

TOWN COUNCIL AGENDA
May 6, 2019
7:00 P.M.

The Town Council meeting will be held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry, NH. Regular meetings are cablecast live and videotaped for the convenience of our viewers at home. 7:00 PM.

A. CALL TO ORDER

B. PUBLIC COMMENT

- 1.) **Londonderry Arts Council Presentation**
- 2.) **Eagle Scout Recognition of Louis Turcotte**
- 3.) **Conservation Commission Recognition**

C. PUBLIC HEARING

- 1.) **Resolution #2019-04** – A Resolution Relative to the Discontinuance of Highway (Holmes Road)
Presented by Colleen Mailloux

D. OLD BUSINESS

E. NEW BUSINESS

- 1.) **Order #2019-11** – An Order Relative to the Expenditure of Maintenance Trust Fund for Various Projects
Presented by Steve Cotton
- 2.) **Order #2019-12** – An Order Relative to the Distribution of Cemetery Acquisitions, Maintenance & Repairs Capital Reserve Fund
Presented by Steve Cotton
- 3.) **Ordinance #2019-03** – An Ordinance Relative to the Rezoning of May 2, Lot 27, 6 Tavern Hill Road
Presented by Colleen Mailloux
- 4.) Discussion of Stonehenge Rd./Rt. 28 Improvements
Presented by Kevin Smith

F. APPROVAL OF MINUTES

Approval of April 15, 2019 Town Council Minutes

G. APPOINTMENTS/REAPPOINTMENTS

- 1.) Interview of Barbara Mee for the Senior Resources Committee

H. OTHER BUSINESS

1. Liaison Reports
2. Town Manager Report
3. Assistant Town Manager Report

I. ADJOURNMENT

J. MEETING SCHEDULE

- A. Town Council Meeting – 05/20/19 Moose Hill Council Chambers, 7:00PM
- B. Town Council Meeting – 06/03/19 Moose Hill Council Chambers, 7:00PM
- C. Town Council Meeting – 06/17/19 Moose Hill Council Chambers, 7:00PM
- D. Town Council Meeting – 07/15/19 Moose Hill Council Chambers, 7:00PM

Introduced: 4/15/2019
Public Hearing: 05/06/19
Adopted: 05/06/19

RESOLUTION 2019-04

A Resolution Relative to the

DISCONTINUANCE OF HIGHWAY (Holmes Road)

WHEREAS the Town Council, in accordance with RSA 231:43 has received a request to completely discontinue and relinquish all public interest in a public highway known as Holmes Road from its intersection with Pillsbury Road to its terminus, convey by deed without covenants, whatever interest the Town may have in Holmes Road to the underlying landowner; and

WHEREAS whereas the matter of discontinuing a highway under RSA 321:43 is within the authority of the Town Council; and

WHEREAS the discontinuance of Holmes Road would enable the beneficial development of the adjacent property,

WHEREAS the Planning Board has voted to recommend Town Council adoption of the proposed amendments;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the complete discontinuance of Holmes Road from the intersection with Pillsbury Road to its terminus is hereby approved subject to the condition that Pillsbury Realty Development, LLC shall indemnify and hold harmless the Town of Londonderry from any claims arising from the Town Council's decision to discontinue said Holmes Road.

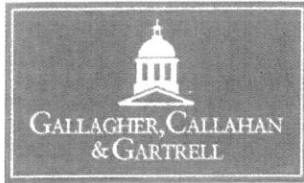
To become effective upon passage of this Ordinance.

John Farrell, Chairman
Londonderry Town Council

A TRUE COPY ATTEST:

Sherry Farrell - Town Clerk
05/06/2019

Town Seal



ARI B. POLLACK

214 N. Main Street
Concord, NH 03301

Direct Dial: (603) 545-3630
General: (603) 228-1181
Fax: (603) 228-8396
pollack@gcglaw.com

VIA EMAIL

April 9, 2019

Kevin Smith, Town Manager
Town of Londonderry
268B Mammoth Road
Londonderry, NH 03053

Re: Proposed Discontinuance of Old Holmes Road

Dear Town Manager Smith:

This firm represents Pillsbury Realty Development, LLC ("Pillsbury") regarding the Woodmont Commons Planned Unit Development ("the Project"). As you know, Phase 1 of the Project is presently under construction in areas north of the existing Market Basket plaza. Subsequent phases will see active redevelopment and construction in areas farther to the east of Phase 1 and towards the Interstate. These activities will likely intercept a paper street known as Old Holmes Road, a dead-end public way extending into the former orchards from Garden Lane.

By Quitclaim Deed dated March 28, 2019, the State of New Hampshire, by and through its Department of Transportation, discontinued any right and interest in or to the so-called Old Holmes Road. See Exhibit A. Pillsbury hereby requests the "complete discontinuance" of Old Holmes Road such that the Town also shall no longer hold right, title or interest to the roadway or its right-of-way. In the event of "complete discontinuance", ownership would revert to Pillsbury, the underlying landowner.

Kindly advise as to when this matter may be addressed by the Town Council, and what their process for the same entails.

Thank you for your consideration.

Kevin Smith, Town Manager
April 9, 2019
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "A.B. Pollack", with a long horizontal stroke extending to the right.

Ari B. Pollack

ABP/mla

cc via email: Colleen Mailloux, Town Planner
Pillsbury Realty Development, LLC
Jeff Kevan, TFMoran, Inc.
Lee B. Gagnon, LLS
Jimmy D'Angelo

Return to:
Ari Pollack
Gallagher, Callahan & Gartrell, P.C.
214 North Main Street
Concord, NH 03301

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, THAT, **The STATE OF NEW HAMPSHIRE**, whose mailing address is PO Box 483, 7 Hazen Drive, Concord, New Hampshire 03302-0483, by the Commissioner of The Department of Transportation, pursuant to vote of the Governor and Council on November 20, 2018, and in accordance with the provisions of New Hampshire Revised Statutes Annotated 228:31 and 4:39-c, and for consideration paid, hereby grants to **PILLSBURY REALTY DEVELOPMENT, LLC**, A New Hampshire Limited Liability Company, with an address of 15A Pillsbury Road, Londonderry, New Hampshire 03053, with QUITCLAIM covenants, a certain parcel of land located in the Town of Londonderry, County of Rockingham, State of New Hampshire, situated on the westerly side of Interstate 93 and being approximately 400 feet south of Appletree Lane, being further bounded and described as follows:

Being Parcel A as shown on Sheet 3 of the plan of land entitled "Consolidated/Lot Line Adjustment Plan (Map 10, Lots 41, 41-1, and 41-2), Woodmont Commons Planned Unit Development, Record Owner: Pillsbury Realty Development, LLC", dated 19 September 2018 by Hayner Swanson, Inc., to be recorded in the Rockingham County Registry of Deeds and further bounded and described as follows:

Beginning at an iron pipe in a stone wall on the westerly side of land of the State of New Hampshire, at the southeast corner of land of Pillsbury Realty Development, LLC and being the northeast corner of the herein described premises; thence:

S 35° 11' 58" E by a stone wall and land of the State of New Hampshire, a distance of 246.35 feet to a drill hole; thence

S 34° 38' 36" E by the stone wall and land of the State of New Hampshire, a distance of 57.51 feet to a point at the westerly sideline of Interstate 93; thence

S 05° 45' 34" E by said Interstate a distance of 90.80 feet to a NH highway bound; thence

S 12° 24' 42" W by said Interstate a distance of 125.55 feet to a point; thence

S 52° 17' 00" W a distance of 19.73 feet to a drill hole set in a stone wall; thence

S 56° 23' 13" W by said stone wall, a distance of 78.95 feet to a drill hole at the end of said wall; thence

S 54° 06' 00" W a distance of 56.78 feet to a drill hole at the end of a stone wall; thence

S 55° 36' 57" W by said wall, a distance of 104.22 feet to a drill hole set at the end of said wall; thence

S 56° 54' 56" W a distance of 419.64 feet to an iron pipe at the centerline of a discontinued road leading from land of formerly Thomas H. Holmes to the Nevins Farm, being

the northeast corner of land of William E. Lievens Revocable Trust and the southeast corner of Pillsbury Realty Development, LLC, thence;
N 04° 49' 56" W by the centerline of said road and land of Pillsbury Realty Development, LLC, a distance of 559.61 feet to a point; thence
N 58° 19' 15" E by land of Pillsbury Realty Development, LLC, a distance of 535.00 feet to the point of beginning.

In addition, Grantor hereby releases any right and interest in or to the so-called old Holmes Road (discontinued).

Containing an area of 7.296 acres or 317,814 square feet more or less, being the same parcel as described in deeds from Roscrans W. Pillsbury to John Gilcreast, in Book 517, Page 222, and John W. Gilcreast to Thomas M. Holmes, in Book 517, Page 220 and Thomas M. Holmes to David W. Ela, in Book 512, Page 379, all recorded at the Rockingham County Registry of Deeds and being a part of the second tract of land as described in deed from Hellinno Trust to the State of New Hampshire as recorded in Book 2408, Page 1062.

IN WITNESS WHEREOF The State of New Hampshire has caused its name to be set and its seal to be hereunto affixed by the Commissioner of The Department of Transportation, duly authorized and executed this 28th day of MARCH, 2019.

STATE OF NEW HAMPSHIRE

By: Victoria F. Shotton

VICTORIA F. SHOTTAN
Name

COMMISSIONER
Title

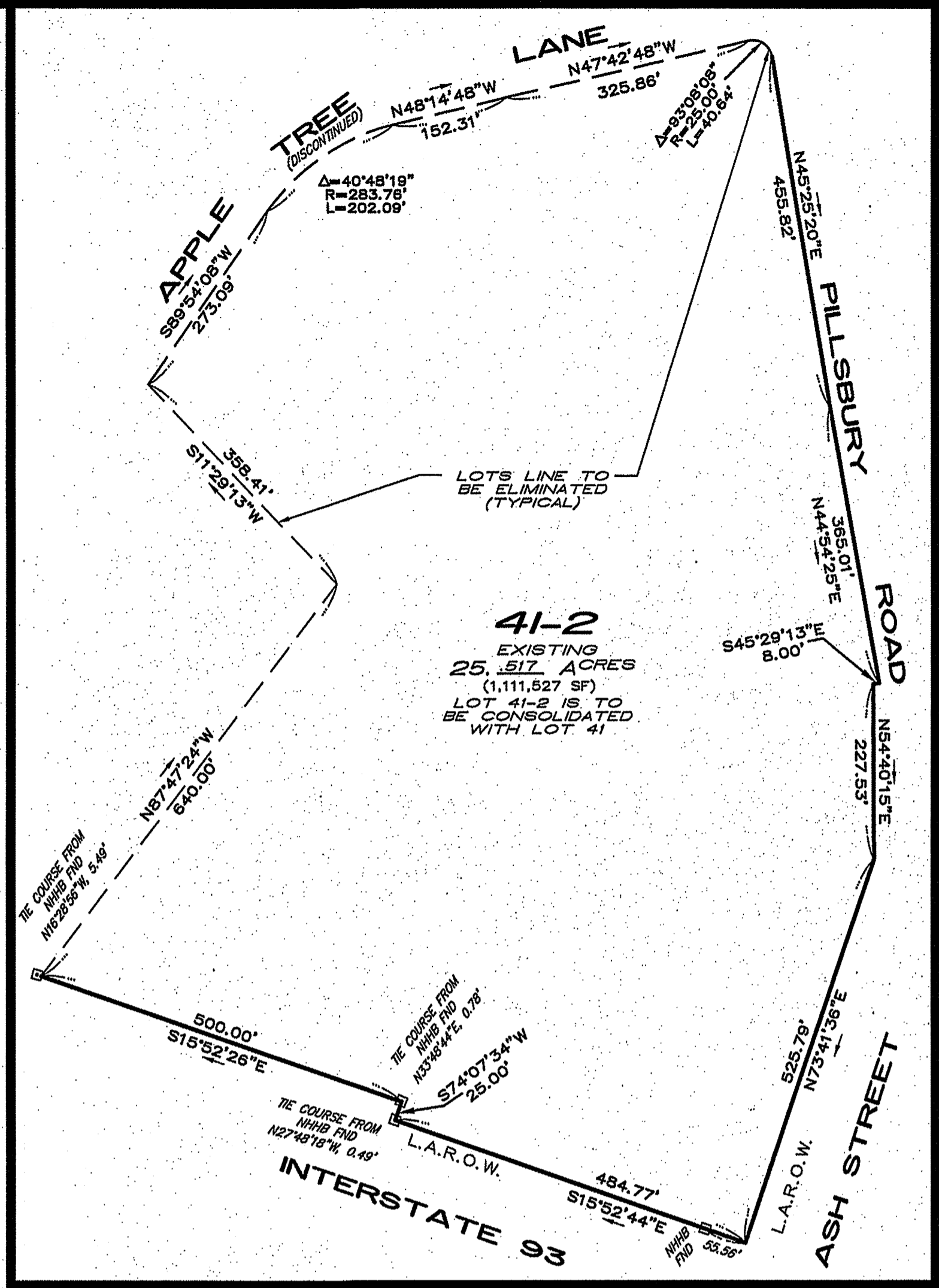
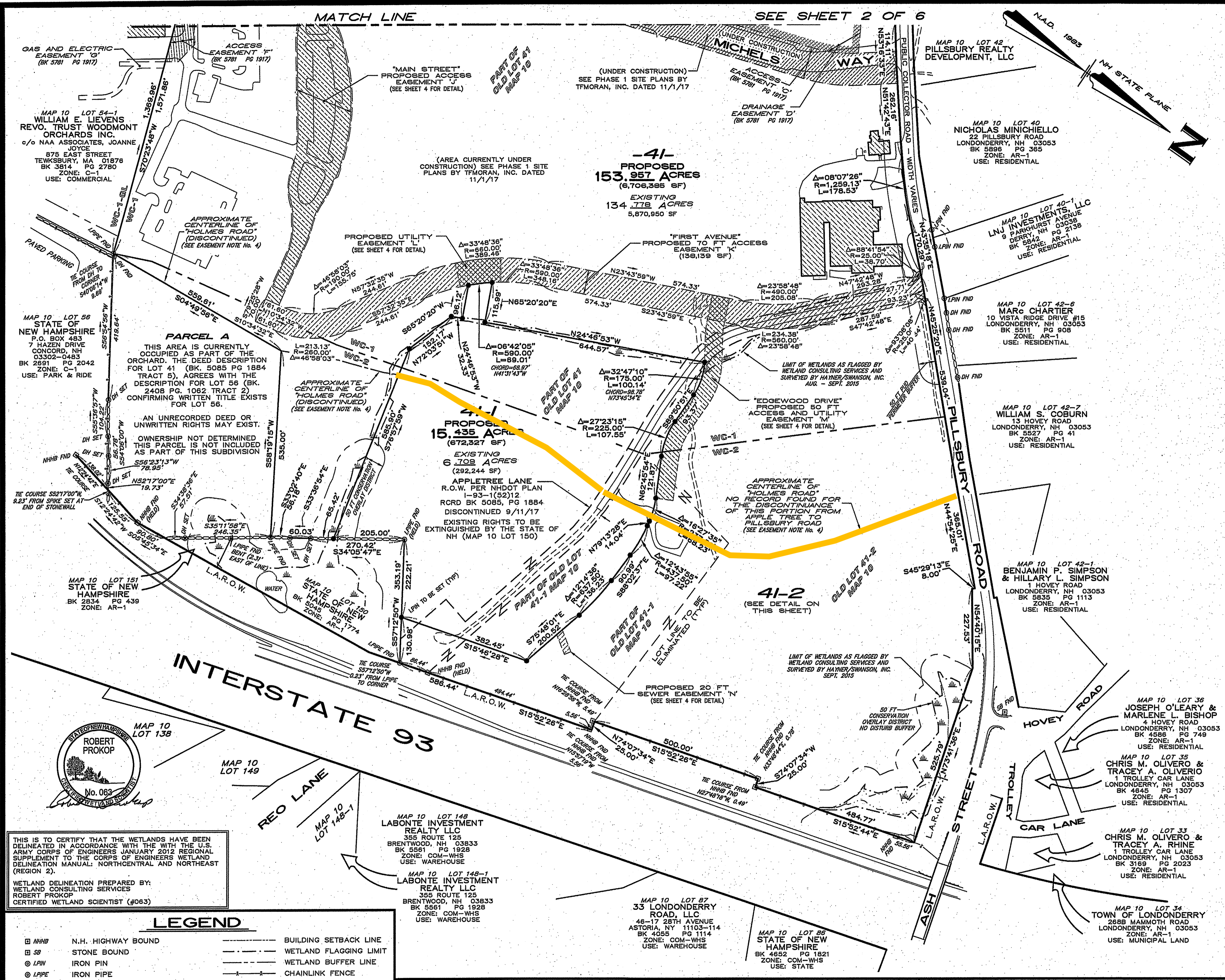
STATE OF NEW HAMPSHIRE
COUNTY OF MERRIMACK

On this 28th day of MARCH, 2019, before me, DAWN M. DOSSETT the undersigned officer, personally appeared by _____, Commissioner of the Department of Transportation, and that as such Commissioner, being authorized so to do, execute the foregoing instrument for the purposes therein contained, by signing the name of the State of New Hampshire as the Commissioner of the Department of Transportation.

In witness whereof, I have hereunto set my hand and seal.

Dawn M. Dossett

Notary Public/Justice of the Peace Dawn M. Dossett
My Commission expires: Notary Public-New Hampshire
-My Commission Expires Oct. 25, 2021



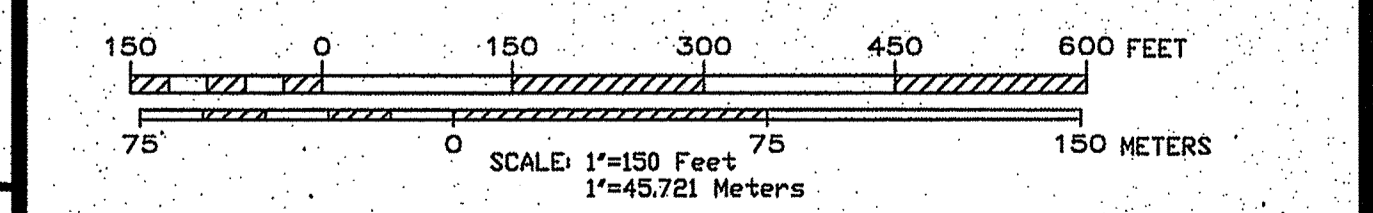
MAP 10 LOT 41-2 DETAIL
SCALE: 1"=150'

FOR PILLSBURY REALTY DEVELOPMENT, LLC _____ DATE _____
 APPROVED BY THE LONDONDERRY, NH PLANNING BOARD ON: _____ FOR PHASE _____

CERTIFIED BY: _____

CONSOLIDATION / LOT LINE RELOCATION PLAN
 (MAP 10, LOTS 41, 41-1 AND 41-2)
Woodmont Commons Planned Unit Development
 7 & 15 PILLSBURY RD.
 LONDONDERRY, NEW HAMPSHIRE

PREPARED FOR / RECORD OWNER:
Pillsbury Realty Development, LLC
 100 FERRY STREET HUDSON, NEW HAMPSHIRE 03051



HSI Hayner/Swanson, Inc.
 Three Congress Street Nashua, New Hampshire 03062-3301
 Tel (603) 883-2057 www.haynerswanson.com Fax (603) 883-5057

ROBERT PROKOP
 WETLAND DELINEATION PREPARED BY:
 WETLAND CONSULTING SERVICES
 ROBERT PROKOP
 CERTIFIED WETLAND SCIENTIST (#063)

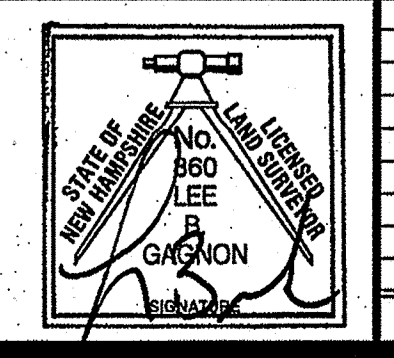
LEGEND

| | | | |
|------|-------------------------------|-----|------------------------|
| NHHD | N.H. HIGHWAY BOUND | --- | BUILDING SETBACK LINE |
| SB | STONE BOUND | --- | WETLAND FLAGGING LIMIT |
| IPIN | IRON PIN | --- | WETLAND BUFFER LINE |
| PIPE | IRON PIPE | --- | CHAINLINK FENCE |
| DH | DRILL HOLE & STONE WALL | --- | CURBING |
| ● | STONE BOUND TO BE SET | --- | STREET ADDRESS |
| ● | IRON PIN TO BE SET | --- | GUARD RAIL |
| □ | CATCH BASIN | --- | EDGE OF SWAMP |
| △ | HYDRANT | --- | EDGE OF WATER |
| ▽ | WATER MAIN GATE VALVE | --- | RETAINING WALL |
| ○ | UTILITY POLE WITH GUY SUPPORT | --- | WC-8 |
| * | STREET LIGHT | --- | WC-1 |

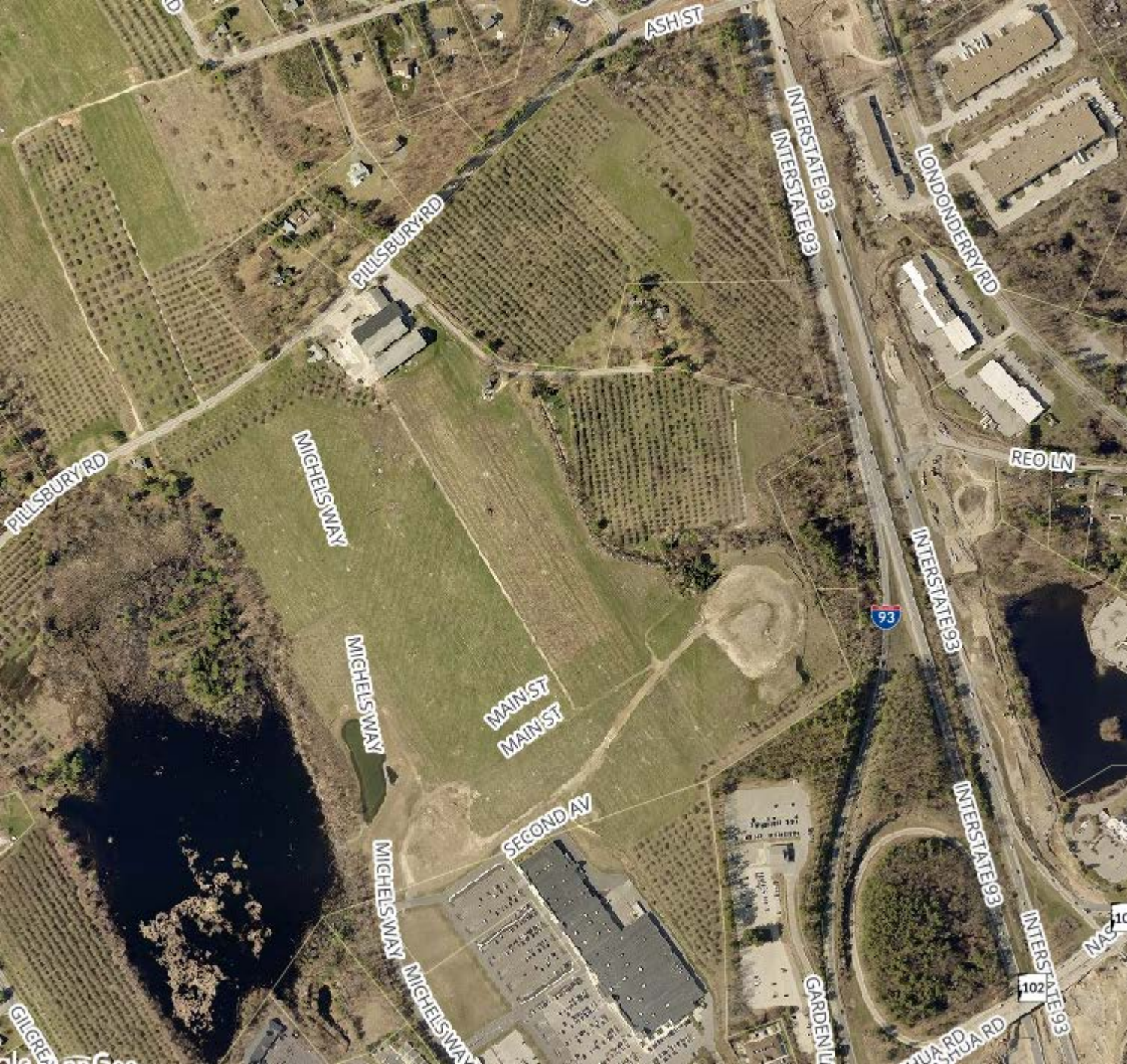
BENCHMARK
 NHDOT DISK 288-0390
 1.4 MILES NORTH OF
 RTE 102 ON RIGHT
 SIDE OF HIGHWAY IN
 LARGE LEDGE OUTCROP
 ELEV. = 410.43
 (NGVD1929)
 AS PUBLISHED IN
 JULY 2010

I HEREBY CERTIFY, TO MY KNOWLEDGE, INFORMATION AND BELIEF, THAT THIS PLAN SHOWS THE RESULTS OF AN ON THE GROUND "STANDARD PROPERTY SURVEY" AND THAT SAID SURVEY MEETS THE MINIMUM PRECISION AND/OR ACCURACY MEASUREMENTS FOR SURVEY CLASSIFICATION "U" (URBAN) AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS ADOPTED 08/23/01, EFFECTIVE 01/01/09.
 I FURTHER CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL FIELD SURVEY MADE ON THE GROUND AND HAS A MAXIMUM ERROR OF CLOSURE OF ONE PART IN FIFTEEN THOUSAND ON ALL PROPERTY LINES WITHIN AND BORDERING THE SUBJECT PROPERTY.

2/15/19
 DATE



| No. | DATE | REVISION | BY |
|-----|---------|------------------------------|-----|
| 1 | 2/15/19 | ADDRESS TOWN REVIEW COMMENTS | PFC |



ASH ST

INTERSTATE 93
INTERSTATE 93

LONDONDERRY RD

PILLSBURY RD

REO LN

MIGHELS WAY

INTERSTATE 93

PILLSBURY RD

MIGHELS WAY

MAIN ST
MAIN ST

93

SECOND AV

INTERSTATE 93

MIGHELS WAY
MIGHELS WAY

INTERSTATE 93
102

GILGREN

GARDEN HILL

HUA RD
HUA RD

ORDER #2019-11

An Order Relative to

EXPENDITURE OF MAINTENANCE TRUST FUNDS FOR VARIOUS PROJECTS

Reading: 05/06/2019

Adopted: 05/06/2019

WHEREAS voters since 2003 have approved funding for the maintenance and repair of public buildings and grounds in the town; and

WHEREAS by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$5,804.33 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$5,804.33 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

John Farrell, Chairman
Town Council

Sharon Farrell
Town Clerk

A TRUE COPY ATTEST:
05/06/2019

Expendable Maintenance Trust TC Order Request
for Town Council Meeting "5/06/19"

| Description | Vendor | Amount |
|---|----------------------------------|-------------|
| Door Locks Repairs - South Fire Station | Access Lock - Quote 4232019 | \$ 1,996.07 |
| Three of the main entrance doors used at South Fire Station are in need of repair, which one of the three doors is out of service. This EMTF request is for the materials (keypad/lock set, door closer, hinge replacement, handle spring cage, weather stripping), and labor to repair these 3 doors. These various door hardware were installed in 2006, and there is no warranty remaining. | | \$ 1,996.07 |
| Radio Box - South Fire Station | Mammoth Fire Alarm - Quote 41419 | \$ 3,808.26 |
| The existing King Fisher radio box is failing to transmit back to central fire station when an activation is detected from the AED cabinet. The existing King Fisher KF3 was installed in 2006, repair parts are difficult to get, and if they are available there is usually a long lead time to get them. It is time to switch over to the latest technology which is the Kingfisher STAR radio box which service and part replacement are readily available. This EMTF request is for the labor to remove the existing KF3, install the new STAR radio box, replace the antenna cable, program and test all zones through central fire station dispatch. | | \$ 3,808.26 |
| Total Town Council EMTF Order | | \$ 5,804.33 |

ORDER 2019-12

An order relative to
*The Distribution of Cemetery Acquisitions, Maintenance & Repairs
Capital Reserve Fund*

First Reading: 05/06/2019
Second Reading: Waived
Adopted: 05/06/2019

WHEREAS the Town of Londonderry, by adoption of Article No. 12 at the March 12, 1996 Town Meeting, approved funding for the Cemetery Acquisitions, Maintenance and Repairs; and,

WHEREAS the Administrative Support Coordinator/Cemetery Sexton have completed the repair of 28 headstone in Valley, Sunnyside, Pleasantview, and Glenwood Cemeteries; and,

WHEREAS the Administrative Support Coordinator/Cemetery Sexton further recommends that \$6,275.00 be withdrawn from the Capital Reserve Fund for Cemetery Acquisitions, Maintenance and Repairs;

NOW THEREFORE BE IT ORDERED by the Londonderry Town Council that the Town Treasurer is hereby directed and authorized to expend from the Cemetery Acquisitions, Maintenance and Repairs Reserve Fund the sum \$6,275.00.

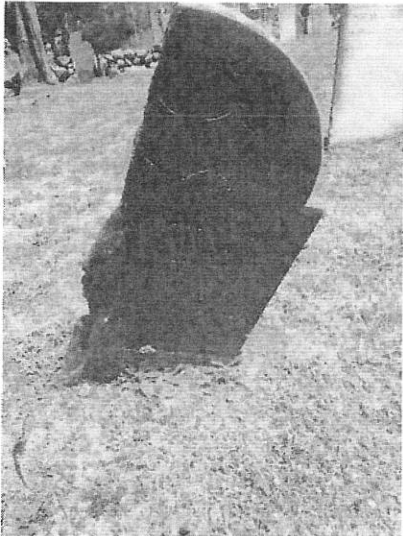
John Farrell - Chairman
Town Council

(TOWN SEAL)

Sharon Farrell - Town Clerk

A TRUE COPY ATTEST:
05/06/2019

Headstone Repair in Valley, Glenwood, Pleasantview and Sunnyside Cemeteries



First Reading: 5/6/2019
Second Reading/Public Hearing: 5/20/2019
Adopted: 5/20/2019

ORDINANCE #2019-03
AN AMENDMENT TO THE ZONING ORDINANCE
RELATIVE TO REZONING MAP 2, LOT 27
6 TAVERN HILL ROAD

WHEREAS the Planning Board has received a request to rezone the above-referenced parcel from Commercial-II (C-II) and Route 102 Performance Overlay District (POD) to Agricultural-Residential-I (AR-I); and

WHEREAS the Planning Board has recommended that the Town Council act favorably upon the request; and

WHEREAS the requested rezoning will make the zoning of this lot consistent with the adjacent parcels to the north;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended to reflect the rezoning of Map 2 Lot 27 from Commercial-II (C-II) and Route 102 Performance Overlay District (POD) to Agricultural-Residential-I (AR-I) to become effective upon passage of this ordinance.

John Farrell - Chairman
Town Council

Sharon Farrell
Town Clerk

(TOWN SEAL)

A TRUE COPY ATTEST:
XX/XX/XX



Town of Londonderry
Planning and Economic Development Department

268B Mammoth Road
Londonderry, NH 03053
Phone 603.432.1100 x 134
www.londonderrynh.org

To: Town Council
From: Colleen Mailloux, AICP, Town Planner
CC: Kevin Smith, Town Manager
Date: May 6, 2019
Re: Rezoning Recommendation from Planning Board, Map 2 Lot 27

On April 3, 2019, the Planning Board held a public hearing relative to the Zoning Ordinance and Zoning Map.

The Planning Board, by unanimous vote, recommends to the Town Council to approve rezoning Map 2 Lot 27 from the current zoning classification C-II, AR-I and Route 102 Performance Overlay District to AR-I.

A copy of the application, staff recommendation to the Planning Board, and the Planning Board minutes are attached.

Staff will be in attendance at the public hearing to present the proposed zoning change. Please feel free to contact me if you have any questions.

STAFF RECOMMENDATION

To: Planning Board **Date:** April 3, 2019
From: Colleen P. Mailloux, AICP, Town Planner
Re: Rezoning Request, Map 2, Lot 27 – From C-II, AR-1 and Route 102 POD to AR-1

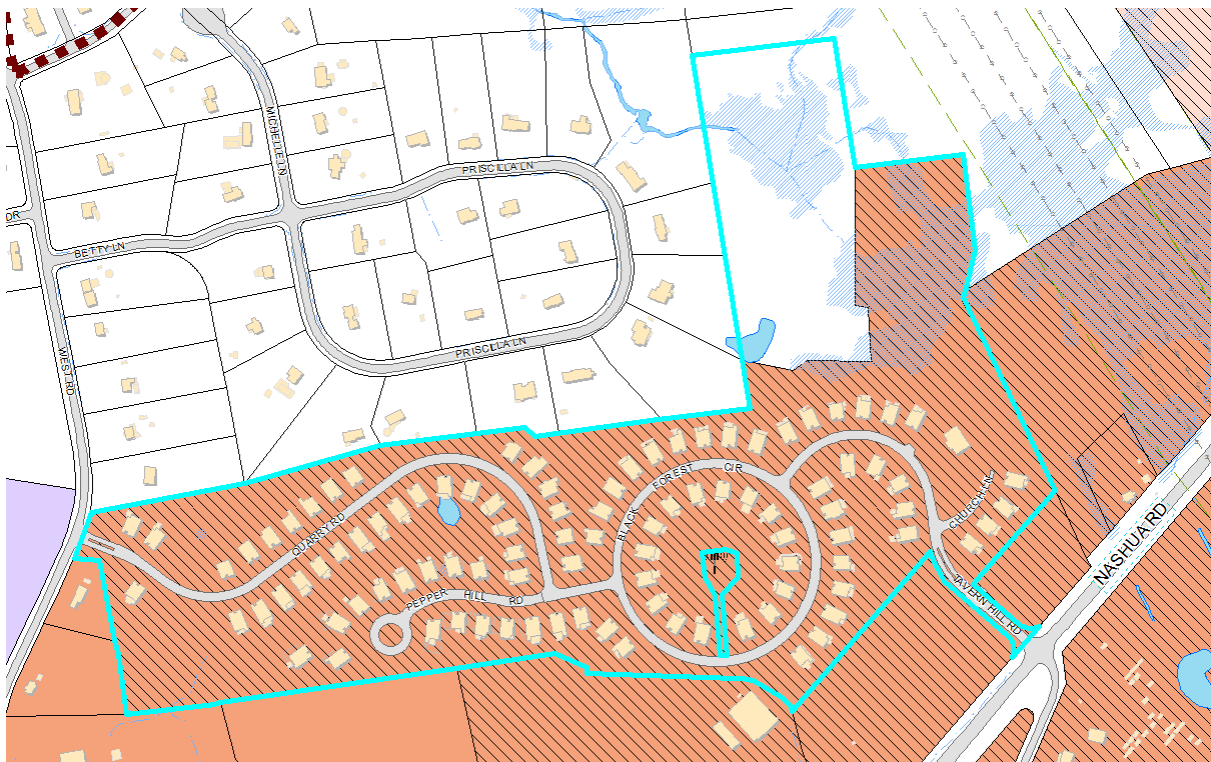
The Planning & Economic Development Division has reviewed the above referenced rezoning request and we offer the following comments:

Review Comments:

The Applicant (the Hickory Woods Condominium Association) requests the rezoning of 6 Tavern Hill Road, Map 2 Lot 27 from C-II/AR-1 and RTE 102 POD to AR-1. The 60 acre parcel is fully developed as a 55+ condominium community, containing 98 units with access from Route 102 and West Road. The northeast portion of the property is currently zoned AR-1 and abuts residential parcels on West Road and Priscilla Lane. The parcels abutting the property on the Route 102 side are zoned C-II and the RTE 102 POD. The entrance way off of West Road consists of an industrial parcel directly across the street and AR-1 properties to the north. Elderly housing is a permitted use in the AR-1 zone.

There is a separate 0.353 acre parcel within the interior of the site, Map 2, Lot 27-30, Zoned C-II and RTE 102 POD which is the site of an existing cell tower. This lot is noted on the Hickory Woods site plan as a non-buildable lot on page 5 of plan no. D-37811 and is not part of the rezoning request.

The applicant is requesting that the lot be rezoned so that it reflects the present agricultural-residential use.



Staff Recommendation:

The proposed rezoning is consistent with the use and neighboring zoning in that area and would reflect the current use of the property. Further, the property is a condominium association governed by the rules and regulations of the Declaration of Condominium for Hickory Woods Condominium filed at the Rockingham County Registry of Deeds at Book 5513 Page 2510 and other associated documents regulating the use of the property and restricting commercial uses on the parcel. Though the rezoning of this parcel will result in the cell tower lot as a commercial lot surrounded by residential, the Town Attorney has provided the opinion that the proposed re-zoning request does not constitute spot zoning.

As such, Staff supports a Planning Board **RECOMMENDATION** to the Town Council to approve the rezoning of Map 2 Lot 27, currently zoned C-II/AR-I and RTE 102 POD to AR-1.



TOWN OF LONDONDERRY

Community Development Department
Planning & Economic Development Division



268B Mammoth Road
Londonderry, New Hampshire 03053
Phone: (603) 432-1100, x134 Fax: (603) 432-1128

REZONING APPLICATION

Name of Applicant: Philip W. Lee (President Hickory Woods, HOA)

Name of Lot Owner: Hickory Woods Homeowners Association
(If different)

Address: 6 Tavern Hill Road

Telephone #: 603-228-6583

Date Submitted: 3/12/19

Tax Map # 2 Lot # 27
(Please list all if multiple lots are involved)

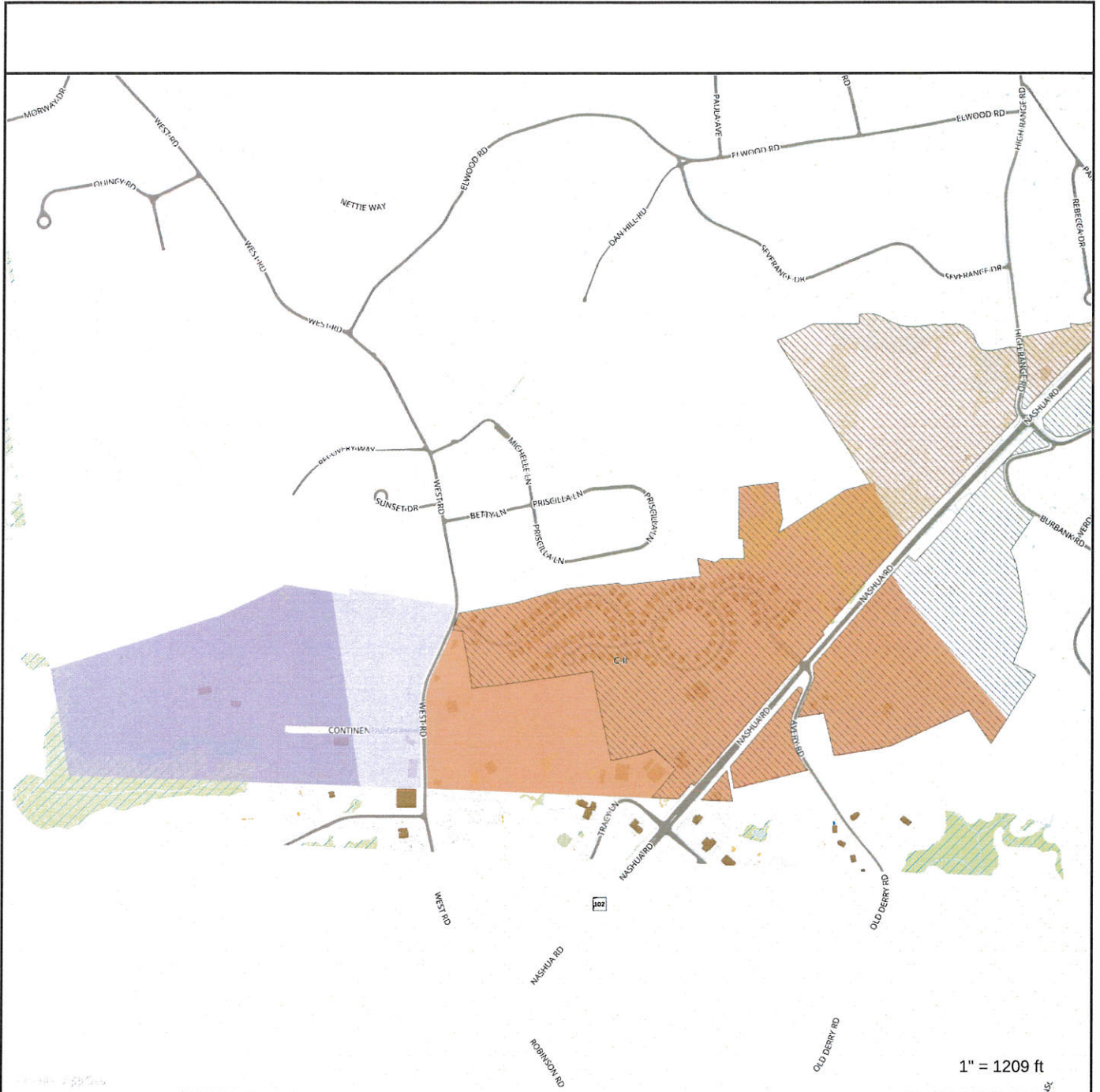
Current Zoning: C-II

Proposed Zoning: AR-1

Please explain the purpose and justification for your rezoning request (attach additional sheets if necessary):

On the 60.95 acre property described on Tax Map 2 Lot 27 is located the Hickory Woods Condominium Association, a 98 unit condominium association for persons 55 years and older.
The 98 units are comprised of 98 stand alone private residences, each with two bedrooms and an attached two car garage.
The property also houses recreational facilities reserved for the use of residents of the 98 units.
The property is exclusively occupied by the Hickory Woods Condominium Association and no commercial structures are located within its borders.
Neighboring properties on our northern border are zoned AR-1.
Since Hickory Woods is used only for residential purposes and since all but one of the 10 other 55 and older communities located in Londonderry are zoned AR-1 or R-III we feel this change would be appropriate.

Planning Department Comments (to be filled in by Town Staff):



**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Town of Londonderry, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

on the plan at that time.

M. Soares made a motion to continue the application until May 8, 2019.

T. Combes seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

Chairman Rugg noted that the plan is continued until May 8, 2019, at 7 p.m. at the Town Hall and this would be the only formal public notice.

C. Rezoning request to rezone Six Tavern Hill Road, Map 2 Lot 27 Zoned C-II/AR- I and RTE 102 POD to AR-1 by Hickory Woods Condominium Association (Owner & Applicant)

Chairman Rugg read the case into the record.

Robert Medeiros, 37 Quarry Road, addressed the Board. R. Medeiros stated that he felt his was a straight forward corrective action as Hickory Woods is a residential area that is currently zoned C-II. He would like the zoning to be changed to an AR-I zone.

Chairman Rugg opened it up to the Board for questions. Town Planner Mailloux said that the current property is 60 acres, fully developed, 55+ community. She said there is an area that is zoned AR-I, as well as C-II in the Performance Overlay District (POD). She said this was brought to her attention when notices went out regarding the upcoming zoning changes in the town. She said that the request is for the parcel to be zoned AR-I in which 55+ communities are a permitted use. She pointed out an area in the parcel that she called a "shovel "that is a separate parcel of land where an existing cell tower is located that will not be part of the rezoning application. She said that the "shovel" type piece will be remaining C-II and POD. She told the Board that she discussed this with the town attorney who felt this was not spot zoning and was okay with this not. She said that Staff recommends the Board recommend the zoning change as requested to the Town Council. R. Medeiros presented a letter (Exhibit 1) of all the residents of Hickory Woods who had signed the petition for the rezoning request. Town Planner Mailloux addressed the concern regarding the change of zoning to AR-I where now it would add the 75 foot buffer requirement to any abutting commercial properties.

M. Soares made a motion to recommend to the Town Council that they approve the rezoning of 6 Tavern Hill Road, Map 2 Lot 27, currently zoned C-II/AR-I and RTE 102 POD to AR-1.

T. Combes seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.



Victoria F. Sheehan
Commissioner

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Assistant Commissioner

Londonderry
X-A004(724)
41715
NH 28/Stonehenge Road
Intersection Improvements

Bureau of Highway Design
Room 200
Tel. (603) 271-2171
Fax (603) 271-7025

March 29, 2019

Mr. Kevin Smith, Town Manager
Town of Londonderry
268B Mammoth Road
Londonderry NH 03053

Dear Mr. Smith:

Thank you for meeting with us on March 5, 2019 to discuss the NH 28/Stonehenge Road intersection improvements. Attached is a draft Project Agreement. Once the agreement is executed and authorized by Governor and Council, engineering can begin.

At the meeting you expressed concern with the budget as shown in the adopted Ten-Year Transportation Improvement Plan (TYP). You also requested an accounting how the Town's share of the project increased from approximately \$519,000 to one half of the total project costs. A research of the project in the GACIT approval process for the 2019-2028 TYP is as follows:

Southern New Hampshire Planning Commission (SNHPC) submitted the SNHPC Regional Priorities for new projects to be included the 2019-2028 TYP to the New Hampshire Department of Transportation (NHDOT) via a letter to Commissioner Sheehan dated May 5, 2017. The Londonderry NH 28/Stonehenge Road project was submitted with \$1,000,000 as the funding needed to complete the project. The project was rated as seventh of the ten projects by SNHPC and was below the cutoff in order to meet regional fiscal constraint. The project costs were not reviewed by NHDOT at submission time due to the low priority ranking by SNHPC. The draft TYP incorporated six of the ten projects in the plan.

In the summer of 2017 NHDOT was approached by the Town and Councilor Pappas about using the funds the Town received from additional highway block grant funds (SB38) of approximately \$519,823 towards the project. NHDOT was asked if the project was programmed into the TYP would NHDOT be ready with a reasonable timetable (3 years) and project cost. NHDOT staff evaluated the budget and determined that \$1 million was not likely to be sufficient for the project. A signalized intersection might be constructed for approximately \$1.5 million. If no right-of-way was required then it could possibly be built in 2019. The cost for a roundabout would be approximately \$1.75 million and

would likely require additional right-of-way. The additional right-of-way would take at least a year longer to deliver.

During the Public Hearing held in Londonderry on September 14, 2017, testimony was given that this project was a high priority for the Town. In an effort to advance the project the Town was willing to allocate all of the funds the town received from additional highway block grant funds (SB38) of approximately \$519,000 towards the project. With the submitted budget from SNHPC, this would have the Town paying approximately half of the project and the state paying roughly half. It was also stated that this could be a model for other communities to follow to advance projects in the future.

The GACIT Hearing Summary Project and Program Updates dated 12/6/17 added this project to the Draft TYP with construction proposed in FY2020. Please see table below. The column labeled impact identifies the impact on fiscal constraint of the federal program and represents 50% of the total project cost of \$1,710,000.

GACIT Meeting - GACIT Hearing Summary
Fall 2017
Project & Program Updates

12/06/17

| GACIT Hearing Comments with Recommendations to GACIT | Recommendations | Impact |
|--|---|--------------------------------|
| Conway 40638 NH16, NH 113 and NH 153 Project - Revise scope of Roundabout Project to intersection improvements for NH 16/NH 153 and NH 16/NH 113. Align schedule with Conway project 40018. | Project 40638 - Reduce scope to intersection improvements (\$3M) advance Project from 2025 to 2019 Move Const to FY19 (\$3M), ROW (\$200k) to FY19 & PE (\$400k) to FY18 | \$ (1,548,097) |
| Epping 29608 - NH125 improvements from NH 27 to NH 87- Congestion and safety issues north from the junction of NH101 interchange - Extend the study area south to NH101 interchange | Extend limits south - no funding increase | \$ - |
| Epping 40643 - Signal coordination in same area as 29608 - Projects should be coordinated (Need to adjust \$ and remove 40643) | Combine projects and advance funding 3 years from 2025 to FY 2022 | \$ - |
| Hampton Project 26485 - Hampton Branch rail corridor -Request to retain funding in Draft Ten Year Plan to continue negotiations with Pan AM | Roll CMAQ forward from FY18 to FY19 | \$ 990,000 |
| Hampton Project 40797 - Increase funding for Ocean Blvd. project extend limits | Cash Flow PE 2021-2022 over 4 yrs 2019 - 2022 | \$ (22,692) |
| Henniker-Hopkington 40633 - Rte 9 Intersection improvements | Combine project 29609 (Eng Study) add FY 18 funds Advance Funding 1 year from 2026 to 2025 Add PE \$330,000 FY18 | \$ (24,893) |
| Lebanon 40794 - Reconstruct Mechanic St/High St/Mascoma - \$2.8M set aside for improvement based on recommendations from the corridor study to be completed this Fall. | Add ROW \$113,580 FY19 & Add Const \$2.635M based on approved TYP - delay Const 1 year from 2019 to 2020 | \$ 287,320 |
| Laconia 40656 Court St and Project 26706 Academy St (SAB program) - swap years | Swap years - \$ adjusted in SAB Program | \$ - |
| Laconia 24181 - Centenary Ave - Adjust estimate to better match description of work | Timber Bridge removal - reduction in 2025 | \$ (1,223,923) |
| Londonderry Project -Intersection safety improvement NH28/Stonehenge Road. The Town of Londonderry will approximately fund this project with 50% State/50% Town | Town is willing to earmark Gov. BGA to fund 50% of project or \$870k total. Federal PE-\$150k (FY19), ROW-\$5k(FY19), CON-\$700k(FY20) | \$ 855,000 |
| Nashua to Manchester - Capitol Corridor Study (Preliminary Engineering, Environmental Requirements, Financial Plan) Program (Statewide Programmatic) FTA5307 | Funding source: Boston UZA - Not Fed Formula Reduce Boston UZA (FTA5307) Programmatic | \$ 4,000,000 \$ (4,000,000) |
| Milford 41587 - Rehabilitation of Swing Bridge | Advance Const 3 years from 2028 to FY25, PE & ROW to FY20 Town needs to provide local match | \$ (66,581) |
| Plymouth - Highland St Project Intersection improvements - Town to make match (Local road - Fed-Aid eligible) | Advance Const 2 years from 2027 to FY25, ROW to FY24, & PE to FY 22 | \$ (90,687) |

The Governor's version of the TYP dated 1/16/2018 includes the following listing of the project:



2019 - 2028 Ten Year Plan

Pending Approval

1/16/2018

LONDONDERRY (41715)

Route/Road NH 28/STONEHENGE ROAD

Category INDIVIDUAL PROJECTS

Scope OPERATIONAL AND CAPACITY IMPROVEMENTS AT
THE INTERSECTION OF NH 28 & STONEHENGE RD.

Strategy TIER 2

| Phase | Year | Funding | Program |
|-------------------------|------|--------------------|--------------------------------|
| Preliminary Engineering | 2019 | 55,000 | NON-PAR (other) |
| Preliminary Engineering | 2019 | 55,000 | None-Highway |
| Right of Way | 2019 | 100,000 | NON-PAR (other) |
| Right of Way | 2019 | 100,000 | None-Highway |
| Construction | 2020 | 700,000 | NON-PAR (other) |
| Construction | 2020 | 700,000 | None-Highway |
| Total | | \$1,710,000 | |
| | | | Previous Funding |
| | | | \$0 |
| | | | Current TYP Funding |
| | | | \$1,710,000 |
| | | | Future Funding Required |
| | | | \$0 |
| | | | Total Project Cost |
| | | | \$1,710,000 |

Comments Town to provide 50% match

Project funding details shown on the GACIT's recommendations (dated 12/20/2017) Draft TYP only identifies the federally funded portion of the project. The funds identified as NON-PAR (other) above represent the Town funded portion of the project. All versions following the Governor's draft consistently list the total project funding of \$1.7 Million.

The project has been included in the State Transportation Improvement Plan (STIP) update dated 1/11/2019. The funding for construction was adjusted for inflation in the TYP. Therefore the construction funding in the STIP is reduced. Please see the following table. The agreement has been drafted to reflect the funding in the STIP.



Revision Report

Pending Approval

A0

1/11/2019

Proposed Dollars

LONDONDERRY (41715)

All Project Cost: \$1,675,188

Route/Road/Entity: NH 28/Stonehenge Road

Scope: Operational and capacity improvements at the intersection of NH 23 & Stonehenge Rd.

| Phase | Year | Federal | State | Other | Total | Funding |
|--------------|------|-----------|-------|-----------|-------------|---|
| PE | 2019 | \$55,000 | \$0 | \$55,000 | \$110,000 | STP-Areas Over 200K, Toll Credit, Towns |
| ROW | 2019 | \$100,000 | \$0 | \$100,000 | \$200,000 | STP-Areas Over 200K, Toll Credit, Towns |
| Construction | 2020 | \$682,594 | \$0 | \$682,594 | \$1,365,188 | STP-Areas Over 200K, Toll Credit, Towns |
| | | \$837,594 | \$0 | \$837,594 | \$1,675,188 | |

Regionally Significant: No

Managed By: DOT

CAA Code: E-51

RPC: SNHPC

Looking forward to a successful project. If you have any questions, please contact me via email at Melodie.Esterberg@dot.nh.gov or via telephone at 271-2297.

Sincerely,

Melodie A. Esterberg, P.E.
Chief of Design Services

MAE/me

Enclosures

cc:

Document2

PROJECT AGREEMENT

FOR

TOWN OF LONDONDERRY

STATE VENDOR #: 177430
STATE PROJECT #: 41715
FEDERAL PROJECT #: X-A004(724)

THIS AGREEMENT, executed in *duplicate*, made and entered into this ____ day of _____, 2019, between the New Hampshire Department of Transportation, hereinafter called the "DEPARTMENT" and the Town of Londonderry hereinafter called the "TOWN".

WITNESSETH that,

WHEREAS, the DEPARTMENT intends to construct a project in Londonderry along NH 28, currently identified as a federally-funded roadway project, Londonderry 41715, which includes operational and capacity improvements at the intersection of NH 28 and Stonehenge Road (hereinafter called the "PROJECT"); and

WHEREAS, Stonehenge Road is a Town street; and

WHEREAS, this project has been included in the 2019-2028 Ten-Year Plan; and

WHEREAS, the costs associated with the PROJECT are currently estimated at approximately \$1.7 million in fiscal year 2020; and

WHEREAS, all costs for the Project as described above, other than those related to relocation of utilities as outlined in the DEPARTMENT'S Utility Accommodation Manual, are to be shared equally by the DEPARTMENT and the TOWN with the project funding and target ad date as represented in the table below; and

| Ad Year: 2020 | State Share 50% | Town Share 50% | Total Budget |
|----------------------|------------------------|-----------------------|---------------------|
| Current Day Estimate | \$837,594 | \$837,594 | \$1,695,188 |

NOW, THEREFORE, in consideration of the above premises, it is mutually agreed as follows:

DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT

1. The DEPARTMENT shall design and construct project Londonderry 41715, operational and capacity improvements to the intersection of NH 28 and Stonehenge Road. All work associated with construction of these facilities will be in accordance with DEPARTMENT specifications.

2. The DEPARTMENT will assume control and management of the Engineering, Right-of-way appraisals and acquisitions, environmental efforts including any necessary permitting, and Construction of this project.
3. The DEPARTMENT will be responsible for the management and operation of the work zone throughout the duration of the active construction of the project.
4. The DEPARTMENT will be responsible for operation and maintenance of any traffic control devices and or signals.

DUTIES AND RESPONSIBILITIES OF THE TOWN

5. The TOWN will offer commentary and input on the design of the project. The TOWN agrees to assign employees to provide direct input and communicate progress to the TOWN. The DEPARTMENT will consider all input, but has the ultimate approval authority.
6. The TOWN will, at its own cost, be responsible to provide for the year round maintenance, including snow removal, of the existing roadway and other transportation facilities within the Town right-of-way, in accordance with the TOWN's policies and/or practices, until construction begins and during winter shut-down periods.
7. The TOWN agrees that all utility locations, as verified at the beginning of the project, shall not be altered unless changes are made according to any applicable licensing procedure of the TOWN. Any changes to TOWN or private utilities within the work area must be coordinated with the DEPARTMENT.
8. The TOWN shall, at its own cost, provide or cause to provide for the future maintenance of the reconstructed roadway, sidewalks and other transportation facilities indicated above within the Town Right-of-way and all other sidewalks constructed as part of this project, which includes winter snow and ice removal in accordance with the TOWN's policies and/or practices and the requirements of 23 CFR 1.27 and 28 CFR 35.133, once the work under this AGREEMENT is completed.
9. The TOWN will, at its own cost and expense, operate and maintain all existing lighting and any new lighting that may be installed as part of the project within the Town right-of-way in accordance with the TOWN's policies and/or practices.
10. Engineering considerations are vital to proper maintenance and operation of these improvements, and future operational adjustments may be necessary due to changed traffic conditions, technical advances or emergency situations. The TOWN agrees that no changes will be made without prior approval of the DEPARTMENT and Federal Highway Administration.

IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE DEPARTMENT AND THE TOWN:

11. The TOWN delegates to the Commissioner of the New Hampshire Department of Transportation the authority to control traffic within the construction zones of this project. The Department will coordinate with the TOWN to solicit input on the Traffic Control Plans. This will be memorialized as a separate Municipal Work Zone Agreement.
12. The engineering design for the project will be in accordance with applicable Federal and State standards. It is understood that modifications may be required to the current design based on changes in current traffic patterns, environmental regulations and other requirements.

13. All right-of-way (ROW) shall be acquired in fee in the name of the State.
14. Notwithstanding the requirements herein, it is further understood that neither the DEPARTMENT, nor the Federal Highway Administration will be responsible for any expenses or costs incurred by the TOWN under this agreement unless expressly authorized by the DEPARTMENT prior to the work being performed.
15. This agreement is contingent upon the appropriation of sufficient funds from the State of New Hampshire Legislature and the Federal Highway Administration. If sufficient funds are not appropriated, the DEPARTMENT may terminate this AGREEMENT upon thirty (30) days' written notice to the TOWN. Such termination shall relieve the DEPARTMENT and the TOWN from obligations under this AGREEMENT after the termination date.
16. Provision of cost share funds to the DEPARTMENT shall be in the following manner.

| | STATE | TOWN | TOTAL |
|--------------|------------|------------|-------------|
| PE | \$ 55,000 | \$ 55,000 | \$ 110,000 |
| ROW | \$ 100,000 | \$ 100,000 | \$ 200,000 |
| Construction | \$ 682,594 | \$ 682,594 | \$1,365,188 |

- a. All costs will include 10% indirect charges.
 - b. The TOWN shall provide its full share of project funds for Preliminary Engineering prior to commencement of that phase.
 - c. The DEPARTMENT will invoice the TOWN monthly for Right-of-Way Acquisition costs including Bureau of Right of Way staff time.
 - d. The TOWN shall provide its full share of project funds for Construction based on estimated project costs after receipt of bids and prior to award of the Contract.
 - e. The DEPARTMENT will invoice the TOWN monthly for Construction Engineering costs.
 - f. The TOWN shall be responsible for 50% of the overall actual project costs determined after acceptance of the completed project.
 - g. The DEPARTMENT will provide monthly reports on expenditures.
17. Project scope, schedule and budget shall be reviewed by the DEPARTMENT and the TOWN upon completion of the NEPA process. If it is determined at this point that the project is not feasible, the project will be cancelled and project costs to date will be shared at 50/50 split.
 18. As the project is finalized, should the scope of the project result in costs exceeding the amount budgeted, the DEPARTMENT and TOWN agree to review the project to determine whether to reduce the scope of the project or seek additional funding sources.
 19. The TOWN shall defend, indemnify and hold harmless the DEPARTMENT and its officials, agents and employees from and against any and all claims, liabilities or suits arising from (or which may be claimed to arise from) any act or omission of the TOWN or its subcontractors in carrying out the provisions of this agreement. Notwithstanding the foregoing, nothing herein contained, shall be deemed to constitute a waiver of the sovereign immunity of the STATE or the

DEPARTMENT, which immunity is hereby reserved. This covenant shall survive the termination of this agreement.

20. This agreement constitutes the entire agreement between the parties regarding the subject matter herein, and supersedes and replaces all previous agreements, whether written or oral, pertaining to the subject matter hereof. Any changes to this agreement must be made by written amendment executed by authorized representatives of the parties.

IN WITNESS WHEREOF, the parties here have affixed their signatures, the Town of Londonderry, New Hampshire, on this ____ day of _____, 2019, and the New Hampshire Department of Transportation on this ____ day of _____, 2019.

**NEW HAMPSHIRE DEPARTMENT OF
TRANSPORTATION**

TOWN OF LONDONDERRY

BY: _____
Victoria F. Sheehan
Commissioner

BY: _____
Town Manager
Town of Londonderry