section.~~

2.3.3.10 Assurance of Continued Affordability

~~In order to qualify as workforce housing under this Section, the developer must make a binding commitment that the workforce housing units will remain affordable for a period of 40 years. This shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other housing trust or agency. For the 40-year term, the deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:~~

- ~~A. Workforce housing units offered for sale shall comply with **Section 2.3.4, Retention of Housing Affordability.**~~
- ~~B. Workforce housing rental units shall limit annual rent increases to the percentage increase in the area median income.~~
- ~~C. Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Section must be documented on all plans filed with the Planning Board and the Rockingham County Registry of Deeds.~~

2.3.3.11 Administration, Compliance and Monitoring

- ~~A. This Section shall be administered by the Planning Board. Applications for the provisions provided under this Section shall be made to the planning board and shall be part of the submission of an application for site plan or subdivision plan approval.~~
- ~~B. No certificate of occupancy shall be issued for an workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing unit and confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.~~
- ~~C. On-going responsibility for monitoring the compliance with resale and rental restrictions on workforce units shall be the responsibility of the Planning Board or its designee.~~
- ~~D. The owner of a project containing workforce units for rent shall prepare an annual report, due on December 31 each year, certifying that the gross rents of workforce units and the household income of tenants of workforce units have been maintained in accordance this Section. Such reports shall be submitted to the Community~~

~~Development Department or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.~~

2.3.3.12-9 Statutory Procedures for Applications and Appeals

- A. Any person who applies for a workforce housing development under this ordinance shall file a written statement of such intent as part of the application. The failure to file such a statement shall constitute a waiver of the applicant's rights under RSA 674:61, but shall not preclude an appeal under other applicable laws. In any appeal where the applicant has failed to file the statement required by this paragraph, the applicant shall not be entitled to a judgment on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.
- B. If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purpose of complying with the requirements of RSA 676:4, I(c)(1). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.
- C. Upon receiving notice of conditions and restrictions as stated in **Section 2.3.3.129(B)**, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the Planning Board, which shall not be less than 30 days.
 - 1. Upon receipt of such evidence from the applicant, the Planning Board shall allow the applicant to review the evidence at the board's next meeting for which 10 days' notice can be given, and shall give written notice of the meeting to the applicant at least 10 days in advance. At such meeting, the board may also receive and consider evidence from other sources.
 - 2. The board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.
 - 3. Subject to **Section 2.3.3.129(C)(4)**, the Planning Board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the Board, in which case it may issue its final decision any time after the expiration of the period.
 - 4. If an applicant notifies the Planning Board in writing at any time that the applicant accepts the conditions and restrictions of approval, the Board may issue its final decision without further action.

2.3.4 Retention of Housing Affordability

2.3.4.1 Authority and Purpose

~~A. **Authority:** This ordinance is adopted as an "innovative land use control" pursuant to RSA 674:21.~~

~~B. **Purpose:** The purpose of this ordinance is to provide a means by which Londonderry may promote the long-term affordability of housing units (intended for ownership and not rental or lease) built as part of a development approved by the Planning Board under the terms of the Londonderry's Inclusionary Housing provisions. It is intended to ensure that the units remain affordable to households of low and moderate income, while also facilitating homeowners' capacity to benefit from property value appreciation. It creates a lien interest in the property held by the Town, enforceable by the Town as a mortgage.~~

2.3.4.2 General Provisions

~~A. **Definitions.** For purposes of this section:~~

- ~~1. “Workforce (or “Affordable”) Housing Unit” means a residential dwelling unit intended to be affordable to persons of low or moderate incomes, which an applicant agrees to produce as a condition of approval of an “inclusionary” housing development as described in **Section 2.3.3** of this Ordinance. More particularly a “Workforce Housing Unit” means the following, as determined by the Planning Board at the time a particular development is granted approval by the Board: A unit of housing which — in addition to any other specific conditions of approval imposed by the Planning Board at the time of approval — is required to be administered in accord with the general provisions as set forth herein, which is subject to the procedures set forth in **Section 2.3.4.3** below at the time of its initial conveyance; and which is conveyed subject to a contingent subsidy lien and covenants in favor of the Municipality, as set forth in **2.3.4.4** below.~~
 - ~~2. The “Developer” means the person or entity which applies for and receives Planning Board approval for an “inclusionary” housing project as set forth in **Section 2.3.3** of this Ordinance, any person or entity to which rights to construct such a project under such an approval have been conveyed, or any person or party acting as contractor or agent for such a party, or who otherwise performs acts in furtherance of constructing or implementing the approval, or fulfilling any conditions thereof.~~
 - ~~3. “Housing Cost” means the estimated monthly cost to an Owner of a Workforce Housing Unit, including mortgage principal and interest, property taxes (municipal, school, county, and state), homeowner’s insurance, mortgage insurance, and any applicable homeowner’s association fees. Interest calculations shall be based upon the prevailing market interest rate at the time of conveyance for a 30-year fixed-rate conventional mortgage. Schedules used to determine Housing Cost may be adopted and revised as needed by the Planning Board.~~
 - ~~4. The “Municipality” means the Town of Londonderry; provided that, however, and except where responsibilities are specifically assigned herein or where statute creates a non-delegable responsibility, the tasks and functions required herein to be performed by the Municipality shall be performed by the Town Council or its designee, or may be delegated in whole or in part by vote of the Town Council to a third-party designee such as a nonprofit organization or quasi-governmental agency, subject to the supervision of the Town Council or its designee.~~
 - ~~5. The “Owner” shall mean the person(s) who initially separately purchases and occupies the completed Workforce Housing Unit, under the procedures set forth in **Section 2.3.4.3** below, as well as any person(s) who subsequently purchases the unit under the procedures required under **Section 2.3.4.4** below.~~
 - ~~6. The “Fair Market Value” of the Workforce Housing Unit, at the time of the initial or any subsequent conveyance shall be the price which such unit would command at that time in an arm’s-length transaction on the open market if the unit were not subject to any of the restrictions of this Section, and the Owner were to purchase the property in fee simple absolute.~~
 - ~~7. “First Mortgage” means a recorded mortgage which is senior to any other mortgages or liens against the Workforce Housing Unit (other than the lien for real estate taxes and homeowner assessments, if any), and which is used to secure a loan to an eligible buyer to purchase the unit.~~
 - ~~8. “Qualified Purchaser” means a purchaser who has been certified by the Municipality as meeting income standards to purchase a Workforce Housing Unit. It also includes a non-profit organization, the primary purpose of which is to provide or to facilitate the acquisition of housing that is affordable to low and moderate income households.~~
 - ~~9. “Area Median Income” means Area Median Income (“AMI”) for a family of four as established and updated periodically by the U.S. Dept. of Housing and Urban Development for the Fair Market Rent Area where the Municipality is located.~~
- ~~B. The Planning Board shall, as a condition of approval, make an initial determination of the following with respect to all included Workforce Housing Units which, unless modified pursuant to **Section 2.3.4.3(C)** below, shall serve as the basis for conveyance by the Developer:~~
- ~~1. An estimated projected Fair Market Value for the Workforce Housing Units to be constructed by the Developer, using Developer projections or such other available information as the Planning Board may~~

require. Construction details shall be provided in sufficient detail to enable a reasonable projection of such Value, and compliance with such details shall be deemed a condition of approval.

- ~~2.—An initial target income level for the initial conveyance of the Workforce Housing Units, which shall not be greater than 100% of the Area Median Income (“AMI”).~~
- ~~3.—A corresponding initial selling price for each Workforce Housing Unit, which shall be set at a level that is projected to require a Housing Cost no greater than 30% of the initial target income determined in **Section 2.3.4.2(B)(2)** above.~~
- ~~4.—A corresponding projected initial subsidy for each Workforce Housing Unit, which shall be the difference between the estimated projected Fair Market Value and the initial selling price. The projected initial subsidy shall be between 15% and 33% of the estimated projected Fair Market Value of the unit, inclusive.~~

~~C.—Except as expressly set forth in this Section, in the conditions of Development approval by the Planning Board, or in a lien and covenant document recorded pursuant to **Section 2.3.4.3** below, an Owner shall have the same rights and privileges with respect to the Affordable Housing Unit as would any person who owned the unit in fee simple absolute, including but not limited to the right of quiet enjoyment, the right to make improvements, and the right to convey a First Mortgage interest, as detailed below.~~

2.3.4.3 Procedures at Time of Initial Conveyance

~~A Workforce Housing Unit shall not be separately conveyed, or initially occupied, except in accordance with the following procedures:~~

- ~~A.—During construction and upon completion of construction, the Municipality shall inspect the unit to confirm that all applicable codes, ordinances, conditions of approval (including construction details presented at the time of approval) and all other legal requirements have been met.~~
- ~~B.—Upon successful inspection, the Municipality at the Developer’s expense shall cause an independent appraisal to be performed to determine the Fair Market Value of the unit.~~
- ~~C.—The initial selling price shall be as set by the Planning Board at the time of plan approval under **Section 2.3.4.2(B)**; provided, however, that under unusual circumstances the Developer may petition the Planning Board, which may for good cause and following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require, amend the initial selling price, the projected initial subsidy, and/or the initial target income level.~~
- ~~D.—The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the relevant target income requirements and eligible to purchase the unit and for ranking Qualified Purchasers. Any potential buyer identified by the Developer or its agent must be referred to the Municipality. If, after the impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the initial selling price, then the final choice of purchasers shall lie with the Developer.~~
- ~~E.—The Town Council shall from time to time establish rules and procedures for determining income eligibility and priority for ranking Qualified Purchasers, such rules and procedures to be consistent with U.S. Dept. of Housing & Urban Development Program Requirements at 24 CFR Part 5, Subpart F. There shall be no requirement for continuing Owner income eligibility, and no Owner shall, subsequent to purchase, be deemed in violation of this Section or of the Subsidy Lien and Restrictive Covenant for lack of income eligibility, unless false or fraudulent information is found to have been provided by said Owner at the time of initial eligibility determination.~~
- ~~F.—The Developer shall not convey, or agree to convey, the Workforce Housing Unit for a total consideration any higher than the initial selling price as set by the Planning Board. The Developer shall not convey, or agree to convey, the unit except to the top priority Qualified Purchaser, or second priority Qualified Purchaser if the top priority purchaser is unable to complete the sale of the property; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Developer, after exercising a good faith effort, fails to produce a~~

~~purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing and able to execute a purchase and sales agreement at the initial selling price within 120 days after the Municipality grants a Certificate of Occupancy in **Section 2.3.4.3(A)** above, the Developer may convey the unit to any purchaser of the Developer's choosing; nevertheless such conveyance shall remain subject to the initial selling price, as set by the Board, and the recording of a Subsidy Lien and Restrictive Covenant, as set forth below. The Developer shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality.~~

- ~~G. The initial Owner shall, at the time of closing, execute and convey to the Municipality a covenant document, to be called a "Subsidy Lien and Restrictive Covenant", which shall be recorded in the Rockingham County Registry of Deeds together with the Owner's deed. This document shall contain the initial value of the Municipality's subsidy lien, and all the elements required under **Section 2.3.4.4** below.~~
- ~~H. The initial value amount of the Municipality's subsidy lien shall be the difference between the appraised value reached under **Section 2.3.4.3(B)** above, and the unit's initial selling price. The burden of the creation of the subsidy shall fall upon the Developer as a condition of approval.~~
- ~~I. In addition, the Developer shall, at the time of the closing, pay to the Municipality an administrative fee for each unit, which shall be used by the Municipality to fund the administration of the unit under this Subsection, including appraisals, drafting of documents, costs incurred for program administration by an independent agent of the Municipality, and other expenses relating to the Municipality's subsidy lien. The amount of the administrative fee shall be two percent (2%), or as otherwise determined by the Town Council, of the unit's initial selling price, provided however that the Town Council may if warranted, pursuant to RSA 41:9-a, prospectively alter the rate of the fee to more accurately reflect actual administrative costs. The fee shall be accounted for in the same manner as an impact fee, as provided in RSA 674:21, V(c).~~
- ~~J. Notwithstanding the foregoing, the initial selling price, the projected initial subsidy, and/or the initial target income as conditions of approval may be reviewed and recalculated by the Planning Board as needed between the date of approval and conveyance by the Developer, for the purposes of ensuring that the objectives of this ordinance are met. Amendment of any such condition shall only be made following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require.~~

~~2.3.4.4 Subsidy Lien and Restrictive Covenant~~

~~The "Subsidy Lien and Restrictive Covenant" required under **2.3.4.3(G)** above shall set forth the initial value amount of the subsidy lien as determined under **2.3.4.3(H)** above, shall incorporate all of the requirements for subsequent conveyances of the Workforce Housing Unit as set forth in **Sections 2.3.4.5** through **2.3.4.7** below, shall provide that any and all of such requirements shall be subject to enforcement pursuant to **2.3.4.9** below, and shall, in addition, incorporate the following conditions and restrictions:~~

- ~~A. The unit shall be the primary residence of the Owner, and shall be occupied by the Owner.~~
- ~~B. The unit shall at all times be maintained in conformity with all applicable building or housing codes, land use ordinances or conditions of approval, and any other applicable provisions of federal, state, or local law. The Owner shall immediately notify the Municipality of any existing or anticipated violation of any such requirement, or of any provision of the Subsidy Lien and Restrictive Covenant.~~
- ~~C. The Owner shall not, without the prior written consent of the Municipality, convey any mortgage or other lien interest in the unit, other than a First Mortgage interest. The Municipality's Subsidy Lien interest shall generally be deemed the equivalent of a second mortgage interest subordinate to any such First Mortgage, and shall entitle the Municipality to the right to notice as a lienholder for all purposes, including foreclosure notice under RSA 479:25. The Municipality may consider an alternative lien position on a case-by-case basis, based on a reasonable assessment of risk and an appraisal of value.~~

~~2.3.4.5 Subsequent Conveyances of the Unit~~

~~Except in the cases of purchase of a unit by the Municipality in accordance with **Sections 2.3.4.6** or **2.3.4.7** below, or release or termination of the Subsidy Lien and Restrictive Covenant by the Municipality in accordance with~~

~~**Section 2.3.4.8** below, no Owner of a Workforce Housing Unit shall convey the unit except in accordance with the following procedures:~~

- ~~A. An Owner may at any time notify the Municipality in writing of an intent to convey the unit. The Municipality shall, as soon as practicable, cause an appraisal to be conducted to arrive at a current Fair Market Value of the unit (including the value of any fixtures or improvements made by the Owner). If the Owner disagrees with or has doubts or questions concerning the accuracy of the appraisal, the Owner may choose to fund a second appraisal, and the current Fair Market Value shall be deemed to be the average of the two appraisals unless otherwise agreed. If the Owner does not convey the unit within one year after providing written notice of intent to convey the unit or otherwise rescinds its notice of intent to dispose of the unit either directly in writing to the Municipality or constructively by either failing to market the property or withdrawing it from the market, the Owner shall reimburse the Municipality for the cost of its appraisal of the unit. Subsequent notices of intent to convey the unit shall require a new appraisal.~~
- ~~B. The Municipality shall set the maximum resale price of the unit by adjusting the recorded initial value amount of its subsidy lien by the change in the US Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for Boston, Brockton-Nashua, MA-NH-ME-CT for Shelter or a comparable housing cost index should the CPI-U be discontinued, calculating from the time of such recording, then subtracting that adjusted subsidy lien amount from the current Fair Market Value determined under **Section 2.3.4.5(A)** above. The Municipality shall also, based upon that maximum resale price, determine a revised target income level for which the unit would be affordable at such a resale price, such that the unit's Housing Cost would be no greater than 30% of the revised target income. If the revised target income level is greater than 120% of the Area Median Income or if the adjusted subsidy lien amount is not between fifteen and thirty-three percent of the Fair Market Value, the Municipality may retire or modify the subsidy lien in accordance with **Section 2.3.4.8** below. An increase to the subsidy lien will result in a corresponding decrease to the maximum resale price; a decrease to the subsidy lien will result in a corresponding increase to the maximum resale price. In neither case will the Owner's equity be affected, if any.~~
- ~~C. The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the revised target income requirements, in the same manner set forth in **Section 2.3.4.3(D)** above, and for ranking Qualified Purchasers. Any potential buyer identified by the Owner or its agent must be referred to the Municipality. If, after the impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the maximum resale price, then the final choice of purchasers shall lie with the current Owner.~~
- ~~D. The Owner shall not convey, or agree to convey, the Workforce Housing Unit for a total consideration any higher than the maximum resale price as determined under **Section 2.3.4.5(B)**. The Owner shall not convey, or agree to convey, the unit except to persons who have been certified as income-eligible under **Section 2.3.4.5(C)**; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Owner, after exercising a good faith effort, fails to produce a purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing, and able to execute a purchase and sales agreement at the maximum resale price within 120 days after the Owner's written notice of intent to convey the unit, the Owner may convey the unit to any purchaser of the Owner's choosing; nevertheless such conveyance shall remain subject to the maximum resale price, to the purchaser income qualification procedures for subsequent conveyances, and to the Subsidy Lien and Restrictive Covenant, and such a conveyance shall permit, but shall not obligate, the Municipality to modify or retire the adjusted subsidy lien in accordance with **Section 2.3.4.8** below. Nothing in the foregoing shall be construed to relieve or limit the Owner's obligation to engage in good faith and energetic efforts to market the unit for purposes of identifying a purchaser who is likely to meet the income qualification standards herein. The Owner shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality.~~
- ~~E. At the time of closing, the new Owner shall execute a Subsidy Lien and Restrictive Covenant, substantively similar to that executed by the prior Owner, and the Municipality shall execute a certification of compliance with the conveyance procedures required by the Subsidy Lien and Restrictive Covenant. Both of these documents shall be recorded together with the new Owner's deed. The seller shall also, at the time of the~~

~~closing, pay to the Municipality an administrative fee of two percent (2%), or as otherwise determined by the Town Council, of the resale price, but such fee shall be subject to adjustment, as set forth in **2.3.4.3(I)** above.~~

~~F.—Notwithstanding **Sections 2.3.4.1** through **2.3.4.5** above, the following types of conveyances are exempt from the Owner Conveyance provisions set forth in this Subsection:~~

- ~~1.—A conveyance to a first mortgagee resulting from foreclosure, or~~
- ~~2.—Any of the following, provided, however, that the unit shall, subsequent to such an exempt conveyance, remain subject to the provisions of the Subsidy Lien and Restrictive Covenant:~~
 - ~~a.—A conveyance resulting from the death of an Owner where the conveyance is to the spouse who is also an Owner.~~
 - ~~b.—A conveyance to the Owner's estate following his or her death for the purpose of administering the estate and distributing the assets thereof during a limited period of time.~~
 - ~~c.—A conveyance resulting from the death of an Owner when the conveyance is to one or more children or to a parent or parents of the deceased Owner.~~
 - ~~d.—A conveyance by an Owner where the spouse of the Owner becomes the co-Owner of the Property.~~
 - ~~e.—A conveyance directly resulting from a legal separation or divorce, by which a co-Owner becomes the sole Owner of the unit.~~

2.3.4.6 Right of First Refusal in Subsequent Conveyances

~~Upon receipt of a notice of intent to convey a Workforce Housing Unit under **Section 2.3.4.5(A)** above, the Municipality shall have the right to purchase the property at the maximum resale price, as determined according to **Section 2.3.4.5(B)** above. If the Municipality elects to purchase the unit, it shall exercise the purchase right by notifying the Owner, in writing, of such election ("Notice of Exercise of Right") within forty five (45) days of the receipt of the Intent to Convey Notice, or the Right shall expire. Within seven (7) days of the Municipality exercising its purchase right, the Municipality and the Owner shall enter into a purchase and sale contract. The purchase by the Municipality must be completed within forty five (45) days of the Municipality's Notice of Exercise of Right, or the Owner may convey the property as provided in **Section 2.3.4.5** above. The time permitted for the completion of the purchase may be extended by mutual written agreement of the Owner and the Municipality. If the Municipality has in writing waived its purchase right, or if the Purchase Right has expired, or if the Municipality has failed to complete the purchase within forty five (45) days of its Notice of Exercise of Right, the Owner may convey the unit according to **Section 2.3.4.5** above for no more than the maximum resale price as calculated therein.~~

2.3.4.7 Municipality's and Owner's Rights in Foreclosure

~~A.—The Owner shall give immediate written notice to the Municipality upon the first to occur:~~

- ~~1.—the date any notice of foreclosure is provided to the Owner or any foreclosure is commenced against the unit under the First Mortgage, or~~
- ~~2.—the date when the Owner becomes twenty-one (21) days late in making a payment on any indebtedness encumbering the unit required to avoid foreclosure of the First Mortgage.~~

~~B.—At any time within sixty (60) days after receipt of any notice described in **Section 2.3.4.7(A)(1)** above, the Municipality may, but shall not be obligated to, proceed to make any payment required in order to avoid foreclosure or to redeem the unit after a foreclosure. Upon making any such payment, the Municipality shall succeed to all rights of the Owner to the Property and shall assume all of the Owner's rights and obligations under the First Mortgage, subject to the terms of the Subsidy Lien and Restrictive Covenant. In such event the Owner shall forthwith quit the unit and relinquish possession thereof to the Municipality, which shall assume ownership of the property.~~

~~C. The Owner may redeem his or her interest in the unit by payment to the Municipality of all sums paid by the Municipality in connection with the First Mortgage and all other sums reasonably expended by the Municipality in relation to the unit, plus eighteen percent (18%) simple interest from each date of expenditure. This redemption may only occur within forty five (45) days after the Municipality succeeds to the Owner's rights to the unit, after which the Municipality may proceed to convey the property to an eligible buyer. Notwithstanding such redemption, the property shall nonetheless remain subject to the Subsidy Lien and Restrictive Covenant.~~

~~D. If the Municipality conveys the property it may recover all incidental and consequential costs as are reasonably incurred or estimated to be incurred by the Municipality in connection with its ownership and disposition of the property, including but not limited to insurance, maintenance, repairs or improvements, and marketing expenses. If after conveyance of the property by the Municipality there are excess proceeds above the Municipality's costs, then within 60 days of settlement by the purchaser or purchasers of the property conveyed, the municipality shall reimburse the Owner from whom the Municipality acquired the property in the amount of such excess proceeds.~~

2.3.4.8 Retirement or Modification of Subsidy Lien

~~A. At the time of any transfer of a Workforce Housing Unit, the Municipality may, but is not obligated to, retire or modify the subsidy lien if, in accordance with **Section 2.3.4.2** above, the revised target income level is greater than 120% of the Area Median Income, or if the adjusted subsidy lien amount is not between fifteen and thirty-three percent of the Fair Market Value. Upon making a determination that any such condition has been met, the Municipality may notify the Owner in writing of its intention to retire or modify the subsidy lien. The notice shall indicate the value of the subsidy lien to be retired, or the amount by which the Municipality will reduce or enhance the subsidy lien. Such notification shall be made within 45 days of the Owner's Notice of Intent, as provided under **Section 2.3.4.1** above.~~

~~B. Reduction or retirement of the subsidy lien shall be accomplished at the time of closing by payment from the Owner to the Municipality, such payment to be deposited in the Municipality's Affordable Housing Revolving Fund [if one exists at the time]. Enhancement of the subsidy lien shall be accomplished at the time of closing by payment from the Municipality to the Owner. Retirement of the subsidy lien shall be accompanied by release of the restrictive covenant by the Municipality and shall eliminate the need to calculate a maximum resale price, allowing the unit to sell at its Fair Market Value.~~

2.3.4.9 Default and Other Enforcement

~~Failure of the Owner to comply with the terms of this ordinance, with any condition of Planning Board approval, or with the terms of the recorded Subsidy Lien and Restrictive Covenant shall constitute default, which shall entitle, but which shall not obligate, the Municipality to undertake the following actions:~~

~~A. Foreclosure on the Subsidy Lien, in accordance with RSA 479:19 et seq., provided that the Owner shall have 60 days after receiving written notice of default from the Municipality to fully correct the reasons for default identified by the Municipality in its notice; and~~

~~B. Enforcement under RSA 676:17, 676:17-a, and 676:17-b.~~

2.3.4.10 Conveyances to Non-Profit Housing Organizations

~~Notwithstanding the foregoing, the Municipality may require that initial or subsequent conveyances of Workforce Housing Units be made to a non-profit organization of the Municipality's choice, where the primary purpose of the organization is to provide or facilitate the acquisition of housing that is affordable to low- and moderate-income households. The Municipality shall release its Right of First Refusal under **Section 2.3.4.6** above upon such conveyance, provided that upon subsequent conveyance the organization acquires a similar right of first refusal. The Municipality shall also release its Subsidy Lien and Restrictive Covenant upon conveyance to such an organization. Conveyance to such an organization shall be made at the initial selling price in **Section 2.3.4.3(C)** or at the maximum resale price in **Section 2.3.4.5(B)**, as appropriate.~~

- D. Outside storage: no outside storage or display of any kind is permitted within the C-IV sub-district.
- E. Standards for conditional use permits in the C-IV sub-district. In addition to the standards listed in **Section 1.5.2(B)**, the following criteria must be met for the Planning Board to grant a conditional use permit in the C-IV sub-district:
 - 1. The applicant shall show that the proposed use is needed to serve primarily the convenience commercial needs of the surrounding neighborhood, considering proximity and accessibility of similar uses.
 - 2. The scale of the proposed structure is consistent with and complimentary to the surrounding land uses in the neighborhood.

2.4.5 General Standards for MUC sub-district:

Within the MUC sub-district, the following regulations and controls are required for the development and continued use of the area.

A. Minimum setback distances for structures from property line:

- 1. Front setbacks shall be based on the following performance standards:
 - a. Building footprint of 0 – 75,000 square feet: 60 feet
 - b. Building footprint of 75,001+ square feet: 90 feet
 - i. For purposes of this sub-district the front setback shall be measured from the property line at the arterial road. Where a lot has additional “front setbacks” from other local roadways, the front setback from a local roadway shall be 60 feet
 - c. Side setbacks shall be one-half ($\frac{1}{2}$) the front setback, but no less than 30 feet
 - d. Rear setbacks shall be one-third ($\frac{1}{3}$) the front setback, but not less than 30 feet.

B. **Building Height:** As an incentive for use of steep roofs or other architectural elements (clock towers, cupolas, etc.) the Planning Board may, with recommendation from the Heritage Commission, allow for a height bonus not to exceed sixty (60) feet from grade.

C. Landscaping

- 1. Minimum area to be suitably planted and permanently maintained with grass, ground cover, shrubs and/or trees shall be thirty three (33) percent of the total lot area. Excepting curb/driveways, a “green” area shall enclose the entire lot perimeter as follows: minimum width of “green” areas shall be fifteen (15) feet except that where the area abuts a public right-of-way, such area shall be not less than thirty (30) feet.
- 2. When a proposed building, parking lot or driveway is less than two hundred (200) feet from a residential zoning district, a buffer zone in accordance with the following is required:
 - a. The buffer zone shall be based on the following performance standards:
 - i. Properties with less than 75,000 square feet of commercial structures: 50 feet
 - ii. Properties with greater than 75,001 square feet of commercial structures: 75 feet
 - b. The buffer zone shall be planted and permanently maintained to minimize the visual impact of the commercial activity from residential districts in accordance with specifications outlined the Site Plan Regulations.

D. Conditional Use Permits for the MUC Sub-district

- 1. Uses Permitted by Conditional Use Permit: Some developments (see Use Table, **Section 2.2**) in the MUC sub-district will require a conditional use permit from the Planning Board, in addition to any other

necessary subdivision or site plan approvals. The conditional use permit is meant to provide flexibility, minimize adverse impacts, and allow the Board to participate jointly with the applicant in preparing development proposal that is consistent with this ordinance, local regulations, and the most recently adopted Town Master Plan.

2. Dimensional Relief by Conditional Use Permit: The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement of the district (including but not limited to: setback, density, green space, frontage, or parking) for projects that are determined to be consistent with the general vision statements and recommendations from the Londonderry Northwest Small Area Master Plan or the most recently adopted Town Master Plan.
3. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.
4. *Application Procedure* - Applications for conditional use permits (CUP) within this sub-district shall be made in accordance with the following procedures:
 - a. It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.
 - b. The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.
 - c. The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.
 - d. Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.
5. *Approval of Applications Requiring a Conditional Use Permit* - Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if the development complies with all of the requirements of **Section 2.4.5(D)(5)(i)**. In addition, multi-family housing as a proposed development or part of a proposed mixed-use development is subject to the provisions of Section 2.3.2.4.. Workforce multi-family housing as a proposed development or part of a proposed mixed-use development is subject to the provisions of Section 2.3.3.7. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or any other federal/state regulation or law.
 - a. The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the MUC sub-district. The applicant shall demonstrate that:
 - i. The proposed use is consistent with the general vision statements and recommendations from the Londonderry Northwest Small Area Master Plan or the most recently adopted Town Master Plan;
 - ii. Granting of the application is in the public interest;
 - iii. The property in question is reasonably suited for the use requested.
 - iv. The design of the site represents to the extent practicable a minimization of impacts to natural resources, and maximizes the provision of green space and accommodation of non-vehicular and pedestrian traffic.
 - b. In addition to the criteria listed in **Section 2.4.5(D)(5)(i)**, projects which seek a dimensional conditional use permit shall meet the following additional criteria:

3.3.7 Road Design Criteria.

Roads in Conservation Subdivisions shall be designed to the appropriate road design criteria found in the Subdivision Regulations, as most recently amended.

3.4 BACK LOT DEVELOPMENT

3.4.1 Back Lot Development

3.4.1.1 Purpose

The purpose of Back Lot Development is to allow a landowner to develop areas of his/her property without any road frontage in exchange for permanently prohibiting development of roadside areas identified by the community as contributing to Londonderry's character, such as land that is being actively farmed. The purpose is also to protect open space, to maintain a viable contribution to the community's economic base through agricultural employment and gross regional product, and to product roadside land which will preserve the rural historic character of the community. The Planning Board is authorized to utilize a Conditional Use Permit in accordance with the provisions of [RSA 674:21](#), innovative zoning.

The Planning Board finds:

- A. Back lot development is consistent with the Natural Resource Objective 4 of the 1988 Master Plan "To purchase or otherwise protect selected open space areas for community needs."
- B. Back lot development is consistent with the Historic Preservation Objective 2 of the 1988 Master Plan "to encourage the use of easements and covenants to insure that the essential qualities of specific buildings or sites remains intact.
- C. Back lot development is consistent with the Agricultural Goal and Objective of the 1988 Master Plan "To encourage the continued use of land in Town for farming" and "to encourage the preservation of Londonderry's agricultural atmosphere".
- D. Agriculture is an important component of Londonderry's community character.
- E. The retention of stone walls and open space viewed from our roads enhances the community's rural and agrarian character.
- F. The Londonderry Master Plan 1988, et seq., and the Orchard and Open Space Protection Plan, 1996, shall be used as a guide in determining which properties reflect this character.

3.4.1.2 Definitions

Back Lot Development - The development of up to four (4) single family house lots with reduced development requirements including a narrow connecting strip to a Class V or better street, in exchange for permanently protecting through the use of agricultural preservation restrictions or conservation easements, an area of two acres and 150' of frontage on a Class V or better street, contiguous to each new back lot developed.

Agricultural Preservation Restriction or Conservation Easement - For each lot created, the landowner shall place a permanent restriction on a minimum of two (2) acres of roadside agricultural land or open space with at least 150' of frontage per lot. The easement or restriction shall be granted to the Town and/or a non-profit conservation or agricultural organization. The landowner may retain ownership and use of the land, although its use would be limited to agriculture and open space. The Planning Board has the right to add easement language that maintains the rural character of the protected land. For example, best management practices could be proposed for orchard land or regular haying for meadowland. The easements/restrictions must be in a form acceptable to the Planning Board.

Private Access Agreement or Common Driveway - A narrow connecting strip extending from the public street (Class V or better) to the boundary of last lot of the back lot development. The common driveway shall be constructed in accordance with the requirements of Section 4.10.D.3.

Front Lot - The land abutting a public street (Class V or better) which is placed under a conservation easement or agricultural preservation restriction. The area of the front lot shall be a minimum of two acres with 150' of frontage and contiguous to the back lot.

3.4.1.3 General Requirements

- A. The use of back lot development shall be subject to approval by the Planning Board under its Conditional Use Permit and shall be subject to approval by the Planning Board under the Londonderry Subdivision Regulations. It is strongly recommended that the applicant schedule a discussion with the Planning Board as early in the process as possible.
- B. In order to grant a Conditional Use Permit, the Planning Board must have found that three of the following conditions apply to the site:
 - 1. The property proposed for Back Lot Development typifies Londonderry's Rural and Agricultural character
 - 2. Existing fields, pastures, orchards and other land in agricultural use with be preserved and maintained.
 - 3. The development will leave unblocked or uninterrupted scenic views and vistas, particularly as seen from public roads, sites deemed worthy of preservation as listed in the Open Space and preservation Plan, 1996, and from Londonderry's Scenic Roads.
 - 4. The project preserves historic and prehistoric sites and their environs in so far as needed to protect the character of the site.
 - 5. The elements of the Back Lot Development (buildings, circulation, front lot, landscaping, etc.) Are arranged so as to protect valuable natural environments such as stream valleys, outstanding vegetation, water bodies or scenic views.
 - 6. The restricted land is reasonably contiguous, coherent and if the tract of land abuts adjacent permanently protected open space, it is connected with it.
The Planning Board shall consult the list of properties and qualities of properties worthy of preservation generated by our citizens during the Board's 10/24/95 Orchard Preservation and Land Protection Plan citizen participation process. Subsequent amendments to this plan shall be considered as well. Plans presented by the applicant to illustrate the findings above may also be consulted.
- C. The applicant shall place a permanent agricultural preservation restriction or conservation easement over a minimum of two (2) acres of roadside land (to be known as the FRONT LOT) with at least 150' of frontage on a Class V or better street and contiguous to each back lot created.
- D. Setbacks shall be a minimum of fifteen (15) feet from each property line
- E. Minimum back lot area shall not be less than one half (1/2) an acre. In addition, the back lot, together with the contiguous to acre restricted area assigned to it, shall satisfy the total soil carrying capacity as computed using Minimum Lot Size by Soil Type requirements specified in Section 4.03.
- ~~F. Residential uses in a back lot development shall be limited to single family dwellings. No accessory apartments shall be allowed.~~
- ~~G.F.~~ Fifty feet (50') of frontage is required on the common driveway for each back lot created. The area within the common driveway access easement running through the restricted front lot shall not be counted for frontage purposes.
- ~~H.G.~~ All Zoning Regulations of the Town of Londonderry shall apply except as specified here.

3.4.1.4 Specific Design Requirements

- A. A Subdivision Plan of the entire site proposed for back lot development shall be provided.
- B. The Water Supply and Waste Treatment System for a back lot development shall be designed in accordance with the standards and requirements of the New Hampshire Water Supply and Pollution Control Division and the Town of Londonderry.
- C. **Common driveway construction standards**
 - 1. Common driveway must meet AASHTO criteria for street intersection sight distance.
 - 2. Maximum length of the common driveway shall not exceed twelve hundred (1200) feet
 - 3. The width of the common driveway access easement shall be thirty five (35) feet. Additional width may be required to accommodate slope and drainage easements.
 - 4. Paved travel lane width shall be eighteen feet (18'), with two foot (2') shoulders on each side.
 - 5. If only one (1) back lot is to be served by the driveway, the travel way may be gravel and twelve feet (12') wide.
 - 6. Common driveway to be constructed to Town of Londonderry Subdivision Street requirements.
 - 7. Maximum gradient eight percent (8%)
- D. Two (2) outdoor parking spaces are to be shown on each lot as no parking is allowed on the common driveway.
- E. Turnaround or "T" approved by the Fire Department shall be provided at the end of the common driveway.

3.4.1.5 Agricultural Preservation Restrictions and Conservation Easements

Agricultural Preservation Restrictions and Conservation Easements as appropriate are to be placed on the front lots and registered at the Rockingham Country Registry of Deeds. Such easements and restrictions are to be in a form acceptable to the Planning Board of the Town of Londonderry. The back lots and the protected front lots shall be shown on the same subdivision plan/plat.

3.4.1.6 Home Owners Association

Home Owners Association shall be required in a form acceptable to the Planning Board.

- A. Within the deed of each lot will be the right to use of the common driveway or access easement, a shared snow plowing and maintenance agreement and a stipulation that the driveway cannot be offered to the Town for acceptance as a public way.

3.4.1.7 The common driveway

The common driveway shall be built and the access easement recorded prior to issuance of certificate of occupancy for any dwelling located on a back lot.

3.5 MANUFACTURED HOUSING

3.5.1 Purpose

The purpose of this Section is to establish guidelines for the use of mobile homes/house trailers.

3.5.2 General Regulations

- A. Every house trailer and mobile home hereinafter occupied as a dwelling shall be placed in an established trailer court/park, or on a separate lot in an AR district.

- B. The provisions of this Section shall not apply to the continued use of any house trailer or mobile home now occupied as a dwelling in its present location.
- C. If a house trailer or mobile home now occupied as a dwelling is moved from its present location, the future use of the trailer or mobile home must comply with the above paragraph **3.5.2(A)**.
- D. This Section does not prohibit a person from substituting a new trailer or mobile home for the one now existing in its present location if the square footage of the living area is at least equivalent to the replaced unit.
- E. Mobile homes entering or leaving courts or parks shall be registered by the owner at the Town Assessor's Office.
- F. The maximum number of trailers or mobile homes allowed in any trailer park shall be four (4) per acre unless such trailer will be attached to a Town sewer system in which case a maximum of eight (8) per acre shall be allowed.
- G. The placement or replacement of a mobile home, as may be allowed under the terms of this Ordinance, shall also comply with the provisions of the Floodplain Development Ordinance (**Section 2.6.5**) as it applies to mobile homes within special flood hazard areas.
- H. Mobile homes shall have a minimum of 600 square feet and mobile homes shall be certified that they comply with the mobile home construction and safety standards as adopted by the Department of Housing and Urban Development in 1976. All other manufactured housing shall comply with the Building Code of the Town of Londonderry.

3.6 ELDERLY HOUSING

3.6.1 Objectives And Characteristics

The Elderly Housing and Elderly Affordable Housing standards are designed to permit an increased residential density above that allowed in the AR-I and R-III districts and to set criteria that assures that a project for the elderly will address the needs of elderly as opposed to any other residential use.

Any elderly housing development under this Section must be established and maintained in compliance with the Fair Housing Act, as amended, 42 USC Sec. 3601 et seq. The Board may require assurance of compliance with the Act by deed restriction or other instrument as condition of approval. "Such assurance may consist of a written plan submitted by the Developer, which sets forth (1) the regulations under the Fair Housing Act whereby a project may lawfully discriminate in favor of elderly residents, and (2) how the Developer does or proposes to comply with such requirements, including covenants and other deed restrictions and other to-be-recorded agreements."

3.6.2 Uses

A. Permitted Uses

- 1. Elderly Housing
- 2. *Elderly Housing Support Facilities*
Elderly Housing shall be allowed in any residential or commercial district in the Town of Londonderry, as long as all of the requirements of the "Regulations and Design Criteria" (**Section 3.6.4**), Elderly Housing, can be met.
- 3. Assisted Living

B. Conditional Uses

- 1. Elderly Affordable Housing – subject to the requirements of **Section 3.6.5**.
- ~~2.~~ Small Lot Elderly Housing or Assisted Living is permitted.

3.6.3 Definitions

~~**Open Space:** Open Space is that portion of a lot open and unobstructed from its lowest level to the sky. It shall not include land occupied by buildings and structures as well as all roads and drives. Where no separate right-of-way is delineated for private streets, only the pavement areas of the street, curbs and sidewalks are excluded. Walkways integral to the open space areas that are not curbside sidewalks do not count. A minimum of 30% of the required open space shall be useable lands. Minimum areas between dwellings (3.6.4(B)) and the minimum setback between the building and the edge of right-of-way for the internal road system (3.6.4(C)) shall not be counted towards the required 30% useable uplands. Up to 50% of the required open space can be wetlands or water bodies.~~

~~**Useable Uplands:** Land which is not a water body, wetland, or steep slopes above 25%.~~

~~**Assisted Living Facilities:** shall be defined as facilities licensed under RSA 151:2-I(e) for elderly (over 55 years of age) or disabled individuals, which provide onsite services that support independent living for residents, including, at a minimum, communal dining facilities, and may include onsite personal care services, housekeeping and linen service and the supervision of self-administered medications.~~

Elderly Affordable Rental Housing - Housing units that are intended for elderly leasehold residential occupancy, solely by those age 62 and over (as provided for in RSA 354-A:15), and that are subsidized and administered by a federal or state governmental entity.

3.6.4 Regulations And Design Criteria

- A. ~~Minimum size of tract area for an elderly housing development shall be fifteen (15) acres. This~~The tract shall have a minimum of fifty (50) foot frontage on a Class V road or better and, at the discretion of the Planning Board, a second fifty (50) foot frontage on a Class V road or better may be required for traffic circulation or safety.
- B. ~~Each dwelling shall have a minimum separation from any other building of sixty (60) feet. Minimum building separation of multi-family elderly structures shall be thirty (30) feet.~~ Each single family dwelling shall have a minimum separation from any other building of thirty (30) feet.
- C. ~~Each building shall have a minimum setback of forty (40) feet from the edge of right-of-way of the internal road system.~~
- D. ~~**Buffers**—The Planning Board shall establish the criteria for a Buffer zone around the entire perimeter of the site based on the following:~~
- ~~1.—Topographic features of the site and adjacent studies;~~
 - ~~2.—Use or zoning classification of abutting land;~~
 - ~~3.—Degree of visual barrier provided by proposed buffer:~~
 - ~~a.—In no event shall the buffer zone be less than the following:~~
 - ~~i.—Adjacent zone or use:~~
 - ~~a.—AR-I, R-III, = 30 feet~~
 - ~~b.—C-I, C-II, C-III = 50 feet~~
 - ~~c.—I-I, I-II = 50 feet~~
 - ~~ii.—The criteria for establishing the buffer zone is found in the “Non-Residential Site Plan Review Regulations” and “Subdivision Regulations” of the Town of Londonderry, as amended.~~
- E. ~~**C. Parking** - There shall be 1.2 parking spaces per bedroom in each unit for elderly housing. There shall be .5 parking spaces required for each bed in an assisted living facility, plus one space per employee on the largest~~

~~shift.~~—The Planning Board shall carefully consider the location of parking, the parking area and the parking area's access to the unit it serves in keeping with its attendant use by the elderly.

~~F.D.~~ **Building Height** - The building height shall not exceed thirty-five (35) feet.

~~G.~~ **Dwelling Units**—The maximum number of dwelling units in a single building shall be sixteen (16) units. The base population shall not exceed an average of two persons per unit for the site. A site specific floor plan shall be part of the approval process and all designs shall reflect full time occupancy of no greater than two residents per unit.

~~1.~~ **Elderly**—The standard unit will be two (2) bedrooms.

~~2.~~ **Elderly Affordable**—The majority of standard units shall be one bedroom units. There may also be two bedroom units.

~~3.~~ The maximum number of dwelling units in a single building may be increased from sixteen (16) to no more than twenty (20) if the applicant is granted a conditional use permit from the Planning Board, in accordance with **Section 3.6.5(B)**.

~~H.E.~~ **Open Space**

~~1.~~ Total open space shall not be less than forty percent (40%) of the total development lot area

~~2.~~ Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.

~~3.~~ Usable open space shall not be less than twenty-five percent (25%) of the total development lot area. "Usable open space" shall not include "unusable land" which is defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.

~~1.~~ **Elderly**—Open space as defined elsewhere in this section of the zoning ordinance shall constitute no less than seventy (70) percent of the gross tract area of the site.

~~2.~~ **Affordable Elderly**—Open space as defined elsewhere in this section of the zoning ordinance shall constitute no less than fifty (50) percent of the gross tract of the site.

~~Required Support Facility/Service Uses~~—The applicant shall be required to demonstrate the provision of support facilities and/or services specifically designed to meet the physical and social needs of older persons; OR if provision of such facilities and services is not practicable, that the proposed elderly housing is necessary to provide important housing opportunities for older persons. Consideration of support facilities and services shall include, but not be limited to: **Required Facilities** - The applicant shall be required to demonstrate the provision of support facilities and services as appropriate for the scale and location of an elderly housing or assisted living project.

Independent elderly housing - each development shall provide paved sidewalks and pathways, preferably to on site amenities and off-site destinations where proximity allows. Amenities shall include seating areas, courtyards, gardens or other outdoor gathering spaces. There shall also be provisions for regularly accessible public or private transportation services as a condition of approval.

Assisted Living facilities shall provide onsite services that support independent living for residents, including, at a minimum, communal dining facilities, and may include onsite personal care services, housekeeping and linen service and the supervision of self-administered medications.

~~I.~~—

~~1.~~ Religious Facility

~~2.~~ "Neighborhood" market;

~~3.~~ Recreational facilities (i.e., card rooms, swimming pool, meeting room, video room, music room, etc.);

~~4.~~ Postal sub-station;

- ~~5. Medical sub-station (i.e., first aid, pharmacy, circuit health care, etc.)/Emergency and preventative health care services~~
- ~~6. Library;~~
- ~~7. Circuit Veterinary Care.~~
- ~~8. Programs designed to provide a social life for residents~~
- ~~9. Continuing education programs of interest to residents~~
- ~~10. Information and counseling services~~
- ~~11. Homemaker services~~
- ~~12. Services designed to assist residents with the maintenance and upkeep of buildings and grounds~~
- ~~13. An accessible physical environment~~
- ~~14. Congregate dining facilities~~
- ~~15. Transportation to facilitate access to social services~~
- ~~16. Referral services~~

- ~~a. In demonstrating that Support Facilities and/or Services are provided, it is not required that all of the services listed above are being provided.~~
- ~~b. It is intended under this Section that the applicant provide appropriate services & facilities, consistent with NH law which imposes similar requirements.~~
- ~~c. In the Planning Board's deliberations the Board shall give strong consideration to the needs of elderly, not the applicant.~~

~~J. **Site Ownership** - At the time of application, the entire site shall either be under one owner, or documents shall be submitted with application that show that all owners of record have applied to the Planning Board for consolidation, pending approval of the site plan.~~

~~K.F. **Agreements, Restrictions and Provisions** - All agreements, deed restrictions and organizational provisions for methods of management and maintenance of the common land, roads, utilities and support facilities shall be approved by the Planning Board, and shall indicate that occupancy is restricted to persons age 55 or over, in accordance with State and Federal Fair Housing law.~~

~~L.G. **Road Construction** - All roads and drives in a site shall be privately owned and maintained. Street design and construction is subject to the approval of the Planning Board. Easements for emergency access and relief from liability shall be given to the Town in a form acceptable to Town counsel.~~

~~M.H. **Review** - Any proposed elderly housing development shall be subject to the "Non-Residential Site Plan Review Regulations" of the Town of Londonderry, as amended.~~

~~N.I. **Density** - Maximum density shall be determined as follows:~~

~~1. *From Gross Tract Area subtract:*~~

- ~~a. Areas of slopes greater than fifteen (15) percent;~~
- ~~b.a. Wetland~~

~~2.1. The ~~resulting calculation shall be called~~ "net tract area" ~~and~~ shall be the basis for density determinations as follows:~~

- ~~a. **Elderly Housing and Assisted Living** - Sites with P.U.C. regulated municipal water and sewer disposal system: No greater than ~~six (6) eight (8)~~ dwelling units per acre, **except no greater than six (6) units per acre in the AR-1 district.**~~

- i. *Elderly Affordable Housing* – Sites with P.U.C. regulated municipal water and sewer Disposal system: No greater than twelve (12) bedrooms per acre, **except no greater than eight (8) units per acres in the AR-1 District**, which can be incorporated as a mix of one and two bedroom units.
- b. **For sites without municipal water and/or sewer: The minimum contiguous area necessary to comply with pertinent standards of the New Hampshire Department of Environmental Services if the property is not serviced by either public water or sewer.** ~~An area or areas shall be set aside in perpetuity and designated for sewerage disposal, its capacity shall be determined for acceptance on leachate on a site specific basis. The density shall be determined by using the State of New Hampshire criteria for flowage for housing for the elderly on a per bedroom basis and dividing that number into the capacity of the site and then multiplied by a safety factor of eighty (80) percent.~~

3.6.5 Conditional Use Permits

A. Conditional Use Permits for Affordable Elderly Housing

1. ~~Prior to Planning Board action on any site plan for Affordable Elderly Housing, which requires a Conditional Use Permit, t~~The Board must ~~have already granted grant a the~~ Conditional Use Permit. ~~The Conditional Use Permit may be sought either separately or~~ concurrently with Site Plan approval.
2. The following criteria must be satisfied in order to the Planning Board to grant a Conditional Use Permit for Elderly Affordable Housing. The applicant shall demonstrate that:
 - a. All criteria outlined in **Section 3.6**, as applicable to the application have been met;
 - b. The proposed Affordable Elderly Housing use is consistent with the Objectives and Characteristics of the District, **Section 3.6.1**;
 - c. Granting of the application would meet some public need or convenience;
 - d. Granting of the application is in the public interest;
 - e. The application demonstrated that the proposed Affordable Elderly Housing for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and provides for a housing need for an elderly population whose income level is not greater than 60% of the median income for Rockingham County.
 - f. Documentation has been provided to insure the long term affordability of the project.
 - g. The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable the preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.

~~B. Conditional Use Permits to increase the maximum number of units per building~~

1. ~~The following criteria must be satisfied in order to the Planning Board to grant a Conditional Use Permit to increase the maximum number of units per building from 16 to not more than 20. The applicant shall demonstrate that:~~
 - a. ~~Granting of the application would meet some public need or convenience;~~
 - b. ~~Granting of the application is in the public interest;~~
 - c. ~~The owner of record shall enter an agreement, to be filed in the Rockingham County Registry of Deeds, certifying that the project will be utilized and restricted to 100% elderly occupants (either 55+ or 62+, depending on whether the project is standard elderly housing or affordable elderly housing respectively);~~
 - d.a. ~~There exist on the property limitations (steep slopes, wetlands, CO District areas, flood hazard areas, or other natural constraints on the subject parcel) that reduce the buildable area of the parcel such~~

~~that the parcel is limited to less than 60% of the permitted density allowed by Section 3.6.4(N) utilizing 16 units per building. Such calculation must be demonstrated to the Planning Board by a NH licensed professional engineer (and other related professionals as applicable, such as certified wetland scientists or soil scientists).~~

3.6.6 Limitation on the Number of Elderly Housing Units

- A. The Planning Board shall not accept for consideration any proposal which, if approved, would increase the total number of all elderly housing units in Londonderry, existing and proposed, above a number representing the percentage of units greater than the percentage of persons age 55 and older residing in Londonderry as calculated by the most recent US Census. (For example, if the percentage of persons over age 55 in Londonderry is 13%, not more than 13% of the total number of dwelling units in Londonderry may be Elderly Housing).
- B. The Planning Board, may, by Conditional Use Permit, allow for Affordable Elderly Housing to exceed the percentage cap if the proposal meets all of the criteria from **Section 3.6.5(B)** and also provides documentation from the NH Office of Energy & Planning that the percentage of elderly residents residing in Rockingham County has increased more than 2% from the information available for the County from the most recent US Census.

3.7 ASSISTED LIVING FACILITIES AND NURSING HOMES

3.7.1 Density

~~For purposes of this Ordinance “assisted living facilities” and “nursing home facilities” serviced by municipal sewer shall not be subject to density standards of Section 2.3.2.3(B); provided that such a facility shall be subject to the density standards of 2.3.2.3(B)(1)(a) and 2.3.2.3(B)(1)(b) and 2.3.2.3(B)(1)(d) in the event that the facility has been included in an analysis of the “substantial positive tax impact” to obtain an exemption from growth management phasing and permit limitations. For density purposes, two bedrooms shall be equivalent to one dwelling unit, whether or not the facility includes full dwelling units. Assisted Living and Nursing Homes shall be permitted according to the same requirements for elderly housing as provided in Section 3.6.~~

3.8 SEXUALLY ORIENTED BUSINESSES

3.8.1 Purpose and Intent

It is the intent of this Section to establish reasonable and uniform regulations to prevent the concentration of Sexually Oriented Businesses within the Town of Londonderry; and to protect the citizens of the Town of Londonderry from the secondary effects of such Sexually Oriented Businesses and, it is the intent to promote the health, safety, and general welfare of the citizens of the Town of Londonderry; and it is the intent of this Section that the regulations be utilized to prevent problems of blight and deterioration which accompany and are brought about by the concentration of Sexually Oriented Businesses; and the provisions of this article have neither the purpose nor the intent of imposing limitation or restrictions on the contact of any communicative materials, including Sexually Oriented Materials, and it is not the intent nor the effect of this article to restrict or deny access by adults to Sexually Oriented Materials protected by the First Amendment, or to deny access by the distributors and exhibitors of Sexually Oriented Entertainment to their intended market; and neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

3.10.10 Minimum Parking and Loading Required:

Off-street parking spaces shall be provided whenever any new use is established or any existing use is enlarged. The quantity of required spaces will be determined as shown in TABLE 2 of this section.

TABLE 2 OFF-STREET PARKING AND LOADING			
USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
Subject to the requirements of section 3.10.8(A)(6)			
Agricultural and Residential			
	Agriculture	GFA	1 per 1,000 sq. ft.
	Assisted Living Facilities	Resident unit or bed and employees	0.5 per resident bed plus 1 per unit or bed plus one per employee at the largest shift.
	Back Lot Development	DU and type	2 spaces per DU
	Dwelling, multi-family 1,3	DU	2.5 per DU
	Dwelling, single family 1	DU	2 per DU
	Dwelling, two-family 1	DU	2 per DU
	Dwelling, with accessory apartment 2	DU	2 per DU, (4 total)
	Elderly Housing	DU	2-1.5 per DU
	Elderly Housing (Affordable)	DU	1.2 per DU
	Mixed use residential	Various	As mandated per use by percentage
	Nursing Home and accessory uses	Resident unit or bed and employees	0.5 per resident unit or bed plus one per employee
	Planned residential development	DU	2 per DU
Civic Uses			
	Community center	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Public Facilities	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Recreational Facilities, Public	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Religious Facilities	Seats or linear feet of bench space	1 per each 3 seats or 6 linear ft.
	Cultural Uses and Performing Arts	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Business Uses			
	Aeronautical Facilities	Various	1 per employee on maximum shift, plus 1 per vehicle used in connection with terminal, plus sufficient number of space to accommodate the largest number of vehicles that may be expected at any one time
	Assembly, testing, repair, and packing operations up to 100,000 sq. ft.	GFA or employees	1 per 500 sq. ft. or 1 per employee
	Assembly, testing, repair, and packing operations 100,001 sq. ft. or larger	GFA or employees	1 per 600 sq. ft. or 1 per employee
	Bed and Breakfast Homestay	D.U and guest room	2 per D.U plus 1 per guest room
	Computer Services	GFA	1 per 200 sq. ft. or 1 per employee
	Conference/Convention Center.	GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
	Day Care Center, Adult	Employees and attendees	1 per employee plus 1 per 7 attendees at peak attendance plus parking for any associated busses or vans
	Day Care Center, Child	Employees and attendees	1 per employee plus 1 per 8 attendees at peak attendance
	Drive-in establishments	Employees ad vehicles served	2 per employee plus 1 per each vehicle served
	Drive-in theatres	Capacity	1 per vehicle at capacity plus 10%

**TABLE 2
OFF-STREET PARKING AND LOADING**

USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
Financial institution		GFA	1 per 300 sq. ft.
Funeral homes		Various	1 per 5 seats in largest chapel, plus 1 per employee, plus 1 per service vehicle
Education and Training Facilities		Faculty, students, & administrators	1 per faculty member, administrator, and employee, plus .5 per student at peak attendance
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.		GFA or employees	1 per associated vehicle plus 1 per 600 sq. ft. or 1 per employee
Health Clubs		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Home Occupation		Variable	Applicant must demonstrate that parking is adequate for the proposed use, in no case less than 2 spaces in addition to those required for the residence
Hotels up to 50,000 sq. ft.		Various	1 per room, plus 1 per 20 rooms (staff), plus 50% normally required for accessory uses
Hotels 50,001 sq. ft. or larger		Various	1 per room, plus 1 per 20 rooms (staff), plus 75% normally required for accessory uses
Manufacturing, Heavy		GFA or employees	1 per 800 sq. ft. or 1 per employee
Manufacturing, Light up to 100,000 sq. ft.		GFA or employees	1 per 600 sq. ft. or 1 per employee
Manufacturing, Light 100,000 sq. ft. or larger		GFA or employees	1 per 800 sq. ft. or 1 per employee
Membership club		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Motels		Rooms and employees	1 per room plus 1 per employee
Motor Vehicle Maintenance, Major Repair and Painting		GFA and bays	1 per 800 sq. ft. but no less than 3 per service bay
Motor Vehicle Rental		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Motor Vehicle Sales		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Motor Vehicle Station, Limited Service		Various	1 per 300 sq. ft. of floor area, plus 1 per accessory service bay, plus 1 per employee, plus 1 per vehicle used for the business and kept on premises
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use		Storage area	1 per 1,500 sq. ft. of storage area
Personal Service Businesses up to 3,000 sq. ft.		GFA or chairs	1 per 200 sq. ft. or 2 per chair
Personal Service Businesses 3,001 sq. ft. or larger		GFA or chairs	1 per 300 sq. ft. or 2 per chair
Professional Office up to 50,000 sq. ft.		GFA	1 per 200 sq. ft.
Professional Office 50,001 sq. ft. or larger		GFA	1 per 300 sq. ft.
Recreation, commercial		GFA, or seats and persons accommodated	1 space per 200 sq. ft. or 1 per 3 seats or 3 persons the facility is intended to accommodate
Rental Car Terminal up to 50,000 sq ft.		Various	1 per 300 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Rental Car Terminal 50,001 sq ft. or larger		Various	1 per 400 sq. ft indoor sales per office area, plus 1 per 1,500 sq. ft. outdoor storage, plus 4 per service bay
Repair services		GFA	1 per 400 sq. ft.
Research or Testing Laboratories up to 100,000 sq. ft.		GFA	1 per 600 sq. ft.
Research or Testing Laboratories 100,001 sq. ft. or larger		GFA	1 per 800 sq. ft.
Restaurant		Seats and employees	1 per 3 seats plus 1 per employee
Restaurant, fast food		Seats and employees	1 per 4 seats plus 1 per employee
Retail Stores up to 75,000 sq. ft.		GFA	1 per 200 sq. ft.
Retail Stores 75,001 sq. ft. or larger		GFA	1 per 300 sq. ft.
Sales of Heavy Equipment or Heavy Trucks as an accessory use		Lot area	1 per 2,000 sq. ft. of lot area

**TABLE 2
OFF-STREET PARKING AND LOADING**

USE	UNIT OF MEASUREMENT	SPACES REQUIRED PER UNIT OF MEASUREMENT	
	School, Private, Elementary and Middle	Various	1 per faculty, employee and bus if bus transportation is provided, plus 1 per each 4 seats for assembly areas
	School, Private, High	Various	1 per faculty member, administrator, and employee, plus 1 per bus if bus transportation is provided, plus 1 per each 4 students
	Service establishment	GFA or employees	1 per 300 sq. ft. or 2 per employee
	Sexually oriented businesses	GFA or occupants	1 per 300 sq. ft. or 1 per 2 occupants at building capacity
	Storage, self serve	GFA	1 per 1,200 sq. ft.
	Terminal, Airplane	Various	1 per employee on maximum shift plus 1 per vehicle used in connection with terminal, plus sufficient number of spaces to accommodate the largest number of vehicles that may be expected at any one time
	Terminal, Trucking	Various	1 per 200sq. ft. plus adequate parking and loading spaces for each company vehicle operating from the premises plus 1 per employee
	Warehouse and Storage up to 100,000 sq. ft.	GFA	1 per 1,200 sq. ft.
	Warehouse and Storage 100,001 sq. ft. or larger	GFA	1 per 1,400 sq. ft.
	Wholesale Businesses up to 100,000 sq. ft.	GFA	1 per 800 sq. ft.
	Wholesale Businesses 100,001 sq. ft. or larger	GFA	1 per 1,000 sq. ft.
<p>* Other Uses: Parking and loading requirements shall be calculated for the closest similar use as determined by the Planning Board * Refer to section 3.10.8.1.5 for a definition of "employee(s)" as used in this table * GFA = Gross Floor Area * DU = Dwelling Unit(s) Footnotes: Elderly affordable housing is exempt from this requirement. Refer to Section 3.6 for elderly affordable requirements. Off-street parking shall be provided for at least four (4) vehicles. Garage and "piggy-back" parking is encouraged. In the R-III District, parking spaces may be located offsite (i.e.: off the internal legal lot so long as the offsite parking is located within the development lot) and the parking spaces shall be within four hundred feet (400') of the building they are intended to serve.</p>			

3.10.11 Flexibility in Off-Street Parking and Loading Standards:

A. Flexibility in Administration Required

1. Due to the particularities of any given development, the inflexible application of the parking standards set forth in **Subsection 3.10.10**) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the Planning Board may permit deviations from the presumptive requirements of **Subsection 3.10.10** and may require more parking or allow less parking by granting a conditional use permit meeting the requirements of **section 3.10.11(B)**.

B. Conditional Use Permits for Deviations in the Number of Required Off-Street Parking Spaces

1. The Planning Board may allow deviations from the parking requirements set forth in **section 3.10.10** by issuance of a conditional use permit when it finds that at least two of the following criteria are met (one of which must be **Section 3.10.11(B)(1)(a)**):
 - a. Such deviations are consistent with the purpose and intent of **section 3.10.1**
 - b. The applicant is able to demonstrate through studies of similar uses or similar facilities owned by the same company that the actual parking demand for the property is significantly different from the requirements of **3.10.10**, and can document that there have been no parking shortages at such studied sites.

Planning Board Meeting Minutes - May 13, 2015 - Attachment #3



MEMORANDUM

To: Londonderry Planning Board
From: Jonathan Edwards
Subj: Revisions to Draft Housing Amendment
Date: May 13, 2015

I have reviewed the proposed revisions of April 8th to the posted proposed housing amendment to the Londonderry Zoning Ordinance as you suggested. From the description, the purposes of all of these make a lot of sense.

I hope the following suggestions will be helpful:

Revision #1

- A. In Section 2.2 Use Table add “C 6” to the "Dwelling, multi-family workforce" row in AR-1 column, and
- B. Add the following footnote to the end of the table:
“6 -Applies only to proposed multi-family workforce housing developments in the AR-1 district which meet the following conditions:
 - a. Prior to May 13, 2014, one or more variances were granted to the proposed development from provisions of this ordinance that were in effect at that time;
 - b. As of May 13, 2014, no additional variances were necessary for the proposed development to constitute a proposal sufficiently complete as to qualify for consideration by the Planning Board for approval; and
 - c. A Conditional Use Permit for the proposed development is approved by the Planning Board not later than DATE [said date being eighteen months after the adoption of these amendments].”

The reasons for the adjustments are that after the amendments are adopted, it is not clear what the term “change of use” would refer to, it would be helpful to state the actual dates applicable to this provision rather than the reader having to refer to other documents to ascertain the relevant date, and make it clear that the zoning provisions in force prior to the adoption of these amendments are the ones that pertain and are valid in their entirety within these circumstances.

Revision #2

- A. In Section 2.2 Use Table add “C 7” to the "Dwelling, multi-family workforce" row in the AR-1 column, and
- B. Add the following footnote to the end of the table:
“7 - In the AR-1 district multi-family workforce housing may be permitted subject to a Conditional Use Permit on lots adjacent to commercial and industrial districts, provided that the proposed development meets the Conditional Use

criteria for workforce housing,"

- C. Amend Section 2.3.1.7 Accessory Dwellings to be compliant with State law. Change Subsection F. to match the language in SB 126 to read: "The maximum size for an Accessory Dwelling shall be in accordance with NH RSA 674:68, and as amended."

Add a new Subsection N.: "Every Accessory Dwelling shall be deemed a unit of workforce housing."

- D. Amend the definition of Elderly Affordable Rental Housing in Section 3.6.3 to read: "Housing units that are intended for elderly leasehold residential occupancy by those age 62 and over (as provided for in RSA 354-A:15), where the rent plus utilities for the dwelling unit does not exceed 30 percent of the allowed individual household income as defined by the US Department of Housing and Urban Development.

Add a new definition for Elderly Affordable Ownership Housing into Section 3.6.3 to read "Housing units that are intended for elderly ownership residential occupancy by those age 62 and over (as provided for in RSA 354-A:15), where the total cost of mortgage principal and interest, mortgage insurance premiums, property taxes, association fees, and homeowner's insurance does not exceed 30 percent of the maximum allowed income of the purchaser as defined by the US Department of Housing and Urban Development."

- E. Amend Subsection 3.6.4.I.b. to state: "For sites without municipal water and/or sewer: The minimum area necessary to comply with NH Code of Administrative Rules Chapter ENV-Ws 1000 (ENV-Ws 1005.03 Minimum Lot Sizes) Latest Revision."

- F. The following items are typographical changes or adjustments for clarity:

3.6.4.I.1.b: Un-bold "The minimum contiguous area...either public water or sewer".

2.3.3.4.B.13. It might do to capitalize Conditional Use Permit both because it is capitalized generally throughout the ordinance and it is the basis of the oft-use abbreviation CUP.

Same capitalization in 2.3.3.4.B.14.

Same capitalization in the new 2.3.3.7.A, E, and F.

2.3.3.5. Definition of Small Workforce Housing Development: say "Residential districts" instead of "residential zones" in order to be consistent with the general terminology used in the ordinance, and capitalize "Residential" because it is a specific type of zoning district and for internal consistency's sake.

May 13 2015

Planning Board Chairman

I hereby agree with changing zoning of 105 Hillside Ave Dondoresse from agricultural/residential to multi-family residential.

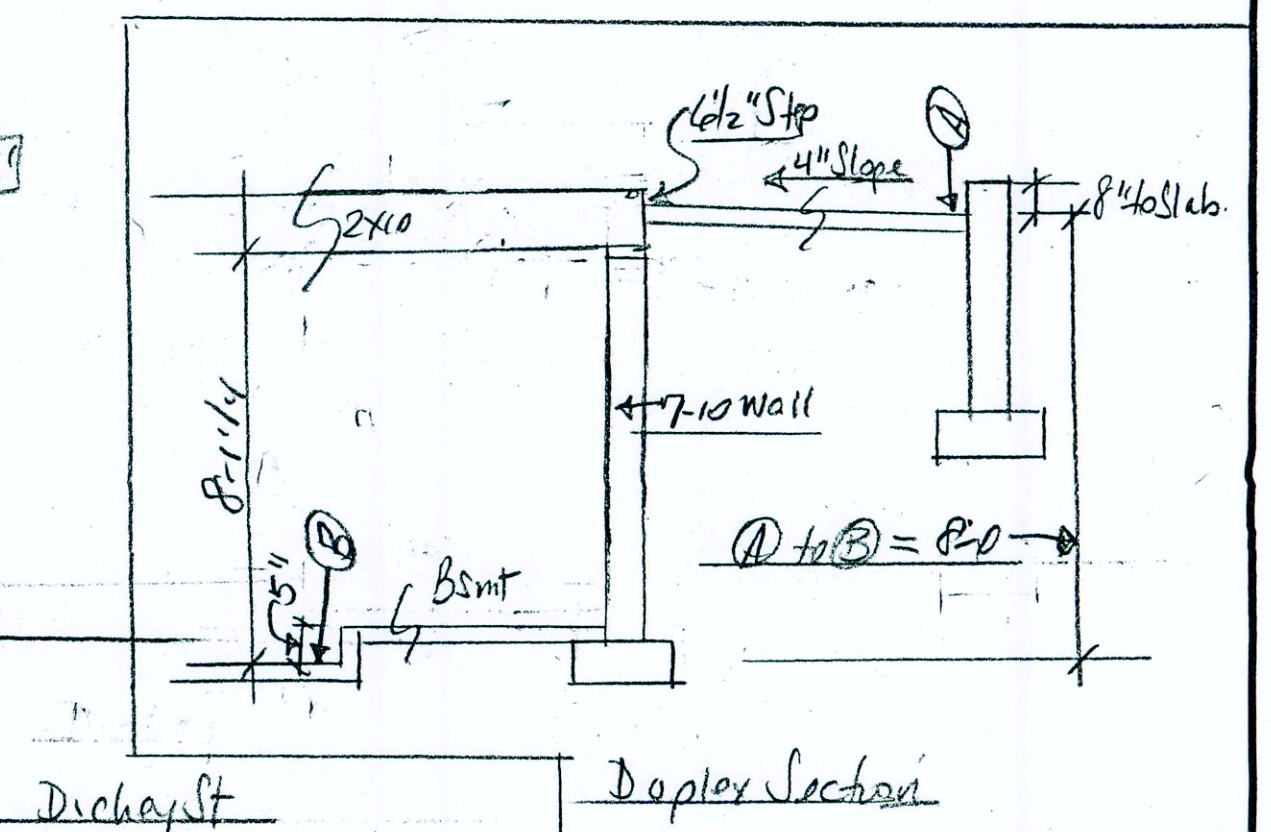
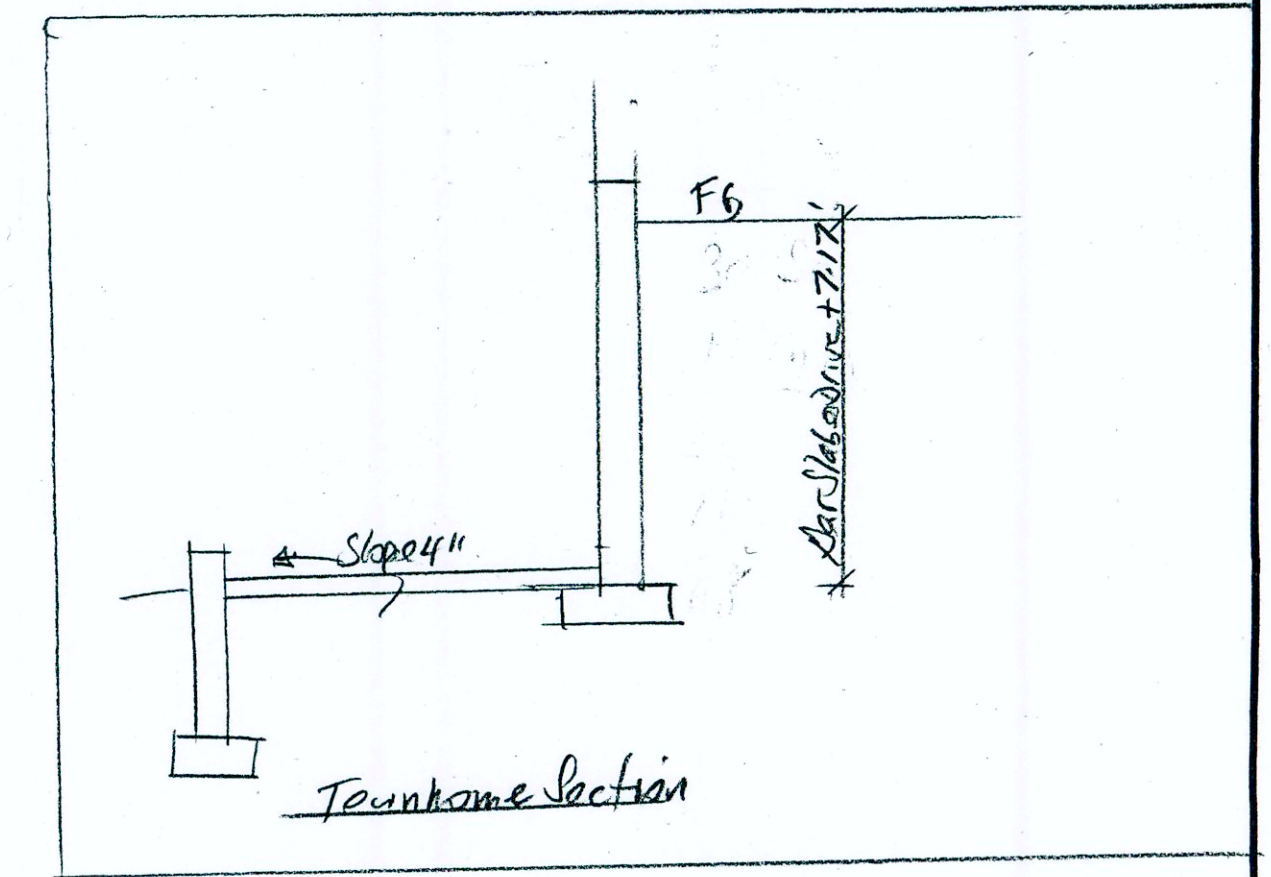
I do however request you do not allow the small home to be feeling of this mostly single family home residential to be taken away/destroyed.

It is a quiet neighborhood with longtime residents whose concerns should be addressed by the town and the developer.

Mr. Uddemo has so far been willing to work and speak with me and address my concerns; so far he has my support.

Ronald Kelly
100 Hillside Ave
Dondoresse NH

Planning Board Meeting Minutes - May 13, 2015 - Attachment #5



- Legend**
- 8" Water Main, 3 Hydrants.
 - Sewer Forced Main
 - Sewer Gravity
 - Drainage
 - Remove Partial Right Entrance Form?

Hillside Avenue		APPROVED BY:	DRAWN BY:
SCALE: 1" = 40'	DATE: 4/18/15		REVISED:
Smithfield Construction			DRAWING NUMBER
Conceptual Site Plan			15-2100