

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF February 8, 2012 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**
4

5 Members Present: Art Rugg; Mary Soares; Laura El-Azem; Tom Freda, Ex-Officio;
6 Rick Brideau, CNHA, Ex-Officio; Dana Coons, Leitha Reilly, alternate member;
7 Maria Newman, alternate member
8

9 Also Present: André Garron, AICP; Cynthia May, ASLA; John Trottier, P.E.; Libby
10 Canuel, Community Development Secretary
11

12 A. Rugg called the meeting to order at 7 PM. He appointed L. Reilly to vote for L.
13 Wiles and M. Newman to vote for C. Davies
14

15 Administrative Board Work
16

17 A. Extension Request for Shelburne Plastics Site Plan Amendment, 27 Industrial
18 Drive, Map 28, Lot 18-6.
19

20 J. Trottier referenced a letter from Michael O'Donnell of TFMoran Inc., in which
21 the applicant has requested a 120-day extension of the conditional site plan
22 approval to complete the conditions of said approval. J. Trottier said that staff
23 is supportive of the request.
24

25 *[L. El-Azem arrived at 7:03 pm].*
26

27 **D. Coons made a motion to grant a 120-day extension to June 28,**
28 **2012. R. Brideau seconded the motion.** No discussion. **Vote on the**
29 **motion: 8-0-0.** The extension was granted.
30

31 B. Approval and Signing of Minutes – Woodmont RFP Sub-committee Minutes,
32 January 10, 2012; Woodmont RFP Sub-committee Interview Minutes,
33 January 17, 2012. (Note: only Sub-Committee Members present, i.e. L. Reilly,
34 M. Soares, and R. Brideau will vote on these minutes).
35

36 **L. Reilly made a motion to approve and sign the minutes from the**
37 **January 10, 2012 meeting. M. Soares seconded the motion.** No
38 discussion. **Vote on the motion: 3-0-0.**
39

40 **L. Reilly made a motion to approve and sign the minutes from the**
41 **January 17, 2012 meeting. M. Soares seconded the motion.** No
42 discussion. **Vote on the motion: 3-0-0.**
43

44 Minutes for January 10, 2012 and January 17, 2012 were approved.
45

46 C. Regional Impact Determinations – Mr. Steer Amended Site Plan
47

48 C. May stated that Mr. Steer is proposing a change of use from retail to a
49 restaurant on Map 6, Lot 30. She said that staff recommends this project is

1 not a development of regional impact, as it does not meet any of the regional
2 impact guidelines suggested by Southern NH Planning Commission (SNHPC).

3
4 **D. Coons made a motion to accept staff recommendations that this**
5 **project is determined not to be of regional impact under RSA**
6 **36:56. R. Brideau seconded the motion. No discussion. Vote on the**
7 **motion: 8-0-0.**

8
9 D. Discussions with Town Staff

- 10
11 • A. Garron gave an update regarding the Woodmont Commons project.
12 At their January 30, 2012 meeting, the Planning Board had selected
13 Howard/Stein-Hudson (HSH) to act as a third party consultant for the
14 project. On January 31, 2012, a letter was sent to the applicant's
15 attorney, Ari Pollack, requesting the full escrow amount be submitted by
16 February 2 in order for an application acceptance meeting to take place
17 on February 16. (A revised contract estimate was subsequently received
18 from HSH and forwarded to the applicant reflecting the removal of the
19 legal firm Robinson & Cole from the HSH team. This brought the total
20 amount needed for escrow from \$139,830 to \$117,000. See January
21 30, 2012 Planning Board minutes). No check was received on February
22 2. On February 3, a check in the amount of \$11,520 was delivered to
23 the Town. This amount was calculated by the applicant to fulfill the
24 "completeness review task," portion of the contract with HSH, minus the
25 fee for the aforementioned legal firm. A. Garron responded to the
26 applicant that direction he received from the Planning Board was to
27 accept nothing less than the full amount of the escrow. He added that
28 he would convey the applicant's request to provide only the first
29 increment. T. Freda and M. Newman stated respectively that it would
30 not be right to impose the financial responsibility of the applicant as a
31 burden on either the taxpayers or the consultant. C. May added that
32 once the application has been accepted as complete, compliance with
33 the 65 day time frame under RSA 676:4 could be difficult if further
34 increments are not received in a timely fashion. The consensus of the
35 Board was that the full amount of the escrow must be received before
36 moving forward with the application review. In order to schedule the
37 matter for the March 7 meeting while still upholding the agreed upon
38 ten-day review period for the consultant, A. Garron suggested the Board
39 impose a deadline for full escrow by February 23.

40
41 **D. Coons made a motion to continue the Woodmont Commons**
42 **Application Acceptance meeting to March 7, 2012, contingent**
43 **upon receiving the full escrow amount by February 23, 2012 at**
44 **5:00 pm. R. Brideau second. A discussion ensued about making the**
45 **deadline sooner in order to allow for the check to clear while providing**
46 **the aforementioned ten-day window. D. Coons amended his motion**
47 **to say that the continuation of the application acceptance to**
48 **March 7, 2012 would be contingent upon receiving a check for**
49 **the full escrow amount by February 17, 2012 at 5:00 pm. No**
50 **further discussion. Vote on the motion, 8-0-0. The Application**

1 Acceptance and Public hearing for formal review of the Woodmont
2 Commons Planned Unit Development (PUD) Master Plan was continued
3 contingently to March 7, 2012. A. Rugg said this will be the only
4 notification.

- 5
- 6 • A. Garron informed the Board that the National Department of
7 Transportation recently announced the availability of \$500,000,000
8 through the TIGER 4 Grant. The deadline for pre-application is February
9 20, 2012, followed by the final application deadline on March 19.
10 Although competition for these funds is intense, A. Garron stated that
11 everything will be done to apply for a grant. He added that the best
12 option for funding would be the Pettengill Road project where all the
13 necessary elements are in place to begin the planned improvements.
 - 14
 - 15 • A. Rugg offered a reminder that the School District meeting will be held
16 February 10, 2012 at 7:00 pm. M. Soares added that babysitting
17 services will be available.
- 18

19 **New Plans**

20

21 A. Mr. Steer Amended Site Plan – Buttrick Ventures, LLC (Owner), Map 6 Lot 30 –
22 Application Acceptance and Public hearing for a proposed change of use from
23 retail to restaurant in unit B, 27 Buttrick Road, Zoned C-1 in the Route 102
24 Performance Overlay District.

25

26 C. May explained that this requested change of use is related to a site plan
27 previously approved in June of 2007. The change of use entails converting
28 2,400 sq. ft. of the space approved for retail use in Building B to a 59-seat
29 restaurant. This will include interior renovations and an upgrade to the
30 existing septic system. She stated that there were no checklist items, and
31 staff recommended the application be accepted as complete.

32

33 **D. Coons made a motion to accept the application as complete. R.**
34 **Brideau seconded the motion.** No discussion. **Vote on the motion: 8-0-**
35 **0.** The application was accepted as complete.

36

37 A. Rugg mentioned that this starts the 65 day time frame under RSA 676:4.

38

39 Engineer Eric Mitchell from Eric Mitchell & Associates presented on behalf of the
40 property owner and the owner of Mr. Steer, Chris George. Due to difficulties in
41 finding retail tenants for Building B, C. George is seeking to convert 2,400
42 square feet of that building to a 59-seat sports oriented restaurant/bar. E.
43 Mitchell noted that this specific clientele would likely result in more evening
44 and weekend use as opposed to daytime use. Town parking requirements
45 would increase over the current 57 spaces by an additional 13 spaces. E.
46 Mitchell noted, however, that Town requirements are based on a wide
47 spectrum of uses. If one uses the Institute of Traffic Engineers (ITE) Parking
48 Generation Manual, 4th Edition, a more specific use can be identified and the
49 result is the need for 52 total spaces, therefore leaving 5 extra spaces in the
50 current lot. He noted that the Town ordinance does provide some relief if the

1 parking is shared for the different uses on site.
2

3 A. Rugg asked for staff input. J. Trottier summarized comments from the staff
4 recommendation memo. C. May then reviewed a memo from Senior Building
5 Inspector/Zoning Officer Richard Canuel which confirmed the ability under the
6 ordinance to request a Conditional Use Permit (CUP) from the Planning Board
7 to reduce the number of required parking spaces. R. Canuel would support the
8 CUP if it were based specifically on a maximum 59-seat restaurant because
9 doing so would "provide an enforcement mechanism should the need arise in
10 the future." C. May noted General and Subsequent Condition #1 in the staff
11 recommendation memo which calls for a report of parking counts over a two
12 month period during specific hours to determine the sufficiency of parking
13 before a building permit can be issued. In addition, a parking analysis must be
14 done for the entire site (not just the restaurant addition), to determine
15 whether any traffic impact fees are necessary. Any such fees must be paid
16 before issuance of a Certificate of Occupancy. She said that staff recommends
17 conditional approval of the application.
18

19 A. Rugg asked for input from the Board. D. Coons noted that if the restaurant
20 is proposed to be open seven days a week and Mr. Steer is now open seven
21 days a week, the aforementioned condition regarding a two month parking
22 analysis should include Sundays where it currently does not.
23

24 A. Rugg asked for public input. There was none.
25

26 **D. Coons made a motion to conditionally approve the site plan change**
27 **of use with the following conditions and with the change to General**
28 **and Subsequent Condition #1, i.e. that the analysis will also be**
29 **between 12:00 pm and 5:00 pm on Sundays:**
30

31 "Applicant", herein, refers to the property owner, business owner, or
32 organization submitting this application and to his/its agents, successors, and
33 assigns.
34

35 **PRECEDENT CONDITIONS**

36

37 All of the precedent conditions below must be met by the applicant, at the
38 expense of the applicant, prior to certification of the plans by the Planning
39 Board. Certification of the plans is required prior to commencement of any site
40 work, any construction on the site or issuance of a building permit.
41

- 42 1. The applicant shall provide appropriate professional endorsements, stamps,
43 and signatures on the plans.
44
- 45 2. The Applicant shall provide a digital (electronic) copy of the complete final
46 plan set to the Town at the time of signature by the Board in accordance
47 with Section 2.05.n of the regulations.
48
- 49 3. The applicant shall re-submit the parking analysis to be stamped by a
50 Professional Engineer as required by the Londonderry Site Plan Regulations.

- 1
- 2 4. The applicant shall submit a Trip Generation Report prepared by a
- 3 Professional Engineer that addresses how the change in use will affect the
- 4 previously approved traffic study for specialty use retail over the entire site.
- 5
- 6 5. The applicant shall add a note to the plan that states "No more than 59
- 7 seats shall be permitted in the restaurant at any time." The applicant shall
- 8 also coordinate all documents to reflect that there are no more than 59
- 9 seats provided, based on the floor plan seating layout submitted.
- 10
- 11 6. The applicant shall add the NHDES septic approval number for the revised
- 12 septic design to the plan, with the date of approval and notation identifying
- 13 approval for the restaurant use, and include the revised plan with this set.
- 14
- 15 7. Financial guaranty if necessary.
- 16
- 17 8. Final engineering review
- 18

19 **PLEASE NOTE -** Once these precedent conditions are met and the plans are
20 certified the approval is considered final. If these conditions are not met within
21 120 days to the day of the meeting at which the Planning Board grants
22 conditional approval the board's approval will be considered to have lapsed and
23 re-submission of the application will be required. See RSA 674: 39 on vesting.

24
25 **GENERAL AND SUBSEQUENT CONDITIONS**

26
27 All of the conditions below are attached to this approval.

- 28
- 29 1. Prior to the issuance of a building permit for the remaining vacant retail
- 30 space (2,100 SF), the applicant shall provide the Town with accurate
- 31 parking counts over a two month period of time to include the hour between
- 32 noon and 1 PM weekdays, the peak hours between 4 PM and 6 PM
- 33 weekdays, and between 12 PM and 5 PM Saturdays and Sundays. If the
- 34 analysis demonstrates that a sustained period of insufficient parking exists,
- 35 the applicant shall secure alternative shared parking spaces in a number
- 36 that meets the Towns parking requirements prior to the issuance of a
- 37 building permit. This work shall be performed by a professional engineer.
- 38
- 39 2. All required Traffic impact fees must be paid prior to the issuance of a
- 40 Certificate of Occupancy.
- 41
- 42 3. **No construction or site work for the amended site plan may be**
- 43 **undertaken until the pre-construction meeting with Town staff has**
- 44 **taken place, filing of an NPDES-EPA Permit and the site restoration**
- 45 **financial guaranty is in place with the Town.** Contact the Department
- 46 of Public Works to arrange for this meeting.
- 47
- 48 4. The project must be built and executed exactly as specified in the approved
- 49 application package unless modifications are approved by the Planning

1 Division & Department of Public Works, or if staff deems applicable, the
 2 Planning Board.

3
 4 5. All of the documentation submitted in the application package by the
 5 applicant and any requirements imposed by other agencies are part of this
 6 approval unless otherwise updated, revised, clarified in some manner, or
 7 superseded in full or in part. In the case of conflicting information between
 8 documents, the most recent documentation and this notice herein shall
 9 generally be determining.

10
 11 6. All site improvements must be completed prior to the issuance of a
 12 certificate of occupancy. In accordance with Section 6.01.d of the Site Plan
 13 Regulations, in circumstances that prevent landscaping to be completed
 14 (due to weather conditions or other unique circumstance), the Building
 15 Division may issue a certificate of occupancy prior to the completion of
 16 landscaping improvements, if agreed upon by the Planning Division & Public
 17 Works Department, when a financial guaranty (see forms available from the
 18 Public Works Department) and agreement to complete improvements are
 19 placed with the Town. The landscaping shall be completed within 6 months
 20 from the issuance of the certificate of occupancy, or the Town shall utilize
 21 the financial guaranty to contract out the work to complete the
 22 improvements as stipulated in the agreement to complete landscaping
 23 improvements. **No other improvements shall be permitted to use a**
 24 **financial guaranty for their completion for purposes of receiving a**
 25 **certificate of occupancy.**

26
 27 7. As built site plans must to be submitted to the Public Works Department
 28 prior to the release of the applicant's financial guaranty, as applicable.

29
 30 8. It is the responsibility of the applicant to obtain all other local, state, and
 31 federal permits, licenses, and approvals which may be required as part of
 32 this project (that were not received prior to certification of the plans).
 33 Contact the Building Division at extension 115 regarding building permits.

34
 35 **R. Brideau seconded the motion.** No discussion. **Vote on the motion: 8-**
 36 **0-0.** The change of use plan was conditionally approved.

37
 38 **Public Hearings/Workshops/Conceptual Discussions**

39
 40 A. Growth Management Ordinance – Determination of Growth Sustainability Public
 41 Hearing

42
 43 A. Garron gave a brief presentation related to the Growth Management
 44 Ordinance and the need to make a determination of Growth Sustainability for
 45 2012 (see Attachment #1). Based on the criteria as outlined in the ordinance,
 46 Staff made a recommendation that the Planning Board make the determination
 47 that the Town of Londonderry will be in a period of sustainable growth in 2012
 48 and there will be no cap on the number of building permits issued.

1 **D. Coons made a motion to determine that the Town of Londonderry**
2 **will be in a period of sustainable growth through December 31, 2012**
3 **and there will be no cap on the number of building permits issued**
4 **during that time. R. Brideau seconded the motion. No discussion. Vote**
5 **on the motion: 8-0-0.**
6

7 B. Evans Family Limited Partnership (Owner), Map 16 Lot 9 – Conceptual
8 discussion of a proposed subdivision on Wilson Road.
9

10 Don Duval of Duval Survey and property owner Charlie Evans were present to
11 discuss a conceptual eight lot subdivision on Map 16, Lot 9. D. Duval explained
12 that north of Lance Avenue, which bisects Wilson Road along the frontage of
13 this property, traffic is only one-way and opens to two lane traffic south of that
14 point. Adequate sight distance can be achieved for driveways on all eight lots,
15 however the Public Works Department informed the applicant last year that
16 Wilson Road would most likely need to be reconstructed at the expense of the
17 applicant for the subdivision to take place. The applicant is therefore asking
18 the Planning Board for their input on that specific issue.
19

20 A. Rugg asked for staff input. J. Trottier explained that the one-way portion of
21 Wilson Road was created in 2006 after three bus accidents occurred there over
22 a two year period and it was subsequently deemed too cost prohibitive for the
23 Town to reconstruct the road to an adequate width. Amongst other issues
24 such as a lack of snow storage, no drainage exists on that northern portion,
25 nor is it sufficient on the two-way portion. The increased traffic associated
26 with an eight lot subdivision on such a substandard road will only increase the
27 need for maintenance. A. Garron stated that with no funds budgeted for
28 improvements to that road, the cost would fall to the applicant. C. May added
29 that from a planning perspective, placing a residence on a one-way road is not
30 good practice.
31

32 A. Rugg asked for input from the Board. R. Brideau said he was familiar with
33 the condition of Wilson Road and would not be in favor of allowing a
34 subdivision without its reconstruction. L. El-Azem, L. Reilly, and M. Newman
35 agreed. M. Soares asked if a compromise could be struck between the
36 applicant and the Town regarding the cost. A. Garron noted that even if the
37 Town's road maintenance plan were fully funded, the amounts annually
38 budgeted are not ample enough to achieve such a goal, given the amount of
39 overall maintenance needed within the town.
40

41 C. Evans noted that prior to 2006 when the one-way portion was created, the
42 Town approved several subdivisions on Wilson Road. Sight distances, he said,
43 can be met for all eight of the proposed lots and the associated increase in
44 traffic would be minimal. He added that when the Mill Pond subdivision was
45 approved and Wilson Road was acting as a direct route to I-93, no off-site
46 improvements were collected to offset the increased traffic on the road. A.
47 Garron informed the Board that an impact fee was put in place for that project
48 to contribute to improving the Old Derry Road/Wilson Road intersection. A.
49 Rugg asked staff to investigate the prior subdivisions that occurred on Wilson
50 Road and suggested Board members visit the area. C. Evans offered to deed a

1 right of way for future widening of the road.
2

3 J. Trottier inquired about the two lot subdivision on Gerry Lane noted on the
4 applicant's plan. He reminded the applicant that Gerry Lane is a Class VI road
5 and therefore no frontage exists. D. Duval acknowledged that a variance
6 would be required from the Zoning Board of Adjustment.
7

8 C. TCI (Applicant), Columbia Realty, LLC (Owner), Map 14, Lot 21-2 – Conceptual
9 discussion of a potential industrial use, 7 Delta Drive, Zoned IND-II.
10

11 Charles Tilgner stated that Textiles Coated International (TCI) is a company
12 started in Amherst, NH which expanded and moved to a building on the
13 Manchester/Londonderry line. Plant Manager Fran Enzien explained that this
14 building is used to both warehouse raw materials (mainly fiberglass woven
15 fabric) and manufacture flexible composite textiles. Having purchased the
16 building at 7 Delta Drive, the plan is to move the warehouse portion there and
17 expand manufacturing in the current building. Project and Facilities Engineer
18 Ed Frechette provided the Board with an overview of the building layout. A.
19 Garron noted that he and the Senior Building Inspector visited 7 Delta Drive
20 with E. Frechette on January 9 of this year. They confirmed that the proposed
21 use is consistent with the zoning and the company simply needs to obtain the
22 requisite building permits.
23

24 D. Patricia Panciocco (Trustee), Map 7, Lots 7 through 10 – Request for a
25 Rehearing of a previously denied appeal by PMP Revocable Trust of an Impact
26 Fee Assessment per section 1.2.8.1. of the Zoning Ordinance.
27

28 A. Rugg stated that the property owner sent a letter dated November 22, 2011
29 to A. Garron and the Town Manager. Since it was not addressed to the
30 Planning Board, the Board did not review the letter at their December 14, 2011
31 meeting when P. Panciocco's appeal of the Town's impact fee assessment on
32 Map 7, Lots 7 through 10 was denied. After that meeting, a second letter
33 dated January 10, 2012 was submitted to the Board by P. Panciocco requesting
34 a rehearing of the appeal. This letter has been reviewed by the Board, staff,
35 and the Town Attorney. A. Garron explained that the Board must decide
36 whether to grant a rehearing based on the January 10 letter.
37

38 A. Rugg asked for input from the Board. The consensus of the Board was that
39 no new information was presented that would provide the basis for a
40 rehearing. A. Rugg stated that the response titled "**PROPOSED DECISION**
41 **ON REHEARING ADMINISTRATIVE APPEAL OF PMP REVOCABLE TRUST**"
42 is to be included in this motion (see Attachment #2).
43

44 **M. Soares made a motion to deny the rehearing request as no new**
45 **information was presented. D. Coons seconded the motion. No**
46 **discussion. Vote on the motion: 8-0-0.**
47

48 Other Business

49
50 A. Impact Fee Discussion

1
2 A. Garron provided a presentation on an update to the impact fee methodology
3 for the Western Segment of the NH Route 28 Corridor impact fee. Although
4 the Board previously updated this impact fee program in March of last year,
5 Town legal counsel has since advised staff that State owned roadway segments
6 should be removed from traffic impact programs in order to be consistent with
7 State law. Those portions of the State roadways that intersect with local roads
8 would remain part of the program. He reviewed the travel demand forecast for
9 the development area (see page four of Attachment #3). In 2012 dollars, the
10 revised figure for total potential cost of improvements to the corridor is \$10.7
11 million (61% coming from the Town and State and 39% from new
12 development). If State Road segments were included in the calculation, that
13 figure in 2012 dollars would be \$21.3 million. With the possible addition of
14 3,962 PM peak hour trips to the corridor, the revised impact fee for the
15 developer's share of improvements would be \$1,059 per PM peak hour trip.
16 This would be just over half of the previous amount.
17

18 A public hearing on this topic will take place at the March 14, 2012 meeting.
19

20 **Adjournment**

21
22 **M. Soares made a motion to adjourn the meeting. R. Brideau seconded**
23 **the motion. Vote on the motion: 8-0-0.** Meeting adjourned at 9:21 PM.
24


25 These minutes prepared by Jaye Trottier and Libby Canuel, Community
26 Development Department Secretaries.
27

28
29
30 Respectfully Submitted,
31

32
33
34 Lynn Wiles, Secretary

MEMORANDUM

To: Planning Board

From: Andre L. Garron, AICP
Community Development Director 

Date: February 8, 2012

Subject: **2012 Growth Management Determination**

The Planning Board, in accordance with section 1.4 - Growth Management and Innovative Land Use Control of the zoning ordinance must make a determination of sustainability prior to March 1, 2011. The Board must also make a GMO determination using Section 1304 of the 1998 Growth Management Regulations as well.

Both versions of the GMO will be combined this year because the end result will be the same. The current GMO requires that 2 of 3 criteria from Section 1.4 must be met to make a determination of "unsustainable growth." Also, in accordance with Section 1304 of the 1998 Ordinance, 3 of 3 criteria must be met to make a determination of "unsustainable growth."

Evaluation:

In accordance with the Londonderry Growth Management and Innovative Land Use Control Regulation Section 1.4 (2002 GMO Version) and Section 1304 (1998 GMO Version), a determination of unsustainable growth occurs when two of three (or 3 of 3 of 1998 GMO) of the following findings are made:

- A. *The present year number of building permits authorized by the Building Department exceeds the average rate of dwelling unit authorizations in Londonderry over the six preceding calendar years;***

The average number of permits authorized over the preceding six years is **55**. In 2010, Londonderry authorized **26 permits** (26 < 55).

Condition not met

Section 1304 of the 1998 GMO requires that 3 of 3 conditions be met. **Given that the first condition was not met, Section 1304 of the 1998 GMO will not meet the conditions of unsustainable growth.** The remainder of the analysis will focus solely on the 2002 GMO.

- B. A percentage increase in housing units over the preceding calendar year equal to [or greater than] the rate of increase in housing units for that preceding year summed across the six municipalities which abut Londonderry (Auburn, Derry, Hudson, Litchfield, Manchester, and Windham).**

The number of housing units authorized by the Londonderry Building Division grew by **0.30718%** between 2010 and 2011; the number of housing units authorized by the building departments in abutting municipalities grew by **0.49336%** between same period ($0.30718\% < 0.49336\%$).

Condition not met

Section 1.4 of the 2002 GMO requires that 2 of 3 conditions be met. **Given that the first 2 conditions were not met, Section 1.4 of the 2002 GMO will not meet the conditions of unsustainable growth.** No further analysis of the remaining criteria is necessary.

Conclusion:

Given that two of three of the 2002 GMO criteria have not been met and three of the three criteria of the 1998 GMO have not been met:

Staff recommends that the Planning Board make a determination that for 2012, the Town of Londonderry will be in a period of sustainable growth, and there will be no cap on the number of building permits issued.

This decision will end on December 31, 2012.

Table 2. LONDONDERRY LOCAL NORMS ANALYSIS

2/7/2012

Year	Dwelling units authorized			Enrollment grades K-12		
	#	Previous 6-year avg	Dwelling units total	Actual	Projected	Capacity
1980	119		4,408			
1981	105		4,513			
1982	79		4,592			
1983	206		4,798			
1984	316		5,114	3,455		
1985	451		5,565	3,600		
1986	407	213	5,972	3,720		
1987	293	261	6,265	3,884		
1988	272	292	6,537	3,959		
1989	133	324	6,670	3,999		
1990	69	312	6,739	4,078		
1991	103	271	6,808	4,234		
1992	118	213	6,911	4,301		
1993	84	165	7,029	4,385		
1994	85	130	7,113	4,496		
1995	101	99	7,198	4,639		5,037
1996	112	93	7,299	4,738		5,037
1997	161	101	7,411	4,911		5,037
1998	187	110	7,572	5,138		5,037
1999	150	122	7,759	5,199	5,176	5,037
2000	146	133	7,718	5,338	5,311	5,037
2001	117	143	7,835	5,654	5,711	5,289
2002	44	146	7,879	5,700	5,716	6,347
2003	132	134	8,025	5,549	5,734	6,347
2004	177	129	8,157	5,514	5,756	6,347
2005	90	128	8292	5,571	5,728	6,347
2006	97	118	8389	5,452	5,626	6,347
2007	57	110	8446	5,322	5,607	6,347
2008	41	100	8487	5,183	5,501	6,347
2009	24	99	8511	5,062	5,501	6,347
2010	21	81	8438	4,883	5,501	6,347
2011	26	55	8464	4,845	5,501	6,347

Enrollments data source: School District Profile (10/21/2011) and Bruce Mayberry School Impact Fee Methodology 2002.
 Dwelling units source: see Table 1 notes.

Table 3. LONDONDERRY GROWTH STRAIN ANALYSIS

2/7/2012

Year	Londonderry					Abutting communities		
	Public school pupils		Housing units authorized		% Housing	% Housing increase		H. units authorized
	Enrollment	Capacity	Annual	Prior 6yr avg	increase	x 100%		
1990	4,078		69	312	1.02%	1.00%		701
1991	4,234		103	271	1.51%	0.71%		461
1992	4,301		118	213	1.71%	0.90%		510
1993	4,385		84	165	1.20%	0.75%		359
1994	4,496		85	130	1.19%	0.84%		487
1995	4,639	5,037	101	99	1.40%	0.75%		406
1996	4,738	5,037	112	93	1.53%	1.23%		583
1997	4,911	5,037	161	101	2.17%	1.55%		826
1998	5,138	5,037	187	110	2.47%	1.27%		650
1999	5,199	5,037	150	122	1.93%	1.30%		742
2000	5,338	5,037	146	133	1.89%	1.34%		701
2001	5,654	5,289	117	143	1.49%	1.22%		656
2002	5,700	6,347	44	146	0.56%	1.67%		1,272
2003	5,549	6,347	132	134	1.64%	1.09%		846
2004	5,514	6,347	177	129	2.16%	1.2995%		1,016
2005	5,571	6,347	90	128	1.0854%	1.0025%		794
2006	5,452	6,347	97	118	1.1563%	1.5889%		1271
2007	5,323	6,347	57	110	0.6749%	0.6522%		530
2008	5,409	6,347	41	100	0.4831%	0.4230%		346
2009	5,170	6,347	24	99	0.2820%	0.2410%		198
2010	5,154	6,347	21	81	0.2489%	0.4692%		359
2011	5,154	6,347	26	55	0.2836%	0.4934%		359

Current year indicator demonstrating "unsustainability."

Year with two or three indicators demonstrating "unsustainability."

* - Building data is through December, enrollment is based on latest School District Report.

Abutting communities: Auburn, Derry, Hudson, Litchfield, Manchester, Windham.

Data source: Table 2.

2011/2012 Growth Management Ordinance - Determination of Growth Sustainability

Public Hearing

February 08, 2012

How the Annual Evaluation Works

- Requirements spelled out in Section 1.4 of the Zoning Ordinance
 - Board must also make a determination based on the 1998 Ordinance (former Section 1304)
 - Determination must be made by March 1 of each year
 - Current Ordinance requires 2 of 3 criteria to be met to declare “unsustainable growth” and limit building permits
 - 1998 Ordinance requires 3 of 3 criteria to be met to declare “unsustainable growth” and limit building permits
-

What are the Criteria?

- The present year number of building permits authorized by the Building Department exceeds the average rate of dwelling unit authorizations in Londonderry over the six preceding calendar years
 - A percentage increase in housing units over the preceding calendar year equal to [or greater than] the rate of increase in housing units for that preceding year summed across the six municipalities which abut Londonderry (Auburn, Derry, Hudson, Litchfield, Manchester, and Windham)
-

What are the Criteria? (cont'd)

- The maximum rate of dwelling units authorizations whose projected to demands can be adequately serviced and provided with facilities at a prudent level of fiscal strain, based upon the following:
 - School enrollment vs. school capacity
 - Strain on public facilities
 - Percentage of total budget appropriations made up of capital improvements
-

Criterion 1: 6 year average analysis

- The average number of permits authorized over the preceding six years is **55**. In 2011, Londonderry authorized **26** permits ($26 < 55$).

■ **CONDITION NOT MET**

- Given that the first condition was not met, Section 1304 of the 1998 GMO will not meet the conditions of unsustainable growth.
-

Criterion 2: Local vs. Region

- The number of housing units authorized by the Londonderry Building Division grew by **0.30718%** between 2010 and 2011; the number of housing units authorized by the building departments in abutting municipalities grew by **0.49336%** between same period ($0.30718\% > 0.49336\%$).

■ **CONDITION NOT MET**

Conclusion

- Given that two of three of the 2002 GMO criteria have not been met and three of the three criteria of the 1998 GMO have not been met:
 - **Staff recommends that the Planning Board make a determination that for 2012, the Town of Londonderry will be in a **period of sustainable growth**, and there will be **no cap** on the number of building permits issued.**
 - This decision will end on **December 31, 2012.**
-

PROPOSED DECISION ON REHEARING

ADMINISTRATIVE APPEAL OF PMP REVOCABLE TRUST

PMP Revocable Trust has filed a motion for rehearing relative to its administrative appeal of the impact fee assessment imposed with respect to Tax Map 7, Lots 7, 8, 9 & 10 and the former Meadow Drive right-of-way (hereinafter the “Property”). The motion for rehearing presents a diffuse multitude of legal theories with respect to various elements of the Town of Londonderry’s impact fee ordinance and procedures. Because many of the allegations are inconsistent with the law, the ordinance or the facts, the Board finds it appropriate that it set forth its position in a comprehensive fashion.

First and foremost, the applicant’s claims with respect to third parties are rejected. The issue presented to the Planning Board is whether the impact fee imposed upon the applicant was consistent with the law and the facts. Ms. Panciocco does not have standing to make claims on behalf of third parties.

The fact is that the town treasurer makes a report to the Town Council, giving a particular account of all capital facilities impact fee transactions during the year, consistent with Section 1.2.9.4. Even if some of the reports may be found wanting by the applicant, this in no way impacts the applicant’s assessment. The town has taken great care to develop impact fees, based upon expert advice, and the fees collected have been used appropriately for the capital improvements.

With respect to the police impact fee, the town did construct a new police station, and the methodology employed for assessing the impact fee accurately reflected that portion of the facility attributed to existing needs, and that portion which was attributable to growth.

The allegation is the town appropriated \$4.6 million for the new police station. The actual amount is \$5,088,206.89. The total amount of impact fees paid for the facility was \$241,489.36. That there may be additional revenue from the Manchester Airport to cover the costs of police services, or from other sources, does not alter the validity of the impact fee. An impact fee is based upon the needs created by growth, not revenue sources. The applicant has failed to demonstrate that it has been required to pay an assessment in excess of its proportionate share of the needs created by and the benefits accruing to the applicant.

The Board is satisfied that the annual audit reports which are filed with the Town Council comport with the requirements of RSA 674:21, V, as well as the town's ordinance.

The impact fees calculated by the town's independent expert for the new library took into consideration what portion of a new library would be attributed to existing needs, and what portion would be attributable to growth. Therefore, the impact fee does not reflect the total cost of the facility. To date, the town collected library fees in the amount of \$130,815.82. The total cost of the facility was \$2,300,000. An impact fee is based upon the needs created by growth, not revenue sources. The applicant has failed to demonstrate that the amount of impact fees collected to date exceed the costs attributable to growth and failed to demonstrate that it has been required to pay an assessment in excess of its proportionate share of the needs created by and the benefits accruing to the applicant.

The applicant is incorrect in its assertion that "[w]hen there is no new growth on which to rely to assess impact fees, there is no basis to assess impact fees at all because by definition an impact fee must benefit new growth." First and foremost, the growth rate in the Town of Londonderry has been well documented over the past 3 to 4 decades. It demonstrates an unequivocal and significant growth trend. That growth may have slowed in the past 2-3 years

does not alter the fact that the town needs to anticipate growth in order to fund new demands created by that growth. An impact fee is not based upon the rate of growth, but rather the demands created by growth, at whatever rate. Moreover, as impact fees are intended to anticipate growth, facilities are constructed with additional capacity.

This concept leads directly to the issue of the fire impact fee, prepared in 2007. That the town may have created additional fire stations does not alter the fact that new stations will be needed to address future growth. The Town of Londonderry's population has grown from 19,781 in 1990 to 24,129 in 2010. The town anticipates that this growth trend will continue, although perhaps at a somewhat reduced current rate. Thus, there will be additional needs, and the impact fee is intended to address them. Moreover, the total cost of these new facilities was \$4,646,249.51, while the impact fees were in the amount of \$286,074.33. The applicant has failed to demonstrate that it has been required to pay an assessment in excess of its proportionate share of the needs created by and benefits accruing to the applicant.

The town understands that impact fees not otherwise encumbered prior to 6 years after their collection must be returned, and to the extent that funds have not been returned, the town is addressing that point. However, it is critical to keep in mind that Ms. Panciocco does not represent the individuals who may be entitled to a rebate. Nor does any rebate to a third party alter the impact fee that is to be assessed against the Property.

The Planning Board agrees with the applicant's argument that highway impact fees may be assessed only for "capital facilities owned or operated by the municipality." In some cases, the town has developed corridor studies which do in fact consider needed improvements to the highways within the town, but owned by the state. Therefore, the Planning Board has directed staff to recalculate these fees, limiting them only to improvements at intersections with town

roads. Consequently, the applicant's appeal is granted to the extent that the impact fee to be assessed against the Property with respect to highways will be reduced to reflect the more limited nature of the impact fee, which is with respect to town intersections with state highways only.

The town fully understands that impact fees are to be used only with respect to improvements intended to facilitate growth, and not for maintenance purposes.

The Board fundamentally disagrees with the interpretation the applicant applies to the communications from Peter Curro of the Londonderry School District. The Planning Board is satisfied that Mr. Curro's memo to Ms. Panciocco, dated December 14, 2011, adequately and clearly describes the use of impact fees associated with schools. It needs to be re-emphasized that the methodology developed by the town's independent expert takes into consideration the costs attributable to growth, and therefore when the impact fee is applied to the payment of a bond used to underwrite the cost of the improvement, it is fair, proportional and consistent with the law. It is critical to understand that the methodology employed takes into consideration a variety of factors before the assessment is made so that adjustments are not required later, when the expenditure of those fees is made. Finally, Mr. Curro made it clear that impact fees are not used "to keep the property tax rate in check," but rather for the designated purpose of addressing the costs incurred by the school district to address growth-related needs. The applicant has failed to demonstrate that it has been required to pay an assessment in excess of its proportionate share of the needs created by and benefits accruing to the applicant.

The development of a traffic study is an integral component of the engineering and designing of an intersection with state roads. It is a necessary component of the capital improvement, and it is entirely appropriate that impact fees be used to underwrite the full cost of the improvement, including the "soft costs" associated with study and engineering.

The law and this Board fundamentally disagree with the applicant's assertion that the statute "does not authorize municipalities to substantially increase impact fee assessments used to recoup the costs of capital facilities expanded in anticipation of new growth, when the capital facility is completed and those costs become final." Such an argument is directly inconsistent with the applicant's previous suggestion that impact fees must be reduced if the actual cost of a facility turns out to be less than that which was anticipated when the impact fee was created. (Police station). More importantly, however, RSA 674:21, V (c) specifically authorizes the use of impact fees "to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet." The Board sees no limitation on such use. Furthermore, there is no basis for the argument that impact fees may not be adjusted as circumstances change. For example, once a projected cost becomes an actual expenditure, it is entirely appropriate for there to be an increase to more accurately reflect the proportional share of the improvement attributable to growth. On the other hand, where the cost of an improvement may be less than that which was anticipated, that amount which remains may nevertheless be used for additional improvements associated with the specific category of the impact fee.

In summary, the Town of Londonderry Planning Board has taken care to craft an impact fee ordinance that is consistent with the law. Thereafter, it has performed necessary studies to determine what needs will be presented as a result of the pattern of consistent growth in the community. The town employed an independent expert to develop a methodology that ensured that only that portion of a capital improvement cost which is attributable to growth is incorporated in the impact fee. It must be understood that impact fees are based on projections, which may result in a lower or higher impact fee than that which is required, and therefore there may be adjustments or a surplus may be attributed to the future expansion of that capital facility.

Finally, the Board recognizes that the law as it is does not allow the collection of impact fees to underwrite the cost of capital improvements associated with facilities not owned or operated by the town. In this case, the corridor study did include those costs. Therefore, the Planning Board has instructed the staff to recalculate the highway impact fee so as to exclude all costs but those associated with intersections of town and state highways.

Chairman, Planning Board

NH Route 28 – Western Segment: Impact Fee Methodology Update

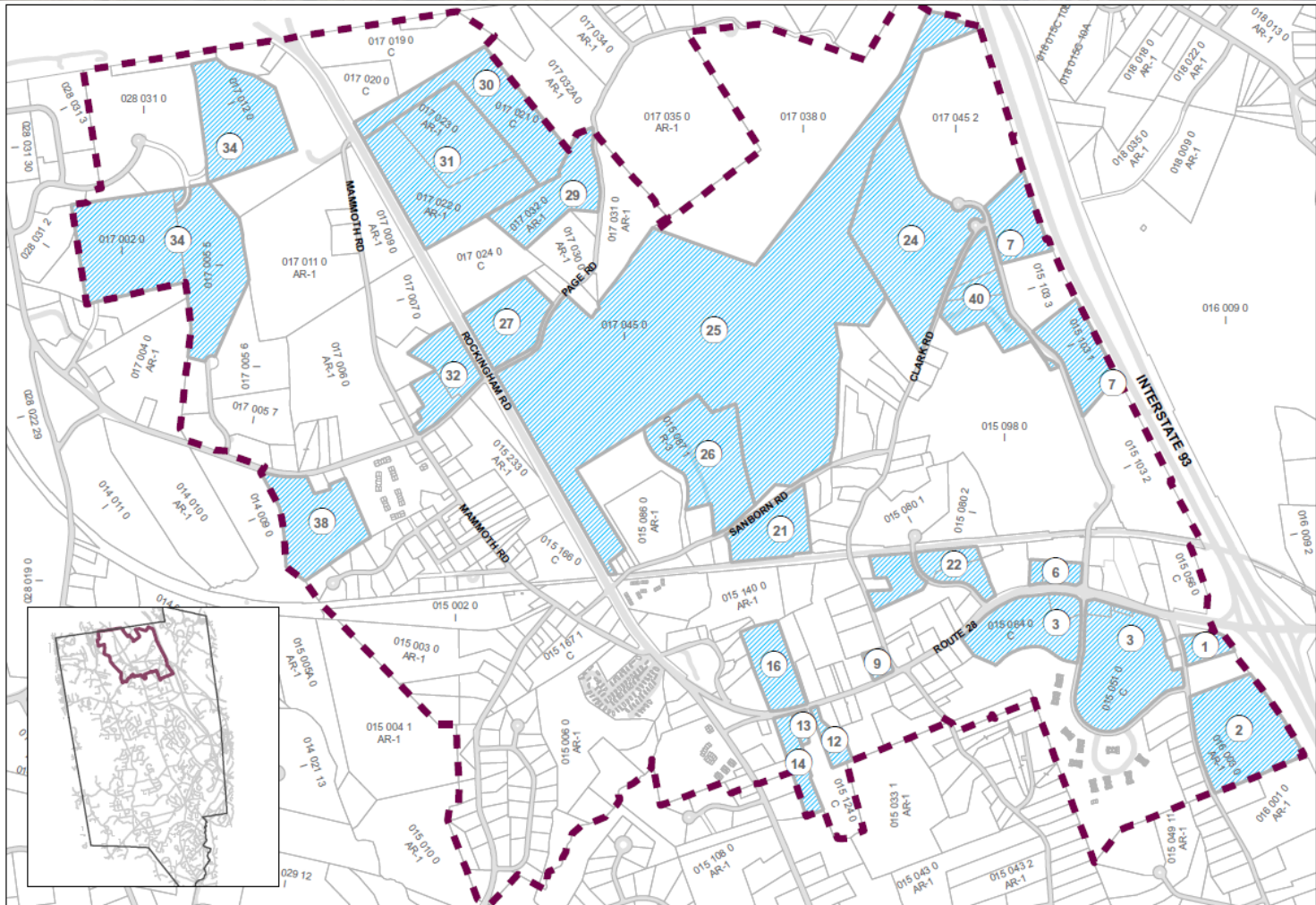
Planning Board Workshop

February 8, 2012

Basis of Impact Fee Update

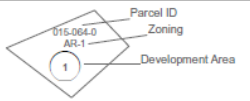
- Planning Board updated its Rt.28 Western Segment Impact fee program in March 2011
 - At the advice of legal counsel, state owned roadway segments will be removed from traffic impact programs
 - Local roadways intersecting with State Roadway will remain.
-

Development Areas



- Study Area
- Development 2010
- Parcels
- Roads

Town of Londonderry, NH
NH Route 28
Corridor Study 2010



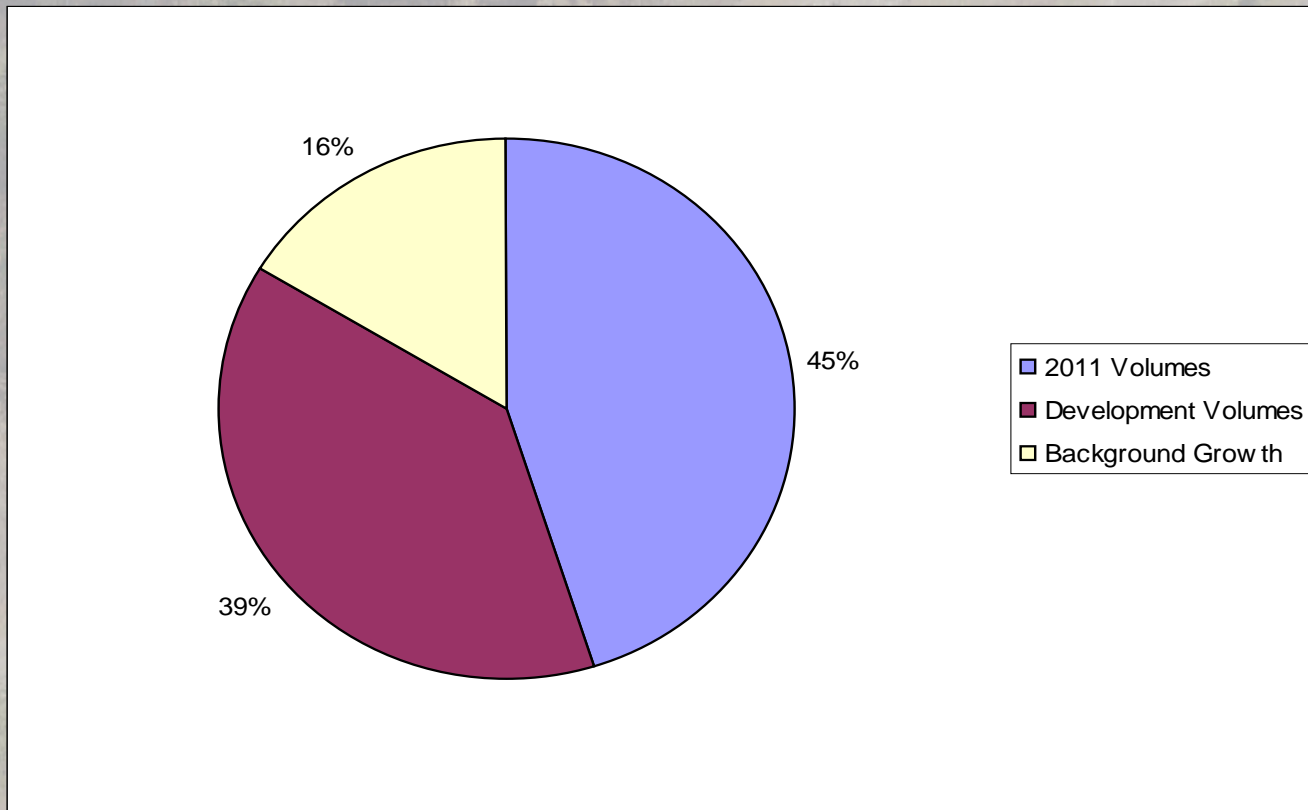
Travel Demand Forecast

- Existing Trips
 - Base Year (2011) from Stantec Study
 - Development Area Trips
 - Future land use consistent with existing zoning
 - Floor area for commercial and industrial parcels @ 15% of the developable area.
 - For residential parcels: 1 unit per acre of the developable area, with 25% bonus added to parcels suited for workforce housing development.
 - Standardized trip generation rates and equations from ITE (8th Edition) applied to all future developments. (Next Slide)
 - Background Growth Rate of 1%
 - Trip Distribution per Stantec Study
-

Dev Area #	Lot Size	Devl Acres	Current Use	Zoning	Future Land Use	Poten Units	Poten Area (SF)	Total PM Trips	PM In Trips	PM Out Trips	Total New PM Trips	PM New In Trips	PM New Out Trips
2	25	18.75	Single Family	AR-I	Single Family	25		25	16	9	25	16	9
3	46.86	46.86	Vacant	MUC	Big Box Retail, Shopping Center, Restaurant		60,000 Shp Ctr; 6,000 Restrnt; 205,000 Big Box	1464	723	739	1102	543	557
6	4.07	4.07	Vacant	POD/C-II	Specialty Retail		26593	72	32	40	54	24	30
7	23.237	23.237	Vacant	I-I	Light Industrial, General Office		196,500 Indus, 65,500 Office	343	49	294	343	49	294
9	1.74	1.74	Single Family	POD/C-II	Specialty Retail		11369	31	14	17	23	10	13
12	3.2	3.2	Single Family	POD/C-II	Specialty Retail		20909	57	25	32	42	19	24
13	1	1	Single Family	POD/C-II	Specialty Retail		6534	18	8	10	13	6	7
14	6.1	3.05	Single Family	POD/C-II	Specialty Retail		19929	54	24	30	41	18	23
16	10	5	Single Family	POD/C-I	Shopping Center		32670	301	147	153	198	97	101
21	13.67	9.08	Vacant	R-III	Elderly Housing	60		10	6	4	10	6	4
22	13.245	13.245	Vacant	C-II, POD/C-II	Light Industrial		80000	78	9	68	78	9	68
24	12	10.2	Vacant	I-I	Light Industrial		100000	97	12	85	97	12	85
25	212.495	124.5	Vacant	I-I	Industrial Park		730000	628	132	496	628	132	496
26	25.4	21.59	Vacant	R-III	Condominium	130		68	45	22	68	45	22
27	13.87	11.1	Vacant	C-II	Office Park		72501	194	27	167	194	27	167
29	13.25	11.26	Vacant	AR-I	Single Family	11		11	7	4	11	7	4
30	27	22.95	Vacant	C-II	Light Industrial		149955	146	17	128	146	17	128
31	23	19.55	Vacant	AR-I	Single Family	20		20	13	7	20	13	7
32	12.32	10.47	Vacant	C-II	Light Industrial		68424	66	8	58	66	8	58
34	81.556	81.556	Vacant	I-I, I-II	Light Industrial		691238	671	80	590	671	80	590
38	18.3	15.56	Vacant	AR-I	Single Family	16		16	10	6	16	10	6
40	14.3	14.3	Single Family	AR-I	Light Industrial		120000	116	14	102	116	14	102
								4485	1417	3062	3962	1161	2796

Horizon Year (2021) Traffic

Figure 1—Composition of 2021 PM Peak Hour Traffic



Cost Sharing Method

- Corridor Cost Improvements = \$10.7 Million (2012 Dollars)
 - Cost Share Breakdown:
 - NHDOT/Town of Londonderry: 61% (\$6.6 Million)
 - Development: 39% (\$4.2 Million)
 - Average of 20 trips per year from outside corridor included in calculations
 - Recommend a 3.5% cost/fee escalation for each year beyond 2011
-

Corridor Improvement Costs

	2010 Dollars	2011 Dollars*	2012 Dollars*	2013 Dollars*	2014 Dollars*	2015 Dollars*
Major Intersections						
Rockingham Road at Page Road	\$1,650,000	\$1,708,000	\$1,768,000	\$1,830,000	\$1,894,000	\$1,960,000
Rockingham Road at Sanborn Road	\$1,777,000	\$1,840,000	\$1,904,000	\$1,971,000	\$2,040,000	\$2,111,000
Rockingham Road at Old Mammoth Road	\$2,318,000	\$2,400,000	\$2,484,000	\$2,571,000	\$2,660,000	\$2,754,000
Rockingham Road at Mammoth Road (Route 128)	\$2,424,000	\$2,509,000	\$2,597,000	\$2,688,000	\$2,782,000	\$2,879,000
Rockingham Road at Clark Road and Noyes Road	\$1,373,000	\$1,422,000	\$1,471,000	\$1,523,000	\$1,576,000	\$1,631,000
Rockingham Road at Symmes Drive and Vista Ridge Road	\$1,979,000	\$2,049,000	\$2,120,000	\$2,195,000	\$2,271,000	\$2,351,000
Rockingham Road at Perkins Road	\$948,000	\$982,000	\$1,016,000	\$1,052,000	\$1,088,000	\$1,126,000
Rockingham Road at 1-93 Exit 5	\$1,226,000	\$1,269,000	\$1,314,000	\$1,360,000	\$1,407,000	\$1,457,000
Roadway Segments						
Road Segment Between Page Road and Sanborn Road	\$1,308,000	\$1,354,000	\$1,402,000	\$1,451,000	\$1,501,000	\$1,554,000
Road Segment Between Sanborn Road and Old Mammoth Road	\$600,000	\$632,000	\$654,000	\$677,000	\$700,000	\$725,000
Road Segment Between Old Mammoth Road and Mammoth Road (Rt. 128)	\$902,800	\$935,000	\$968,000	\$1,001,000	\$1,036,000	\$1,073,000
Road Segment Between Mammoth Road (Rt. 128) and Clark/Noyes Road	\$1,471,000	\$1,523,000	\$1,576,000	\$1,631,000	\$1,689,000	\$1,748,000
Road Segment Between Clark/Noyes and Symmes Drive/Vista Ridge Road	\$1,914,000	\$1,981,000	\$2,051,000	\$2,123,000	\$2,197,000	\$2,274,000
Roadway Corridors						
Rockingham Road from Page Road to Symmes Drive	\$15,747,800	\$16,299,000	\$16,870,000	\$17,460,000	\$18,071,000	\$18,704,000
Rockingham Road from Symmes Drive to 1-93 Exit 5	\$4,153,000	\$4,299,000	\$4,449,000	\$4,605,000	\$4,766,000	\$4,933,000
TOTAL	\$19,900,800	\$20,598,000	\$21,319,000	\$22,065,000	\$22,837,000	\$23,636,000

* Escalation of construction estimate was calculated using a rate of 3.5% per year

Notes:

1. Costs presented herein do not include costs associated with Right of Way/easement acquisition.
2. Costs presented herein do not include upgrades to the existing water and sewer system.

2012 Corridor Improvement Costs revised

	2010 Dollars*	2011 Dollars*	2012 Dollars*	2013 Dollars*	2014 Dollars*	2015 Dollars*
Major Intersections						
Rockingham Road at Page	\$1,650,000	\$1,708,000	\$1,768,000	\$1,830,000	\$1,894,000	\$1,960,000
Rockingham Road at Sanborn	\$1,777,000	\$1,840,000	\$1,904,000	\$1,971,000	\$2,040,000	\$2,111,000
Rockingham Road at Old Mammoth	\$2,318,000	\$2,400,000	\$2,484,000	\$2,571,000	\$2,660,000	\$2,754,000
Rockingham Road at Clark Road and Noyes Road	\$1,373,000	\$1,422,000	\$1,471,000	\$1,523,000	\$1,576,000	\$1,631,000
Rockingham Road at Symmes Drive and Vista Ridge Road	\$1,979,000	\$2,049,000	\$2,120,000	\$2,195,000	\$2,271,000	\$2,351,000
Rockingham Road at Perkins Road	\$948,000	\$982,000	\$1,016,000	\$1,052,000	\$1,088,000	\$1,126,000
Total:	\$10,045,000	\$10,401,000	\$10,763,000	\$11,142,000	\$11,529,000	\$11,933,000

* Escalation of construction estimate was calculated using a rate of 3.5% per year

Note(s):

1. cost presented herein do not include costs associated with Right of way/easement acquisition
2. Costs presented herein do not include upgrades to the existing water and sewer system

2012 Corridor Improvement Costs

Item	Basis	Cost*
Total Project Cost	Improvements per 2011 Study	\$10,763,000
Public Share	Background Growth (61%)	\$6,565,430
Developer Share	Development Area Trips (39%)	\$4,197,570
2012 Trip Calc.		
2012 Trip Calc.	Total New PM Peak Hr. Trips	3,962
Revised Impact Fee		\$1,059

* 2012 figure adjusted by 3.5%

Proposed New Rt. 28 Western Segment Impact Fee (per new PM Peak Hour Trip)

New Fee Schedule

2012	Impact Fee	\$1,059
2013	Impact Fee	\$1,096
2014	Impact Fee	\$1,134
2015	Impact Fee	\$1,174
2016	Impact Fee	\$1,215
2017	Impact Fee	\$1,258

Old Fee Schedule

2012	Impact Fee	\$1,189
2013	Impact Fee	\$1,836
2014	Impact Fee	\$2,118
2015	Impact Fee	\$2,181
2016	Impact Fee	\$2,202
2017	Impact Fee	\$2,313

Questions

- Rt. 102 Corridor – March Mtg
-