

1 **LONDONDERRY, NH PLANNING BOARD**  
2 **MINUTES OF THE MEETING OF JULY 14, 2010 AT THE MOOSE HILL**  
3 **COUNCIL CHAMBERS**  
4

5 7:00 PM: Members Present: Art Rugg; Mary Soares; Charles Tilgner, P.E.; Lynn  
6 Wiles; Laura El-Azem; Chris Davies; Dana Coons, alternate member; Rick Brideau,  
7 CNHA, Ex-Officio; George Herrmann, Ex-Officio  
8

9 Also Present: André Garron, AICP; Tim Thompson, AICP; John Trottier, P.E.;  
10 Cathy Dirsra, Planning Division Secretary; Jodie Levandowski, Planning Division  
11 Intern  
12

13 A. Rugg called the meeting to order at 7 PM. A. Rugg appointed D. Coons to vote  
14 for L. El-Azem until she arrives.  
15

16 **Administrative Board Work**  
17

18 A. Plans to Re-sign – Falcon Road Subdivision (*Rejected at Registry*)  
19

20 Plans will be re-signed at the conclusion of the meeting.  
21

22 B. Moose Hill Orchards – Proposed deck by Pond near Mack’s Ice Cream  
23

24 T. Thompson referenced a letter from Andy Mack Jr. requesting to place a  
25 deck (14 x 12 with railings) by the ice cream area. He asked if the Board  
26 would prefer a minor site plan or to have staff handle it administratively.  
27 The Board directed staff to handle it administratively.  
28

29 [ L. El-Azem arrived at 7:04PM. D. Coons returned to alternate member  
30 status. ]  
31

32 C. Approval & Signing of Minutes - June 2 & 9  
33

34 A. Rugg requested that the minutes of June 9 be amended to include a copy  
35 of an e-mail that had been sent to all members of the Board as an  
36 attachment.  
37

38 **M. Soares made a motion to approve and sign the minutes from the**  
39 **June 2 meeting. C. Tilgner seconded the motion.** No discussion. **Vote**  
40 **on the motion: 7-0-1.** (L. Wiles abstained because he was absent at the  
41 June 2 meeting).  
42

43 **M. Soares made a motion to approve and sign the minutes from the**  
44 **June 9 meeting as amended including the e-mail as an additional**  
45 **attachment. C. Tilgner seconded the motion.** No discussion. **Vote on**  
46 **the motion: 6-0-2.** (A. Rugg and C. Davies abstained because they were  
47 absent at the June 9 meeting).  
48  
49

1 D. Discussions with Town Staff

2  
3 A. Garron gave the Board an update on the Pettengill Road project. He said  
4 that staff is continuing to look at funding opportunities. They have submitted  
5 an economic development grant for the sewer portion of the project, part of  
6 which could be obtained through the EDA grant that was submitted to the  
7 Rockingham Economic Development Corp. They recently heard about a  
8 TIGER2 grant (Transportation Improvement Generating Economic Recovery).  
9 They have completed the pre-application portion and the regular application  
10 will be submitted by mid August. If approved, this would help with the  
11 roadway and sewer portions of the project. Determination will be made at the  
12 federal level as to whether or not we are considered a rural community, in  
13 which case we could get a 100% grant with no local match requirement,  
14 otherwise the local match would be 20%. The Census Bureau defines a rural  
15 community as being under 50,000 population so we should qualify, but the  
16 reviewing agency has final say.

17  
18 T. Thompson said that the Town Council meeting tomorrow night will include  
19 3 public hearings which are Planning Board zoning changes: rezoning on  
20 Weymouth Rd, rezoning for conservation subdivision off Old Derry Rd and the  
21 building code amendments. He encouraged Board members to attend if  
22 possible.

23  
24 **Public Hearings/Workshops/Conceptual Discussions**

25  
26 A. Workshop Discussion - Multifamily buildings - Number of Units per building  
27 reduction in Inclusionary Housing, R-III, and Elderly Housing as requested by  
28 Town Council

29  
30 T. Thompson gave the Board a presentation (see attachment #1).  
31 There had been a suggestion for calculating square footage in deciding on the  
32 number of units, but staff recommends not choosing that option.

33  
34 C. Davies asked if we should look at financial hardship. T. Thompson said the  
35 Board would have to look at hardship criteria (conditional use permit).

36  
37 D. Coons asked if there is a cap on the number of units in an elderly multi-  
38 family structure today. T. Thompson said no.

39  
40 L. Wiles suggested looking at Vista Ridge as an example of looking at square  
41 footage. He asked if people get taxed on the common areas.

42 R. Brideau (Assistant Assessor) said that people don't get taxed on the  
43 common areas. L. Wiles said he still feels that square footage is the way to  
44 go. T. Thompson said that staff feels strongly that this should not be an  
45 option. He also said there might be legal implications in doing that.

46  
47 L. El-Azem asked, if we could tax on a specific amount of square feet, what is  
48 the discrepancy. T. Thompson said in a site plan review for an apartment  
49 building we are not looking at floorplans, just the square footage of the entire  
50 building itself. The Planning Board doesn't look at the individual square

1           footage of each unit. T. Thompson said he is worried about the square  
2           footage being an issue of compliance and enforcement. He said that currently  
3           we only regulate the footprint of buildings if they are commercial in the  
4           Performance Overlay District, and that we do not limit the square footage of  
5           any residential uses.

6  
7           L. Wiles asked how apartments are taxed. R. Brideau said the owner of  
8           apartment buildings is the only one who receives the tax bill.

9  
10          A. Garron asked L. Wiles what amount of square footage he had in mind.  
11          L. Wiles said it would be 12,000 s.f. which is about twenty-two 550 s.f., one  
12          bedroom apartments, which would be about 16 units per building and then  
13          some allowance for common areas. L. Wiles asked R. Brideau if he knew the  
14          size of the Vista Ridge buildings, just to get an idea of the size of the  
15          buildings.

16  
17          T. Thompson said the Vista Ridge buildings have about 11,000 square foot  
18          footprints.

19  
20          L. Wiles asked if we're talking in terms of condominiums or rental units.  
21          T. Thompson said we're looking at 3 different sections of the ordinance: the  
22          R3 district would allow condos or rental; the inclusionary would be targeted  
23          for rental (per the requirements for multi-family inclusionary housing); and  
24          elderly could be either. L. Wiles asked if we want to look at condominiums  
25          differently than apartment buildings. T. Thompson explained that you cannot  
26          discriminate based on the form of ownership (state law). D. Coons asked that  
27          since this all came about due to workforce housing, if we start putting a lot of  
28          restrictions on the size of the buildings, number of units, etc., do we stand  
29          the chance that the state could come back and say, you're not meeting the  
30          intent of the law. T. Thompson said the state wouldn't do that, but a  
31          developer could sue the town on those grounds.

32  
33          A .Rugg read letters from residents Deanna Mele, 8 Valley St (including a  
34          newspaper article and David Howard, 118 Fieldstone Dr, into the record  
35          (attachment #2).

36  
37          A. Rugg asked for public input.

38  
39          Al Baldasaro, 41 Hall Rd, would like to see a restriction of 500 or 600 s.f. per  
40          unit.

41  
42          Elizabeth Flumignan, 491 Mammoth Rd, said she has many neighbors that  
43          are widows. They would really like to stay living in Londonderry and would  
44          benefit from elderly housing. She would like to see at least 20 units per  
45          building.

46  
47          Martin Srugis, 17 Wimbledon Dr, said that he thought prior to the June 9  
48          meeting the Planning Board had voted for a density of 16 units. T. Thompson  
49          said all meetings prior to June 9 were workshop discussions, not public  
50          hearings. M. Srugis said he is concerned about the rural look of Londonderry,

1 congestion, traffic, etc. He said that Sanborn Rd is about 13 ½ acres and he  
2 thought the land requirement for multi-family housing had to be at least  
3 15 acres. A. Garron said it was stated at the last meeting that a variance  
4 would be needed to move forward with the elderly project. M. Srugis felt that  
5 if they would have to go for a variance through ZBA anyway and could  
6 request a change from 16 to 20 units at that time, then we shouldn't sacrifice  
7 the whole town. He said that we shouldn't be so concerned about the  
8 profitability for developers.

9  
10 M. Soares asked what number of units is in effect now.

11 T. Thompson said that because this ordinance was tabled and posted for  
12 public hearing, the 16 units per building requirement is in effect today.

13  
14 Sara Landry, Director of Senior Affairs Program, asked the Board to seriously  
15 consider 20 units per building because the change in the ordinance will affect  
16 the senior project they have been working on for over 4 years. She said that  
17 other towns have requirements for the number of bedrooms and asked why  
18 can't we restrict the number of units per building.

19  
20 A. Garron said that what complicates things is the state law for workforce  
21 housing. He said that our legal counsel recommended that we don't treat  
22 elderly housing different than inclusionary housing because you can't  
23 discriminate.

24  
25 D. Coons suggested that we go with 24 units and if a builder wants to go with  
26 less units, that should be their choice.

27  
28 Nancy Irwin, 15 Cimarron Circle and member of Elder Affairs Committee,  
29 feels it's important to inform people that even if 24 units per building were  
30 decided on, there would be no speeding traffic entering or leaving from the  
31 premises. She feels that increasing the number of units from 16 to 20 would  
32 not be detrimental to the community.

33  
34 Marsha Kosak, 11 Clark Rd, has lived here for 31 years and was evacuated  
35 during the fire many years ago. She has a lot of concerns and she does not  
36 want the rural character of the town to change. She thought that no one  
37 could build on that site for so many years after the fire and asked if that was  
38 true. A. Garron said that in the late 1980's, early 1990's the town hired  
39 Envirosense to conduct an environmental analysis on the site. The site was  
40 remediated (able to be built upon) providing that water is provided to the site  
41 and that the monitoring continues to be provided on the site, in accordance  
42 with the testing and standards of the NH Department of Environmental  
43 Services. He said that Envirosense is our consultant that does the monitoring  
44 for the town and does the annual testing. She is concerned about the number  
45 of people that HUD will bring into these buildings and asked if we would have  
46 to go by HUD's rules. She said that she's heard that it's not just Londonderry  
47 residents that would get into these buildings.

48  
49

1 T. Thompson said that the Planning Board has not seen anything on this  
2 project yet. The project has never been presented to the Board. At this point  
3 it's at the Elder Affairs Committee level. It has yet to even be conceptualized  
4 and brought to the Planning Board for a conceptual discussion.

5  
6 A. Rugg said the only thing the Board is working on currently is the zoning as  
7 it relates to multi-family housing, specifically the number of units per  
8 building.

9  
10 M. Kosak, 11 Clark Rd, asked if we're making plans for something that we  
11 don't even know if we're going to get. A. Rugg said that at this stage we  
12 don't know. He knows that the wells on the property are being monitored. He  
13 said that once the project comes before the Board as a site plan, which is  
14 when they will have all the information.

15  
16 M. Kosak, 11 Clark Rd, said she understood that the property could not be  
17 used for a number of years and that when it was, it was to be used for  
18 recreational.

19  
20 A. Rugg said that the NH Department of Environmental Services (DES)  
21 decided that the property can be built on.

22  
23 John Curran, 6 Faye Lane, is concerned about the integrity of the town. He  
24 thinks that we shouldn't make a decision based on one project (i.e. the  
25 elderly housing) that hasn't even go through conceptual discussions with the  
26 Board. He also said that 16 units was agreed on at prior workshop  
27 discussions.

28  
29 Stacy Thrall, Chair of Elder Affairs Committee, said that on behalf of the  
30 committee she is asking the Board to decide on the number of 20 units per  
31 building.

32  
33 Pauline Caron, 369 Mammoth Rd, said that she has been involved in these  
34 discussions since January 2010. She would like to see the density stay at 16  
35 units per building and the elderly housing project could either go before the  
36 ZBA or request a Conditional Use Permit.

37  
38 Jim Steel, 17 Holton Circle, said that he & his wife operate a business that  
39 places caregivers in the homes of seniors and he receives calls from  
40 Londonderry seniors that can't afford the services that they offer and they  
41 can't do it for free, so they have to turn them away. He said that by 2020 the  
42 population of seniors 65+ is going to double and if we have a problem today,  
43 it's going to be twice as large in 10 years.

44  
45 Deb Paul, 118 Hardy Rd, expressed her concerns about HUD picking  
46 Londonderry seniors for the housing.

47  
48 Deanna Mele, 8 Valley St, Londonderry resident for 39 years, is concerned  
49 about seniors being on that property. She is concerned about the quality of  
50 the land and the people that may live there in the future.

1  
2 A. Baldasaro, vice chair of elder affairs committee, said that the town donates  
3 funds to CART (senior transportation) and he feels that the town would never  
4 donate land that is not buildable. He asked the Board if it's possible for a 16  
5 unit building to have the same footprint as a building similar to one of the  
6 Vista Ridge apartment buildings. A Rugg said yes it's possible because the  
7 developer decides on the footprint.

8  
9 J. Curran, 6 Faye Lane, asked if the town legal counsel could tell us if there  
10 were any precedent cases in regards to whether we can say 16 or 24 units  
11 per building.

12  
13 T. Thompson said town legal counsel doesn't care whether we choose 16 or  
14 24 units, as long as it is consistently applied. Legal Counsel said that his  
15 concern is not that the town would be sued over the elderly project, but  
16 somebody suing over an inclusionary project because of elderly being allowed  
17 more units than inclusionary would be and he would not be comfortable  
18 defending that.

19  
20 A. Rugg said consensus of the Board was to "look at" option 4, for 16 units or  
21 up to a maximum of 20 units with a conditional use permit. He said there  
22 would be another workshop in August.

23  
24 T. Thompson said that August 11 would be the next workshop.

25  
26 A. Garron said that a lot of work has to be done with the conditional use  
27 permits because they have to be fair across the board.

28  
29 P. Carron, 369 Mammoth Rd, suggested preparing the conditional use permits  
30 and having the town give another parcel of land that's at least 15 acres, so  
31 they won't have to get a variance.

32  
33 B. NHDOT - South Road Mitigation Project Update

34  
35 A. Rugg said that NH DOT wasn't able to stay for their presentation.

36  
37  
38 C. David Preece - Southern NH Planning Commission Project Update

39  
40 D. Preece gave the Board an overview of the commission's history and  
41 brought them up to date.

42 Some of the projects they are currently working on are:

- 43 • Exit 4a project
- 44 • Small area master plan for northwest portion of town
- 45 • Along with Pettengill Rd, they are looking at traffic, land use, etc.
- 46 • NH route 102 corridor access management
- 47 • Community preparedness program (for region wide, statewide
- 48 disasters)
- 49 • Updating hazardous mitigation plan
- 50 • Trying to get funding for a source water plan

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

**Other Business**

None

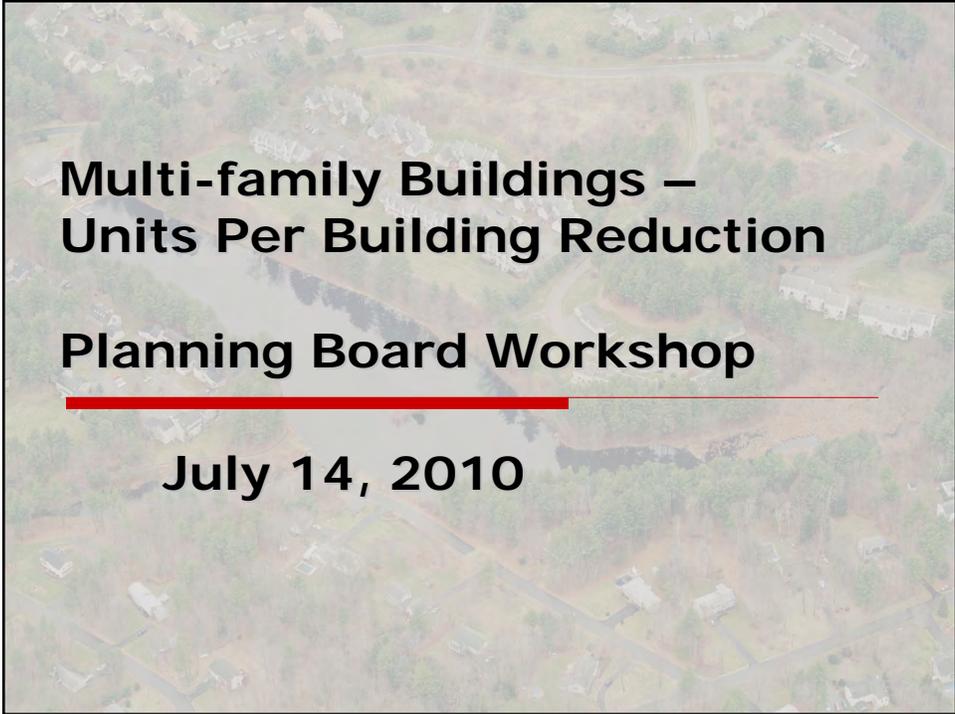
**Adjournment:**

**M. Soares made a motion to adjourn the meeting. R. Brideau seconded the motion.** No discussion. **Vote on the motion: 8-0-0.** Meeting adjourned at 9:05 PM.

These minutes prepared by Cathy Dirsra, Planning Division Secretary.

Respectfully Submitted,

Charles Tilgner, Secretary



## **Multi-family Buildings – Units Per Building Reduction**

### **Planning Board Workshop**

---

**July 14, 2010**

### **Proposed Amendments Tabled at June 9 Meeting**

---

- **Amend Section 1.3 (Residential Development Phasing) as follows:**
    - Amend Section to indicate phasing requirements for the R-III district
    - Amend Section to indicate phasing requirements for Multi-Family Inclusionary Housing
  - **Amend Section 2.3.2 (R-III District) as follows:**
    - Amend Section to set the maximum number of units in a multi-family structure at 16 units.
  - **Amend Section 2.3.3 (Inclusionary Housing) as follows:**
    - Amend Section to set the maximum number of units in a multi-family structure at 16 units.
  - **Amend Section 3.6 (Elderly Housing) as follows:**
    - Amend Section to establish the maximum number of units in a multi-family structure at 16 units.
-

## Background/Legal Counsel Advice

---

- Town Council requested Planning Board reduce number of multi-family units per building at time Workforce Housing Ordinances were adopted (February).
  - Planning Board spent the last several months examining the implications of the change.
  - Legal Counsel advice at start of process was that requirement must be consistent across the board (that is for any ordinance that allows for multi-family buildings).
    - Because multi-family allowed in **R-III District, Inclusionary Housing** (in AR-I and R-III) and **Elderly Housing** Section (permitted in AR-I, R-III, C-I, C-II, C-III, C-IV and PUD) unit reduction applies to all of these sections of the Zoning Ordinance.
- 

## R-III District Amendment

---

- **Proposed Language (from 6/9):**
    - The maximum number of dwelling units per dwelling shall be **sixteen (16)**.
  - **Options:**
    - Keep Current Ordinance Language (24 units per building)
    - Revise maximum to **16** (as was proposed 6/9).
    - Revise maximum to **20**.
    - Develop Conditional Use Permit criteria for increasing from a maximum of **16** to a maximum of **24**.
-

## Inclusionary Housing Amendment

- **Proposed Language (from 6/9):**
  - The maximum number of dwelling units per dwelling shall be **sixteen (16)**.
- **Options:**
  - Keep Current Ordinance Language (24 units per building)
  - Revise maximum to **16** (as was proposed 6/9).
  - Revise maximum to **20**.
  - Develop Conditional Use Permit criteria for increasing from a maximum of **16** to a maximum of **24**.

## Elderly Housing Amendment

- **Proposed Language (from 6/9):**
  - Dwelling Units – **The maximum number of dwelling units in a single building shall be sixteen (16) units.** The base population shall not exceed an average of two persons per unit for the site...
- **Options:**
  - Revise language to state a limit of **24** units per building (current ordinance language is problematic legally, as it is in conflict with R-III and Inclusionary Multi-Family)
  - Revise maximum to **16** (as was proposed 6/9).
  - Revise maximum to **20**.
  - Develop Conditional Use Permit criteria for increasing from a maximum of **16** to a maximum of **24**.

## Residential Development Phasing Amendments

---

- **Proposed Language from 6/9:**
    - For development located in the R-III district: **Three (3)** multi-family buildings, the total number of dwelling units not to exceed forty eight (48) per year from the date of final approval;
  - **Options (depends on how other sections are treated):**
    - If no changes from current ordinance for number of units per building (in R-III and Inclusionary Multi-Family), current ordinance language can remain.
    - If 16 units across the board is chosen, proposed language from 6/9 can be adopted.
    - If 20 units across the board is chosen:
      - For development located in the R-III district: **Two (2)** multi-family buildings, the total number of dwelling units not to exceed **forty (40)** per year from the date of final approval;
    - If a conditional use permit process is chosen, phasing for such projects would need additional language in the Phasing Section to accommodate the phasing where a CUP is granted by the Board.
- 

## Residential Development Phasing Amendments (cont'd)

---

- **Proposed Language (from 6/9):**
    - For multi-family development meeting the definition of "workforce housing" as defined by RSA 674:58, and approved by the Planning Board per the procedures outlined in RSA 674:60: **Three (3)** multi-family buildings, the total number of dwelling units not to exceed forty eight (48) per year from the date of final approval;
  - **Options same as for R-III on previous slide**
-

Enclosed is an article, letter to the Editor. Londonderry Times, July 5<sup>th</sup> edition.

Also, if interested, in the Union Leader Friday July 2, 2010 page 81 is an article where it seems 2 seniors were interviewed. One, Sandy Weston, an elder affairs voting member, who also wants to get into Senior Housing in Londonderry, has one view. Marsh Kasak, another.

She leans more towards my thinking

Not all seniors agree with the change

16 U/Bldg to do. I feel few speak up

Call me at 603-434-5906. If you have any questions

Deanna J. Miele

To the editor:

After watching the June 9 Planning Board meeting and attending Elder Affairs Committee meetings prior to June 9, I feel the real issue has been downplayed. It isn't the number of units per building, but whether Senior Housing should be put on the Sanborn property at all.

From day one I had questions about the Sanborn area. What type of property would the town "give" to any group? Towns don't usually give away anything of value, no matter what town it is. I, with difficulty, learned that it was a dumping site for tires and was unusable except for recreational use. Then I learned about the wetland problem and more recently of the 100-year

continued on page 5

## Letters

continued from page 4

flood plan issue.

At the Elder Affairs meeting there was a question concerning boundary footage requirements. Was it too high? At that time it was stated out of the 13 acres, only 4 or 5 were available for Senior Housing due to the wetland and the 100-year flood situation.

On June 9, Andre Garon stated the acreage was 5 to 7 acres because the boundary requirement decreased in footage. John Farrell said suing the seniors would be a PR nightmare and good luck with that. His statement might be felt by some as an attempt at intimidation and instilling guilt feelings in those who disagree with changing the 16 units to 20 per building to accommodate seniors. When told Londonderry's legal counsel advised against these changes and the whole town had to be changed to 20 units, John wanted to know if legal counsel definitely said no. Those who had the town change

to 16 units per building did so for the protection of the whole town. They spend many hours at meetings, etc.

John also said "let's do something for our seniors." Londonderry does and has. The town provides a building for seniors to gather. Most of the budget for the Senior Center is for the manager's salary, and little is given for activities, etc.

Seniors have stated for years that they cannot afford to live in Londonderry or stay in their homes, as they hoped to.

Londonderry and Southern New Hampshire (SNH) have a win-win. Londonderry disposes of unusable town-owned property; if Senior Housing were put in Sanborn Road, they would be collecting revenue.

SNH has a guaranteed income, as little it may be per individual rental. They also do not have the problems private landlords would have, late rent, no renters and paid vacancies.

I am not sure this will be a win/win for those seniors living on this property with its many

problems. The gentleman, who asked why did the town give the seniors such a terrible piece of property was correct in asking. Sarah Landry on June 9 said it is not a crappy piece of property; it's a good location. The location isn't as much a concern as the water issues on the property itself.

The question remains: should the planning board change or even make exceptions to the number of units per building from 16 to 20 against legal counsel's advice. If we don't get the 202 grant, this would all be for naught. Is the grant a guarantee or a hope?

Also, FEMA and HUD haven't come to an agreement about this property.

Do we change the six or eight properties in Londonderry still available for construction without these guarantees? Do we ignore legal counsel's advice?

Perhaps 16 units per building may be the way to go for now and later on, we will have other senior housing areas, as surrounding towns do.

Deanna Mele  
Londonderry