

TOWN COUNCIL AGENDA
May 20, 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
Presented by Larry Casey
- 2.) **International Code Council Building Safety Proclamation**

C. PUBLIC HEARING

- 1.) **Ordinance #2019-03** – An Ordinance Relative to the Rezoning of Map 2, Lot 27, 6 Tavern Road
Presented by Colleen Mailloux
- 2.) **Transfer of Map 7, Lot 40-13 from the Town of Londonderry to Vernco Apple, LLC**

D. OLD BUSINESS

- 1.) **Leadership Londonderry Recap**

E. NEW BUSINESS

- 1.) **Resolution #2019-05** – A Resolution Relative to the Town of Londonderry Family Medical Leave of Absence Policy (**First Reading**)
Presented by Lisa Drabik
- 2.) **Order #2019-13** – An Order Relative to the Expenditure of Roadway Maintenance trust Funds
Presented by Janusz Czyzowski

F. APPROVAL OF MINUTES

Approval of May 5, 2019 Town Council Minutes

G. APPOINTMENTS/REAPPOINTMENTS

- 1.) Resignation of Raymond Brown from the Conservation Commission
- 2.) Appointment of CIP 2019—2020 Members

H. OTHER BUSINESS

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

I. ADJOURNMENT

J. MEETING SCHEDULE

- A. Town Council Meeting – 06/03/19 Moose Hill Council Chambers, 7:00PM
- B. Town Council Meeting – 06/17/19 Moose Hill Council Chambers, 7:00PM
- C. Town Council Meeting – 07/15/19 Moose Hill Council Chambers, 7:00PM
- D. Town Council Meeting – 08/12/19 Moose Hill Council Chambers, 7:00PM



Proclamation

Building Safety Month — May, 2019

Whereas, Town of Londonderry is committed to recognizing that our growth and strength depends on the safety and economic value of the homes, buildings and infrastructure that serve our citizens, both in everyday life and in times of natural disaster, and;

Whereas, our confidence in the structural integrity of these buildings that make up our community is achieved through the devotion of vigilant guardians—building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers and others in the construction industry—who work year-round to ensure the safe construction of buildings, and;

Whereas, these guardians are dedicated members of the International Code Council, a U.S. based organization, that brings together local, state and federal officials that are experts in the built environment to create and implement the highest-quality codes to protect us in the buildings where we live, learn, work, play, and;

Whereas, our nation benefits economically and technologically from using the International Codes® that are developed by a national, voluntary consensus codes and standards developing organization, our government is able to avoid the high cost and complexity of developing and maintaining these codes, which are the most widely adopted building safety and fire prevention codes in the world;

Whereas, these modern building codes include safeguards to protect the public from natural disasters such as hurricanes, snowstorms, tornadoes, wildland fires, floods and earthquake; which, according to a FEMA-commissioned study by the National Institute of Building Sciences, provide \$11 in future mitigation benefits for every dollar invested, and;

Whereas, Building Safety Month is sponsored by the International Code Council to remind the public about the critical role of our communities' largely unknown protectors of public safety—our local code officials—who assure us of safe, efficient and livable buildings that are essential to America's prosperity, and;

Whereas, "No Code. No Confidence." the theme for Building Safety Month 2019, encourages all Americans to raise awareness of the importance of safe and resilient construction; fire prevention; disaster mitigation, and new technologies in the construction industry. Building Safety Month 2019 encourages appropriate steps everyone can take to ensure the safety of our built environment, and recognizes that the implementation of safety codes by local and state agencies has saved lives and protected homes and businesses, and,

Whereas, each year, in observance of Building Safety Month, Americans are asked to consider the commitment to improve building safety and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus and federal agencies in protecting lives and property.

NOW, THEREFORE, the Town Council of the Town of Londonderry, do hereby proclaim the month of May 2019 as Building Safety Month. Accordingly, we encourage our citizens to join with their community in acknowledging Building Safety Month.



INTERNATIONAL CODE COUNCIL
**BUILDING
SAFETY**



Proclamation

Building Safety Month — May, 2019

Signed and sealed this 20th day of May, in the year Two Thousand and Nineteen, at the Town of Londonderry, New Hampshire in the witness thereof the seal of the Town of Londonderry and its Town Council.

Tom Dolan – Councilor

Ted Combes – Councilor

Jim Butler – Councilor

Joe Green – Vice Chairman

John Farrell - Chairman

LEGAL NOTICE

The Londonderry Town Council will hold a PUBLIC HEARING on the following item:

Ordinance #2019-03 – An Ordinance Relative to the Rezoning of Map 2, Lot 27, 6 Tavern Hill
Road

The Public Hearing is scheduled for Monday, May 20, 2019 at 7:00 PM at the
Londonderry Town Hall, 268B Mammoth Road, Londonderry, NH 03053.

Londonderry Town Council

First Reading: 5/06/2019
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:
5/20/2019



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

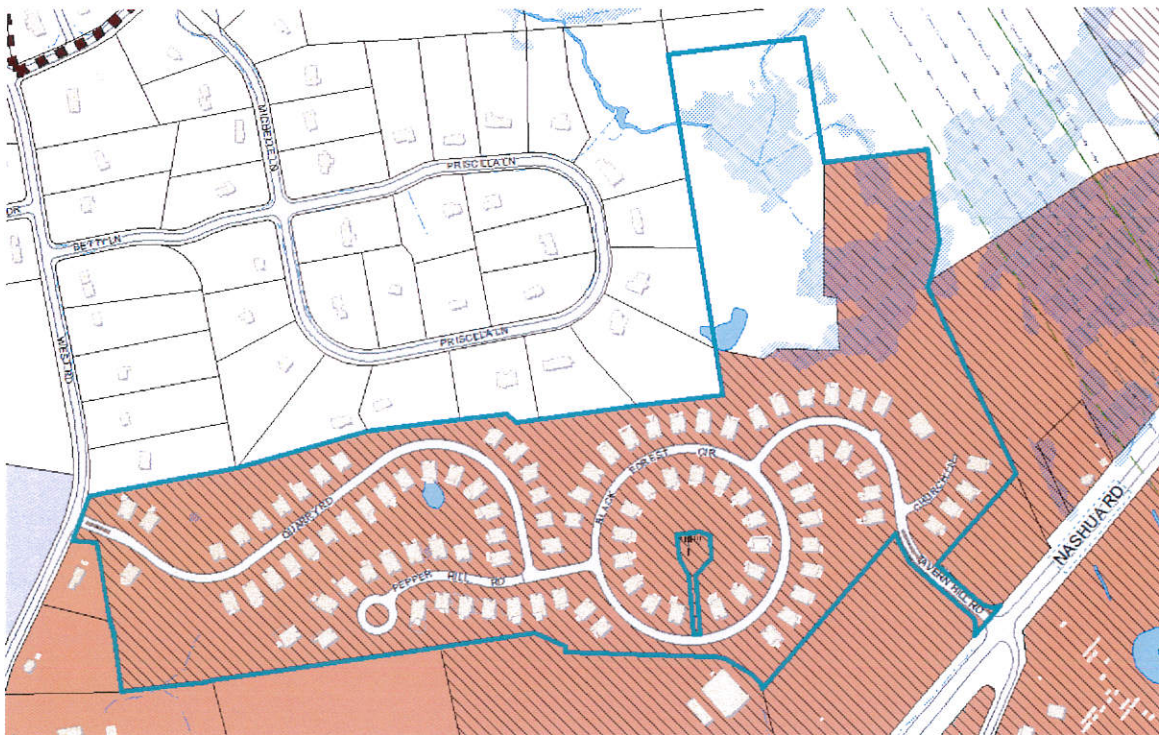
The Planning & Economic Development Division has reviewed the above referenced rezoning request and we offer the following comments:

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):

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	\$ (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.	Advance Funding 1 year from 2026 to 2025 Add PE \$330,000 FY18	\$ (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 5870k total. Federal PE \$150k (FY19), ROW \$53k(FY19), CON-5700k(FY20)	\$ 855,000
Nashua to Manchester - Capitol Corridor Study (Preliminary Engineering, Environmental Requirements, Financial Plan) Program (Statewide Programmatic) FTAS307	Funding source: Boston UZA - Not Fed Formula	\$ 4,000,000
Milford 41587 - Rehabilitation of Swing Bridge	Reduce Boston UZA (FTAS307) Programmatic	\$ (4,000,000)
Plymouth - Highland St Project - Intersection improvements - Town to make match (Local road - Fed Aid eligible)	Advance Const 3 years from 2028 to FY25, PE & ROW to FY20 Town needs to provide local match	\$ (66,581)
	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 Stonenenge Road

Scope: Operational and capacity improvements at the intersection of NH 28 & Stonenenge 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

S:\Highway-Design\TOWNS\Londonderry\41715\Agreements\Londonderry 41715 Municipal Agreement draft 2019-0325 v2T.docx

LEGAL NOTICE

Per NH RSA 41:14-a, the Londonderry Town Council will hold
two (2) PUBLIC HEARINGS on the following item:

The Transfer of Map 7, Lot 40-13 from the Town of Londonderry to Vernco Apple, LLC

The Public Hearings are scheduled for Monday, May 20, 2019 and Monday, June 3, 2019
at 7:00 PM at the Londonderry Town Hall, 268B Mammoth Road,
Londonderry, NH 03053.

Londonderry Town Council

TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 41 CHOICE AND DUTIES OF TOWN OFFICERS

Selectmen

Section 41:14-a

41:14-a Acquisition or Sale of Land, Buildings, or Both. –

I. If adopted in accordance with RSA 41:14-c, the selectmen shall have the authority to acquire or sell land, buildings, or both; provided, however, they shall first submit any such proposed acquisition or sale to the planning board and to the conservation commission for review and recommendation by those bodies, where a board or commission or both, exist. After the selectmen receive the recommendation of the planning board and the conservation commission, where a board or commission or both exist, they shall hold 2 public hearings at least 10 but not more than 14 days apart on the proposed acquisition or sale; provided, however, upon the written petition of 50 registered voters presented to the selectmen, prior to the selectmen's vote, according to the provisions of RSA 39:3, the proposed acquisition or sale shall be inserted as an article in the warrant for the town meeting. The selectmen's vote shall take place no sooner than 7 days nor later than 14 days after the second public hearing which is held.

II. The provisions of this section shall not apply to the sale of and the selectmen shall have no authority to sell:

(a) Town-owned conservation land which is managed and controlled by the conservation commission under the provisions of RSA 36-A.

(b) Any part of a town forest established under RSA 31:110 and managed under RSA 31:112.

(c) Any real estate that has been given, devised, or bequeathed to the town for charitable or community purposes except as provided in RSA 498:4-a or RSA 547:3-d.

Source. 1994, 197:3. 1997, 38:1. 2001, 187:2. 2005, 80:1. 2007, 221:2. 2008, 109:1, eff. July 27, 2008.



Town of Londonderry

Michael J. Malaguti - Assistant Town Solicitor
268B Mammoth Road - Londonderry, NH 03053
tel: (603) 432-1102 - mmalaguti@londonderrynhpd.org

November 29, 2018

Shaw's
M.S. 10501 P.O. Box 29093
Phoenix, AZ 85038
Attn. Legal Department

To Whom It May Concern:

I represent the Town of Londonderry, New Hampshire (the "Town"). For a number of years, "Shaw's Realty Co." owned a large tract of land in the Town. (While neither Shaw's nor its successors-in-interest own the realty any longer, there remains a Shaw's store in the Appletree Mall at 1 Orchard View Drive, Londonderry, New Hampshire.)

In 1981, Shaw's Realty Co. quitclaimed to the Town a small strip of land that was intended for use as a road. That tract is currently identified as lot 7-40-13 and is indicated by an arrow on the map attached hereto as "Exhibit 1." In the 1981 quitclaim deed (attached hereto as "Exhibit 2," Shaw's reserved "the right to use the [tract] for any and all purposes, at any time the Town of Londonderry is not using said premises as a public roadway." I will hereinafter refer to this reserved right as the "Easement."

By accepting and recording that deed, the Town also covenanted as follows: "In the event the Town of Londonderry, at any time in the future, determines that (i) the above described premises are not to be used as a public roadway, or (ii) that said above described premises once improved as a public roadway shall terminate being used as a public roadway, then the Town of Londonderry covenants and agrees to immediately re deed [*sic*] said premises to Shaw's Realty Co. or its successors and assigns, subject only to encumbrances of record as of this 1981 deed." I will hereinafter refer to this obligation as the "Covenant."

In 1984, Shaw's conveyed the larger mall tract to Appletree Mall Associates by warranty deed (attached hereto as "Exhibit 3") "together with the benefit of and subject to all rights, easements and restrictions of record including but not limited to . . . "The right to use [the small strip] . . . at any time the Town of Londonderry is not using said premises as a public roadway[.]" While this language appears to refer to the Easement, the 1984 deed does not specifically refer to the Covenant. The question arises whether Shaw's intended to convey or retain the Covenant. The subject tract was never used as a public road.

It should be noted that Shaw's did not appear to retain any other realty rights in or around the Appletree mall. While the Town believes there is a strong argument that the Covenant was incorporated into the 1984 conveyance under the benefit and burden clause quoted above, the Town nevertheless recognizes a lack of clarity and certainty in this regard. Therefore, I am writing to you at this time to inquire whether Shaw's would be willing to execute a quitclaim deed for the Covenant and to discuss the terms of such an arrangement.

Thank you for your attention and I look forward to hearing from you.

Sincerely,

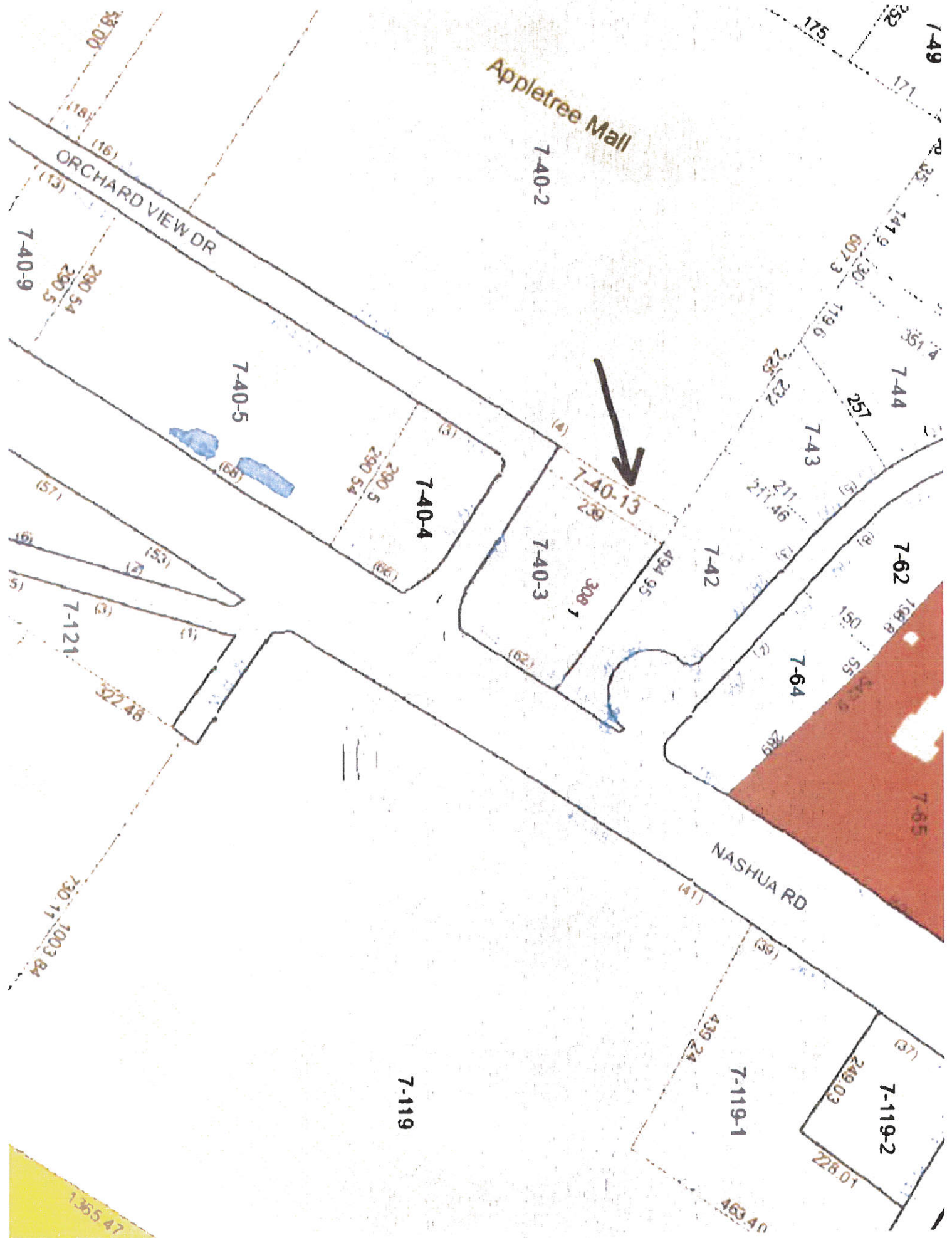


Michael J. Malaguti
Assistant Town Solicitor

Enclosures: As indicated

cc: Kevin Smith, Town Manager
Lisa Drabik, Assistant Town Manager

EXHIBIT 1



Appletree Mall

ORCHARD VIEW DR

NASHUA RD

7-40-2

7-40-5

7-40-4

7-40-3

7-40-13

7-42

7-43

7-44

7-62

7-64

7-65

7-119

7-119-1

7-119-2



38.00

(18)

(16)

(13)

7-40-9

290.54
290.5

290.5
290.54

(8)

(57)

(9)

7-121

322.48

730.17

1003.84

1365.47

175

352

1-49

171

352

607.3

351.4

179.6

257

211

150

55

289

(41)

(39)

439.24

249.03

228.01

463.40

EXHIBIT 2

QUITCLAIM DEED

Without Covenants

SHAW'S REALTY CO., a Maine Corporation with a mailing address at P. O. Box 3566, Portland, County of Cumberland, State of Maine, for consideration paid, grant to the TOWN OF LONDONDERRY, a municipal corporation of the State of New Hampshire, and having a place of business in the Town of Londonderry, New Hampshire, without any covenants,

The following premises located in Londonderry, County of Rockingham, State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point which is the northwest corner of land now or formerly of Indian Head National Bank and which point is on the easterly sideline of a proposed road, which road is now in existence and is commonly known as Orchard View Drive, all as shown on a plan prepared by Edward H. Herbert and entitled "Plan of Land in Londonderry, N.H., subdivided for, James Matarozzo and Howard Hirschberg" dated September, 1976, and which Plan was approved by the Londonderry Planning Board on September 29, 1976 and is recorded in the Rockingham County Registry of Deeds as Plan #C-6299; and which point is 300 feet, more or less, from the northerly sideline of New Hampshire Route 102 (also known as Nashua Road); thence N 41° 15' 00" W. 43 feet, more or less, to a point at the corner of said Orchard View Drive Road and a corner of Grantor's premises; thence turning and running N 48° 45' 00" E 240 feet, more or less, to a stone wall at land now or formerly of Mary Gyorda; thence turning and running S 37° 40' E along said land of Mary Gyorda 43 feet, more or less, to a point at the northeast corner of land now or formerly of Indian Head National Bank; thence turning and running S 48° 45' 00" W 239.26 feet, more or less, to the point of beginning.

The premises now or formerly of Indian Head National Bank is shown on said Plan as lot 7-40-3.

The purpose of this deed is to convey a strip of land to be used as a possible public roadway for the extension northeasterly of Orchard View Drive. In the event the Town of Londonderry, at any time in the future, determines that (i) the above described premises are not to be used as a public roadway, or (ii) that said above described premises once improved as a public roadway shall terminate being used as a public roadway, then the Town of Londonderry covenants and agrees to immediately redeed said premises to Shaw's Realty Co. or its successors and assigns, subject only to encumbrances of record as of the date of this 1981 deed. Notwithstanding anything contained in this deed to the contrary, Shaw's Realty Co., for itself and its successors and assigns, reserves the right to use the above described premises for any and all purposes, at any time the Town of Londonderry is not using said premises as a public roadway.

Said distances and directionals are based on the distances and directionals as shown on said above referred to Plan.

WITNESS its hand and seal this *8th* day of *September* 1981

Witness:

SHAW'S REALTY CO.

By *Jack C. Thornton*
Its Vice President



2166J

10 AM '81

EXHIBIT 3

Feb 7 10 08 AM '84

03823

02478 P1549

02477 T0406

RECORDING

WARRANTY DEED

SHAW'S REALTY CO., a Maine corporation with a mailing address at Box 3566, Portland, County of Cumberland, State of Maine, for consideration paid, grants to APPLE TREE MALL ASSOCIATES, a general partnership with a principal place of business at 111 Devonshire Street, Boston, Massachusetts, with warranty covenants,

The premises located on the northwest side of Orchard View Drive in Londonderry, County of Rockingham, State of New Hampshire, being Lot 7-40-2 as shown on a plan entitled "BOUNDARY PLAN OF LAND AND 'AS BUILT' IMPROVEMENTS KNOWN AS APPLE TREE MALL LONDONDERRY, ROCKINGHAM COUNTY, NEW HAMPSHIRE" by Ross, Foreman and Associates, Inc., to be recorded herewith.

Said premises are more particularly described as follows:

Beginning at a point at the EASTERLY corner of said premises then S.32°49'25"W 242.01 ft. to a concrete bound, then S32°49'25"W 771.84 ft. to a pin, then N37°10'35"W 659.38 ft. to a pin, then N15°56'20"E 679.64 ft. to a point then N37°23'25"E 176.89 ft. to a pin, then S54°44'30"E 607.42 ft. to a point, then S3°19'30"E 184.24 ft. to the point of beginning.

Together with the benefit of and subject to all rights, easements and restrictions of record including but not limited to the following:

Easements, restrictions and covenants set forth in a deed from James A. Matarozzo, et al. to George C. Shaw Co. recorded in Rockingham County Registry of Deeds at Volume 2266, page 461 as affected by a Waiver of Right of First Refusal recorded herewith;

Easement granted by James A. Matarozzo to New England Telephone & Telegraph and Public Service Company of New Hampshire by instrument recorded with said Registry of Deeds at Volume 1208, page 1415;

An Agreement recorded with said Registry at Volume 2266, page 1466;

A certain "Pond Agreement" recorded with said Registry at Vol. 2345 pg. 1907;

The right to use the premises described in deed of Shaw's Realty Co. to the Town of Londonderry recorded with said Registry at Volume 2399, page 1143, for any and all purposes, at any time the Town of Londonderry is not using said premises as a public roadway;

Easement granted by Shaw's Realty Co. to New England Telephone & Telegraph and Public Service Company of New Hampshire recorded with said Registry of Deeds at Volume 2404, page 1584;

Provisions of a Storm Water Drainage Agreement recorded with said Registry Vol. 2407 pg. 564;

Rights under lease of Oaco Drug, Inc., a memorandum of which is recorded with said Registry in Volume 2408, page 909;

Insofar as any or all of the same are in force and effect.

Subject also to the rights of tenants, leases or parties in possession.

For grantor's title see deed of Shaw's Supermarkets, Inc., to grantor dated July 31, 1979 recorded with said Registry Vol. 2395 pg. 377 and confirmatory deed recorded herewith.

EXECUTED under seal on behalf of Shaw's Realty Co., by its Vice-President on this 24 day of January, 1984.

SHAW'S REALTY CO.

By John D. Kelleher
John D. Kelleher,
Vice President,
duly authorized



COMMONWEALTH OF MASSACHUSETTS

Plymouth, ss.

January 27, 1984

Then personally appeared the above-named John D. Kelleher and acknowledged the foregoing instrument to be the free act and deed of Shaw's Realty Co., before me.

David C. [Signature]
Notary Public

My commission expires: July 6, 1985



This deed is re-recorded to correct the within-referred-to lot number which, by scrivener's error, was incorrectly recited as lot 70-40-2 instead of 7-40-2 as shown on the above-referred-to plan.

CORRECTIVE
QUITCLAIM DEED

Without Covenants

Shaw's Realty Co., a Maine Corporation with a mailing address at P.O. Box 3565, Portland, County of Cumberland, State of Maine, for consideration paid, grants to the Town of Londonderry, a municipal corporation of the State of New Hampshire, and having a place of business in the Town of Londonderry, New Hampshire, without any covenants.

The following premises located in Londonderry, County of Rockingham, State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point which is the northerly corner of said premises, thence S50°19'30"E forty-five and 023/1000 (45.023) feet to a point; thence S32°49'25"W two hundred forty and 56/100 (240.56) feet to an iron pipe; thence N57°10'36"W forty-five (45.0) feet to a concrete bound; thence S32°49'25"W two hundred forty-two and 1/100 (242.01) feet to point of beginning, said last course being by land of grantor.

The purpose of this deed is to convey a strip of land to be used as a possible public roadway for the extension northeasterly of Orchard View Drive. In the Event the Town of Londonderry, at any time in the future, determines that (i) the above described premises are not to be used as a public roadway, or (ii) that said above described premises once improved as a public roadway shall terminate being used as a public roadway, then the Town of Londonderry covenants and agrees to immediately redeed said premises to Shaw's Realty Co. or its successors and assigns, subject only to encumbrances of record as of September 8, 1981. Notwithstanding anything contained in this deed to the contrary, Shaw's Realty Co., for itself and its successors and assigns, reserves the right to use the above described premises for any and all purposes, at any time the Town of Londonderry is not using said premises as a public roadway.

The purpose of this corrective deed is to confirm the original deed dated September 8, 1981 from grantor to grantee, recorded at the Rockingham Registry of Deeds in Book 2399, page 1143 and to correct the description used therein.

WITNESS its hand and seal this 24 day of January, 1984.

SHAW'S REALTY CO.

Witness:

[Handwritten Signature]

By

[Handwritten Signature]
Vice President, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Suffolk
Plymouth, ss.

January 27, 1984

Then personally appeared the above-named John D. Kelleher and acknowledged the foregoing instrument to be the free act and deed of Shaw's Realty Co., before me.

[Handwritten Signature]
Notary Public
My commission expires: July 6, 1988

RELEASE DEED

Without Covenants

Shaw's Realty Co., a Maine corporation with a mailing address at c/o Albertsons Companies, Inc., 250 East Parkcenter Boulevard, Legal Department, Boise, Idaho 83706 ("Grantor"), for consideration paid, grants to the Town of Londonderry, a municipal corporation of the State of New Hampshire, and having a mailing address of 268B Mammoth Road, Londonderry, New Hampshire 03053 ("Grantee"), without any covenants, certain interest(s) in realty located in Londonderry, County of Rockingham, State of New Hampshire:

WHEREAS, by deed dated September 8, 1981, and recorded on October 13, 1981 at Book 2399, Page 1143 in the Rockingham County Registry of Deeds (the "1981 Deed"), the Grantor conveyed to the Grantee certain realty described in such instrument; and

WHEREAS, as set forth in the 1981 Deed, the Grantor reserved the right to use the property conveyed therein "for any and all purposes, at any time the [Grantee] is not using said premises as a public roadway" (the "Retained Easement"); and

WHEREAS, by accepting the 1981 Deed, the Grantee covenanted and agreed to re-convey the property conveyed therein to the Grantor upon certain conditions set forth in the such instrument (the "Covenant"); and

WHEREAS, by Corrective Quitclaim Deed dated January 24, 1984, and recorded on the same date, at Book 2477, Page 0401 in the Rockingham County Registry of Deeds (the "1984 Deed"), the Grantor confirmed the terms of the 1981 Deed, including the conveyance to the Grantee and the terms of the Retained Easement and the Covenant, and corrected the legal description contained in the 1981 Deed; and

WHEREAS, by deed dated January 24, 1984, and recorded on the same date at Book 2477, Page 0406 in the Rockingham County Registry of Deeds (and re-recorded on February 7, 1984 for reasons immaterial hereto), the Grantor conveyed its interest in surrounding property to a third party, and expressly incorporated into that conveyance the Retained Easement but omitted specific reference to the Covenant; and

WHEREAS, the Grantor and Grantee now wish to clarify their respective interests in the

Covenant.

NOW, THEREFORE, the Grantor hereby releases to the Grantee the Covenant, to the extent it retains any interest therein, with no deed covenants or representations whatsoever as to the state or quality of title, the language of the released Covenant being as follows:

The purpose of this deed is to convey a strip of land to be used as a possible public roadway for the extension northeasterly of Orchard View Drive. In the event the Town of Londonderry, at any time in the future, determines that (i) the above described premises are not to be used as a public roadway, or (ii) that said above described premises once improved as a public roadway shall terminate being used as a public roadway, then the Town of Londonderry covenants and agrees to immediately redeed said premises to Shaw's Realty Co. or its successors and assigns, subject only to encumbrances of record as of the date of this 1981 deed.

AND THE GRANTOR CONFIRMS the conveyance to the Grantee of the property identified in the 1981 Deed, the legal description of which was corrected in the 1984 Deed, free and clear of the Covenant.

For identification purposes, the subject property is known in the records of the Town of Londonderry as Map 7, Lot 40-13.

This is not homestead property of the within Grantor.

Exempt from transfer tax under RSA 78-B:2, I. Exempt from LCHIP under RSA 478:17-g, II(a).

WITNESS its hand and seal this ____ day of _____, 2019.

Witness:

SHAW'S REALTY CO.,
a Maine corporation

By: _____

Name: Joel H. Guth
Its: Authorized Signatory

QUITCLAIM DEED

The Town of Londonderry, a municipal corporation of the State of New Hampshire, and having a mailing address of 268B Mammoth Road, Londonderry, New Hampshire 03053 (“Grantor”), for consideration paid, grants and releases, with quitclaim covenants, to **Vernco Apple, LLC**, a New Hampshire limited liability company with a mailing address of 70 Washington Street, Suite 310, Salem, Massachusetts 01970 (“Grantee”), the following premises located in Londonderry, County of Rockingham, State of New Hampshire, lying and being described as follows:

Beginning at a point which is the northerly corner of said premises, thence S 50° 19’ 30” E forty-five and 023/1000 (45.023) feet to a point; thence S 32° 49’ 25” W two hundred forty and 56/100 (240.56) feet to an iron pipe; thence N 57° 10’ 36” W forty-five (45.0) feet to a concrete bound; thence S 32° 49’ 25” W two hundred forty-two and 1/100 (242.01) feet to point of beginning.

For identification purposes, the subject property is known in the records of the Town of Londonderry as Map 7, Lot 40-13.

For Grantor’s title see Release Deed of Shaw’s Realty Co., recorded herewith.

This is not homestead property of the within Grantor.

Shaw’s Realty Co. signs this Quitclaim Deed solely to confirm that it renounces any right to use the above property “for any and all purposes at any time the Town of Londonderry is not using said premises as a public roadway,” which right was previously reserved to Shaw’s Realty Co. and subsequently conveyed to its successors-in-title.

Exempt from transfer tax under RSA 78-B:2, I. Exempt from LCHIP under RSA 478:17-g, II(a).

WITNESS its hand and seal this ____ day of _____, 2019.

Witness:

TOWN OF LONDONDERRY

By: _____

Name:

Its: Authorized Signatory

STATE OF NEW HAMPSHIRE
County of Rockingham

On this ____ day of April, 2019, before me, _____, personally appeared _____, known or identified to me to be _____ of the Town of Londonderry, a New Hampshire municipal corporation, the entity that executed the instrument or the person who executed the instrument on behalf of said entity, and acknowledged to me that said entity executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC

My Commission Expires _____

[SEAL]

RESOLUTION #2019-05

A Resolution Relative to the Town of Londonderry FAMILY MEDICAL LEAVE OF ABSENCE POLICY

First Reading: 05/20/2019
Hearing/Second Reading: 06/03/2019
Adopted: _____

WHEREAS by Resolution #1997-1 – Rev. 2 (Adopted 9/22/97), the Town of Londonderry adopted the Town “Family Medical Leaves of Absence Policy” (“FMLA”) pursuant to the federal Family Medical Leave Act, and said Town FMLA Policy is codified as Title VI, Chapter XI of the Town Municipal Code;

WHEREAS the Family Medical Leave Act and applicable regulations have evolved since 1997, thereby necessitating an update to the Town’s FMLA policy; and

WHEREAS the Town Council may, pursuant to Article 3 of the Town Charter, revise the Municipal Code as necessary; and

WHEREAS the Revised FMLA policy is attached hereto and shall replace Resolution #1997-1 – Rev. 2 “Family Medical Leaves of Absence Policy,” as the new Title VI, Chapter XI, in the Town Policy section of the Londonderry Municipal Code.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry, that Resolution 2019-05 is hereby adopted as **Title VI – Town Policy, Chapter XI – Family Medical Leave of Absence Policy** and it shall become effective on the date of adoption set forth herein and reviewed as necessary thereafter.

John Farrell, Chairman
Londonderry Town Council

A true copy attest:

Sharon Farrell - Town Clerk

(TOWN SEAL)

Chapter XI - FAMILY MEDICAL LEAVE OF ABSENCE POLICY

SECTION I GENERAL PROVISIONS

- A. Under the provisions of the Family and Medical Leave Act of 1993 ("FMLA"), any employee who worked¹ at least 1,250 hours in the 12-month period immediately preceding a request for FMLA leave² is entitled to take not more than twelve (12) workweeks of unpaid FMLA leave (26 weeks for Military Caregiver Leave) in a twelve (12) month period (as defined below in paragraph I.B.) for any of the following reasons:
1. The birth of a child of the employee and/or to care for the child (leave must be taken within twelve (12) months of the birth);
 2. The placement with the employee of a child for adoption or foster care and to care for the child (leave must be taken within twelve (12) months of the placement);
 3. To provide care for the employee's spouse, child or parent with a "serious health condition" (as defined by the FMLA and applicable law);
 4. To take leave when the employee is unable to perform any one of the essential functions of the position by reason of his or her own "serious health condition" (as defined by the FMLA and applicable law);
 5. For a qualifying military-related exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation (as defined by the FMLA and applicable law); or
 6. To provide care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the covered service member ("Military Caregiver Leave").
- B. The 12-Month Period: As stated above, an eligible employee is entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period backward from the date an employee first uses any FMLA leave. In other words, the number of weeks which an employee has available upon the beginning of a FMLA leave shall be twelve (12) weeks less the number of FMLA leave weeks taken in the twelve (12) month period immediately preceding the beginning of the current FMLA leave (the "Available Leave Weeks").

¹ "Worked" means the employee performed actual work. Worked does not include paid or unpaid time off.

² Accordingly, employees with less than one year of employment with the Town are not eligible for FMLA leave.

In the case of leave taken to care for a covered service member with a serious injury or illness, an employee who does not take all twenty-six (26) workweeks of leave to care for the covered service member during the single 12-month period will forfeit any remaining Military Caregiver Leave.

- C. Leave for Birth, Adoption or Foster Care of a Child: A FMLA leave for the birth or placement for adoption or foster care of a child must be taken all at once unless otherwise agreed to by the Town Manager or his/her designee. Pursuant to 29 USC §2612(e), the employee must give thirty (30) days' notice if the birth or adoption is foreseeable or, if not foreseeable, such notice as is practicable.
 - D. Leave Due to a Serious Health Condition: A FMLA leave due to a serious health condition may be taken on an intermittent or reduced leave schedule. To qualify, the employee or family member must have a serious health condition and the intermittent leave or reduced leave schedule must be certified as medically necessary by a health care provider. An employee who takes intermittent leave for planned medical treatment has an obligation to make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the employee's department and, if leave is for planned medical treatment, to give thirty (30) days' notice or such notice as is practicable. If FMLA leave is requested on an intermittent basis, the Town Manager or his/her designee may require the employee to transfer temporarily to an alternative position which better accommodates intermittent periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits (but the position need not have equivalent duties).
 - E. Substitution of Accrued Paid Leave Required: The Town requires the substitution of accrued paid leave for unpaid FMLA leave time (i.e., any time during which the Town does not process any payment to the employee through payroll, hereinafter referred to as "Unpaid FMLA Leave") as follows: Accrued sick (including "family sick" time if applicable) leave, vacation leave (including personal time (if applicable) and floating holiday(s) (if applicable)), in that order, will be substituted for unpaid FMLA leave time. Upon the exhaustion of accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for a FMLA purpose exceed twelve (12) workweeks (twenty-six (26) workweeks for Military Caregiver Leave) in any twelve (12) month period as defined herein.
- Note: In the event an employee on FMLA leave is receiving wage replacement through the Town's Short-Term Disability Policy or through workers' compensation, the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base wages; however, the employee may elect to apply accrued time (in the order set forth above) to make up the difference in pay and should consult with Human Resources with regard to his/her pay options.
- F. Designation of FMLA Leave: When an employee requests any leave of absence which qualifies as leave under the FMLA, it is the Town's responsibility and right to designate such leave as FMLA leave. FMLA leave may be designated upon

request by the employee or when the Town has sufficient information concerning the leave status of an employee to presume either that the employee or his/her family member has a qualifying serious health condition as defined under the FMLA, or that that the leave is due to the birth of the employee's child or the placement with the employee of a child for adoption or foster care. The Town's Human Resources Department personnel will request and obtain sufficient information from the employee to determine whether the leave qualifies as FMLA leave, to include a medical certification from the employee's or family member's health care provider. In addition, the Town's Human Resources Department personnel or a physician authorized by the Town may contact the health care provider for purposes of clarification and authentication of the medical certification (whether initial certification or recertification) after the Town has given the employee an opportunity to cure any deficiencies with the certification as set forth in the FMLA regulations. Once the Town has determined the leave qualifies for FMLA leave, the employee will be notified that the leave has been approved for FMLA leave and will be counted towards the employee's FMLA leave entitlement.

- G. Leave for Purposes Not Covered Under FMLA: If an employee requests and is granted authorized leave for a purpose that does not qualify as FMLA leave (e.g., leave to care for a parent-in-law, or a blood relative other than a spouse, child or parent), that leave time will not be charged against the 12-week FMLA entitlement. Thus, the amount of FMLA leave eligible to an employee who takes two weeks of authorized vacation leave to care for a parent-in-law will not be impacted by the vacation leave.

SECTION II STATUS OF INSURANCE BENEFITS WHILE ON FMLA LEAVE

- A. While on FMLA leave, an employee may continue to participate in the Town's group health insurance in the same manner as employees not on FMLA leave. Coverage for Life and Disability Insurance will continue for the duration of the FMLA leave.
- B. In the event of paid FMLA leave (during which the employee is either using accrued leave time and/or receiving some form of wage replacement paid through payroll), the employee's share of any medical or dental insurance premiums will continue to be deducted in the same manner as it would be when the employee is not on FMLA leave.
- In the case of Unpaid FMLA Leave, an employee's share of any medical or dental insurance premiums must be paid in advance by the employee on the first day of each month.
- C. Reinstatement: At the end of an authorized FMLA leave, an employee will be reinstated to his or her previous job or to a position with equivalent pay, benefits and substantially equivalent duties. However, there are some limits of reinstatement. Employees returning from an FMLA leave have no greater rights to

reinstatement or other benefits and conditions of employment than if they had not taken FMLA leave. For example, if an employee's position was affected by a lay-off or reorganization or elimination, the employee may not be eligible for reinstatement. An employee who fails to comply with the Town's requirements for reporting and fitness for duty certification may also be denied reinstatement.

SECTION III BASIC REGULATIONS AND CONDITIONS OF LEAVE

- A. The Town will require medical certification to support a claim for FMLA leave for an employee's own serious health condition or to care for the employee's child, spouse or parent with a serious health condition whenever that leave is expected to extend beyond three (3) calendar days or will involve intermittent or part-time leave. The employee shall have no more than fifteen (15) calendar days to provide the medical certification to the Town.
 - 1. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform an essential function of his or her position.
 - 2. For FMLA leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care.
- B. The Town may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the Town, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the Town and the employee.

SECTION IV NOTIFICATION AND REPORTING REQUIREMENTS

- A. As set forth above, when the need for FMLA leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide reasonable prior notice, and make efforts to schedule leave so as not to disrupt Town operations.
- B. In cases of a FMLA leave due to a serious health condition, the employee will be required to report periodically on his or her FMLA leave status and intention to return to work.
- C. At the expiration of any FMLA leave due to the employee's own serious health condition, the employee must present medical certification of fitness for duty **before** returning to work. The Town will require this certification to address whether the employee can perform the essential functions of his/her position.

SECTION V COORDINATION WITH MATERNITY LEAVE

- A. The Town provides female employees with a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth and related medical conditions (“Maternity Leave”). Although they may run concurrently as set forth below, Maternity Leave is separate from FMLA leave. An employee is eligible for Maternity Leave even if she has worked for the Town for less than twelve (12) months or less than twelve hundred and fifty (1,250) hours in the prior twelve (12) months. A Maternity Leave begins when an employee is medically determined to be disabled and ends when the employee is medically determined to be able to return to work, and is paid in accordance with the provisions of the Town’s Short-Term Disability Policy. If an employee also is eligible for FMLA leave, the employee’s FMLA leave and Maternity Leave will run concurrently. Maternity Leave is not limited by any measure other than the period of disability.

- B. Once an employee has exhausted her paid Maternity Leave, she may take additional FMLA leave to care for the child, assuming she has Available Leave Weeks remaining. However, in no event shall the total FMLA leave for the birth of a child (including the period of Maternity Leave) exceed 12-weeks total in the applicable 12-month period.

**SECTION VI COORDINATION WITH OTHER TOWN POLICIES;
REFERENCE TO FMLA AND FEDERAL REGULATIONS**

- A. In the event of any conflict between this policy and other Town policies, the provisions of this policy shall govern; however, if any provision of a Collective Bargaining Agreement exceeds the benefits offered herein, the Collective Bargaining Agreement shall control for those covered employees.

- B. The FMLA and the FMLA federal regulations issued by the U.S. Department of Labor (the “Federal Authorities”) contain many limitations and qualifications for entitlement and governance of FMLA leave not stated herein.

- C. Unless this Policy plainly states an intention to afford more generous benefits to the employee than the Federal Authorities, the terms of the FMLA and the FMLA federal regulations are incorporated herein and will be applied in all instances of requested or designated FMLA leave. If there is an ambiguity in this Policy, the ambiguity shall be resolved in favor of the construction most consistent with the Federal Authorities.

Chapter XI - FAMILY MEDICAL LEAVES OF ABSENCE POLICY

SECTION I GENERAL PROVISIONS:

- A. ~~In General:~~ Under the provisions of the Family and Medical Leave Act of 1993 ("FMLA"), ~~any~~ employees who worked¹ ~~(does not include any paid or unpaid time off)~~ at least 1,250 hours in the 12-month period immediately preceding the request for FMLA leave² during the prior twelve (12) months ~~is~~ are entitled to take not more than twelve (12) work-weeks ~~of unpaid~~ FMLA leave/absence (26 weeks for Military Caregiver Leave) in a twelve (12) month period (as defined below in paragraph I.B.) for any of the following reasons: in the event of:
1. ~~Type A:~~ the birth of a child of the employee and/or to in order to care for the child (leave must be taken within twelve (12) months of the birth);
 2. The placement with the employee of a child for adoption or foster care and Type B: an adoption or foster care placement of a child in order to care for the child (leave must be taken within twelve (12) months of the placement);
 3. To provide care for the employee's spouse, child or parent with a "serious health condition" (as defined by the FMLA and applicable law regulations); Type C: a serious health condition of the employee's parent, spouse, minor child or adult child when the ill person is not capable of self care and the employee is needed for such care; or
 4. To take leave when the employee is unable to perform any one of the essential functions of the position by reason of his or her due to their own "serious health condition" (as defined by the FMLA and applicable law regulations); Type D: a serious health condition of the employee which results in the employee's inability to perform his or her job
 5. For a qualifying military-related exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active duty in support of a contingency operation (as defined by the FMLA and applicable law); or
 4. To provide care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent or next of kin of the covered service member ("Military Caregiver Leave").
 6. _____

¹ "Worked" means the employee performed actual work. Worked does not include paid or unpaid time off.

² Accordingly, employees with less than one year of employment with the Town are not eligible for FMLA leave.

Town of Londonderry
Title VI - Town Policy

Resolution 1997-13 – Rev., Proposed 5/20/192
– Adopted 9/22/97

- ~~B. — The 12-Month Period: As stated above, an eligible employee is entitled to a total of twelve (12) work-weeks of leave during any twelve (12) month period. That twelve (12) month period is defined as a "rolling" twelve (12) month period backward from the date an employee first uses any FMLA leave. ~~For example, if an employee has taken eight~~~~
- ~~C. — (8) weeks of FMLA leave during the past twelve (12) months, an additional four~~
- ~~B. — (4) weeks of leave could be taken when a second leave is requested. As further example, if an employee takes four (4) weeks of FMLA leave beginning September 1, 1994, and four (4) weeks of FMLA leave beginning December 1, 1994, when the employee requires additional FMLA leave on March 1, 1995, the employee would have available four (4) weeks of FMLA leave as he/she had taken eight (8) weeks in the twelve (12) months prior to March 1, 1995. In other words, the number of weeks which an employee has available upon the beginning of a FMLA leave shall be twelve (12) weeks less the number of FMLA leave weeks taken in the twelve (12) month period immediately preceding ~~prior to~~ the beginning of the current FMLA leave (the "Available Leave Weeks").~~

In the case of leave taken to care for a covered service member with a serious injury or illness, an employee who does not take all twenty-six (26) workweeks of leave to care for the covered service member during the single 12-month period will forfeit any remaining Military Caregiver Leave.

D. —

C. Leave for Birth, Adoption or Foster Care of a Child: A FMLA leaves for the birth or placement for adoption or foster care of a child, ~~as described in Types A and B above~~, must be taken all at once unless otherwise agreed to by the Town Manager (or his/her designee). Pursuant to 29 USC §2612(e), the employee must give thirty (30) days' notice if the birth or adoption is foreseeable or, if not foreseeable, such notice as is practicable.

~~E.D.~~ Leave Due to a Serious Health Condition: ~~A if medically necessary,~~ FMLA leaves due to a serious health condition illness as described in Types C and D above may be taken on an intermittent or reduced leave schedule. To qualify, the employee or family member must have a serious health condition and the intermittent leave or reduced leave schedule must be certified as medically necessary by a health care provider. An employees who takes intermittent leave for planned medical treatment hasve an obligation to make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the employee'stheir department's operations and, if leave is for planned medical treatment, to give thirty (30) days' notice or such notice as is practicable. If FMLA leave is requested on an intermittent basis, the Town Manager (or his/her designee) may require the employee to transfer temporarily to an alternative position which better accommodates intermittent periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits (but the position need not have equivalent duties).

F. — Chapter VI Page 1 of 5

- G. _____
- H. ~~Chapter XI - FAMILY MEDICAL LEAVES OF ABSENCE POLICY - (Cont'd)~~
~~SECTION I - GENERAL PROVISIONS - (Cont'd)~~
- I. ~~If FMLA leave is requested on this basis, however, the Town Manager may require the employee to transfer temporarily to an alternative position which better accommodates periods of absence or a part time schedule, provided that the position has equivalent pay and benefits.~~
- J. _____
- K. ~~An employee's accrued, unused, vacation and/or personal time will be included as part of the twelve (12) week leave requirement for A, B or C FMLA leaves listed above. For example, an employee with two (2) weeks earned, unused vacation is required to use that time before taking not more than ten (10) additional unpaid weeks. In addition, for type C FMLA leave, an employee will be required to use all accrued sick time. For a type D FMLA leave, employees will be required to use accrued unused vacation, personal and/or sick time.~~
- E. Substitution of Accrued Paid Leave Required: The Town requires the substitution of accrued paid leave for unpaid FMLA leave time (i.e., any time during which the Town does not process any payment to the employee through payroll, hereinafter referred to as "Unpaid FMLA Leave") as follows: Accrued sick (including "family sick" time if applicable) leave, vacation leave (including personal time (if applicable) and/or floating holiday(s) (if applicable)), in that order, will be substituted for unpaid FMLA leave time. Upon the exhaustion of accrued paid leave, the remainder of any FMLA leave will be unpaid. In no case will the combination of paid and unpaid leave used for a FMLA purpose exceed twelve (12) workweeks (twenty-six (26) workweeks for Military Caregiver Leave) in any twelve (12) month period as defined herein.

Note: In the event an employee on FMLA leave is receiving wage replacement through the Town's Short-Term Disability Policy or through workers' compensation, the employee is not required to use accrued time to make up the difference between the wage replacement amount and the employee's base wages; however, the employee may elect to apply accrued time (in the order set forth above) to make up the difference in pay and should consult with Human Resources with regard to his/her pay options. For type A and B FMLA leaves, the employee may at his/her option utilize accrued sick leave to cover any period of otherwise unpaid leave.

- F. _____
- Designation of FMLA Leave: When an employee requests any leave of absence which qualifies as leave under the FMLA, it is the Town's responsibility and _____ right to designate such leave as FMLA leave. FMLA leave may be designated upon _____ request by the employee or when the Town has sufficient information concerning the leave status of an employee to presume either that the employee or his/her family member has a qualifying serious health condition as defined under the _____ FMLA, or that that the leave is due to the birth of the employee's child or the placement with the employee of a child for adoption or foster care. The Town's

Town of Londonderry
Title VI - Town Policy

Resolution 1997-13 – Rev. Proposed 5/20/192
~~Adopted 9/22/97~~

Human Resources Department personnel will request and obtain sufficient
information from the employee to determine whether the leave qualifies as FMLA

~~leave, to include a medical certification from the employee's or family member's health care provider. In addition, the Town's Human Resources Department personnel or a physician authorized by the Town may contact the health care provider for purposes of clarification and authentication of the medical certification (whether initial certification or recertification) after the Town has given the employee an opportunity to cure any deficiencies with the certification as set forth in the FMLA regulations. Once the Town has determined the leave qualifies for FMLA leave, the employee will be notified that the leave has been approved for FMLA leave and will be counted towards the employee's FMLA leave entitlement. the Town Manager may designate such leave as FMLA leave upon written notification to the employee.~~

- ~~G. Leave for Purposes Not Covered Under FMLA: If an employee requests and is granted authorized leave for a purpose that does not qualify as FMLA leave (e.g., leave to care for a parent-in-law, or a blood relative other than a spouse, child or parent), that leave time will not be charged against the 12-week FMLA entitlement. Thus, the amount of FMLA leave eligible to an employee who takes two weeks of authorized vacation leave to care for a parent-in-law will not be impacted by still have 12 weeks of FMLA leave remaining when he/she returns from the vacation leave.~~

SECTION II STATUS OF INSURANCEEMPLOYEE BENEFITS WHILE ON FMLA LEAVE

- A. While on FMLA leave, an employees may continue to participate in the Town's group health insurance in the same manner as employees not on FMLA leave. Coverage for Life and Disability Insurance will continue for the duration of the FMLA leave.
- ~~B. In the event of unpaid FMLA leave, an employee's share of any medical insurance premiums once per month in advance on the first day of each month. In the event of paid FMLA leave (during which the employee is either using accrued leave time and/or receiving some form of wage replacement paid through payroll), the employee's share of any medical or dental insurance premiums will continue to be deducted in the same manner as it they would be when the employee is not on FMLA leave.~~
- B. _____
- In the case of Unpaid FMLA Leave, an employee's share of any medical or dental insurance premiums must be paid in advance by the employee on the first day of each month. In the event that the employee elects not to return to work upon completion of a FMLA leave of absence, the Town may recover from the employee the cost of any payments to maintain the employee's medical coverage, unless the employee's failure to return to work was for reasons beyond the employee's control.

~~Benefit entitlements based on length of service will be calculated as of the last paid work day prior to the start of the leave of absence; for example, an employee on leave will not accrue vacation or sick time.~~

~~C.~~
~~D.~~

C. Reinstatement: At the end of an authorized FMLA leave, an employee will be reinstated to his or her previous job or to a position with equivalent pay, benefits and substantially equivalent duties. However, there are some limits of reinstatement. Employees returning from an FMLA leave have no greater rights to

reinstatement or other benefits and conditions of employment than if they had not taken FMLA leave. For example, if an employee's position was affected by a lay-off or reorganization or elimination, the employee may not be eligible for reinstatement. An employee who fails to comply with the Town's requirements for reporting and fitness for duty certification may also be denied reinstatement.

SECTION III BASIC REGULATIONS AND CONDITIONS OF LEAVE
original or a comparable position.

~~A. Chapter XI - FAMILY MEDICAL LEAVES OF ABSENCE POLICY - (Cont'd)~~
~~SECTION III - BASIC REGULATIONS AND CONDITIONS OF LEAVE:~~

~~B.A.~~ The Town will require medical certification to support a claim for FMLA leave for an employee's own serious health condition or to care for the employee's child, spouse or parent with a serious health condition whenever that leave is expected to extend beyond three (3) calendar days or will involve intermittent or part-time leave. The employee shall have no more than fifteen (15) calendar days to provide the medical certification to the Town. ~~seriously ill child, spouse or parent.~~

1. For the employee's own medical leave, the certification must include a statement that the employee is unable to perform an the essential functions of his or her position.
2. For FMLA leave to care for a seriously ill child, spouse or parent, the certification must include an estimate of the amount of time the employee is needed to provide care.

~~C.B.~~ ~~In its discretion,~~ the Town may require a second medical opinion and periodic recertification at its own expense. If the first and second opinions differ, the Town, at its own expense, may require the binding opinion of a third health care provider, approved jointly by the Town and the employee.

SECTION IV NOTIFICATION AND REPORTING REQUIREMENTS:

- A. As set forth above, when the need for FMLA leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide reasonable prior notice, and make efforts to schedule leave so as not to disrupt Town operations.
- B. In cases of a FMLA leaves due to a serious health conditions, illness, the employee will be required to report periodically on his or her FMLA leave status and intention to return to work.
- C. At the expiration of any FMLA leave due to the employee's own serious health condition illness, the employee must present medical certification of fitness for duty before returning to work. The Town will require this certification to address whether the employee can perform the essential functions of his/her position. a written authorization from his/her doctor stating that the employee is ready to return to work.

SECTION V – PROCEDURES

~~A Request for Family and Medical Leave of Absence Memo must be originated in duplicate by the employee. This memo should be completed with full details, signed by the employee and then submitted to the employee's Department Head for proper approvals. If possible, the memo should be submitted thirty (30) days in advance of the effective date of the FMLA leave.~~

~~Chapter XI – FAMILY MEDICAL LEAVES OF ABSENCE POLICY – (Cont'd) SECTION V – PROCEDURES (Cont'd)~~

~~All requests for FMLA leaves of absence due to illness will include the following information attached to a completed Request for Family and Medical Leave of Absence Memo:~~

~~Sufficient medical certification stating:~~

~~the date on which the serious health condition commenced;
the probable duration of the condition; and
the appropriate medical facts within the knowledge of the health care provider regarding the condition.~~

~~In addition, for purposes of FMLA leave to care for a child, spouse, or parent, the certificate should give an estimate of the amount of time that the employee is needed to provide such care.~~

~~For purposes of FMLA leave for an employee's illness, the certificate must state that the employee is unable to perform the functions of his or her position.~~

~~In the case of certification for intermittent FMLA leave or FMLA leave on a reduced leave schedule for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment must be stated.~~

SECTION VI COORDINATION WITH MATERNITY LEAVE:

A. ~~The Town provides female employees with a~~ vides employees a leave of absence for the period of temporary physical disability resulting from pregnancy, childbirth and related medical conditions ("Maternity Leave"). Although they may run concurrently as set forth below, Maternity Leave is separate from FMLA leave. An employee is eligible for Maternity Leave even if she has worked for the Town for less than twelve (12) months or less than twelve hundred and fifty (1,250) hours in the prior twelve (12) months. A Maternity Leave begins when an employee is medically determined to be disabled and ends when the said employee is medically determined to be able to return to work, and is paid in accordance with the provisions of the Town's Short-Term Disability Policy. If an employee is also is eligible for FMLA leave, the employee's FMLA leave and Maternity Leave will run concurrently. Maternity Leave iss are not limited by any measure other than the period of disability.

B. ~~Once an employee has exhausted her paid Maternity Leave, she may take additional FMLA leave to care for the child, assuming she has Available Leave Weeks remaining. However, in no event shall the total FMLA leave for the birth of a child (including the period of Maternity Leave) exceed 12-weeks total in the applicable 12-month period.~~

**SECTION VI COORDINATION WITH OTHER TOWN POLICIES;
REFERENCE TO FMLA AND FEDERAL REGULATIONS**

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- A. In the event of any conflict between this policy and other Town policies, the provisions of this policy shall govern; however, if any provision of a Collective Bargaining Agreement exceeds the benefits offered herein, the Collective Bargaining Agreement shall control for those covered employees.
- B. The FMLA and the FMLA federal regulations issued by the U.S. Department of Labor (the "Federal Authorities") contain many limitations and qualifications for entitlement and governance of FMLA leave not stated herein.
- C. Unless this Policy plainly states evidence of an unambiguous intention to afford more generous benefits to the employee than the Federal Authorities, the terms of the FMLA and the FMLA federal regulations are incorporated herein and will be applied in all instances of requested or designated FMLA leave. If there is an ambiguity in this Policy, the ambiguity shall be resolved in favor of the construction most consistent with the Federal Authorities.

~~End of Chapter~~

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First Reading: 05/20/19
Hearing/Second Reading: Waived
Adopted: 05/20/19

ORDER 2019-13

An Order Relative to
THE EXPENDITURE OF
ROADWAY MAINTENANCE TRUST FUNDS

WHEREAS voters since 2012 have approved funding for the maintenance and repair of public roadways in the town; and

WHEREAS it has been determined that sufficient funds have been appropriated by the voters to the Roadway Maintenance Trust Fund;

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend up to \$650,000.00 from the Roadway Maintenance Trust Fund for the aforementioned repairs and improvements of various Town roads.

John Farrell - Chairman
Town Council

(TOWN SEAL)

Sharon Farrell - Town Clerk

A TRUE COPY ATTEST:
05/20/18

RSA 149-1.

(These services are funded through user fees and require no property tax support.)

The Town Council by a vote of 5-0 recommends a YES vote; the Budget Committee by a vote of 7-0 recommends a YES vote.

ARTICLE NO. 7: [FUND SEWER FUND ADMINISTRATIVE COSTS]

To see if the Town will vote to raise and appropriate TWO HUNDRED TWENTY THOUSAND DOLLARS (\$220,000) for defraying the cost of debt service and administrative costs of operating the sewer department in accordance with RSA 149-1.

(These services are funded through user fees and require no property tax support.)

The Town Council by a vote of 5-0 recommends a YES vote; the Budget Committee by a vote of 7-0 recommends a YES vote.

ARTICLE NO. 8: [APPROPRIATE FUNDS TO THE ROADWAY MAINTENANCE ETF]

To see if the Town will vote to raise and appropriate the sum of SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000) to be placed in the Roadway Maintenance Expendable Trust Fund and further to authorize the use of THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$325,000) from the June 30 Unassigned Fund Balance towards this appropriation..

(If passed, this article will require the Town to raise \$325,000 in property taxes, resulting in a tax rate impact of \$0.083 in FY 19 based upon projected assessed values.)

The Town Council by a vote of 5-0 recommends a YES vote; the Budget Committee by a vote of 7-0 recommends a YES vote.

ARTICLE NO. 9: [APPROPRIATE FUNDS TO CAPITAL RESERVE FUND FOR FIRE DEPARTMENT EQUIPMENT]

To see if the Town will vote to raise and appropriate ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000) to be placed in the fire equipment capital reserve fund and further to authorize the use of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000) from the June 30 Unassigned Fund Balance towards this appropriation.

(If passed, this article will require the Town to raise \$75,000 in property taxes, resulting in a tax rate impact of \$0.019 in FY 19 based upon projected assessed values.)

The Town Council by a vote of 5-0 recommends a YES vote; the Budget Committee by a vote of 7-0 recommends a YES vote.