

1 **LONDONDERRY, NH PLANNING BOARD**  
2 **MINUTES OF THE MEETING OF OCTOBER 2, 2013 AT THE MOOSE HILL**  
3 **COUNCIL CHAMBERS**  
4

5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Laura El-Azem; Chris  
6 Davies; Tom Freda, Ex-Officio; Rick Brideau, CNHA, Ex-Officio; John Laferriere,  
7 Ex-Officio; Leitha Reilly, alternate member; and Maria Newman, alternate member  
8

9 Also Present: Cynthia May, ASLA, Town Planner and Planning and Economic  
10 Development Department Manager; John R. Trottier, P.E., Assistant Director of  
11 Public Works and Engineering; and Jaye Trottier, Associate Planner  
12

13 A. Rugg called the meeting to order at 7:01 PM. He appointed M. Newman to vote  
14 for Scott Benson.  
15

16 **Administrative Board Work**  
17

18 A. Approval of Minutes – September 4 and September 11, 2013  
19

20 **M. Soares made a motion to approve and sign the minutes from the**  
21 **September 4, 2013 meeting. L. Wiles seconded the motion.** No  
22 discussion. **Vote on the motion: 4-0-3.**

23 (L. Wiles, C. Davies and R. Brideau abstained as they were absent from the  
24 September 4, 2013 meeting).  
25

26 **M. Soares made a motion to approve and sign the minutes from the**  
27 **September 11, 2013 meeting. L. Wiles seconded the motion.** No  
28 discussion. **Vote on the motion: 5-0-2.**

29 (L. Wiles and C. Davies abstained as they were absent from the September 11,  
30 2013 meeting).  
31

32 Minutes for September 4, 2013 and September 11, 2013 were approved and  
33 signed at the conclusion of the meeting.  
34

35 [T. Freda arrived at 7:05, L. El-Azem arrived at 7:07, and L. Reilly arrived at  
36 7:10 PM].  
37

38 B. Plans to Sign – Woodmont Commons Planned Unit Development (PUD) Master  
39 Plan  
40

41 C. May stated that all precedent conditions for approval have been met and  
42 that Staff recommends signing the PUD Master Plan.  
43

44 **M. Soares made a motion to authorize the Chair and Secretary to sign**  
45 **the PUD Master Plan. J. Laferriere seconded the motion.**  
46

47 C. Davies asked for clarification regarding the applicability of Conditional Use  
48 Permits (CUPs) on the PUD Master Plan. Ari Pollack, attorney for the applicant,  
49 explained that a modification made to the final plan involved the exemption of

1 the development from the need to request CUPs required by the zoning  
2 ordinance under Section 1.5.2., with the exception of those related to "the  
3 disruption of wetlands and associated buffers within the Conservation Overlay  
4 District." With the granting of the waiver from Section 1.5.2 on September 11,  
5 all other 'conditional uses' referred to in previous versions of the Master Plan  
6 have been removed. Mitigation for impacts related to individual site and  
7 subdivision plans, he added, can still be considered when the Board considers  
8 such plans  
9

10 There was no further discussion. **Vote on the motion: 9-0-0.** The PUD  
11 Master Plan was signed at the conclusion of the meeting.  
12

13 Later in the meeting during "Discussions with Town Staff," L. Wiles asked when  
14 site or subdivision plans for Woodmont Commons might be expected. C. May  
15 said that is unknown at this point. L. Wiles then asked if the site plan process  
16 for individual developments within the PUD should be reviewed for the benefit  
17 of the Board. C. May stated that the procedure is no different than that  
18 followed by any proposal that comes before the Board, except for the  
19 developer's self-imposed condition that conceptual presentations to the Board  
20 are required. While conceptual presentations are typically encouraged by  
21 Staff, C. May noted that they are not a requirement of the town's site or  
22 subdivision regulations.  
23

24 A. Rugg added that an email from resident Joe Maggio regarding Woodmont  
25 Commons was received with a request that it be read into the record, however  
26 A. Rugg stated that since the public hearing is no longer open, the email will  
27 not be read. He said it is included in the Planning Board's read file (see  
28 Attachment #1).  
29

- 30 C. Extension Request - The Nevins Retirement Cooperative Association Site Plan  
31 Amendment, 2 Wesley Drive, Map 7 Lot 122  
32

33 C. May explained that in June of this year, the Planning Board had made a  
34 recommendation to the Town Council to allow the discontinuation of the  
35 easement related to public walking trails on map 7 lot 122. Because the Town  
36 Council has not yet resolved the issue and the conditional approval by the  
37 Planning Board will expire on October 3, a letter was received from Attorney  
38 Morgan Hollis, representative for the Nevins Retirement Cooperative  
39 Association, requesting a 120 day extension of the site plan amendment to  
40 January 31, 2014.  
41

42 **M. Soares made a motion to grant a 120 day extension of the Nevins**  
43 **Retirement Cooperative Association site plan amendment to January**  
44 **31, 2014. L. Wiles seconded the motion.** No discussion. **Vote on the**  
45 **motion: 9-0-0.** The extension for 120 days was granted.  
46

- 47 D. Regional Impact Determinations – Walton Circle Subdivision Plan, Map 18 Lot  
48 15-6 and Mill Pond Subdivision Amendment, Map 18 Lots 13-97 & 99  
49

- Walton Circle Subdivision Plan, Map 18 Lot 15-6  
50

1  
2 C. May reported Staff's determination that the condominium conversion  
3 proposed by Gladys M. Gontarz and Steve Gontarz is not a development  
4 of regional impact, as it does not meet any of the regional impact  
5 guidelines suggested by Southern NH Planning Commission (SNHPC).

6  
7 **M. Soares made a motion to accept Staff's recommendation that**  
8 **this project is determined not to be of regional impact under RSA**  
9 **36:56. L. Wiles seconded the motion. No discussion. Vote on the**  
10 **motion: 9-0-0.**

- 11
- 12 • C. May stated that Brook Hollow Corporation is proposing a subdivision  
13 plan amendment to: 1) modify the previously approved construction  
14 phasing of the Mill Pond development on map 18, lots 13-97 and 99, and  
15 2) remove all proposed private walking trails approved in the 1998  
16 subdivision plan, along with a proposed recreational field that is by and  
17 large inaccessible by homeowners within the development. She said  
18 that staff recommends this project is not a development of regional  
19 impact, as it does not meet any of the regional impact guidelines  
20 suggested by SNHPC.

21  
22 **M. Soares made a motion to accept Staff's recommendation that**  
23 **this project is determined not to be of regional impact under RSA**  
24 **36:56. L. Wiles seconded the motion. No discussion. Vote on the**  
25 **motion: 9-0-0.**

26  
27 E. Discussions with Town Staff

- 28 • Liberty Utilities

29  
30 J. R. Trottier explained that in preparing to begin the second phase of  
31 their site plan amendment on map 7, lot 34-1, Liberty Utilities has  
32 proposed three minor changes that they are asking the Board to allow  
33 Staff to handle administratively. The first is to relocate a parking island  
34 currently planned towards the southern end of the parking lot to the  
35 southernmost tip (see Attachment #2) in order to accommodate snow  
36 plowing. The second request is add two parking spaces where a garage  
37 had been planned since the garage is no longer needed. Lastly, a  
38 landscape island adjacent to the southwest corner of the building would  
39 be removed, with the area being restriped and the landscape plantings  
40 relocated to the southeastern corner of the building. J. R. Trottier noted  
41 that the emergency generator originally planned for that southeast  
42 corner was moved to the northwest corner. The Board had approved a  
43 request for the change to be handled administratively earlier in the year.  
44 A. Rugg asked for comments and questions from the Board. L. Reilly  
45 confirmed that the emergency generator has in fact been relocated. M.  
46 Soares asked if the location of the proposed garage had been intended  
47 to block the view of the garbage dumpster from the street. J. R. Trottier  
48 stated that the dumpster is hidden by an enclosure. The consensus of  
49 the Board was to allow the changes to be handled administratively by  
50 Staff.

- (See also discussion following the adoption of the Woodmont Commons PUD Master Plan)

### Public Hearings

- A. Impact Fee Ordinance Amendment – Public Hearing for a Proposed Amendment to Section 1.2 Impact Fees of the Zoning Ordinance to replace the section in its entirety with revised language to reflect consistency with updates to NH RSA's [Continued on September 11, 2013 to October 2, 2013].

Town Attorney Michael Ramsdell stated that the language associated with two sections of the proposed ordinance have been revised since the September 11 public hearing on this matter. The first involves the addition of the words "Where no Planning Board approval is required" to the beginning of the last sentence in proposed Section 1.2.5.1.2 (see Attachment #3, page 4). The additional language clarifies that the statement "Impact fees shall be intended to reflect the effect of development on municipal facilities at the time of the issuance of the building permit" pertains specifically to those developments which did not require Planning Board approval. The second change is the elimination of proposed Section 1.2.8.4. This was removed because while the language comes from the State statute regarding impact fees, it was suggested at the September 11 public hearing that it could also be misleading since the State has deemed it illegal for towns to collect impact fees for State roads. With those revisions, M. Ramsdell said the proposed ordinance is in full and clear compliance with the State statute.

A. Rugg asked for input from the Board. Other than several expressions of agreement with the changes, there were no comments or questions.

A. Rugg asked for input from the public. There was none.

A. Rugg entertained a motion to recommend to the Town Council that the proposed ordinance be adopted. **M. Soares made a motion that the Planning Board recommends the Town Council adopt the impact fee ordinance as amended. L. Wiles seconded the motion.** No discussion.  
**Vote on the motion: 9-0-0.**

- B. Gladys M. Gontarz and Steve Gontarz (Owners and Applicants), Map 18 Lot 15-6, Application Acceptance and Public Hearing for formal review of a subdivision plan to convert an existing duplex building to a condominium use at 6 Walton Circle, Zoned AR-I.

A. Rugg explained to the applicants that the Board will first vote on accepting the application as complete. A presentation can then be made, after which the Board will have 65 days to render a decision under State law.

J. R. Trottier stated that there were no checklist items, and staff recommended the application be accepted as complete.

1 **M. Soares made a motion to accept the application as complete. L.**  
2 **Wiles seconded the motion. No discussion. Vote on the motion: 9-0-0.**  
3 **The application was accepted as complete.**  
4

5 Tim Peloquin of Promised Land Survey in Derry, NH presented on behalf of the  
6 applicants who are proposing a subdivision which will convert an existing  
7 duplex into to two condex units. The property is 1.4 acres in size with a  
8 private well and septic system. Of the two driveways, a waiver is being sought  
9 for driveway Profile-A of the northern driveway which currently does not  
10 comply with sight distance regulations. A previous plan with the same request  
11 was conditionally approved by the Board in December of 2005, however the  
12 applicant did not act on that conditional approval. Some small changes have  
13 occurred since that time, but the majority of the plan remains unchanged.  
14

15 A. Rugg asked for Staff input.  
16

17 J. R. Trottier presented the Staff Recommendation memo, noting that of the 18  
18 comments therein, seven are standard recommendations and the remaining 11  
19 are relatively minor conditions.  
20

21 J. R. Trottier read the requested waiver into the record from the Staff  
22 Recommendation memo:  
23

24 The Applicant requests a waiver of Section 3.09, Streets F, Driveways 2 of the  
25 subdivision plan regulations regarding the certification of proper sight distance  
26 for proposed driveways on Town roads. The plan, however, indicates that the  
27 sight distance requirement can be satisfied for both driveways with minimal  
28 regrading. Planning Staff recommends granting the waiver as the driveway in  
29 question is existing. DPW Staff recommends not granting the waiver and that  
30 the required regrading should be performed to improve sight distance as  
31 indicated.  
32

33 A. Rugg asked for Board input. C. Davies verified with Staff that the deficiency  
34 in sight distance for Profile-A is related to an existing driveway on a Town road  
35 that sees little traffic. R. Brideau confirmed with T. Peloquin that the acreage  
36 of the lot would be divided evenly between owners. M. Soares asked about the  
37 specifics involving the aforementioned sight distance issue. J. R. Trottier  
38 stated that the plan shows 18 inches of material would need to be removed,  
39 something he considered minimal that might only require a half day's work to  
40 accomplish. L. El-Azem asked what conditions prevent the ability to meet the  
41 required sight distance and whether an intersection is located nearby after  
42 turning the corner on Walton Circle and heading east. T. Peloquin answered  
43 that a hill associated with the side slopes of the septic system on the property  
44 interferes with the full sight distance requirement and that the horseshoe  
45 shape of Walton Circle continues a ways before it meets Old Derry Road.  
46

47 A. Rugg asked for public input. There was no public comment.  
48

1 **M. Soares made a motion to grant the waiver based on Planning Staff's**  
2 **recommendation. L. Wiles seconded the motion. No discussion. Vote**  
3 **on the motion: 8-1-0** with M. Soares in opposition. The waiver was granted.  
4

5 **M. Soares made a motion to conditionally approve the subdivision plan**  
6 **with the following conditions:**

7  
8 "Applicant", herein, refers to the property owner, business owner, or  
9 organization submitting this application and to his/its agents, successors, and  
10 assigns.

11  
12 **PRECEDENT CONDITIONS**

13  
14 All of the precedent conditions below must be met by the Applicant, at the  
15 expense of the Applicant, prior to certification of the plans by the Planning  
16 Board. Certification of the plans is required prior to commencement of any site  
17 work, any construction on the site or issuance of a building permit.

- 18  
19 1. The Applicant shall note all waivers granted on the plan.
- 20  
21 2. The Applicant shall amend the plan title from "Condominium Site Plan" to  
22 "Condominium Subdivision Conversion Plan."
- 23  
24 3. The Applicant shall ensure that all abutting lots are represented accurately.  
25 The Applicant shall also revise the abutter list accordingly.
- 26  
27 4. The Applicant shall remove notes 14 and 20 on the plan because they refer  
28 to the previously approved waiver and conditionally approved plan that  
29 have no impact on the current proposal. The Applicant shall include note Q  
30 per section 4.11 of the Subdivision Regulations in the notes on the plan.
- 31  
32 5. The Applicant shall verify full and accurate ownership on the plan.
- 33  
34 6. The Applicant shall provide copies of the three permits listed on the plan  
35 notes along with verification that all permits are still active.
- 36  
37 7. The Applicant shall revise the plan notes regarding the sheets to be  
38 recorded at the Rockingham County Registry of Deeds or provide  
39 explanation as to why sheets 2 and 4 should be recorded. The Planning  
40 Board signature block shall be removed from any sheets not to be  
41 recorded.
- 42  
43 8. The Applicant shall clarify whether a drainage easement is proposed as  
44 indicated in checklist item 18 since there is no proposed easement shown  
45 on the plan.
- 46  
47 9. The Applicant shall provide a copy of the "Declaration of Condominium  
48 Covenants."
- 49  
50 10. The Applicant shall provide the stamp of the wetland scientist associated

1 with the project.  
2

3 11. The Applicant shall address all DRC comments with the appropriate  
4 department, and provide confirmation in writing that the items have been  
5 completed.  
6

7 12. The Applicant shall provide a digital (electronic) copy of the complete final  
8 plan sent to the Town at the time of signature by the Board in accordance  
9 with Section 2.06.N of the regulations.  
10

11 13. The Applicant shall provide a check for \$25 (made payable to the  
12 *Rockingham County Registry of Deeds*) to pay for the LCHIP tax that  
13 became effective on recording of all plans and documents at the registry on  
14 July 1, 2008.  
15

16 14. The Applicant shall note all general and subsequent conditions on the plans  
17 (must be on a sheet to be recorded, or a separate document to be  
18 recorded with the subdivision plans), per the new requirements of  
19 RSA 676:3  
20

21 15. Outside consultant's fees shall be paid within 30 days of approval of the  
22 plan.  
23

24 16. Financial guaranty if necessary.  
25

26 17. The Applicant shall provide the Owner's signature on the plan.  
27

28 18. Final engineering review  
29

30 **PLEASE NOTE -** Once these precedent conditions are met and the plans are  
31 certified, the approval is considered final. If these conditions are not met within  
32 two years to the day of the meeting at which the Planning Board grants  
33 conditional approval the board's approval will be considered to have lapsed and  
34 re-submission of the application will be required. See RSA 674:39 on vesting.  
35

36 **GENERAL AND SUBSEQUENT CONDITIONS**  
37

38 All of the conditions below are attached to this approval.  
39

40 1. No construction or site work for the subdivision may be undertaken until the  
41 pre-construction meeting with Town Staff has taken place, filing of an  
42 NPDES-EPA Permit and the site restoration financial guaranty is in place  
43 with the Town. Contact the Department of Public Works to arrange for this  
44 meeting.  
45

46 2. The project must be built and executed exactly as specified in the approved  
47 application package unless modifications are approved by the Planning  
48 Department & Department of Public Works, or if Staff deems applicable, the  
49 Planning Board.  
50

- 1 3. All of the documentation submitted in the application package by the  
2 Applicant and any requirements imposed by other agencies are part of this  
3 approval unless otherwise updated, revised, clarified in some manner, or  
4 superseded in full or in part. In the case of conflicting information between  
5 documents, the most recent documentation and this notice herein shall  
6 generally be determining.  
7
- 8 4. It is the responsibility of the Applicant to obtain all other local, state, and  
9 federal permits, licenses, and approvals which may be required as part of  
10 this project (that were not received prior to certification of the plans).  
11 Contact the Building Division at extension 115 regarding building permits.  
12

13 **L. Wiles seconded the motion.** No discussion. **Vote on the motion:**  
14 **9-0-0.** The plan was conditionally approved.  
15

- 16 C. Brook Hollow Corporation (Owner and Applicant), Map 18 Lots 13-97 and 99,  
17 Application Acceptance and Public Hearing for formal review of a subdivision  
18 plan amendment to: 1) revise construction phasing and associated sewer and  
19 drainage improvements, 2) remove all proposed trails as shown on the  
20 approved 1998 subdivision plan and 3) remove the proposed recreational field  
21 to be constructed at the intersection of Manter Mill Road and Homestead Lane  
22 as shown on the approved 1998 subdivision plan at 140 Old Derry Road,  
23 Zoned AR-I.  
24

25 J. R. Trottier stated that there were no checklist items, and staff recommended  
26 the application be accepted as complete.  
27

28 **M. Soares made a motion to accept the application as complete.** **L.**  
29 **Wiles seconded the motion.** No discussion. **Vote on the motion: 9-0-0.**  
30 The application was accepted as complete.  
31

32 A. Rugg stated that this starts the 65 day time frame under RSA 676:4.  
33

34 Brian Pratt of CLD Consulting Engineers was joined by Bob LaMontagne of  
35 Brook Hollow Corporation to present this subdivision plan modification. With  
36 the completion of the Phase II approved by the Planning Board in 2011, the  
37 builder is prepared to commence with Phase III. That phase was originally  
38 planned to continue north from Phase II on Hunter Mill Way and then turn west  
39 at a 90 degree angle onto Bellflower Hollow rather than ending in the approved  
40 cul de sac in order to comply with the maximum cul de sac length of 1,200 feet  
41 (see Attachment #4). The proposed phasing amendment would reduce Phase  
42 III by half and dead end at the cul de sac rather than turning onto Bellflower  
43 Hollow (see Attachment #5). This would aid the developer by enabling him to  
44 sell the homes along Hunter Mill Way before having to complete the Bellflower  
45 Hollow road and associated infrastructure. A waiver is therefore requested  
46 from the maximum cul de sac length to allow for a temporary length of 1,900  
47 feet starting at Snowberry Hollow). The Fire Department has given consent for  
48 the builder to employ a temporary 75 foot hammerhead turnaround where  
49 Bellflower will eventually be constructed. Minor modifications are also



1 proposed for the sewer and stormwater designs to accommodate the phasing  
2 alteration.

3  
4 In addition to the request to alter the phasing, the applicant is also seeking to  
5 remove the private walking trails and one of the recreation fields approved as  
6 part of the original 1999 subdivision. When preparing to begin their  
7 construction, the Mill Pond Homeowners Association voted unanimously at an  
8 Association meeting and signed a petition to have the trails and single  
9 recreation field removed from the plan. Not only did homeowners feel the  
10 trails would go unused by those in the development, they expressed safety  
11 concerns with the proximity of the trail to the residences, particularly since  
12 restricting the use of the trails to the general public was unenforceable. The  
13 recreation field was deemed impractical because there is no direct access from  
14 adjacent houses and its maintenance would therefore be an unnecessary  
15 financial burden. B. Pratt noted that no density bonuses or other incentives  
16 were given to the developer in exchange for the recreational features approved  
17 in 1999. J. R. Trottier added that the applicant met with the Conservation  
18 Commission about the elimination of the trails since the subdivision plan had  
19 called for the developer to coordinate the trails with the Commission. The  
20 Commission supported the removal of both the trails and the field. C. May  
21 stated that Staff had recommended that a second recreational field located in  
22 between Hunter Mill and Manter Mill Roads be retained, even if no structures or  
23 ball fields are placed there. B. Pratt verified that the area C. May referred to  
24 would remain as planned, i.e. as a multi-purpose flat grassed area for  
25 recreational purposes.

26  
27 A. Rugg asked for additional Staff input.

28  
29 J. R. Trottier read the requested waiver into the record from the Staff  
30 Recommendation memo:

31  
32 The Applicant requests a waiver of Section 3.09 Streets, Table 1, of the  
33 subdivision plan regulations regarding maximum length of the cul-de-sac.  
34 Staff recommends granting the waiver as this is a temporary situation and  
35 since the Fire Department agreed with the request, provided that a temporary  
36 hammerhead be constructed at the intersection of Hunter Mill and Bellflower  
37 Hollow as proposed.

38  
39 J. R. Trottier summarized the Staff Recommendation memo, highlighting the  
40 only two technical comments regarding confirmation that the existing pump  
41 station can accommodate additional flow caused by the change in phasing and  
42 confirmation from Manchester Water Works that they are amenable to the  
43 changes.

44  
45 A. Rugg asked for Board input. L. Reilly verified that 100% of the members of  
46 the Homeowner's Association were in favor of removing the recreational field in  
47 question. When L. El-Azem confirmed with J. R. Trottier that no time limit  
48 exists to construct Bellflower Hollow and consequently connect Hunter Mill Way  
49 to Manter Mill Road, she also received affirmation that the "temporary"  
50 hammerhead could conceivably become permanent. J. R. Trottier reiterated,

1 however, that the Fire Department has approved the turnaround. M. Soares  
2 asked if the temporary changes to the drainage design would degrade the land  
3 in any way and make it unbuildable when a home is eventually constructed  
4 there. J. R. Trottier said what is planned would not pose any difficulties when  
5 building later on. T. Freda confirmed with B. Pratt that the number of  
6 proposed lots would not be changing as a result of the proposed amendments.  
7 M. Newman expressed concern that with removal of the recreational field as  
8 proposed, there would not appear to be adequate green space for the 114 unit  
9 subdivision as a whole. B. Pratt noted that land around the entire perimeter of  
10 the development is considered green space, although some of it is wooded and  
11 designated a "no-cut" area and other portions are comprised of wetlands. C.  
12 Davies noted that there would actually still be two open space areas within the  
13 span between Snowberry Hollow and Bellflower Hollow. L. Wiles asked if the  
14 area where the recreational field was to be built would be used for residential  
15 homes, but B. Pratt explained it would remain part of the protected open space  
16 in the development. When asked by M. Soares how inclusion in the 1999 plan  
17 of the recreational field came about, B. LaMontagne said the Planning Board at  
18 the time had requested it. A. Rugg recalled that the engineer of the original  
19 subdivision plan had suggested it and that the Board agreed.

20  
21 A. Rugg asked for public input. There was no public comment.

22  
23 M. Soares asked if a condition could be placed on the requested waiver to  
24 ensure the remainder of the subdivision is completed within a specific  
25 timeframe. J. R. Trottier advised that such a condition could not be placed on  
26 the waiver and A. Rugg restated that the Fire Department has approved the  
27 temporary turnaround.

28  
29 **M. Soares made a motion to grant the waiver based on Staff's**  
30 **recommendation. L. Wiles seconded the motion.** No discussion. **Vote**  
31 **on the motion: 7-2-0** with M. Soares and M. Newman in opposition. The  
32 waiver was granted.

33  
34 **M. Soares made a motion for discussion purposes to conditionally**  
35 **approve the subdivision plan amendment. L. Wiles seconded the**  
36 **motion.**

37  
38 M. Soares and M. Newman stated their preference for the removal of the  
39 recreational field from the amendment request. M. Soares noted that only a  
40 third of homes in the development have been built, therefore not all the  
41 eventual homeowners have had a say in retaining the field. T. Freda countered  
42 that theoretically, the development could end before the remainder of the  
43 houses are built. He also reasoned that if those living there now are  
44 unanimously opposed to the recreational field, their request should be granted  
45 since they are those most affected by it. Paul Silva, 2 Hunter Mill Way,  
46 explained that the recreational field is viewed by the 14 existing homes as  
47 impractical because it is geographically "not a part of their development" and  
48 therefore not worth spending Association dollars on to maintain. If it could be  
49 moved to an area that is readily accessible by the homes, he said there would  
50 no objection to it. M. Soares also expressed trepidation that approval of this

1 amendment may cause developers to feel they can receive Planning Board  
2 approval for a development based in part on certain added amenities that can  
3 later be removed. C. May advised that moving forward, the Board impose a  
4 condition that any approved amenities be constructed in advance of the homes  
5 being sold. B. Pratt noted that in this case, the developer had planned on  
6 constructing the trails and recreation field; the issue of removing them was  
7 brought up by homeowners when the developer announced their impending  
8 development.

9  
10 There was no further input from the Board. **A. Rugg called for a vote on the**  
11 **motion to conditionally approve the subdivision plan with the following**  
12 **conditions:**

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

17  
18 **PRECEDENT CONDITIONS**

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

- 24  
25 1. The Applicant shall note all waivers granted on the plan.  
26  
27 2. The Applicant shall include on the cover sheet a table identifying the  
28 proposed changes to the number of units in the various phases, e.g.:

29

Phase	No. of lots included in the approved plan	No. of lots included in the proposed amendment
III	55	27
IV	5	33
V	8	8
VI	5	5

- 30  
31 3. The Applicant shall provide an index of the five sheets included in the plan  
32 set to differentiate from the indication in the title block that the cover sheet  
33 is "Sheet 10 of 21." The Applicant shall renumber the remaining four  
34 sheets accordingly.  
35  
36 4. The Applicant shall provide a copy of the temporary drainage easement  
37 deed.  
38  
39 5. The Applicant shall include in the title block all the lots affected by the  
40 proposal, i.e. 18-13, 18-13-97 and 18-13-99.

- 1
- 2 6. The Applicant shall align the ownership information within the title block
- 3 with the title "Owner of Record."
- 4
- 5 7. The Applicant shall confirm the existing pump station can accommodate the
- 6 additional flow as a result of the revised phasing.
- 7
- 8 8. The Applicant shall provide written confirmation from Manchester Water
- 9 Works that they find the revised phasing acceptable.
- 10
- 11 9. The Applicant shall provide a digital (electronic) copy of the complete final
- 12 plan sent to the Town at the time of signature by the Board in accordance
- 13 with Section 2.06.N of the regulations.
- 14
- 15 10. The Applicant shall provide a check for \$25 (made payable to the
- 16 *Rockingham County Registry of Deeds*) to pay for the LCHIP tax that
- 17 became effective on recording of all plans and documents at the registry on
- 18 July 1, 2008.
- 19
- 20 11. The Applicant shall address all DRC comments with the appropriate
- 21 department, and provide confirmation in writing that the items have been
- 22 completed.
- 23
- 24 12. The Applicant shall note all general and subsequent conditions on the plans
- 25 (*must be on a sheet to be recorded, or a separate document to be*
- 26 *recorded with the subdivision plans*), per the new requirements of RSA
- 27 676:3.
- 28
- 29 13. Outside consultant's fees shall be paid within 30 days of approval of the
- 30 plan.
- 31
- 32 14. Financial guaranty if necessary.
- 33
- 34 15. The Applicant shall provide the Owner's signature on the plan.
- 35
- 36 16. Final engineering review
- 37

38 **PLEASE NOTE -** Once these precedent conditions are met and the plans are  
39 certified, the approval is considered final. If these conditions are not met within  
40 two years to the day of the meeting at which the Planning Board grants  
41 conditional approval the board's approval will be considered to have lapsed and  
42 re-submission of the application will be required. See RSA 674:39 on vesting.

43  
44 **GENERAL AND SUBSEQUENT CONDITIONS**

45  
46 All of the conditions below are attached to this approval.

- 47
- 48 1. No construction or site work for the subdivision may be undertaken until the
- 49 pre-construction meeting with Town Staff has taken place, filing of an
- 50 NPDES-EPA Permit and the site restoration financial guaranty is in place

1 with the Town. Contact the Department of Public Works to arrange for this  
2 meeting.

3  
4 2. The project must be built and executed exactly as specified in the approved  
5 application package unless modifications are approved by the Planning  
6 Department & Department of Public Works, or if Staff deems applicable, the  
7 Planning Board.

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

15  
16 4. It is the responsibility of the Applicant to obtain all other local, state, and  
17 federal permits, licenses, and approvals which may be required as part of  
18 this project (that were not received prior to certification of the plans).  
19 Contact the Building Division at extension 115 regarding building permits.

20  
21 No further discussion. **Vote on the motion: 8-1-0** with M. Soares in  
22 opposition. The plan was conditionally approved.

23  
24 Other Business

25  
26 A. Planning Board correspondence policy.

27  
28 The question of a need for a policy regarding correspondence being read into  
29 the record was recently proposed as a result of interested parties submitting  
30 numerous letters and emails with the request they be read during the  
31 Woodmont Commons public hearings.

32  
33 A. Rugg noted that under the Board's own Rules of Procedure, Section 6.5  
34 states that "Any applicant, any abutter or any person with an interest in the  
35 matter may testify in person or in writing," therefore correspondence, including  
36 emails, must be considered testimony. He added that creating a policy could  
37 infringe on the right to free speech as long as the comments are within the  
38 bounds of the topic at hand and are not considered offensive or improper.  
39 Outside of the Woodmont Commons hearings, he said, the Board does not  
40 often encounter the request for correspondence to be read into the record.  
41 Letters that do not come with such a request are included in the Board's read  
42 file, which is also accessible by the general public. Therefore A. Rugg did not  
43 see the need for a policy. M. Newman expressed concern that when an author  
44 requests that their correspondence be read in its entirety, inappropriate or  
45 offensive comments can therefore be entered into the record, whereas if such  
46 comments are made by a person in attendance at a public hearing, the Chair  
47 can choose to disallow the comments. A. Rugg said that the same could be  
48 done with letters or emails; if portions of the entirety of the correspondence  
49 lacks decorum or appropriate behavior, the Board can choose not to read it  
50 into the record. In fact, reading slanderous or malicious comments could

1 cause issues of libel for the Board. T. Freda questioned whether allowing all  
2 correspondence to be read into the record will encourage more interested  
3 parties to simply submit comments in writing instead of attending the public  
4 hearing. He suggested that letters simply be attached to the minutes as well  
5 being available in the read file. If they are read into the record, he asked that  
6 members of the public who are present for the hearing be considered first. L.  
7 Wiles noted that when the author is not present at the hearing, the Board and  
8 public do not have the opportunity to ask questions or seek clarification on any  
9 point. A. Rugg summarized that when a letter is received by the Board, it will  
10 be placed in the read file and attached to the minutes. M. Newman pointed out  
11 that Section 6.5 referred to earlier does not state that any testimony submitted  
12 in writing must be read by the Board.  
13

14 L. El-Azem asked that the Chair also reiterate the Board's policy regarding  
15 questions posed to Board members outside of a public meeting. A. Rugg  
16 stated that while Board members can choose to answer the question, they can  
17 also refer all questions to the Chair.  
18

19 **Adjournment:**

20  
21 **M. Soares made a motion to adjourn the meeting. L. Wiles seconded the**  
22 **motion. Vote on the motion: 9-0-0.**  
23

24 The meeting adjourned at 8:18 PM.

25  
26 These minutes prepared by Associate Planner Jaye Trottier  
27

28 Respectfully Submitted,  
29  
30  
31  
32

33 Lynn Wiles, Secretary

**Jaye Trottier**

---

**Subject:** FW: PUD Wodmont Commons

**From:** [joem70rt@comcast.net](mailto:joem70rt@comcast.net) [<mailto:joem70rt@comcast.net>]

**Sent:** Sunday, September 15, 2013 10:59 AM

**To:** Art Rugg

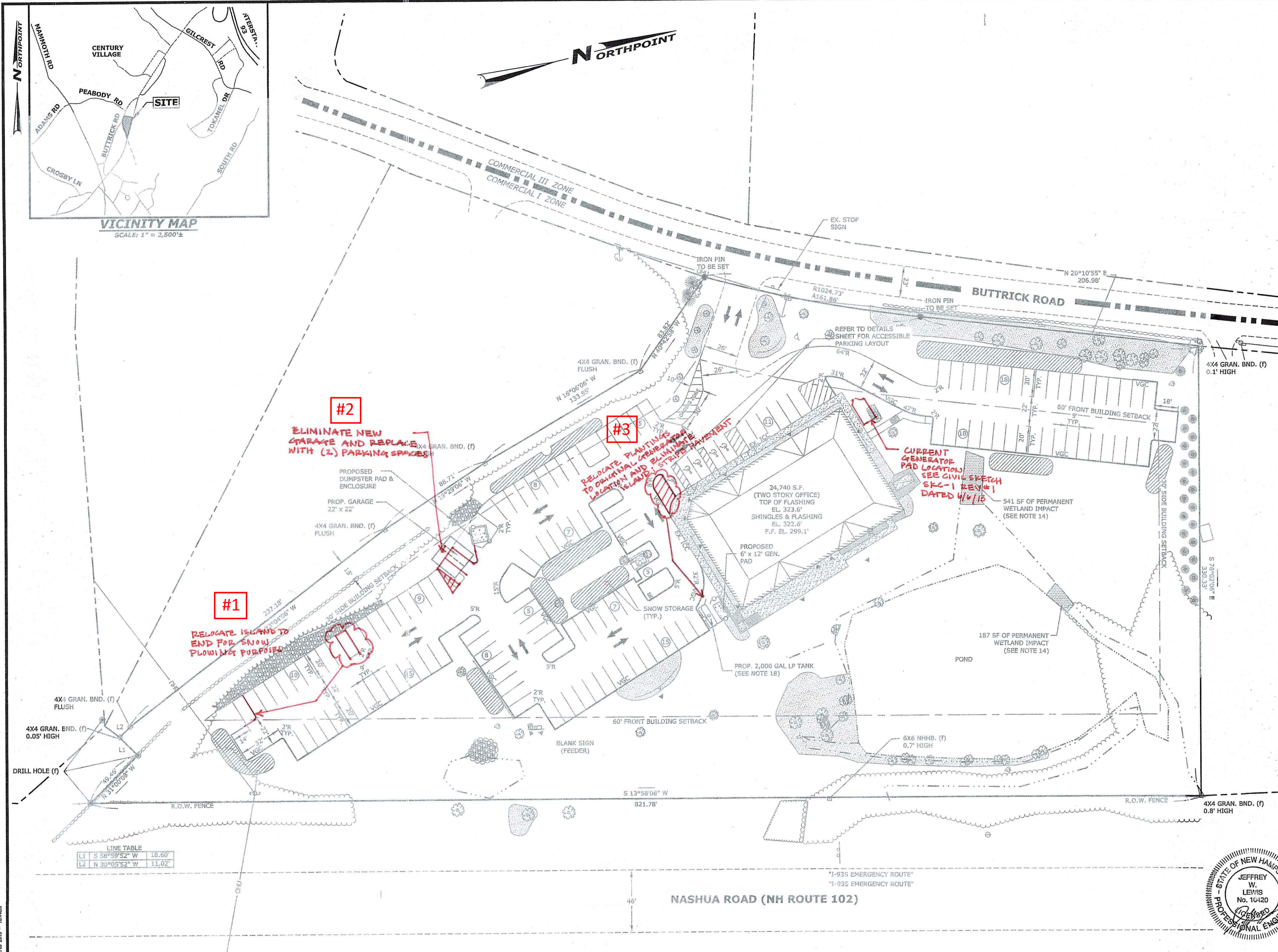
**Subject:** PUD Wodmont Commons

I would like this Email read in it's entirety at the next available Planning Board Meeting

Now that all doubts as to whether the Woodmont project would be approved have been dispelled lets look at this. I for one am extremely disappointed in how any of the concerns of the taxpayers who either attended or wrote in about this project were handled. I failed to see any concerns concerning traffic impact resulting in any changes being asked for by the Planning Board. In fact I don't know of any instance where the Planning Board has asked for and received any changes to this Project, if there are they are minuscule. The fact that the plan calls of contiguous land and the Towns Attorney considering Rt 93 as a mere hop skip and a jump and not a highway separating these 2 parcels is ridiculous. At first the Planning Board seemed dazzled by the presentations made, The traffic study paid for by the Developer would yield MITIGATING traffic problems. Why did the Town not pay for our own traffic study. Would you be foolish enough to think that that study paid for by the Developer would yield any other result other than it will be no problem?

After much criticism from the Public the Planning Board started to ask questions. They seemed less like Seals in a Shark tank. But alas they were. Then comes the Presentation made by one of our citizens, He was not allowed to mention the names of the Principals who for some reason are considered in the Witness Protection Plan. These same individuals who are represented on the so called Conservation Commission, and in that Position advocate buying up (using Taxpayers money) development rights of other property owners never considered selling this property to the Town. Now the Witness Protection individuals are listed on the Development Document as Partners. I for one am very disappointed in the participation of many of the homeowners and taxpayers . I distributed fliers to approximately 100 homes to inform and solicit attendance at these meetings. Of that 100 maybe 4 or 5 ever showed up at the meetings. In closing I suggest that the names of all the Planning Board Members as well as the names(not the business name) responsible for this fine project be at all the entrances of Woodmont Commons as a tribute to their efforts. Joe Maggio 17 Cortland St

This email message and any attachments are confidential and intended for use by the addressee(s) only. If you are not the intended recipient, please notify me immediately by replying to this message, and destroy all copies of this message and any attachments. Thank you.



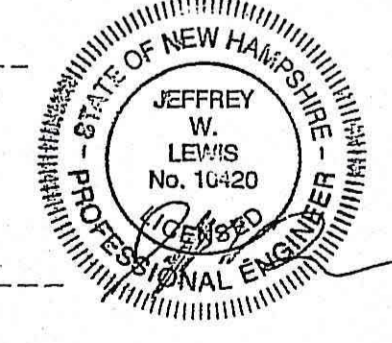
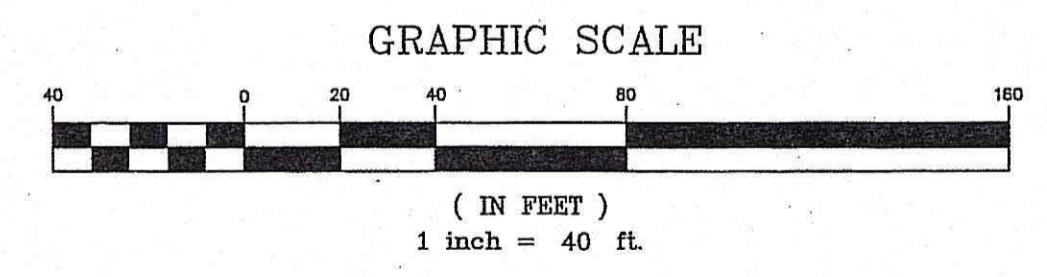
- NOTES:**
- THE PURPOSE OF THIS PLAN IS TO DEPICT THE PROPOSED SITE IMPROVEMENTS ASSOCIATED WITH THE REDESIGN OF A PREVIOUSLY APPROVED PARKING LOT ON THE SUBJECT PARCEL OF LAND, WHILE INCREASING PARKING SPACES AND REDUCING IMPERVIOUS AREA.
  - REFERENCE THIS PARCEL AS TOWN OF LONDONDERRY TAX MAP 7 LOT 34-1.
  - AREA OF SUBJECT PARCEL IS 218,805 SF (5.02 ACRES).
  - THE ZONING DESIGNATION OF THE SUBJECT PARCEL IS COMMERCIAL I (C-1).
  - THE SUBJECT PARCEL AND PROPOSED USE IS SUBJECT TO THE FOLLOWING DIMENSIONAL REQUIREMENTS OF SECTION 2.3 OF THE LONDONDERRY ZONING ORDINANCE AND SECTION 5.02 OF THE LONDONDERRY SITE PLAN REGULATIONS AS FOLLOWS:
 

MIN. LOT SIZE:	2-ACRES (87,120 SF)	
MIN. LOT FRONTAGE:	150-FEET	
MIN. BUILDING SETBACKS:	FRONT: 60-FEET	
	SIDE: 30-FEET	
	REAR: 30-FEET	
MAX. BUILDING HEIGHT:	50-FEET	
MIN. LANDSCAPE BUFFER:	30-FEET (FRONT) & 15-FEET (SIDE)	
  - THE EXISTING USE ON THE SUBJECT PARCEL IS A VACANT OFFICE BUILDING. THE PROPOSED USE ON THIS SUBJECT PARCEL IS AN OFFICE.
  - PARKING REQUIREMENTS:
 

REQUIRED SPACES:	OFFICE: 24,740 SF @ 1 SPACE / 200 SF = 124 SPACES
	ACCESSIBLE SPACES: 101-150 REQUIRES 5 SPACES = 5 SPACES OF 124 TO BE ACCESSIBLE
	TOTAL REQUIRED PARKING = 124 SPACES
PROPOSED SPACES:	141 SPACES, INCLUDING 5 ACCESSIBLE SPACES
  - GREEN AREA CALCULATION:
 

TOTAL LOT AREA	= 218,805 SF
- PROP. IMPERVIOUS AREA	= 71,090 SF
TOTAL GREEN AREA	= 147,715 (68%) (33% MIN. REQUIRED)
  - BUILDING COVERAGE: THE PROPOSED BUILDING COVERAGE ON THE SITE IS 12,922 SF (6%).
  - THE EXISTING BUILDING IS SERVICED BY AN EXISTING INDIVIDUAL ONSITE SEPTIC SYSTEM.
  - THE EXISTING BUILDING IS SERVICED BY PENNICHUCK WATER WORKS FOR BOTH DOMESTIC WATER AND FIRE PROTECTION WATER SERVICES.
  - A VARIANCE TO CONSTRUCT NEW OFFICE BUILDING WITH THE REQUIRED 50 FT. BUFFER ZONE TO RESIDENTIAL AREA WAS GRANTED WITH RESTRICTIONS PER CASE NO. 11/17/92-3, REQUESTED BY DAVID F. & MARY DENNINGER.
  - THIS PARCEL OF LAND (MAP 7 LOT 34-1) DOES NOT LIE IN A 100-YEAR FLOOD PLAIN AS INTERPOLATED FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, TOWN OF LONDONDERRY, FLOOD HAZARD BOUNDARY MAP #3301SC0526; MAP REVISED 05/17/2005.
  - THIS PROJECT REQUIRES AN NHDES DREDGE AND FILL PERMIT BUT NOT AN NHDES ALTERATION OF TERRAIN PERMIT DUE TO AN IMPACT AREA OF 90,000 SF. ASSUMING TOTAL REMOVAL OF EXISTING PAVEMENT (GROUND DISTURBANCE)
 

PERMIT NAME	APPLICATION DATE	PERMIT DATE	PERMIT NO.
NHDES EXPEDITED DREDGE AND FILL	01/24/2013	2/20/13	2013-00297
  - ON 2/6/2013 THE LONDONDERRY PLANNING BOARD GRANTED THE FOLLOWING WAIVERS FROM THE SITE PLAN REGULATIONS:
    - SECTION 3.07.G.3 WAIVER FOR LESS THAN 3" OF PIPE COVER ON EXISTING DRAIN STRUCTURE CB7, CB5 CB4, CB3, CB2, CB1, RES#1 AND PROPOSED DRAIN STRUCTURES CB1A, OCS#1 AND OCS#2.
    - SECTION 3.07.G.2 WAIVER FOR A HIGHER PIPE FLOW THAN 10CFS FOR THE 25 YEAR STORM FOR EXISTING STRUCTURE CB1.
    - SECTION 3.11.G.7 PARKING LOT DESIGN STANDARDS - SCREENING FROM RESIDENCES (MAP 7 LOT 34)
    - SECTION 3.14 WAIVER FROM TRAFFIC IMPACT ANALYSIS
  - ALL PLAN SHEETS IN THIS SET ARE ON FILE AT THE TOWN OF LONDONDERRY PLANNING DEPARTMENT.
  - THE PROPOSED PARKING IMPROVEMENTS, DRAINAGE, LIGHTING AND LANDSCAPE WILL BE CONSTRUCTED IN ITS ENTIRETY DURING THE COURSE OF A YEAR, BUT WILL REQUIRE SECTIONS OF PARKING TO BE OPENED AND CLOSED, WHILE PROVIDING ADEQUATE PARKING FOR CURRENT OCCUPANCY AND USE AT THE TIME OF CONSTRUCTION.
  - TEMPORARY PROPANE TANK TO BE REMOVED ONCE NATURAL GAS LINE EXTENSION DOWN BUTTRICK ROAD TAKES PLACE AND EXTENDED INTO THE SITE AT A LATER DATE.
  - TREE PROTECTION FENCING IS REQUIRED AROUND ALL EXISTING TREES TO REMAIN AND MUST BE MAINTAINED THROUGH CONSTRUCTION AND NOT REMOVED TILL END OF CONSTRUCTION. REFER TO EROSION CONTROL PLAN FOR NO-DISTURBANCE LIMITS (TREE PROTECTION).
  - IF, DURING CONSTRUCTION, IT BECOMES APPARENT THAT DEFICIENCIES EXIST IN THE APPROVED DESIGN DRAWINGS, THE OWNER SHALL BE REQUIRED TO CORRECT THE DEFICIENCIES TO MEET THE REQUIREMENTS OF THE REGULATIONS AT NO EXPENSE TO THE TOWN.
  - IF, DURING CONSTRUCTION, IT BECOMES APPARENT THAT ADDITIONAL EROSION CONTROL MEASURES ARE REQUIRED TO STOP ANY EROSION ON THE CONSTRUCTION SITE DUE TO ACTUAL SITE CONDITIONS, THE OWNER SHALL BE REQUIRED TO INSTALL THE NECESSARY EROSION PROTECTION AT NO EXPENSE TO THE TOWN.
  - ALL MATERIALS AND METHODS OF CONSTRUCTION SHALL CONFORM TO TOWN OF LONDONDERRY SUBDIVISION REGULATIONS AND THE LATEST EDITION OF THE NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION.
  - IN ACCORDANCE WITH SECTION 6.01 OF THE LONDONDERRY SITE PLAN REGULATIONS AND RSA 676:13, ALL IMPROVEMENTS SPECIFIED ON THESE SITE PLANS SHALL BE CONSTRUCTED, COMPLETED, INSPECTED AND APPROVED BY THE TOWN OF LONDONDERRY PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
  - IN ACCORDANCE WITH SECTION 6.01 OF THE LONDONDERRY SITE PLAN REGULATIONS AND RSA 676:12, ALL OFF-SITE IMPROVEMENTS SPECIFIED ON THESE SITE PLANS SHALL BE CONSTRUCTED, COMPLETED, INSPECTED AND APPROVED BY THE TOWN OF LONDONDERRY (AND/OR THE NHDOT, IF APPLICABLE) PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
  - THIS PROJECT WILL BE REQUIRED TO OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT COVERAGE AS ISSUED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA). THE OWNER/DEVELOPER AND THE "OPERATOR" (GENERAL CONTRACTOR) SHALL EACH BE REQUIRED TO PREPARE AND SUBMIT A NOTICE OF INTENT (NOI) TO THE EPA PRIOR TO THE START OF CONSTRUCTION. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE PREPARATION AND IMPLEMENTATION OF A STORM WATER POLLUTION PREVENTION PLAN (SWPPP) MEETING THE REQUIREMENTS OF THE CURRENT NPDES PERMIT.



EXISTING		PROPOSED	
[Symbol]	STONE BOUND	[Symbol]	SETBACK
[Symbol]	IRON PIPE/PIH	[Symbol]	WETLAND LIMITS
[Symbol]	DRILL HOLE	[Symbol]	EDGE OF GRAVEL
[Symbol]	SIGN	[Symbol]	EDGE OF PAVEMENT
[Symbol]	UTILITY POLE	[Symbol]	GRANITE CURB
[Symbol]	TREE	[Symbol]	OVERHEAD UTIL.
[Symbol]	BOUNDARY	[Symbol]	STONEWALL
[Symbol]	ABUTTER LINE	[Symbol]	FENCE
		[Symbol]	TREELINE

BENCHMARK DATA	
TBM "A" EL. 293.90'	HUB/MAG(S) FLUSH
TBM "B" EL. 277.07'	MAG(S) IN ROOT
TBM "C" EL. 286.66'	HUB/MAG(S) FLUSH
VERTICAL DATUM NAVD88	
BEARING SYSTEM NEW HAMPSHIRE STATE PLAN GRID NAD83	

REVISIONS:		
NO.	DATE	DESCRIPTION
1	02/15/13	REVISED TO ADDRESS COMMENTS

LAND OWNER OF RECORD  
*Kent Nutrition Group, Inc.*  
 By: *David Thorne, Secy* 2/1/13  
 KENT NUTRITION GROUP, INC.  
 ROCKINGHAM COUNTY REGISTRY OF DEEDS (RCRD) UK 2955 PG 0786

PLANNING BOARD APPROVAL

APPROVED BY THE LONDONDERRY, NH PLANNING BOARD FOR PHASE \_\_\_\_\_  
 ON DATE: 3/6/13

CERTIFIED BY: \_\_\_\_\_  
 CHAIRMAN \_\_\_\_\_  
 SECRETARY *Jeffrey W. Lewis*

**SITE PLAN**  
 PREPARED FOR:  
**LIBERTY UTILITIES**  
 TAX MAP 7 LOT 34-1 (15 BUTTRICK ROAD)  
 LONDONDERRY, NEW HAMPSHIRE

APPLICANT: LIBERTY UTILITIES 9 LOWELL ROAD SALEM, NH 03079	OWNER: KENT NUTRITION GROUP INC. P.O. BOX 749 MUSCATINE, IOWA 52761
--	---

**NORTHPOINT ENGINEERING, LLC**  
 Civil Engineering / Land Planning / Construction Services  
 5 Sheep Davis Rd, Ste F  
 Pembroke, NH 03275  
 Tel 603-226-1166  
 Fax 603-226-1160  
 www.northpointeng.com

DATE: JAN. 2013  
 PROJ: 12027  
 SCALE: 1"=40'  
 SHEET: 2 of 14

File G:\Projects\12027\12027 SITE PLAN.dwg DATE: 27 Feb 2013 10:44am



## Planning Board Meeting Minutes - October 2, 2013 - Attachment #3

### **1.2 IMPACT FEES**

#### **1.2.1 Authority**

These provisions are established pursuant to New Hampshire RSA 674:21, V as an innovative land use control. The administration of this Ordinance shall be in compliance with RSA 674:21, V.

#### **1.2.2 Purpose**

These provisions are intended to:

1.2.2.1 Assist in the implementation of the Town's Master Plan;

1.2.2.2 Promote the Town's public health, safety and welfare, and prosperity;

1.2.2.3 Ensure the adequate provision of public facilities necessitated by the growth and anticipated growth of the Town;

1.2.2.4 Provide for the harmonious development of the Town and its environs; and

1.2.2.5 Assess an equitable share of the growth-related and anticipated growth-related cost of new and expanded public capital facilities to all types of new development in proportion to the capital facility demands created by that development.

#### **1.2.3 Findings**

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

1.2.3.1 The Planning Board adopted a Master Plan in January 1988, and updated it in 1997, 2004 and 2013.

1.2.3.2 The Planning Board has prepared, and regularly updated, a Capital Improvements Program and Budget as authorized by the Londonderry Town Meeting of March 11, 1988.

1.2.3.3 As documented by the Master Plan and the Capital Improvements Program, actual and anticipated municipal growth has and will create the need for construction, equipping, or expansion of capital facilities to provide adequate facilities and services for the Town's residents.

1.2.3.4 The Town is responsible for and committed to the provision of public facilities and services at standards determined to be necessary by the Town to support anticipated residential and non-residential growth and development in a manner which protects and promotes the public health, safety and welfare.

1.2.3.5 The cost of providing public capital facility capacity to serve anticipated new growth will be disproportionately borne by existing taxpayers in the absence of impact fee assessments.

1.2.3.6 The calculation methodology for impact fees, as established by Section 1.2.6.1, shall represent a fair and rational method for the allocation of anticipated growth-related capital facility costs to new development. Based on this methodology, impact fees will not exceed the costs of:

1.2.3.6.1 Providing additional public capital facilities necessitated by the new developments, or

1.2.3.6.2 Compensating the Town for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

1.2.3.7 Impact fee payments from new development will enable the Town to provide adequate public facilities to serve anticipated new growth, and provide new development with a reasonable benefit in proportion to its contribution to the demand for such facilities.

1.2.3.8 The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessitated to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

1.2.3.9 An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Town's Master Plan and Capital Improvements Program.

#### **1.2.4 Definitions**

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

**Impact fee** - A fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space.

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

1. The creation of new dwelling units, except for the replacement of existing units of the same size and density;

2. A net increase in the gross floor area of any nonresidential building or in the habitable portion of a residential building;

3. The conversion of a legally existing use to another permitted use if such change of use would create a net increase in the demand for additional public capital facilities, as defined by this ordinance.

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

**Planning Board** – Town of Londonderry Planning Board.

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

**Public Open Space** – An unimproved or minimally improved parcel of land or water available to the public for passive recreational use such as walking, sitting, or picnicking, that does not include “public recreational facilities.”

**Public Recreational Facilities** – Land and facilities owned or operated by the Town or the School District, other than public open space, which are designed for the conduct of recreational sports or other active uses of an organized nature, and which include equipment or improvements to the land to support indoor or outdoor public recreation programs and activities.

**School District** – Londonderry School District.

**Town** – Town of Londonderry.

**Town Council** – Town of Londonderry Town Council.

### **1.2.5 Imposition and Payment of Public Capital Facilities Impact Fee**

1.2.5.1 Impact fees shall be assessed to new development to compensate the Town and the School District for the proportional share of municipal capital improvement costs that is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee, including municipal and public school facilities to be constructed, or which were constructed in anticipation of new development.

1.2.5.1.1 All impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required,

or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Where no Planning Board approval is required. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit.

**Comment [m1]:** The revision is meant to clarify the intent of the state statute. All of the language but the clarification appears in the statute. The clarification merely recognizes the distinction between impact fees assessed at site plan or subdivision approval, and impact fees assessed where Planning Board approval was not required.

1.2.5.1.2 Impact fees shall be collected at the time a certificate of occupancy is issued. No certificate of occupancy shall be issued for new development until the assessed impact fee has been paid, or until the fee payer has established a mutually acceptable schedule for payment. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use.

1.2.5.1.3 A fee payer may request an alternate schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the Planning Board. As a condition of a mutually agreeable alternate schedule of payment, the Town may require the fee payer to post a bond, a letter of credit, accept a lien, or otherwise provide a suitable measure of security so as to guarantee future payment of the assessed impact fees.

1.2.5.2 A fee payer may request, from the Planning Board, a full or partial waiver of impact fee payments required in this ordinance. The amount of such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by the fee payer toward public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver or credit under Section 1.2.10 of this Ordinance.

1.2.5.3 A person undertaking new development for residential use in which all or a portion of its occupancy will be restricted to persons age fifty five (55) and over, and where it can be shown to the satisfaction of the Planning Board that such restricted occupancy will be maintained for a period of at least twenty (20) years, shall be exempt from School Impact Fees for the said restricted occupancy units.

1.2.5.4 A person undertaking new development for residential use in which all or a portion of its occupancy will meet the requirements of “workforce housing” as defined by RSA 674:58, and where it can be shown to the satisfaction of the Planning Board that such “workforce housing” will be maintained with appropriate restrictions for a period of at least forty (40) years, may apply for a waiver of impact fees for said workforce units.

1.2.5.5 No building permit for new development requiring payment of an impact fee pursuant to Section 1.2.6 of this Ordinance shall be issued until the public facilities impact fee has been determined and assessed by the Planning Board or its authorized agent.

1.2.5.6 A person undertaking new development for residential use in which all or a portion of its occupancy will be assisted living facilities restricted to persons who are age fifty five (55) and over and/or disabled, shall be exempt from Recreation Impact Fees for said

restricted units where it can be shown to the satisfaction of the Planning Board that internal private recreation programs will be provided to the occupants by the developer and provisions to that effect will be maintained with appropriate restrictions for a period of at least twenty (20) years.

### **1.2.6 Computation of Impact Fee**

1.2.6.1 The amount of each public facilities impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Londonderry. The methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate public capacity to serve new development. Such documentation shall be available for public inspection at the Town Planning & Economic Development Department.

1.2.6.2 In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to that which was or would have been assessed for the previous use.

### **1.2.7 Appeals**

1.2.7.1 Any aggrieved party may appeal a decision under this impact fee ordinance in the same manner provided by statute for appeals from the officer or board making the decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

### **1.2.8 Administration of Funds Collected**

1.2.8.1 All funds collected shall be properly identified and promptly transferred for deposit into individual Public Capital Facilities Impact Fee Accounts for each of the facilities for which fees are assessed, and shall be special revenue fund accounts and under no circumstances shall such revenue accrue to the General Fund.

1.2.8.2 The Town Director of Finance shall have custody of all fee accounts, and shall pay out the same only upon written orders of the Town Council.

1.2.8.3 The Town Council may order the expenditure of impact fees solely for the reimbursement of the Town or the School District for the cost of public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the School District in anticipation of the needs for which the impact fees were collected.

1.2.8.4 ~~Impact fees imposed upon development for the construction of or improvements to municipal road systems may be expended upon state highways with the Town only for improvement costs that are related to the capital needs created by the development. No such~~

~~improvements shall be constructed or installed without approval of the New Hampshire Department of Transportation.~~

~~1.2.8.5~~ The Town Director of Finance shall record all fees paid, by date of payment and the name of the fee payers, and shall maintain a record of current ownership, tax Map and lot reference number of properties for which fees have been paid under this Ordinance for a period of at least ten (10) years.

1.2.8.~~56~~ Prior to the end of each calendar and fiscal year, the Town Director of Finance shall make a report to the Town Council, giving a detailed account of all public capital facilities impact fee transactions during the year. The reports shall include a listing of any impact fee due to expire prior to the next scheduled report.

1.2.8.~~67~~ Following the Town Council's review of the report referenced in section 1.2.8.6 above and prior to the next scheduled Town Council meeting, the report shall be posted on the Town's website.

1.2.8.~~78~~ In the event that bonds or similar debt instruments have been, or will be, issued by the Town or the School District for the funding of public capital facilities which are or were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments.

#### 1.2.9 Refund of Fees Paid

1.2.9.1 Unless notified of an agreement between the fee payer and the owner of record of property for which an impact fee has been paid, the fee payer shall be entitled to a refund of that fee, plus accrued interest where:

1.2.9.1.1 The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the fee; or

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

1.2.9.2 Upon its review of the reports referenced in section 1.2.8.4 above, the Town Council shall direct the Town Director of Finance to refund to all fee payers or property owners who are due a refund pursuant to section 1.2.9.1 and section 1.2.9.1.1 or section 1.2.9.1.2 above, the impact fee paid, plus accrued interest.

#### 1.2.10 Credit

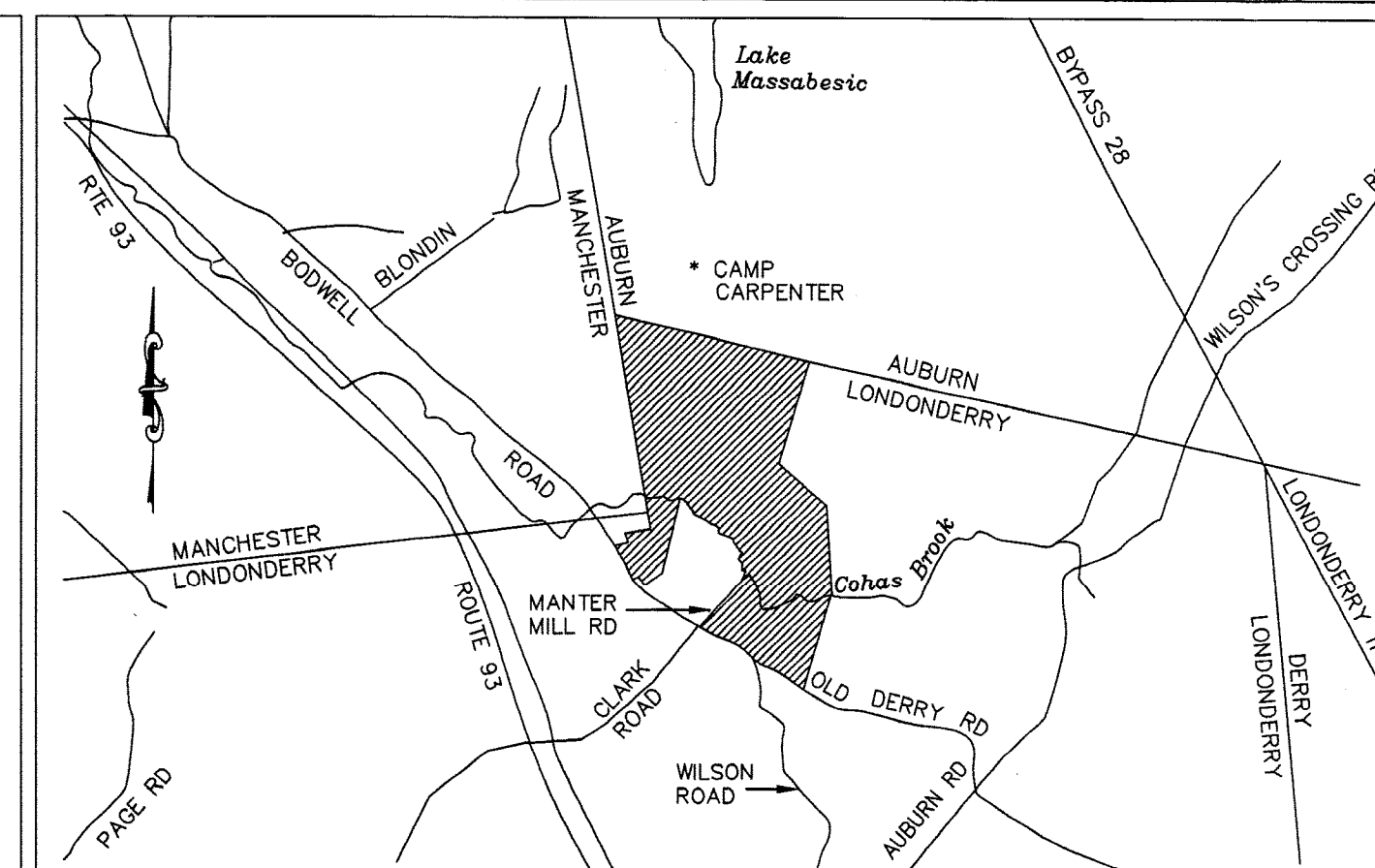
1.2.10.1 Land and/or public capital facility improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offer must be determined to

**Comment [m2]:** The entire provision should be eliminated from the revised ordinance. The provision in the state statute really addresses only those impact fees that already had been collected before the statute was amended. I should not have included it in the revisions.

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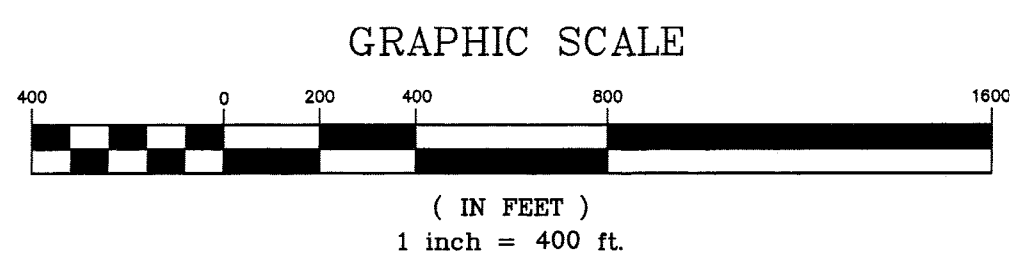
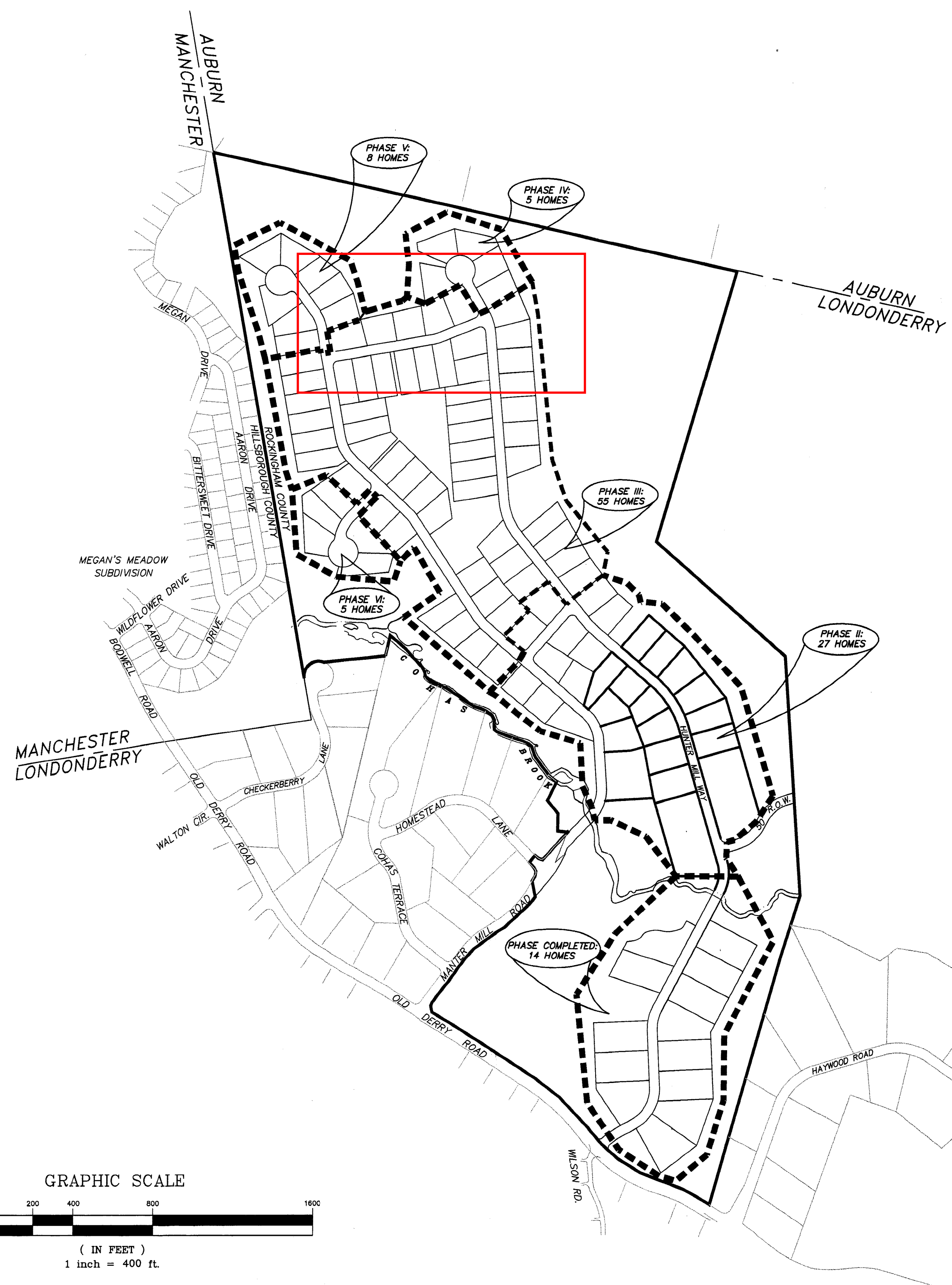
**NOTES:**

- 1) THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED CONSTRUCTION PHASING FOR THE COMPLETION OF THE REMAINDER OF THE MILL POND SUBDIVISION ROADWAYS AND BUILDING LOTS.
- 2) TEMPORARY CUL DE SAC ON HUNTER MILL WAY TO BE REMOVED UPON COMPLETION OF PHASE II AND ROADWAY TO BE CONSTRUCTED ACCORDING TO APPROVED DESIGN PLANS.
- 3) DETENTION POND AND FLOODPLAIN MITIGATION TO BE COMPLETED PRIOR TO OCCUPANCY OF ANY PARCELS WITHIN THE FUTURE PRD.



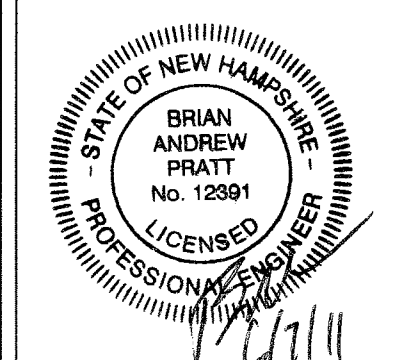
VICINITY PLAN

SCALE: 1"=2,500'



LAND OWNER OF RECORD - BROOK HOLLOW CORP.  
 OWNER OF RECORD SIGNATURE \_\_\_\_\_ DATE 1/24/11  
 DEED REFERENCE: ROCKINGHAM COUNTY REGISTRY OF DEEDS  
 BK 3042 PG 2906, BK 3180 PG 2957, BK 3391 PG 2646

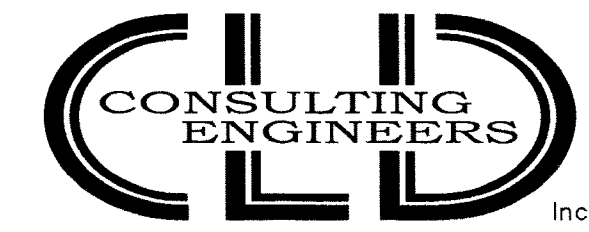
**MILL POND SUBDIVISION**  
 TAX MAP 18 - BLOCK 13 - LOT 97 &  
 TAX MAP 18 - BLOCK 13 - LOT 99  
 HUNTER MILL WAY & MANTER MILL ROAD  
 LONDONDERRY, NH  
 OWNER OF RECORD: CONSTRUCTION PHASING PLAN SHEET 10 OF 21  
 BROOK HOLLOW CORP.  
 317 SOUTH RIVER ROAD  
 BEDFORD, NH 03110  
 JANUARY 10, 2011



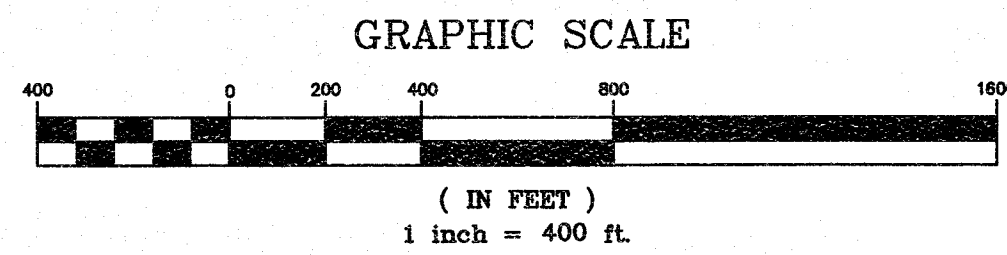
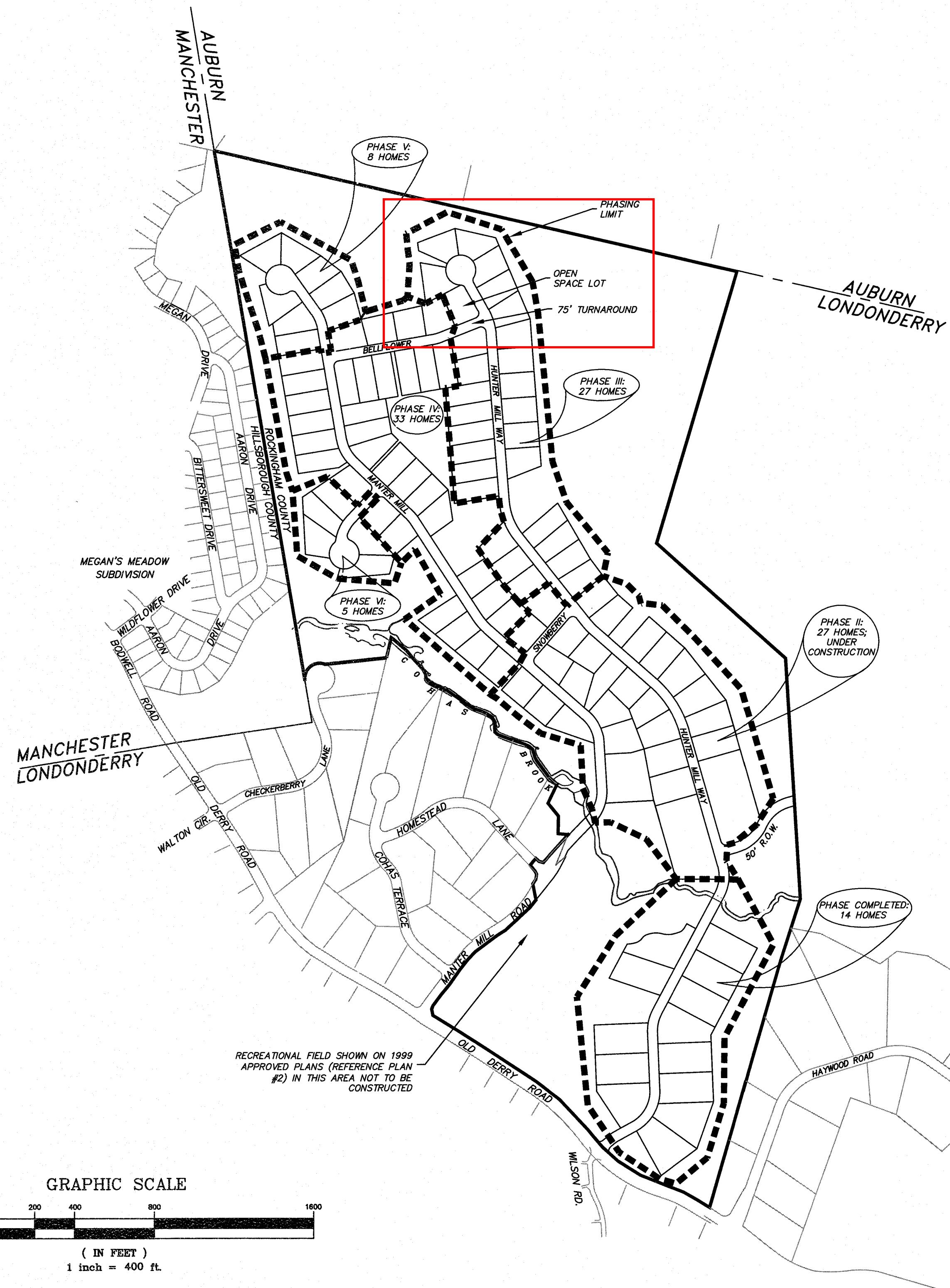
NO.	DATE	REVISION
1	5/31/11	REVISIONS PER TRC REVIEW

DRAWN: DEL	DESIGNED: BAP	CHECKED:	APPROVED:
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 (603) 668-8223 • Fax: (603) 668-8802  
 cld@cldengineers.com • www.cldengineers.com  
 Maine • New Hampshire • Vermont

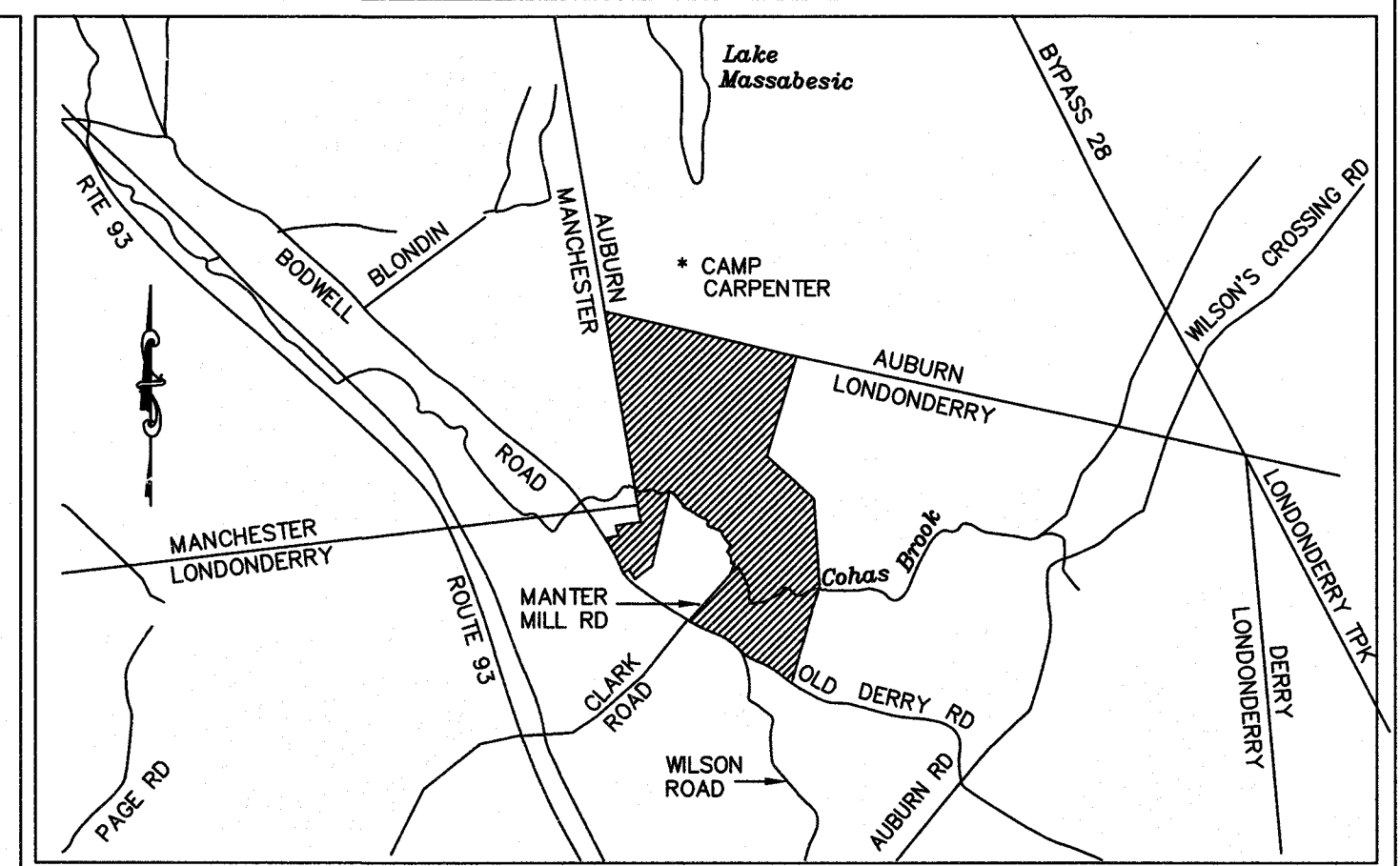


**NOTES:**

- 1) THE PURPOSE OF THIS PLAN IS TO SHOW THE REVISED CONSTRUCTION PHASING FOR THE COMPLETION OF THE REMAINDER OF THE MILL POND SUBDIVISION ROADWAYS AND BUILDING LOTS AND TO REPLACE SHEET 10 OF 21 IN REFERENCE PLAN #3.
- 2) REVISED PHASING WILL REQUIRE MINOR CHANGES TO SEWER AND DRAINAGE DUE TO DOWNSTREAM INFRASTRUCTURE NOT BEING IN PLACE FOR THE NEW PHASE III. REFER TO OTHER SHEETS FOR PROPOSED CHANGES
- 3) OTHER CHANGES TO APPROVED PLANS ARE AS FOLLOWS:
  - REMOVAL OF ALL "NATURE TRAILS" WHICH WERE SHOWN ON REFERENCE PLAN #1
  - REMOVAL OF THE RECREATIONAL FIELD NEAR THE INTERSECTION OF MANTER MILL ROAD AND HOMESTEAD LANE AS SHOWN ON REFERENCE PLAN #2

**REFERENCE PLANS**

1. "MILL POND SUBDIVISION; TAX MAP 18 LOT 13; OLD DERRY ROAD LONDONDERRY, NH"; PHASING PLAN; OWNERS OF RECORD; BROOK HOLLOW CORP; SCALE 1"=400'; BY TRUE ENGINEERING INC; DATED FEBRUARY 11, 1998, SHEET 2 OF 100; RECORDED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS #28283
2. "MILL POND SUBDIVISION; TAX MAP 18 LOT 13; OLD DERRY ROAD LONDONDERRY, NH"; SITE DEVELOPMENT PLAN - (17 OF 21); OWNERS OF RECORD; BROOK HOLLOW CORP; SCALE 1"=50' BY TRUE ENGINEERING, INC; DATED FEBRUARY 11, 1998; SHEET 48 OF 100; ON FILE AT THE TOWN OF LONDONDERRY AND ON FILE AT CLD CONSULTING ENGINEERS.
3. "MILL POND SUBDIVISION; TAX MAP 18 BLOCK 13 LOT 97 & 99; HUNTER MILL WAY AND MANTER MILL ROAD, LONDONDERRY, NH"; OWNERS OF RECORD; BROOK HOLLOW CORP; 21 PAGE PLAN SET; SCALE VARIES; BY CLD CONSULTING ENGINEERS; ON FILE AT THE TOWN OF LONDONDERRY. PARTIAL PLAN SET RECORDED AT RCRD #037009; FULL SET ON FILE AT THE TOWN OF LONDONDERRY.



VICINITY PLAN

SCALE: 1"=2,500'

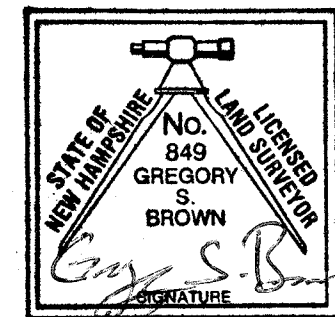
LAND OWNER OF RECORD - BROOK HOLLOW CORP.  
 OWNER OF RECORD SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
 DEED REFERENCE: ROCKINGHAM COUNTY REGISTRY OF DEEDS  
 BK 3042 PG 2906, BK 3180 PG 2957, BK 3391 PG 2646

APPROVED BY THE LONDONDERRY, NH PLANNING BOARD FOR PHASE \_\_\_\_\_  
 ON DATE: \_\_\_\_\_  
 CERTIFIED BY:  
 CHAIRMAN \_\_\_\_\_  
 SECRETARY \_\_\_\_\_

**MILL POND SUBDIVISION**  
 TAX MAP 18 - BLOCK 13 - LOT 97 &  
 TAX MAP 18 - BLOCK 13 - LOT 99  
**HUNTER MILL WAY & MANTER MILL ROAD**  
**LONDONDERRY, NH**  
 OWNER OF RECORD: CONSTRUCTION PHASING PLAN SHEET 10 OF 21  
 BROOK HOLLOW CORP.  
 317 SOUTH RIVER ROAD  
 BEDFORD, NH 03110  
 JANUARY 10, 2011

**BENCHMARK DATA**

ELEVATIONS ARE BASED ON USGS DATUM PER REFERENCE PLANS #3)



I HEREBY CERTIFY THAT THIS PLAN IS BASED ON THE REFERENCE PLANS NOTED ABOVE WHICH ARE BASED ON ACTUAL GROUND SURVEYS PERFORMED BY TRUE ENGINEERING, INC. AND THIS OFFICE AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, SAID PORTION OF SURVEY PERFORMED BY THIS OFFICE MEETS OR EXCEEDS THE MINIMUM PRECISION AND/OR ACCURACY REQUIREMENTS FOR SURVEY CLASSIFICATION "U" (1 PART IN 10,000) AS SET FORTH IN TABLE 500.1 OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS ADOPTED 8/23/01, EFFECTIVE 8/24/01 AND AMENDED 1/1/09.  
 DATE: 9-12-13

NO.	DATE	REVISION
3	9/11/13	REVISED PHASING
2	7/18/13	REVISED PHASING
1	5/31/11	REVISIONS PER TRC REVIEW

DRAWN: DEL	DESIGNED: BAP	CHECKED: GSB	APPROVED: KRK
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