

1 **LONDONDERRY, NH PLANNING BOARD**  
2 **MINUTES OF THE MEETING OF MAY 13, 2009 AT THE MOOSE HILL**  
3 **COUNCIL CHAMBERS**

4  
5 7:00 PM: Members Present: Art Rugg; John Farrell; Rick Brideau, CNHA, Ex-  
6 Officio; Paul DiMarco, Ex-Officio; Rob Nichols (7:08PM); Laura El-Azem (7:07PM);  
7 Melissa Nemon, alternate member

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

11  
12 A. Rugg called the meeting to order at 7 PM.

13  
14 **Public Hearings**

15  
16 A. Rugg announced that Em-Lew Realty has requested a continuance to June 10  
17 for their site and subdivision plans.

18  
19 B. Em-Lew Realty, LLC, Map 12, Lots 120 and 131 - Application Acceptance and  
20 Public Hearing for a 2 lot subdivision and a lot line adjustment. – **Request**  
21 **Continuance to June 10**

22  
23 C. Em-Lew Realty, LLC, Map 12, Lots 119, 120, & 131 - Application Acceptance  
24 and Public Hearing for a Site Plan and Conditional Use Permit to construct  
25 196 units of Workforce Housing. – **Request Continuance to June 10**

26  
27 T. Thompson referenced the letter from John Michels, Attorney representing Em-  
28 Lew Realty, requesting a continuance to June 10 to address staff comments and  
29 obtain the necessary state permits.

30  
31 **J. Farrell made a motion to continue the public hearings for the site and**  
32 **subdivision plans to June 10 at 7pm. R. Brideau seconded the motion. No**  
33 **discussion.**

34 A. Rugg appointed M. Nemon to vote for M. Soares.

35 **Vote on the motion: 5-0-0.** Hearing will be continued to June 10 at 7PM. A.  
36 Rugg said this will be the only public notice.

37  
38 **Administrative Board Work**

39  
40 A. Plans to Sign - Coca Cola Amended Site Plan, Map 15, Lot 98

41  
42 J. Trottier said all precedent conditions for approval have been met and the  
43 staff recommends signing the plans.

44  
45 **J. Farrell made a motion to authorize the Chair and Secretary to sign**  
46 **the plans. R. Brideau seconded the motion.**

47  
48 P. DiMarco noted that because the Assistant Secretary was absent they would  
49 need to appoint the Vice Chair to sign the plans.

1 **J. Farrell amended his motion to authorize the Chair and Vice Chair to**  
2 **sign the plans. R. Brideau amended his second. Vote on the motion:**  
3 **5-0-0.** A. Rugg said the plans will be signed at the conclusion of the meeting.

4  
5 B. Endorsement of CTAP Roadmap from SNHPC

6  
7 T. Thompson said that staff is looking for an endorsement from the Board.

8  
9 [ L. El-Azem arrived at 7:07PM ]

10  
11 **J. Farrell made a motion to endorse. R. Brideau seconded the motion.**  
12 **No discussion. Vote on the motion: 6-0-0.**

13  
14 [ R. Nichols arrived at 7:08PM ]

15  
16 C. Signing of Minutes – April 1 & 8

17  
18 Minutes for April 1 and April 8 have been signed.

19  
20 D. Discussions with Town Staff

21  
22 A. Garron said he attended a Rockingham Economic Development  
23 Corporation meeting today. He said that one of their economic development  
24 agency priorities was the Pettengill Road project, which has been raised from  
25 2-4 year priority to a top priority project. What that means is that if funding  
26 is available and the criteria are met Londonderry would be eligible.

27  
28 T. Thompson said the first CIP meeting is Thursday, May 28 at 6PM. They will  
29 review last year's CIP and setting up deadlines for applications and  
30 submissions and reviewing the process moving forward.

31  
32 **Public Hearings (continued)**

33  
34 A. Workforce Housing - Public Hearing on Various Zoning Amendments.

35  
36 A. Rugg gave an overview of the history, initiatives and the progress that has  
37 been made. T. Thompson gave a presentation of the history of workforce  
38 housing and the proposed various zoning amendments (see attachment #1).

39 J. Farrell asked A. Garron what percent of the town is built out. A. Garron  
40 said he would have John Vogl, GIS Manager verify the information. A. Garron  
41 said we currently have 8,544 total units, 5,953 single family, 2,262 multi-  
42 family, 329 manufactured homes. A. Garron explained the importance of  
43 having water and sewer available for workforce housing. T. Thompson said  
44 that water and sewer would allow greater design options for workforce  
45 housing. A. Garron said that retention of housing affordability would extend  
46 the affordability to present and future prospective home owners.

47 J. Vogl said the report from 2006 came up with the following estimates;  
48 4,600 acres of residential land available, that has a potential under the  
49 existing conditions (buildout based on existing zoning at the time of analysis  
50 in 2006). He said the baseline build out for Londonderry is roughly 2,089

1 housing units, which translates to roughly 6,400 people. Vogl said that the  
2 estimate we gave earlier was high and this baseline estimate does not include  
3 the proposed changes. T. Thompson said the current statutes would be  
4 effective July 1, 2009. He mentioned there is a bill in the legislature that  
5 would delay the effective date to January 1, 2010, but that it is still in Senate  
6 Committee.

7  
8 J. Farrell read into the record an email from School Board Chairman, Steve  
9 Young. A. Garron explained the Growth Management Ordinance (GMO).

10  
11 [ M. Nemon left the meeting at 8:00PM ]

12  
13 A. Rugg asked for public input.

14  
15 Al Baldasaro, 41 Hall Rd, said that we need to look at how other towns/cities  
16 like Manchester ensure to provide workforce housing for town employees, i.e.  
17 fire, police, etc.

18  
19 Bob Labreux, 76 Hall Rd, asked if impact fees will be waived for workforce  
20 housing. T. Thompson referenced the ordinance and said we're changing the  
21 language from referenced to low and moderate income based on US Housing  
22 & Urban Development guidelines to language consistent with the new state  
23 statutes. Labreux asked about retention ordinance. T. Thompson said that  
24 after 20 years the property will no longer be controlled by the liens and  
25 restrictions and can be sold at market rates. Labreux asked if the workforce  
26 housing would affect property values. Thompson said they haven't yet  
27 factored that in. He also said that the homes would be assessed for current  
28 market value by the Assessing Department.

29  
30 Charles DeRossi, 53 Old Derry Rd, said he feels this should be called "low  
31 income" housing vs. workforce housing. He said he has seen first-hand the  
32 negative effect that low income housing can have on a town/city. DeRossi  
33 would like to see Old Derry Rd removed from the list for potential workforce  
34 housing.

35  
36 Brett Luongo, 16 Longwood Ave, said he is opposed to the selection of  
37 parcels that surround Perkins Rd. Al Baldasaro said that the reason they  
38 chose those parcels is because they have municipal water and sewer.

39  
40 John Michels, attorney, explained the process (financial, timing, getting tax  
41 credits, etc) for workforce housing.

42  
43 Mike Brown, 5 Carousel Court, Town Council Chairman, said that he feels the  
44 planning tools have worked great for the town. He feels that we have to  
45 accept what the law is and we as a town can take our time to implement  
46 these changes. He hopes that the Planning Board will work with the Town  
47 Manager to check with our town attorney on the new law.

48  
49 Mike Speltz, 8 Sugar Plum Lane, agrees with Councilor Brown. He feels that  
50 affordable housing and open space conservation can be made to work

1 together. The problem is that this ordinance doesn't have all the protections  
2 in it that it needs to make that happen. The Route 102 overlay district  
3 ordinance and the open space subdivision ordinance have a lot of very good  
4 protections and we should be drawing on those as we follow the methodical  
5 approach that Councilor Brown has just recommended. We should then  
6 incorporate those into this workforce housing ordinance, so that when we  
7 proceed with an affordable housing development, we do it in a way that  
8 protects the other natural resources that are on these parcels. Speltz noted  
9 that the Housing Task Force had recommended taking two years for  
10 education on implementing workforce housing. He feels that we can still act  
11 in good faith by continuing on this path, slowly and carefully.

12  
13 Dave Rossi, 6 Shady Lane, is worried about the effect of workforce housing  
14 on our school systems. He would rather spend tax money up front.

15  
16 Lou Medeiros, 25 Gordon Drive, said he is concerned that other towns have  
17 not said they are pursuing workforce housing. He is concerned about the  
18 effect on the school systems.

19  
20 David Nease, 11 Faye Lane, said he is concerned about the impact to the  
21 school systems.

22  
23 Deb Paul, 118 Harvey Rd, said that Derry was able to get a waiver to this law  
24 because they included mobile homes, apartments, condos, etc. as "affordable  
25 housing" and she would like to know what the numbers are for Londonderry.

26  
27 Pam McFarland, 4 Buckingham Dr, is concerned about the effects of "low  
28 income" housing.

29  
30 Rob Palmer, 13 Wayward Rd, said he is concerned about the selection of  
31 parcels chosen for workforce housing. T. Thompson said water and sewer  
32 were primary reasons for choosing the parcels.

33  
34 John Curran, 6 Faye Lane, asked what the timing is to change the selection of  
35 the parcels surrounding Perkins Rd. A. Rugg said there is quite a way to go  
36 before decisions are made. He is concerned about the proposed 196 unit  
37 workforce housing on Stonehenge Rd.

38  
39 J. Vogl, GIS Manager, explained the selection process for the parcels that  
40 were chosen. He said primary they looked at; acreage, water and sewer.

41  
42 Jim Fitzgibbons, 1 Faye lane, owner of Subway on Rockingham Road, would  
43 like to know what the impact fee was for Vista Ridge. A. Garron said it was  
44 about \$100,000 per building. Fitzgibbon said that he is concerned that  
45 taxpayers would be burdened from the workforce housing impact fees.

46  
47 Chuck Derossi, Old Derry Rd, said that he knows first-hand that low income  
48 housing brings problems.

49

1 J. Michels, Chairman of Housing Task Force, said he is encouraged by the  
2 attendance for this meeting. He would like to see more people get involved  
3 and stay involved.  
4

5 A. Garron said that prices for workforce housing homes in Londonderry would  
6 be different than other towns. He said workforce housing prices would be based  
7 on Londonderry demographics, just as each other community would be  
8 basing their prices on their own demographics.  
9

10 Elizabeth Bryant, 50 Stonehenge Rd, said she is against the workforce  
11 housing proposed for Stonehenge Rd.  
12

13 Chris Paul, 118 Hardy Rd (corner of Stonehenge Rd and Hardy Rd) said he is  
14 concerned about the value of his home being affected by workforce housing.  
15

16 Rick Arnott, 29 Otterson Rd, is concerned about how little we know about  
17 workforce housing or how much the town is built out.  
18

19 Dave Rossio, 6 Shady Lane, asked if the workforce housing must be placed  
20 on land with water and sewer. He feels that if we designate land without  
21 water and sewer, it would make it more difficult for developers to build.  
22

23 Jim Fitzgibbons, Faye Lane, said it took him over a year to develop the lot for  
24 his business. He said that it definitely takes a long time to develop land. He  
25 would like to see a mechanism put in place to slow down the process.  
26

27 Deb Paul, Harvey Rd, said that she heard if water/sewer is brought by your  
28 property, that residents would have to pay for it. J. Trottier said that is true.  
29 J. Farrell suggested that residents contact Senator Sharon Carson to push for  
30 an extension.  
31

32 **J. Farrel made a motion to table the workforce housing workshop and**  
33 **to re-notice residents when a new ordinance is ready for public**  
34 **hearing. R. Nichols seconded the motion. No discussion. Vote on the**  
35 **motion: 6-0-0.**  
36

37 D. Planning Board Review Process Workshop (Implementation of MRI report  
38 recommendations)  
39

40 T. Thompson gave a presentation outlining the proposed regulatory changes  
41 to address some of the MRI report recommendations (see attachment #2).  
42

43 A. Garron described what is required for a letter of credit or surety bond. He  
44 also mentioned the Hampton letter of credit. He said that a restoration bond  
45 is to assure that if a project starts and doesn't finish the bond would pay to  
46 finish the work. Janusz Czyzowski, DPW Director, explained the importance of  
47 surety bonds. He said that in the past the town would have to chase down  
48 companies for money to finish work on projects that had been withdrawn.  
49

50 A. Garron reminded the Board that we no longer request that applicants have  
permits prior to submitting an application, as long as they have applied for  
the permits (providing proof of submission). Czyzowski said the book of

1 standards is in process and will become part of the set once it is finalized. T.  
2 Thompson said the book of standards will be referenced in the regulations. J.  
3 Czyzowski suggested that after the second engineering review of a project in  
4 Design Review, if there are numerous additional comments, staff can request  
5 the applicant and engineer to meet with them to discuss how the applicant's  
6 money was spent and why there are additional comments. The Board said  
7 they want to go to a public hearing on this issue. Mike Speltz commended the  
8 Board and staff for keeping such high standards.

9  
10 **Other Business**

11  
12 A. Rugg mentioned that the representatives for Southern NH Planning Commission  
13 need to be re-nominated. J. Farrell made a motion to recommend the current  
14 slate of SNHPC representatives (A. Rugg, Sharon Carson, Don Moskowitz) be  
15 reappointed. R. Brideau seconded. No Discussion. Vote on the motion: 5-0-1 (A.  
16 Rugg abstaining as he is one of the SNHPC representatives). Recommendation  
17 will be sent to the Town Council.

18  
19 **Adjournment:**

20  
21 **J. Farrell made a motion to adjourn the meeting. R. Nichols seconded the**  
22 **motion.** No discussion. **Vote on the motion: 6-0-0.** Meeting adjourned at  
23 10:45PM.

24  
25  
26 These minutes prepared by Cathy Dirsra, Planning Division Secretary.

27  
28  
29  
30 Respectfully Submitted,

31  
32  
33  
34 Mary Wing Soares, Secretary



## Zoning Ordinance Amendments - Workforce Housing

### Planning Board Public Hearing

---

May 13, 2009

### A Brief History of How the Workforce Housing Statute Came to Be....

---

- 1975 - **Mount Laurel I** (Southern Burlington County N.A.A.C.P. v. Mount Laurel Township)
    - In the decision, the N.J. Supreme Court held that zoning ordinances which make it physically and economically impossible to provide low and moderate income housing were unconstitutional.
    - Requires that municipalities use their zoning powers in an affirmative manner **to provide a realistic opportunity for the production of housing affordable to low and moderate income households.**
  - 1983 - **Mount Laurel II** (Several combined NJ cases)
    - Resolved many of these questions from Mount Laurel I.
    - Put teeth in the original doctrine by creating a **"fair share"** formula to measure each municipality's obligation to provide affordable housing, and by fashioning a **"builder's remedy"** to force municipalities to fulfill that obligation.
  - Landmark housing cases, cited in hundreds of cases nationwide since 1970's and 80's.
-





## A Brief History of How the Workforce Housing Statute Came to Be... (cont'd)

---

- 1991 – *Britton V. Chester* (NH Supreme Court)
    - Cite Mount Laurel Decisions
    - Interpretation of the zoning power
    - Municipalities are not “isolated enclaves”
    - The obligation of every city and town: provide a reasonable and realistic opportunity for the development of affordable housing
    - “Community” means the region within which a municipality is situated—“fair share”
    - The “builder’s remedy”
  - 2008 – Enactment of RSA 674:58 through 61
    - Codifies *Britton V. Chester*. Explained on the following slides
- 



## What Does the Workforce Housing Law Mean?

(RSA 674:58 through 61)

---



## The Law's Core Meaning

---

- All municipalities must provide reasonable and realistic opportunities for the development of workforce housing, including rental and multi-family housing.
  - The collective impact of all local land use regulations adopted under RSA 674 shall be considered to determine if such opportunities exist (a facial test).
  - Workforce housing of some type must be allowed in a majority of land area where residential uses are permitted.
  - Existing housing stock shall be accounted for to determine if a municipality is providing its "fair share" of current and reasonably foreseeable regional need for workforce housing.
  - Reasonable restrictions may be imposed for environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection.
- 

## Land Use Board Process

---

- As part of the application, the developer must notify the board that a workforce housing development is being proposed.
  - Planning board RSA 676:4 plat review (or other process) proceeds as normal.
  - Upon approval with conditions, the board notifies the applicant of the conditions, who then has at least 30 days to identify the cost impact of the conditions upon the economic viability of the project. The board may then modify its conditions accordingly.
-

## Appeals

---

- To superior court if application is denied or has conditions that have a substantial adverse effect on the project's viability. Burden is on developer to show how the municipality's actions violated the Workforce Housing statute (*an as-applied test*).
- Hearing on the merits within 6 months; option to appoint a qualified referee.
- "Builders Remedy" shall include affordability restrictions on workforce housing units.

## Definitions

---

- **Affordable** — no more than 30% of income should be spent on housing (rent + utilities; or mortgage principal and interest, taxes, and insurance).
- **Multi-family housing** — 5 or more dwelling units.
- **Reasonable and Realistic Opportunities:**
  - Economically viable workforce housing.
  - Collective impact of land use ordinances and regulations
  - Natural features and market considerations may be beyond the control of the municipality
- **Workforce Housing** - housing that's "affordable" for:
  - Renter family of 3 making 60% of Area Median Income.
  - Owner family of 4 making 100% of Area Median Income.
  - Does not include age-restricted housing.
  - Does not include developments with less than 50% of the units having less than 2 bedrooms



## Effective Date

---

*July 1, 2009*

---

## Planning Board's Approach to Comply with the New State Law

---

- **Utilize work done by the Housing Task Force**
  - Revise Zoning Ordinance to remove "regulatory impediments"
    - Impact Fees
    - Residential Development Phasing
    - Growth Management Ordinance
  - Add new sections to the Zoning Ordinance
    - Workforce Residential Overlay
    - Inclusionary Housing
    - Retention of Housing Affordability
-

## Housing Task Force Approach

---

- Chartered by the Town Council in May of 2007, prior to the Legislature developing the new statutes
  - Meetings structured to collect the following information:
    - Definition of affordable housing
    - Demographic and income mix
    - Supply and cost of existing units
    - Barriers to construction of affordable housing
    - Recommendations for the Town to take proactive steps
- 

## Housing Task Force Members

---

- Chair – John Michels (At-Large Member)
  - Al Baldasaro (At Large)
  - Marty Bove (Town Council Liaison)
  - George Herrmann (School Board)
  - Deb Lievens (Conservation Commission)
  - Rob Nichols (Planning Board)
  - Earle Rosse (Londonderry Housing and Redevelopment)
  - Mike Speltz (Conservation Commission Alternate)
  - Giovanni Verani (At Large)
  - Jon Weigler (At Large)
-



## Housing Task Force Actions

---

- 8 meetings
- 4 guest speakers:
  - Ben Frost (NH Housing)
  - Paul Morin (Tarkka Homes)
  - Dick Anagnost (Anagnost Companies)
  - Robert Tourigny (Neighborworks of Greater Manchester)
- 5 report drafts
- Final Report issued in April 2008

## Housing Task Force – Ties to Economic Development

---

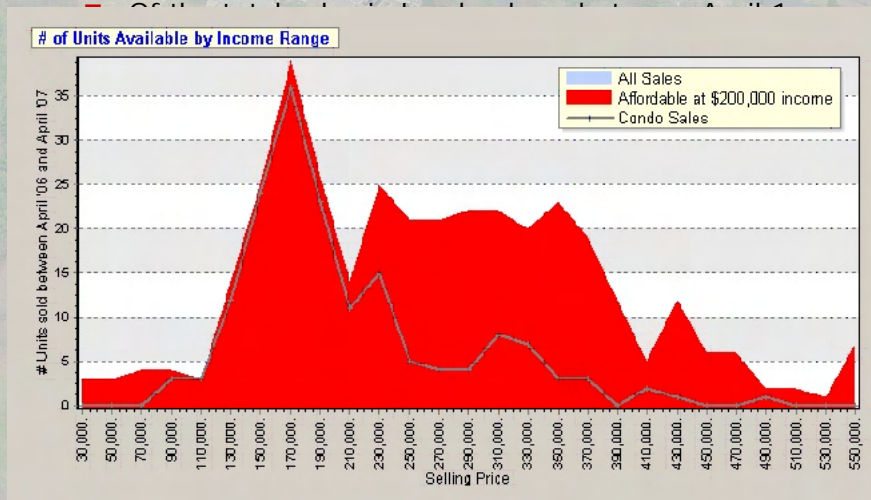
- Housing is an important component of economic development
- Recent lessons suggest businesses locate where the workers are
- Economists estimate that for every 1,000 jobs created, 700 housing units also need to be created. New units may be inside and/or within reasonable commuting distance outside the town
- Londonderry has potential for 5,000 – 7,000 new jobs in the airport area alone
- Business leaders have indicated that housing is a key problem faced in recruiting and retaining a qualified workforce

## Housing Task Force – Barriers to Workforce Housing Development

- Land, road construction, materials and engineering costs necessitate constructing high end homes to recoup profit.
- Specific issues cited include:
  - Inflexible zoning ordinances
  - Lack of density
  - Resistance to allowing higher densities
  - Community opposition
  - Lengthy project review/permitting timelines
  - Required provision of curbing/sidewalk amenities
  - Required project timing or phasing
  - Growth Management Ordinances (GMOs)
  - Costly off-site improvement requirements

## Housing Task Force – Analyzing Affordability in Londonderry

- Number of Units affordable by Income Range





## Planning Board's Approach to Comply with the New State Law

- Utilize work done by the Housing Task Force
- **Revise Zoning Ordinance to remove "regulatory impediments"**
  - **Impact Fees**
  - **Residential Development Phasing**
  - **Growth Management Ordinance**
- Add new sections to the Zoning Ordinance
  - Workforce Residential Overlay
  - Inclusionary Housing
  - Retention of Housing Affordability

## Impact Fees – Proposed Revisions

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

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

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

**Deleted:** low and moderate income

**Deleted:** restricted

## Residential Development Phasing

---

- Revise Section 1.3.4 as follows:

### 1.3.4 Exemptions from Phasing

The Planning Board shall grant exemption to the phasing requirements of Section 1.3.3 under the following conditions:

1.3.4.1 The proposed project is for Elderly Housing as defined in Section 4.7. The owner of record shall enter an agreement, to be filed in the Rockingham County Registry of Deeds, certifying that the project will be utilized and restricted to 100% elderly occupants (age 55 and older).

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

## Growth Management Ordinance

---

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

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

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

- Add New Section 1.4.8, renumber remaining sections accordingly:

### 1.4.8 Workforce Housing Exemption

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

- Amend Sunset date from 2010 to 2015
-



## **Planning Board's Approach to Comply with the New State Law**

---

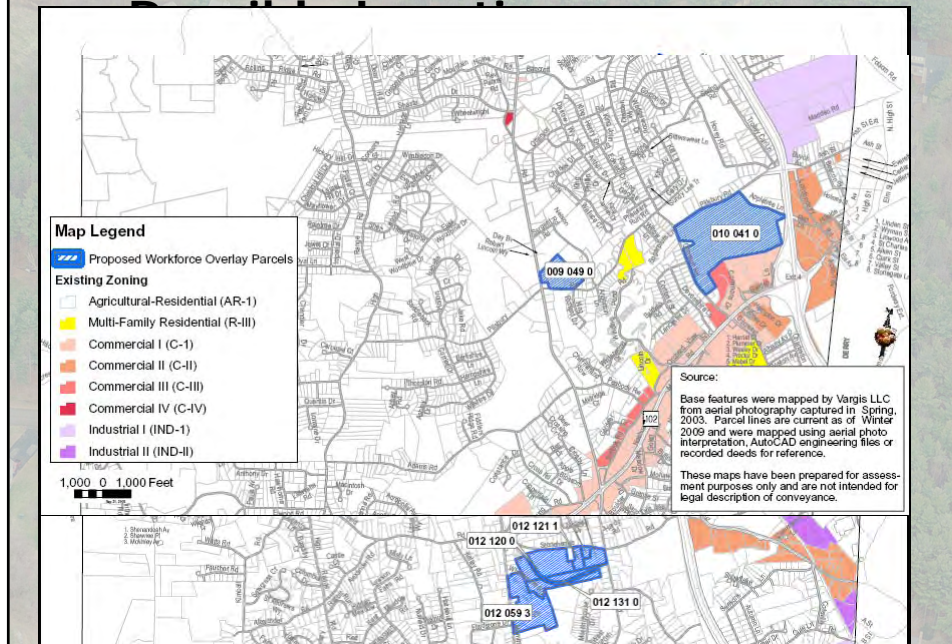
- Utilize work done by the Housing Task Force
  - Revise Zoning Ordinance to remove "regulatory impediments"
    - Impact Fees
    - Residential Development Phasing
    - Growth Management Ordinance
  - **Add new sections to the Zoning Ordinance**
    - **Workforce Residential Overlay**
    - **Inclusionary Housing**
    - **Retention of Housing Affordability**
- 

## **Workforce Residential Overlay**

---

- Overlay District, based on general structure of the R-III District.
  - Underlying zoning remains, WRO is an optional overlay for development of workforce units.
  - Would allow for Multi-family, Single Family, and Duplex residential development
  - Would require projects to be for "workforce housing" in order to be eligible for use of the overlay provisions
  - Selected parcels based on Housing Task Force Report
-

## Workforce Residential Overlay



## Workforce Residential Overlay

- Section Highlights:
  - 10 units per acre with public sewer
  - Maximum of 36 units per building for multi-family dwellings.
  - Minimum of 51% of units must contain at least 2 bedrooms (per new state law)
  - 40% Open Space requirement
  - 1.75 parking spaces per unit
  - Dimensional Relief Conditional Use Permit section allows Planning Board to waive dimensional requirements without the need to approach the ZBA for variances.



2.3.4.6.1 A Site Plan or subdivision plan that will guarantee a designated percentage of units, reserved as affordable housing, may be approved with an increase in the density of the site or a reduction of the minimum site frontage as is set forth in Table 1. The developer shall specify in the application whether the density bonus or the frontage reduction is the option being sought for the development. These bonuses shall not apply to development within the Workforce Residential Overlay (WRO), as that overlay district has increased density allowances built into the district.

Table 1	Minimum Set Aside	Density Bonus or Frontage Reduction *
Low Income Owner-occupied Housing	10%	20% Density Bonus or 30' Frontage Reduction
Moderate to Low Income Owner-occupied Housing	20%	25% Density Bonus or 40' Frontage Reduction
Moderate Income Owner-occupied Housing	25%	25% Density Bonus or 50' Frontage Reduction

\* At no point shall a frontage reduction reduce a lot's frontage to less than 50' total.

2.3.4.6.2 A site plan or subdivision plan can mix affordable housing types and accumulate density bonuses to a maximum bonus equal to 30 percent where municipal sewer and water are available or in areas without water and sewer service to the maximum density permitted by on-site well and septic standards of the New Hampshire Department of Environmental Services as applied to the site.

2.3.4.6.3 When mixing affordable unit types the designated affordable percentage for each individual affordable housing type may be less than that required in Table 1. The density bonus is then proportioned to the actual percentage of designated affordable units provided, so that if the applicant provides only one-half of the required designation of one type of affordable housing they will receive one-half of the density bonus. The combined total of all affordable housing types must equal a 15 percent designation of affordable units, at a minimum.

## Retention of Housing Affordability

- Requirement for all projects that create "workforce housing"
- Developed by NHHFA, and language is required if a municipality wants NHHFA to be the monitoring agent for the Town.
- Spells out in great detail the mechanics of long-term housing affordability

<u>2.3.2.3.2.7</u> Parking	<u>2.3.2.3.2.7.1</u> A minimum of two (2) parking spaces per dwelling unit shall be provided for single family and two family dwellings.	Formatted: H7
	<u>2.3.2.3.2.7.2</u> A minimum of two and one-half (2.5) parking spaces per dwelling unit shall be provided for multi-family dwellings. Parking spaces may be located offsite (ie: off the internal legal lot so long as the offsite parking is located within the development lot) and the parking spaces shall be within four hundred feet (400') of the building they are intended to serve.	Formatted: Heading 6
	<u>2.3.2.3.2.7.3</u> Assisted living and nursing home uses shall require one half (0.5) a parking space per resident unit or bed, plus one per employee.	Formatted: Bullets and Numbering
	<u>2.3.2.3.2.7.4</u> Parking for other uses shall comply with standards applicable to such uses in other districts.	Formatted: Bullets and Numbering
	<u>2.3.2.3.2.7.5</u> Parking areas shall be designated in accordance with requirements for parking areas set forth in Section 3.10 of the Zoning Ordinance (parking).	Formatted: Bullets and Numbering
<u>2.3.2.3.2.8</u> Perimeter buffer - a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:	<u>2.3.2.3.2.8.1</u> Agricultural-residential: one hundred feet (100') where directly abutting; fifty feet (50') where highway separates R-III and AR-I district.	Formatted: H7
	<u>2.3.2.3.2.8.2</u> Commercial or industrial: fifty feet (50') where directly abutting, no buffer where highway separates R-III and a "C" or "I" district.	Formatted: Bullets and Numbering
	<u>2.3.2.3.2.8.3</u> Multi-family residential: no buffer.	Formatted: H6
		Formatted: Bullets and Numbering
		Formatted: H7



# Town of Londonderry, New Hampshire

## LEGAL NOTICE OF PUBLIC HEARING ON ZONING ORDINANCE AND ZONING MAP AMENDMENTS

A public hearing will be held at the Moose Hill Council Chambers, 268B Mammoth Road on the 13th day of May, 2009, at 7:00 PM on proposed amendments to the Londonderry Zoning Ordinance.

The proposed amendments were prepared by the Planning Division of the Community Development Department and Planning Board to address the implications of the State's new Workforce Housing Statutes, and to clarify numbering errors and the reference to the Subdivision Regulations in the Multi-Family Residential Section of the Ordinance.

The proposed changes are summarized as follows:

- Amend Section 1.2 (Impact Fees) as follows:
  - Amend Section 1.2.3.1 to include reference to 2004 Master Plan
  - Amend Section 1.2.3.6 to properly reference impact fee methodologies
  - Amend Section 1.2.5.4 to update waiver of impact fees section to reflect terminology of new State Statutes.
- Amend Section 1.3 (Residential Development Phasing) as follows:
  - Amend Section 1.3.4 to include 2 subsections for exemptions from mandatory phasing, including existing language for elderly housing development, and new language for Workforce Housing.
- Amend Section 1.4 (Growth Management) as follows:
  - Amend Section 1.4.7.1.3.1 to include new reference to Workforce Housing exemption.
  - Add new Section 1.4.8 for exemptions for Workforce Housing development.
  - Renumber remaining sections, and revise Sunset date of the GMO to January 1, 2015.
- Amend Section 2.2 (Use Table) to reflect the addition of the WRO District (see below) and its uses.
- Amend Section 2.3.2 (Multi-Family Residential) as follows:
  - Amend Section 2.3.2.3.2.4 to properly reference Subdivision Regulations.
  - Correct numbering errors for subsections dealing with parking and perimeter buffers.
- Create New Section 2.3.3 (Workforce Residential Overlay), allowing for higher density workforce housing development in areas identified by the Londonderry Housing Task Force, and to address requirements of the new State Statutes.
- Rezone the following parcels to include the Workforce Residential Overlay District:
  - On Map 9: Lot 49.
  - On Map 10: Lot 41.
  - On Map 11: Lots 100, 102, 102-5, and 102-6.
  - On Map 12: Lots 59-3, 120, 121, 121-1, 121-2, and 131.
  - On Map 14: Lots 10 and 35 (AR-I portion only).
  - On Map 15: Lots 1, 83-2, 87-1, 215-1, and 215-2.
  - On Map 16: Lots 1, 2, 3, 9 (AR-I portion only), 23, and 38 (AR-I portion only).
  - On Map 17: Lots 4 (AR-I portion only), 4-1, and 45 (R-III portion only).
  - On Map 18: Lots 13 and 32
- Create New Section 2.3.4 (Inclusionary Housing) to address the requirements of the new State Statutes and providing opportunities for, and creating standards for, workforce housing development as part of residential subdivisions.
- Create New Section 2.3.5 (Retention of Housing Affordability) to provide the necessary financial mechanisms to ensure the continued affordability of workforce housing units intended for ownership to be administered by NH Housing Finance Authority.

Copies of the full text of the proposed amendments are available at the Planning Division, Second Floor of the Town Hall & on the Town Website [www.londonderrynh.org](http://www.londonderrynh.org) (Click on Boards & Commissions, then Planning Board)



Timothy J. Thompson, AICP  
Town Planner

## 1.2 IMPACT FEES

### 1.2.1 Authority

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

### 1.2.2 Purpose

These provisions are intended to:

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

### 1.2.3 Findings

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

- 1.2.3.1 The Londonderry Planning Board adopted a Master Plan in January 1988, and updated in 1997 and 2004.
- 1.2.3.2 The Londonderry Planning Board has prepared, and regularly updated, a Capital Improvements Program and Budget as authorized by the Londonderry Town Meeting of March 11, 1988.
- 1.2.3.3 The Master Plan and the Capital Improvement Program demonstrate that significant new growth and development is anticipated in residential and non-residential sectors which will necessitate increased expenditures to provide adequate public facilities.
- 1.2.3.4 The Town of Londonderry is responsible for and committed to the provision of public facilities and services at standards determined to be necessary by the Town to support residential and non-residential growth and development in a manner which protects and promotes the public health, safety and welfare.
- 1.2.3.5 The cost of providing public capital facility capacity to serve new growth will be disproportionately borne by existing taxpayers in the absence of impact fee assessments.
- 1.2.3.6 The calculation methodology for impact fees, as established by Section 1.2.6.1, shall represent a fair and rational method for the allocation of growth-related capital facility costs to new development. Based on this methodology, impact fees will not exceed the costs of:
  - 1.2.3.6.1 Providing additional public capital facilities necessitated by the new developments paying impact fees, or
  - 1.2.3.6.2 Compensating the Town of Londonderry for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

Deleted: a report by the Planning Board entitled "Impact Fee Analysis: Town of Londonderry,"

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

1.2.4 **Definitions**

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

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

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

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

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

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

- 1.2.5.1 Any person who, after March 9, 1994 seeks approval of new development within the Town of Londonderry, New Hampshire, is hereby required to pay a public capital facilities impact fee in the manner and amount set forth in Section 1.2.6.
- 1.2.5.2 A person may request, from the Planning Board, a full or partial waiver of impact fee payments required in this ordinance. The amount of such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by that person toward public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver or credit under Section 1.2.11 of this Ordinance.
- 1.2.5.3 A person undertaking new development for residential use in which all or a portion of its occupancy will be restricted to persons age fifty five (55) and over, and where it can be shown to the satisfaction of the Planning Board that such restricted occupancy will be maintained for a period of at least twenty (20) years, may apply for a waiver of the school impact fees for the said restricted occupancy units.
- 1.2.5.4 A person undertaking new development for residential use in which all or a portion of its occupancy will ~~meet the requirements of "workforce housing" as defined by RSA 674:58~~, and where it can be shown to the satisfaction of the Planning Board that such ~~"workforce housing"~~ will be maintained with appropriate restrictions for a period of at least twenty (20) years, may apply for a waiver of impact fees for said ~~workforce~~ units.
- 1.2.5.5 No building permit for new development requiring payment of an impact fee pursuant to Section 1.2.6 of this Ordinance shall be issued until the public facilities impact fee has been determined and assessed by the Planning Board or its authorized agent.
- 1.2.5.6 A person undertaking new development for residential use in which all or a portion of its occupancy will be assisted living facilities restricted to persons who are age fifty five (55) and over and/or disabled, may apply for a waiver of Recreation Impact Fees for said restricted units where it can be shown to the satisfaction of the Planning Board that internal private recreation programs will be provided to the occupants by the developer and provisions to that effect will be maintained with appropriate restrictions for a period of at least twenty (20) years.

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

**Deleted:** low and moderate income

**Deleted:** restricted

<SNIPPED>

### 1.3 RESIDENTIAL DEVELOPMENT PHASING

#### 1.3.1 Authority

Pursuant to the provisions of the New Hampshire RSA 674:21, the Town of Londonderry adopts the following phasing standards for residential development, to be administered by the Planning Board in conjunction with the Londonderry Subdivision Regulations.

#### 1.3.2 Purposes

The purposes of this Section of the Zoning Ordinance are as follows:

- 1.3.2.1 To guide efforts by the Town to monitor, evaluate, plan for and guide residential growth in Londonderry that is consistent with the Town's capacity for planned, orderly, and sensible expansion of its services to accommodate such development without establishing absolute limits on the overall growth rate of the community;
- 1.3.2.2 To provide for the current and future housing need of existing residents and their families;
- 1.3.2.3 To phase in or control the implementation and development of tracts of land and future subdivisions thereon, at a rate which will be compatible with the orderly and gradual expansion of community services, including but not limited to education, fire protection, road maintenance, waste disposal, police protection and recreation; and
- 1.3.2.4 To provide a mechanism to allow for phased development of residential projects to manage the impact on municipal services.

#### 1.3.3 Phasing of Developments

A phasing plan shall be submitted for Planning Board approval for all residential developments of more than fifteen (15) lots or dwelling units (unless exempted under §1.3.4), and at the applicant's option may be submitted for smaller developments. Such plans shall comply with the following phasing requirements:

- 1.3.3.1 For development proposed under the provisions of Section 3.3 Planned Residential Development: twenty five (25) dwelling units per year from the date of final approval;
- 1.3.3.2 For development located in the R-III district: Two (2) multi-family buildings, the total number of dwelling units not to exceed forty eight (48) per year from the date of final approval;
- 1.3.3.3 For other residential development proposed to be serviced with public water and public sewerage, and proposing no dwelling structures within 200 feet of a street other than one created by that development: twenty (20) dwelling units per year from the date of final approval;
- 1.3.3.4 For all other residential developments: fifteen (15) dwelling units per year from the date of final approval.

#### 1.3.4 Exemptions from Phasing

The Planning Board shall grant exemption to the phasing requirements of Section 1.3.3 under the following condition~~s~~:

1.3.4.1 The proposed project is for Elderly Housing as defined in Section 4.7. The owner of record shall enter an agreement, to be filed in the Rockingham County Registry of Deeds, certifying that the project will be utilized and restricted to 100% elderly occupants (age 55 and older).

← - - - Formatted: Bullets and Numbering

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

← - - - Formatted: Heading 4



## 1.4 GROWTH MANAGEMENT AND INNOVATIVE LAND USE CONTROL

<SNIPPED>

### 1.4.7 Procedures for Permit Limitations

- 1.4.7.1 Available building permits shall be allocated according to the following procedure. The number of dwelling units that may be authorized shall not exceed the smaller of (a) the number of units allowed to be authorized that calendar year under Section 1.4.4 but not yet authorized in the current calendar year, or (b) the number of dwelling units comprising a 2% increase in Londonderry housing stock at the beginning of the calendar year minus the number of housing units authorized in the eleven months preceding this determination.
- 1.4.7.1.1 Except as otherwise provided in this Section no building permit may be issued without a permit scoring sheet application (henceforth "application") issued by the Planning Board. For purposes of this section, each proposed dwelling unit in a mobile home, single-family dwelling, two-family dwelling or multifamily dwelling, shall require a separate application sheet.
- 1.4.7.1.2 From March 1 through March 21, the Planning Board shall, on a form prepared by the Board, review and score each application for allocation of building permits for the period.
- 1.4.7.1.3 Prior to April 1, applications will be scored according to the following priority system:
- 1.4.7.1.3.1 First priority shall be given to dwelling units which are exempt from the provisions of Section 1.4 under [Section 1.4.8](#), RSA 674:39 or RSA 676:12.
- 1.4.7.1.3.2 Second priority shall be given to dwelling units in proposed two-lot subdivisions; provided that no more than 10% of the number of available dwelling unit authorizations may be allocated on this basis, and no more than one per subdivision.
- 1.4.7.1.3.3 Priority for any remaining dwelling unit authorizations shall be based upon the number of points earned from the point system described in Section 1.4.7.2.
- 1.4.7.1.3.4 In the event of a tie at the lowest priority or score for which authorizations will be made, the remaining number of unit authorizations shall be divided among all the projects having earned that priority or score. Division shall be in proportion to the number of units each applicant has applied for or, to the extent proportionate permit allocation is impossible, by lottery.
- 1.4.7.2 For purposes of determining priority in the system of permit allocation, development shall be assigned points or point debits according to the following:
- 1.4.7.2.1 For development authorized under either Section 3.3 Planned Residential Development or Section 2.3.2 Multi-Family Residential: one (1) point;
- 1.4.7.2.2 For development proposed to be serviced with Town sewerage, and proposing no dwelling structures within 200 feet of a street other than one created by that development: one (1) point;
- 1.4.7.2.3 For development proposing no construction within lands Mapped as recommended open space by the Open Space Task Force and also not assessed under RSA 79-A Current Use Taxation at any time within the preceding three years: one (1) point;
- 1.4.7.2.4 For development documented to increase traffic at build-out by no more than 10% on any existing street: one (1) point;
- 1.4.7.2.5 For Elderly Housing (age 55 and older) as defined in Section 4.7 Definitions, provided that the owner of record shall enter an agreement, to be filed in the Rockingham County Registry of Deeds, certifying that the project will be utilized and restricted to 100 % elderly occupants as such for a period of no less than twenty years. One (1) point;

- 1.4.7.2.6 For development in which at least 25% of the dwelling units proposed will be "affordable:" one (1) point. For these purposes, "affordable" shall mean subject to restrictions limiting sale or lease to households with incomes no higher than 80% of the regional median at rates affordable to them, under administrative guidelines to be adopted and from time to time amended by the Planning Board;
- 1.4.7.2.7 For development within a sub area of the Town determined by the Planning Board to have a localized facility capacity shortfall: a two (2) point debit if further growth would seriously inconvenience or disadvantage others already in the neighborhood, such as through school overcrowding; or a one (1) point debit if further growth would constitute a demonstrated threat to health (such as incapacity of waste management facilities) or safety (such as a severe road hazard), provided in such cases that actions have been committed by the Town to address the capacity shortfall.
- 1.4.7.2.8 One point for each year the project has been denied a Building Permit Allocation Certificate.
- 1.4.7.3 If by April 1, the surplus permits have not been issued for the year, a second allocation process using the procedure set forth in §1.4.7.1 and 2 shall take place. The Planning Board shall score applications submitted from May 1 through May 21. All applications shall be completed prior to June 1. If necessary a third allocation process shall be held with applications received from August 1 through August 21 and certificates issued by September first (September 1)
- 1.4.7.4 The owners of the lots scoring enough points to be awarded a building permit for a given period may apply for building permits from the Building Department from April 1 through December 31. Any application scoring enough points to be awarded a building permit that is not applied for by December 31 shall lapse.
- 1.4.7.5 Building permits, which are not used within one year of issuance, shall lapse.
- 1.4.7.6 Lapsed building permits may not be renewed if a notice of unsustainable growth remains in effect. In the case of such a lapsed permit, the number of permits available for the following year shall be increased by one.
- 1.4.7.7 An application earning enough points may be used for a building permit on any lot within the subdivision for which it was awarded but may not be used for lots outside that subdivision.
- 1.4.7.8 Building permits for non-residential construction, or for expansion, alteration, renovation or replacement of existing dwelling units, are not limited by Section 1.4.
- 1.4.7.9 Nothing in Section 1.4 shall be construed to authorize or require issuance of a building permit that is not eligible for issuance under any other provision of law.

1.4.8 **Workforce Housing Exemption**

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

Formatted: Font: Not Bold

Formatted: Indent: Left: 0.8"

**1.4.9 Applicability**

Nothing herein is intended to repeal the former Section XIII (numbered as passed by Article 98-01 by the Town Council), as amended, as it applies to subdivisions and site plans approved subject to the permit limitations of such ordinance. Said ordinance shall continue to apply to such subdivisions and site plans.

Formatted: H3

Formatted: Bullets and Numbering

**1.4.10 Sunset**

This Ordinance shall expire on January 1, 2015 unless re-adopted prior to that date

Formatted: Bullets and Numbering

Deleted: 2010

2.3.2 MULTI-FAMILY RESIDENTIAL (R-III)

<SNIPPED>

2.3.2.3.2.4 Road design - internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town's Subdivision Regulations.

Formatted: H7

Deleted: internal roads shall conform to Town standards for roads in new subdivisions

Formatted: H6

2.3.2.3.2.5 Building separation - single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Up to three (3) buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment.

Formatted: H6

2.3.2.3.2.6 Dimensional requirements

Formatted: H6

2.3.2.3.2.6.1 Minimum structure setbacks from the perimeter of the development lot shall be as follows: front - 40 feet; side - 35 feet; rear - 30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way.

2.3.2.3.2.6.2 Maximum building height shall not exceed (50') fifty feet (excluding non-occupied features such as towers, cupolas, etc.)

2.3.2.3.2.6.3 Maximum building footprint coverage as a percentage of the development lot shall not exceed fifty five percent (55%).

2.3.2.3.2.6.4 The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.

2.3.2.3.2.7 Parking

Formatted: H7

Formatted: Heading 6

Formatted: Bullets and Numbering

Formatted: H6

2.3.2.3.2.7.1 A minimum of two (2) parking spaces per dwelling unit shall be provided for single family and two family dwellings. ← Formatted: Bullets and Numbering

2.3.2.3.2.7.2 A minimum of two and one-half (2.5) parking spaces per dwelling unit shall be provided for multi-family dwellings. Parking spaces may be located offsite (ie: off the internal legal lot so long as the offsite parking is located within the development lot) and the parking spaces shall be within four hundred feet (400') of the building they are intended to serve.

2.3.2.3.2.7.3 Assisted living and nursing home uses shall require one half (0.5) a parking space per resident unit or bed, plus one per employee.

2.3.2.3.2.7.4 Parking for other uses shall comply with standards applicable to such uses in other districts.

2.3.2.3.2.7.5 Parking areas shall be designated in accordance with requirements for parking areas set forth in Section 3.10 of the Zoning Ordinance (parking).

2.3.2.3.2.8 Perimeter buffer - a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows: ← Formatted: H7  
← Formatted: Bullets and Numbering

2.3.2.3.2.8.1 Agricultural-residential: one hundred feet (100') where directly abutting; fifty feet (50') where highway separates R-III and AR-I district. ← Formatted: H6  
← Formatted: Bullets and Numbering

2.3.2.3.2.8.2 Commercial or industrial: fifty feet (50') where directly abutting, no buffer where highway separates R-III and a "C" or "I" district.

2.3.2.3.2.8.3 Multi-family residential: no buffer. ← Formatted: H7

**2.3.3 WORKFORCE RESIDENTIAL OVERLAY (WRO)**

Formatted: H6  
Formatted: Bullets and Numbering

**2.3.3.1 Objectives and Characteristics**

Formatted: Bullets and Numbering

The Workforce Residential Overlay (WRO) district is designed to allow for housing of greater densities for income levels associated with those spelled out in RSA 674:58 through 61 (adopted as state law effective July 1, 2009), in areas where municipal services make it appropriate and to promote flexibility in the design of residential projects with various housing types, reduced lot sizes and modified dimensional requirements, while maintaining a fixed maximum density. Flexible design can provide for the appropriate use of the land, facilitate the economical and efficient provision of public services, promote open space conservation, protect the natural and scenic attributes of the land and expand opportunities for the development of affordable workforce housing.

**2.3.3.2 District Defined**

Formatted: Bullets and Numbering

2.3.3.2.1 The WRO District shall be described as including the lots identified specifically as follows:

Formatted: Bullets and Numbering

On Map 9: Lot 49,

On Map 10: Lot 41,

On Map 11: Lots 100, 102, 102-5, and 102-6,

On Map 12: Lots 59-3, 120, 121, 121-1, 121-2, and 131,

On Map 14: Lots 10 and 35 (AR-I portion only),

On Map 15: Lots 1, 83-2, 87-1, 215-1, and 215-2,

On Map 16: Lots 1, 2, 3, 9 (AR-I portion only), 23, and 38 (AR-I portion only),

On Map 17: Lots 4 (AR-I portion only), 4-1, and 45 (R-III portion only),

On Map 18: Lots 13 and 32.

Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold  
Formatted: Font: Not Bold

2.3.3.2.2 The term "overlay district" means a zoning district superimposed on one or more established zoning districts to impose supplemental requirements, restrictions, and performance standards on uses in the district.

Formatted: Bullets and Numbering

**2.3.3.3 Conflicts with Underlying Zoning Standards**

Formatted: Bullets and Numbering

Because of the nature of the regulations in this overlay district, the standards and requirements of this Section shall only apply to those projects that have filed a letter of intent with the Planning Board for the purposes of developing workforce housing, per the requirements of RSA 674:60. All other development of lots in the WRO district shall conform to the standards of the underlying district.

**2.3.3.4 Uses**

Formatted: Bullets and Numbering

2.3.3.4.1 See use Table Section 2.2

Formatted: Bullets and Numbering

2.3.3.4.2 Single family and two family dwellings are allowed per the Use Table provided that all such dwelling units shall be in compliance with the Inclusionary Housing section of this ordinance (Section 2.3.4).

Formatted: Bullets and Numbering

2.3.3.4.3 No lot in the WRO district may be used for the outside storage of more than one unregistered motor vehicle (in accordance with RSA 236:92) or the outside storage of more than one boat other than a rowboat, canoe or other boat less than twenty (20) feet in length. ← --- Formatted: Bullets and Numbering

2.3.3.5 Regulations and Design Criteria ← --- Formatted: Bullets and Numbering

2.3.3.5.1 Affordability: Development of housing in the WRO District shall be limited to projects meeting the definition of “workforce housing” under RSA 674:58. Any applicant seeking to develop housing in the WRO shall be required to file a letter of intent with the Planning Board that the project is intended to be for “workforce housing” per the requirements of 674:60. ← --- Formatted: Bullets and Numbering

2.3.3.5.2 Development plan ← --- Formatted: Bullets and Numbering

2.3.3.5.2.1 The applicant shall prepare and submit to the Planning Board for approval of a development plan of the tract proposed for development (“development lot”), which locates the proposed types of residential development, utilities, access roads and streets. (“development plan”) ← --- Formatted: Bullets and Numbering

2.3.3.5.2.1.1 The development plan shall include general, conceptual site and architectural plans sufficiently detailed to show the intended land uses, structures, improvements, and other features necessary to demonstrate compliance with this Section and other applicable provisions of the Zoning Ordinance. ← --- Formatted: Bullets and Numbering

2.3.3.5.2.1.2 The applicant may elect to develop the development lot in phases.

2.3.3.5.2.1.3 Final approval of development of any portion of the development lot shall require site plan approval according to the Site Plan Regulations of the Planning Board.

2.3.3.5.2.1.4 Once development of any portion of the development lot begins, no portion of the development lot may thereafter be developed or used except in conformity with the approved development plan, or an amended development plan approved by the Board.

2.3.3.5.2.2 The development lot may, but need not, be divided into two or more smaller legal separate lots of record (“internal legal lots”), which shall require subdivision approval by the Planning Board. ← --- Formatted: Bullets and Numbering

2.3.3.5.2.3 The density, design and dimensional requirements of Section 2.3.2.3.2 shall be applied to the development lot and not the internal legal lots. ← --- Formatted: Bullets and Numbering

2.3.3.5.2.4 The internal legal lots, if any, shall be subject to the density, design and dimensional requirements of Section 2.3.2.3.3. ← --- Formatted: Bullets and Numbering

2.3.3.5.2.5 The applicant shall be permitted to allocate permitted density among the internal legal lots in any manner so long as the sum total of development for ← --- Formatted: Bullets and Numbering



all internal legal lots does not exceed the permitted density for the development lot.

2.3.3.5.3 Density, Design and Dimensional Standard for Development Lot

← --- Formatted: Bullets and Numbering

2.3.3.5.3.1 Permitted density - the maximum permitted number of dwelling units ("permitted density") allowed in the development lot shall be as follows:

← --- Formatted: Bullets and Numbering

2.3.3.5.3.1.1 For dwellings serviced by municipal sewer, the maximum number of dwelling units permitted on the development lot shall 10 units per acre.

← --- Formatted: Bullets and Numbering

2.3.3.5.3.1.2 For dwellings serviced by onsite septic systems, there shall be at least 14,000 square feet per dwelling unit. In addition, to protect ground water quality and to promote public health and safety, permitted density shall also be subject to such additional density requirements as are required by "minimum lot size by soil type" in Table 2 of Section 2.3.1, with the following modification: one or two bedroom units - lot size x 0.65. Three bedroom units = lot size x 0.85.

2.3.3.5.3.1.3 The maximum number of dwelling units per multi-family building in the WRO shall be thirty-six (36).

2.3.3.5.3.1.4 At least 51% of dwelling units on a development lot in the WRO district must contain at least 2 bedrooms.

2.3.3.5.3.2 Screening, Landscaping and Glare - the development plan and the internal legal lots shall be designed to screen parking lots from streets by building location, grading or screening and to minimize glare on adjoining properties. Glare from any use of land, including site illumination, shall not exceed 0.2 foot candles, measured at ground level, at or beyond the perimeter of the development lot. Lighting fixtures shall be designed for downward casting of light. Major topographic changes or removal of existing trees shall be avoided wherever possible, and water, wetlands and other scenic views shall be preserved wherever possible.

← --- Formatted: Bullets and Numbering

2.3.3.5.3.3 Open space - no less than the area calculated below shall be retained as unoccupied space free of all buildings, parking and pavement, including street access, drives and walks paved with impervious materials, (but such unoccupied open space may include so-called nature walk areas and the like and other recreational uses approved by the Planning Board.) Open space shall be owned by undivided interests appurtenant to lot ownership. Such open space shall either be maintained in its natural state (except for the walking paths or other uses approved by the Planning Board) or shall have appropriate landscaping of grass, shrubbery, trees, flowers, or suitable ground cover indigenous to the area.

← --- Formatted: Bullets and Numbering

2.3.3.5.3.3.1 Total open space shall not be less than forty percent (40%) of the total development lot area

2.3.3.5.3.3.2 Open space shall exclude the area within fifteen feet (15') of each building around its entire perimeter.

2.3.3.5.3.3.3 Usable open space shall not be less than ten percent (10%) of the total development lot area. "usable open space" shall not include "unusable land" which is

defined as wetlands, excessive slopes (greater than 25%) and land subject to existing utility and drainage easements.

- 2.3.3.5.3.4 Road design - internal roads shall conform to Town standards for roads in new subdivisions as required by the most recent version of the Town's Subdivision Regulations. ← --- Formatted: Bullets and Numbering
  
- 2.3.3.5.3.5 Building separation - single family or two family dwellings shall be at least twenty feet (20') from other dwellings. Multi family dwellings and other buildings shall be at least thirty feet (30') from other dwellings. Up to three (3) buildings may be interconnected by a covered walkway or breeze way for reasons of convenience and shelter from the elements, if such walkway shall not, in the opinion of the Planning Board (after consultation with the fire department) impair access to the buildings by emergency vehicles and equipment. ← --- Formatted: Bullets and Numbering
  
- 2.3.3.5.3.6 Dimensional requirements ← --- Formatted: Bullets and Numbering
  - 2.3.3.5.3.6.1 Minimum structure setbacks from the perimeter of the development lot shall be as follows: front - 40 feet; side - 35 feet; rear - 30 feet. If the development lot abuts more than one existing and/or proposed external right-of-way, the building setback will be forty (40') feet from each right-of-way. ← --- Formatted: Bullets and Numbering
  - 2.3.3.5.3.6.2 The maximum building height shall be flexible, based on recommendations from the Senior Building Official and the Fire Marshall, but no residential structure shall be greater than 4 stories.
  - 2.3.3.5.3.6.3 The development lot shall have a minimum frontage of a state highway or Town maintained road of Class V designation or better of at least one hundred feet (100') in the aggregate, which may consist of two (2) fifty foot (50') rights-of-way serving as access to the development lot.
  
- 2.3.3.5.3.7 Parking ← --- Formatted: Bullets and Numbering
  - 2.3.3.5.3.7.1 A minimum of 1.75 parking spaces per dwelling unit shall be provided for all dwelling units in the WRO District. Parking spaces may be located offsite (ie: off the internal legal lot as long as the offsite parking is located within the development lot) and the parking spaces shall be within four hundred feet (400') of the building they are intended to serve. ← --- Formatted: Bullets and Numbering
  - 2.3.3.5.3.7.2 Parking areas shall be designated in accordance with requirements for parking areas set forth in Section 3.10 of the Zoning Ordinance (parking).
  
- 2.3.3.5.3.8 Perimeter buffer - a perimeter buffer to separate and screen incompatible land uses shall surround the development lot except where streets enter the development lot. The buffer shall include a combination of physical space ← --- Formatted: Bullets and Numbering

and vertical elements such as plants, berms, fences or walls, as approved by the Board. The width of the buffer area shall vary according to the abutting zoning district as follows:

2.3.3.5.3.8.1 Agricultural-residential, Commercial, or Industrial: fifty feet (50') where directly abutting, no buffer where highway separates WRO and a "C" or "I" district.

Formatted: Bullets and Numbering

2.3.3.5.3.8.2 R-III: no buffer.

2.3.3.5.4 Additional dimensional standards for internal lots:

Formatted: Bullets and Numbering

2.3.3.5.4.1 Single and two-family dwelling lots:

Formatted: Bullets and Numbering

2.3.3.5.4.1.1 Minimum lot area 5,000 SF/Unit

2.3.3.5.4.1.2 Minimum lot width 50 ft/unit

2.3.3.5.4.1.3 Minimum setbacks

front - 25 feet

side - see note below

rear - 20 feet

Note: side setbacks may be reduced to any dimension as long as distance between buildings on contiguous lots is greater than twenty feet (20').

2.3.3.5.4.2 Multi family dwelling lots

Formatted: Bullets and Numbering

2.3.3.5.4.2.1 Minimum lot area 7,000 SF/unit

2.3.3.5.4.2.2 Minimum lot width No minimum width will be applicable to Multi-family Internal lots. Lot width shall be sufficient to ensure proper building placement, parking and traffic circulation.

2.3.3.5.4.2.3 Minimum setbacks

front - 40 feet

side - 15 feet

rear - 30 feet

2.3.3.5.5 Dimensional Relief by Conditional Use Permit

Formatted: H6

Formatted: Heading 5

Formatted: Bullets and Numbering

Formatted: H5

Formatted: Heading 6

Formatted: Bullets and Numbering

2.3.3.5.5.1 The Planning Board may through the granting of a Conditional Use Permit adjust standards of any dimensional requirement of the district (including but not limited to: setback, density, green space, frontage, or parking) for projects that are truly supportive of the purpose and objectives of the WRO District as noted above, and where such adjustments would allow the developer to more fully meet these goals and objectives.

2.3.3.5.5.2 The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approval. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

Formatted: Heading 6

Formatted: Bullets and Numbering

2.3.3.5.5.3 Application Procedure - Applications for conditional use permits (CUP) within this district shall be made in accordance with the following procedures:

Formatted: Heading 6

Formatted: Bullets and Numbering

2.3.3.5.5.3.1 It is recommended that all projects requiring a CUP conduct a preliminary meeting with staff prior to review by the Design Review Committee and the Town's Review Consultant. The purpose of the preliminary meetings shall be to provide guidance on the design of the proposed plan.

Formatted: Heading 7

Formatted: Bullets and Numbering

2.3.3.5.5.3.2 The applicant will then develop the proposed plan to a point at which the plan is eligible for design review.

2.3.3.5.5.3.3 The application will then begin Pre-Application Design review, followed by the Conditional Use Permit Review outlined in this section, and in accordance with the other applicable procedures adopted by the Planning Board.

2.3.3.5.5.3.4 Unless otherwise addressed in this ordinance, all applications shall meet those requirements set forth in the relevant sections of the Subdivision & Site Plan Regulations of the Town of Londonderry.

2.3.3.5.5.4 Approval of Applications Requiring a Conditional Use Permit - Prior to issuance of a building permit, the applicant shall acquire a conditional use permit as well as any other necessary Planning Board approval. A conditional use permit shall be issued only if the development complies with all of the requirements of Section 2.3.3.5.5.5. The Planning Board may also condition its approval on additional, reasonable conditions necessary to accomplish the objectives of this section or of the 2004 Master Plan, Zoning Ordinance, the 2008 Housing Taskforce Final Report, or any other federal, state, town resolution, regulation, or law.

Formatted: Heading 6

Formatted: Bullets and Numbering

2.3.3.5.5.5 The following criteria must be satisfied in order for the Planning Board to grant a conditional use permit in the WRO. The applicant shall demonstrate that:

Formatted: Bullets and Numbering

2.3.3.5.5.1 The proposed use is consistent with the Objectives and Characteristics of the WRO District, Section 2.3.3.1;

Formatted: Heading 7

2.3.3.5.5.2 Granting of the application is in the public interest;

Formatted: Bullets and Numbering

2.3.3.5.5.3 The property in question is reasonably suited for the use requested, and the design of the site represents to the extent practicable preservation of natural resources, open space, and does not create a hazard to surface or underground water resources.

2.3.3.5.5.4 The applicant has demonstrated that the alternative design for which the Conditional Use Permit is sought better achieves the Objectives and Characteristics of the district, while not diminishing surrounding property values or the ability of nearby parcels to develop in accordance with the Objectives and Characteristics of the district; and

2.3.3.5.5.5 The application demonstrates that the alternative design for which the Conditional Use Permit is sought does not impact the general health, safety, and general welfare of the Town, and is otherwise in compliance will all requirements of the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations, as applicable to the proposed project.

Formatted: H6

Londonderry Zoning Ordinance Use Table

											Overlay Districts						
	AR-1	R-III	C-I	C-II	C-III	C-IV	IND-I	IND-II	AD	WRO	POD - 102*	POD - 28*	CO	AH	AZ	FP	
<b>RESIDENTIAL AND AGRICULTURAL</b>																	
Agriculture	P	P															
Assisted Living Facilities		P	P	P	P						P	P					
Back Lot Development	C												See specific district regs.				
Dwelling, multi-family		P								P***							
Dwelling, single family	P	P			S					P***							
Dwelling, two-family	P	P			S					P***							
Elderly Housing	P	P	P	P	P	P					P	P					
Manufactured housing	P																
Mixed use residential						P											
Mobile homes	P																
Nursing Home and accessory uses		P	P	P	P						P	P					
Planned residential development	P																
Preexisting manufactured housing parks	P																
Presite Built Housing	P																
<b>CIVIC USES</b>																	
Community center			P	P		C											
Cemetery	P																
Public Facilities	P		P	P		C	P	P	P								
Public Utilities	P	P	P	P			S	S	S	P							
Recreational Facilities, Public	P			P							P	P					
Religious Facilities	P		P	P	P	P					P	P					
<b>BUSINESS USES</b>																	
Aeronautical Facilities									P								
Bed and Breakfast Homestay	P																
Business center development			P	P							P	P					
Day Care Center, Adult						C											
Drive-thru window as an accessory use			P	P													
Drive-in establishments			P	P													
Drive-in theatres				P													

P = Permitted Use

C = Requires Conditional Use Permit

S = Requires Special Exception

Londonderry Zoning Ordinance Use Table

	AR-1	R-III	C-I	C-II	C-III	C-IV	IND-I	IND-II	AD	WRO	POD - 102*	POD - 28*	CO	AH	AZ	FP
Financial institution			P	P												
Funeral homes			P	P	P											
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.	P		P	P	P		P	P	P							
Group Child Care Center					P	C	S	S			C	C				
Home Occupation	S															
Hotels				P												
Manufacturing, Heavy								P	P							
Manufacturing, Light				P			P	P	P							
Membership club			P	P												
Motels				P												
Motor Vehicle Maintenance, Major Repair and Painting								P	P							
Motor vehicle rental									P							
Motor Vehicle Station, Limited Service				P		C**			P							
Recreation, commercial			P	P							P	P				
Retail sales establishment			P	P		P					P	P				
Professional office			P	P	P	P	P	P	P		P	P				
Repair services			P	P		P	P	P	P		P	P				
Research Laboratory				P			P	P	P							
Restaurant			P	P		C			P		P	P				
Restaurant, fast food			P	P												
Sales of Heavy Equipment or Heavy Trucks as an accessory use							C	C								
School, Private					P						P	P				
Service establishment			P	P			P	P	P		P	P				
Sexually oriented businesses			P	P												
Storage, self serve				P			P	P			C	C				
Terminal, Airplane									P							
Terminal, Trucking								P	P							
Vehicle Sales Establishment				P												
Warehouse				P			P	P	P		C	C				
Wholesale establishment				P			P	P	P							

\*Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use

\*\*See section 2.4.1.2.4 for additional dimensional requirements related to fuel dispensers

\*\*\* See Section 2.3.3 for specific requirements (workforce housing)

P = Permitted Use

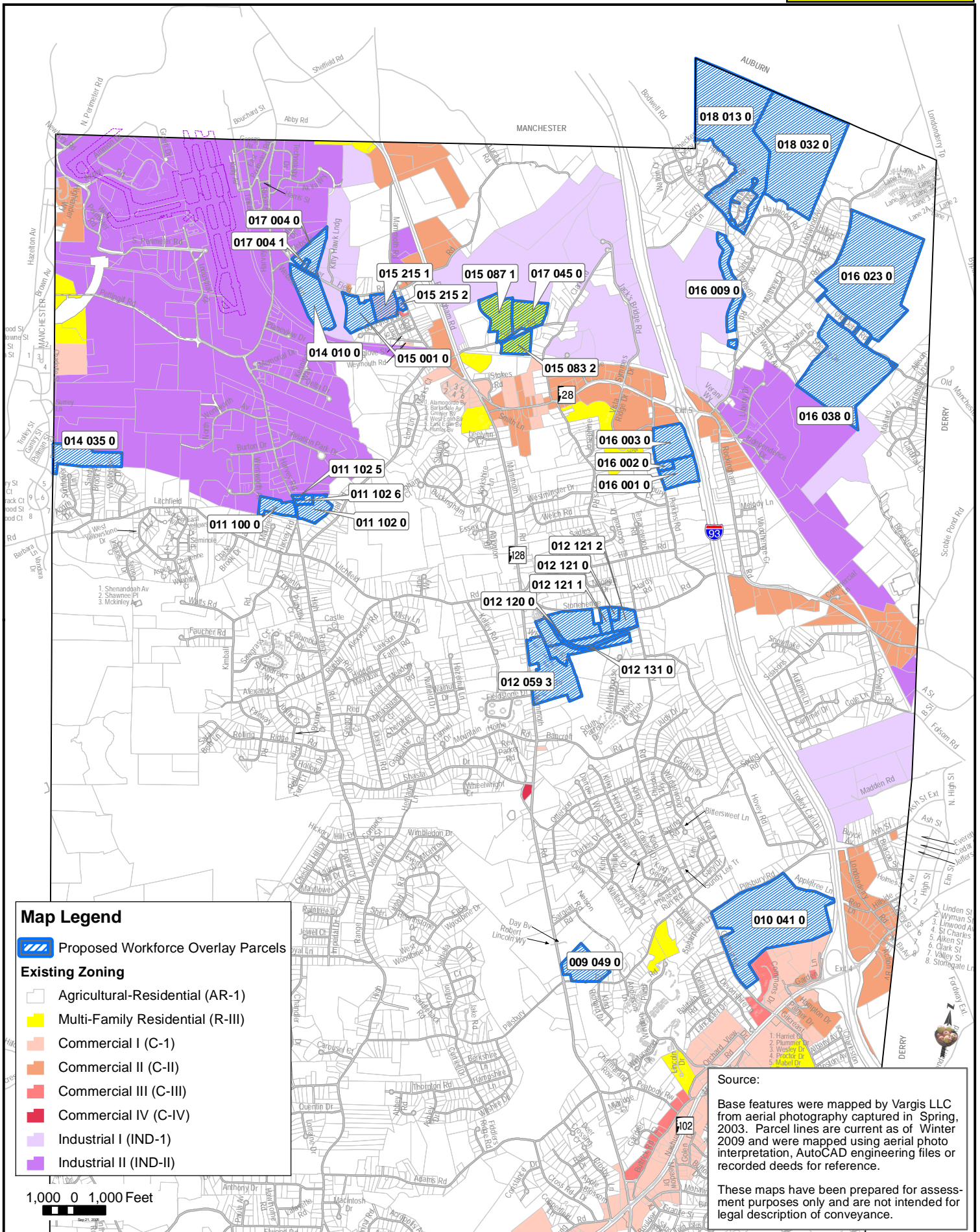
C = Requires Conditional Use Permit

S = Requires Special Exception












# Proposed Workforce Overlay Parcels

May 13, 2009 Planning Board Public Hearing



### Map Legend

-  Proposed Workforce Overlay Parcels
- Existing Zoning**
-  Agricultural-Residential (AR-1)
-  Multi-Family Residential (R-III)
-  Commercial I (C-1)
-  Commercial II (C-II)
-  Commercial III (C-III)
-  Commercial IV (C-IV)
-  Industrial I (IND-1)
-  Industrial II (IND-II)

1,000 0 1,000 Feet

### Source:

Base features were mapped by Vargis LLC from aerial photography captured in Spring, 2003. Parcel lines are current as of Winter 2009 and were mapped using aerial photo interpretation, AutoCAD engineering files or recorded deeds for reference.

These maps have been prepared for assessment purposes only and are not intended for legal description of conveyance.

**2.3.4 INCLUSIONARY HOUSING**

**2.3.4.1 Purpose:**

The purpose of this Section is to encourage and provide for the development of affordable housing within Londonderry. It is intended to ensure the continued availability of a diverse supply of home ownership and rental opportunities for low to moderate income households. This Section was established in order to meet the goals related to affordable housing provision set forth in the 2004 Master Plan and 2008 Housing Task Force Final Report. Additionally, in implementing this Section Londonderry has considered the region's affordable housing need as defined in the Southern NH Planning Commission Housing Needs Assessment.

- Formatted: H6
- Formatted: Heading 3
- Formatted: Bullets and Numbering
- Formatted: H3
- Formatted: Font: Bold
- Formatted: Heading 4
- Formatted: Bullets and Numbering

**2.3.4.2 Authority:**

This Section is adopted under the authority of RSA 674:21, and is intended as an "Inclusionary Zoning" provision, as defined in RSA 674:21(l)(k) and 674:21(IV)(a).

- Formatted: H4
- Formatted: Font: Bold
- Formatted: Heading 4
- Formatted: Bullets and Numbering
- Formatted: H4

**2.3.4.3 Applicability**

**2.3.4.3.1** Development in accordance with the provisions of this Section is permitted by conditional use permit within the following zoning districts as defined in this Zoning Ordinance: AR-I, WRO, R-III, and C-IV.

**2.3.4.3.2** Permitted Uses: In the interest of encouraging affordability, single-family, duplex, multi-family, and manufactured housing is permitted within an application under this Section in the WRO, R-III, and C-IV districts. In the AR-I District, single-family, duplex, and manufactured housing is permitted within an application under this Section.

**2.3.4.3.3** Any person aggrieved by a Planning Board decision that constitutes a denial of a Conditional Use Permit due to noncompliance with one or more of the provisions of this ordinance may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

- Formatted: Font: Bold
- Formatted: Heading 4
- Formatted: Bullets and Numbering
- Formatted: H4
- Formatted: Bullets and Numbering
- Formatted: H5
- Formatted: Heading 5
- Formatted: Bullets and Numbering

- Formatted: H5
- Formatted: Heading 5
- Formatted: Bullets and Numbering

**2.3.4.4 Conditional Use Permit Criteria** – The Criteria of Section 1.5.2 shall be utilized by the Planning Board in the evaluation of Conditional Use Permits for Inclusionary Housing projects.

- Formatted: H5
- Formatted: Font: Bold
- Formatted: Heading 4
- Formatted: Bullets and Numbering

**2.3.4.5 Definitions Specific to This Section.**

**2.3.4.5.1 Affordable Rental Housing** – where the rent plus utilities for the dwelling unit does not exceed 30 percent of the allowed individual household income.

**2.3.4.5.2 Affordable Owner-Occupied Housing** – where the total cost of mortgage principal and interest, mortgage insurance premiums, property taxes, association fees, and homeowner's insurance does not exceed 30 percent of the maximum allowed income of the purchaser. The calculation of housing costs shall be based

- Formatted: H4
- Formatted: Font: Bold
- Formatted: Heading 4
- Formatted: Bullets and Numbering
- Formatted: H4
- Formatted: Heading 5
- Formatted: Bullets and Numbering
- Formatted: Font: Bold
- Formatted: Bullets and Numbering

on current taxes, a 30-year fixed rate mortgage, a 5 percent down payment, and prevailing mortgage rates within the region.

2.3.4.5.3 **Area Median Income (AMI)** – is the median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which Londonderry belongs, as is established and updated annually by the United States Department of Housing and Urban Development.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.4 **Assets** – As defined as “Net Family Assets” by 24 CFR Part 5, Subpart F, and as amended from time to time.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.5 **Income** – As defined as “Annual Income” by 24 CFR Part 5, Subpart F, and as amended from time to time.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.6 **Low Income** – A household income (as defined herein) that does not exceed 50 percent of the area median income.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.7 **Low to Moderate Income** – A household income (as defined herein) that is more than 50 percent and does not exceed 80 percent of the area median income.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.8 **Market Rate Housing** – Any unit within a development, whether the unit is to be owner or renter occupied, that is intended to be available for sale or occupancy at the prevailing market value for the area similar to comparable real estate transactions.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.9 **Moderate Income** – A household income (as defined herein) that is more than 80 percent and does not exceed 100 percent of the area median income.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.10 **Owner-occupied Housing** – Any dwelling unit intended to be conveyed in fee simple, condominium or equity-sharing arrangement such as a community housing land trust and limited equity cooperatives.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

2.3.4.5.11 **Rental Housing** – Any dwelling unit intended for leasehold occupancy.

Formatted: Font: Bold  
Formatted: Bullets and Numbering

#### 2.3.4.6 **Affordable Housing Categories and Incentives**

Formatted: H5

2.3.4.6.1 A Site Plan or subdivision plan that will guarantee a designated percentage of units, reserved as affordable housing, may be approved with an increase in the density of the site or a reduction of the minimum site frontage as is set forth in Table 1. The developer shall specify in the application whether the density bonus or the frontage reduction is the option being sought for the development. These bonuses shall not apply to development within the Workforce Residential Overlay (WRO), as that overlay district has increased density allowances built into the district.

Formatted: Font: Bold

Formatted: Bullets and Numbering

Formatted: H4

Formatted: Heading 5

Formatted: Bullets and Numbering

<b>Table 1</b>	
<b><u>Minimum Set Aside</u></b>	<b><u>Density Bonus or Frontage Reduction *</u></b>

Formatted: H5

Formatted Table

Formatted: Font: Bold

<u>Low Income Owner-occupied Housing</u>	10%	20% Density Bonus or 30' Frontage Reduction
<u>Moderate to Low Income Owner-occupied Housing</u>	20%	25% Density Bonus or 40' Frontage Reduction
<u>Moderate Income Owner-occupied Housing</u>	25%	25% Density Bonus or 50' Frontage Reduction

\* At no point shall a frontage reduction reduce a lot's frontage to less than 50' total.

2.3.4.6.2 A site plan or subdivision plan can mix affordable housing types and accumulate density bonuses to a maximum bonus equal to 30 percent where municipal sewer and water are available or in areas without water and sewer service to the maximum density permitted by on-site well and septic standards of the New Hampshire Department of Environmental Services as applied to the site.

2.3.4.6.3 When mixing affordable unit types the designated affordable percentage for each individual affordable housing type may be less than that required in Table 1. The density bonus is then proportioned to the actual percentage of designated affordable units provided, so that if the applicant provides only one-half of the required designation of one type of affordable housing they will receive one-half of the density bonus. The combined total of all affordable housing types must equal a 15 percent designation of affordable units, at a minimum.

2.3.4.7 **General Requirements Of Affordable Units**

2.3.4.7.1 The dwellings qualifying as affordable housing shall be compatible in architectural style and appearance with the market rate dwellings in the proposed development. The affordable units should be interspersed throughout the overall development.

2.3.4.7.2 To ensure that the application is completed as permitted, the dwellings qualifying as affordable housing shall be made available for occupancy on approximately the same schedule as a project's market units, except that the certificates of occupancy for the last 10 percent of the market rate units shall be withheld until certificates of occupancy have been issued for all the affordable housing units. A schedule setting forth the phasing of the total number of units in a project under this Section, along with a schedule setting forth the phasing of the required affordable housing units shall be established prior to the issuance of a building permit for any development subject to the provisions of this Section.

2.3.4.7.3 To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of an affordable unit must submit copies of their last three years' federal income tax returns and written certification verifying their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance in sections 2.3.4.4 and 2.3.4.5.1 of this Section. The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax return and written certification of income

- Formatted: Font: Bold
- Formatted: Font: Bold
- Formatted: Font: Not Bold
- Formatted: Font: Not Bold
- Formatted: Font: Not Bold
- Formatted: Font: Bold
- Formatted: Font: Not Bold
- Formatted
- Formatted: Font: Not Bold
- Formatted: Font: Not Bold
- Formatted: Font: 9 pt
- Formatted: H5
- Formatted: Indent: Left: 0.6"
- Formatted: Bullets and Numbering

- Formatted: Indent: Left: 0.6"
- Formatted: Heading 5
- Formatted: Bullets and Numbering

- Formatted: Indent: Left: 0"
- Formatted: Font: Bold
- Formatted: Bullets and Numbering
- Formatted: H4
- Formatted: Heading 5
- Formatted: Bullets and Numbering
- Formatted: Bullets and Numbering

- Formatted: Bullets and Numbering



and assets must be submitted to all parties charged with administering and monitoring this ordinance, as set forth in sections 2.3.4.8 through 2.3.4.8.4 of this Section, within 30 days following the transfer of title.

2.3.4.7.4 All applicants under this section must submit the following data to ensure project affordability:

Formatted: Bullets and Numbering

2.3.4.7.4.1 Calculation of the number of units provided under this Section and how it relates to its provisions.

Formatted: H5

Formatted: Heading 6

Formatted: Bullets and Numbering

2.3.4.7.4.2 Project Cost Estimate including land, development and construction costs; financing, profit, and sales costs; and other cost factors.

Formatted: Bullets and Numbering

2.3.4.7.4.3 Description of each unit's size, type, estimated cost and other relevant data.

Formatted: Bullets and Numbering

2.3.4.7.4.4 Documentation of household eligibility as required in section 2.3.4.6.3 of this Section.

Formatted: Bullets and Numbering

2.3.4.7.4.5 All agreements established as part of sections 2.3.4.6.7 through 2.3.4.6.7.2

Formatted: Bullets and Numbering

2.3.4.7.4.6 List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability of this Section.

Formatted: Bullets and Numbering

#### 2.3.4.8 Assurance of Continued Affordability

Formatted: Font: Bold

Formatted: Bullets and Numbering

Formatted: H4

In order to qualify as affordable housing under this Section, the developer must make a binding commitment that the affordable housing units will remain affordable for a period of 20 years. This shall be enforced through a deed restriction; restrictive covenant; or a contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency. For the 20-year term, the deed restriction, restrictive covenant, or contractual arrangement established to meet this criterion must make the following continued affordability commitments:

2.3.4.8.1 Affordable housing units offered for sale shall comply with **Section 2.3.5, Retention of Housing Affordability.**

Formatted: Heading 5

Formatted: Font: Bold

2.3.4.8.2 Affordable housing rental units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.

Formatted: H5

Formatted: Bullets and Numbering

2.3.4.8.3 Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Section must be documented on all plans filed with the Planning Board and the Rockingham County Registry of Deeds.

Formatted: Bullets and Numbering

#### 2.3.4.9 Administration, Compliance and Monitoring

Formatted: H5

Formatted: Font: Bold

Formatted: Bullets and Numbering

2.3.4.9.1 This Section shall be administered by the Planning Board. Applications for the provisions provided under this Section shall be made to the planning board and

Formatted: H4

Formatted: Heading 5

Formatted: Bullets and Numbering

shall be part of the submission of an application for site plan or subdivision plan approval.

2.3.4.9.2 No certificate of occupancy shall be issued for an affordable housing unit without written confirmation of the income eligibility of the tenant or buyer of the affordable housing unit and confirmation of the rent or price of the affordable housing unit as documented by an executed lease or purchase and sale agreement.

Formatted: Bullets and Numbering

2.3.4.9.3 On-going responsibility for monitoring the compliance with resale and rental restrictions on affordable units shall be the responsibility of the Community Development Department or their designee.

Formatted: Bullets and Numbering

2.3.4.9.4 The owner of a project containing affordable units for rent shall prepare an annual report, due on December 31 each year, certifying that the gross rents of affordable units and the household income of tenants of affordable units have been maintained in accordance this Section. Such reports shall be submitted to the Community Development Department or their designee and shall list the contract rent and occupant household incomes of all affordable housing units for the calendar year.

Formatted: Bullets and Numbering

Formatted: Font: Not Italic

Formatted: H5

**2.3.5 Retention of Housing Affordability**

**2.3.5.1 Authority and Purpose**

**2.3.5.1.1 Authority:** This ordinance is adopted as an “innovative land use control” pursuant to RSA 674:21.

**2.3.5.1.2 Purpose:** The purpose of this ordinance is to provide a means by which Londonderry may promote the long-term affordability of housing units (intended for ownership and not rental or lease) built as part of a development approved by the Planning Board under the terms of the Londonderry’s Inclusionary Housing provisions. It is intended to ensure that the units remain affordable to households of low- and moderate-income, while also facilitating homeowners’ capacity to benefit from property value appreciation. It creates a lien interest in the property held by the Town, enforceable by the Town as a mortgage.

- Formatted: H5
- Formatted: Heading 3
- Formatted: Bullets and Numbering
- Formatted: H3
- Formatted: Heading 4
- Formatted: Bullets and Numbering
- Formatted: H4
- Formatted: Bullets and Numbering
- Formatted: H5
- Formatted: Bullets and Numbering

**2.3.5.2 General Provisions**

**2.3.5.2.1 Definitions.** For purposes of this section:

**2.3.5.2.1.1** “Affordable Housing Unit” means a residential dwelling unit intended to be affordable to persons of low or moderate incomes, which an applicant agrees to produce as a condition of approval of an “inclusionary” housing development as described in Section 2.3.4 of this Ordinance. More particularly an “Affordable Housing Unit” means the following, as determined by the Planning Board at the time a particular development is granted approval by the Board: A unit of housing which – in addition to any other specific conditions of approval imposed by the Planning Board at the time of approval – is required to be administered in accord with the general provisions as set forth herein; which is subject to the procedures set forth in Section 2.3.5.3 below at the time of its initial conveyance; and which is conveyed subject to a contingent subsidy lien and covenants in favor of the Municipality, as set forth in 2.3.5.4 below.

- Formatted: Bullets and Numbering
- Formatted: H4
- Formatted: Heading 5
- Formatted: Bullets and Numbering
- Formatted: H5
- Formatted: Heading 6
- Formatted: Bullets and Numbering

**2.3.5.2.1.2** The “Developer” means the person or entity which applies for and receives Planning Board approval for an “inclusionary” housing project as set forth in Section 2.3.4 of this Ordinance, any person or entity to which rights to construct such a project under such an approval have been conveyed, or any person or party acting as contractor or agent for such a party, or who otherwise performs acts in furtherance of constructing or implementing the approval, or fulfilling any conditions thereof.

- Formatted: Bullets and Numbering

**2.3.5.2.1.3** “Housing Cost” means the estimated monthly cost to an Owner of an Affordable Housing Unit, including mortgage principal and interest, property taxes (municipal, school, county, and state), homeowner’s insurance, mortgage insurance, and any applicable homeowner’s association fees. Interest calculations shall be based upon the prevailing market interest rate at the time of conveyance for a 30-year fixed-rate conventional mortgage. Schedules used to determine Housing Cost may be adopted and revised as needed by the Planning Board.

- Formatted: Bullets and Numbering

- 2.3.5.2.1.4 The "Municipality" means the Town of Londonderry; provided that, however, and except where responsibilities are specifically assigned herein or where statute creates a non-delegable responsibility, the tasks and functions required herein to be performed by the Municipality shall be performed by the Town Council or its designee, or may be delegated in whole or in part by vote of the Town Council to a third-party designee such as a nonprofit organization or quasi-governmental agency, subject to the supervision of the Town Council or its designee. Formatted: Bullets and Numbering
- 2.3.5.2.1.5 The "Owner" shall mean the person(s) who initially separately purchases and occupies the completed Affordable Housing Unit, under the procedures set forth in Section 2.3.5.3 below, as well as any person(s) who subsequently purchases the unit under the procedures required under Section 2.3.5.4 below. Formatted: Bullets and Numbering
- 2.3.5.2.1.6 The "Fair Market Value" of the Affordable Housing Unit, at the time of the initial or any subsequent conveyance shall be the price which such unit would command at that time in an arm's-length transaction on the open market if the unit were not subject to any of the restrictions of this Section, and the Owner were to purchase the property in fee simple absolute. Formatted: Bullets and Numbering
- 2.3.5.2.1.7 "First Mortgage" means a recorded mortgage which is senior to any other mortgages or liens against the Affordable Housing Unit (other than the lien for real estate taxes and homeowner assessments, if any), and which is used to secure a loan to an eligible buyer to purchase the unit. Formatted: H6  
Formatted: Bullets and Numbering
- 2.3.5.2.1.8 "Qualified Purchaser" means a purchaser who has been certified by the Municipality as meeting income standards to purchase an Affordable Housing Unit. It also includes a non-profit organization, the primary purpose of which is to provide or to facilitate the acquisition of housing that is affordable to low- and moderate-income households. Formatted: H6  
Formatted: Bullets and Numbering
- 2.3.5.2.1.9 "Area Median Income" means Area Median Income ("AMI") for a family of four as established and updated periodically by the U.S. Dept. of Housing and Urban Development for the Fair Market Rent Area where the Municipality is located. Formatted: H6  
Formatted: Bullets and Numbering
- 2.3.5.2.2 The Planning Board shall, as a condition of approval, make an initial determination of the following with respect to all included Affordable Housing Units which, unless modified pursuant to Section 2.3.5.3.3 below, shall serve as the basis for conveyance by the Developer: Formatted: H6  
Formatted: Heading 5  
Formatted: Bullets and Numbering
- 2.3.5.2.2.1 An estimated projected Fair Market Value for the Affordable Housing Units to be constructed by the Developer, using Developer projections or such other available information as the Planning Board may require. Construction details shall be provided in sufficient detail to enable a reasonable projection of such Value, and compliance with such details shall be deemed a condition of approval. Formatted: H5  
Formatted: Bullets and Numbering
- Formatted: H6



- 2.3.5.2.2 An initial target income level for the initial conveyance of the Affordable Housing Units, which shall not be greater than 80% of the Area Median Income ("AMI"). Formatted: Bullets and Numbering
- 2.3.5.2.2.3 A corresponding initial selling price for each Affordable Housing Unit, which shall be set at a level that is projected to require a Housing Cost no greater than 30% of the initial target income determined in Section 2.3.5.2.2.2 above. Formatted: H6  
Formatted: Bullets and Numbering
- 2.3.5.2.2.4 A corresponding projected initial subsidy for each Affordable Housing Unit, which shall be the difference between the estimated projected Fair Market Value and the initial selling price. The projected initial subsidy shall be between fifteen and thirty-three percent of the estimated projected Fair Market Value of the unit, inclusive. Formatted: H6  
Formatted: Bullets and Numbering
- 2.3.5.2.3 Except as expressly set forth in this Section, in the conditions of Development approval by the Planning Board, or in a lien and covenant document recorded pursuant to Section 2.3.5.3 below, an Owner shall have the same rights and privileges with respect to the Affordable Housing Unit as would any person who owned the unit in fee simple absolute, including but not limited to the right of quiet enjoyment, the right to make improvements, and the right to convey a First Mortgage interest, as detailed below. Formatted: H6  
Formatted: Heading 5  
Formatted: Bullets and Numbering
- 2.3.5.3 Procedures at Time of Initial Conveyance - An Affordable Housing Unit shall not be separately conveyed, or initially occupied, except in accordance with the following procedures: Formatted: Bullets and Numbering
- 2.3.5.3.1 During construction and upon completion of construction, the Municipality shall inspect the unit to confirm that all applicable codes, ordinances, conditions of approval (including construction details presented at the time of approval) and all other legal requirements have been met. Formatted: H4  
Formatted: Heading 5  
Formatted: Bullets and Numbering
- 2.3.5.3.2 Upon successful inspection, the Municipality at the Developer's expense shall cause an independent appraisal to be performed to determine the Fair Market Value of the unit. Formatted: Bullets and Numbering
- 2.3.5.3.3 The initial selling price shall be as set by the Planning Board at the time of plan approval under Section 2.3.5.2.2; provided, however, that under unusual circumstances the Developer may petition the Planning Board, which may for good cause and following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require, amend the initial selling price, the projected initial subsidy, and/or the initial target income level. Formatted: Bullets and Numbering
- 2.3.5.3.4 The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the relevant target income requirements and eligible to purchase the unit and for ranking Qualified Purchasers. Any potential buyer identified by the Developer or its agent must be referred to the Municipality. If, after the impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the initial selling price, then the final choice of purchasers shall lie with the Developer. Formatted: Bullets and Numbering

- 2.3.5.3.5 The Town Council shall from time to time establish rules and procedures for determining income-eligibility and priority for ranking Qualified Purchasers, such rules and procedures to be consistent with U.S. Dept. of Housing & Urban Development Program Requirements at 24 CFR Part 5, Subpart F. Such rules may give priority to persons who are already residents of the Municipality, or who are or will be employed in the Municipality. There shall be no requirement for continuing Owner income-eligibility, and no Owner shall, subsequent to purchase, be deemed in violation of this Section or of the Subsidy Lien and Restrictive Covenant for lack of income-eligibility, unless false or fraudulent information is found to have been provided by said Owner at the time of initial eligibility determination. ← --- Formatted: Bullets and Numbering
- 2.3.5.3.6 The Developer shall not convey, or agree to convey, the Affordable Housing Unit for a total consideration any higher than the initial selling price as set by the Planning Board. The Developer shall not convey, or agree to convey, the unit except to the top priority Qualified Purchaser; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Developer, after exercising a good faith effort, fails to produce a purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing and able to execute a purchase and sales agreement at the initial selling price within 120 days after the Municipality grants a Certificate of Occupancy in Section 2.3.5.3.1 above, the Developer may convey the unit to any purchaser of the Developer's choosing; nevertheless such conveyance shall remain subject to the initial selling price, as set by the Board, and the recording of a Subsidy Lien and Restrictive Covenant, as set forth below. The Developer shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality. ← --- Formatted: Bullets and Numbering
- 2.3.5.3.7 The initial Owner shall, at the time of closing, execute and convey to the Municipality a covenant document, to be called a "Subsidy Lien and Restrictive Covenant", which shall be recorded in the Rockingham County Registry of Deeds together with the Owner's deed. This document shall contain the initial value of the Municipality's subsidy lien, and all the elements required under Section 2.3.5.4 below. ← --- Formatted: Bullets and Numbering
- 2.3.5.3.8 The initial value amount of the Municipality's subsidy lien shall be the difference between the appraised value reached under Section 2.3.5.3.2 above, and the unit's initial selling price. The burden of the creation of the subsidy shall fall upon the Developer as a condition of approval. ← --- Formatted: Bullets and Numbering
- 2.3.5.3.9 In addition, the Developer shall, at the time of the closing, pay to the Municipality an administrative fee for each unit, which shall be used by the Municipality to fund the administration of the unit under this Subsection, including appraisals, drafting of documents, costs incurred for program administration by an independent agent of the Municipality, and other expenses relating to the Municipality's subsidy lien. The amount of the administrative fee shall be two percent (2%), or as otherwise determined by the Town Council, of the unit's initial selling price, provided however that the Town Council may if warranted, pursuant to RSA 41:9-a, prospectively alter the rate of the fee to more accurately reflect actual administrative costs. The fee shall be accounted for in the same manner as an impact fee, as provided in RSA 674:21, V(c). ← --- Formatted: Bullets and Numbering

2.3.5.3.10 Notwithstanding the foregoing, the initial selling price, the projected initial subsidy, and/or the initial target income as conditions of approval may be reviewed and recalculated by the Planning Board as needed between the date of approval and conveyance by the Developer, for the purposes of ensuring that the objectives of this ordinance are met. Amendment of any such condition shall only be made following a hearing for which reasonable notice is provided to the Developer and such others as the Planning Board may require.

Formatted: Bullets and Numbering

Formatted: H5

2.3.5.4 Subsidy Lien and Restrictive Covenant - The "Subsidy Lien and Restrictive Covenant" required under 2.3.5.3.7 above shall set forth the initial value amount of the subsidy lien as determined under 2.3.5.3.8 above, shall incorporate all of the requirements for subsequent conveyances of the Affordable Housing Unit as set forth in Sections 2.3.5.5 through 2.3.5.7 below, shall provide that any and all of such requirements shall be subject to enforcement pursuant to 2.3.5.9 below, and shall, in addition, incorporate the following conditions and restrictions:

Formatted: Bullets and Numbering

2.3.5.4.1 The unit shall be the primary residence of the Owner, and shall be occupied by the Owner.

Formatted: H4

Formatted: Heading 5

Formatted: Bullets and Numbering

2.3.5.4.2 The unit shall at all times be maintained in conformity with all applicable building or housing codes, land use ordinances or conditions of approval, and any other applicable provisions of federal, state, or local law. The Owner shall immediately notify the Municipality of any existing or anticipated violation of any such requirement, or of any provision of the Subsidy Lien and Restrictive Covenant.

Formatted: Bullets and Numbering

2.3.5.4.3 The Owner shall not, without the prior written consent of the Municipality, convey any mortgage or other lien interest in the unit, other than a First Mortgage interest. The Municipality's Subsidy Lien interest shall generally be deemed the equivalent of a second mortgage interest subordinate to any such First Mortgage, and shall entitle the Municipality to the right to notice as a lienholder for all purposes, including foreclosure notice under RSA 479:25. The Municipality may consider an alternative lien position on a case-by-case basis, based on a reasonable assessment of risk and an appraisal of value.

Formatted: Bullets and Numbering

Formatted: H5

2.3.5.5 Subsequent Conveyances of the Unit - Except in the cases of purchase of a unit by the Municipality in accordance with Sections 2.3.5.6 or 2.3.5.7 below, or release or termination of the Subsidy Lien and Restrictive Covenant by the Municipality in accordance with Section 2.3.5.8 below, no Owner of an Affordable Housing Unit shall convey the unit except in accordance with the following procedures:

Formatted: Bullets and Numbering

2.3.5.5.1 An Owner may at any time notify the Municipality in writing of an intent to convey the unit. The Municipality shall, as soon as practicable, cause an appraisal to be conducted to arrive at a current Fair Market Value of the unit (including the value of any fixtures or improvements made by the Owner). If the Owner disagrees with or has doubts or questions concerning the accuracy of the appraisal, the Owner may choose to fund a second appraisal, and the current Fair Market Value shall be deemed to be the average of the two appraisals unless otherwise agreed. If the Owner does not convey the unit within one year after providing written notice of intent to convey the unit or otherwise rescinds its notice of intent to dispose of the unit either directly in writing to the Municipality or constructively by either failing to market the property or withdrawing it from the market, the Owner shall reimburse

Formatted: H4

Formatted: Heading 5

Formatted: Bullets and Numbering

the Municipality for the cost of its appraisal of the unit. Subsequent notices of intent to convey the unit shall require a new appraisal.

2.3.5.5.2 The Municipality shall set the maximum resale price of the unit by adjusting the recorded initial value amount of its subsidy lien by the change in the US Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) for Boston, Brockton-Nashua, MA-NH-ME-CT for Shelter or a comparable housing cost index should the CPI-U be discontinued, calculating from the time of such recording, then subtracting that adjusted subsidy lien amount from the current Fair Market Value determined under Section 2.3.5.5.1 above. The Municipality shall also, based upon that maximum resale price, determine a revised target income level for which the unit would be affordable at such a resale price, such that the unit's Housing Cost would be no greater than 30% of the revised target income. If the revised target income level is greater than 120% of the Area Median Income or if the adjusted subsidy lien amount is not between fifteen and thirty-three percent of the Fair Market Value, the Municipality may retire or modify the subsidy lien in accordance with Section 2.3.5.8 below. An increase to the subsidy lien will result in a corresponding decrease to the maximum resale price; a decrease to the subsidy lien will result in a corresponding increase to the maximum resale price. In neither case will the Owner's equity be affected, if any.

← - - - Formatted: Bullets and Numbering

2.3.5.5.3 The Municipality or its agent shall be responsible for certifying potential purchasers as meeting the revised target income requirements, in the same manner set forth in Section 2.3.5.3.4 above, and for ranking Qualified Purchasers. Any potential buyer identified by the Owner or its agent must be referred to the Municipality. If, after the impartial application of objective criteria for priority eligibility have been applied to all persons wishing to purchase the unit, there exists more than one top priority income-eligible purchaser ready, willing, and able to execute a purchase and sales agreement at the maximum resale price, then the final choice of purchasers shall lie with the current Owner.

← - - - Formatted: Bullets and Numbering

2.3.5.5.4 The Owner shall not convey, or agree to convey, the Affordable Housing Unit for a total consideration any higher than the maximum resale price as determined under Section 2.3.5.5.2. The Owner shall not convey, or agree to convey, the unit except to persons who have been certified as income-eligible under Section 2.3.5.5.3; provided, however, that if the Municipality fails to identify a Qualified Purchaser, or if the Owner, after exercising a good faith effort, fails to produce a purchaser who is subsequently certified by the Municipality as a Qualified Purchaser and who is ready, willing, and able to execute a purchase and sales agreement at the maximum resale price within 120 days after the Owner's written notice of intent to convey the unit, the Owner may convey the unit to any purchaser of the Owner's choosing; nevertheless such conveyance shall remain subject to the maximum resale price, to the purchaser income qualification procedures for subsequent conveyances, and to the Subsidy Lien and Restrictive Covenant, and such a conveyance shall permit, but shall not obligate, the Municipality to modify or retire the adjusted subsidy lien in accordance with Section 2.3.5.8 below. Nothing in the foregoing shall be construed to relieve or limit the Owner's obligation to engage in good faith and energetic efforts to market the unit for purposes of identifying a purchaser who is likely to meet the income qualification standards herein. The Owner shall not use these provisions to avoid selling the unit to any Qualified Purchaser, including one identified by the Municipality.

← - - - Formatted: Bullets and Numbering

2.3.5.5.5 At the time of closing, the new Owner shall execute a Subsidy Lien and Restrictive Covenant, substantively similar to that executed by the prior Owner, and the Municipality shall execute a certification of compliance with the conveyance procedures required by the Subsidy Lien and Restrictive Covenant. Both of these documents shall be recorded together with the new Owner's deed. The seller shall also, at the time of the closing, pay to the Municipality an administrative fee of two percent (2%), or as otherwise determined by the Town Council, of the resale price, but such fee shall be subject to adjustment, as set forth in 2.3.5.3.9 above.

Formatted: Bullets and Numbering

2.3.5.5.6 Notwithstanding Sections 2.3.5.1 through 2.3.5.5 above, the following types of conveyances are exempt from the Owner Conveyance provisions set forth in this Subsection:

Formatted: Heading 5

Formatted: Bullets and Numbering

2.3.5.5.6.1 A conveyance to a first mortgagee resulting from foreclosure, or

Formatted: H5

Formatted: Heading 6

2.3.5.5.6.2 Any of the following, provided, however, that the unit shall, subsequent to such an exempt conveyance, remain subject to the provisions of the Subsidy Lien and Restrictive Covenant:

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

2.3.5.5.6.2.1 A conveyance resulting from the death of an Owner where the conveyance is to the spouse who is also an Owner.

Formatted: Bullets and Numbering

2.3.5.5.6.2.2 A conveyance to the Owner's estate following his or her death for the purpose of administering the estate and distributing the assets thereof during a limited period of time.

2.3.5.5.6.2.3 A conveyance resulting from the death of an Owner when the conveyance is to one or more children or to a parent or parents of the deceased Owner.

2.3.5.5.6.2.4 A conveyance by an Owner where the spouse of the Owner becomes the co-Owner of the Property.

2.3.5.5.6.2.5 A conveyance directly resulting from a legal separation or divorce, by which a co-Owner becomes the sole Owner of the unit.

Formatted: Heading 7

2.3.5.6 Right of First Refusal in Subsequent Conveyances

Formatted: Bullets and Numbering

Formatted: H4

Upon receipt of a notice of intent to convey an Affordable Housing Unit under Section 2.3.5.5.1 above, the Municipality shall have the right to purchase the property at the maximum resale price, as determined according to Section 2.3.5.5.2 above. If the Municipality elects to purchase the unit, it shall exercise the purchase right by notifying the Owner, in writing, of such election ("Notice of Exercise of Right") within forty-five (45) days of the receipt of the Intent to Convey Notice, or the Right shall expire. Within seven (7) days of the Municipality exercising its purchase right, the Municipality and the Owner shall enter into a purchase and sale contract. The purchase by the Municipality must be completed within forty-five (45) days of the Municipality's Notice of Exercise of Right, or the Owner may convey the property as provided in Section 2.3.5.5 above. The time permitted for the completion of the purchase may be extended by mutual written agreement of the Owner and the Municipality. If the Municipality has in writing waived its purchase right, or if the Purchase Right has expired, or if the Municipality has failed to complete the purchase within forty-five (45) days of its Notice of Exercise of Right, the Owner may convey the unit according to Section 2.3.5.5 above for no more than the



of its intention to retire or modify the subsidy lien. The notice shall indicate the value of the subsidy lien to be retired, or the amount by which the Municipality will reduce or enhance the subsidy lien. Such notification shall be made within 45 days of the Owner's Notice of Intent, as provided under Section 2.3.5.1 above.

2.3.5.8.2 Reduction or retirement of the subsidy lien shall be accomplished at the time of closing by payment from the Owner to the Municipality, such payment to be deposited in the Municipality's Affordable Housing Revolving Fund [if one exists at the time]. Enhancement of the subsidy lien shall be accomplished at the time of closing by payment from the Municipality to the Owner. Retirement of the subsidy lien shall be accompanied by release of the restrictive covenant by the Municipality and shall eliminate the need to calculate a maximum resale price, allowing the unit to sell at its Fair Market Value.

Formatted: H5  
Formatted: Heading 5  
Formatted: Bullets and Numbering

2.3.5.9 Default and Other Enforcement - Failure of the Owner to comply with the terms of this ordinance, with any condition of Planning Board approval, or with the terms of the recorded Subsidy Lien and Restrictive Covenant shall constitute default, which shall entitle, but which shall not obligate, the Municipality to undertake the following actions:

Formatted: Bullets and Numbering

2.3.5.9.1 Foreclosure on the Subsidy Lien, in accordance with RSA 479:19 et seq., provided that the Owner shall have 60 days after receiving written notice of default from the Municipality to fully correct the reasons for default identified by the Municipality in its notice; and

Formatted: H4  
Formatted: Heading 5  
Formatted: Bullets and Numbering

2.3.5.9.2 Enforcement under RSA 676:17, 676:17-a, and 676:17-b.

Formatted: H5  
Formatted: Heading 5  
Formatted: Bullets and Numbering

2.3.5.10 Conveyances to Non-Profit Housing Organizations

Formatted: Bullets and Numbering  
Formatted: Bullets and Numbering

Notwithstanding the foregoing, the Municipality may require that initial or subsequent conveyances of Affordable Housing Units be made to a non-profit organization of the Municipality's choice, where the primary purpose of the organization is to provide or facilitate the acquisition of housing that is affordable to low- and moderate-income households. The Municipality shall release its Right of First Refusal under Section 2.3.5.6 above upon such conveyance, provided that upon subsequent conveyance the organization acquires a similar right of first refusal. The Municipality shall also release its Subsidy Lien and Restrictive Covenant upon conveyance to such an organization. Conveyance to such an organization shall be made at the initial selling price in Section 2.3.5.3.3 or at the maximum resale price in Section 2.3.5.5.2, as appropriate.

Formatted: H4

Formatted: Indent: Left: 0"



Planning Board Workshop - May 13, 2009  
Subdivision Regulations

**2.04 PRE-APPLICATION SUBMISSIONS - DESIGN REVIEW (OPTIONAL):**

**A. Design Review:** The design review submission is a tool to assist the Applicant in providing complete information for the project. The Applicant shall submit complete drawings and supporting information to address the requirements of the regulations. A complete checklist shall be provided to assist design review. The submittal package shall be checked for completeness. If all the required items are not submitted, the submittal will be returned to the Applicant.

**B. Submission items:** The Applicant shall file a completed design review request form and checklist for design review. A complete application is one which shall:

1. Include a design review request form available at the Planning Department (Exhibit 3);
2. Include a completed subdivision application checklist marked design review available at the Planning Department (Exhibit 5);
3. Be accompanied by an application fee (Exhibit 1);
4. The application form shall be signed by the property owner or the owner's agent. If an agent signs the application, an affidavit authorizing the agent to act on the owners behalf shall be submitted as well
5. Include a list of names and addresses of all abutters provided in RSA 676:4, I(b);
6. Include four (4) sets of plans and an electronic submission of the plans in Adobe Acrobat "PDF" format on a CD ROM, as required per Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3. Alternatively, for those applicants that cannot provide an electronic submission, twelve (12) sets of plans (six full sets and six sets of only the sheets the Planning Board would sign).
7. Include escrow for review cost in sufficient amount estimated by the Planning Department. Escrow account shall be periodically reviewed to ensure that sufficient funds are available to cover all review costs and additional escrow provided as needed..

**Deleted:** as required per Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3.

**C. Notification of Design Review:** Abutters and the general public shall be promptly notified in accordance with Section 2.02.B that the Town of Londonderry is conducting DESIGN REVIEW of the project and plans for the project are available for review by the general public at the Planning Department.

**D. Schedule:** The DRC shall review the submitted plans within thirty (30) calendar days of the submittal date of the Design Review Application.

**Deleted:** working



2.06 FORMAL APPLICATION SUBMISSIONS AND PROCEDURES:

A. **Submission Items:** The Applicant shall file a completed Formal Application for consideration. A complete application is one which shall:

1. If pre-application design review was pursued, include a letter from the Applicant stating whether or not the Formal Application incorporates all changes called for by design review comments. If not, the letter shall explain fully;
2. Be made on application form available at the Planning Department (Exhibit 2);
3. Include a completed checklist available at the Planning Department (Exhibit 5);
4. The application form shall be signed by the property owner or the owner's agent. If an agent signs the application, an affidavit authorizing the agent to act on the owners behalf shall be submitted as well.
5. Be accompanied by the correct application fee (Exhibit 1), if not already paid under pre-application design review submittal;
6. Include a list of the names and addresses of all abutters, as provided in RSA 676:4, I(b);
7. Include twelve (12) sets of plans (six full sets and six sets of only the sheets the Planning Board would sign) as required per Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3. Projects that have undergone pre-application Design Review shall need only provide four (4) sets of plans;
8. Include an electronic submission of the complete plan set in Adobe Acrobat "PDF" format for use by the Planning Board at the public hearing;
9. Include applicable documents listed in Section 4.18;
10. Include a materials quantity list on Town of Londonderry Department of Public Works forms and a summary total for bond estimate for the project; and
11. Include escrow for review cost in sufficient amount estimated by the Planning Department, if not already provided under pre-application design review submittal. Escrow account shall be periodically reviewed to assure that sufficient funds are available to cover all review costs and additional escrow provided as needed.

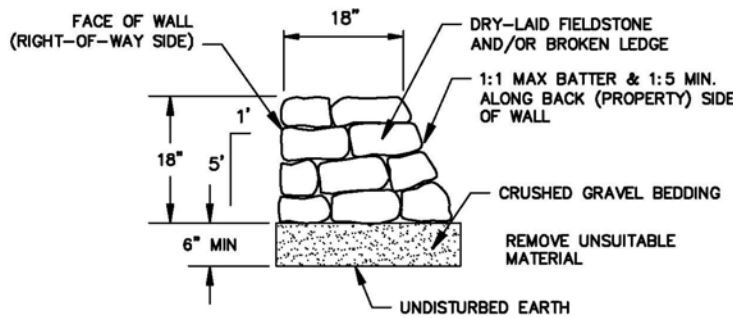
Formatted: Bullets and Numbering

### 3.09 STREETS

A. **General:** All subdivisions shall have adequate provision for a safe and suitable access to a Class V or better road or shall make provisions for the construction and dedication of a Class V or better road in order to obtain safe and suitable access to the subdivision. Where an adjacent existing street from which access is gained is deemed to be substandard, the upgrading of said street shall be provided for, as may be required by the Town of Londonderry Department of Public Works. Where traffic from a proposed subdivision will adversely impact a nearby street or intersection, provisions shall be made for the mitigation of said impacts. Proposed streets, whether to be dedicated as public streets or retained as private streets, shall be of suitable location, width, grade, and improvement to accommodate prospective traffic and afford satisfactory access to police, fire fighting, emergency equipment, snow removal, sanitation, and road maintenance equipment. The arrangement and character of all streets in a subdivision shall conform to the Master Plan, and shall compose a safe and convenient system in relation to other existing and planned streets, to topographical conditions, and to the proposed uses of land to be served by street. Existing stone walls shall be retained where possible or relocated and restored as required by the Board.

1. No person shall deface, alter the location, of, or remove any stonewall which was made for the purpose of marking the boundary of, or borders, any road in the Town of Londonderry, except upon written consent of the Planning Board with written comments from the Heritage Commission.
  - i. The Heritage Commission will use the following guidelines for making recommendations to the Planning Board for the reconstruction of stone walls disturbed by construction activity:
    - a. Reconstruction should be done in a fieldstone farm-style wall.
    - b. Use of existing boulders and fieldstone already in place is strongly recommended.
    - c. Walls should be drystacked with a rustic level topline.
    - d. The center of the wall should be filled with smaller native stone.
    - e. Stone should be used from the property and mixed as needed with native New England fieldstone.
    - f. Walls should be no higher than 3 feet in height, and approximately 3-6 feet deep
    - g. The Heritage Commission recommends applicants refer to Chapter 8 of "The Granite Kiss", by Kevin Gardner, Susan Allport, and Guillermo Nunez (ISBN# 0881505463, © 2003, Countryman Press)

h. The detail, below should be used as a general guideline for reconstruction of stone walls:



Formatted: Bullets and Numbering

Formatted: Indent: Left: 1.75"

- ii. The Applicant shall take photographs of existing stone walls that are proposed to be disturbed by development. These photographs will be made part of the project file, and can be utilized by the Heritage Commission as they make recommendations on stonewall disturbances.

**4.14 PERMITS:** The Applicant is responsible for obtaining the approval and necessary permits of governmental or municipal agencies. A copy of each permit shall be submitted to the Town of Londonderry and the permit number shall be shown on the plan. In order for the Planning Board to consider an application complete, as stipulated by Section 2.06 and RSA 676:4, proof of application for any state, federal, or local permits must be provided to the Planning Board.

**Deleted:** Project permits may be pending during design review application only

**SECTION 5    ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

**5.01    GENERAL:**

- A.** Prior to commencing any construction on a project, all the conditions of approval shall be met, the plan has been signed by the Planning Board, a preconstruction meeting has taken place with the Public Works Department, and the applicant has posted a performance surety to guarantee the completion of improvements. The performance surety shall be in the form of the "Hampton Method Letter of Credit" (copy on file with the DPW) or a cash bond on deposit with the Town in an interest bearing account. All Letters of Credit required by these regulations must be posted by a Town approved bank.
  
- B.** When a revision to the approved plan is proposed, the Applicant shall submit a print of the approved plan indicating the proposed revision to the Town Engineer. The revision shall be reviewed by the Town Engineer and, if necessary, the Planning Board. All approved revisions shall be shown on the "as-built" plan required at the completion of the project. The Applicant shall be responsible for all costs associated with the Town of Londonderry's reviewing and recording of revised plans with the Registry of Deeds. In addition, electronic files shall be provided by the Applicant for all "as-built" plans.

**Comment [TJT1]:** Andre to review w/ Legal Counsel and Finance Department.



(in responsible charge)

Signature: \_\_\_\_\_

H. Name of Certified Soil Scientist: \_\_\_\_\_

I. Name of Certified Wetland Scientist: \_\_\_\_\_

J. Date of Submittal to Planning Department: \_\_\_\_\_

- Application Fee Attached:
- Escrow for Review Cost Attached:
- Subdivision Plans Attached:
- Abutters List Attached:
- Subdivision Application Checklist Attached:
- Required Documents Attached  
(As outlined in Subdivision Application Checklist)

***For Planning Department Use Only (Date Received Stamp)***





(in responsible charge)

Signature: \_\_\_\_\_

H. Name of Certified Soil Scientist: \_\_\_\_\_

I. Name of Certified Wetland Scientist: \_\_\_\_\_

J. Date of Submittal to Planning Department: \_\_\_\_\_

- Application Fee Attached:
- Escrow for Review Cost Attached:
- Subdivision Plans Attached:
- Abutters List Attached:
- Subdivision Application Checklist Attached:
- Required Documents Attached  
(As outlined in Subdivision Application Checklist)

***For Planning Department Use Only (Date Received Stamp)***

EXHIBIT 5

LONDONDERRY PLANNING BOARD  
SUBDIVISION APPLICATION & CHECKLIST

Design Review     Formal Application

All information provided and submitted with this Application Checklist shall conform to the Londonderry Site Plan Regulations. **Please note that the Planning Board may not accept and consider the application complete if the required items as outlined in the checklist are missing from the submittal.**

I. General Information:

A. Name of Project: \_\_\_\_\_

B. Location of Project: \_\_\_\_\_ (street) \_\_\_\_\_ (Map) \_\_\_\_\_ (lot)

C. Owner: \_\_\_\_\_ (zoning)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

~~Signature: \_\_\_\_\_~~

Deleted: . .

Deleted: ¶

D. Applicant:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

~~Signature: \_\_\_\_\_~~

Deleted: .

Deleted: ¶

E. Design Firm:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Deleted: ¶  
 \_\_\_\_\_  
 \_\_\_\_\_

F. Name of Licensed Land Surveyor: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 G. Name of Licensed Professional Engineer: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 H. Name of Certified Soil Scientist: \_\_\_\_\_  
 I. Name of Certified Wetland Scientist: \_\_\_\_\_  
 J. Date of Submittal to Planning Department: \_\_\_\_\_

Deleted: ¶  
 ¶

**II. General Requirements (All Applications):**

	Provided	N/A
1. Executed Subdivision Formal Application Request Form (Exhibit 2)	<input type="checkbox"/>	<input type="checkbox"/>
2. Executed Subdivision Design Review Request Form (Exhibit 3)	<input type="checkbox"/>	<input type="checkbox"/>
3. Complete abutters list	<input type="checkbox"/>	<input type="checkbox"/>
4. All Required Fees	<input type="checkbox"/>	<input type="checkbox"/>
5. <u>Four (4) sets of plans and electronic "PDF" plans (12 sets if electronic plans not possible) submitted with all required information in accordance with the site plan regulations and this checklist.</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6. Copies of any proposed easement deeds, protective Covenants or other legal documents	<input type="checkbox"/>	<input type="checkbox"/>
7. Any waiver request(s) submitted with justification in writing	<input type="checkbox"/>	<input type="checkbox"/>
8. Technical reports and supporting documents (see Sections X & XI of this checklist)	<input type="checkbox"/>	<input type="checkbox"/>
9. Completed Site Plan Application Checklist	<input type="checkbox"/>	<input type="checkbox"/>
10. Letter explaining how DRC comments have been addressed and two (2) sets of highlighted, revised drawings (applicable if pre-application design review process was followed).	<input type="checkbox"/>	<input type="checkbox"/>

Deleted: Twelve  
 Deleted: 12  
 Deleted: ¶  
 Deleted: \_\_\_\_\_  
 Deleted:    
 Deleted: and this checklist ¶

<SNIPPED>



EXHIBIT 5-A

LONDONDERRY PLANNING BOARD  
CONDOMINIUM CONVERSION APPLICATION & CHECKLIST

Design Review     Formal Application

All information provided and submitted with this Application Checklist shall conform to the Londonderry Site Plan Regulations. **Please note that the Planning Board may not accept and consider the application complete if the required items as outlined in the checklist are missing from the submittal.**

I. General Information:

A. Name of Project: \_\_\_\_\_

B. Location of Project: \_\_\_\_\_ (street) \_\_\_\_\_ (Map) \_\_\_\_\_ (lot)

C. Owner: \_\_\_\_\_ (zoning)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

~~Signature: \_\_\_\_\_~~

Deleted: ...

Deleted: ¶

D. Applicant:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

~~Signature: \_\_\_\_\_~~

Deleted: ...

Deleted: ¶



E. Design Firm:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Deleted: ¶  
 Deleted: . . . ¶

F. Name of Licensed Land Surveyor: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 G. Name of Licensed Professional Engineer: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 H. Name of Certified Soil Scientist: \_\_\_\_\_  
 I. Name of Certified Wetland Scientist: \_\_\_\_\_  
 J. Date of Submittal to Planning Department: \_\_\_\_\_

Deleted: ¶  
 ¶

**II. General Requirements (All Applications):**

	Provided	N/A
1. Executed Subdivision Formal Application Request Form (Exhibit 2)	<input type="checkbox"/>	<input type="checkbox"/>
2. Executed Subdivision Design Review Request Form (Exhibit 3)	<input type="checkbox"/>	<input type="checkbox"/>
3. Complete abutters list	<input type="checkbox"/>	<input type="checkbox"/>
4. All required fees	<input type="checkbox"/>	<input type="checkbox"/>
5. <u>Four (4) sets of plans and electronic "PDF" plans (12 sets if electronic plans not possible) submitted with all required information in accordance with the site plan regulations and this checklist.</u>	<input type="checkbox"/>	<input type="checkbox"/>
6. Copies of any proposed easement deeds, protective covenants or other legal documents	<input type="checkbox"/>	<input type="checkbox"/>
7. Technical reports and supporting documents	<input type="checkbox"/>	<input type="checkbox"/>
8. Any waiver request(s) submitted with justification in writing	<input type="checkbox"/>	<input type="checkbox"/>
9. Completed Condo Conversion Application Checklist	<input type="checkbox"/>	<input type="checkbox"/>
10. Letter explaining how DRC comments have been addressed and two (2) sets of highlighted, revised drawings (applicable if pre-application design review process was followed).	<input type="checkbox"/>	<input type="checkbox"/>

Formatted: Indent: First line: 0.5"

Deleted: Twelve (12) sets of plans submitted with all required ¶ information in accordance with the subdivision regulations ¶ and this checklist . . . . .  . . .

<SNIPPED>

**IV. Required Project Permits (as applicable to applications):**

		Provided	N/A	App Submitted
1.	NHDES subdivision approval	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Londonderry ZBA variance(s)/special exception(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Other federal, state or local permits (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Deleted: ¶  
 \* Note Project permits may be pending during design review application only.¶

Deleted: . . . . . Provided  
 N/A Pending\*¶  
 1

Deleted: .

Deleted: .

Deleted: .

**V. Acknowledgment and Signature:**

The undersigned acknowledges he/she has read and understands all of the Town's current zoning, subdivision, site plan, and health regulations and requirements for obtaining all required local, state, and federal permits.

\_\_\_\_\_  
 (Signature of person preparing plans)

\_\_\_\_\_  
 (Name)

\_\_\_\_\_  
 (Title)

\_\_\_\_\_  
 (Date)

EXHIBIT 5-B

LONDONDERRY PLANNING BOARD  
LOT LINE ADJUSTMENT APPLICATION & CHECKLIST

Design Review     Formal Application

All information provided and submitted with this Application Checklist shall conform to the Londonderry Site Plan Regulations. **Please note that the Planning Board may not accept and consider the application complete if the required items as outlined in the checklist are missing from the submittal.**

I. General Information:

A. Name of Project: \_\_\_\_\_

B. Location of Project: \_\_\_\_\_ (street) \_\_\_\_\_ (Map) \_\_\_\_\_ (lot)

C. Owner: \_\_\_\_\_ (zoning)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

Deleted: ..

Signature: \_\_\_\_\_

D. Applicant:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

~~E-Mail: \_\_\_\_\_~~

Deleted: ..

Signature: \_\_\_\_\_

E. Design Firm:  
 Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Fax: \_\_\_\_\_  
 E-Mail: \_\_\_\_\_

Deleted: ¶  
 \_\_\_\_\_

F. Name of Licensed Land Surveyor: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 G. Name of Licensed Professional Engineer: \_\_\_\_\_  
 (in responsible charge) Signature: \_\_\_\_\_  
 H. Name of Certified Soil Scientist: \_\_\_\_\_  
 I. Name of Certified Wetland Scientist: \_\_\_\_\_  
 J. Date of Submittal to Planning Department: \_\_\_\_\_

Deleted: ¶  
 ¶

**II. General Requirements (All Applications):**

	Provided	N/A
1. Executed Subdivision Formal Application Request Form (Exhibit 2)	<input type="checkbox"/>	<input type="checkbox"/>
2. Executed Subdivision Design Review Request Form (Exhibit 3)	<input type="checkbox"/>	<input type="checkbox"/>
3. Complete abutters list	<input type="checkbox"/>	<input type="checkbox"/>
4. All required fees	<input type="checkbox"/>	<input type="checkbox"/>
5. <u>Four (4) sets of plans and electronic "PDF" plans (12 sets if electronic plans not possible) submitted with all required information in accordance with the site plan regulations and this checklist</u>	<input type="checkbox"/>	<input type="checkbox"/>
6. Copies of any proposed easement deeds, protective covenants or other legal documents	<input type="checkbox"/>	<input type="checkbox"/>
7. Technical reports and supporting documents	<input type="checkbox"/>	<input type="checkbox"/>
8. Any waiver request(s) submitted with justification in writing	<input type="checkbox"/>	<input type="checkbox"/>
9. Completed Lot Line Adjustment Application Checklist	<input type="checkbox"/>	<input type="checkbox"/>
10. Letter explaining how DRC comments have been addressed and two (2) sets of highlighted, revised drawings (applicable if pre-application design review process was followed).	<input type="checkbox"/>	<input type="checkbox"/>

Formatted: Indent: First line: 0.5"

Deleted: Twelve (12) sets of plans submitted with all required information in accordance with the subdivision regulations and this checklist . . .

<SNIPPED>

24.	HISS requirements:	Provided	N/A
a.	Criteria for HISS delineation	<input type="checkbox"/>	<input type="checkbox"/>
b.	Soil scientist certification on plan (if HISS required)	<input type="checkbox"/>	<input type="checkbox"/>
c.	HISS mapping shown over all subject parcels (where no municipal sewer exists)	<input type="checkbox"/>	<input type="checkbox"/>
25.	4K Areas with test pits on all proposed lots (meeting NHDES & Town setback requirements)	<input type="checkbox"/>	<input type="checkbox"/>
26.	Location of all water wells with protective radii as required by the NHDES (meeting Town and NHDES setback requirements)	<input type="checkbox"/>	<input type="checkbox"/>
27.	Owner(s) signature(s)	<input type="checkbox"/>	<input type="checkbox"/>
28.	All required setbacks (including any applicable buffers)	<input type="checkbox"/>	<input type="checkbox"/>
29.	Physical features (Existing features)		
a.	Buildings	<input type="checkbox"/>	<input type="checkbox"/>
b.	Wells	<input type="checkbox"/>	<input type="checkbox"/>
c.	Septic systems	<input type="checkbox"/>	<input type="checkbox"/>
d.	Stone walls	<input type="checkbox"/>	<input type="checkbox"/>
e.	Paved drives	<input type="checkbox"/>	<input type="checkbox"/>
f.	Gravel drives	<input type="checkbox"/>	<input type="checkbox"/>
30.	Location & name (if any) of any streams or waterbodies	<input type="checkbox"/>	<input type="checkbox"/>
31.	Location of existing overhead utility lines, poles, towers, etc.	<input type="checkbox"/>	<input type="checkbox"/>
32.	Plan and deed references	<input type="checkbox"/>	<input type="checkbox"/>
33.	Zoning District boundary lines (if any)	<input type="checkbox"/>	<input type="checkbox"/>
34.	Driveway sight distance plans/profiles	<input type="checkbox"/>	<input type="checkbox"/>

**IV. Required Project Permits (as applicable to applications):**

		Provided	N/A	App Submitted
1.	NHDES subdivision approval	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	NHDOT driveway permit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Londonderry ZBA variance(s)/special exception(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Other federal, state or local permits (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Deleted: \* Note Project permits may be pending during design review application only.¶

¶ Pending\*\*¶

Provided N/A

Deleted: .

Deleted: .

Deleted: .

Deleted: .



**V. Acknowledgment and Signature:**

The undersigned acknowledges he/she has read and understands all of the Town's current zoning, subdivision, site plan, and health regulations and requirements for obtaining all required local, state, and federal permits.

\_\_\_\_\_  
(Signature of person preparing plans)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

2.04 **PRE-APPLICATION SUBMISSIONS - DESIGN REVIEW (OPTIONAL):**

- a. **Design Review:** The design review submission is a tool to assist the Applicant in providing complete information for the project. The Applicant shall submit complete drawings and supporting information to address the requirements of the regulations. A complete checklist shall be provided to assist design review. The submittal package shall be checked for completeness. If all the required items are not submitted, the submittal will be returned to the Applicant.
- b. **Submission items:** The Applicant shall file a completed design review request form and checklist for design review. A complete application is one which shall:
1. Include a design review request form available at the Planning Department (Exhibit 4);
  2. Include a completed site plan application checklist marked design review available at the Planning Department (Exhibit 4);
  3. The application form shall be signed by the property owner or the owner's agent. If an agent signs the application, an affidavit authorizing the agent to act on the owners behalf shall be submitted as well.
  4. Be accompanied by an application fee (Exhibit 3);
  5. Include a list of names and addresses of all abutters provided in RSA 676:4, I(b);
  6. Include four (4) sets of plans and an electronic submission of the plans in Adobe Acrobat "PDF" format on a CD ROM, as described in Section 4.01d; as required by Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3 (and Section 5 if applicable). Alternatively, for those applicants that cannot provide an electronic submission, twelve (12) sets of plans (six full sets and six sets of only the sheets the Planning Board would sign);
  7. Include escrow for review cost in sufficient amount determined by the Planning Department. Escrow account shall be periodically reviewed to ensure that sufficient funds are available to cover all review costs and additional escrow shall be provided as needed.
- c. **Notification of Design Review:** Abutters and the general public shall be promptly notified in accordance with Section 2.02b that the Town of Londonderry is conducting DESIGN REVIEW of the project and plans for the project are available for review by the general public at the Planning Department.
- d. **Schedule:** Once it is determined that all required checklist items are provided, the plans will be reviewed by the DRC. The DRC shall review the submitted plans within thirty (30) ~~calendar~~ days of the submittal date of the Design Review Application.

**Deleted:** as described in Section 4.01d; as required by Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3 (and Section 5 if applicable)

**Deleted:** working

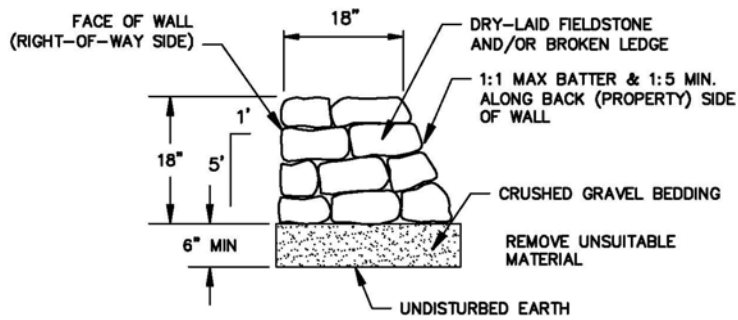
2.05 **FORMAL APPLICATION SUBMISSIONS AND PROCEDURES:**

- a. **Submission Items:** The Applicant shall file a completed Formal Application for consideration. A complete application is one which shall:
1. If pre-application design review was pursued, include a letter from the Applicant's engineer stating whether or not the Formal Application incorporates all changes called for by design review comments. If not, the letter shall explain fully;
  2. Be made on application form available at the Planning Department (Exhibit 4);
  3. Include a completed checklist available at the Planning Department (Exhibit 4);
  4. The application form shall be signed by the property owner or the owner's agent. If an agent signs the application, an affidavit authorizing the agent to act on the owners behalf shall be submitted as well.
  5. Be accompanied by the correct application fee (Exhibit 3), if not already paid under pre-application design review submittal;
  6. Include a list of the names and addresses of all abutters, as provided in RSA § 676:4, I(b);
  7. Include twelve (12) sets of plans (six full sets and six sets of only the sheets the Planning Board would sign) as described in Section 4.01d; as required by Section 4 and in accordance with the requirements for design standards and improvements as outlined in Section 3 (and Section 5 if applicable). Projects that have undergone pre-application Design Review shall need only provide four (4) sets of plans;
  8. Include an electronic submission of the complete plan set in Adobe Acrobat "PDF" format for use by the Planning Board at the public hearing;
  9. Include applicable documents listed in Section 4.19.
  10. Include a materials quantity list for all improvements excluding buildings, on Town of Londonderry Department of Public Works forms and a summary total for bond estimate for the project; and
  11. Include escrow for review cost in sufficient amount determined by the Planning Department. Escrow account shall be periodically reviewed to ensure that sufficient funds are available to cover all review costs and additional escrow shall be provided as needed.

Formatted: Bullets and Numbering

- 10.
11. No person shall deface, alter the location, of, or remove any stonewall which was made for the purpose of marking the boundary of, or borders, any road in the Town of Londonderry, except upon written consent of the Planning Board with written comments from the Heritage Commission.
  - i. The Heritage Commission will use the following guidelines for making recommendations to the Planning Board for the reconstruction of stonewalls disturbed by construction activity:
    - a. Reconstruction should be done in a fieldstone farm-style wall.
    - b. Use of existing boulders and fieldstone already in place is strongly recommended.
    - c. Walls should be drystacked with a rustic level topline.
    - d. The center of the wall should be filled with smaller native stone.
    - e. Stone should be used from the property and mixed as needed with native New England fieldstone.
    - f. Walls should be no higher than 3 feet in height, and approximately 3-6 feet deep
    - g. The Heritage Commission recommends applicants refer to Chapter 8 of "The Granite Kiss", by Kevin Gardner, Susan Allport, and Guillermo Nunez (ISBN# 0881505463, © 2003, Countryman Press)

h. The detail, below should be used as a general guideline for reconstruction of stonewalls:



Formatted: Bullets and Numbering

Formatted: Indent: Left: 1.75"

- ii. The Applicant shall take photographs of existing stonewalls that are proposed to be disturbed by development. These photographs will be made part of the project file, and can be utilized by the Heritage Commission as they make recommendations on stonewall disturbances.

4.13 PERMITS: The applicant shall be responsible for obtaining the approvals and necessary permits from governmental or municipal agencies. A copy of each permit shall be submitted to the Town of Londonderry and the permit number shall be shown on the plan. In order for the Planning Board to consider an application complete, as stipulated by Section 2.05 and RSA 676:4, proof of application for any state, federal, or local permits must be provided to the Planning Board.

**Deleted:** Project permits may be pending during DESIGN REVIEW application only



**SECTION 6    ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

6.01    GENERAL:

- a.    Under no circumstances shall any site work commence or any building permits be issued until all the conditions of approval have been met, the plan is signed by the Planning Board, a preconstruction meeting has taken place with the Public Works Department, and until all required performance sureties have been posted.
- b.    OFF-SITE IMPROVEMENTS: Off-Site Improvements: Prior to the Planning Board signing the site plan and prior commencement of any work, the applicant shall post a performance surety to guarantee the completion of off-site improvements.
- c.    ON-SITE IMPROVEMENTS: All site plans shall be required to submit an erosion control and site restoration bond, in an amount and form determined by the Department of Public Works, prior to commencing construction on the site. Also, in accordance with NH RSA § 676:13, no certificate of occupancy shall be issued by the Building Department until all on-site improvements specified on the approved site-plan are completed and inspected in accordance with section 6.02.
- d.    In circumstances that prevent landscaping to be completed (due to weather conditions or other unique circumstance), the Building Department may issue a certificate of occupancy prior to the completion of landscaping improvements, if agreed upon by the Planning & Public Works Departments, when a bond (see forms available from the Public Works Department) and agreement to complete improvements are placed with the Town. The landscaping shall be completed within 6 months from the issuance of the certificate of occupancy, or the Town shall utilize the bond to contract out the work to complete the improvements as stipulated in the agreement to complete landscaping improvements. No other improvements shall be permitted to bond for their completion for purposes of receiving a certificate of occupancy.
- e.    All performance sureties shall be in the form of the “Hampton Method Letter of Credit” (a copy of which is on file with the DPW) or a cash bond on deposit with the town in an interest bearing account. All Letters of Credit required by these regulations must be posted by a Town approved bank.
- f.    CO District & No Cut Zones: All Conservation Overlay District Boundaries and other no cut zones indicated on the plans shall be clearly delineated in the field using flagging tape or similar approved methods prior to construction and shall be maintained throughout construction of the project.

**Comment [TJT1]:** Andre to review w/ Legal Counsel and Finance Department

EXHIBIT 4

LONDONDERRY PLANNING BOARD  
SITE PLAN APPLICATION & CHECKLIST

Design Review     Formal Application

All information provided and submitted with this Application Checklist shall conform to the Londonderry Site Plan Regulations. **Please note that the Planning Board may not accept and consider the application complete if the required items as outlined in the checklist are missing from the submittal.**

I. General Information:

A. Name of Project: \_\_\_\_\_

B. Location of Project: \_\_\_\_\_ (street) \_\_\_\_\_ (Map) \_\_\_\_\_ (lot)

C. Owner: \_\_\_\_\_ (zoning)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Signature: \_\_\_\_\_

D. Applicant:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Deleted: . . .

Signature: \_\_\_\_\_

E. Design Firm:  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
E-Mail: \_\_\_\_\_

F. Name of Licensed Land Surveyor: \_\_\_\_\_  
(in responsible charge) Signature: \_\_\_\_\_  
G. Name of Licensed Professional Engineer: \_\_\_\_\_  
(in responsible charge) Signature: \_\_\_\_\_  
H. Name of Certified Soil Scientist: \_\_\_\_\_  
I. Name of Certified Wetland Scientist: \_\_\_\_\_  
J. Date of Submittal to Planning Department: \_\_\_\_\_

***For Planning Department Use Only (Date Received Stamp)***

**II. General Requirements (All Applications):**

	Provided	N/A
1. Executed Site Plan Application Form	<input type="checkbox"/>	<input type="checkbox"/>
2. Complete abutters list	<input type="checkbox"/>	<input type="checkbox"/>
3. All Required Fees	<input type="checkbox"/>	<input type="checkbox"/>
4. <u>Four (4) sets of plans and electronic "PDF" plans (12 sets if electronic plans not possible) submitted with all required information in accordance with the site plan regulations and this checklist</u>	<input type="checkbox"/>	<input type="checkbox"/>
5. Copies of any proposed easement deeds, protective Covenants or other legal documents	<input type="checkbox"/>	<input type="checkbox"/>
6. Any waiver request(s) submitted with justification in writing	<input type="checkbox"/>	<input type="checkbox"/>
7. Technical reports and supporting documents (Drainage report, Traffic Study, etc.)	<input type="checkbox"/>	<input type="checkbox"/>
8. Completed Site Plan Application Checklist	<input type="checkbox"/>	<input type="checkbox"/>

**Deleted:** Twelve (12) sets of plans submitted with all required information in accordance with the site plan regulations and this checklist

**III. General Plan Information (All Plans):**

1. Size and presentation of sheet(s) per requirements of the site plan regulations	<input type="checkbox"/>	<input type="checkbox"/>
2. Title block information:		
a. Drawing title	<input type="checkbox"/>	<input type="checkbox"/>
b. Name of site plan	<input type="checkbox"/>	<input type="checkbox"/>
c. Location of site plan	<input type="checkbox"/>	<input type="checkbox"/>
d. Tax map & lot #s of subject parcel(s)	<input type="checkbox"/>	<input type="checkbox"/>
e. Name & address of owner(s)	<input type="checkbox"/>	<input type="checkbox"/>
f. Date of plan	<input type="checkbox"/>	<input type="checkbox"/>
g. Scale of plan	<input type="checkbox"/>	<input type="checkbox"/>
h. Sheet number	<input type="checkbox"/>	<input type="checkbox"/>
i. Name, address, & telephone number of design firm	<input type="checkbox"/>	<input type="checkbox"/>
j. Name and address of Applicant	<input type="checkbox"/>	<input type="checkbox"/>
3. Revision block	<input type="checkbox"/>	<input type="checkbox"/>
4. Planning Board approval block provided on appropriate sheets (Cover sheet, site plan, landscape plan only)	<input type="checkbox"/>	<input type="checkbox"/>
5. Certification block (for engineer, surveyor, soil scientist, or wetland scientist)	<input type="checkbox"/>	<input type="checkbox"/>
6. Match lines (if any)	<input type="checkbox"/>	<input type="checkbox"/>

<SNIPPED>

**XII. Required Project Permits (as applicable to applications):**

	Provided	N/A	App Submitted	
1. NHDES site-specific approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
2. NHDES wetlands permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: Pending
3. NHDES sewer discharge permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
4. NHDES water supply permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
5. NHDES dam permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
6. NHDOT driveway permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
7. Londonderry ZBA variance(s)/special exception(s)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
8. Londonderry sewer discharge permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
9. Army Corps of Engineers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
10. Federal Aviation Administration	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .
11. Other federal, state or local permits (if applicable) for project	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deleted: .

**XIII. Acknowledgment and Signature:**

The undersigned acknowledges he/she has read and understands all of the Town's current zoning, subdivision, site plan, and health regulations and requirements for obtaining all required local, state, and federal permits. .

\_\_\_\_\_  
(Signature of person preparing plans)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)