



Town of Newmarket, New Hampshire
Town Council Business Meeting
March 6, 2013 7:00 p.m.
Council Chambers

AGENDA:

- 1. Pledge of Allegiance**
- 2. Public Forum** - *Items not on the agenda*
- 3. Public Hearing** – *Item(s) before the Town Council this evening for action*
- 4. Town Council to Consider Acceptance of Minutes**
 - a. February 20, 2013 WS Minutes
 - b. February 20, 2013 Non-Public
- 5. Report of the Town Administrator**
- 6. Old Business**
 - a. **Ordinances and Resolutions in the 2nd Reading**—*Item(s) Council may act upon this evening*
 - i. Resolution #2012/2013-45 Appropriation of \$60,000 from Wastewater Department Surplus to the Wastewater Legal Capital Reserve Fund
 - ii. Resolution #2012/2013-46 Withdrawal of \$77,031.41 from the Wastewater Legal Capital Reserve Fund
 - b. **Ordinances and Resolutions in the 3rd Reading**
 - c. **Items Laid on the Table**
- 7. New Business/Correspondence**
 - a. **Town Council to Consider Nominations, Appointments and Elections**
 - i. ZBA – Alternate - Richard Shelton Term Expires March 2014
 - b. **Ordinances/Resolutions in the 1st Reading** – *Item(s) held over for vote at next BM*
 - i. Ordinance #2012/2013-03 Purchasing Policy

ii. Resolution #2012/2013-48 Approving the Community Revitalization Tax Relief Incentive (RSA 79E) for the Redevelopment of the Lang Blacksmith Shop

iii. Resolution #2012/2013-49 Authorizing the Withdrawal of \$11,500 from Building Improvement Capital Reserve Fund for the Painting of Town Hall

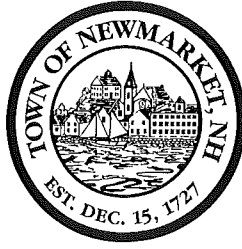
c. Correspondence to the Town Council

i. Letter from Kelli Hardy, 5 South Street

d. Closing Comments by Town Councilors

8. Adjournment

This agenda is subject to change without notice. This location is handicapped accessible. This meeting is scheduled to be televised live on Channel 13.



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3. Public Hearing – *Item(s) before the Town Council this evening for action*



**Town of Newmarket, New Hampshire
Town Council Business Meeting
March 6, 2013 7:00 p.m.
Council Chambers**

4. Town Council to Consider Acceptance of Minutes

a. February 20, 2013 Workshop

b. February 20, 2013 Non-Public

DRAFT

**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL WORKSHOP
FEBRUARY 20, 2013
TOWN COUNCIL CHAMBERS**

PRESENT:

Council Chairman Phil Nazzaro	Councilor Ed Carmichael
Council Vice Chairman John Bentley	Councilor Dan Wright
Councilor Mike LaBranche	Councilor Gary Levy
Councilor Al Zink	Town Administrator Steve Fournier

1. Council Chairman Nazzaro opened the meeting at 7:08 p.m., followed by the Pledge of Allegiance. Council Vice Chairman Bentley moved to seal the minutes of the previous non-public session. Councilor Levy seconded. Town Administrator Fournier polled the Council. Motion passed unanimously, 7 – 0.

2. **PUBLIC FORUM: NON-AGENDA ITEMS ONLY**

Council Chairman Nazzaro opened the Public Forum at 7:10 p.m. Bert Allen of Moody Point presented his ideas and statistics for improved parking and increased revenue for Newmarket. He favored one-way traffic through the downtown and the installation of parking meters, along with developing a parking lot on Elm Street. Council Chairman Nazzaro asked that he share his documentation with the Council. Council Chairman Nazzaro closed the Public Forum at 7:16 p.m.

3. **PUBLIC HEARING: ORDINANCE #2012/2013-02: AMENDMENTS TO ZONING ORDINANCE SPECIAL USE AND MIXED USE PERMITS**

Council Chairman Nazzaro opened the Public Hearing at 7:16 p.m.

Amy Thompson of Lang's Lane spoke of her concerns with the proposed zoning amendment from B1 to M2. Her first concern was with section B (2) [2] under Uses by Special Permit: preparation and acceptance by the Planning Board, rather than the ZBA, of a market analysis which demonstrates the feasibility of adding multi-family housing sufficient to ensure reasonable expectation of ongoing occupancy of units to support maintenance and upkeep of the property. She questioned how this would be monitored, what would be defined as reasonable, and whether a marketing analysis would be sufficient to ensure ongoing occupancy and upkeep of private property. She felt the overall amendment reflected selective change, and was inconsistent with the Master Plan which sought to limit multi-family housing. She said she was in favor of bringing business to the town and increasing the tax base, but felt that there were two ways to give relief to the taxpayers: bringing more people into the town or watching expenses. She felt the amendment was premature as they did not know yet what was happening with water or sewer, in addition to its being inconsistent with the Master Plan, particularly for a dense area. She felt this was a band aid approach and there was no guarantee that business would come. She asked that they stop and take some time until the town's infrastructure was fixed and the Master Plan reflected what the town was willing to follow. She felt that once this was done, Newmarket would attract more people and businesses, thereby allowing growth and a broader tax base to occur naturally.

Bert Allen of Moody Point felt the town had procrastinated long enough. He referred to a design for the town that was completed in 1985 by the Strafford County Planning Association. He said that the DOT had threatened to cut the town in half to shorten the distance between a proposed bridge in Newfields to Durham if the plan was not adopted in 20 years. The road would bypass Newmarket's downtown area. He said that the addition of a users' tax in the form of parking meters in the town would relieve the tax burden. Council Chairman Nazzaro stated that the subject of the Public Hearing was on the zoning change. Mr. Allen felt his point addressed this change as the plans were on file and could be implemented at any time.

Russ Simon of Cushing Road added to Ms. Thompson's comments, stating that there was a footnote allowing the Planning Board to waive the feasibility study. He said he did not know what the point was of number 2 if the market analysis could be over-ruled by the Board if it felt it knew the results. His concern was that if the town was developing an Economic Development Committee, funds for which he believed were in the budget, why the zoning changes were being pushed forward in such a short amount of time at this point. He felt the Committee should have an opportunity to consider the amendment as part of its view for the entire town. He stated although he did not know if the changes for Route 108 were right or wrong, he was questioning why there was a rush to have them implemented before the Committee had a chance to operate. He recommended that there not be a vote to accept or reject the proposal, but that time be taken to ensure it was vetted and all the unintended consequences were considered. Council Chairman Nazzaro said that the Council had not voted for any funding for the Committee yet; the Council had charges the Committee with economic development across the community.

Toni Weinstein of 275 Ash Swamp Road said her concerns were with the amendment's impact on the school and the water and sewer capacity. She said she did not know if this would bring more families into the town, but she did not see how the schools could handle more children.

Rod Bowles of 52 Maplecrest Street, a member of the Newmarket Business Association, said the Association believed the proposed changes were good and the Planning Board had done a thorough job in their development. He invited other members to weigh in on the matter. He said that economic opportunities were in front of them and these were not founded in what had happened in the past. He referred to a 2012 study titled "Housing and School Enrollment in New Hampshire" prepared for the New Hampshire Housing Finance Authority by the Applied Economic Research Organization in Laconia. The study factually stated that multi-family housing brings fewer children into an area than single family housing. He thought that to determine the effect on the tax base, one could compare the evaluation of property assessments on 2 acre lots with single to those with multi-family housing. He felt that critical thinking of that nature would allow Newmarket to be on the cutting edge in attracting development dollars while they are available. He said the Association recommended that the Council make minor wording changes to the amendment if necessary, but to vote it in and move ahead in a positive direction for the benefit of the community

Rose-Anne Kwaks of Wadleigh Falls Road, a past member of the Planning Board and ZBA, said she felt the ordinance would not benefit the town at the time. She had attended the Economic Development Committee meeting when an economic consultant spoke. She said that during the budget process, she remembered Councilor Zink insisting that money be put aside for a consultant. She said the Master Plan stated that the town should use an economic consultant. At the meeting, she said the Committee discussed what it could expect from a consultant. The consultant spoke about what direction he should or could provide to guide Newmarket toward positive growth. He said this would not just enhance the developer's bottom line. It seemed that was the only consideration in developing the ordinance because a business would not go in without the addition of multi-family housing. She said the ratio of multi-family to single family housing in Newmarket was 50% compared to 15% in towns of a similar size in New Hampshire, and the ordinance would increase that ratio further above the norm. She had also watched the Planning Board meeting of February 12th, when Chairman Shelton brought up the question Councilor Wright had asked about the unintended consequences of the ordinance. She said that Chairman Shelton had said she would probably write a letter with an amendment recommendation. Ms. Kwaks thought she recollected that the Planner had said that if

there was an amendment, there would have to be another posting for another public hearing, which would occur after Councilors LaBranche and Zink were no longer on the Council. She said Chairman Shelton did not want to do that, and instead wrote a letter to Councilor Wright, which Ms. Kwaks believed circumvented the policies of the Planning Board. The letter had been signed by Ms. Shelton as a Newmarket resident, and it included the proposed amendment to the ordinance. Ms. Kwaks said she felt the Economic Development Committee should be allowed to use the funding set aside in the budget for a consultant to help them develop properties the way they should. She also thought that they should not be proposing or changing ordinances until they had an economic consultant and the codification of ordinances was completed because they did not know if the ordinances were valid. She said they did not want to do things as they had in the past, referring to 13 Water Street and Fox Hollow. She felt the ordinance was being pushed through for the wrong reasons and it would not benefit the town.

Bert Allen of Moody Point wanted to clarify something about what was said concerning the letter Ms. Shelton signed as a citizen. He said a person has a right under the First Amendment to send a letter or an email that is not signed by the Planning Board to their constituents.

Chris Nickerson, a project manager with the development firm Key Nickerson and Associates, asked if it would be appropriate for him to show plans for a property within the area proposed for rezoning. He was present as an owner's representative for Milton Elms, LLC. Gary Decker was the owner of the property on the corner of Route 108 and Elm Street. Mr. Nickerson said his clients supported the zoning change, and wished to develop the property, which was an 1827 mill proprietor's home, in a manner that would be consistent with the area. The plan would include 11 townhouses in three buildings, offices and businesses in the house and sufficient parking. He explained that this project would increase the tax base from approximately \$20,000 to about \$87,000 per year with little impact on the town.

Gerry O'Connell of 26 Grant Road, a member of the Newmarket Business Association (NBA) and past and present Economic Development Committees (EDC), said that he supported the change. He said the first EDC had helped update chapter 6 of the Master Plan. He felt that the new EDC was beginning where the first one left off, but he had the sense that some on the new EDC wanted to delay and have a study done of the proposal. He said a study had been done. He did not agree that this was being railroaded through as the preparation of the change had taken about 18 months. When he was a member of the ZBA, he noted that there were some projects which he felt would have been beneficial to the town, but could not be approved because of restrictions. He said that the ZBA had recommended that the Council look at zoning changes at that time. He said the proposed changes had been diligently prepared and included feasibility studies as a protection for the town. He didn't think the town needed someone to tell them that Newmarket needed to move forward and expand its tax base. He referred to a demographic study which had been done by Ross Cantrell in 2012. The study, which is available on the school's web site, reported that population and school enrollment was decreasing in New Hampshire.

In reference to the impact of multi-family housing on schools, Mr. O'Connell presented statistics on school enrollments by types of housing. A single family detached house averages .54 pupils; a single attached home, .34; a two unit structure, .38; three and four unit structures, .34; a five unit structure .21, and mobile homes, .34. The average number of pupils for all housing is .45. He felt multi-family housing had less impact on the schools while increasing the tax base. He handed the report to Town Administrator Fournier, who will distribute it to Council members before the March 6th meeting. He referred to an on-line report done by four agencies on the facts and the myths of higher density development. One of the myths was that higher density over-burdens school, services and infrastructure. The fact was that it is the nature of who lives in multifamily housing, and single structures bring more children to the schools. Also denser development requires less infrastructure support. Another report concerned property taxes on apartments which are indirectly paid through rent. The report said that apartments have less impact on the schools and roads than single family homes. Mr. O'Connell said he would gladly send these reports to anyone who asked.

Bert Allen of Moody Point referred to an article on storm water runoff that appeared in the February 13th edition of "Foster's". Newmarket was one of the towns listed, and the article suggested the EPA would be making further demands for runoff treatment. He thought that the parking lot of the proposed Elm Street development should be deeded to the town so that it could control runoff and increase revenue. He said this was done in other towns.

Rose-Anne Kwaks of Wadleigh Falls Road, in reference to a suggestion that the change not be delayed, said that if this was a good ordinance now, it would also be good in a few months. She spoke of tension at the EDC meeting when the subject of delay was brought up. She questioned a statement that the ZBA was in favor of the change. She cited 3 places in the ordinance where the ZBA was replaced by the Planning Board: preparation and acceptance of fiscal impact statements and market analyses. She said the ordinance mentioned ensuring a reasonable expectation that a project would be viable and self-sustaining, but that it cannot be predicted in an ordinance that a property will be self sufficient. She said she did not know if the 2012 graphs presented by Mr. O'Connell depicted a specific town and if that town had multi-family housing percentages as high as Newmarket or percentages as high before it added more housing. She spoke about the letter that Ms. Shelton had sent to Councilor Wright. She stated that the ordinance had taken 18 months to produce, and Ms. Kwaks could not expect the Council to properly vet the change in 2 meetings. Ms. Shelton had written, in response to Councilor Wright's question about unexpected consequences, that they had analyzed all sides of the issues, but with this, as well as with all projects, without significant resources it was difficult to project every possible outcome. Ms. Kwaks said that was the reason that money was set aside in the budget by the Budget Committee to hire an economic consultant. She said another important issue was that the ZBA had authority over structure heights, set backs, etc. which now would be handled by the Planning Board through Special Use Permits. She next referred to Mr. Allen's comments about free speech, and while she was in favor of free speech, she felt that Ms. Shelton's signing of the letter as a citizen rather than as Chairman of the Planning Board, intentionally circumvented the process required to add an amendment.

Russ Simon of Cushing Road asked if the statistics that reported a single family home on one acre produced .5 children and a multi-family building on one acre produced .3, was the study based on units or on the total structure. If the report was based on units, then he felt there could be more children per acre than in a single family home. Council Chairman Nazzaro said he could not answer as to how the figures were put together for the study. However, in Newmarket, the number of students coming from multi-family housing was approximately 14%, and if 58% of the housing was multi-family, that meant that 14% of the students came from a larger percentage of housing. He then reminded every one that there would be no vote on this ordinance at the meeting.

Gerry O'Connell of Grant Road said that a multi-family home on 2 acres pays more in taxes than a single family home on the same acreage. The impact on the schools is lessened by the larger amount. He explained that the ZBA has specific criteria to grant variances or waivers. He said the ZBA had sent a letter to the Town Council because there certain things it could not address, and zoning needed to be changed to make the town more economically viable. He said there was some tension at the EDC meeting when the subject came up about delaying the ordinance. He felt that Newmarket's way was not to push or railroad things through, but to delay. He did not think they should stop the process for a consultant on this change, as he felt it was good for the town now and had not been rushed through. He said that if a consultant in the future thought this was not the best way to go, the zoning could always be changed again. He said it came down to those who thought the ordinance was a good idea voting for it, and those who did not, voting against it, but there was no reason to delay the process for the opinion of someone who might be hired in the future. He said the Mill development, which took 20 years to pass, was now looked at as a very successful project and discussions about that project were similar to the ones heard during the evening's meeting. The Mills are zoned M-2 and have a balance between commercial and residential uses. Of the 112 apartments, 60% are two-bedroom, and there are approximately 5 children. In the 400 units by the same developer in area towns, there are between 10 and 15 children. He said that when Newmarket Mills pays its full tax assessment, that amount will more than outweigh its burden on the schools.

Chris Nickerson, representing Milton Elms LLC, in response to deeding the parking lot to the town, said that perhaps that could come up in the future, but his clients were interested in moving forward with their project now. They had owned the property for about a year, and had spent quite a bit of money in restoring the mill proprietor's home. He felt that their project would be on par with that of the Mills. He said his clients had to have more incentive to develop the property than the current B-1 zoning provides. The house has 8 existing apartments, which is a pre-existing, non-conforming use. He said the types of businesses allowed in a B-1 zone would be out of character for the neighborhood, which has a blend of residences and shops. He said they were asking to have the proposed ordinance passed as the present B-1 zoning prohibited appropriate development of the area. He said his clients could seek a variance, but it would make more sense for them to work within a planning framework that was appropriate for the area.

Bert Allen of Moody Point suggested that the parking lot for the proposed Milton Elms project be moved to another part of the property where it could be enlarged. He said the town could then use part of the lot to generate revenue. Council Chairman Nazzaro suggested that Mr. Allen discuss design changes with the developer.

Walter Cheney said he had heard no agreed upon definition of multi-family housing during the discussion. He asked if the Council could define what they thought was multi-family and give an example. Council Chairman Nazzaro said that was an excellent question for the Council to discuss, but he thought there would be multiple answers. Mr. Cheney said it seemed that, even with no definition, that multi-family housing was perceived as putting a higher burden on the tax base than single family houses. He had spoken with Penny Botterman at the school and found out there were 1,056 children in the school system. He had then gone to the assessor's office and found out there were 1,596 single family houses in Newmarket with between 1 and 8 bedrooms, although there was only 1 of the latter. He thought that some people felt that if a residence was not a single family home, it was a rental, but this was not necessarily true. He said some thought that those who rented did not pay their fair share of taxes. He pointed out that the tax system was based on assessed value. He said Councilor Levy had asked at the last Council meeting what the tax benefit would be if the zoning was changed and what the increase in revenues would be on a lot which presently contains a single family house. Mr. Cheney said it was the added revenues that would count, and it was the asset that was taxed, and it did not matter whether a house was occupied by a renter or the owner.

Mr. Cheney said that some people thought that Bennett Way was a major problem in the town and that it did not pay its fair share, while it burdened the schools. He said, according to the school, there were a total of 31 students from Bennett Way and Cherry Hill. He said the entire hill represents \$33M in assessed value. Value is set on the property, not the land, which totals between 15 and 20 acres. He said there was a perception that multi-family housing generates less tax revenue than single family homes. He said 1.8 acre lot with an apartment building on Bennett Way was assessed \$446,000 for land value, and another one lot of 2.1 acres was assessed \$448,000 just for land value. One building was assessed at \$800,000 and another one for \$4.6 million. He stressed that the value was on the property, not the land. He said that some units called multi-family were actually condos that were really single family attached housing and that each unit was taxed individually. He said he thought that some people defined multi-family by Bennett Way and expressed negative opinions of the zoning change. He said he did not know of another property in town that was assessed at \$33M and had 31 children in the schools.

Mr. Cheney said that the unintended consequences that people were asking about existed in the present B-1 zones. There had been no changes within the zones for many years as they were unworkable. Mr. Cheney asked to answer Councilor Levy's revenue question by showing a project he had brought forward. Councilor Levy said that Councilor Wright had asked the original question. Real estate tax on the property is \$10,000, but with proposed changes would have been \$53,000. He felt the project would have had a positive impact on the town, but with the present zoning he could not go ahead as the ZBA could only work within certain parameters. He said the proposed ordinance was not new; work had gone on for 18 months and public meeting and hearings had been held. The Planning Board was trying to fix a problem, and its responsibility is to see that planning is done properly. He felt there was

something wrong if the Town Council felt it had to redo what the Board had done. He said the Board would not have brought the zoning change before the Council if they did not think it was necessary. He said that unintended consequences originally brought the problem to the Board, and the changes were not meant only to favor developers. He hoped the Council would not think this was new, and disregard the work that had been done. He finished by saying that the perception many had that multi-family housing had a negative impact on the schools was wrong.

Amy Thompson of Lang's Lane said that some, but not necessarily all, people in town had the perception that multi-family housing was Bennett Way. Her reasons for saying that Newmarket always seems to take the band aid approach were multi-pronged. She said this was not just about the taxes and the finances, and a project was not necessarily good because it brought money to the town coffers. She said in the past Newmarket had made mistakes which allowed it to overspend, be greedy and not focus on the prize. To Mr. O'Connell's point, she said it was not about the now, but about the future. She said the Council had a responsibility to review and vet the ordinance, and this should not be interpreted as a reflection on the competency of the Planning Board, ZBA or the EDC. She said it was reasonable for the Council to show due diligence by reviewing the work of its employees. She said she was frustrated in being told repeatedly that this or that project had to be done. She did not feel things should be done by this patchwork method just to get more tax money. She felt that it was the responsibility of the Council to spend more time in review, rather than rubber stamping the ordinance because a lot of time had been spent on its development.

Bert Allen of Moody Point approached the podium and Council Chairman Nazzaro asked him not to speak about parking again. Mr. Allen agreed that they should hire a consultant. He said that Durham had done this and they made money on parking. Portsmouth also made money on parking. He reiterated that parking was essential for business growth. Ms. Kwaks asked for a point of order, and Council Chairman Nazzaro said the Council was well aware of Mr. Allen's views on parking. Ken Jeremiah of Cushing Road said he wanted to speak about the future of Newmarket. He urged that they not compound unintended consequences just to get something done at this point. He felt they should take advantage of the EDC, the Master Plan and the wisdom of the Town Council, and did not think they should proceed with undue haste.

As there was no further public comment the hearing was closed at 8:32 p.m.

4. TOWN COUNCIL TO CONSIDER ACCEPTANCE OF THE FEBRUARY 6, 2013 BUSINESS MEETING

Council Vice Chairman Bentley moved to accept the minutes of the February 6, 2013 Business Meeting. Councilor Levy seconded. Town Administrator Fournier polled the Council. Motion passed 6 – 0 – 1, with Councilor LaBranche abstaining as he had not been at the meeting.

5. REVIEW OF DEPARTMENT REPORTS

Town Administrator Fournier said the total storm costs to the community were \$46,512: \$12,579 in overtime, \$15,598 for rental equipment, about \$7,000 for salt, about \$1,000 for sand, about \$7,000 for fuel and about \$2,500 for breakdowns and repairs. He spoke about the memo from Water and Wastewater Superintendent Sean Greig concerning the decreasing level of water in the town's wells. There had been a decrease in precipitation in the last few years, and the wells were in need of recharging. Mr. Greig will monitor the levels to see if the water plan will have to be changed in May. There is a planned power outage for a few hours either on February 27th or 28th in the area of the school on South Main Street so that work can be done while school is not in session.

Councilor Zink, referring to Mr. Greig's report, asked how alarming it was that the water levels in the Bennett Well were only 6.5' from the low water shut off. Town Administrator Fournier said this was alarming, but they did have some time. He wanted the Council to be aware of this before May, in case a decision had to be made. Councilor Levy asked if the town charged for assisting area towns with fire fighting. Town Administrator Fournier said there was no charge for firefighting as this was mutual

aid. However, there were charges for sending an ambulance to another town. Councilor Levy asked about the differences in gas and diesel costs between 2012 and 2013. Town Administrator Fournier said they had used fewer gallons of gas but the cost per gallon had increased. The costs for diesel had almost gone up about 40%, but Town Administrator Fournier thought this might be due to a change or adaptation in vehicles. He will check on the figures. Councilor Levy asked about the section on tenant complaints. The report stated that the town had received several complaints by tenants about landlords, but the living conditions met legal standards. Town Administrator Fournier had written that they were attempting to work with landlords to make their properties more desirable and attract more viable tenants. Councilor Levy asked what the legal standards were. The town can review housing to see that it has running water, heat and sewer and meets life and safety codes. Town Administrator Fournier said about 90% of the complaints stem from a civil matter between the tenant and the landlord, but the town still has to investigate.

In response to Councilor Carmichael's question about fire calls on page 21 of the packet, Town Administrator Fournier said the comparison would be with the same month during the previous year, and there were fewer alarms this year. Councilor Levy, referring to page 41 of the packet and using the recreation budget as an example, asked that previous year's figures be included on the same page with the present years. He said he knew the figures could be found elsewhere, but felt, for comparison, it would be more helpful to see them together. Council Chairman Nazzaro said the road crew deserved thanks for all their work in keeping the roads clear after Nemo. He then commented that it was often easier and more direct to find town documents through Google than on the town's web site. He said this was a matter of managing the information on the site. Town Administrator Fournier said they were going to be revamping the web site, because they also were aware of the problem. Councilor Zink, also commenting on the IT report, said there had been discussions about the town and school working together on information technology. Town Administrator Fournier said part of this related to earlier discussions on his goals, and the town and school were testing shared technology functions. He preferred to bring the specifics to the Council when he was sure that they were workable, as they did not want to promote this until they were sure it would be a success. He was asked to include some information in his report that indicated this was being worked on. Town Administrator Fournier asked that the Council contact him for further information when they first receive the packet so that he could have this prepared for a meeting.

6. TOWN COUNCIL TO CONSIDER REPORTS FROM COUNCIL REP. COMMITTEES

- a. Planning Board: Councilor Carmichael announced that Arcadia Engineering had received approval for site plan for the 13 Water Street project.
- b. Highway Safety: Councilor Nazzaro said there had been no meeting.
- c. Conservation Committee: Councilor Wright said the last meeting was well attended. There was a discussion of lot 13 in Moody Point in which Mr. Cheney, Sr. and the Moody Point Association presented their views. It was decided that the 2 groups would sit down together to work out something.
- d. CIP/Efficiency Committee: Councilor LaBranche said the CIP Committee was on winter break. He deferred to Councilor Zink to report on the Efficiency Committee. Councilor Zink said the Committee had requested that the Town Administrator and Superintendent of Schools ask the Committee to reconvene when they felt the Committee's input would be helpful. The Committee wanted them to identify issues that they thought could be worked on together.
- e. Budget Committee/Economic Development Committee: Councilor Levy said the Budget Committee was done for the year. A consultant, Peter Kwas, had attended the EDC meeting. Mr. Kwas had explained how he approached towns: he looked at towns within a 30 – 50 mile radius to analyze what was working compared to a community and how to develop an economy of scale. Councilor Levy had asked Mr. Kwas if, when he looks at a town, he considers the town, the zoning and the economic development as a whole, or if he looks at specific lots or large, undeveloped lots. He said he has asked the question because when Ms. Shelton had come before the Committee to present the change from B-1 to M-2 zoning, she had said it potentially would be helpful to have a consultant to look at large tracts of undeveloped land. He felt that some of the comments around the question read more into it that was meant. He said he was waiting for Mr. Kwas to get back to him as to what he

could do for the town, at which point he would bring this before the Council for discussion. Councilor Levy felt that they might be able to fund work in phases.

f. Advisory Heritage Committee: Councilor Zink said the Committee had not met.

7. DISCUSSIONS/PRESENTATIONS

a. Update on Sky Bridge: Town Planner Diane Hardy

Ms. Hardy said that Consultant Scott Bossier of DeBois King and Rob Harbeson from DeStefano Architects were present to speak at the meeting. She gave some background on the bridge. In 2011, the town had received a grant of \$440,000 from the Department of Transportation under the Transportation Enhancement Program to construct a pedestrian bridge over the downtown to service Newmarket Mills. She had come before the Council about a year before to request that they hire DeBois King as engineering consultants. At that time the town had received an additional grant of about \$81,000 from the state toward the expected project cost of \$631,950. Since June, a steering committee including the Director of Public Works, representatives from Stafford Regional Planning Commission, the Transportation Planner for the region, a representative from Newmarket Mills, John Badger, Eric Botterman and Ms. Hardy, had been working with the consultants. She said they were at the meeting to give updates and to present some conceptual plans.

Mr. Bossier showed a diagram depicting the location of the bridge. He said in their initial meeting they had discussed considerations for the bridge, such as an unobstructed sight of view from Main Street and minimization of shadow and dark areas. The bridge would have to meet fire and safety codes, and it was felt that it should be covered for safety and easier maintenance. DOT required that the clear span from the street to the bottom of the bridge be at least 15'6", although it would have preferred 17'6". He and DeStefano Architects prepared a first conceptual drawing of the bridge. It included an elevator and enclosed staircase and was accessible from both sides of Main Street. The original cost estimate for the bridge had not included the engineering portion of the project. The first conceptual plan came in at about \$1.3M, which when added to the current phase of the project would bring it to a total of about \$1.18M. As this was well above what the town had received, the Committee met again with the consultants to determine what the essential elements of the project should be. Eliminating the lowest stair tier level helped reduce the cost to about \$950,000. Next, they eliminated the entire stair tower, extended the bridge and were projecting ramps that would lead to the parking area. This would eliminate two parking spaces. This reduced the cost to about \$780,000, and he said that DeBois was not able to cut the cost any further and meet the minimum required codes and the goals of the project. He said their original idea was to build a skeleton bridge with updates that could be phased in over time.

Mr. Bossier showed a photographic rendering of the proposed bridge. They had filed an initial project review request with the New Hampshire Department of Historical Resources, as one of the requirements in meeting the terms of the National Environmental Protection Act. He felt the plan would be accepted. He said they were in communication with DOT about further funding, but that did not look promising as the grant had been signed into law with the Federal Highway Department, and projects from the old bill cannot extract funding from the new bill. He said they had kept DOT apprised of their efforts to stay within funding. They had asked DOT about additional funding, but his understanding was that all available funding had been allocated or was currently in use. Councilor Wright asked if it was necessary to have heat in the bridge. Mr. Bossier said that regulating the temperature inside the bridge was necessary to reduce moisture and prevent the windows from fogging up and to reduce the temperature in the summer.

Councilor Carmichael asked where the thermostat would be located. Mr. Harbeson said there probably would be a thermostat somewhere in the control room inside the building. He added that, as the space is considered temporary, the air would be conditioned or tempered mostly to prevent moisture buildup and intense heat in the summer. Councilor Carmichael asked about the placement of the piers for the bridge. They would be located on the outside of the street sidewalk, but the exact placement would be determined during the design phase. Some bore holes had been

drilled to get an idea of proper footings. There would be ample room for plows and sidewalk clearing. Councilor Levy said that, looking at the challenges for the project, they were basically servicing one building and not the whole town. He questioned the need for a roof over the bridge, stating that the bridges spanning Storrow Drive were not enclosed. He felt this would realize further cost savings and crossing the bridge would be fine for 90% of the year.

Mr. Bossier said the committee had discussed this, but even if the bridge was roofed but not enclosed, snow and ice would collect on the bridge and someone would have to remove it. He said Councilor Levy's point was valid, and had been discussed at length. Councilor Levy noted that the bridge had been extended. Mr. Bossier said the bridge had to be free-standing so there would be no impact to the foundation of the burned out old mill foundation next to the site. The bridge had been slanted to reduce the number of stairs and ramps required and eliminate the elevator. Councilor Levy said that the parking lot was not covered and he felt that whoever maintained the sidewalks and parking lot could also remove snow from the bridge. Councilor Levy said it seemed like an enormous expense to enclose and heat the bridge, and asked what the savings would be if it were not enclosed. Mr. Bossier said he would bring the point back to the committee, and estimated the savings would be between \$100,000 and \$120,000.

Council Vice Chairman Bentley said he agreed with Councilor Levy about the money that could be saved, and asked the Town Administrator who would pay the cost of heating an enclosed bridge. Ms. Hardy said they were working on an agreement with Chinburg Builders, with the intent that the firm maintain the bridge over time. She offered to share the draft of the agreement with the Council. Councilor Zink said the enclosed bridge looked to him like a mill, rather than a town amenity and he too questioned the need for it to be enclosed. Council Chairman Nazzaro asked where the bridge would enter the building. It would be in the public, business lobby on the third floor adjacent to an elevator and stairs. He asked what the alternatives were for glass enclosures that would not create a chain-link-fence appearance. Mr. Bossier said that the sides could be made of a steel mesh/grid, and his original proposal had phased in the addition of glass on the outside of mesh. To Council Chairman Nazzaro's question, he said he would bring the idea to the committee of perhaps adding glass at a later time. Council Vice Chairman Bentley said he would be glad to have any sort of a bridge there, and hoped that they did not get into the all-or-nothing mentality.

He said the Council had committed to not go above a certain dollar amount. Ms. Hardy reviewed the budget details for the Council. She said that as of that time, they had \$520,950 available from the state which was 80% of the original estimate, and the Town and Chinburg Builders would each pay 10% or \$63,095. She said the total cost of the project with available funds was \$631,950, which, with the current estimate left them with a shortfall of \$148,950. This was lower than the original design. Councilor Levy asked if the cost of the project was lowered would the state consider giving the town a higher percentage of the cost. Ms. Hardy said the federal/state grant would be 80% of the project, with a requirement of 20% in matching funds. Mr. Bossier said the next steps for the project would be to finalize the engineering and agree on the design. Once that was done, they could move on to design development, completing the documentation required for the grant, and advertising. He said that if everything went efficiently he hoped construction could begin in October or November.

Councilor Levy asked if there would be height limitations posted for vehicles, and if tall vehicles would have to take an alternate route to 108. Mr. Bossier said that DOT had determined that the height had to be at least 15'6", and even the sloping part of the bridge was elevated 17'1" above the street, slightly below DOT's preference of 17'6". He said that standard trucks would fit under the bridge. Councilor LaBranche said they had starting discussing the bridge as an enclosed structure, and asked if that was a part of the agreement with the state for grant money. Ms. Hardy said they would probably have to prepare some modification documentation on the project. This would be submitted to STIP, which intends to begin its review process in April. She said an amendment would not reflect on the 80% ratio of the grant. Council Chairman Nazzaro said that the town would also benefit from the pedestrian bridge. He said there was currently a public

safety issue for those attempting to cross the street in the downtown. He said that everyone agreed that they were looking for a safe and economical way to solve the problem.

b. Discussion on Amendments to Zoning Ordinance #2012/2013-02

Council Vice Chairman Bentley said he had heard from some townspeople that they felt the cart was being put before the horse and they felt, as he did, that a decision was being rushed. He felt that if this was a good ordinance, it would be equally good in a while. He questioned why it was thought that a proposal that had taken 18 months to develop would pass in 18 days. He said he was learning more about the zoning change, and felt they needed more time to understand it completely. He had asked Councilor Levy to find someone who could look at the changes, and he had found Mr. Kwas. He cited Chapter 5 of the 2001 Master Plan, which seemed to contradict some of what was proposed in the new ordinance. He said even if the plan was old, it still was the document that they were going by. He felt he could not vote yes or no on the ordinance at this point, as he wanted to know more about it. He said he would like to find out how long a study would take and how much it would cost.

Councilor Wright said that 2 developers had come forward with conceptual designs during the hearing, and asked if anyone else had come forward with proposals. Ms. Hardy said that proposals were on-going. She said they have had on-going discussions with Mr. Chinburg about Newmarket Mills as a two-phased project, the second phase of which involves developing the property behind the library for a small retail establishment. He was also speaking with some one who was thinking of renovating the Riverdale property perhaps as a restaurant. Ms. Hardy said the purpose of the zoning change, in addition to providing for mixed-use development and commercial expansion, was to utilize in-fill development in the downtown area, where there were 4 – 5 tracts of land that could be developed. She said they had been asked where the best areas for housing growth were: in an area close to services that favored pedestrian traffic or further out which would encourage sprawling development. She said the Master Plan talks about long-term growth, but the Planning Board wanted to be in the driver's seat to determine where the growth occurs. The Board felt that the best area for growth was in the more urban, compact area. She said the housing section of the Master Plan was out of date. Since it was written, the state has enacted a work force housing law, which requires communities to have a certain percentage of its housing for the work force.

Councilor Levy referred to page 93 of the packet concerning permitted uses. He asked what the design rules were for structures requiring 3 or more residential units. He said it had been implied that they would be mostly one bedroom and not house children, although he felt that had been overstated at the meeting. He said there was nothing that would prevent an office or den being converted a bedroom, and a tenant could not be told that another person (child) could not live in the apartment. He said he would relate the ordinance to the Master Plan. The ordinance removed the ZBA in several places and replaced it with the Planning Board. He said the fiscal impact statement clause had removed general impacts and assessing school impacts in particular. He thought the table of permitted uses gave a lot of discretion to the Planning Board. He did not know why the school impact was removed, although he did not think that school impact was the first and foremost issue with multi-family housing. He said the market analysis could be waived at the Board's discretion and the part that stated "...in a community which already has an over abundance of multi-family housing" had been removed.

Councilor Levy said that #4 under permitted uses, by saying that structures without a commercial use within the building could have 4 residential units, would not increase business in town. Ms. Hardy clarified that there could be a maximum of 6 buildings per acre, with a maximum of 4 units per building. Councilor Levy said that if there was no commercial use proposed for a building, could there then be structures that were built exclusively for multi-family purposes with 4 residential units. Ms. Hardy said this would require a special use permit, and the Planning Board would require a fiscal impact statement including that of the impact on the school. The project would have to show a positive impact before the Board could issue a special use permit. He said he did not like that the Board could waive the feasibility study if it wished.

He said that page 5 of the Master Plan showed that the town discouraged further multi-family housing in town. "To broaden its tax base, the town must slow residential growth, encourage sensible non-residential growth and increase the value of its residential tax base. With the possible exception of elderly housing or retired communities, the town should discourage further multi-family complexes so that the town's mix of housing is more similar to the regional distribution with about 60% single family detached units. Single family units will typically provide more tax revenues per unit than duplex or multi-family units and demand less in community services. The town needs to encourage growth so that the town's mix of housing shifts to a more normal pattern with about 60% single family houses. "

Also on page 5, there is mention that the town should consider additional set back requirements and if possible density restrictions for future development in the watershed area. This was a recommendation to "address the high number of multi-family units in Newmarket through ordinances and regulation", which he felt the proposed ordinance expressed the opposite action. It continued: "limit the number of multi-family units to bring the distribution of housing types back into the regional and state norms." He said with the state asking for more multi-family housing, he felt that Newmarket had more than done its share. He quoted from the Master Plan again that, "particular forces should be on the trend for conversion of older, large single and duplex units into multi-family apartments which increase the density and also increase impacts on town services and parking requirements." He felt that point had been left out of the earlier discussion which tended to focus on the schools. He was concerned about the impact on the infrastructure, such as water and wastewater, which the town was having trouble funding. He said they were facing a building moratorium on building if the water supply did not increase and it would take a minimum of 2 years to develop a new well. Also, it would take a minimum of 4 years to address the wastewater situation. He said that police, fire and parking would also be impacted.

He again quoted from the Master Plan, that "causing congestion in the village area, while not proportionally contributing to the tax base ... This approach should reflect the historic pattern of the downtown area, however, where densely populated should and always have been found. This is particularly where the town seeks to develop a vibrant downtown." He said he felt they had done that. His concern was that they were doing the opposite of what the present Master Plan recommended which he thought they were obligated by the state in some way to follow. He said he was not against the ordinance in general, but he felt that it required a more thorough study. He said when about unintended consequences, they shifted, but he felt there were more issues that would be covered by further vetting the proposal. He thought the positive part of the proposal would be in establishing a few businesses and developments that theoretically would look better than what they had now. He was not averse to that or density, but felt they had to find the right balance for density. He felt they had to go about the process properly, vet it properly and not throw out the baby with the bathwater to placate 3 or 4 developments that needed a certain density to proceed.

Council Chairman Nazzaro said he appreciated the downtown and the concept of expanding the area appealed to him. He stated that he had done research on the issue. He said the premise that Chapter 5 of the Master Plan drew on was that multi-family housing puts an excessive draw on services. He said he did not know if that was true 11 years ago when the plan was written, and he would like to hear more about the analysis the Planning Board had done over the last 18 months. He knew from his research that this was not true now for the schools as only 14% of students lived in multi-family units. He added that water and sewer were a concern for the town, but as a rate payer, he appreciated spreading the costs over a larger number of rate payers. He said if the well does not pass, the town would have a building moratorium and the proposals would not take effect. He said the zoning change would not be an excessive drawer on water unless the well article was defeated at which point there would be no development in town. He said he questioned some of the premises now on which Chapter 5 of the Master Plan was based. He said based on the type of development he had seen proposed during the meeting, he felt it was in character with the area. He said he was inclined to support the proposal.

Council Chairman Nazzaro said he had 2 questions. There were several places where the Planning Board was taking authority from the ZBA, and he wondered about the purpose of this shift. Ms. Hardy said that the ZBA was governed by state and case law. Before it can grant a variance, it has to meet a strict and specific legal test. She said the ZBA deals with legal arguments in attempting to balance the rights of the applicant with the general public interest, and it is very difficult to prove the criteria for a variance or special permit. The ZBA had said that there had been some projects that would benefit the town, but they because of their strict guidelines, they could not approve them. She said the previous EDC had thought the development process needed to be streamlined, so that a developer only had to go before one board for approval within a reasonable time. The purview of the Planning Board is in reviewing design, and design issues, such as appropriateness of a development to an area, are being shifted to it from the ZBA. She said this was backed up by state law. She said they were trying to streamline the process to help facilitate development. His second question concerned the trust deficit in town and the school of thought that the zoning change was being proposed to benefit a specific developer or development. Ms. Hardy said that they had developers coming in on a regular basis to test the waters for their projects, even during the time period when the economy was at its lowest. She said they had not experienced a developer coming in demanding a zoning change for a project. She said she had suggested that developers wait until everything was fully vetted and to see how this process unfolded before going to the ZBA. She said they had no specific developer in mind when they were working on the proposal. She said there were developers who were interested and that was a good thing to move things forward in town.

Council Vice Chairman Bentley moved to continue the meeting past 10:00 p.m. Councilor LaBranche seconded. There was no discussion. Town Administrator Fournier polled the Council. Motion carried unanimously, 7 – 0.

Councilor Zink said that he is a developer in the Cambridge, Somerville and Brookline area, and the communities were extremely welcoming to developers. He said if he were interested in developing in Newmarket, he would not want to wait until the politics played themselves out, but would go somewhere else. He said as a developer he would go where the definitions were clear, even if they were not inviting, and would not want to get involved in this. He stressed that the Zoning Board, the Planning Board, including their Council representative, and the NBA had all recommended the zoning change to the Council. He said due diligence was appropriate. He said the most important thing he had learned at the meeting was that multi-family housing might not be a drain on the town. He said he did not think it appropriate to discuss whether or not this was true, when they should be trying to find the facts. He said he had heard in many earlier presentations that the vote on the ordinance should wait until an EDC study was done. He pointed out that the Council had voted not to fund the EDC, and there was no money and no outstanding RFP for a study. He felt if they were waiting for that study it would be a huge mistake. He said he would like to see the Council make a statement that it would make a decision within a certain time frame, rather than indefinite postponing for more studies. He felt they could spend some time getting more information about the ordinance, but to delay the decision indefinitely was not fair to developers or to the community.

Councilor LaBranche said that he and the other Council members took their positions seriously and he respected the fact that Planning Board members took their positions seriously also. He said as a Councilor, he didn't follow everything the Board did, but he felt it knew what had to be done and had spent a fair amount of time on the ordinance. He said they put people in places to help guide the town, but when these people present an idea, they are told we don't like it and will get someone else to present another opinion or just postpone making a decision. He said this pattern has been bothering him for a long time. He said with this zoning change, he could appreciate that there would be additional users of the water and sewer system, both of which have to be fixed. He said that while Mr. Greig had told them there would be no increase in water rates, the sewer rate hike scares him. He said he had heard, even before being on the Council, that the town needed a development process that was more inviting and streamlined. He said that the change would make

it possible for a developer to go to one board to see what was necessary for project approval. He made a distinction between streamlining and rubber stamping. He agreed with Councilor Zink that they could not wait to make a decision until the EDC came back with a study or different opinion, which the new Council probably would not listen to either.

Councilor Carmichael reminded Council Chairman Nazzaro that he would not be present at the March 6th meeting. As it was felt important to have a full Council for a vote, this could be held until the new Council has its March 20th meeting. He was going to check if the Charter provides for calling in a vote.

Council Vice Chairman Bentley said he had no reason to doubt the numbers that Mr. Cheney presented on school children in the Bennett Way/Cherry Hill and Lita Lane area. However, he felt there was an impact on the police in the frequency of calls to some of the units. He said he was one of the first to suggest a study, but did not know what that would cost or how long it would take. He felt if this was a good proposal, it would still be good in a couple of weeks or a month. He wanted the time to get more information and know more about the ordinance and he did not think waiting a couple of weeks should scare any interested people away. He said as far as the suggestions of political overtones, he could say that all his decisions were based on what he thought was best for the town. He said he had heard overwhelmingly from people that more facts were needed, and if it had taken 18 months to prepare the ordinance, it should take more than 18 days to understand the information and make a decision. In addition, he said they still had to follow the Master Plan even though it was old and out-dated. He said he did understand the point about a study taking too long.

Councilor Wright said he had heard some comments that the ordinance was an attempt by the Planning Board to grab power from the ZBA. He did not believe this and said some communities have one committee for developers to go to. He said the last thing a developer wanted to do was go before the ZBA with his lawyer, and then to have to continue bringing him back. He said that if the town could attract responsible growth, he felt that was a good thing. He felt more developers would be attracted to Newmarket if it had this one-stop-shopping approach. He asked if there was an example of a town in the area that had this approach. Mr. O'Connell said that Dover had changed to form-based zoning, which meant that they could look at doing anything in any district, but they were doing this responsibility. He said the town had a development package that it gave to developers to inform them of what they needed to do. Developers still had to go before the appropriate boards, but knew the expectations and the process. Mr. O'Connell thought he had a copy of the package which he would email to everyone.

Councilor Levy said he was not suggesting that they not implement parts of the zoning change. He agreed to what Councilor Zink had said about getting back to developers within a reasonable period of time. He said that in his experience as a business owner he had gone before both Planning Boards and Zoning Boards only to be shut out and said he could sympathize with this being a frustrating process. However, he did not think it fair to say that Newmarket was an unreasonable and unreceptive town. He had asked Peter Laughlin, an attorney, if he thought this was true of Newmarket's zoning, and been given the reply that Newmarket's zoning was more reasonable, lenient and flexible than most towns in the area. Regarding Dover's form-based zoning, he said he did not know the percentage of multi-family units in Dover, but would assume that it was lower than Newmarket's which ranks closer to what would be found in a city. He said he was not trying to kill the ordinance or table it until it died. He would like to work with those that had viable projects. He said that having mom-and-pop structures, with a business on the street level and residence for the owner above were very different from having a business on street level with multiple apartments above or a structure with 6 residential units only.

Councilor Levy said that in regard to Councilor LaBranche's point, he did not want to ignore what the Planning Board had said. He said he did not think the Planning Board had received outside help in developing the ordinance, and that the Council was ignoring recommendations that had been offered by a hired consultant. Regarding the Master Plan, he questioned why it included

statements about the impact of multi-family housing if they weren't true. Council Chairman Nazzaro said he had questioned the statements in Chapter 5 and wanted to get impact figures from the police and fire departments. He said that for 2012, at least, the statements regarding impact were not accurate for the schools. Councilor Levy said he was not just talking about the school, but a wide range of services. He said if the zoning was changed and someone came in with a proposal, the state was not going to declare a moratorium in two weeks, and the town could see increased demands on its infrastructure. He said he was not advocating discarding the proposal, but wanted sufficient time to absorb the information and find out if the statements made in the Master Plan were true.

Councilor Wright asked if it was correct that the ordinance required that there had to be 2 parking spaces provided for each residential unit. Ms. Hardy verified that this was true, and said if the lot was too small to accommodate the parking requirement, no residential units could be built. Councilor Levy asked, in the case of larger lots that included a business and residences, how they would accommodate for parking for business customers in addition to parking for residents and perhaps their guests. Ms. Hardy said the parking requirements in a B-2 zone were different from those in an M-1 zone. The B-1 zone has a schedule that requires a certain number of parking spaces based on the square footage of the building and the use. Parking in M-2 zoning is based on International Transportation Engineer standard determinations of spaces found necessary to accommodate parking for a business type. In addition, Newmarket had included the requirement that 2 spaces be set aside for each residential unit. She said that in M-2 zoning there is also the opportunity for shared parking, which can be worked out through a lease agreement with the town or another entity. She said another method would be by contributions to a parking fund, which could be considered in the future. In any case, any proposal for more than 3 residential units would have to have a site plan review by the Planning Board. She said if there were traffic or parking concerns, the Board had the authority to require a traffic impact study which would include steps to be taken that would mitigate the impact.

Councilor Zink wanted, even if it was not appropriate, to make a request of the Council. He said that he had spent a lot of time trying to understand the issues because he knows how important they were to the community. He would not be on the Council when the vote was taken, but would like a commitment to a schedule for resolution of the issue from this Council before it was replaced. He felt this was important to those interested in development and revenue generated from development as well as the whole community. Council Chairman Nazzaro said they could decide that at the next meeting. Council Vice Chairman Bentley, in reference to Councilor Wright's comments, said that he had been appalled at the red tape that people had gone through to establish their businesses. He said he was a huge supporter of business, and he, along with other Councilor's had advocated cutting the red tape. He said that his wanting more time to further understand and gather information about the issue did not mean he was anti-business.

Town Administrator Fournier asked for clarification for himself and staff as to what information the Council was seeking for its next meeting or for the following meeting. He said he had heard that some wanted a study done, but he wanted to know the subject of the study. Would it be the impact of this zoning proposal on municipal services, or zoning in general on municipal services. He said if it were the latter, he would need further clarification. He said that even if a study was done, he felt there were still procedural questions that had not been answered in any of the sessions. He thought it would be beneficial to schedule a future session with the Planning Board before action was taken on the ordinance. He felt it important for the Council to know the intent of the ordinance, as individual Council members were interpreting this differently. He had sent a memo earlier about certain procedures, including reposting for another public hearing, which had to be followed if the ordinance was amended. He did not feel it was a bad thing to sit down and study and discuss the proposal more before reaching a decision. He agreed that the town should make a decision one way or the other, and not just let issues die on the vine.

Council Vice Chairman Bentley said that Councilor Levy had asked about impact fees, and whether the town would still collect them. Someone else had asked for worst case scenarios that

occur if the zoning was changed. Councilor Levy said he thought they could set a reasonable time frame for some of the answers to some of the questions that had been asked. He wanted clarification on the housing chapter in the Master Plan, and he thought that Newmarket was not as flexible as other towns in zoning. He suggested that Councilors send their written questions to Town Administrator Fournier, and perhaps an expert could be hired reasonably for a short amount of time to prepare the answers. He said he felt setting a time frame was appropriate, and that the goal was to take time for due diligence, not to let the issue die on the vine. He said they needed clarification of the many contradictory statements that were made at the meeting. He thought it was a good idea for the Council to sit down with the Planning Board, and that Councilors Zink and LaBranche also be invited to give input from their research and the meetings they had attended. He said he had an issue with the process and the time line, along with the other issues he had brought up at this meeting. Town Administrator Fournier said the Council should vote only when it felt comfortable doing so. Council Chairman Nazzaro asked that Council members get their questions to the Town Administrator by Wednesday, February 27th.

8. NEW BUSINESS: Closing Comments by Town Councilors

Councilor LaBranche asked if there was any money set aside in the budget for consulting and if there was time to send out an RFP. Town Administrator Fournier said there was \$2,000 in the 2014 for consulting, but he would look for the funds, if not in the budget, then in other places. Councilor Levy said an RFP was a good idea, and if they wanted to make a decision in 60 – 90 days, they could probably find someone who would do the work reasonably, perhaps with the \$2,000 that exists. As an example, he said that Peter Kwas was going to send a phased cost estimate to the EDC and Town Administrator. He said he would not have a problem if the Council wanted to deal with the issue independently from the EDC.

Councilor Levy thanked the Newmarket Fire Department for their response to a fire at his home during a blizzard. He said they were amazing, professional and thorough. Council Vice Chairman Bentley said the girls' basketball team had won the previous evening and would be playing again on Friday. The boys' basketball team had won in overtime, and would be in the playoffs on Tuesday, the 26th. He encouraged the community to go out and support them both. Councilor Carmichael said that Officer Jordan and the EMTs had responded to a call when an elderly neighbor had fallen. He said they talked to her while they were attempting to get in the house and that they had done a great job.

9. ADJOURNMENT : Next meeting March 6, 2013

Councilor LaBranche moved to adjourn and Council Vice Chairman Bentley seconded. Motion carried unanimously, and the meeting adjourned at 10:44 p.m.

Respectfully submitted,

Ellen Adlington,
Recording Secretary



**Town of Newmarket, New Hampshire
Town Council Business Meeting
March 6, 2013 7:00 p.m.
Council Chambers**

5. Report of the Town Administrator

STEPHEN R. FOURNIER
TOWN ADMINISTRATOR

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FOUNDED DECEMBER 15, 1727
CHARTERED JANUARY 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE *of the* TOWN ADMINISTRATOR

REPORT OF THE TOWN ADMINISTRATOR
March 6, 2013

Snow Budget: With the amount of snow we have been receiving this winter, we have been continuously monitoring the budget. I would like to make the Town Council aware of two areas that the budget has gone over. Salt has been over expended by \$17,175, Contracted Winter Equipment is over by \$6,425 and Buildings and Grounds overtime is over by \$5,158 as of February 27. Luckily, overtime for the regular staff is not of concern at this time. With the amount of snow, we have been receiving and the lengths of the storms we could have been much worse off. We will be applying for assistance from FEMA for the blizzard when that comes available. If we do not receive reimbursement for some storms, we will have to reduce expenses in other areas to make up this difference.

Water Department Truck: The Water Superintendent has been reviewing used vehicles for the department as the Council requested. He found two on the internet, but to add the utility body and plow package, the price would not be much less than the new vehicle as priced by the State. Actually, one vehicle would be more.

The other issue is that used vehicles are only available for a short time and we need to react on a moment's notice. The Council would have to authorize me to purchase the vehicle without knowing the actual vehicle, with a not to exceed price.

With both of these issues in mind, I would have to recommend to the Council to either approve a new truck or we put the issue to rest and repair the current vehicle in order to get it inspected.

Pedestrian Crossing at Mill: We have heard a number of issues with pedestrian safety in the area of the Mills. We have ordered two blinking crosswalk signs that we will be installing to provide better visibility for the crossings in that area. They should be going up within a few weeks.

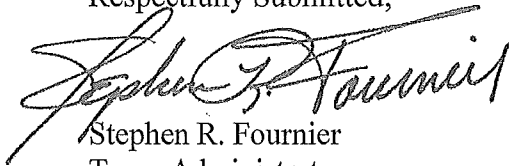
Town Election: The Town election will be March 12 from 7AM to 8PM. The Town Council will need to schedule times for each of them to be able to work the polls. In addition, a majority of the members must be present at the closing of the polls.

Newmarket – Newfields Bike Lane: We are working with the Strafford Regional Planning Commission and the State Department of Transportation to move forward with an \$850,000 project to increase the size of the bike lanes on Route 108 to the Newfields town line. This project is 100% funded through the State. The Town will have to front the funds and be reimbursed by the State. This project was awarded to the Town a long time ago, but was at risk of losing it due to inactivity from the Town. We are working with the state to make sure this happens.

Macallen Dam: The Macallen Dam committee met on Friday February 22 and interviewed engineering firms to study the impacts of the various options the Town has relating to the dam. They will have a proposal before the Town Council in April.

We also received the Dam Breach Analysis from Wright Pierce. While we are still reviewing the document, it does put into perspective the cost of addressing the dam. The current estimates would see a high amount of \$4.6M to refurbish the dam or a low of \$1.1M. The analysis that the Dam Committee is soliciting would look at repairing the dam, lowering the dam or eliminating the dam and the cost. I am attaching the analysis without the appendices to this report.

Respectfully Submitted,



Stephen R. Fournier
Town Administrator

ENVIRONMENTAL SERVICES
A DEPARTMENT OF
PUBLICS WORKS



INCORPORATED
DECEMBER 15, 1727
CHARTER JANUARY 1, 1991

To: Steve Fournier, Town Administrator
Cc: Matt Angell, Finance Officer
Rick Malasky, Public Works Director
From: Sean T. Greig, Supt. Water/Sewer
Date: February 11, 2013
Re: Truck Replacement Search

As requested from the Town Council, the following is a breakdown of what I have found to replace the 1996 Chevrolet 2500 4X4 Utility Truck. I presented the following at the February 5, 2013 Town Council Meeting.

<u>State Pricing:</u>	List Price	<u>Chevy Fleet Pricing:</u>	
Ford 2013 250 4X4 Truck	\$23,884	\$33,218	Chevy 2013 2500 4X4
Standard 8' Utility Body	\$6,350		Standard 8' Utility Body
Fisher 8' HD Plow	<u>\$4,947</u>		Fisher 8' Plow
Total Cost	\$35,181	Total Cost	\$36,671

I requested the Dealers to look for used model trucks that were a year or two old with anywhere from ten to forty thousand miles. Both dealers had nothing to offer at the time, but would look. I performed an internet search and the following is what I found.

Used:	New: On the lot ready to go (comparison)
2010 Ford 250 4X4	2013 Chevy 2500 4X4
16,533 miles	with Utility Body
Price \$27,000	\$37,344
Need Utility Body and plow	8' Foot Plow
	<u>\$6,000</u>
	Total
	\$43,344

Used:
2010 Chevy 2500 4X4
62,000 Miles
Price \$21,890
Need Utility Body and Plow

TAPCO[®]
TRAFFIC & PARKING CONTROL CO., INC.

 **BlinkerSigns**[™]

- ➔ Solar Powered
- ➔ No AC Power Required
- ➔ Easy Installation
- ➔ MUTCD Compliant
- ➔ Proprietary Day-Viz[™] Circuitry



W11-2 SOLAR

TAPCO's brilliant innovation of enhancing traffic signs with LEDs (Light-Emitting Diodes) makes intersections safer, reduces accidents and saves lives!

Day-Viz[™] (Daylight Visible BlinkerSigns) feature an array of incredibly bright LEDs that flash in unison, once per second, commanding the attention of drivers DAY AND NIGHT.

GSA Contract Holder
FSS Contract GS-07F-5021R
GS-07F-0234U

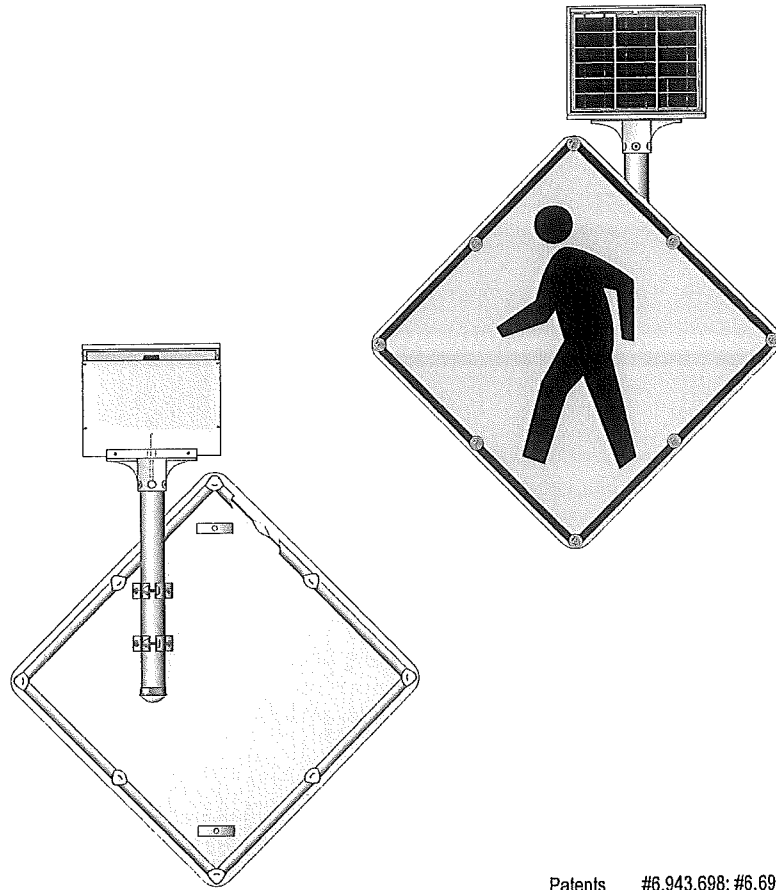
Patents #6,943,698; #6,693,556
Other Patents Pending

FEATURES

- Installs easily onto any new or existing sign post
- Can be integrated into an ITS (Intelligent Transportation System)
- High intensity Day-Viz™ LEDs command attention day and night
- Can be programmed to operate continuously (24/7) or on solar time clocks, push-buttons and motion (vehicle) detectors
- Proprietary circuitry automatically adjusts light output for maximum visibility and battery efficiency
- Multiple signs can be synchronized
- Heightened driver awareness
- Increased visibility at high incident intersections

APPLICATIONS

- New crosswalk locations
- High incident intersections
- Rural roads
- Advance crosswalk warnings



Patents #6,943,698; #6,693,556
Other Patents Pending

STANDARD SPECIFICATIONS*

Sign Specification- MUTCD #W11-2

Sign Substrate	.080 Highway Grade Aluminum
Reflective Sheeting	FYG- 3M™ DG3™- with anti-graffiti overlay
MUTCD Compliance	MUTCD Section 2A.08 Compliant
Day-Viz™ Management System (patent pending)	
Battery	Nickel Metal Hydride (NiHM)- 14,000mAh
Battery Lifespan	Up to 5 years
Autonomy- Functionality without Charge	Up to 30 days in 24/7 operation
Flash Pattern	MUTCD Compliant
LED Type	High Power Luxeon- 1 watt
LED Life Expectancy	Over 100,000 hours

Warranty

Term 1 Full Year Warranty

Smart Activation Options

24/7 continuous

Time clock activation (Windows based software programmable)

Wireless control activation

Vehicle detection activation

*All specifications subject to change without notice.

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W11-2 SOLAR



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TRAFFIC AND SIGNALING TECHNOLOGIES, INC.

February 6, 2013
W-P Project No. 12537B

Mr. Rick Malasky, Public Works Director
Town of Newmarket
4 Young Lane
Newmarket, New Hampshire 03857

Subject: **Macallen Dam - Final Report**
Dam Breach Analysis
Update of May 24, 2010 Report

Dear Mr. Malasky:

The purpose of this letter report is to summarize the results of the dam breach modeling conducted on the Macallen Dam. A dam breach analysis was initially completed by Wright-Pierce, the results of which were presented in a letter report dated May 24, 2010. The New Hampshire Department of Environmental Services (NHDES) Dam Bureau provided review comments on the May 24, 2010 report. This updated dam breach analysis report addresses the NHDES comments.

The breach analysis is part of Wright-Pierce's overall assessment of the dam, which included structural inspection and analysis of the dam. The structural analysis and recommendations were provided under separate cover on March 8, 2010, with a preliminary cost estimate for structural repairs provided on April 1, 2010 and potential cost sharing alternatives provided on October 18, 2010.

Background

The Town of Newmarket initially requested Wright-Pierce to perform preliminary engineering studies to confirm the hazard classification and provide initial inundation mapping of the Macallen Dam (NHDES Dam No. 177.01) for future incorporation into the Emergency Action Plan. In general, the Macallen Dam was classified by the NHDES as a "Significant Hazard" (Class B) dam in March of 2008 and Significant-to-High (Class B to C) in April 2008.

The dam breach analysis was conducted to determine the nature and extent of downstream flooding if the dam were ever to be breached. The location of the Macallen Dam is shown in Figure 1 in Appendix A.



NHDES Dam Bureau Review

As referenced above, the May 24, 2010 breach analysis was submitted to and reviewed by the NHDES Dam Bureau. The review letter, dated September 8, 2010, is provided in Appendix B. The comments provided by the NHDES are listed below with responses to those comments in *italics*. The remaining sections of this report have been updated in accordance with the responses provided.

1. "The 100 year storm inflow estimate used in the analysis was 8,302 cfs. It appears this information is taken from NHDES's February 1999 inspection report. Using the recorded flows at the USGS gauging station #01073500, Lamprey River in Newmarket, the 100-year storm event of 8,302 cfs was estimated using the area-ratio technique and based upon the data available at the time. Current information from USGS (Scientific Investigations Report 2008-5206) at the same stream gauge shows a 2008 value of 9,270 cfs for the 100 year storm and when applying the area-ratio technique the resulting 100 year inflow to the dam is approximated as 10,688 cfs. This conversion is rough, but shows the difference for 15% more drainage area. Please update the 100 year inflow estimates in the analysis."

An updated 100-year flood flow hydrologic analysis for the Lamprey River was conducted using the TR-20/Lag-CN method. The flood flow was also routed through an updated hydraulic analysis model that included a flow diversion near Route 108 in Durham. At this location, flood waters from the Lamprey River overflow Route 108 and exit the Lamprey River watershed through the Oyster River, effectively decreasing the downstream 100-year flood flow. The updated 100-year flood flow at the dam was determined to be approximately 10,260 cfs. The analysis is discussed in greater detail in this report.

2. "Note; submitted analysis shows a slight over topping during the 100 year storm with gates closed. The storm event of March 16, 2010 (6,710 cfs), classified as a 25-50 year storm event by USGS, had gates completely open and less than 10" of freeboard at the left side concrete abutment."

Noted.

3. "The submittal uses a restriction at the upstream bridge at NH Route 108 during the 100 year storm event. The upstream bridge per field review on May 16, 2006 by Dam Safety Inspector Grace Levergood noted no restriction by the upstream river bridge. The same determination of no restriction was made also by myself during the high rain event of March 16, 2010, storm classified as a 25-50 year storm event. (6,710 cfs). Review and confirm HEC-RAS results."

The geometry of the Route 108 Bridge and its position in the river is based on NHDOT record plans of the bridge itself and on best available GIS LiDAR data adjacent to the bridge. The HEC-RAS model predicts a slight restriction at the Route 108 Bridge.



4. "Submitted figure 6, page 6 of 10, shows a breach width estimate of less than 50% of the crest length, and (appears to be 20%). Please use 50% of the crest length as the breach width parameter. Also on figure 6, define the area right of the spillway's right abutment (right of the fish ladder). Per figure 6, flow is shown in this area, unclear why this cross section does not show the mill building."

The submitted Figure 6 is not a true snapshot of the complete dam breach, it is a snapshot of the very beginning of the dam breach that was included to show the maximum water surface elevation at the dam during the 100-year flood flow, with gates closed. The figure has been updated to show the 100-year flood flow through the dam prior to any breach occurring rather than as the breach is just beginning. The dam breach parameters used for this analysis are discussed in other sections of this report.

Additionally, the dam cross-section, as shown in the model, is graphically based on the cross-section directly upstream of the dam, where there is no mill building. The mill building sits just below the downstream face of the dam and thus is not depicted in the dam cross-section geometry.

5. "The updated breach analysis will need to also reevaluate habitable living areas in the renovated historic mill building 200 ft. downstream on the left and also consider the historic mill building on the right side that could be renovated in the future and effect the dam's design storm flows."

The updated breach analysis was evaluated for impacts to downstream habitable living areas. The results show that neither mill building on the right or left side of the dam are impacted by the dam breaches for both the 100-year and Sunny Day flow conditions.

6. "Confirm elevations on HEC-RAS cross section 8914.872. Both mill buildings appear to have the same base elevation, and possibly similar "habitable" elevations. See photos A and B."

The geometry downstream of the dam including in the vicinity of cross section 8914.872, now cross section 12909.71, has been updated with GIS LiDAR data, and the elevation of the lowest habitable structure has been adjusted to reflect the appropriate vertical datum to be elevation 10.288 feet (NGVD29).

7. "Confirm the downstream limit of dam breach impacts are in line with Env-Wr 502.06(g) 1 & 2. Cross section #16."

The downstream limit of the dam breach impacts are confirmed to be in line with Env-Wr 502.06(g), which states that:

"The routing shall continue downstream until:

- (1) The point at which the water surface elevation due to dam failure is no more than 2 feet above the non-failure conditions in areas of potential threat to life and major property damage; or*



(2) A point upstream of the point determined pursuant to (1), above, if the owner shows that there is no longer a threat to public safety beyond that point."

The dam breach analysis shows that the impacts at the downstream end of the model extents are less than 2 feet above non-failure conditions for the 100-year and Sunny Day breach analyses during the High Tide downstream boundary conditions as well as for the Sunny Day breach during Low Tide downstream boundary conditions. For the 100-year flood flow breach during Low Tide downstream boundary conditions, the water surface elevation due to dam failure is approximately 2.8 feet above non-failure conditions however, this incremental water level rise is contained entirely within the channel of the Lamprey River and the peak water surface elevation due to the breach wave remains almost 4 feet below high tide conditions without a dam breach. Additionally, an analysis of the potential for further downstream impacts beyond the limits of the model showed that there is no longer a threat to public safety beyond the downstream limit of the model.

8. "Note; the final dam breach analysis submittal to NHDES will need to be stamped by a professional engineer. See Env-Wr 502.06(a) for further details."

Noted.

"After the update of your breach analysis per above NHDES comments:

1. Confirm whether or not any incremental impacts consistent with Env-Wr 101.09 take place to the downstream apartments and historic mill buildings during a dam breach.
 - If no impacts to the apartments or historic mill buildings are confirmed. NHDES recognizes that your dam is only a high hazard classification due to the historic mill building located on the right abutment. This situation would drop your design storm: per Inflow Design Storm (IDF) to a minimum storm event of 100 years.
 - If impacts incremental to the apartments or historic mill buildings are confirmed. NHDES advises that you consider performing an IDF analysis to determine if a storm event below 2.5x100 year storm can be used as the dam's "design storm".

The results of the updated dam breach analysis have confirmed that there are no incremental impacts consistent with Env-WR 101.09. Therefore this situation is consistent with the first bulleted item above that indicates the IDF could be dropped to a minimum storm event of 100-years. The results of the analysis are discussed further in this report.

Dam Breach Analysis Model

The breach analysis was completed using the U.S. Army Corps of Engineers Hydraulic Engineering Center's River Analysis System (HEC-RAS) computer program (Version 4.1). HEC-



RAS is computer software designed to perform one-dimensional hydraulic calculations for a full network of natural and constructed channels. The system is capable of performing steady and unsteady flow water surface profile calculations in addition to dam breach scenarios.

HEC-RAS Model Input Data Collection

Data for the breach analysis model was collected from the following sources:

Field Data Collection/Site Visit

Wright-Pierce staff visited the Macallen Dam site and surrounding area on April 23, 2010. Field notes recorded pertinent information relative to river widths, natural channel conditions, and dam structure geometry (including height, width, depth, material of construction, headwall/tail-wall geometry, water depth below structure, dimension of supports, channel geometry immediately upstream/downstream, and vegetative cover).

Geographical Information System (GIS)

Publicly available GIS LiDAR topography data was used to produce cross sectional geometry of the river waterway beyond the immediate vicinity of the dam and was used to calculate watershed boundaries and land/water areas tributary to the dam. GIS data was also used to do the following:

- Generate elevation datum
- Generate river channel cross sections
- Determine river channel low points and channel locations
- Calculate slope of river and lowest potential elevation in river channel at each station
- Create channels in the model based on calculated elevations and field observations
- Interpolation between cross sections to provide additional information/boundary conditions for the model.

USGS National Water Information System (NWIS) Web interface

The NWIS Web interface was initially used to verify river peak flow information for the Lamprey River watershed and surrounding area. The closest available river gauge is located upstream of the dam at USGS station 01073500. Because additional runoff is directed to the Lamprey River downstream of the gauge, an area approximation method was used to approximate flow at the dam. The 100-year flood flow data was referenced from the April 7, 2008 NHDES Inspection Report as 8,302 cfs. The "Sunny Day" flow of 272 cfs was determined from averaging historical NWIS data collected for the past 70 years for events recorded below the threshold limit of 2,000 cfs.

It should be noted that the NHDES, in comment 1 above from the September 8, 2010 review, suggested that the 100-year flood flow be updated using the entire period of record for the gauge. The NHDES estimated that the 100-year flood flow rate should be closer to 10,688 cfs. The NHDES later requested that the TR-20/Lag-CN method be used to calculate the 100-year flood flow versus using gauging data. As such, the USGS station data has been removed from the analysis and replaced with the TR-20/Lag-CN flood flow calculation method.



Aerial Photographs

Publically available aerial photographs (Orthophotometry, etc) were used as a modeling aid during the construction of the HEC-RAS model. Information such as approximate river width and length of reach were validated. Other information including structures and vegetative cover were obtained using the imagery.

Site Photographs

Photographs were taken of the site and surrounding area (bridges, structures, dam, and the river channel). Photographs collected during the site visit were referenced during the development of the model and included factors such as channel geometry and vegetative cover. In addition, model results for high flow conditions were compared with photographs collected during the spring storms of 2008 and 2010.

NHDOT Information

Upstream bridge geometry was obtained from the original construction drawings for the Route 108 river crossing. The information was obtained directly from the NHDOT archived records.

FEMA Flood Insurance Study (FIS)

The applicable FEMA FIS was reviewed as part of the 100-year flood flow analysis. The FEMA FIS indicated that the FEMA determined 100-year flood flow for the Lamprey River was calculated using regression equations and data from the USGS gaging station in Durham. However, the FIS included an interesting statement about a diversion in the Lamprey River that indicates the following:

“Newmarket has no existing or proposed flood control structures. During extreme flood events, floodwaters from the Lamprey River overflow State Route 108 upstream in Durham and are diverted into the Oyster River basin. These overflows or diversions reduce peak flood discharges of the Lamprey River before it reaches the Town of Newmarket. During a 100-year flood, diversions to the Oyster River basin reduce flood peaks in Newmarket by approximately 20 percent (FEMA, 1991).”

Additionally, the Town of Newmarket has verified that the section of Route 108, in Durham, indicated by the FEMA FIS, continues to overtop during flood flow conditions. Therefore, in order to calculate the 100-year flood flow rate at the Macallen Dam, this flow split needed to be included in the hydraulic model.

University of New Hampshire Model Data

Based on conversations with Town and NHDES Dam Bureau staff, it was determined that the University of New Hampshire (UNH) had developed a HEC-RAS model of the Lamprey River approximately from the Deerfield/Raymond, NH border to just downstream of the Macallen Dam. Wright-Pierce was able to obtain the UNH HEC-RAS model for use in extending the model further upstream of the dam. In addition, the UNH model was used to configure the flow split that exists along the Lamprey River upstream of the dam. The data used from the UNH HEC-RAS model includes the following:



- Cross-sections of the Lamprey River from just downstream of the Route 152 crossing in Lee, NH downstream to just upstream of the Route 108 crossing in Newmarket,
- Cross-sections of the Piscassic River, tributary to the Lamprey River,
- Cross-sections of LaRoche and Ellison Brooks, tributary to the Lamprey River,
- Roughness Coefficients for the cross-sections, and
- Reach lengths of the Lamprey and Piscassic Rivers, and LaRoche and Ellison Brooks.

HEC-RAS Model Development

The HEC-RAS model for the dam breach analyses was developed using a combination of the aforementioned data. Figure 1 in Appendix A, shows the HEC-RAS model cross section locations. Model input parameters and geometry of specific physical features are summarized below:

The Macallen Dam

Information regarding the dam and spillway location, dimensions and depth/geometry were obtained from field measurements. Construction drawings were not available during generation of the model.

Bridges

The upstream bridge was measured in the field and cross referenced with the original NHDOT drawing set. The following bridge data was used in the HEC-RAS model:

- Low cord elevations: measurement from the bottom of the channel to the underside (lowest section) of the bridge.
- High cord elevations: obtained by adding the thickness of the bridge to the low cord elevation.
- Width of the deck: measured at widest distance.
- Length of the deck: measured at longest distance.
- Abutment shape/design: when applicable, measurements of the abutments were obtained using the smallest potential flow opening as observed from upstream.
- Weir Coefficients: HEC-RAS default condition was utilized.

Model Limits

The upstream limit of the original model was located 750 feet upstream of the dam (500 feet upstream of the Route 108 Bridge). The downstream limit of the original model was located 1,200 feet downstream of the dam (near the boat launch). Based on the need to model the flow split upstream of the dam, the model was extended 16,000 feet, to roughly 16,750 feet upstream of the dam.

Roughness Coefficients (Manning's "n"):

Values for the channel geometry roughness coefficients (channel bottom, banks, and surrounding area outside of banks) within the original limits of the model were obtained from *Open-Channel Hydraulics*; Ven Te Chow, Ph.D., 1959. The selection of roughness coefficients were based on



field observations and compared to literature values. The value of river roughness coefficients are affected by bottom geometry, lining, and slope.

The roughness coefficients used for the model upstream portions of the model were determined as part of the UNH study and model.

River Flow Rate

As discussed earlier, the "Sunny Day" flow and 100-year flood flow rates through the dam were determined to be 272 cfs and 8,302 cfs, respectively, for the initial model runs. Based on comments received from the NHDES, the 100-year flood flow rate has been modified. The following outlines the progression from the original 100-year flood flow rate to the current 100-year flood flow rate:

- March 26, 2008 – NHDES Report referencing 100-year flood flow of **8,300 cfs** via gauging station data through 2006.
- September 8, 2010 – Dam Breach Analysis Response Letter (Appendix B from NHDES suggesting an increase of the 100-year flood flow to approximately **10,688 cfs** using gauging station data and the area-ratio technique.
- June/July 2012 – Discussion with NHDES about use of TR-20 versus USGS gauging data.
- July 2012 – Wright-Pierce conducted TR-20 HydroCAD analysis. TR-20 method resulted in 100-year flood flow of roughly **18,175 cfs**.
- July 2012 – NHDES directed Wright-Pierce to write a letter (Appendix C) explaining why TR-20 method should not be used and justifying the use of the USGS flow rate.
- September 2012 – NHDES letter (Appendix C) denying request to use USGS 100-year flow rate. Suggested using the Area-Depth method to reduce flood flow.
- October 2012 – Wright-Pierce calculated flood flow using Area-Depth method of **15,640 cfs** and submitted analysis to NHDES for review (Appendix D).
- September 2012 – Wright-Pierce discussion with NHDES regarding flow that leaves the Lamprey River watershed at Route 108 in Durham (witnessed by NHDES and cited by FEMA). Potential to decrease flood flow rate by determining amount that would leave watershed (requires additional modeling up to Route 108 crossing). FEMA cites a 20% decrease, which would put flow at **12,512 cfs**.
- January 2013 – Wright-Pierce obtained a HEC-RAS model of the Lamprey River upstream of the Macallen Dam from a previously conducted UNH study. The model contained the river cross sections required to model the upstream flow split near Route 108 in Durham. The UNH model cross sections were used to update the existing Wright-Pierce model. A concurrent update of the TR 20/Lag-CN runoff analysis was conducted based on preliminary e-mailed review comments by the NHDES. These updates to the runoff analysis resulted in a 100-year flood flow rate at the Macallen Dam of approximately **14,500 cfs** before taking the upstream flow split into account. Using these flow rates the updated HEC-RAS model was run to predict the impact of the Route 108 flow split. The results of the model predicted that approximately 4,260 cfs of flow exits the Lamprey River through the flow split, resulting in a 100-year flood flow rate at the Macallen Dam of approximately **10,260 cfs**.



- February 2013 – Wright-Pierce shared the results of the flow split analysis with the NHDES through email correspondence. The NHDES issued a HydroCAD/HEC-RAS Model Review email on February 5, 2013, effectively agreeing with the results of the flow split analysis and establishing the 100-year peak flow conditions for use in the Dam Breach analysis of the Macallen Dam of 10,259 cfs.

Boundary Conditions

Upstream and downstream boundary conditions were provided for the model. The upstream boundary condition was set as the river flow rates and the downstream boundary condition downstream of the Macallen Dam was set as the low or high tide water surface elevation (-5.90 feet or 4.40 feet, respectively). A downstream boundary condition was also provided for the Route 108 flow split in Durham. This boundary condition was assumed to be equal to the 100-year FEMA FIS base flood elevation, or 33 feet.

Breach Parameters

Timeline and final geometry data related to full breach conditions was obtained from *Chapter II, Appendix II-A, Table 1, Suggested Breach Parameters, Selecting and Accommodating Inflow Design Floods for Dams, 1993, Federal Energy Regulatory Commission*. Excerpts from this document are attached in Appendix E and the entire document can be found at the following website:

<http://www.ferc.gov/industries/hydropower/safety/guidelines/eng-guide/chap2.pdf>

The following breach parameters were used in the model and represent a typical breach scenario for the Macallen Dam.

- Crest Length (W): total length across the dam, from bank to bank, was obtained from the HEC-RAS inline structure editor (varied for each condition).
- Width of Breach (BR): equivalent to one half (0.5) the crest length (varied for each condition).
- Horizontal Component of Side Slope of Breach (Z): Zero (i.e. vertical side slope) for a concrete/stone built structure.
- Time to Failure (TFH): Two tenths of an hour (0.2 hour or 12 minutes) for complete failure.
- Breach Progression: A curve linear S-function was created to produce a maximum breach rate (i.e. steeper slope) at the midway point during the breach.

Submerged Dam Upstream

During the April 2010 field visit, a submerged dam was noted roughly 40 feet upstream of the Macallen Dam. This dam was modeled in HEC-RAS. Because of the potential for this dam to retain water if the Macallen Dam were to breach, sensitivity analyses were run to determine if a breach of the submerged dam would impact the breach wave inundation. As a result of the sensitivity analysis, it was decided to breach the submerged dam shortly after the breach of the Macallen dam to allow the entire stored volume behind the Macallen dam to contribute to the breach wave inundation.



Macallen Dam HEC-RAS Model Breach Analysis Results

Table 1 outlines the dam breach analyses results for the Macallen Dam.

**TABLE 1
 DAM BREACH ANALYSIS RESULTS**

Run No.	Downstream Condition	Flow Rate	Water Surface Elevation (WSE, ft) Upstream of Dam ¹	WSE (ft) Downstream at Lowest Habitable Mill Structure ² (STA. 12909.71)	Downstream Structure Inundation ³ (Yes/No)	Water Overtopping Bridges (Yes/No)	Breach Surge Timing ⁴ (min)
1	Low Tide	Sunny Day	23.48	-0.30	NO	No	6
2		100-Year	33.04	4.05	NO	No	4
3	High Tide	Sunny Day	23.48	4.50	NO	No	9
4		100-Year	33.04	5.82	NO	No	8

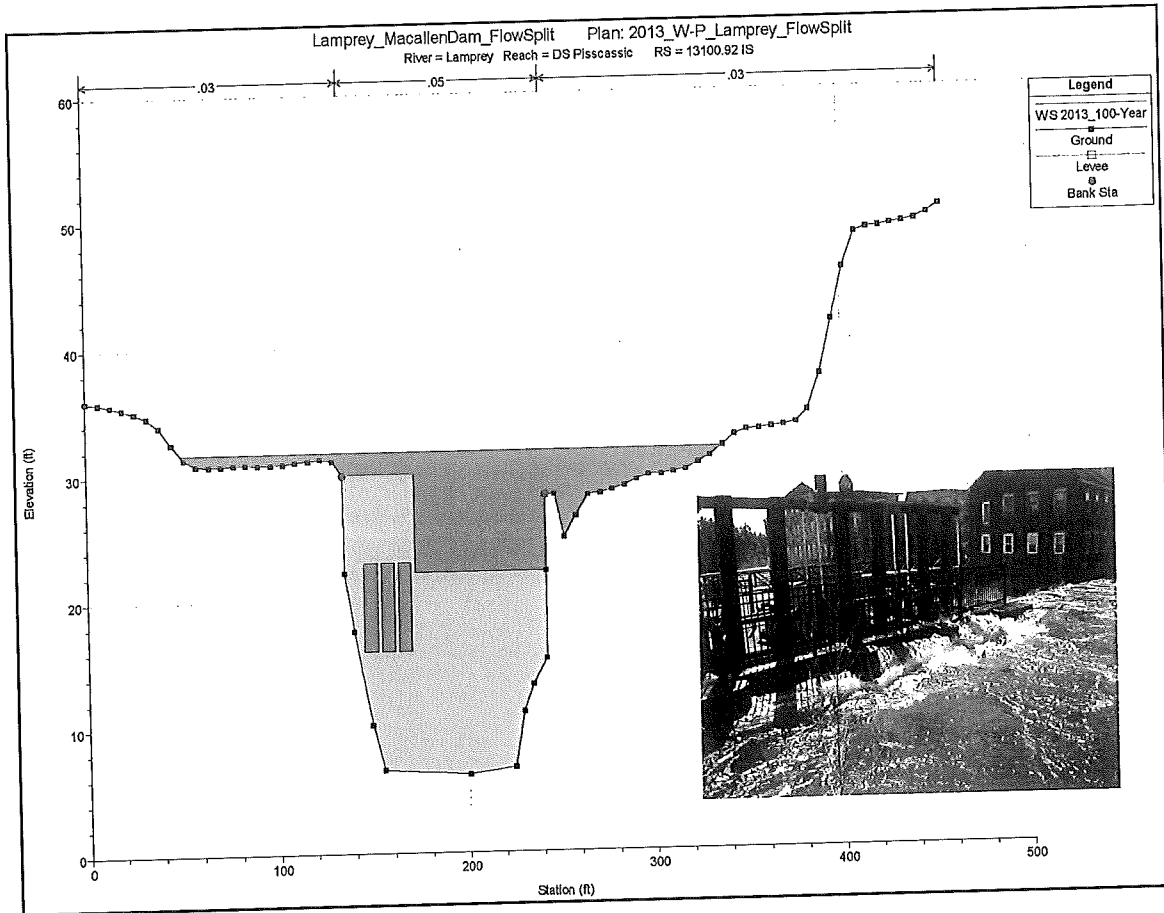
- Notes:
1. Water surface elevations upstream of the dam depict conditions with NO GATE OPERATIONS.
 2. Lowest habitable structure in the Mill Building immediately downstream of the dam is at elevation 10.28'
 3. Structure inundation downstream of mill buildings was identified by visual inspection of the flood inundation maps.
 4. Breach surge timing is time for breach wave to reach boat launch downstream of the dam.

Inundation mapping was developed for each of the four breach analysis model runs. These maps depict the predicted downstream flood water boundaries for each dam breach scenario. The inundation maps were created by exporting the HEC-RAS model data into GIS and are included as Figures 2 through 5 in Appendix A. A HEC-RAS plan view, model cross sections, and tabular output data for the 100-year flood flow with high tide model run are included in Appendix F.

Model results at several locations for the 100-year flood flow runs were compared to photographs collected during a spring storm in 2010. For example, Figures 6 and 7 show the predicted water surface elevations upstream of the dam and at the Route 108 Bridge (without a breach) compared to photos taken upstream of the dam and at the Route 108 Bridge during flood flow conditions that were approximately 35% lower than the 100-year flood flow.



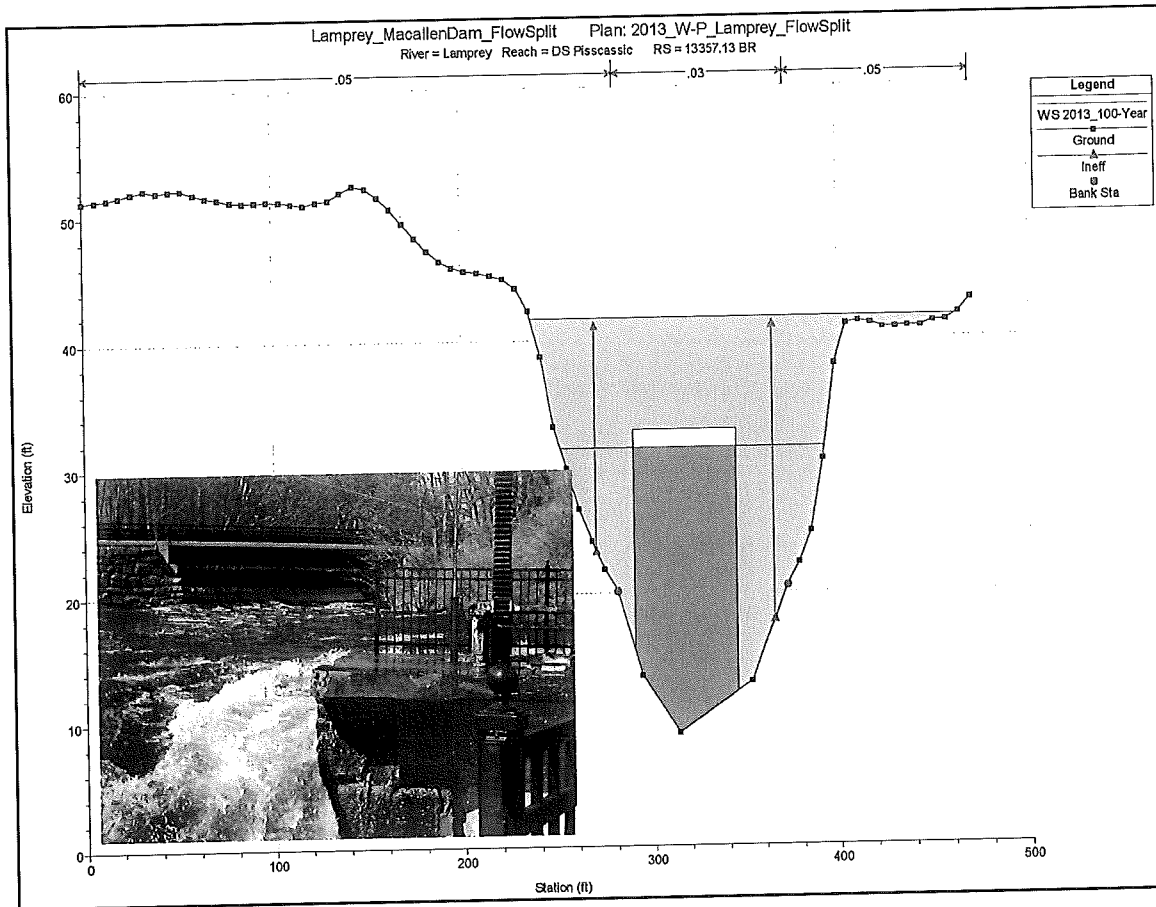
FIGURE 6
MODEL VERSUS OBSERVED WATER SURFACE UPSTREAM OF MACALLEN DAM



As shown in Figure 6, the model is predicting that the left embankment of the dam will be overtopped by approximately 1.7 feet during the 100-year flood flow. The photograph of the lesser flood flow shows that the left embankment is not overtopped. It is assumed that the flood flow experienced that day was at least 35% less than the modeled 100-year flood flow. This accounts for the difference between the model and photographed water surface elevations.



FIGURE 7
MODEL VERSUS OBSERVED WATER SURFACE AT ROUTE 108 BRIDGE



In Figure 7, the model is predicting that the water surface elevation at the Route 108 Bridge is roughly 1.3 feet below the bottom of the bridge. The photograph taken during the lesser flood flow shows the water surface elevation at the bridge to be approximately 3 feet below the bottom of the bridge. This difference in water surface elevation is similar to the difference seen at the dam downstream. Overall, it appears as though the model is accurately predicting water surface elevations throughout the model limits.

It should be noted that boat docking facilities exist downstream of the dam. During sunny day and 100-year flood flow conditions without a dam breach at high tide, the model predicts river velocities between 0.08 and 3.37 feet per second. During breach conditions at high tide, the model predicts that river velocities for sunny day and 100-year flood flow will range from 0.98 to 4.63 feet per second. This minor increase in velocity during a breach should not result in damage to the docking structures or docked boats.



Macallen Dam Breach Analyses Summaries

Classification of Dam

Currently, the Macallen Dam is classified as a High Hazard (Class C) dam. From the NHDES "Classification of Dams in New Hampshire" fact sheet:

"**High Hazard** means a dam that has a high hazard potential because it is in a location and of a size that failure or misoperation of the dam would result in probable loss of human life as a result of:

- Water levels and velocities causing the structural failure of a foundation of a habitable residential structure or commercial or industrial structure, which is occupied under normal conditions.
- Water levels rising above the first floor elevation of a habitable residential structure or a commercial or industrial structure, which is occupied under normal conditions when the rise due to dam failure is greater than one foot.
- Structural damage to an interstate highway, which could render the roadway impassable or otherwise interrupt public safety services.
- The release of a quantity and concentration of material, which qualify as "hazardous waste" as defined by RSA 471-A:2 VI.
- Any other circumstance that would more likely than not cause one or more deaths.

Per the NHDES September 8, 2010 letter reviewing the Draft Dam Breach Analysis, the dam will remain classified as a High Hazard dam because "Site visits by the Dam Bureau on November 5, 2009 and during a recent flooding event on March 16, 2010 found the historic mill building located to the right end of the spillway habited. This historic mill building's stone foundation and the right abutment of the dam are integral to one another. This building's location being part of the dam falls under *Env-Wr 101.09(a) Water levels and velocities causing structural failure of a foundation of a habitable residential structure or a commercial or industrial structure which is occupied under normal conditions*. Due to this structure, the Macallen Dam will have to remain a high hazard"

Emergency Action Plan Update

The 100-year flood flow with high tide conditions model run results in the highest water surface elevations both upstream and downstream of the dam during a breach. Therefore, it is recommended to use the inundation mapping presented in Figure 5 to update the Emergency Action Plan.

Spillway Capacity and Required Improvements

As shown in Figure 6, the model is predicting that the dam will be overtopped by approximately 1.7 feet during 100-year flood flow conditions with the gates open.

The NHDES requires that High Hazard dams be able to pass 250% of the 100-year flood flow, or at the owner's option, the site specific inflow design flood (IDF) with at least one foot of freeboard without gate operations. As noted in the NHDES September 8, 2010 letter reviewing the Draft Dam Breach Analysis:



“If no impacts to the apartments or historic mill buildings are confirmed. NHDES recognizes that your dam is only a high hazard classification due to the historic mill building located on the right abutment. This situation would drop your design storm: per Inflow Design Storm (IDF) to a minimum storm event of 100 years”

As indicated in Table 1, the results of the breach analysis confirmed that none of the apartments or historic mill buildings will be impacted by a breach of the Macallen Dam under both Sunny Day and 100-Year Flood flow conditions. As a result, the IDF would be reduced to the minimum storm event of 100-years. Therefore, the dam spillway is required to pass 10,259 cfs with one foot of freeboard without gate operations.

In March of 2010, a structural analysis of the dam structure was completed along with recommendations for improvements. Preliminary cost estimates for the structural repairs were provided in April of 2010. It should be noted that the recommended improvements only address repairs to the current configuration of the dam. They do not include costs to increase the discharge capacity of the dam to pass the design flow. The costs were broken into two phases as follows:

Phase 1

Near term recommendations including:

- a. Gate structure improvements
- b. Eastern upstream retaining wall repairs

April 2010 Cost Estimate = \$215,000 (ENR Index of 8,676)

Cost Estimate updated to February 2013 = **\$234,000** (ENR Index of 9,437)

Phase 2

Repairs that may be impacted by spillway capacity improvements including:

- a. Dam structure improvements
- b. Western upstream retaining wall repairs

April 2010 Cost Estimate = \$290,000 (ENR Index of 8,676)

Cost Estimate updated to February 2013 = **\$315,500** (ENR Index of 9,437)

Total April 2010 Cost Estimate = \$505,000

Total Cost Estimate updated to February 2013 = \$549,500

Based on the results of the hydraulic modeling, the statistics in Table 2 were generated to show a select number of dam improvement alternatives that would result in a spillway capable of discharging the 100-year flood flow (10,259 cfs) with one foot of freeboard without gate operations. Calculation sheets used for determining crest lengths and crest elevations are provided for reference in Appendix G.



TABLE 2
DAM SPILLWAY IMPROVEMENT ALTERNATIVES

Alternative	Description	Crest Elevation (feet)	Crest Length (feet)	Freeboard (feet) ¹	Alternative Feasible ²	Cost ¹⁰
Do Nothing	Existing	22.18	70	-5.84	No	\$0
1	Increase spillway crest length	22.18	350	1	No ³	N/A
2	Lower crest elevation	12.59	70	1	Potential ⁴	\$1.1M
3	Increase crest length and lower crest elevation	17.30	140	1	Potential ⁵	\$2.9M
4	Raise west abutment 1.8 feet and increase spillway crest length	22.18	265	1	No ⁶	N/A
5	Raise west abutment 1.8 feet and lower crest elevation	14.39	70	1	Potential ⁷	\$1.3M
6	Raise west abutment 1.8 feet, lower crest elevation, and increase crest length	19.10	140	1	Potential ⁸	\$3.0M
7	Raise west abutment 1.8 feet, lower crest elevation, increase crest length and add 3' tall crest gate	22.18	140	1	Potential ⁹	\$4.6M

- Freeboard is measured against the elevation of the western dam abutment (28.18 feet), the top of which is 6 feet higher than the dam crest elevation (22.18 feet).
- The feasibility of the option is based on compliance with NHDES Dam Rules and site constraints.
- This option is not feasible because of site constraints. The existing mill buildings and/or apartments would need to be removed in order to make room for the longer weir crest.
- This option may not be feasible because of site constraints. The existing dam structure is 16 feet tall on the upstream side. Lowering the crest elevation by 9.6 feet would result in an impoundment that is 6.4 feet deep. This would be considered a partial dam removal alternative.
- This option may not be feasible because of site constraints. If the site could accommodate a dam crest that is twice as long as the existing crest, the crest elevation would need to be lowered by 4.88 feet, resulting in an impoundment that is 11 feet deep.
- This option is not feasible because of site constraints. The existing mill buildings and/or apartments would need to be removed in order to make room for the longer weir crest.
- This option may not be feasible because of site constraints. The existing dam structure is 16 feet tall on the upstream side. Lowering the crest elevation by 8.8 feet would result in an impoundment that is 8.2 feet deep.
- This option may not be feasible because of site constraints. If the site could accommodate a dam crest that is twice as long as the existing crest, the crest elevation would need to be lowered by 3.1 feet, resulting in an impoundment that is 13 feet deep.
- This option may not be feasible because of site constraints. The site may not be able to accommodate a dam crest that is twice as long as the existing crest. In addition, recent discussions with NHDES staff have revealed that the use of crest gates may not be an acceptable method for increasing spillway capacity due to the "no operations" clause in the Dam Rules.
- The costing presented here is conceptual in nature and is based on data collected from across the nation. Alternatives do not include costs to address the required fish ladder improvements. Costs include \$234,000 required for structural repairs recommended in April 2010. Backup for the costing can be found in Appendix G.



As shown in Table 2, modifying the existing dam spillway to accommodate the 100-year flood flow without gate operations will be a difficult task. The alternative that shows the most promise involves raising the west abutment, lowering the crest elevation, and doubling the spillway length. It is questionable as to if the site will support a spillway crest that is twice as long (140 feet). In addition, lowering of the dam crest may not be a desirable solution as it will reduce the impoundment depth and length upstream of the dam. The costs associated with each alternative are provided in Table 2.

These cost estimates are planning level estimates and are based on conceptual ideas for dam improvements. Additional engineering design and permitting will be required to develop a design acceptable to NHDES and to generate a more exact cost estimate. An allowance of 30% has been added for engineering design and permitting fees.

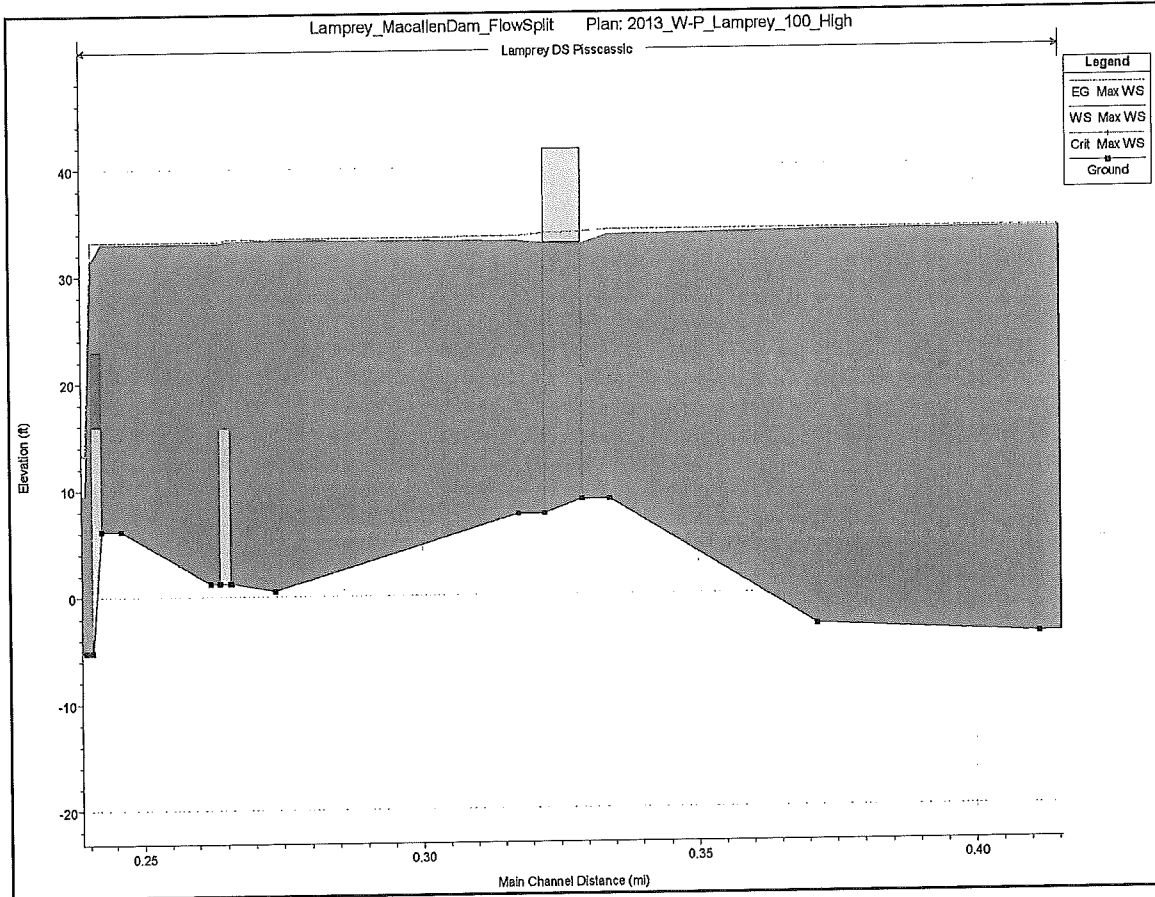
It should be noted that several dams in the state use crest gates that lower during high flows to increase spillway capacity. Recent discussions with NHDES staff have revealed that the use of crest gates may not be an acceptable method for increasing spillway capacity due to the "no operations" clause in the Dam Rules. With the exception of Alternative 7, the costs above are based on the more traditional methods increasing spillway capacity by increasing the crest length, lowering the crest elevation, and increasing the abutment elevations.

Impact of Route 108 Bridge

Figure 8 shows the modeled 100-year flood flow water surface elevation profile from the Macallen Dam (left) to the Route 108 Bridge (center), based on the model results, the bridge acts as a minor constriction point during the 100-year flood flow. The profile shows between a 0.75 and 1 foot drop in water surface elevation through the bridge structure. If the bridge were not a constriction, zero feet of drop in water surface elevation would occur through the bridge. It should be noted that overtopping of the bridge is not a likely scenario during a 100-year flood flow.



FIGURE 8
IMPACT OF ROUTE 108 BRIDGE





Recommendations

Based on the findings of the breach analyses, Wright-Pierce recommends the following actions:

- The information contained in this letter has been presented to the NHDES. The Town may need to respond to NHDES comments; however, comments are anticipated to be minimal based on the amount of NHDES coordination that has occurred to this point.
- Consider the alternatives presented above relative to site constraints. Some of the conceptual alternatives may be dismissed due to site considerations.
- Use this document as a comparison point to the dam removal options that will be developed.

We appreciate this opportunity to assist the Town of Newmarket with these analyses. We look forward to meeting with you at your convenience to review this draft report and to discuss our recommendations with you. Please feel free to contact us at 430-3728 with any questions or comments you may have.

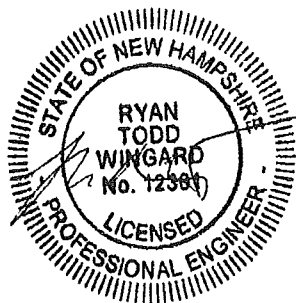
Very truly yours,
WRIGHT-PIERCE

Ryan T. Wingard, P.E.
Senior Project Manager

Richard N. Davee, P.E.
Vice President

Attachments

cc: Diane Hardy, Newmarket Planner (w/attachments)
Chuck Corliss, NHDES Dam Bureau (w/attachments)





**Town of Newmarket, New Hampshire
Town Council Business Meeting
March 6, 2013 7:00 p.m.
Council Chambers**

6. Old Business

a. Ordinances and Resolutions in the 2nd Reading – *Item(s) Council act upon this evening*

i. Resolution #2012/2013-45 Appropriation of \$60,000 from Wastewater Department Surplus to the Wastewater Legal Capital Reserve Fund

ii. Resolution #2012/2013-46 Withdrawal of \$77,031.41 from the Wastewater Legal Capital Reserve Fund

b. Ordinances and Resolutions in the 3rd Reading

c. Items Laid on the Table

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council
Resolution #2012-2013-45

**Appropriation of \$60,000 from Wastewater Department Surplus to the Wastewater
Legal Capital Reserve Fund**

WHEREAS, the Newmarket Town Council adopted Resolution #2011/2012-21 relating to the establishment of a Wastewater Legal Capital Reserve Fund from Wastewater Department Surplus as provided in RSA 35:1, V, and

WHEREAS, the Wastewater Department has retained legal services for its discussions with the Environmental Protection Agency related to the DRAFT National Pollutant Discharge Elimination System Permit (NPDES), and

WHEREAS, RSA 35:1, V provides for the establishment of a capital reserve fund for financing extraordinary legal fees and expenses relating to the present or foreseeable litigation involving the Town, and

WHEREAS, RSA 35:7 provides that said fund would be “financed principally by...sewer rentals” which “shall be established only from surplus...sewer rentals and no part thereof shall be made from appropriations by the...town,” and

WHEREAS, the amount requested to be appropriated to the Wastewater Legal Capital Reserve Fund is \$60,000, and

WHEREAS, the Wastewater Surplus Fund has a balance of \$292,559.18 as of December 31, 2012.

NOW, THEREFORE BE IT RESOLVED that the Newmarket Town Council does hereby approve a \$60,000 appropriation from the Wastewater Surplus Fund to the Wastewater Legal Capital Reserve Fund.

First Reading: February 6, 2013
Second Reading: March 6, 2013
Approval: March 6, 2013

Approved: Philip Nazzaro, Chairman Newmarket Town Council

A True Copy Attest: _____
Becky I. Benvenuti, Newmarket Town Clerk

Balance Sheet
Town of Newmarket
As Of: DECEMBER 2012, GL Year 2013

Account Number		Balance
30 WASTEWATER TREATMENT		
Assets		
30-105-000-3103	WASTEWATER - PDIP INVESTMENTS	12,115.87
30-111-000-3104	WASTEWATER - A/R MISC BILLINGS	0.00
30-111-000-3122	WASTEWATER - A/R CURRENT WW BILLINGS	162,508.60
30-113-000-3001	WASTEWATER - DUE TO/FROM GENERAL FUND	65,126.04
30-113-000-3020	WASTE WATER - DUE-TO/FROM WATER	58,408.67
30-113-000-3023	SEWER - DUE TO/FROM NEW VILLAGE PROJECT	0.00
30-113-000-3110	WW - DUE TO/FROM TRUSTEES OF TRUST	0.00
Totals Assets		298,159.18
Liabilities		
30-201-000-4001	WASTEWATER - ACCOUNTS PAYABLE	0.00
Totals Liabilities		0.00
Fund Balance		
30-201-000-4002	WASTEWATER - RETAINAGE PAYABLE	0.00
	Current Year Net Encumbered	5,600.00
30-220-000-3211	WASTEWATER - RESERVE FOR ENCUMBRANCE	0.00
	Current Year Net Encumbered	5,600.00
	Prior Year Expenditure	0.00
	Prior Year Unencumbered Funds	0.00
	Net Expenditure And Unencumbrances	5,600.00
	Total WASTEWATER - RESERVE FOR ENCUMBRANCE	5,600.00
30-220-000-4014	WASTEWATER - UNRESERVED FUND BALANCE	21,650.00
30-220-000-4015	WASTEWATER - RESERVED FUND BALANCE	167,792.79
	Current Year Revenue	734,289.19
	Current Year Expenditure	(625,572.80)
	Current Year Encumbrances	(5,600.00)
	Prior Year Unencumbered Funds	0.00
	Net Revenue, Expenditure And Encumbrances	103,116.39
	Total WASTEWATER - RESERVED FUND BALANCE	270,909.18
Total All Fund Balance Accounts		298,159.18
Total Liabilities and Fund Balance		298,159.18
Balance 30	WASTEWATER TREATMENT	0.00
Grand Total		0.00

Σ = \$292,559.18

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council
Resolution #2012-2013-46

Withdrawal of \$77,031.41 From the Wastewater Legal Capital Reserve Fund

WHEREAS, the Newmarket Town Council adopted Resolution #2011/2012-21 relating to the establishment of a Wastewater Legal Capital Reserve Fund from Wastewater Department Surplus as provided in RSA 35:1, V, and

WHEREAS, the Wastewater Legal Capital Reserve Fund balance is \$77,937.46 after approval of Resolution #2012-2013-45, and

WHEREAS, the Town has incurred \$77,031.41 in legal costs associated with the Wastewater Department's NPDES Permit.

NOW, THEREFORE BE IT RESOLVED that the Newmarket Town Council does hereby approve a withdrawal of \$77,031.41 from the Wastewater Legal Capital Reserve Fund to the Wastewater Fund.

First Reading: *February 6, 2013*
Second Reading: *March 6, 2013*
Approval: *March 6, 2013*

Approved: Philip Nazzaro, Chairman Newmarket Town Council

A True Copy Attest: _____
Becky I. Benvenuti, Newmarket Town Clerk

DEPARTMENT OF
PUBLIC WORKS



INCORPORATED
DECEMBER 15, 1727
CHARTER JANUARY 1, 1991

To: Steve Fournier, Town Administrator
Cc: Matt Angell, Finance Officer
Rick Malasky, Public Works Director
From: Sean T. Greig, Supt. Water/Sewer
Date: January 7, 2013
Re: Coalition & Devine Millimet Legal Expenses

Devine Millimet has been working with the Newmarket Wastewater Department to negotiate its current NPDES Permit. The amount due for work completed through November 30, 2012 is \$49,444.36.

The amount due for Newmarket's portion of the Coalition's agreement with Hall and Associates to assist the Coalition communities with WWTP regulatory issues is \$27,587.05. Newmarket will continue to work with the Coalition, but will not contribute anymore funds without proper approval.

The following is a summary of the Coalition activities:

- Meetings with the New Hampshire Department of Environmental Services
- Presentation to the Prep Technical Advisory Committee
- Supplemental Letters to Congress
- Comments to Prep State of the Estuaries Report 2012
- Letters for SWA and UNH
- Numerous Freedom of Information Documents Requests to EPA
- Numerous Right to know Law Requests to NHDES
- Supplementation of Exeter, Dover, and Newmarket Permit Record
- Response to CLF Right to Know
- Numerous Strategy Meetings

There is currently \$17,937.00 in the Wastewater Legal Reserve Fund. I request the Town Council transfer \$60,000.00 from the Sewer fund surplus to the Wastewater Legal Reserve Fund. I request the Town Council release \$77,031.41 from the Wastewater Legal Reserve Fund to pay for the Devine Millimet and Coalition legal fees.



**Town of Newmarket, New Hampshire
Town Council Business Meeting
February 6, 2013 7:00 p.m.
Council Chambers**

7. New Business/Correspondence

a. Town Council to Consider Nominations, Appointments and Elections

- i. ZBA – Alternate - Richard Shelton Term Expires March 2014

b. Ordinances and Resolutions in the 1st Reading – *Item(s) held over for vote at next BM*

- i. Ordinance #2012/2013-03 Purchasing Policy
- ii. Resolution #2012/2013-48 Approving the Community Revitalization Tax Relief Incentive (RSA 79E) for the redevelopment of the Lang Blacksmith Shop
- iii. Resolution #2012/2013-49 Authorizing the Withdrawal of \$11,500 from Building Improvement Capital Reserve Fund for the Painting of Town Hall

c. Correspondence to the Town Council

- i. Letter from Kelli Hardy, 5 South Street

d. Closing Comments by Town Councilors



APPLICATION FOR APPOINTMENT TO A BOARD,
COMMISSION, OR COMMITTEE POSITION WITHIN THE
TOWN OF NEWMARKET

Applicant's Name: Richard C Shelton

Address: 23 Packers Falls Road Phone/Cell 659-2000

RSA 669:19 Newmarket Registered Voter: Yes No # of Years as Resident: 77
RSA 91:2 Are you an American Citizen? Yes No

Email address: richardshelton1@comcast.net

Full membership (3 year term) position applying for XXXX

State what the new term expiration date is: XXXX

Alternate position (~~3~~ year term) position applying for ZBA

State what the new term expiration date is: March 2014

I feel the following experience and background qualifies me for this position: For many years

I was on the Board of the ZBA. During a number of those years I

held the positions of Vicechair & Chairman. During that time I

formulated and wrote many of our decisions related to the Criteria

before the Board. My last appearance on the Board was May 2012

(need more room, please use the back)

over →

Richard C. Shelton
Signature

Feb 19 2013
Date

You are welcome to submit a letter or resume with this form. Applicants are requested to attend the Council meeting to address the Town Council prior to the decision making process. Applicants will be notified of the time and date of this meeting in advance. Thank you for your application and interest in the Town of Newmarket.

TOWN OF NEWMARKET, NEW HAMPSHIRE
BY THE NEWMARKET TOWN COUNCIL
ORDINANCE #2012/2013-03
Purchasing Policy

The Town of Newmarket Ordains:

1. Purpose

1.1. Pursuant to Section 5.12 of the Newmarket Town Charter the purpose of this purchasing ordinance is:

- To procure materials, supplies, equipment and services best suited to the job which operating units are to perform.
- To procure the correct quantities of items required.
- To insure goods and services are in the hands of operating units when and where needed.
- To obtain goods, services and equipment at the lowest total price.
- To obtain critical materials when required to meet emergencies.
- To dispose of unneeded real property.

2. Definitions

2.1. Competitive Procurement

Any process for acquiring goods or services in which more than one individual is solicited to propose price and delivery terms in such a manner as to encourage competition between prospective suppliers.

2.2. Sealed Bid

A form of competitive procurement in which sealed proposals are solicited which are opened and read at a specific time and place and in which the purchaser has no knowledge of the specific price and delivery proposal in the bid until the opening.

2.3. Negotiated Procurement

A process for acquiring goods and services in which the purchaser and seller negotiate any and all parts of the price and delivery terms. Negotiations may be a part of the procurement process along with bidding.

2.4. Specification

A description of the goods and services to be procured. For the purposes of this Administrative Code, a specification shall be as general as possible and shall describe the performance of the good or service as much as possible. Where a specification contains a reference to a specific product or firm, it shall be interpreted as being functionally equivalent to that firm or product unless explicitly stated otherwise.

2.5. Solicitation

Solicitation is the process by which vendors are requested to propose terms and conditions for an item or service which is proposed to be purchased.

2.6. Informal Procurement

Informal procurement is the process in which verbal quotations, proposals or bids are solicited for relatively small purchases. A written record shall be kept of such procurements consisting as a minimum of the names, dates and prices received as well as any other information required to document the competitive aspects of the purchase.

2.7. Formal Procurement

Formal procurement is characterized by written requests for prices and terms with written responses. The most formal procurement includes advertisement in appropriate publications, requirements for submission for sealed bids and public bid openings.

2.8. Best Knowledge Procurement

Purchases of small quantities of inexpensive materials or services may be made based on the department's knowledge of the best sources for such purchases when other forms of competitive procurement are not cost effective.

3. General Procedure

3.1. Specifications Required

Specifications will be prepared for all purchases whenever possible and in all cases where any single item in the purchase is estimated to have a cost in excess of \$10,000 or a total purchase in excess of \$20,000. Specifications shall be in writing for formally advertised bids.

3.2. Advertisement

Solicitations shall be given the widest advertisement appropriate for the proposed purchase. Due consideration shall be given to the nature of the item or service and the media which probable vendors might be expected to read or be exposed to. Advertisement over bidding or buying networks is encouraged. Advertisements shall contain a succinct summary of the item or service, the location of detailed specifications, if any, and the requirements for bid submittal.

3.3. Bid Opening and Tabulation

Bids shall be opened at the time and place designated in the solicitation and the bids shall become public record. Whenever advantageous to the Town, summaries of bids shall be prepared and circulated to the bidders. All bids shall be public record unless specified otherwise prior to the bid opening.

3.4. Sole Source

If the procedure for procuring more than one potential bidder for an item does not exist, the Town Administrator shall document the sole source procurement, specifying the vendor's name, amount and type of contract, list of supplies or services procured, and a determination that the vendor is the only practicable source for the required supply or service.

4. Award

All purchases for which bids have been taken shall be formally awarded by the appropriate individual or governing body. In all cases the Town shall reserve the right to award contracts to vendors whose combination of price, product and performance history are determined to be in the best interests of the Town. The Town may reject all bids at any time for any reason.

5. Bid and Performance Bonds

When specified in the solicitation, the successful vendor shall produce an acceptable bid bond at the time of bid opening. If a performance bond or surety is required, it shall be presented prior to execution of any contract.

6. Requirements for Competitive Procurement

6.1. Cost Thresholds

Competitive procurement is required for all purchases whenever practical. The table below contains the minimum requirements for complying with the various complexities of the procurement process:

6.1.1. Amount Involved Min. Competition Approval by

To \$250	Best knowledge Department
\$250 to \$1,000	Informal Department
\$1,001 to \$2,500	Informal Town Administrator/Finance Dir.
\$2,501 to \$20,000	Formal Town Administrator or Purchasing Agent
Over \$20,000	Formal Town Council

6.2. Emergency Buying

An emergency purchase is a purchase which is essential to prevent delays in work which might affect the safety, health or convenience of the community. Permission for emergency purchasing shall be obtained from the Town Administrator or his/her designee, if possible, and a written report of such action filed with the Town Administrator within five (5) days of such action.

6.3. Absence of Second Bid

No purchase will be made where there is no competition unless a determination can be made that the terms of purchase are fair, reasonable and in the best interests of the Town. Approval for such purchase must be obtained from the next higher level off approval found in the table in Section 6.1.1.

6.4. Professional Services

Professional services, including engineering, architectural, auditing, and other services commonly considered professional, may be secured through negotiation. Professional service agreements should be on a fixed price basis for a clearly defined scope of work whenever possible.

6.5. Cooperative Purchasing

Where prices on goods or services have been determined by competitive procurement by an agency of the State of New Hampshire or any other entity through which the Town purchases cooperatively, that price shall be considered sufficiently competitive for the purchase of authorized items is obtained as outlined above. This specifically includes equipment and supplies available through bidding of the New Hampshire Department of Transportation and similar agencies for trucks, cars and related equipment.

7. Adoption

Upon adoption of this ordinance, all other purchasing procedures or policies shall hereby be rescinded.

This Ordinance shall become effective upon its passage.

Introduction Date: March 6, 2013

Public Hearing:

Final Action by Council:

Approved: _____
Philip J. Nazzaro, Chairman Newmarket Town Council

A True Copy Attest: _____
Becky I. Benvenuti, Town Clerk

STEPHEN R. FOURNIER
TOWN ADMINISTRATOR

sfournier@newmarketnh.gov
www.newmarketnh.gov




TOWN HALL
186 MAIN STREET
NEWMARKET, NH 03857

TEL: (603) 659-3617
FAX: (603) 659-8508

FOUNDED DECEMBER 15, 1727
CHARTERED JANUARY 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE *of the* TOWN ADMINISTRATOR

INTEROFFICE MEMORANDUM

TO: TOWN COUNCIL
FROM: STEVE FOURNIER, TOWN ADMINISTRATOR 
SUBJECT: PURCHAING CODE
DATE: 2/26/2013
CC: FINANCE

On the agenda for a first reading on March 6, 2013 is an ordinance outlining the process which the Town will have to follow to make purchases. The current policy, while very detailed, does not have some of the basic items that a process should have. In addition, any purchasing procedure should be set forth in ordinance, not by policy.

The most significant item in this ordinance is the limitations on purchases that can be made. Currently, there are very few limits on the amount a department can expend without getting permission from the Town Administrator. In addition, there are no limitations on the Town Administrator's authority. The only time we would come before the Town Council is if we needed to withdraw money from a capital reserve fund. The following limits would be in place if this ordinance is adopted:

To \$250 Best knowledge Department
\$250 to \$1,000 Informal Department
\$1,001 to \$2,500 Informal Town Administrator/Finance Dir.
\$2,501 to \$20,000 Formal Town Administrator or Purchasing Agent
Over \$20,000 Formal Town Council

While this may seem to be limiting the authority of the Town Administrator, it is a best practice to have the proper checks on purchases being made in Town.

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council

Resolution #2012-2013-48
Approving the Community Revitalization Tax Relief Incentive (RSA 79E) for the
Redevelopment of the Lang Blacksmith Shop

WHEREAS, Acadia Engineers and Constructors of 90 Main Street, Newmarket NH has submitted an application for the Community Development Revitalization Tax Relief Incentive for the Lang Blacksmith Shop located at 13 Water Street, and

WHEREAS, the developer is proposing \$1,707,390 of construction improvements to 13 Water Street, and

WHEREAS, this is over the threshold of 15% of the pre-rehabilitation assessed value or \$75,000 whichever is less, and

WHEREAS, the improvements equal more than 50% of the current assessed value allowing three years of tax relief according to Town policy, and

WHEREAS, the Town Council determines that this project qualifies for the incentive under RSA 79-E, the project is substantial, and there is a public benefit from this project.

NOW THEREFORE LET IT BE RESOLVED that the Newmarket Town Council does hereby approve Acadia Engineers and Constructor of 90 Main Street, Newmarket NH RSA 79-E Community Revitalization Tax Relief Incentive Application in accordance with the previously adopted criteria and authorizes the Town Administrator to execute any associated agreements.

First Reading: March 6, 2013

Second Reading:

Approval:

Approved: Philip Nazzaro, Chairman Newmarket Town Council

A True Copy Attest: _____
Becky I. Benvenuti, Newmarket Town Clerk

STEPHEN R. FOURNIER
TOWN ADMINISTRATOR

sfournier@newmarketnh.gov
www.newmarketnh.gov




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FOUNDED DECEMBER 15, 1727
CHARTERED JANUARY 1, 1991

TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE of the TOWN ADMINISTRATOR

INTEROFFICE MEMORANDUM

TO: TOWN COUNCIL
FROM: STEVE FOURNIER, TOWN ADMINISTRATOR 
SUBJECT: RSA 79-E TAX CREDIT INCENTIVE APPLICATION – WATER STREET
DATE: 2/26/2013
CC: TOWN PLANNER

In November the Town received a Community Revitalization Tax Relief Incentive Application under RSA 79-E from Acadia Engineering and Contractors for the Land Blacksmith Building located on Water Street. This property is commonly known as Joyce's Kitchen.

The way a 79-E application works is that if it is determined that, the project is a public benefit and that the proposed rehabilitation is substantial, the Town Council can waive any tax increases attributed to the rehabilitation of the project up to 5 years. The Town's previously adopted policy allows for three years if the project equals 50% or more of the current assessed value (according to the application that was previously used.) The Council could add on two additional years if it creates housing units; four more years if the housing units are affordable; and 4 more years if the structure is historically important.

The current assessed value of the property is \$453,100, the rehabilitation costs as estimated by the developer is \$1,707,390. If this were granted the taxes the individual would pay on the project would stay at the \$453,100 level for three years. While we would be losing the tax revenue for those years, we would be encouraging the redevelopment of a historic building in Town, and would be getting the additional tax revenues in the future. The Town Council will have to hold a public hearing on this resolution.

The following chart is a breakdown of the impact of three years:

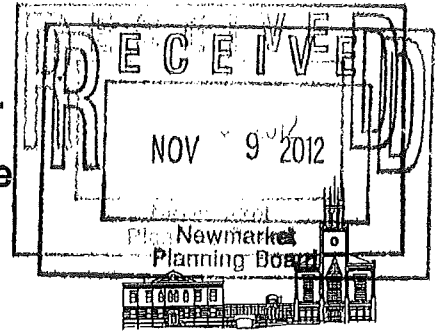
	Tax Rate	Current Value	Tax Bill	Post Rehabilitation Cost	Tax Bill	Difference
Year 1	\$ 23.67	\$453,100.00	\$ 10,724.88	\$1,707,390.00	\$40,413.92	\$ 29,689.04
Year 2 ¹	\$ 24.80	\$453,100.00	\$ 11,236.88	\$1,707,390.00	\$42,343.27	\$ 31,106.39
Year 3	\$ 24.80	\$453,100.00	\$ 11,236.88	\$1,707,390.00	\$42,343.27	\$ 31,106.39

¹ This is an estimate if all articles pass on March 12, 2013



TOWN OF NEWMARKET

Economic Development Office



Community Revitalization Tax Relief Incentive Application

Building Name (if any) Lang Blacksmith Shop Building Address 13 Water Street Newmarket, NH 03857	Owner Name(s) Acadia Engineers & Constructors (or assigned) Applicant Name(s) (if different from owner) NA
Owner Address (es) 90 Main Street Newmarket, NH 03587 Phone # 603-200-0096 Email address tim@aecgr.com	Applicant Address (if different from owner) NA Phone # Email address
Map# U3 Lot# 4	Book# 3140 Page # 0187
Year Built 1891 Square Footage of Building 4,760	Is the building eligible or listed on the State or National Register of Historic Places? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> provide historic district name if applicable) Newmarket downtown urban historic district.
Existing Uses (describe number of units by type and size) Abandoned mixed use building. Former restaurant, apartments, and commercial space. Proposed Uses (describe number of units by type and size) Mixed use re-development. Residential apartments (~2,640 sf), commercial office space (~2,400 sf).	Is there a change of use associated with this project? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> If so, please describe: Adding commercial office space to existing residential and retail uses.
Will the project include new residential units? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe: Three 2 bedroom apartment units.	Will the project include new affordable residential units? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please describe:

Note: Application must be accompanied by a \$50 Application Fee made payable to "Town of Newmarket"

Will any state or federal grants or funds be used in this project? If so, describe and detail any terms of repayment (if applicable) The owner may apply for a USDA grant to fund a portion of the renewable energy systems.

Describe the work to be done and estimated cost: please attach additional sheets if necessary and any written construction estimates Total estimated cost is \$1,707,390. Refer to attached cost estimate (Attachment 1).

Structural:	\$ refer to Attachment 1
Electrical:	\$ refer to Attachment 1
Plumbing/Heating:	\$ refer to Attachment 1
Mechanical:	\$ refer to Attachment 1
Other:	\$ refer to Attachment 1
Total: Note: To qualify for this tax relief incentive, the costs of the project must be at least 15% of the pre-rehabilitation assessed value or \$75,000, whichever is less.	\$ 1,707,390

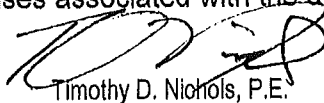
Please attach any plot plans, building plans, sketches, renderings or photographs that would help explain this application.

APPROVAL BY A MAJORITY OF TOWN COUNCILORS REQUIRED

I have read and understand the Community Revitalization Tax Relief Incentive RSA Ordinance (see following pages) and am aware that this will be a public process including a public hearing to be held to discuss the merits of this application and the subsequent need to enter into a covenant with the town and pay any reasonable expenses associated with the drafting of the covenant.

Tim Nichols

Digitally signed by Tim Nichols
DN: cn=Tim Nichols, o=Acadia Design-Builders, ou=Engineering,
email=Inichols@acadlab.com, c=US
Date: 2012.03.12 14:35:45 -0400



Timothy D. Nichols, P.E.

October 11, 2012

Applicant: (signed)

(name printed)

Date

Expected project start: February 2013 Expected project completion: August 2013
TITLE V TAXATION

Section 79-E:14

79-E:14 Other Programs. – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

Source, 2006, 167:1, eff. April 1, 2006.

For Planning Department Review

Does the application meet appropriate tests? **YES** *SEE ATTACHED LETTER. DFH 11/13/2012*

Is it a qualifying structure located in a designated Town Center <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Pre-rehabilitation assessed value (from most recent Town Assessment):	\$577,000 \$453,100 <i>(IN) DFH</i>
Total estimated cost of rehabilitation (from application above):	\$1,707,390
Percentage of rehabilitation costs to assessment valuation:	270 30 % <i>(IN) DFH</i>
Does the estimated cost of rehabilitation exceed 15% of pre-rehabilitation assessed valuation, or \$75,000? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
If the answer is yes, proceed to the next section. If no, the application is denied per RSA threshold requirement.	
Is there public benefit?	
Enhanced business district vitality?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Increases downtown housing?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Promotes downtown development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Improvements to a cultural/historic building?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is Application fee of \$50 enclosed <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

APPROVAL BY A MAJORITY OF TOWN COUNCILORS REQUIRED

Suggested Criteria for determination of tax relief periods:

- 1) For the baseline tax relief, improvements must equal 15% of current assessed value or \$75,000 whichever is less. This will net one (1) year of tax relief. If improvements equal 30% of current assessed value, this will net two (2) years of tax relief. If improvements equal 50% or more of current assessed value, this will net the full three (3) years of tax relief.

**ATTACHMENT A
CONSTRUCTION COST ESTIMATE**

Project: 13 Water Street Mixed-Use Development
Date: 10/5/2012

Concept: Restoration of FE Lang Blacksmith Shop

Work Item	Design + Engineering	Permits + Fees	Installed Cost				Construction Management (10%)	Contingency (10%)	Total
			Pricing Unit	Price	Qty	Subtotal			
Planning & Concepts	\$ 6,500	\$ 6,800	EA	\$ -	1	\$ -	\$ -	\$ 650	\$ 13,950
Architectural Design	\$ 42,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 4,200	\$ 46,200
Interior Design	\$ 8,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 800	\$ 8,800
Civil/Site Engineering	\$ 18,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 1,800	\$ 19,800
Geotechnical Engineering	\$ 9,600	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 960	\$ 10,560
Structural Engineering	\$ 16,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 1,600	\$ 17,600
Mechanical & Plumbing Engineering	\$ 16,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 1,600	\$ 17,600
Electrical Engineering	\$ 21,000	\$ -	EA	\$ -	1	\$ -	\$ -	\$ 2,100	\$ 23,100
Building Removals	\$ 1,200	\$ 800	EA	\$ 8,600	1	\$ 8,600	\$ 860	\$ 1,066	\$ 12,526
Site Removals	\$ 1,000	\$ 300	EA	\$ 5,500	1	\$ 5,500	\$ 550	\$ 705	\$ 8,055
Subgrade Utilities	\$ -	\$ 200	EA	\$ 58,000	1	\$ 58,000	\$ 5,800	\$ 6,380	\$ 70,380
Foundation Improvements	\$ -	\$ -	EA	\$ 14,000	1	\$ 14,000	\$ 1,400	\$ 1,540	\$ 16,940
Framing Improvements	\$ -	\$ -	EA	\$ 36,000	1	\$ 36,000	\$ 3,600	\$ 4,180	\$ 45,980
Decks	\$ -	\$ -	EA	\$ 4,700	4	\$ 18,800	\$ 1,880	\$ 2,068	\$ 22,748
Siding (SIP + CB)	\$ -	\$ -	SF	\$ 14.40	4,727	\$ 68,069	\$ 6,807	\$ 7,488	\$ 82,363
Insulation - Walls (2" sprayfoam)	\$ -	\$ -	SF	\$ 2.20	4,727	\$ 10,399	\$ 1,040	\$ 1,144	\$ 12,583
Insulation - Roof (2" sprayfoam)	\$ -	\$ -	SF	\$ 2.20	3,262	\$ 7,176	\$ 718	\$ 789	\$ 8,683
Roofing (SIP + MSS)	\$ -	\$ -	SF	\$ 15.10	3,262	\$ 49,256	\$ 4,926	\$ 5,418	\$ 59,600
Windows	\$ -	\$ -	EA	\$ 820	51	\$ 41,820	\$ 4,182	\$ 4,600	\$ 50,602
Doors + Hardware (ext.)	\$ -	\$ -	EA	\$ 2,410	8	\$ 19,280	\$ 1,928	\$ 2,121	\$ 23,329
Doors + Hardware (int.)	\$ -	\$ -	EA	\$ 760	12	\$ 9,120	\$ 912	\$ 1,003	\$ 11,035
Exterior Trim	\$ -	\$ -	EA	\$ 9,230	1	\$ 9,230	\$ 923	\$ 1,015	\$ 11,168
Plumbing Rough	\$ -	\$ 500	EA	\$ 33,000	1	\$ 33,000	\$ 3,300	\$ 3,630	\$ 40,430
Electrical Rough	\$ -	\$ 500	EA	\$ 51,000	1	\$ 51,000	\$ 5,100	\$ 5,610	\$ 62,210
HVAC (WSP/Int/ERV)	\$ -	\$ 500	EA	\$ 122,000	1	\$ 122,000	\$ 12,200	\$ 13,420	\$ 148,120
Geothermal Wells & Loop (30 ton)	\$ 4,000	\$ 500	EA	\$ 138,000	1	\$ 138,000	\$ 13,800	\$ 15,580	\$ 171,880
Plumbing Fixtures	\$ -	\$ -	EA	\$ 3,960	5	\$ 19,800	\$ 1,980	\$ 2,178	\$ 23,958
Electrical Fixtures & Lighting	\$ -	\$ -	EA	\$ 4,200	5	\$ 21,000	\$ 2,100	\$ 2,310	\$ 25,410
Custom WW (Cabinets, Countertops, BI)	\$ -	\$ -	EA	\$ 4,500	5	\$ 22,500	\$ 2,250	\$ 2,475	\$ 27,225
Flooring	\$ -	\$ -	SF	\$ 6.20	4,760	\$ 29,512	\$ 2,951	\$ 3,246	\$ 35,710
Gyp Walls	\$ -	\$ -	SF	\$ 2.95	7,091	\$ 20,917	\$ 2,092	\$ 2,301	\$ 25,310
Gyp Ceilings	\$ -	\$ -	SF	\$ 3.90	4,760	\$ 18,564	\$ 1,856	\$ 2,042	\$ 22,462
ACT Ceilings	\$ -	\$ -	SF	\$ 5.50	-	\$ -	\$ -	\$ -	\$ -
Interior Trim / Moldings	\$ -	\$ -	EA	\$ 25,000	1	\$ 25,000	\$ 2,500	\$ 2,750	\$ 30,250
Painting - Interior	\$ -	\$ -	SF	\$ 1.96	7,091	\$ 13,897	\$ 1,390	\$ 1,529	\$ 16,816
Painting - Exterior	\$ -	\$ -	SF	\$ 12,000	1	\$ 12,000	\$ 1,200	\$ 1,320	\$ 14,520
Furnishings (common areas)	\$ -	\$ -	EA	\$ 12,300	1	\$ 12,300	\$ 1,230	\$ 1,353	\$ 14,883
Appliances (residential)	\$ -	\$ -	EA	\$ 4,000	3	\$ 12,000	\$ 1,200	\$ 1,320	\$ 14,520
Appliances (commercial)	\$ -	\$ -	EA	\$ 2,500	3	\$ 7,500	\$ 750	\$ 825	\$ 9,075
Fire Suppression Systems	\$ -	\$ -	EA	\$ 34,600	1	\$ 34,600	\$ 3,460	\$ 3,806	\$ 41,866
Fire Det/Notification Systems	\$ -	\$ -	EA	\$ 16,400	1	\$ 16,400	\$ 1,640	\$ 1,804	\$ 19,844
Security Systems	\$ -	\$ -	EA	\$ 5,000	1	\$ 5,000	\$ 500	\$ 550	\$ 6,050
PV Systems	\$ 5,500	\$ 2,300	W	\$ 4.70	30,000	\$ 141,000	\$ 14,100	\$ 16,060	\$ 178,960
Wind Turbine Generators (5kW)	\$ 3,800	\$ -	EA	\$ 27,000	1	\$ 27,000	\$ 2,700	\$ 3,350	\$ 36,850
Site Grading & Prep	\$ -	\$ -	EA	\$ 16,580	1	\$ 16,580	\$ 1,658	\$ 1,824	\$ 20,062
Landscaping	\$ 2,700	\$ -	EA	\$ 21,500	1	\$ 21,500	\$ 2,150	\$ 2,635	\$ 28,985
Hardscaping - Pavers	\$ -	\$ -	SF	\$ 11.20	1,590	\$ 17,808	\$ 1,781	\$ 1,959	\$ 21,548
Hardscaping - VGC	\$ -	\$ -	LF	\$ 18.70	360	\$ 6,732	\$ 673	\$ 741	\$ 8,146
Hardscaping - Gravel/SD	\$ -	\$ -	SF	\$ 2.80	2,600	\$ 7,280	\$ 728	\$ 801	\$ 8,809
Outdoor Lighting	\$ -	\$ -	EA	\$ 2,100	5	\$ 10,500	\$ 1,050	\$ 1,155	\$ 12,705
Retaining Wall	\$ -	\$ -	SF	\$ 12.10	240	\$ 2,904	\$ 290	\$ 319	\$ 3,514
SG Prep & Paving - BC	\$ 1,200	\$ -	SF	\$ 4.00	4,900	\$ 19,600	\$ 1,960	\$ 2,276	\$ 25,036
Masonry - Chimney Repair	\$ -	\$ -	EA	\$ 3,600	1	\$ 3,600	\$ 360	\$ 396	\$ 4,356
Special Finishes	\$ -	\$ -	EA	\$ 11,800	1	\$ 11,800	\$ 1,180	\$ 1,298	\$ 14,278
	\$ 156,500	\$ 12,400				\$ 1,258,545	\$ 125,855	\$ 154,090	\$ 1,707,390

OFFICE OF THE
PLANNING BOARD



INCORPORATED
DECEMBER 15, 1727
CHARTER JANUARY 1, 1991

November 9, 2012

Timothy D. Nichols, P.E.
Acadia Engineers and Constructors
90 Main Street
Newmarket, NH 03857

Re: Rehabilitation of F.E. Lang Blacksmith Building at 13 Water Street, Newmarket, NH

Dear Mr. Nichols,

Please be advised that we have received your application for Community Revitalization Tax Relief under RSA 79E. It has been determined that your application is complete and meets appropriate public benefit tests to warrant further consideration by the Town of Newmarket.

1. This project will provide public benefits which will enhance the downtown with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.
2. This project encourages the rehabilitation of an underutilized structure in the town's center as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern.
3. This project will enhance and improve a structure that is culturally or historically important on a local, national, state, or regional level. The building possesses significant historical, cultural, and architectural significance. It has been determined to be eligible for listing on the National Register of Historic Places and is currently is a contributing property in the Newmarket Commercial and Industrial District.
4. This project is located in the Town's downtown and community revitalization district, which is recognized, in Chapter 6 "Economic Development" of the Newmarket Master Plan.
5. This project will increase residential housing in an urban and town center.
6. The estimated cost of rehabilitation exceeds 15% of the pre-rehabilitation assessed valuation, or \$75,000.

I have forwarded your application to Steve Fournier, Town Administrator, to schedule your application for review by the Town Council. Please contact me if you have any questions.

Sincerely,

Diane Hardy
Diane Hardy
Town Planner

TOWN HALL
186 MAIN STREET, NEWMARKET, NEW HAMPSHIRE 03857
TELEPHONE (603) 659-3617

Please mail the completed form and required material to:

10/5/12

New Hampshire Division of Historical Resources
State Historic Preservation Office
Attention: Review & Compliance
19 Pillsbury Street, Concord, NH 03301-3570

DHR Use Only	3578 MI
R&C #	4254
Log In Date	___/___/___
Response Date	___/___/___
Sent Date	___/___/___

Request for Project Review by the New Hampshire Division of Historical Resources

This is a new submittal

This is additional information relating to DHR Review & Compliance (R&C) #: 3578 MI

GENERAL PROJECT INFORMATION

Project Title Rehabilitation of Existing Historical Structure with Additional Building for Apartments

Project Location 13 Water Street

City/Town Newmarket

Tax Map U3

Lot 4

NH State Plane - Feet Geographic Coordinates: Easting 1,179,520
(See RPR Instructions and R&C FAQs for guidance.)

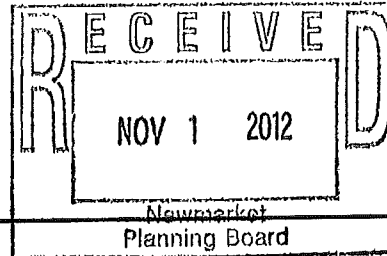
Northing 211,565

Lead Federal Agency and Contact (if applicable)
(Agency providing funds, licenses, or permits)

Permit Type and Permit or Job Reference #

State Agency and Contact (if applicable)

Permit Type and Permit or Job Reference #



APPLICANT INFORMATION

Applicant Name Timothy Nichols

Mailing Address 90 Main Street

Phone Number (603) 200-0096

City Newmarket

State NH

Zip 03857

Email tim@aecon.com

CONTACT PERSON TO RECEIVE RESPONSE

Name/Company Timothy Nichols / AEC

Mailing Address 90 Main Street

Phone Number (603) 200-0096

City Newmarket

State NH

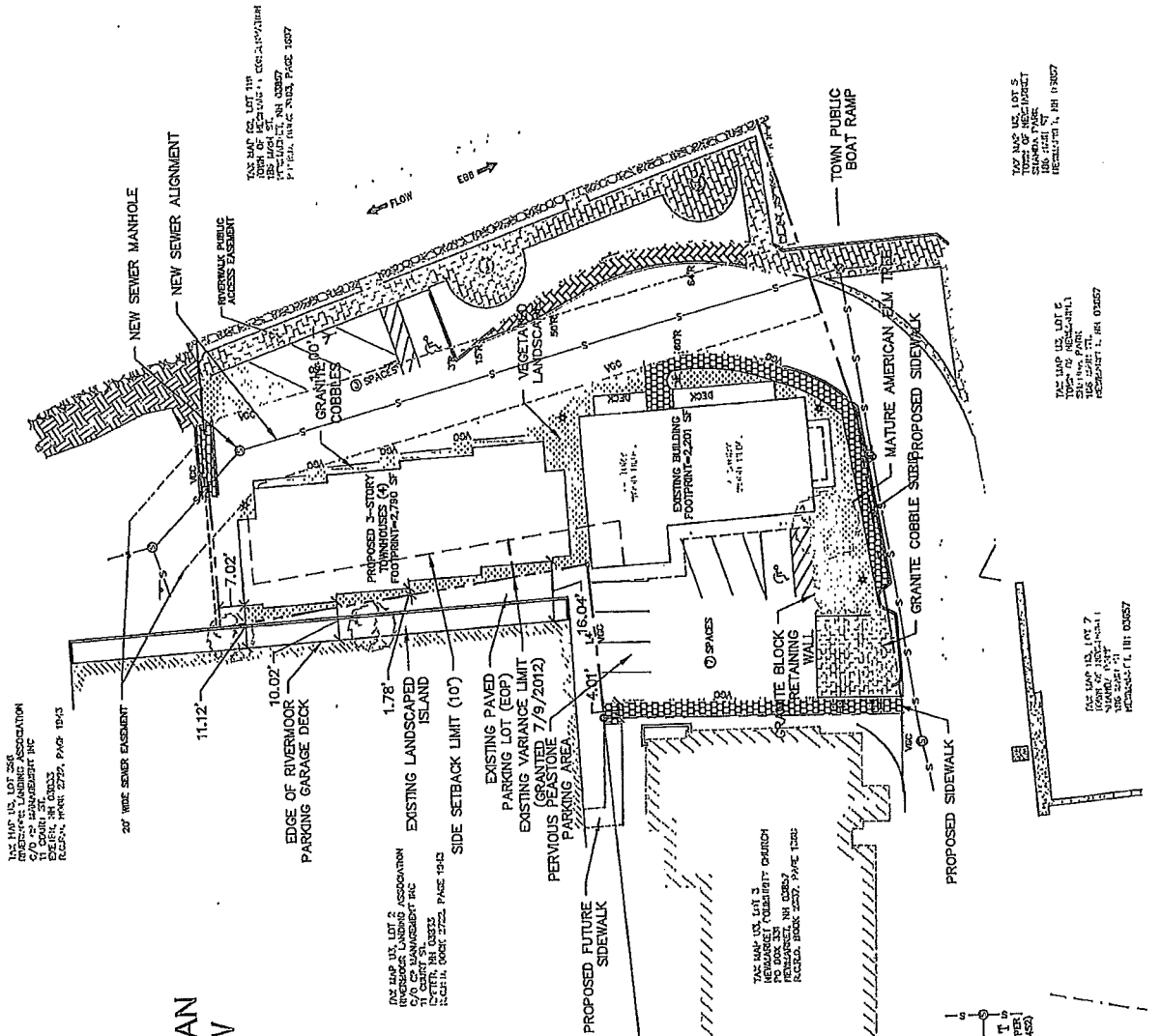
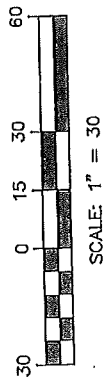
Zip 03857

Email tim@aecon.com

Thank You
This form is updated periodically. Please download the current form at <http://www.nh.gov/DHR/review>. Please refer to the Request for Project Review Instructions for direction on completing this form. Submit one copy of this project review form for each project for which review is requested. Include a self-addressed stamped envelope to expedite review response. Project submissions will not be accepted via facsimile or e-mail. This form is required. Review request form must be complete for review to begin. Incomplete forms will be sent back to the applicant without comment. Please be aware that this form may only initiate consultation. For some projects, additional information will be needed to complete the Section 106 review. All items and supporting documentation submitted with a review request, including photographs and publications, will be retained by the DHR as part of its review records. Items to be kept confidential should be clearly identified. For questions regarding the DHR review process and the DHR's role in it, please visit our website at: <http://www.nh.gov/DHR/review> or contact the R&C Specialist at christina.st.louis@dcr.nh.gov or 603.271.3558.

AEC
90 Main Street
Newmarket, NH 03857

13 WATER STREET SITE PLAN
NEWMARKET ZBA REVIEW
September 17, 2012



THE MAP IS LOT 2
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 2
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 3
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 4
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

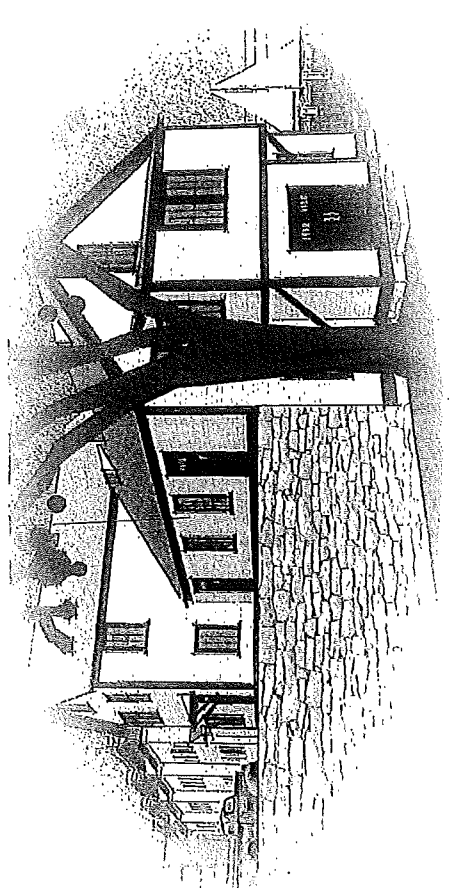
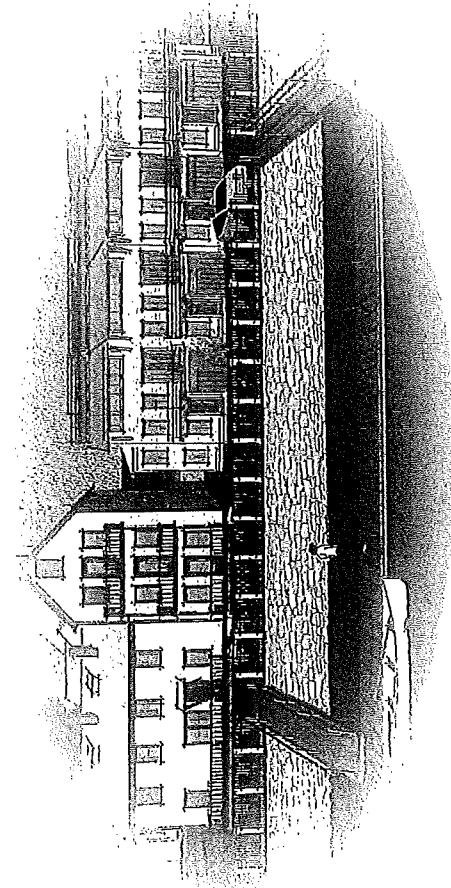
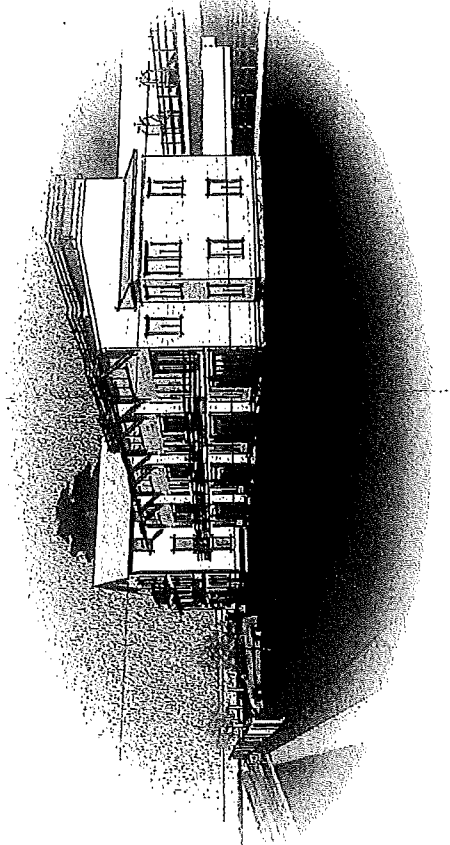
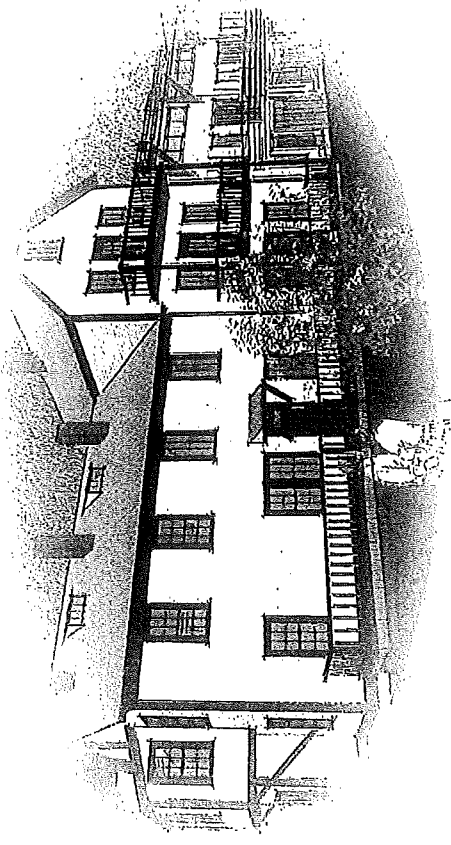
THE MAP IS LOT 5
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 6
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 7
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 8
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43

THE MAP IS LOT 9
 INVESTMENT LANDING ASSOCIATION
 C/O CS MANAGEMENT INC
 11 COURT ST
 NEWMARKET, NH 03857
 REVISION NUMBER 2772, PAGE 18-43



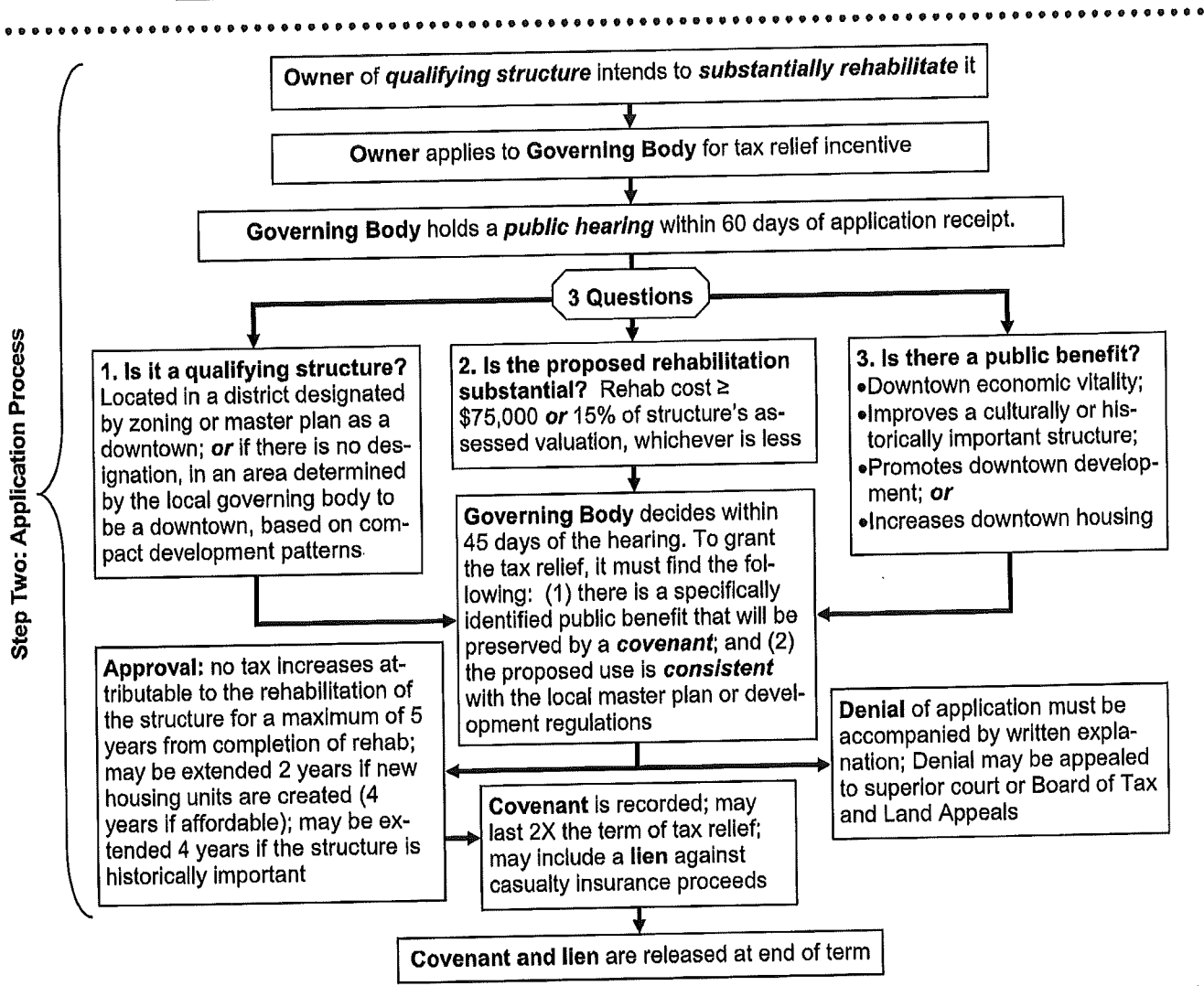
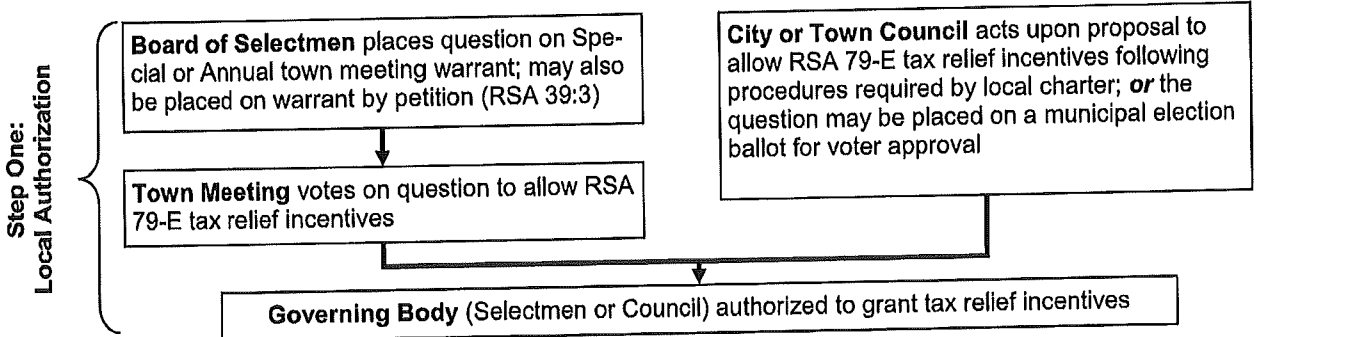
AEC Group
90 Main Street
Newmarket, NH 03857
www.aeccon.com

CONCEPTUAL RENDERINGS
for
F. E. Lang Blacksmith Restoration & Redevelopment Project
13 Water Street
Newmarket, NH





RSA 79-E Community Revitalization Tax Relief Incentive



Termination: the tax relief provided by a municipality may be terminated if the property owner fails to maintain or utilize the property according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction. The Governing Body holds a public hearing to determine the extent of the diminution of the public benefit; the tax relief may be reduced or terminated; if it is terminated, the property owner is liable for back taxes.



RSA 79-E, Community Revitalization Tax Relief Incentive: Fact Sheet

This legislative proposal encourages investment in downtowns and village centers with a new tax incentive modeled on existing New Hampshire statute (the so-called Barn Bill). Its goals are to *encourage the rehabilitation and active use of under-utilized buildings* and, in so doing, to

- **promote strong local economies** and,
- **promote smart, sustainable growth, as an alternative to sprawl, in accordance with the purpose and objectives of RSA Ch. 9-B** (State Economic Growth, Resource Protection, and Planning Policy).

How it works:

- In a town that has adopted the tool created by this legislation, a property owner who wants to substantially rehabilitate a building located downtown, or in a village center, may apply to the local governing body for a period of temporary tax relief.
- The temporary tax relief, if granted, would consist of a finite period of time during which the property tax on the structure would not increase as a result of its substantial rehabilitation. In exchange for the relief, the property owner grants a covenant ensuring there is a public benefit to the rehabilitation.
- Following expiration of the finite tax relief period, the structure would be taxed at its full market value taking into account the rehabilitation.

The legislation offers strong community process and discretion:

- Any city or town may adopt this program with the majority vote of its legislative body.
- Applications by property owners are made to the governing body and are accompanied by a public notice and public hearing.
- The governing body may grant tax relief if the application meets the guidelines and public benefit test.
- The governing body may deny the application in its discretion: “..such denial shall be deemed discretionary and shall not be set aside by the board or tax and land appeals or the superior court except for bad faith or discrimination.” (79-E:4 V)

Qualifying properties:

A property owner can apply for the tax relief only if:

- The building is located in the community’s downtown district (or equivalent), and
- The rehabilitation costs at least 15% of the building’s pre-rehab assessed value, or \$75,000, whichever is less, and
- The rehabilitation is consistent with the municipality’s master plan or development regulations.

For more information, contact:

Jennifer Goodman, N.H. Preservation Alliance – 603.224.2281, jg@nhpreservation.org

Kathy La Plante, N.H. Main Street Center – 603.223.9942, klaplante@nhmainstreet.org

Acadia Engineers & Constructors LLC
90 Main St
Newmarket, NH 03857

1148
54-202/114

DATE 11/13/12

PAY TO THE ORDER OF Town of Newmarket \$ 50
Fifty & 00/100

Security features
See back of check
DOLLARS Dollars on back

 **Centrix Bank & Trust**
1 Alwood Lane, Bedford, New Hampshire 03110

MEMO Rsd T9E Application

⑆0⑆⑆⑆0202⑆⑆⑆0⑆0⑆0⑆0993⑆⑆⑆

⑆⑆⑆

MP

TRADITIONAL BLUE

TITLE V TAXATION

CHAPTER 79-E COMMUNITY REVITALIZATION TAX RELIEF INCENTIVE

Section 79-E:1

79-E:1 Declaration of Public Benefit. –

I. It is declared to be a public benefit to enhance downtowns and town centers with respect to economic activity, cultural and historic character, sense of community, and in-town residential uses that contribute to economic and social vitality.

II. It is further declared to be a public benefit to encourage the rehabilitation of the many underutilized structures in urban and town centers as a means of encouraging growth of economic, residential, and municipal uses in a more compact pattern, in accordance with RSA 9-B.

II-a. In instances where a qualifying structure is determined to possess no significant historical, cultural, or architectural value and for which the governing body makes a specific finding that rehabilitation would not achieve one or more of the public benefits established in RSA 79-E:7 to the same degree as the replacement of the underutilized structure with a new structure, the tax relief incentives provided under this chapter may be extended to the replacement of an underutilized structure in accordance with the provisions of this chapter.

III. Short-term property assessment tax relief and a related covenant to protect public benefit as provided under this chapter are considered to provide a demonstrated public benefit if they encourage substantial rehabilitation and use of qualifying structures, or in certain cases, the replacement of a qualifying structure, as defined in this chapter.

Source. 2006, 167:1. 2009, 200:3, 4, eff. July 15, 2009.

Section 79-E:2

79-E:2 Definitions. – In this chapter:

I. "Qualifying structure" means a building located in a district officially designated in a municipality's master plan, or by zoning ordinance, as a downtown, town center, central business district, or village center, or, where no such designation has been made, in a geographic area which, as a result of its compact development patterns and uses, is identified by the governing body as the downtown, town center, or village center for purposes of this chapter. Cities or towns may further limit "qualifying structure" according to the procedure in RSA 79-E:3 as meaning only a structure located within such districts that meet certain age, occupancy, condition, size, or other similar criteria consistent with local economic conditions, community character, and local planning and development goals. Cities or towns may further modify "qualifying structure" to include buildings that have been destroyed by fire or act of nature, including where such destruction occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town.

I-a. "Replacement" means the demolition or removal of a qualifying structure and the construction of a new structure on the same lot.

II. "Substantial rehabilitation" means rehabilitation of a qualifying structure which costs at least 15 percent of

the pre-rehabilitation assessed valuation or at least \$75,000, whichever is less. Cities or towns may further limit "substantial rehabilitation" according to the procedure in RSA 79-E:3 as meaning rehabilitation which costs a percentage greater than 15 percent of pre-rehabilitation assessed valuation or an amount greater than \$75,000 based on local economic conditions, community character, and local planning and development goals.

II-a. "Tax increment finance district" means any district established in accordance with the provisions of RSA 162-K.

III. "Tax relief" means:

(a) For a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a qualifying structure shall not increase as a result of the substantial rehabilitation thereof.

(b) For the replacement of a qualifying structure, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on a replacement structure shall not exceed the property tax on the replaced qualifying structure as a result of the replacement thereof.

(c) For a qualifying structure which is a building destroyed by fire or act of nature, that for a period of time determined by a local governing body in accordance with this chapter, the property tax on such qualifying structure shall not exceed the tax on the assessed value of the structure that would have existed had the structure not been destroyed.

IV. "Tax relief period" means the finite period of time during which the tax relief will be effective, as determined by a local governing body pursuant to RSA 79-E:5.

Source. 2006, 167:1. 2009, 200:5-7. 2010, 329:1, 2. 2011, 237:1, 2, eff. July 5, 2011.

Section 79-E:3

79-E:3 Adoption of Community Revitalization Tax Relief Incentive Program –

I. Any city or town may adopt or modify the provisions of this chapter by voting whether to accept for consideration or modify requirements for requests for community revitalization tax relief incentives. Any city or town may do so by following the procedures in this section.

II. In a town, other than a town that has adopted a charter pursuant to RSA 49-D, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition under RSA 39:3.

III. In a city or town that has adopted a charter under RSA 49-C or RSA 49-D, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such municipality may vote to place the question on the official ballot for any regular municipal election.

IV. If a majority of those voting on the question vote "yes," applications for community revitalization tax relief incentives may be accepted and considered by the local governing body at any time thereafter, subject to the provisions of paragraph VI of this section.

V. If the question is not approved, the question may later be voted on according to the provisions of paragraph II or III of this section, whichever applies.

VI. The local governing body of any town or city that has adopted this program may consider rescinding its action in the manner described in paragraph II or III of this section, whichever applies. A vote terminating the acceptance and consideration of such applications shall have no effect on incentives previously granted by the city or town, nor shall it terminate consideration of applications submitted prior to the date of such vote.

Source. 2006, 167:1. 2010, 329:3, eff. July 20, 2010.

Section 79-E:4

79-E:4 Community Revitalization Tax Relief Incentive. –

I. An owner of a qualifying structure who intends to substantially rehabilitate or replace such structure may apply to the governing body of the municipality in which the property is located for tax relief. The applicant shall include the address of the property, a description of the intended rehabilitation or replacement, any changes in use of the property resulting from the rehabilitation or replacement, and an application fee.

I-a. In order to assist the governing body with the review and evaluation of an application for replacement of a qualifying structure, an owner shall submit to the governing body as part of the application, a New Hampshire division of historical resources individual resource inventory form, prepared by a qualified architectural historian and a letter issued by the local heritage commission and if the qualifying structure is located within a designated historic district established in accordance with RSA 674:46, a letter from the historic district commission or, if such local commissions are not established, a letter issued by the New Hampshire division of historical resources that identifies any and all historical, cultural, and architectural value of the structure or structures that are proposed to be replaced and the property on which those structures are located. The application for tax relief shall not be deemed to be complete and the governing body shall not schedule the public hearing on the application for replacement of a qualifying structure as required under RSA 79-E:4, II until the inventory form and the letter, as well as all other required information, have been submitted.

II. Upon receipt of an application, the governing body shall hold a duly noticed public hearing to take place no later than 60 days from receipt of the application, to determine whether the structure at issue is a qualifying structure; whether any proposed rehabilitation qualifies as substantial rehabilitation; and whether there is a public benefit to granting the requested tax relief and, if so, for what duration.

III. No later than 45 days after the public hearing, the governing body shall render a decision granting or denying the requested tax relief and, if so granting, establishing the tax relief period.

IV. (a) The governing body may grant the tax relief, provided:

- (1) The governing body finds a public benefit under RSA 79-E:7; and
- (2) The specific public benefit is preserved through a covenant under RSA 79-E:8; and
- (3) The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations; and

(4) In the case of a replacement, the governing body specifically finds that the local heritage commission or historic district commission or, if such local commissions are not established, the New Hampshire division of historical resources has determined that the replaced qualifying structure does not possess significant historical, cultural, or architectural value, the replacement of the qualifying structure will achieve one or more of the public benefits identified in RSA 79-E:7 to a greater degree than the renovation of the underutilized structure, and the historical, cultural, or architectural resources in the community will not be adversely affected by the replacement. In connection with these findings, the governing body may request that the division of historical resources conduct a technical evaluation in order to satisfy the governing body that historical resources will not be adversely affected.

(b) If the governing body grants the tax relief, the governing body shall identify the specific public benefit achieved under RSA 79-E:7, and shall determine the precise terms and duration of the covenant to preserve the public benefit under RSA 79-E:8.

V. If the governing body, in its discretion, denies the application for tax relief, such denial shall be accompanied by a written explanation. The governing body's decision may be appealed either to the board of tax and land appeals or the superior court in the same manner as provided for appeals of current use classification pursuant to RSA 79-A:9 or 79-A:11 provided, however, that such denial shall be deemed discretionary and

shall not be set aside by the board of tax and land appeals or the superior court except for bad faith or discrimination.

VI. Municipalities shall have no obligation to grant an application for tax relief for properties located within tax increment finance districts when the governing body determines, in its sole discretion, that the granting of tax relief will impede, reduce, or negatively affect:

- (a) The development program or financing plans for such tax increment finance districts; or
- (b) The ability to satisfy or expedite repayment of debt service obligations incurred for a tax increment financing district; or
- (c) The ability to satisfy program administration, operating, or maintenance expenses within a tax increment financing district.

Source. 2006, 167:1. 2009, 200:8-11, eff. July 15, 2009.

Section 79-E:5

79-E:5 Duration of Tax Relief Period. –

I. The governing body may grant such tax assessment relief for a period of up to 5 years, beginning with the completion of the substantial rehabilitation.

I-a. For the approval of a replacement of a qualifying structure, the governing body may grant such tax assessment relief for a period of up to 5 years, beginning only upon the completion of construction of the replacement structure. The governing body may, in its discretion, extend such additional years of tax relief as provided for under this section, provided that no such additional years of tax relief may be provided prior to the completion of construction of the replacement structure. The municipal tax assessment of the replacement structure and the property on which it is located shall not increase or decrease in the period between the approval by the governing body of tax relief for the replacement structure and the time the owner completes construction of the replacement structure and grants to the municipality the covenant to protect the public benefit as required by this chapter. The governing body may not grant any tax assessment relief under this chapter with respect to property and structures for which an election has been made for property appraisal under RSA 75:1-a.

II. The governing body may, in its discretion, add up to an additional 2 years of tax relief for a project that results in new residential units and up to 4 years for a project that includes affordable housing.

III. The governing body may, in its discretion, add up to an additional 4 years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places, state register of historic places, or is located within and important to a locally designated historic district, provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation.

IV. The governing body may adopt local guidelines to assist it in determining the appropriate duration of the tax assessment relief period.

Source. 2006, 167:1. 2009, 200:12. 2010, 329:4, eff. July 20, 2010.

Section 79-E:6

79-E:6 Resumption of Full Tax Liability. – Upon expiration of the tax relief period, the property shall be taxed at its market value in accordance with RSA 75:1.

Source. 2006, 167:1, eff. April 1, 2006.

Section 79-E:7

79-E:7 Public Benefit. – In order to qualify for tax relief under this chapter, the proposed substantial rehabilitation must provide at least one of the public benefits, and the proposed replacement must provide one or more of the public benefits to a greater degree than would a substantial rehabilitation of the same qualifying structure, as follows:

- I. It enhances the economic vitality of the downtown;
- II. It enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located;
- III. It promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B; or
- IV. It increases residential housing in urban or town centers.

Source. 2006, 167:1. 2009, 200:13, eff. July 15, 2009.

Section 79-E:7-a

79-E:7-a Public Benefit Determinations. – Cities or towns may adopt according to the procedure in RSA 79-E:3 provisions that further define the public benefits enumerated in RSA 79-E:7 to assist the governing body in evaluating applications made under this chapter based on local economic conditions, community character, and local planning and development goals.

Source. 2010, 329:5, eff. July 20, 2010.

Section 79-E:8

79-E:8 Covenant to Protect Public Benefit. –

I. Tax relief for the substantial rehabilitation or replacement of a qualifying structure shall be effective only after a property owner grants to the municipality a covenant ensuring that the structure shall be maintained and used in a manner that furthers the public benefits for which the tax relief was granted and as otherwise provided in this chapter.

II. The covenant shall be coextensive with the tax relief period. The covenant may, if required by the governing body, be effective for a period of time up to twice the duration of the tax relief period.

III. The covenant shall include provisions requiring the property owner to obtain casualty insurance, and flood insurance if appropriate. The covenant may include, at the governing body's sole discretion, a lien against proceeds from casualty and flood insurance claims for the purpose of ensuring proper restoration or demolition of damaged structures and property. If the property owner has not begun the process of restoration, rebuilding, or demolition of such structure within one year following damage or destruction, the property owner shall be subject to the termination of provisions set forth in RSA 79-E:9, I.

IV. The local governing body shall provide for the recording of the covenant to protect public benefit with the registry of deeds. It shall be a burden upon the property and shall bind all transferees and assignees of such property.

V. The applicant shall pay any reasonable expenses incurred by the municipality in the drafting, review, and/or

execution of the covenant. The applicant also shall be responsible for the cost of recording the covenant.

Source. 2006, 167:1. 2009, 200:14, eff. July 15, 2009.

Section 79-E:9

79-E:9 Termination of Covenant; Reduction of Tax Relief; Penalty. –

I. If the owner fails to maintain or utilize the building according to the terms of the covenant, or fails to restore, rebuild, or demolish the structure following damage or destruction as provided in RSA 79-E:8, III, the governing body shall, after a duly noticed public hearing, determine whether and to what extent the public benefit of the rehabilitation or replacement has been diminished and shall determine whether to terminate or reduce the tax relief period in accordance with such determination. If the covenant is terminated, the governing body shall assess all taxes to the owner as though no tax relief was granted, with interest in accordance with paragraph II.

II. Any tax payment required under paragraph I shall be payable according to the following procedure:

(a) The commissioner of the department of revenue administration shall prescribe and issue forms to the local assessing officials for the payment due, which shall provide a description of the property, the market value assessment according to RSA 75:1, and the amount payable.

(b) The prescribed form shall be prepared in quadruplicate. The original, duplicate, and triplicate copy of the form shall be given to the collector of taxes for collection of the payment along with a special tax warrant authorizing the collector to collect the payment under the warrant. The quadruplicate copy of the form shall be retained by the local assessing officials for their records.

(c) Upon receipt of the special tax warrant and prescribed forms, the tax collector shall mail the duplicate copy of the tax bill to the owner responsible for the tax as the notice of payment.

(d) Payment shall be due not later than 30 days after the mailing of the bill. Interest at the rate of 18 percent per annum shall be due thereafter on any amount not paid within the 30-day period. Interest at 12 percent per annum shall be charged upon all taxes that would have been due and payable on or before December 1 of each tax year as if no tax relief had been granted.

Source. 2006, 167:1. 2009, 200:15, eff. July 15, 2009.

Section 79-E:10

79-E:10 Lien for Unpaid Taxes. – The real estate of every person shall be held for the taxes levied pursuant to RSA 79-E:9.

Source. 2006, 167:1, eff. April 1, 2006.

Section 79-E:11

79-E:11 Enforcement. – All taxes levied pursuant to RSA 79-E:9 which are not paid when due shall be collected in the same manner as provided in RSA 80.

Source. 2006, 167:1. 2007, 42:3, eff. July 20, 2007.

Section 79-E:12

79-E:12 Rulemaking. – The commissioner of the department of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the payment and collection procedures under RSA 79-E:9.

Source. 2006, 167:1, eff. April 1, 2006.

Section 79-E:13

79-E:13 Extent of Tax Relief. –

I. (a) Tax relief granted under this chapter shall pertain only to assessment increases attributable to the substantial rehabilitation performed under the conditions approved by the governing body and not to those increases attributable to other factors including but not limited to market forces; or

(b) Tax relief granted under this chapter shall be calculated on the value in excess of the original assessed value. Original assessed value shall mean the value of the qualifying structure assessed at the time the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect public benefit as required in this chapter, provided that for a qualifying structure which is a building destroyed by fire or act of nature, original assessed value shall mean the value as of the date of approval of the application for tax relief of the qualifying structure that would have existed had the structure not been destroyed.

II. The tax relief granted under this chapter shall only apply to substantial rehabilitation or replacement that commences after the governing body approves the application for tax relief and the owner grants to the municipality the covenant to protect the public benefit as required in this chapter, provided that in the case of a qualifying structure which is a building destroyed by fire or act of nature, and which occurred within 15 years prior to the adoption of the provisions of this chapter by the city or town, the tax relief may apply to such qualifying structure for which replacement has begun, but which has not been completed, on the date the application for relief under this chapter is approved.

Source. 2006, 167:1. 2010, 329:6. 2011, 237:3, eff. July 5, 2011.

Section 79-E:14

79-E:14 Other Programs. – The provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs.

Source. 2006, 167:1, eff. April 1, 2006.

TOWN OF NEWMARKET, NEW HAMPSHIRE
By the Newmarket Town Council

Resolution #2012-2013-49
Authorizing the Withdrawal of \$11,500 from the Building Improvement Capital Reserve Fund for the Painting of Town Hall

WHEREAS the Town Hall hallways and stairwells are in need of paint, and

WHEREAS the Director of Public Works solicited bids to paint said hallways, and

WHEREAS the Newmarket School Department has agreed to pay for their hallways to be painted at the same time, and

WHEREAS the Town of Newmarket has a previously established Building Improvement Capital Reserve Fund containing \$343,723 in it, and

WHEREAS the qualifying bid is \$11,500 for the Town portion of the project and \$2,950 for the School project for a total amount of \$14,450.

NOW THEREFORE LET IT BE RESOLVED that the Town Council does hereby authorize an amount not to exceed \$11,500 to be withdrawn from the Building Improvement Capital Reserve Fund for the painting of Town Hall.

First Reading: *March 6, 2013*

Second Reading:

Approval:

Approved: Philip Nazzaro, Chairman Newmarket Town Council

A True Copy Attest: _____
Becky I. Benvenuti, Newmarket Town Clerk

MEMORANDUM

TO: STEVE FOURNIER, TOWN ADMINISTRATOR
FROM: RICK MALASKY, PUBLIC WORKS DIRECTOR
SUBJECT: TOWN HALL PAINTING BIDS
DATE: 2/27/2013

After reviewing the five bids received for painting the town hall and SAU I do not recommend the lowest bid, 307 Painting/CW Stripers. The bid they provided for the total project was \$7,181. I am concerned they have under estimated the prep work, materials, and labor this project will require therefore the finished product will reflect. The next three bids, \$14,450-\$18,615, are a more accurate cost for materials and labor required to complete this project.

When 307 Painting/CW Stripers briefly attended the walk through I do not feel they were able to adequately assess the amount of prep work, materials and finish work needed. The stairwells are labor intensive due to their condition, size and layout. I am concerned that the drastically low bid will impact the quality of work performed.

After a request for references from the two lowest bids, I received two written references for 307 Painting/CW Stripers. I followed up with phone calls to both. The first was from Marc DeFilippo, DeFilippo Company, who also attended the walk through, but did not submit a final bid. Marc said 307 Painting/ CW Stripers has done a lot of residential work and a few commercial buildings. The second reference, James Keravich, did not return my phone call.

After reviewing all the bids and references I do not believe 307 Painting/ CW Stripers is qualified to complete the project, to the towns standards, within the cost provided in the bid. I am sure his work is professional but I do not believe he is experienced with commercial/municipal bids and projects this size.

I would recommend the second bid, CK Landmark Construction, for a total of \$14,450 (town portion \$11,500, school portion \$2,950) be awarded the project. I was provided five references for this company. After speaking with four of the five I feel confident that this company is qualified to complete this project. They had done a lot of work for municipalities and come highly recommended by all references. All of them told me they would use CK Landmark Construction again and were impressed with their professionalism and quality of work.

DEPARTMENT OF
PUBLIC WORKS



INCORPORATED
DECEMBER 15, 1727
CHARTER JANUARY 1, 1991

Town of Newmarket
Town Hall Paint Bids
January 31, 2013

<u>Company</u>	<u>Town Hall</u>	<u>SAU 31</u>	<u>Total</u>
307 Painting/CW Stripers 34 Moulton Road, Hampton, NH 03842	\$6,181.00	\$1,000.00	\$7,181.00
CK Landmark Construction PO Box 4092, Manchester, NH 03104	\$11,500.00	\$2,950.00	\$14,450.00
Caprioli Painting 20 Beech St. Ext, Newmarket, NH 03857	\$13,108.00	\$2,096.00	\$15,204.00
Target New England 14 Bay Hill Rd., Alton, NH 03809	\$13,340.00	\$5,275.00	\$18,615.00
Jablonski Painting PO Box 165, Newmarket, NH 03857	\$22,900.00	\$2,900.00	\$25,800.00
Defilippo Painting Service	No Bid	No Bid	

February 25, 2013

To: Newmarket Town Council

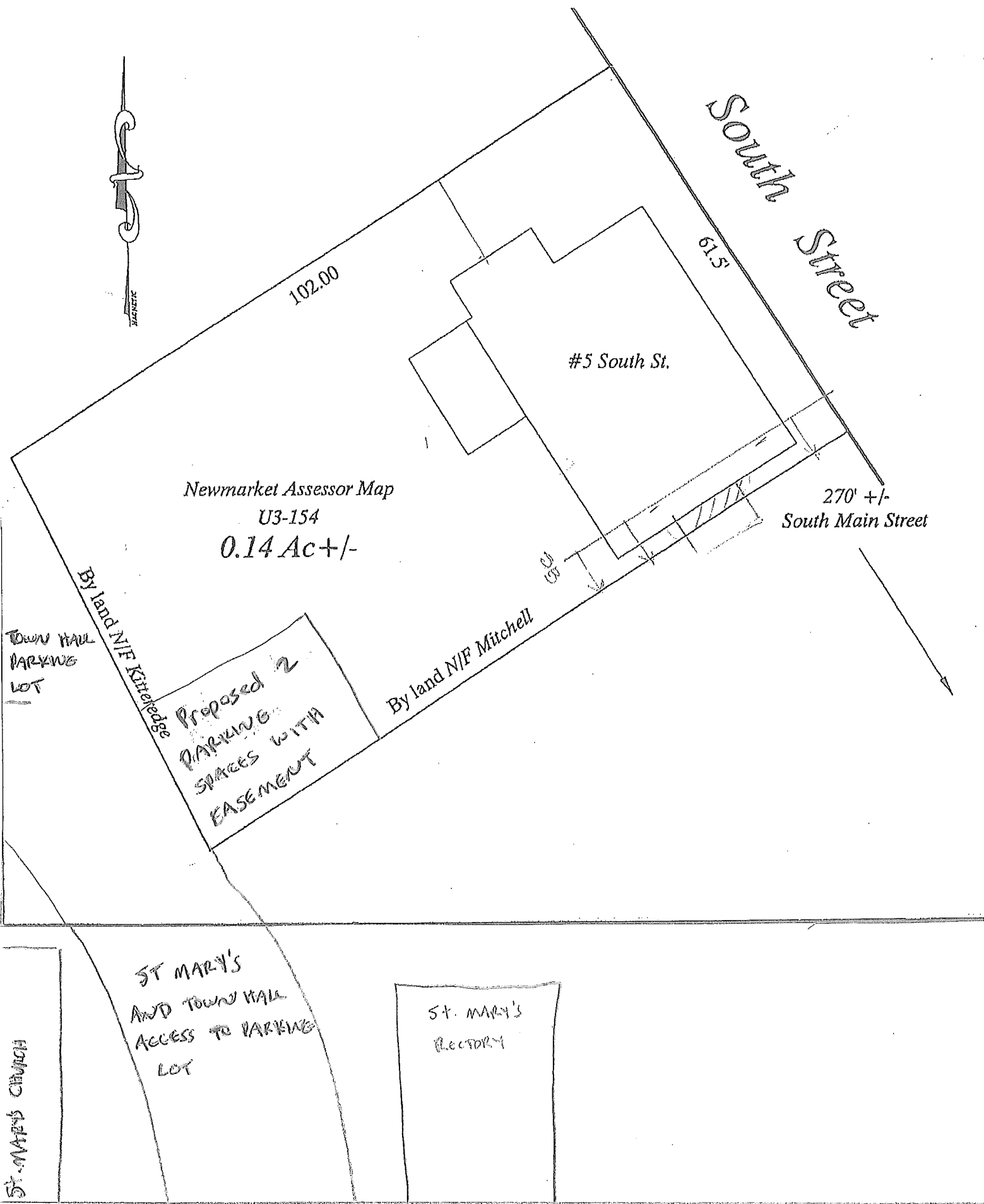
My name is Kelli Hardy, a Newmarket resident and homeowner of 5 South St. I have been in correspondence with Diane Hardy, head of the Newmarket zoning board, to determine if I need to apply for a variance or special exception in order to renovate the third floor of my house to an efficiency apartment. At this time, parking is the only issue preventing me from applying for a special exception. I would like to rent 2 parking spaces from the Newmarket Town Hall in order to meet the special exception requirement stating each unit on the property needs access to two parking spaces within 500 feet of the property. Absent the ability to rent (2) spaces from the Town Hall, would you consider granting me an easement off the Town Hall parking lot to the rear of my property so that I may add parking spaces on my own land? Please refer to the attached site map for a better understanding of my request.

Thank you for your time and consideration,

Kelli Hardy

5 South St.
Newmarket, NH
03857

603-969-0929



7.03 ACCESSORY APARTMENTS. (Amended: September 1, 2004).

- (A) Purpose. Accessory apartments are permitted in certain districts to ensure adequate provision of small, affordable residential units for various segments of the population, to help homeowners utilize excess space to generate revenue to help offset the costs of home ownership, and to encourage the adaptive reuse of historic homes. To balance this, the number of bedrooms in accessory apartments is severely limited to prevent excessive growth in the number of school age children.
- (B) One accessory apartment shall be permitted per detached single-family residence if granted a Special Exception by the ZBA. The accessory apartment shall be contained entirely within the detached single-family residence. The ZBA shall grant the Special Exception if the following conditions are met:
 - (1) The accessory apartment shall be a minimum of 300 square feet and a maximum of 800 square feet of finished living area.
 - (2) The accessory apartment shall either be an efficiency apartment (without a separate bedroom), or a one-bedroom apartment.
 - (3) One of the dwelling units must be owner-occupied.
 - (4) There shall be a minimum of two parking spaces for each dwelling unit. A parking space shall be defined as a rectangular space 9' x 18'. Parking spaces shall be permitted within the setbacks if the location is over 50' from abutting dwelling units.
 - (5) No exterior changes shall be made which significantly alters the appearance of the structure from the street.
 - (6) Adequate water supply and sewage disposal shall be provided. If town water and sewer services the site, tie-in fees shall be paid.
 - (7) Granting of the Special Exception would be consistent with § 1.05(A)(2).
- (C) Subdivision and Site Plan Review approval are not required.



**Town of Newmarket, New Hampshire
Town Council Business Meeting
March 6, 2013 7:00 p.m.
Council Chambers**

8. Adjournment