

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF JANUARY 14, 2009 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**
4

5 7:00 PM: Members Present: Art Rugg; Rick Brideau, Ex-Officio; John Farrell;
6 Kathy Wagner, Ex-Officio; Charles Tilgner, P.E., Ex-Officio; Laura El-Azem; Chris
7 Davies, alternate member; Cole Melendy, P.E., alternate member.

8
9 Also Present: André Garron, AICP; Tim Thompson, AICP; John Trottier, P.E.;
10 Cathy Dirsra, Planning Department Secretary

11
12 A. Rugg called the meeting to order at 7:01 PM. He introduced Cole Melendy as
13 the new alternate member of the Planning Board.

14
15 A. Rugg appointed C. Davies to vote for M. Soares and C. Melendy to vote for L.
16 Wiles.

17
18 **Administrative Board Work**
19

20 A. Plans to sign - Cider Mill Site Plan

21
22 J. Trottier said all precedent conditions for approval have been met and the
23 staff recommends signing the plans.

24
25 **J. Farrell made a motion to authorize the Chair and Secretary to sign**
26 **the plans. R. Brideau seconded the motion.** No discussion. **Vote on the**
27 **motion: 9-0-0.** A. Rugg said the plans will be signed at the conclusion of the
28 meeting.

29
30 B. Plans to sign – Tate Subdivision

31
32 J. Trottier said all precedent conditions for approval have been met and the
33 staff recommends signing the plans.

34
35 **J. Farrell made a motion to authorize the Chair and Secretary to sign**
36 **the plans. R. Brideau seconded the motion.** No discussion. **Vote on the**
37 **motion: 9-0-0.** A. Rugg said the plans will be signed at the conclusion of the
38 meeting.

39
40 C. Regional Impact Determinations

41
42 T. Thompson stated that Ricky & AnnMarie Robichaud & Helen Jolicoeur are
43 proposing a 2 lot subdivision on 109 Litchfield Rd, Map 11, Lot 25. He said
44 that staff recommends this project is not a development of regional impact,
45 as it does not meet any of the regional impact guidelines suggested by
46 Southern NH Planning Commission (SNHPC).

47
48 **J. Farrell made a motion to accept staff recommendations that this**
49 **project is determined not to be of regional impact under RSA 36:56.**

1 **R. Brideau seconded the motion.** No discussion. **Vote on the motion: 9-**
2 **0-0.** Regional impact determinations accepted.

3
4 D. Approval & Signing of Minutes – December 3 & 10

5
6 **J. Farrell made a motion to approve the minutes from the December 3**
7 **meeting. R. Brideau seconded the motion.** No discussion. **Vote on the**
8 **motion: 7-0-2** (R. Nichols abstained because he was absent from the
9 December 3 meeting. C. Melendy abstained because he was not on the Board
10 at that time). Minutes are approved and will be signed at the conclusion of
11 the meeting.

12
13 **J. Farrell made a motion to approve the minutes from the December**
14 **10 meeting. R. Brideau seconded the motion.** No discussion. **Vote on**
15 **the motion: 8-0-1** (C. Melendy abstained because he was not on the Board
16 at that time). Minutes are approved and will be signed at the conclusion of
17 the meeting.

18
19 E. Discussions with Town Staff

20
21 A. Garron updated the Board that staff was successful in obtaining a small
22 grant from the Rockingham Economic Development Corporation. He also
23 mentioned the press release today in the Union Leader regarding the Town's
24 proposal for Pettengill Road to be part of the federal economic stimulus
25 package.

26
27 J. Farrell said he can't make the January 26 Economic Development Taskforce
28 meeting, so it will need to be rescheduled.

29
30 J. Trottier said staff met last week with Stonyfield regarding an addition. He
31 said they will be adding a powder storage area. They also want to construct
32 an above ground holding tank (8'w x 20'h) on a concrete pad. Staff asked the
33 Board if they are comfortable with staff handling the plan administratively.
34 The Board agreed to have staff handle this.

35
36 T. Thompson reminded the Board that January 22 will be the joint Planning
37 Board & Heritage Commission meeting at the high school cafeteria at 7pm.
38 He also said that the proposed workshop regarding fence regulations has
39 been postponed to February 11, 2009.

40
41 **Public Hearings (from postponed January 7 meeting)**

42
43 A. Pittore Brothers Paving, Map 13, Lot 99 - Continued Application Acceptance
44 and Public Hearing for a Site Plan and Conditional Use Permit for a change in
45 use (from residential to commercial paving company) and associated site
46 improvements.

47
48 T. Thompson said that the applicant is requesting a waiver to the requirement
49 to provide an illumination plan. Assuming the Board grants the requested
50 waiver, all checklist items would be addressed, and staff would recommend

1 acceptance of the plan. He said there were several requested waivers, many
2 of which are no applicable due to revisions to the plans. He read the waiver
3 which the Board needs to act on.
4

5 The applicant is requesting a waiver to Section 3.13 & 4.16. The
6 applicant has not provided an illumination plan. Staff recommends
7 **granting** the waiver, as no new lighting is proposed as part of the
8 project. Staff does, however, recommend that the applicant provide
9 locations of existing lighting on the site plan as required by the
10 regulations.
11

12 He also summarized the second waiver to section 3.09. The proposed
13 design does not include any interior parking lot landscaping. Staff
14 recommends **granting** the waiver, as the site is severely constrained
15 due to setbacks and buffers, and the applicant is providing sufficient
16 perimeter landscaping as part of the wetland restoration on the site.
17

18 **J. Farrell made a motion to grant the waiver to section 3.13 & 4.16 of**
19 **the regulations based on the applicant's letter and staff**
20 **recommendation. R. Brideau seconded the motion. No discussion. Vote**
21 **on the motion: 9-0-0.** The waiver was granted.
22

23 **J. Farrell made a motion to accept the application as complete. R.**
24 **Brideau seconded the motion. No discussion. Vote on the motion: 9-0-**
25 **0.** Application accepted as complete.
26

27 Jiri Hajek from Eric Mitchell Associates, Inc. (ECM), and Michael Lambert,
28 wetland scientist also from ECM, presented their plans. They are proposing to
29 put commercial use on this lot, which would consist of parking & storage of
30 commercial equipment. The site is within the flood plain of Shields Brook and
31 a Shields Brook tributary. The site currently has two driveways, one of which
32 will be removed. They will use the site between April and November for
33 parking of vehicles and equipment associated with the paving company. They
34 received a driveway permit and a dredge/fill permit. There is a 50' buffer
35 which borders residential and a 100' CO District. They have received
36 variances to encroach in both. They have met with the conservation
37 commission. Their detention pond is in compliance with regulations. They will
38 provide landscaping and buffering against the residential area and to provide
39 screening from the road.
40

41 Michael Lambert said that much of this site was man made and it was difficult
42 for him to obtain original soil samples. He also stated that they need to
43 restore the wetlands to their original organic state & pull two 36" culverts to
44 return the stream to its original condition. They went before the ZBA and
45 were granted a variance for the setbacks.
46

47 J.Trottier summarized the design review items from the DPW/Stantec memo.
48
49

1 T. Thompson said this site plan is a result of code enforcement action, and
2 there is a court ordered agreement at this time. He stated that staff
3 recommends **taking no action** at this time on the conditional use permit at
4 this time, as there are still a number of unresolved drainage comments that
5 may impact the recommendation of the Conservation Commission if site
6 changes are necessary.

7
8 T. Thompson stated that based upon the information available to date the
9 Staff recommends **CONTINUANCE** of this application to February 11, 2009
10 at 7PM. Due to the volume of remaining design review comments that are
11 unresolved at this time, staff is not comfortable making a recommendation
12 for conditional approval. Staff offered to meet with the applicant's engineer
13 after the plan was continued in December, but the applicant's engineer never
14 requested a meeting before resubmitting the application. Drainage remains
15 the largest concern of staff at this time (see Stantec/DPW memo).

16
17 T. Thompson reiterated the staff recommendation on the waiver to Section
18 3.09.

19
20 A. Rugg asked for public input.

21
22 Lois Mirbach, owner of the daycare center directly across the street at 18
23 Rockingham Rd, said she is concerned about the commercial equipment and
24 the fumes and what effect everything has on the environment. She is
25 concerned about changes to the stream that could impact her property.

26
27 Thomas Torre, resident, was concerned about traffic & safety concerns due to
28 the type of vehicles being used and the materials being used. He said that
29 currently the fumes are excessive in the summer months.

30
31 J. Trottier said they are planning to use the site for storing the vehicles and
32 not for storing materials on site. J. Farrell said that the Board can include a
33 condition of approval stating that the applicant shall not bring any asphalt
34 material onto the site.

35
36 **J. Farrell made a motion to continue this application to March 11,**
37 **2009 at 7pm. R. Brideau seconded the motion. No discussion. Vote on**
38 **the motion: 9-0-0.** A. Rugg said this is the only public notice.

39
40 B. ASGITISDI, LLC, Map 6, Lot 37 and 38 - Public Hearing to amend a previously
41 approved site plan to add phasing.

42
43 T. Thompson stated that because this is an amendment, acceptance is not
44 applicable to this project. He said the applicant wants to phase the project so
45 that they are able to occupy one of the buildings prior to commencing
46 construction on the second building.

47
48 Tim Winings, TJW Survey, said they plan to occupy the first building
49 beginning of February. The drainage structures are complete and they would
50 like to add phasing to the previously approved site plan.

1
2 J. Trottier referenced the memo with staff recommendations.

3
4 T. Thompson said staff is recommending conditional approval.

5
6 A.Rugg asked for public input, but there was none.

7
8 **J. Farrell made a motion to conditionally approve an Amendment to**
9 **the approved site plan with the following conditions:**

10
11 "Applicant", herein, refers to the property owner, business owner, or
12 organization submitting this application and to his/its agents, successors, and
13 assigns.

14
15 **PRECEDENT CONDITIONS**

16
17 All of the precedent conditions below must be met by the applicant, at the
18 expense of the applicant, prior to certification of the plans by the Planning
19 Board. Certification of the plans is required prior to commencement of any
20 site work, any construction on the site or issuance of a building permit.

21
22 1. The Applicant shall contact the Fire Department to verify that the
23 proposed phasing is acceptable to them, and revise the plans as
24 necessary to meet the approval of the Fire Department.

25
26 2. The Applicant shall clarify the following from the Phased Construction
27 Notes:

28
29 a. Phase 1

30
31 i. The Applicant shall clarify "*....to accommodate Phase 1 & 2*
32 *construction phase stormwater management*".

33 ii. The Applicant shall clarify the abbreviation "SDS".

34 iii. The Applicant shall revise the note related to paving driveway,
35 parking areas, striping and signage to include "those areas
36 required to fulfill the parking requirements associated with Phase
37 1".

38 iv. The Applicant shall revise the note related to installation of site
39 landscaping to include "dumpster pad and enclosure".

40 v. The Applicant shall revise the note related to notification and
41 inspections to reflect the "OWNER" not the "Contractor".

42
43 b. Phase 2

44
45 i. The Applicant shall clarify the abbreviation "SDS".

46 ii. The Applicant shall revise the note related to paving driveway,
47 parking areas, striping and signage to include "those areas
48 required to fulfill the parking requirements associated with Phase
49 2".

- 1 iii. The Applicant shall revise the note related to installation of site
- 2 landscaping to include "dumpster pad and enclosure".
- 3 iv. The Applicant shall revise the note related to notification and
- 4 inspections to reflect the "OWNER" not the "Contractor".
- 5

- 6 3. The Applicant shall provide a digital (electronic) copy of the complete
- 7 final plan sent to the Town at the time of signature by the Board in
- 8 accordance with Section 2.05.n of the regulations.
- 9
- 10 4. Financial guaranty if necessary.
- 11
- 12 5. Final engineering review
- 13

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

20

21 **GENERAL AND SUBSEQUENT CONDITIONS**

22

23 All of the conditions below are attached to this approval.

24

- 25 1. **No construction or site work for the amended site plan may be**
- 26 **undertaken until the pre-construction meeting with Town staff has**
- 27 **taken place, filing of an NPDES-EPA Permit and the site restoration**
- 28 **financial guaranty is in place with the Town.** Contact the Department
- 29 of Public Works to arrange for this meeting.
- 30
- 31 2. The project must be built and executed exactly as specified in the
- 32 approved application package unless modifications are approved by the
- 33 Planning Division & Department of Public Works, or if staff deems
- 34 applicable, the Planning Board.
- 35
- 36 3. All of the documentation submitted in the application package by the
- 37 applicant and any requirements imposed by other agencies are part of this
- 38 approval unless otherwise updated, revised, clarified in some manner, or
- 39 superseded in full or in part. In the case of conflicting information
- 40 between documents, the most recent documentation and this notice
- 41 herein shall generally be determining.
- 42
- 43 4. All site improvements must be completed prior to the issuance of a
- 44 certificate of occupancy. In accordance with Section 6.01.d of the Site
- 45 Plan Regulations, in circumstances that prevent landscaping to be
- 46 completed (due to weather conditions or other unique circumstance), the
- 47 Building Division may issue a certificate of occupancy prior to the
- 48 completion of landscaping improvements, if agreed upon by the Planning
- 49 Division & Public Works Department, when a financial guaranty (see forms
- 50 available from the Public Works Department) and agreement to complete

1 improvements are placed with the Town. The landscaping shall be
2 completed within 6 months from the issuance of the certificate of
3 occupancy, or the Town shall utilize the financial guaranty to contract out
4 the work to complete the improvements as stipulated in the agreement to
5 complete landscaping improvements. **No other improvements shall be**
6 **permitted to use a financial guaranty for their completion for**
7 **purposes of receiving a certificate of occupancy.**
8

- 9 5. As built site plans must to be submitted to the Public Works Department
10 prior to the release of the applicant's financial guaranty.
11
12 6. It is the responsibility of the applicant to obtain all other local, state, and
13 federal permits, licenses, and approvals which may be required as part of
14 this project (that were not received prior to certification of the plans).
15 Contact the Building Division at extension 115 regarding building permits.
16

17 **R. Brideau seconded the motion.** No discussion. **Vote on the motion: 9-**
18 **0-0.** Amended site plan is conditionally approved.
19

20 **Workshops**

21
22 The Board decided to hear the following agenda items out of order.
23

24 D. Workforce Housing – Monthly Workshop Session

25
26 T. Thompson presented the suggested approach to comply with the new
27 state law for workforce housing (See attachment #1).
28

29 Joe DeCarolis, developer, said that he met with the Fire Dept and they
30 agreed that 4-story buildings would not be a problem for them.
31

32 C. Zoning Ordinance Amendments Workshop – FI District

33
34 T. Thompson presented the issues raised at the December public hearing
35 (see attachment #2). The Board agreed that the lots outside of the
36 Pettengill Road area should be removed from the FI district at this time,
37 and that staff should develop language to allow for some off-premise
38 signage.
39

40 A. Zoning Ordinance Amendments Workshop – Fence regulations requested 41 by Building Division – **Postponed to February 11, 2009**

42 43 B. Zoning Ordinance Amendments Workshop – Off-Site Improvements 44 Reimbursements

45
46 T. Thompson gave an overview of the proposed new ordinance language
47 (See attachment #3).
48

1 The Board was supportive of the proposal, and asked staff to further
2 work with the Town Attorney on how development agreements should be
3 written.

4
5 **Other Business**

6
7 None.

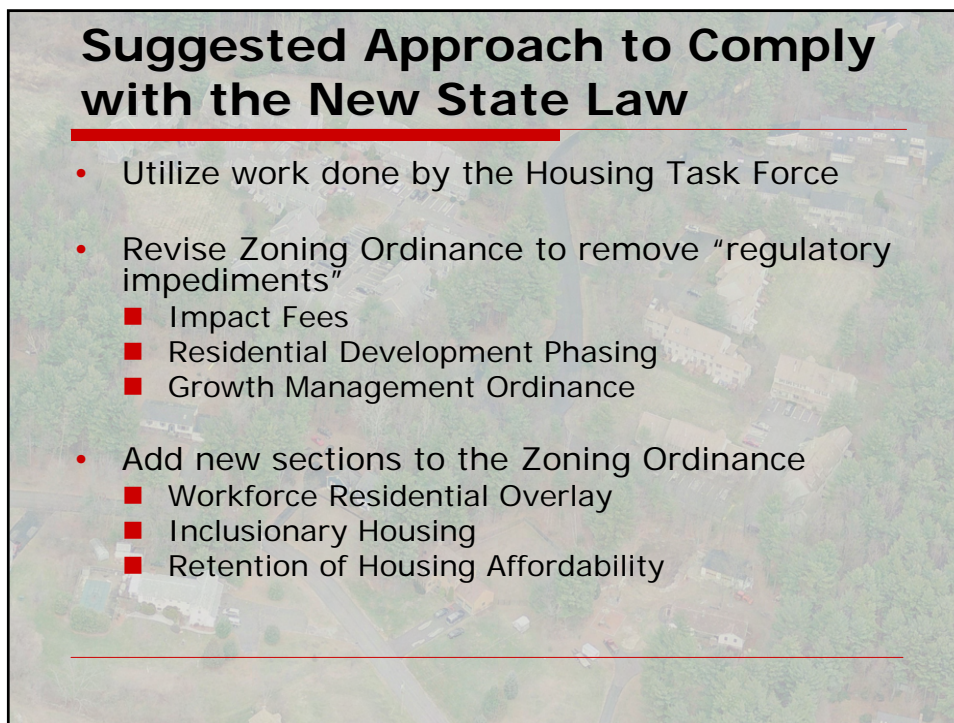
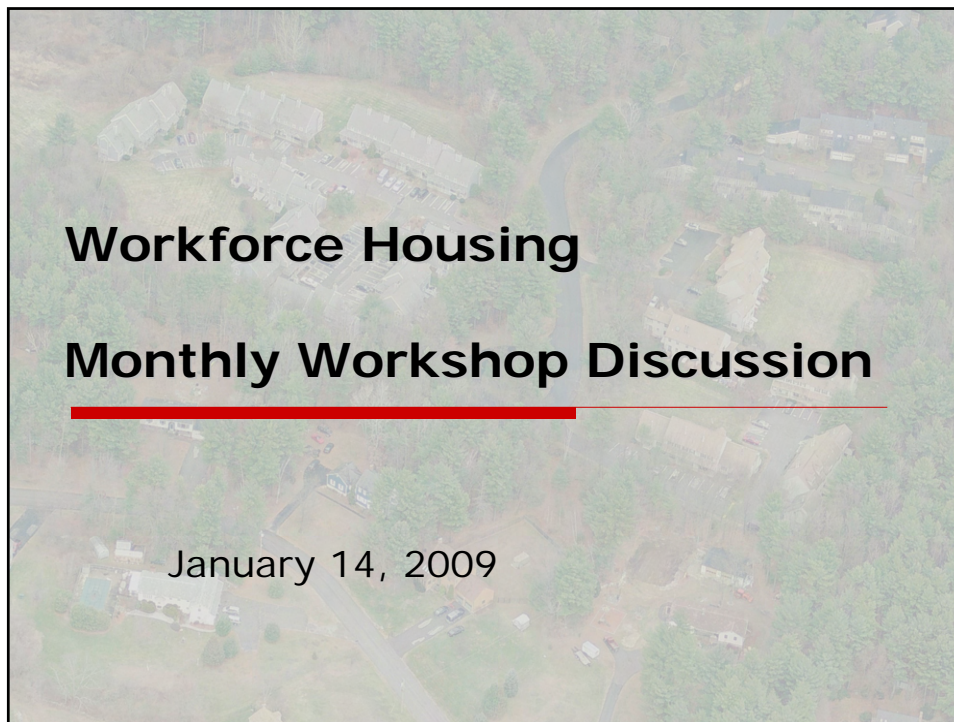
8
9 **Adjournment:**

10
11 **J. Farrell made a motion to adjourn the meeting. K. Wagner seconded the**
12 **motion.** No discussion. **Vote on the motion: 9-0-0.** Meeting adjourned at 10:04
13 PM.

14
15
16 These minutes prepared by Cathy Dirsra, Planning Division Secretary.

17
18
19
20 Respectfully Submitted,

21
22
23
24 Mary Wing Soares, Secretary
25



Housing Task Force Information

- Serves as a snapshot of the issues facing Londonderry
- Contains many recommendations that are being put forth now, or have already been completed (Road Standards, Conservation Subdivisions)
- Identifies locations of parcels that can accommodate increased densities needed to make workforce housing development possible.

Impact Fees – Proposed Revisions

- “Housekeeping” items
 - Add reference to 2004 Master Plan in Section 1.2.3.1
 - Revise Section 1.2.3.6 to point to the updated methodologies
- Revise Section 1.2.5.4 as follows:

1.2.5.4 A person undertaking new development for residential use in which all or a portion of its occupancy will meet the requirements of “workforce housing” as defined by RSA 674:58, and where it can be shown to the satisfaction of the Planning Board that such “workforce housing” will be maintained with appropriate restrictions for a period of at least twenty (20) years, may apply for a waiver of impact fees for said workforce units.

Deleted: be restricted to persons of low and moderate income as defined by the United States Department of Housing and Urban Development (HUD)

Deleted: low and moderate income

Deleted: restricted

Residential Development Phasing

- Revise Section 1.3.4 as follows:

1.3.4 **Exemptions from Phasing**
The Planning Board shall grant exemption to the phasing requirements of Section 1.3.3 under the following conditions:

1.3.4.1 The proposed project is for Elderly Housing as defined in Section 4.7. 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 (age 55 and older).

1.3.4.2 The proposed project is for "workforce housing" as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60.

Growth Management Ordinance

- Revise Under Section 1.4.7 (Procedures for Permit Limitations):

1.4.7.1.3 Prior to April 1, applications will be scored according to the following priority system:

1.4.7.1.3.1 First priority shall be given to dwelling units which are exempt from the provisions of Section 1.4 under Section 1.4.8, RSA 674:39 or RSA 676:12.

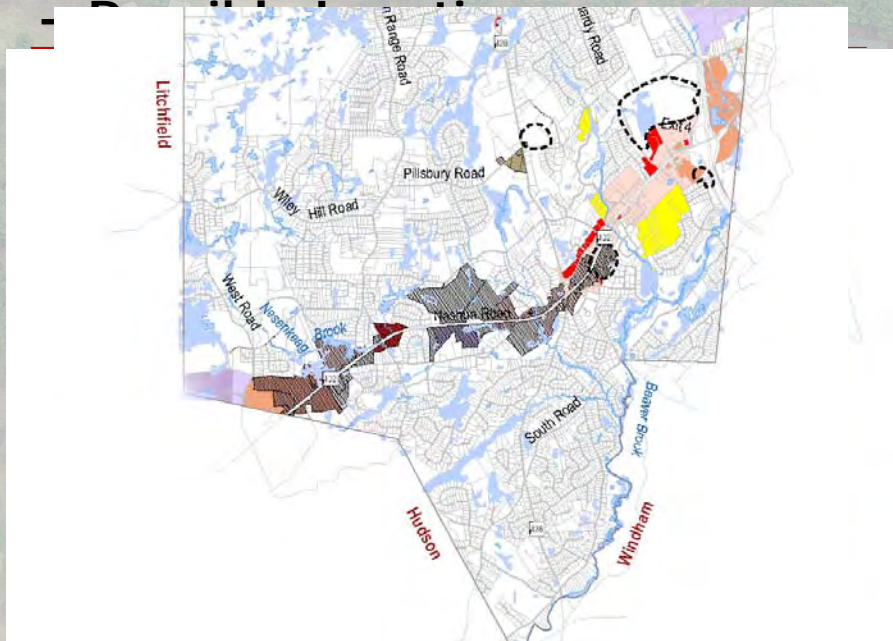
- Add New Section 1.4.8, renumber remaining sections accordingly:

1.4.8 **Workforce Housing Exemption**
Projects that are approved by the Planning Board meeting the definition of "workforce housing" under RSA 674:58 and under the procedures of RSA 674:60 shall be exempt from the permit limitations of the Growth Management Ordinance.

Workforce Residential Overlay

- Based on general structure of the R-III District.
- Would allow for Multi-family, Single Family, and Duplex residential development
- Would require projects to be for “workforce housing” in order to be eligible for use of the overlay provisions
- Initial target areas would include those identified by the Housing Task Force
- Still need to work out details on:
 - Density where sewer is available (looking at 8-10 units per acre)
 - Building height

Workforce Residential Overlay

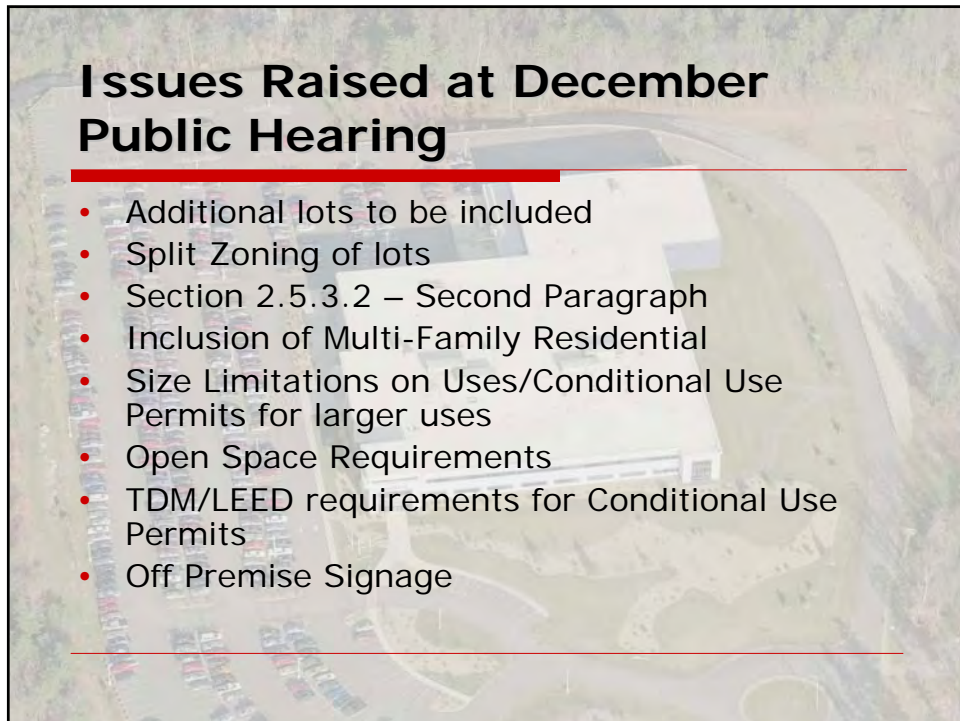
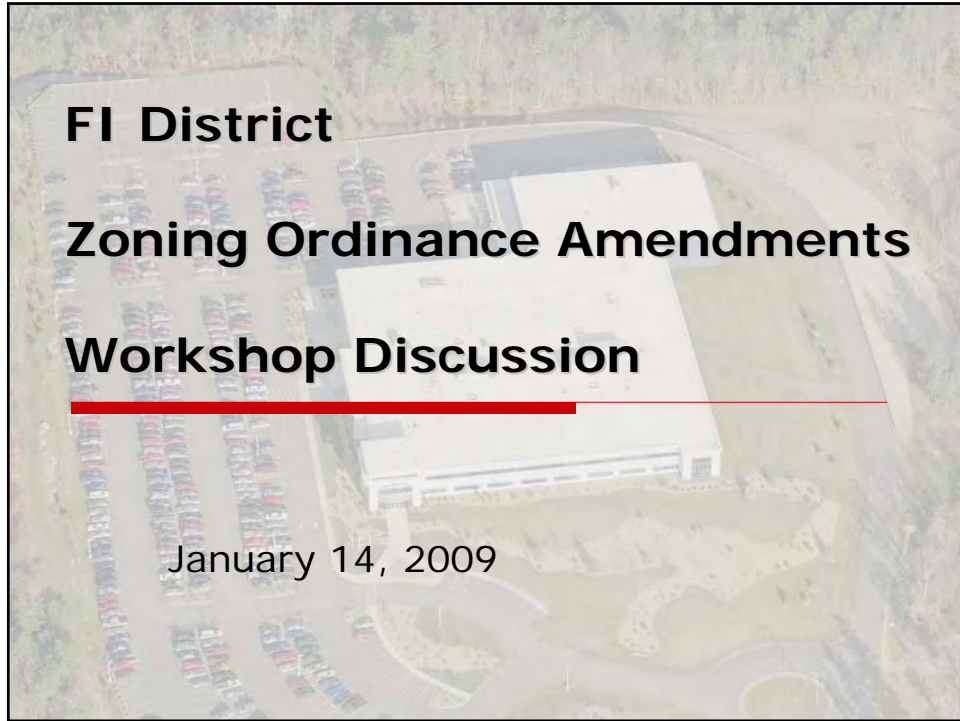


Inclusionary Housing

- New Ordinance Language that will:
 - Facilitate mixed income development and greater housing options
 - Blend workforce units in with market rate units
 - Provide incentives to spur interest in workforce housing creation
 - Meshes with Conservation Subdivision Ordinance
 - Will require long-term assurances of affordability
 - Proposed to be permitted by conditional use permit in all residential districts
 - Details on incentives are still being developed by staff
-

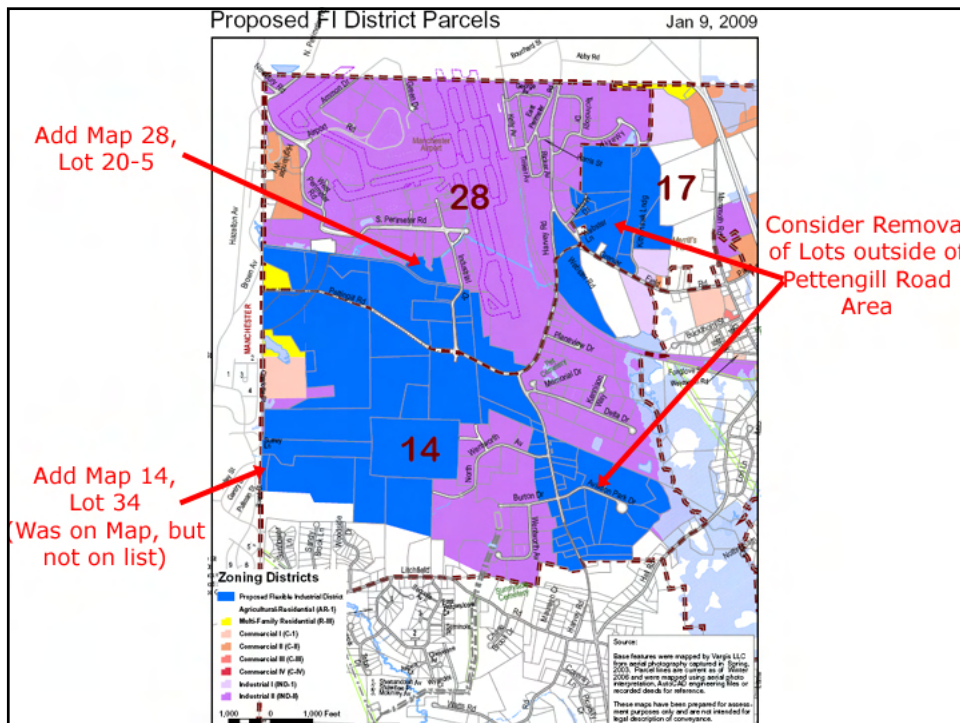
Retention of Housing Affordability

- New Ordinance Language that will be a requirement for projects that create “workforce housing”
 - Developed by NHHFA, and language is required if a municipality wants NHHFA to be the monitoring agent for the Town.
 - Spells out in great detail the mechanics of long-term housing affordability
-



Possible Revisions

- Add lots to the FI District, consider, for now, removing lots not in the Pettengill Road area
- Remove second paragraph of 2.5.3.2
- Remove CUP requirement from some of the industrial uses
- Revisit size limitation caps for FI District Service uses
- Make TDM or LEED a requirement for all uses with Planning Board waiver provisions
- Remove TDM/LEED from Conditional Use Permit criteria



Revision to Section 2.5.3.2

- Remove paragraph that states:
 - “The provisions of this section are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the use allowed on any particular tract will be a function of the design interacting with the special characteristics and limitations of the site while remaining consistent with the purpose and objectives of this section.”*

Previous Version																
	AR-1	R-III	C-I	C-II	C-III	C-IV	IND-I	IND-II	FI	AD	POD - 102*	POD - 28*	CO	AH	AZ	FP
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use									C							
Professional office up to 150,000 sq. ft.			P	P	P	P	P	P	P	P	P	P				
Professional office 150,001 sq. ft. or larger			P	P	P	P	P	P	C	P	P	P				
Rental Car Terminal up to 50,000 sq. ft.									P							
Rental Car Terminal 50,001 sq. ft. or larger									C							
Repair services			P	P		P	P	P		P	P	P				
Research or Development Laboratories up to 250,000 sq. ft.				P			P	P	P	P						
Research or Development Laboratories 250,001 sq. ft. or larger				P			P	P	C	P						
Restaurant			P	P		C				P	P	P				
Restaurant, fast food			P	P												
Sales of Heavy Equipment or Heavy Trucks as an accessory use							C	C	C							
School, Private					P						P	P				
Service establishment			P	P			P	P		P	P	P				
Sexually oriented businesses			P	P									C	C		
Storage, self serve				P			P	P								
Terminal, Airplane										P						
Terminal, Trucking up to 100,000 sq. ft.								P	P	P						
Terminal, Trucking 100,001 sq. ft. or larger								P	C	P						
Vehicle Sales Establishment				P												
Warehouses and Storage up to 250,000 sq. ft.				P			P	P	P	P	C	C				
Warehouses and Storage 250,001 sq. ft. or larger				P			P	P	C	P	C	C				
Wholesale Businesses up to 250,000 sq. ft.				P			P	P	P	P						
Wholesale Businesses 250,001 sq. ft. or larger				P			P	P	C	P						

*Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use
 **See section 2.4.1.B.4 for additional dimensional requirements related to fuel dispensers

Modifications to Permitted Use

Proposed Version

	AR-1	R-III	C-I	C-II	C-III	C-IV	IND-I	IND-II	FI	AD	POD - 102*	POD - 28*	CO	AH	AZ	FP
Business center development			P	P					P		P	P				
Conference/Convention Center									P							
Day Care Center, Adult						C										

Proposed Version

	AR-1	R-III	C-I	C-II	C-III	C-IV	IND-I	IND-II	FI	AD	POD - 102*	POD - 28*	CO	AH	AZ	FP
Rental Car Terminal up to 50,000 sq. ft.									P							
Rental Car Terminal 50,001 sq. ft. or larger									C							
Repair services			P	P		P	P	P	P	P	P	P				
Research or Development Laboratories				P			P	P	P	P						
Restaurant			P	P		C				P	P	P				
Restaurant, fast food			P	P												
Sales of Heavy Equipment or Heavy Trucks as an accessory use							C	C	C							
School, Private					P						P	P				
Service establishment			P	P			P	P		P	P	P				
Sexually oriented businesses			P	P									C	C		
Storage, self serve				P			P	P								
Terminal, Airplane										P						
Terminal, Trucking up to 100,000 sq. ft.								P	P	P						
Terminal, Trucking 100,001 sq. ft. or larger								P	C	P						
Vehicle Sales Establishment				P												
Warehouses and Storage up to 250,000 sq. ft.				P			P	P	P	P	C	C				
Warehouses and Storage 250,001 sq. ft. or larger				P			P	P	C	P	C	C				
Wholesale Businesses up to 250,000 sq. ft.				P			P	P	P	P						
Wholesale Businesses 250,001 sq. ft. or larger				P			P	P	C	P						

*Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use
 **See section 2.4.1.B.4 for additional dimensional requirements related to fuel dispensers.

FI District Services Use Table Previous Version Proposed Version

FI District Services Use Table	FI	FI District Services Use Table	FI
Accessory Uses up to 3,000 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 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 3,001 – 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	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 3,000 sq. ft.	P	Automotive Repair up to 5,000 sq. ft.	P
Automotive Repair from 3,001 to 10,000 sq. ft.	C	Automotive Repair from 5,001 to 10,000 sq. ft.	C
Computer Services up to 3,000 sq. ft.	P	Computer Services up to 5,000 sq. ft.	P
Computer Services from 3,001 to 10,000 sq. ft.	C	Computer Services from 5,001 to 10,000 sq. ft.	C
Service/Commercial Businesses up to 3,000 sq. ft. (Including restaurants and gas stations)	P	Service/Commercial Businesses up to 5,000 sq. ft. (Including restaurants and gas stations)	P
Service/Commercial Businesses from 3,001 to 10,000 sq. ft. (Including restaurants and gas stations)	C	Service/Commercial Businesses from 5,001 to 20,000 sq. ft. (Including restaurants and gas stations)	C
Daycare up to 3,000 sq. ft.	P	Daycare up to 5,000 sq. ft.	P
Daycare from 3,001 to 10,000 sq. ft.	C	Daycare from 5,001 to 10,000 sq. ft.	C
Health Clubs up to 3,000 sq. ft.	P	Health Clubs up to 5,000 sq. ft.	P
Health Clubs from 3,001 to 10,000 sq. ft.	C	Health Clubs from 5,001 to 20,000 sq. ft.	C
Personal Service Businesses up to 3,000 sq. ft.	P	Personal Service Businesses up to 5,000 sq. ft.	P
Personal Service Businesses from 3,001 to 10,000 sq. ft.	C	Personal Service Businesses from 5,001 to 20,000 sq. ft.	C



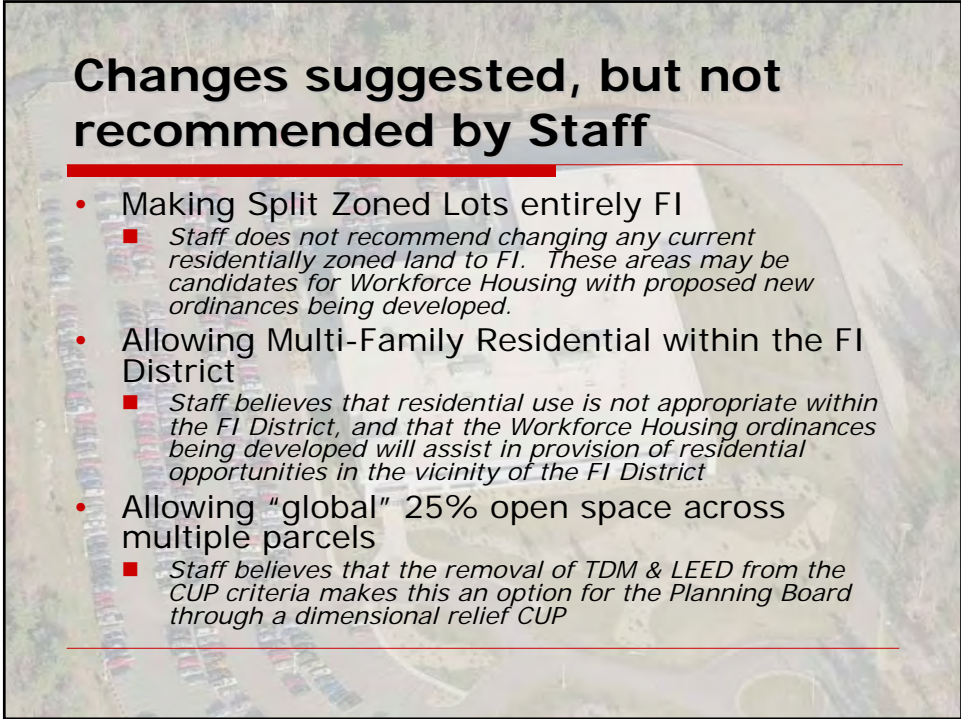
TDM/LEED Revisions

- Remove from Conditional Use Permit Criteria
 - Add new Section under "General Requirements"
 - Require either TDM or ability to achieve LEED Certified for all projects
 - Create a waiver provision for the Planning Board to waive the TDM/LEED requirements with justification.
-



Conditional Use Permit Criteria

- Eliminate "secondary" level of CUP Criteria (where 2 of 3 needed to be met, including either TDM or LEED)
 - Merge remaining "secondary" CUP criteria (reasonable location, natural resources, etc.) into required CUP criteria
-



Changes suggested, but not recommended by Staff

- Making Split Zoned Lots entirely FI
 - *Staff does not recommend changing any current residentially zoned land to FI. These areas may be candidates for Workforce Housing with proposed new ordinances being developed.*
 - Allowing Multi-Family Residential within the FI District
 - *Staff believes that residential use is not appropriate within the FI District, and that the Workforce Housing ordinances being developed will assist in provision of residential opportunities in the vicinity of the FI District*
 - Allowing "global" 25% open space across multiple parcels
 - *Staff believes that the removal of TDM & LEED from the CUP criteria makes this an option for the Planning Board through a dimensional relief CUP*
-



Changes suggested, for which staff needs Planning Board direction

- Off-Premise Signage
 - Suggested to allow off-premise directory signage at both the intersection with the Airport Access Road, the proposed 4 way intersection, and at the curb cuts at the King Parcel
 - Would be a significant policy direction change from existing sign ordinance. Currently off-premise signage is allowed only by special exception from the ZBA, with strict criteria
-

1.2 IMPACT FEES**1.2.1 Authority**

These provisions are established pursuant to New Hampshire RSA 674:21, V.

1.2.2 Purpose

These provisions are intended to:

- 1.2.2.1 Assist in the implementation of the 1988 Town of Londonderry Master Plan, especially:
 - 1.2.2.1.1 Recommendation six (6) under the community facilities, which states, "Consider an impact fees program with regards to Londonderry's community facility development," and;
 - 1.2.2.1.2 Recommendation two (2) under transportation, which states, "Seek the participation of private developers in cost sharing for the needed improvements to Town roads and intersections." Recommendation six (6) under the community facilities, and recommendation two (2) under transportation.
- 1.2.2.2 Insure the adequate provision of public facilities necessitated by the growth of the Town of Londonderry.
- 1.2.2.3 Assess an equitable share of the growth-related cost of new and expanded public capital facilities to all types of new development in proportion to the facility demands created by that development.

1.2.3 Findings

The Londonderry Planning Board has made the following findings based on extensive consultation with all municipal departments, and a careful study of municipal facility needs.

- 1.2.3.1 The Londonderry Planning Board adopted a Master Plan in January 1988, and updated in 1997.
- 1.2.3.2 The Londonderry Planning Board has prepared, and regularly updated, a Capital Improvements Program and Budget as authorized by the Londonderry Town Meeting of March 11, 1988.
- 1.2.3.3 The Master Plan and the Capital Improvement Program demonstrate that significant new growth and development is anticipated in residential and non-residential sectors which will necessitate increased expenditures to provide adequate public facilities.
- 1.2.3.4 The Town of Londonderry is responsible for and committed to the provision of public facilities and services at standards determined to be necessary by the Town to support residential and non-residential growth and development in a manner which protects and promotes the public health, safety and welfare.
- 1.2.3.5 The cost of providing public capital facility capacity to serve new growth will be disproportionately borne by existing taxpayers in the absence of impact fee assessments.
- 1.2.3.6 The calculation methodology for impact fees, as established by a report by the Planning Board entitled "Impact Fee Analysis: Town of Londonderry," shall represent a fair and rational method for the allocation of growth-related capital facility costs to new development. Based on this methodology, impact fees will not exceed the costs of:
 - 1.2.3.6.1 Providing additional public capital facilities necessitated by the new developments paying impact fees, or
 - 1.2.3.6.2 Compensating the Town of Londonderry for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

- 1.2.3.7 Impact fee payments from new development will enable the Town of Londonderry to provide adequate public facilities to serve new growth, and provide new development with a reasonable benefit in proportion to its contribution to the demand for such facilities.
- 1.2.3.8 The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessitated to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

1.2.4 **Definitions**

Fee Payer - A person applying for the issuance of a building permit, subdivision or site plan approval, special exception, variance or other local land use decision which would create new development.

New Development - Any activity which results in a net increase in the demand for additional public capital facilities, as defined in this ordinance:

1. The creation of new dwelling units, except for the replacement of existing units of the same size and density;
2. A net increase in the gross floor area of any nonresidential building or in the habitable portion of a residential building;
3. The conversion of a legally existing use to another permitted use if such change of use would create a net increase in the demand for additional public capital facilities, as defined by this ordinance.

Gross Floor Area - The entire square footage of a building calculated from the dimensional perimeter measurements of the first floor of the building with adjustments to the useable area of the other floors made in a manner consistent with Londonderry property tax assessment procedures. For residential structures, gross floor area shall not include portions of residential structure or accessory structure which is not available for human habitation.

Public Capital Facilities - Facilities and equipment owned, maintained or operated by the Town of Londonderry as defined in the Capital Improvement Program and which are listed in the adopted impact fee schedule.

1.2.5 **Imposition of Public Capital Facilities Impact Fee**

- 1.2.5.1 Any person who, after March 9, 1994 seeks approval of new development within the Town of Londonderry, New Hampshire, is hereby required to pay a public capital facilities impact fee in the manner and amount set forth in Section 1.2.6.
- 1.2.5.2 A person may request, from the Planning Board, a full or partial waiver of impact fee payments required in this ordinance. The amount of such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by that person toward public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver or credit under Section 1.2.11 of this Ordinance.
- 1.2.5.3 A person undertaking new development for residential use in which all or a portion of its occupancy will be restricted to persons age fifty five (55) and over, and where it can be shown to the satisfaction of the Planning Board that such restricted occupancy will be maintained for a period of at least twenty (20) years, may apply for a waiver of the school impact fees for the said restricted occupancy units.
- 1.2.5.4 A person undertaking new development for residential use in which all or a portion of its occupancy will be restricted to persons of low and moderate income as defined by the United States Department of Housing and Urban Development (HUD), and where it can be shown to the satisfaction of the Planning Board that such low and moderate income housing will be maintained with appropriate restrictions for a period of at least twenty (20) years, may apply for a waiver of impact fees for said restricted units.
- 1.2.5.5 No building permit for new development requiring payment of an impact fee pursuant to Section 1.2.6 of this Ordinance shall be issued until the public facilities impact fee has been determined and assessed by the Planning Board or its authorized agent.
- 1.2.5.6 A person undertaking new development for residential use in which all or a portion of its occupancy will be assisted living facilities restricted to persons who are age fifty five (55) and over and/or disabled, may apply for a waiver of Recreation Impact Fees for said restricted units where it can be shown to the satisfaction of the Planning Board that internal private recreation programs will be provided to the occupants by the developer and provisions to that effect will be maintained with appropriate restrictions for a period of at least twenty (20) years.

1.2.6 Computation of Impact Fee

- 1.2.6.1 The amount of the public facilities impact fee shall be determined by the Impact Fee Schedule prepared in accordance with the methodology established in a report by the Planning Board entitled, "Impact Fee Analysis: Town of Londonderry", as updated by the reports entitled, "Methodology for Assessment of Public School Impact Fees, Town of Londonderry, and "Methodology for Assessment of Recreation Impact Fees, Town of Londonderry" by Bruce C. Mayberry, as most recently adopted, "Methodology for Assessment of Public School Impact Fees, Update, Town of Londonderry, NH" by Bruce Mayberry, as most recently adopted, "Recreation Impact Fee Update" by Bruce Mayberry, as most recently adopted, "Police Department Impact Fee Methodology, Londonderry, NH" by Bruce Mayberry, as most recently adopted, "Fire Department Impact Fee Basis for Assessment, Londonderry, NH" by Bruce Mayberry, as most recently adopted, "NH Route 28 Eastern Corridor Study" prepared by Southern NH Planning Commission, as most recently adopted, "NH Route 28 Western Corridor Study" prepared by Southern NH Planning Commission, as most recently adopted, "NH Route 102 Upper Corridor Study" prepared by Southern NH Planning Commission, as most recently adopted, "NH Route 102 Central Corridor Study" prepared by Southern NH Planning Commission, as most recently adopted, "NH Route 102 Lower Corridor

- Study” prepared by Southern NH Planning Commission as most recently adopted, subject to annual adjustments in accordance with Section 1.2.14.
- 1.2.6.2 In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to that which was or would have been assessed for the previous use.
- 1.2.7 **Payment of Fees**
No certificate of occupancy shall be issued for new development until the assessed impact fee has been paid, or until the fee payer has established a mutually acceptable schedule for payment.
- 1.2.8 **Appeals**
- 1.2.8.1 Any aggrieved party may appeal to the Planning Board the amount of the public facilities impact fee, under the procedures established by the Board for handling such appeals.
- 1.2.8.2 If a fee payer elects to appeal the amount of the impact fee, the fee payer shall prepare and submit to the Planning Board an independent fee calculation study for the new development activity which is proposed. All costs incurred by the Town for the review of such study shall be paid by the fee payer.
- 1.2.9 **Administration of Funds Collected**
- 1.2.9.1 All funds collected shall be properly identified and promptly transferred for deposit in individual Public Capital Facilities Impact Fee Accounts for each of the facilities for which fees are assessed, and shall be special revenue fund accounts and under no circumstances shall such revenue accrue to the General Fund.
- 1.2.9.2 The Town Treasurer shall have custody of all fee accounts, and shall pay out the same only upon written orders of the Town Council.
- 1.2.9.3 The Town Treasurer shall record all fees paid, by date of payment and the name of the persons making payment, and shall maintain an updated record of current ownership, tax Map and lot reference number of properties for which fees have been paid under this Ordinance for a period of at least ten (10) years.
- 1.2.9.4 At the end of each fiscal year, the Town Treasurer shall make a report to the Town Council, giving a particular account of all public capital facilities impact fee transactions during the year.
- 1.2.9.5 Funds withdrawn from the Public Capital Facilities Impact Fee Accounts shall be used solely for the purpose of acquiring, constructing, expanding or equipping those public capital facilities identified in this Ordinance.
- 1.2.9.6 In the event that bonds or similar debt instruments have been issued for public capital facilities which were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments.
- 1.2.10 **Refund of Fees Paid**
- 1.2.10.1 The owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
- 1.2.10.1.1 The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the fee; or

1.2.10.1.2 The Town has failed, within the period of six (6) years from the date of the final payment of such fee, to appropriate the non-impact fee share of related capital improvement costs.

1.2.10.2 The Town Council shall, annually, provide all owners of record who are due a refund, written notice of the amount due, including accrued interest.

1.2.11 **Credit**

1.2.11.1 Land and/or public capital facility improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Town Council. The Town Council may authorize the fee payer an impact fee credit in the amount of the value of the contribution.

1.2.11.2 Any claim for credit must be made no later than the time of application for the building permit.

1.2.11.3 Credits shall not be transferable from one project of development to another without written approval of the Town Council.

1.2.11.4 Credits shall not be transferable from one component of the public capital facilities impact fee to any other component of this fee without written approval of the Town Council. Records of the amounts of reasons for such transfers shall be maintained.

1.2.11.5 Determinations made by the Town Council pursuant to the credit provisions of this Section may be appealed to the Board of Adjustment according to the procedures applicable to appeals from administrative decisions contained in Section 1.2.8 of this Ordinance.

1.2.12 **Additional Assessments**

1.2.12.1 Payment of a public capital facilities impact fee does not restrict the Town or the Planning Board in requiring other payments or construction of off-site improvements from the fee payer (in accordance with RSA 674:21,V,(j)), including such construction of, or payments relating to the cost of, the extensions of water and sewer mains or the construction of roads or streets or turning lanes to access the site or other infrastructure and facilities specifically benefiting the development as required by the subdivision or site plan review regulations.

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1.2.12.2 **Reimbursement for Off-Site Improvements**

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1.2.12.2.1 Authority - Upon written request by a developer, the Town Council may enter into a reimbursement agreement in accordance with this section with a developer who constructs an improvement which the Planning Board, with recommendations from the Community Development Department and Department of Public Works & Engineering, determines will also provide a benefit to other properties.

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1.2.12.2.2 Basis for Reimbursement agreement - Before entering into a reimbursement agreement, the Town shall determine:

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1.2.12.2.2.1 The actual cost of constructing the improvements;

1.2.12.2.2.2 The identity of each parcel which will contribute to the need for the improvement; and

1.2.12.2.2.3 A formula for establishing the fee to be imposed on each parcel identified as having a reasonable relationship to the need for the public improvement.

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1.2.12.2.3 Contents of Reimbursement Agreement - A reimbursement agreement shall include the following provisions:

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1.2.12.2.3.1 The portion of the cost of the improvement to be reimbursed;

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1.2.12.2.3.2 The name and address of the developer to be reimbursed;

1.2.12.2.3.3 Identification of the parcels which will contribute to the need for the improvement;

1.2.12.2.3.4 A formula for establishing an equitable fee to be charged each parcel, including an appropriate amount, not to exceed ten percent, to reimburse the Town for administering the agreement;

1.2.12.2.3.5 The Town's obligation to pay to the developer all fees collected less the amount to reimburse the Town for administering the Agreement as described in 1.2.12.2.3.4 above;

1.2.12.2.3.6 A release of the Town's liability for failing to collect fees upon subsequent development of identified parcels or upon beneficial use of the improvement by identified parcels; and

1.2.12.2.3.7 A term of six (6) years.

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1.2.12.2.4 Recording - The reimbursement agreement and any extensions shall be recorded at the Rockingham County Registry of Deeds.

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1.2.12.2.5 Payment of reimbursements - Each owner of a parcel identified in the reimbursement agreement as required by section 1.2.12.2.3.3 shall pay the required reimbursement prior to issuance of a building permit allowing development of the property or prior to other beneficial use of the improvement.

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