

Michael Malaguti
Town Manager

Kellie Caron
Assistant Town Manager



Town Council
Chair John Farrell
Vice Chair Chad Franz
Jim Butler
Ted Combes
Ron Dunn

Town of Londonderry • 268B Mammoth Road • Londonderry, NH 03053

Londonderry Town Council Meeting
Monday, December 18, 2023, 7:00 p.m., Moose Hill Council Chambers

A. CALL TO ORDER

B. PUBLIC COMMENT

1. Chief Kim Bernard Command Update

C. PUBLIC HEARINGS

1. **Resolution #2023-26 – Acceptance of Unanticipated Revenue for Highway Grant**
(Michael Malaguti, Town Manager)
2. **Resolution #2023-27 – Acceptance of Unanticipated Revenue for Fencing on The Common**
(Dave Wholley, Director of Public Works)
3. **Ordinance #2023-06 – An Amendment to the Londonderry Zoning Ordinance Relative to Section 4.6.3 Floodplain Overlay District**
(Kellie Caron, Assistant Town Manager & Director of Economic Development)
4. **Ordinance #2023-07 – An Amendment to the Londonderry Zoning Ordinance Relative to Adding “Hospital” as a Permitted Use in the Gateway Business District**
(Kellie Caron, Assistant Town Manager & Director of Economic Development)
5. **FY 2025 Town Budget**
(Justin Campo, Finance Director)

D. NEW BUSINESS

- 1. Merrill Conservation Transaction**
(Michael Malaguti, Town Manager)
- 2. Londonderry Fire Request for Expenditure of Capital Reserves**
(Bo Butler, Fire Chief)

E. OLD BUSINESS

- 1. Electronic Sign Update**
(Michael Malaguti, Town Manager)
- 2. Mammoth Road Calming Measures**
(Councilor Jim Butler, Michael Malaguti, Town Manager & John Trottier, Director of Engineering & Environmental Services)

F. APPROVAL OF MINUTES

1. December 4, 2023 Town Council Minutes

G. APPOINTMENTS/REAPPOINTMENTS

- 1. Interviews**
 - a. Kristina Ciarametaro (Recreation Commission)
 - b. Vickie Bradley (Recreation Commission or Heritage Commission)
- 2. Reappointment of members to the Conservation Commission**
- 3. Appointment/Reappointment of members to the Heritage Commission**
- 4. Reappointment of member to the Londonderry Housing and Redevelopment Authority**
- 5. Reappointment of members to the Planning Board**
- 6. Appointment/Reappointment of members to the Recreation Commission**
- 7. Reappointment of Jeff Penta as an Alternate Member of the Southern New Hampshire Planning Commission**
- 8. Approval to post remaining open positions**

H. OTHER BUSINESS

1. Liaison Reports

2. Town Manager Report
3. Assistant Town Manager Report

I. ADJOURNMENT

J. MEETING SCHEDULE

1. January 11, 2024; Moose Hill Council Chambers; 7:00 p.m.

In addition to the items listed on the agenda the Town Council may consider other matters not on the posted agenda and may enter a non-public session or convene in a non-meeting in accordance with RSA 91-A if the need arises.

RESOLUTION 2023-26

A Resolution Relative to the
Acceptance of Unanticipated Revenue Under RSA 31:95-b

First Reading: 12/18/2023
Public Hearing: 12/18/2023
Adopted: 12/18/2023

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (a) relative to unanticipated moneys received in amounts greater than \$10,000; and,

WHEREAS the Town of Londonderry was awarded a grant from the State of New Hampshire in the amount of up to \$173,703.53.

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council to enter into and approve a grant agreement and further to authorize the Town Manager to move forward in accepting this award and to sign any paperwork associated with such grant on behalf of the Town.

A TRUE COPY TO ATTEST:

12/18/2023

John Farrell-Chairman
Town Council

Sharon Farrell
Town Clerk

(TOWN SEAL)



THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION



William Cass, P.E.
Commissioner

November 9, 2023

David Rodrigue, P.E.
Assistant Commissioner
Andre Briere, Colonel, USAF (RET)
Deputy Commissioner

Michael Malaguti, Town Manager
Town of Londonderry
268-B Mammoth Road
Londonderry, NH 03053

**Re: Londonderry Special One Time Highway Payment – in Accordance with House Bill 2
Payment for Maintenance, Construction and Reconstruction of Class IV and V Highways**

Dear Mr. Malaguti:

The following is notification of a one time highway payment being made available to your town in State Fiscal Year 2024 based on the passage of House Bill 2 (HB 2) effective in June 2023. HB 2 directs the department to divide and distribute a \$10 million one time payment between all New Hampshire municipalities based on the distribution methods of Block Grant Aid Apportionment A. This one time payment is separate from your regular quarterly payments.

This one time payment is anticipated to be available to the Town of Londonderry during the month of November 2023 as follows:

November 2023 Actual Payment: \$173,703.53

In generalized terms and in accordance with statutory provisions for distribution of Block Grant Aid “Apportionment A” funds, this one time highway payment is based on the municipalities’ mileage of Class IV and Class V highways, as well as the municipalities’ population.

Please contact us at 271-3344 if you have any questions.

Sincerely,

C. R. Willeke

C. R. Willeke, PE
Municipal Highways Engineer
Bureau of Planning and Community Assistance

CRW/dmp

RESOLUTION 2023-27

A Resolution Relative to the
Acceptance of Unanticipated Revenue Under RSA 31:95-b

First Reading: 12/18/2023
Public Hearing: 12/18/2023
Adopted: 12/18/2023

WHEREAS the Town of Londonderry adopted the provisions of RSA 31:95-b with the passage of warrant article 18 at their March 1994 town meeting; and,

WHEREAS the Town Council desires to and has complied with RSA 31:95-b, III (b) relative to unanticipated moneys received in amounts less than \$10,000; and,

WHEREAS the Town of Londonderry was awarded a grant from the Turcotte Tree Service in the amount of \$2,490.00.

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council to enter into and approve a grant agreement and further to authorize the Town Manager to move forward in accepting this award and to sign any paperwork associated with such grant on behalf of the Town.

A TRUE COPY TO ATTEST:

12/18/2023

John Farrell-Chairman
Town Council

Sharon Farrell
Town Clerk

(TOWN SEAL)



Town of Londonderry, New Hampshire

Planning & Economic Development Department
268B Mammoth Road
Town Hall – 2nd Floor

603-432-1100
603-432-1128

www.londonderrynh.org

Planning – Zoning – Economic Development – Conservation

MEMORANDUM

TO: Town Council
FROM: Kellie Caron, Assistant Town Manager & Director of Economic Development
DATE: December 18, 2023
RE: Zoning Ordinance Amendments to the Use Table and Floodplain Overlay District

On December 6, 2023 the Planning Board held a public hearing on proposed zoning amendments to the Use Table and the Floodplain Overlay District. The Planning Board recommended by a vote of 7-0-1, with member T. Combes abstaining, the Town Council approve the proposed zoning amendments.

Below is a summary explanation of the proposed amendments.

Section 4.1.2 – Use Table 4-1, Section 4.1.3 Table 4-2, GB District Services Use Table

Currently, the zoning ordinance provides a definition for ‘hospital’ in Section 2 - Definitions, but the use table does not designate which zoning district(s) ‘hospital’ may or may not be permitted. The proposed amendment, is to add ‘hospital’ as a permitted use by right in the Gateway Business District.

Section 4.6.3 Floodplain Overlay District

The Office of Planning and Development (OPD), of the New Hampshire Department of Business and Economic Affairs, conducted a “compliance review” of the floodplain management regulations to ensure the Town remains compliant with the requirements of the FEMA National Flood Insurance Program (NFIP). In response to the compliance review, staff prepared amendments to the Floodplain Overlay District to remain compliant with the NFIP.

The full text of the proposed amendments is attached to this memorandum.

Introduced: 12/4/23
Public Hearing: 12/18/23
Adopted: X/XX/XX

ORDINANCE 2023-07
AN AMENDMENT TO THE LONDONDERRY ZONING
ORDINANCE RELATIVE TO ADDING HOSPITAL AS A
PERMITTED USE IN THE GATEWAY BUSINESS
DISTRICT

WHEREAS it was determined that changes were necessary to address issue of adding 'hospital' as a permitted use to a zoning district; and

WHEREAS Town Staff have prepared amendments to Sections 4.1.2 and 4.1.3 to allow 'hospital' as a permitted use by right in the Gateway Business District; and

WHEREAS the Planning Board has voted to recommend Town Council adoption of the proposed amendment;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended per the attached to reflect changes to Sections 4.1.2 and 4.1.3 relative adding 'hospital' as a permitted use in the Gateway Business District, to become effective upon passage by the Town Council.

John Farrell, Chairman
Londonderry Town Council

A TRUE COPY ATTEST:

Sherry Farrell - Town Clerk
X/XX/XX

Town Seal

4 USE AND DIMENSIONAL REGULATIONS

4.1 District Uses

Subject to other applicable sections and all other local, state and federal laws, rules and regulations, no building, structure or land may be used or occupied except for the purposes permitted in the base district in which the use is located as set forth in the Table of Uses.

4.1.1 Designation of Permitted Uses

Permitted uses in the base districts are designated in the Table 4-1, Table of Uses by the following:

- Uses Permitted by Right - A use denoted by the letter "P" is permitted by right in the district
- Uses Permitted by Special Exception - A use denoted by the letter "S" is a use that may be authorized by Special Exception in that district. The Zoning Board of Adjustment may grant a Special Exception in accordance with the procedures and conditions set forth in [Section 8.1.5](#), Special Exceptions.
- Uses Permitted by Conditional Use Permit - A use denoted by the letter "C" is a use that may be authorized by a Conditional Use Permit in that district. The Planning Board may grant a Conditional Use Permit in accordance with the procedures and conditions set forth in [Section 6](#), Conditional Use Permits.

4.1.2 Use Table

Table 4-1 Londonderry Zoning Ordinance Use Table P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception														
	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
RESIDENTIAL AND AGRICULTURAL														
Agriculture	P	P									P ⁵			
Assisted Living Facilities	C	P	P	P	P		P				P ⁵		P	P
Back Lot Development	C										P ⁵			See specific district regs.
Dwelling, multi-family		P	C ⁵				P ⁵		C ⁵	C ⁵				
Dwelling, multi-family workforce	C ^{3,6,7}	C ³				P ⁵		C ³	C ³					
Small workforce housing development	C ³													
Dwelling, single family	P	P			S						P ⁵			
Dwelling, single family, workforce	C ³	C ³	C ³	C ³	C ³	C ³					P ⁵			
Dwelling, two-family	P	P			S						P ⁵			
Dwelling, two-family, workforce	C ³	C ³	C ³	C ³	C ³	C ³					P ⁵			

Table 4-1

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
Live-Work Units			C	C	C	C	C	C	C	C	P ⁵			
Manufactured housing	P	P												
Manufactured housing, workforce	C ³	C ³												
Mixed use residential						P, C ³	P, C ³				P ⁵		C ³	C ³
Mobile homes	P													
Nursing Home and accessory uses		P	P	P	P		P				P ⁵		P	P
Preexisting manufactured housing parks	P													
Presite Built Housing	P													
CIVIC USES														
Community center			P	P		C					P ⁴			
Cemetery	P													
Public Facilities	P		P	P		C		P	P	P	P ⁴	P		
Public Utilities	P	P	P	P				S	S	S	P ⁵	S		
Recreational Facilities, Public	P			P							P ⁴		P	P
Religious Facilities	P		P	P	P	P					P ⁵		P	P
Cultural Uses and Performing Arts							C			P	P ⁴			
BUSINESS USES														
Aeronautical Facilities												P		
Assembly, testing, repair and packing operations up to 250,000 sq. ft.								P	P	P	P ⁴			
Assembly, testing, repair and packing operations 250,001 sq. ft. or larger								P	P	C	P ⁴			
Bed and Breakfast Homestay	P										P ⁵			
Business center development			P	P			P			P	P ⁴		P	P
Conference/Convention Center							C			P	P ⁴			
Day Care Center, Adult						C	C				P ⁴			
Drive-thru window as an accessory use			P	P			C							
Drive-in establishments			P	P										
Drive-in theatres				P										

Table 4-1

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
GB District Services										(See GB District Services Use Table, Section 4.1.2)				
Financial institution			P	P			P			P	P ²			
Funeral homes			P	P	P									
Education and Training Facilities							C			P	P ²			
Excavation, including Temporary and Permanent Manufacturing Plants as an accessory use.	See Section 5.8													
Group Child Care Center					P	C		S	S		P ²		C	C
Home Occupation	See Section 5.12										S			
Hospital										P				
Hotels				P			C			P	P ²			
Manufacturing, Heavy									P	P		P		
Manufacturing, Light up to 250,000 sq. ft.				P				P	P	P	P ²	P		
Manufacturing, Light 250,001 sq ft or larger				P				P	P	C	P ²	P		
Membership club			P	P							P ²			
Motels				P										
Motor Vehicle Maintenance, Major Repair and Painting									P			P		
Motor vehicle rental												P		
Motor Vehicle Station, Limited Service				P		C ²					P ²	P		
Recreation, commercial			P	P			P				P ²		P	P
Retail sales establishment up to 75,000 sq. ft.			P	P		P	P				P ²		P	P
Retail sales establishment 75,001 sq. ft. or larger			P	P			C				P ²			
Outdoor Storage of goods or materials (not to exceed 5-10% of the gross floor area) as an Accessory Use										C				
Professional office			P	P	P	P	P	P	P	P	P ²	P	P	P
Rental Car Terminal up to 50,000 sq. ft.										P	P ²			
Rental Car Terminal 50,001 sq. ft. or larger										C	P ²			
Repair services			P	P		P		P	P		P ²	P	P	P
Research or Development Laboratories				P			P	P	P	P	P ²	P		

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Table 4-1

Londonderry Zoning Ordinance Use Table

P = Permitted Use C = Requires Conditional Use Permit S = Requires Special Exception

	AR-1	R-III	C-I	C-II	C-III	C-IV	MUC	IND-I	IND-II	GB	PUD	AD	POD - 102 ¹	POD - 28 ¹
Restaurant			P	P		C	P				P ²	P	P	P
Restaurant, fast food			P	P			C				P ²			
Sales of Heavy Equipment or Heavy Trucks as an accessory use								C	C	C				
School, Private					P						P ²		P	P
Service establishment			P	P			P	P	P		P ²	P	P	P
Sexually oriented businesses			P	P										
Storage, self serve				P				P	P				C	C
Terminal, Airplane												P		
Terminal, Trucking up to 100,000 sq. ft.									P	P	P ²	P		
Terminal, Trucking 100,001 sq. ft. or larger									P	C	P ²	P		
Vehicle Sales Establishment				P										
Warehouses and Storage up to 250,000 sq. ft.				P				P	P	P	P ²	P	C	C
Warehouses and Storage 250,001 sq. ft. or larger				P				P	P	C	P ²	P	C	C
Wholesale Businesses up to 250,000 sq. ft.				P				P	P	P	P ²	P		
Wholesale Businesses 250,001 sq. ft. or larger				P				P	P	C	P ²	P		

1 - Any use permitted in the underlying zoning district, which is not a permitted use in the Performance Overlay District is considered a Conditional Use
2 - See Section 4.3.1(B)(4) for additional dimensional requirements related to fuel dispensers
3 - See Section 5.7 for specific requirements (workforce housing)
4 - As part of an approved PUD Master Plan, See Section 5.2
5 - As part of an approved PUD Master Plan (where the underlying zoning is not GB), See Section 5.2
6 - Applies only to proposed multi-family workforce housing developments in the AR-1 district which meet the following conditions:
a. Prior to May 13, 2014, one or more variances were granted to the proposed development from provisions of this ordinance that were in effect at that time;
b. As of May 13, 2014, no additional variances were necessary for the proposed development to constitute a proposal sufficiently complete as to qualify for consideration by the Planning Board for approval
c. A Conditional Use Permit for the proposed development is approved by the Planning Board not later than 4/19/2017 (said date being eighteen months after the adoption of these amendments).
7 - In the AR-1 district, Multi-family workforce housing may be permitted subject to a Conditional Use Permit on lots adjacent to commercial and industrial districts, provided that the proposed development meets the Conditional Use criteria for workforce housing.
8 - deleted
9 - See Section 6.3.5 for building size criteria

4.1.3 GB District Services Table

Table 4-2 GB District Services Use Table	
Accessory Uses up to 5,000 sq. ft. - Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use	P
Accessory Uses from 5,001 – 20,000 sq. ft.-Including but not limited to, retailing, cafeteria, personal services, restaurant or auditorium accessory with and incidental to a principal use	C
Automotive Repair up to 5,000 sq. ft.	P
Automotive Repair from 5,001 to 10,000 sq. ft.	C
Computer Services up to 5,000 sq. ft.	P
Computer Services from 5,001 to 10,000 sq. ft.	C
Service/Commercial Businesses up to 5,000 sq. ft. (Including restaurants and gas stations)	P
Service/Commercial Businesses from 5,001 to 20,000 sq. ft. (Including restaurants and gas stations)	C
Daycare up to 5,000 sq. ft.	P
Daycare from 5,001 to 10,000 sq. ft.	C
Health Clubs up to 5,000 sq. ft.	P
Health Clubs from 5,001 to 20,000 sq. ft.	C
Hospital	P
Personal Service Businesses up to 5,000 sq. ft.	P
Personal Service Businesses from 5,001 to 20,000 sq. ft.	C

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4.1.4 Accessory Uses

With the exception of residential district, all uses permitted for each district shall be permitted as accessory uses within that district provided the combination of uses shall meet all other provisions of this Zoning Ordinance.

4.1.5 Classification of Uses Not Specified

- A. In the event that a proposed use is not specified in the Table Uses upon written application by the land owner, the Zoning Administrator shall determine the administrative classification of the proposed use and whether the use is a use permitted by right; a use that requires a Special Exception, Conditional Use Permit, or other approval; or a use that is not permitted under this Ordinance.
- B. The Zoning Administrator shall consider the similarity of the characteristics, function, or the intensity of the proposed use to other uses included in the Table of Uses. The Zoning Administrator may also consider the similarity of a proposed non-residential use to the hierarchy of non-residential uses as developed by the U.S Department of Labor, North American Industrial Classification System (NAICS).
- C. The Zoning Administrator's determination of an administrative classification may be appealed to the Zoning Board of Adjustment as set forth in Section 8 of this Ordinance.

4.1.6 Supplemental Standards

Introduced: 12/4/23
Public Hearing: 12/18/23
Adopted: X/XX/XX

ORDINANCE 2023-06
AN AMENDMENT TO THE LONDONDERRY ZONING
ORDINANCE RELATIVE TO SECTION 4.6.3
FLOODPLAIN OVERLAY DISTRICT

WHEREAS the Office of Planning and Development (OPD), of the New Hampshire Department of Business and Economic Affairs, conducted a “compliance review” of the floodplain management regulations to ensure the Town remains compliant with the requirements of the FEMA National Flood Insurance Program (NFIP); and

WHEREAS Town Staff have prepared amendments to Section 4.6.3 in response to the compliance review to remain compliant with the NFIP; and

WHEREAS the Planning Board has voted to recommend Town Council adoption of the proposed amendment;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended per the attached to reflect changes to Section 4.6.3 relative to the Floodplain Overlay District, to become effective upon passage by the Town Council.

John Farrell, Chairman
Londonderry Town Council

A TRUE COPY ATTEST:

Sherry Farrell - Town Clerk
X/XX/XX

Town Seal

- F. The Notice of Disapproval, together with the reasons for such disapproval, shall be signed by the Chairperson and shall contain written reasons for disapproval.
- G. If a Notice of Disapproval is received, the applicant may and will be encouraged to make modifications to the proposed plan and resubmit for review by the Commission
- H. All decisions of the Commission shall be made available for public inspection within seventy two (72) hours and placed on file with the Town Clerk.

4.6.2.11 Appeals

Any person or persons jointly or severely aggrieved by a decision of the Commission shall have the right to appeal that decision to the Zoning Board of Adjustment under [RSA 677:17](#) in accordance with the provisions of [RSA 676:5](#) and [RSA 677:1-14](#).

4.6.2.12 Enforcement/Penalties

Violation of this Ordinance shall be subject to the remedies provided in [RSA 676:15](#) and [676:17](#).

4.6.3 Floodplain Overlay District

4.6.3.1 Purpose

Certain areas of the Town of Londonderry are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Londonderry has chosen to be a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this Floodplain Ordinance.

4.6.3.2 Establishment

This Ordinance, adopted pursuant to the authority of [RSA 674:16](#), shall be known as the Town of Londonderry Floodplain Development Ordinance. The regulations in this Ordinance shall overlay and supplement the regulations in the Town of Londonderry Zoning Ordinance, and shall be considered part of the Zoning Ordinance for the purposes of administration and appeals under state law. If any provision of this Ordinance differs or appears to conflict with any provision of Zoning Ordinance or other Ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be more controlling.

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Rockingham County, New Hampshire" dated May 17, 2005 or as amended, together with the associated Flood Insurance Map panels numbered: 33015C0309, 33015C0315, 33015C0316, 33015C0317, 33015C0318, 33015C0319, 33015C0328, 33015C0336, 33015C0337, 33015C0338, 33015C0339, 33015C0506, 33015C0507, 33015C0508, 33015C0509, 33015C0526, 33015C0527, 33015C0528, 33015C0529 and 33015C0536 dated May 17, 2005 or as amended, which are declared to be a part of this Ordinance and are hereby incorporated by reference.

4.6.3.3 Definition of Terms:

The following definitions shall apply only to this Flood Plain Development Ordinance, and shall not be affected by, the provisions of any other ordinance of the Town of Londonderry.

“Area of Shallow Flooding” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM) with a one percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of Special Flood Hazard” is the land in the flood plain within the Town of Londonderry subject to a one percent or greater possibility of flooding in any given year. The area is designated as zone A and AE on [the Town of Londonderry’s Flood Insurance Rate Map the FIRM and is designated FIRM as zones: A, AO, AH, A1-30, AE and A99.](#)

“Base Flood” means the flood having a one-percent possibility of being equaled or exceeded in any given year.

“Base Flood Elevation” means the elevation of surface water resulting from the “base flood”

“Basement” means any area of a building having its floor subgrade on all sides.

“Building” see Structure

~~**“Breakaway wall”** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.~~

“Development” means any man made change to the improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

“FEMA” means the Federal Emergency Management Agency.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map” (Floodway Map) is an official Map of the Town of Londonderry, on which FEMA has delineated the “Regulatory Floodway”. This Map shall not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

“Flood Elevation Study” means an examination, elevation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood related erosion hazard.

“Flood Insurance Rate Map” (FIRM) means an official Map incorporated with this ordinance, on which FEMA has delineated both the special flood hazard areas and the risk of premium zones applicable to the Town of Londonderry.

“Flood Insurance Study” - see “Flood elevation study”

“Flood Opening” means an opening in a foundation or enclosure wall that allows automatic entry and exit of floodwaters. See FEMA “Technical Bulletin 1, Openings of Foundation Walls and Walls of Enclosures.”

“Flood Plain” or “Flood-prone area” means any land area susceptible to being inundated by water from any source (see definition of Flooding”).

“Flood proofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

“Floodway” - see “Regulatory Floodway”.

~~“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building/repair facilities, but does not include long term storage or related manufacturing facilities.~~

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic Structure” means any structure that is:

- A. Listed individually in the National Registrar of Historic Places (a listing maintained by Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered Historic District or a district preliminarily determined by the Secretary to qualify as a registered Historic District;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days. This included manufactured homes located in a manufactured home park or subdivision.

“Manufactured Home Park of Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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“Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

~~“100-year flood” see “base flood”~~

“Recreational vehicle” means a vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projection (iii) designed to be self-propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

“Regulatory Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

~~**“Special Flood Hazard Area” means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, or AH. (See - “Area of Special Flood Hazard”)**~~

“Start of Construction” includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

“Structure” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

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~~means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure shall equal: (1) the appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other real part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"~~

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, **North American Vertical Datum (NAVD)** of (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains

4.6.3.4 Permits

All proposed development in any special flood hazard areas shall require a permit. Development in these areas and below the base flood level may result in increased premium rates for flood insurance, and such development may increase risks to life and property.

4.6.3.5 Construction Requirements

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A. Be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- B. Be constructed with materials resistant to flood damage,
- C. Be constructed by methods and practices that minimize flood damages,
- D. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4.6.3.6 Water and Sewer Systems

Where new or replacement water and sewer systems (including on site systems) are proposed in a special flood hazard area the applicant shall provide the Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

4.6.3.7 Certification

For all new or substantially improved structures located in Zones A ~~and AE, A1-30, AE, AO or AH~~, the applicant shall furnish the following information to the Building Inspector:

- A. The as-built elevation (in relation to ~~NGVD~~the mean sea level) of the lowest floor (including basement) and include whether or not such structures contain a basement
- B. If the structure has been flood proofed, the as-built elevation (in relation to ~~NGVD~~the mean sea level) to which the structure was floodproofed.
- C. Any certification of floodproofing.

The Building Inspector shall maintain a record of all structures for public inspection, and shall furnish such information upon request.

4.6.3.8 Other Required Permits

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.1334.

4.6.3.9 Watercourses

- A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands ~~Board~~Bureau of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 482-A:3 Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands ~~Board~~Bureau.
- B. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. Along watercourses with a designated Regulatory Floodway, no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in an increase in flood levels within the community during the base flood discharge.
- D. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- E. In Zone A, the Building Inspector shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources as criteria for requiring that development meet the floodway requirements of this section.

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

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4.6.3.10 Special Flood Hazard Areas

- A. In special flood hazard areas the Building Inspector shall determine the base flood elevation in the following order of precedence according to the data available:
1. In zones ~~A1-30, AH and~~ AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
 2. In ~~unnumbered A zones~~ **Zone A**, the Building Inspector shall obtain, review, and reasonably utilize any ~~100-year~~ **base flood** floor elevation data available from federal, state, or other source including data submitted to the community (i.e.: subdivision, site approvals). **Where a base flood elevation is not available or not known for zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.**
 - ~~3. In zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least 2 feet.~~
- B. The Building Inspector's base flood elevation determination will be used as criteria for requiring in zones ~~A and AE, A1-30, AE, AH, AO,~~ that:
1. All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation;
 2. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the base flood level; or together with attendant utility and sanitary facilities, shall:
 - a. Be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section;
 3. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces;
 4. Recreational vehicles placed on site within zones ~~A1-30, AH, and A and~~ AE shall either
 - a. be on the site for fewer than one hundred and eighty (180) consecutive days,
 - b. be fully licensed **on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, and ready for highway use,** or



- c. meet all standards of ~~Section 60.3 (b) (1) this ordinance of the National Flood Insurance Program Regulations~~ and the elevation and anchoring requirements for “manufactured homes” in ~~paragraph C (6) of Section 60.3 this ordinance.~~
- 5. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
 - a. the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - b. the area is not basement;
 - c. shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two **flood** openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all **flood** openings shall be no higher than one foot above grade. **Flood** openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- ~~6. Proposed structures to be located on slopes in special flood hazard areas, zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structures.~~

4.6.3.11 Variances and Appeals

- A. Any order, requirement, decision or determination of the Building Inspector made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), in determining whether or not any variance will be contrary to the spirit of this Ordinance, the Board of Adjustment shall consider the following:
 - 1. That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense
 - 2. That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - ~~3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~C. The Zoning Board of Adjustment shall notify the applicant in writing that:

 - 1. The issuance of a variance to construct below the base flood elevation will result in increased premium rates for flood insurance; and
 - 2. Such construction below the base flood elevation increases risks to life and property.
 Such notification shall be maintained with a record of all variance actions.~~
- ~~3.~~
- ~~G.D.~~ The community shall maintain a record of all variance actions, including their justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

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THIS IS A TRANSFER TO AN INSTRUMENTALITY OF THE STATE AND IS EXEMPT FROM THE NEW HAMPSHIRE REAL PROPERTY TRANSFER TAX PURSUANT TO RSA 78-B:2, I. THIS TRANSFER IS ALSO EXEMPT FROM THE LCHIP SURCHARGE PURSUANT TO RSA 478:17-g, II(a).

CONSERVATION EASEMENT DEED

WE, KENNETH R. MERRILL AND CAROLINE J. SCHULZE, husband and wife, with a mailing address 587, Mammoth Road, Londonderry, NH 03053 (hereinafter referred to as the "Grantors,") which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Landowner's administrators, legal representatives, successors, assigns, and agents),

for consideration paid, with WARRANTY covenants, grants in perpetuity to

the **TOWN OF LONDONDERRY**, a municipal corporation duly organized and existing under the laws of the State of New Hampshire, with a principal place of business at 268 B Mammoth Road, County of Rockingham, State of New Hampshire, 03301-5400, hereinafter referred to as the "Easement Holder" which shall, unless the context clearly indicates otherwise, include the Easement Holder's successors, assigns, and agents,

the **CONSERVATION EASEMENT** (herein referred to as the "Easement") hereinafter described with respect to that certain parcel of land (herein referred to as the "Conservation Area") being unimproved land, consisting of approximately 20.79 acres, more or less, situated on Mammoth Road in the Town of Londonderry, County of Rockingham, State of New Hampshire, shown as a part of Map 17, Lot 10 on a survey plan entitled "Lot Line Adjustment Lands of Merrill and Smith Assessor's Map 017 Lots 010 & 011 Mammoth Road, Londonderry, NH" prepared James E. Franklin, LLC, last revised June 3, 2010, and recorded as Plan No. D-36397 on June 10, 2010, at the Rockingham County Registry of Deeds, more particularly bounded and described in Appendix "A" attached hereto and made a part hereof,

The Grantors and the Easement Holder (hereinafter the "Parties" hereby acknowledge that the Easement hereby granted is pursuant to NH RSA 477:45-47.

The Conservation Area includes the following significant recreational, natural habitat, open space, scenic, and conservation attributes which are protected by the terms of this Easement (hereinafter “Conservation Attributes”) and which, along with other present conditions of the Conservation Area, are further described and set forth in a Baseline Documentation Report developed and maintained by the Easement Holder, with copies on file with the Easement Holder, the terms of which are incorporated herein by reference. The Parties acknowledge that environmental or other conditions that sustain the Conservation Attributes may change over time, and that the resulting change or disappearance of any given Conservation Attribute does not necessarily negate the significance or public benefit of the others. Similarly, the Parties acknowledge that the Conservation Area may have certain significant conservation features as of creation of this Easement whose presence is unknown as of that time but may be discovered later. Additionally, certain significant conservation features may arrive to and become established on the Conservation Area after creation of this Easement. In either case, such conservation features are not specifically identified in the following description of Conservation Attributes and are worthy of permanent conservation or protection consistent with the Purposes of this Easement as below. Accordingly, the Parties agree that, upon the appropriate documentation of such features as a supplement to the Baseline Documentation Report, such features shall be considered part of the Conservation Attributes to be conserved or protected prospectively by this Easement.

Conservation Attributes:

- **Aquatic Resources.** The Conservation Area has an intermittent stream that originates in a forested wetland partially on the Conservation Area, flows across the western portion of the Conservation Area into an emergent scrub/shrub wetland just west of the Conservation Area; this stream because a tributary of the Little Cohas Brook and Marsh, which are highly ranked habitat in the NH Wildlife Action Plan.
- **Community Educational, Scientific, and Recreational/Scenic Resources** – The Conservation Area provides access to the summit of “Merrill Hill” with views as far as Mount Monadnock and the intervening countryside. The variety of habitat types in a small area supports instruction in natural history.
- **Wildlife Habitat** – NH Wildlife Action Plan habitat types include hemlock-hardwood-pine; grassland and Appalachian oak-pine.
- **Uncommon Species.** The following species were reported by the NH Natural Heritage Bureau (NHNHB) near the Conservation Area: Blandings Turtle (*Emydoidea blandingii*), Eastern Hognose Snake (*Hererodon platirhinos*), New England Cottontail (*Sylvilagus transitionalis*), Smooth Green Snake (*Opheodrys vernalis*), and Spotted Turtle (*Climmys guttata*).
- **Regional Connectivity** - The Conservation Area appears on the NH Fish & Game connectivity map as an important wildlife corridor.
- **Water quality and Supply.** The Conservation Area lies entirely in the Pennichuck Waterworks SWPA (Master ID 18579) serving 87,923 people. The Little Cohas enters the Merrimack River just north of the Pennichuck intake. The Conservation Area abuts the Holton Wellhead Protection Area.

- **Regional Conservation Priority:** The US Department of Agriculture has identified the Merrimack River as the most at-risk river in the nation from loss of forest land. Little Cohas Brook flows directly into the Merrimack.
- **Historic/Cultural Value:** The Conservation Area includes a portion of the original Mammoth Road, marked by stone walls, and constructed in about 1836.

The Conservation Attributes are jeopardized by development pressures in the vicinity of the Conservation Area. In addition, said Conservation Attributes would be endangered or otherwise jeopardized by forestry or agricultural activities or other alterations of terrain, habitat, or water systems which are not conducted in accordance with best management practices.

1. PURPOSES

In order to conserve and protect the Conservation Attributes, the Landowner hereby grants this Easement pursuant to NH RSA 477:45-47, exclusively for the following conservation Purposes (herein referred to as the “Purposes”) for the public benefit:

- A. The protection of the natural habitats or ecosystems found on or otherwise supported by the Conservation Area as documented in the Conservation Attributes set forth above and in the Baseline Documentation Report which is on file at the office of the Easement Holder and is incorporated herein in full;
- B. The conservation of open spaces, particularly the Conservation Area’s productive forest land, the protection of the Conservation Area’s productive soils, and the protection of the Conservation Area’s capacity to produce economically valuable forestry products;
- C. To restore, protect, manage, maintain, and enhance the functional values of wetlands, streams, surface and ground water, and other lands, and for the conservation of natural values including wildlife and their habitat, ecological integrity of the water resources, water quality improvement, flood water retention, groundwater recharge, and open space; and.
- D. The protection of the Conservation Area for the general public’s use for outdoor recreational and educational purposes, to the extent that these purposes will have minimal impact on the Conservation Attributes and the forestry uses of the Conservation Area.

These Purposes are consistent with the clearly delineated open space conservation goals and objectives as stated in the 2013 Master Plan of the Town of Londonderry, which states:

"Protecting open space provides intrinsic value, clean and abundant water, recreational opportunities, and scenic views for Londonderry’s residents and visitors. Though a great number of local farms and natural areas are protected through agricultural easements and/or Town ownership, not all land in Londonderry with valuable natural resources is safe from development. Londonderry’s 2010-11 Open Space Task Force identified a list of high priority parcels for future protection that are consistent with the Town’s green infrastructure and local resource priorities.”

All of these Purposes are consistent with the U.S. Internal Revenue Code, Section 170(h), and with NH RSA 227-M which states:

“The intent of the Program is to conserve and preserve this state’s most important natural, cultural and historical resources through the acquisition of lands and cultural and historical resources, or interests therein, of local, regional and statewide significance, in

partnership with the state’s municipalities and the private sector, for the primary purposes of protecting and ensuring the perpetual contribution of these resources to the state’s economy, environment and overall quality of life”;

and with New Hampshire RSA Chapter 79-A:1 “Declaration of Public Interest,” which states:

“It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources;” and which also states, relative to the Conservation Area’s acreage being enrolled in the Current Use Assessment Program: “It is further declared to be in the public interest to prevent the loss of open space due to Conservation Area taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens. The means for encouraging preservation of open space authorized by this chapter is the assessment of land value for Conservation Area taxation on the basis of current use.”

2. **USE LIMITATIONS** (Subject to the reserved rights specified in Section 3 below)

The Conservation Area shall be maintained in perpetuity as undeveloped open space in a manner that is not detrimental to or inconsistent with the Purposes of this Easement. Accordingly, the Conservation Area shall be subject to all the following Use Limitations, more than one of which may apply to any given use or activity and if so, with the more stringent controlling:

A. There shall not be conducted on the Conservation Area any industrial or commercial activities, except forestry (including timber harvesting), small animal husbandry consistent with the Town’s Zoning Ordinance, agriculture as described below, and provided that the productive capacity of the Conservation Area to yield forest or agricultural crops shall not be degraded by on-site activities.

i. Definitions:

a. Forestry: For the purposes of this Easement, “forestry” shall include the production of plant products for domestic or commercial purposes; the growing of forest trees of any size capable of producing timber or other forest products; the construction of roads or other access ways for the purpose of removing forest products from the Conservation Area; and the sale of products produced on the Conservation Area (such as firewood and maple syrup), all as not detrimental to the Purposes of this Easement.

b. Agriculture: The production, cultivation, growing, or harvesting of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees or tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any plant that can be legally grown or harvested extensively for profit or subsistence.

c. Small animal husbandry: the production and care of domestic animals no larger than goats or sheep raised for meat, fiber, milk, or other products.

- ii. Agriculture on the Property shall be performed, to the extent reasonably practicable, in accordance with a coordinated management plan for the sites and soils of the Property, and in accordance with the then-current, scientifically-based practices recommended by the U.S. Cooperative Extension Service, U.S. Natural Resource Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active. Management activities shall not materially impair the scenic quality of the Property as currently viewed from public roads, or public trails, nor shall it be conducted within 100 feet of the historic Mammoth Road or within 100 feet of streams or wetlands as shown in the Baseline Documentation.
- iii. Forestry for industrial or commercial purposes shall be performed, to the extent reasonably practicable, as hereinafter specified in accordance with the following goals, and in a manner not detrimental to the Purposes of this Easement.
 - a. The goals are:
 - protection of wetlands, vernal pools, riparian buffer zones, and water quality;
 - maintenance of soil productivity;
 - protection of unique or fragile plants or natural areas;
 - conservation of native plant and animal species;
 - maintenance or improvement of the overall quality of forest products;
 - protection of unique historic and cultural features, specifically those noted in the Baseline Documentation Report.
 - b. Such forestry for industrial or commercial purposes shall be performed in accordance with a written forest management plan consistent with this Easement, prepared by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder (the "Forest Management Plan"). Said Plan shall have been prepared not more than fifteen (15) years prior to the date any harvesting is expected to commence or shall have been reviewed and updated as required by such a forester or other qualified person at least thirty (30) days prior to said date.
 - c. At least thirty (30) days prior to harvesting, the Landowner shall submit to the Easement Holder a written certification, signed by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder, that such Forest Management Plan has been prepared in compliance with the terms of this Easement and a summary of the proposed commercial harvest. Upon request by the Easement Holder, the Landowner shall submit the said Forest Management Plan itself to the Easement Holder within ten (10) days of such request, with the Easement Holder's acknowledgment that the said Plan's purpose is to guide forest management activities in compliance with this Easement, and that the actual activities will determine compliance therewith.
 - d. Forestry Management Planning
 - I. Timber harvesting with respect to such forestry shall be conducted in accordance with said plan and be supervised by a licensed professional

forester, or by other qualified person approved in advance and in writing by the Easement Holder.

- II. Riparian buffers and wetlands shall be marked in the field by a licensed professional forester, or by other qualified person approved in advance and in writing by the Easement Holder prior to timber harvesting.
- III. Such forestry shall be carried out in accordance with all applicable local, state, federal, and other governmental laws and regulations, and, to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Conservation Area. For references, see “Best Management Practices for Erosion Control on Timber Harvesting Operations in New Hampshire 2004,” and “Good Forestry in the Granite State: Recommended Voluntary Forest Management Practices for New Hampshire” (Good Forestry in the Granite State Steering Committee, 2010), or similar successor publications.

e. The Forest Management Plan shall include:

- I. Explanation of how significant wetlands, riparian buffer areas, vernal pools, and soils will be protected in association with road construction, other soil disturbing activities, and the implementation of stand prescriptions;
- II. A statement of landowner objectives;
- III. A map showing soil types as determined by the U.S. Natural Resources Conservation Service, access roads, significant wetlands, vernal pools, and surface waters;
- IV. A Map showing existing infrastructure such as forestry/access roads, landings, gates, sand pits, culverts, bridges, river access locations, parking areas or other known structures;
- V. Forest type map showing stands related to the prescriptions provided in the Plan; and
- VI. Prescriptions for each described stand, including commercial and non-commercial treatments;
and shall specifically address:
 - the accomplishment of those Purposes for which this Easement is granted;
 - the goals in Section 2.A.iii.a above;
 - maintenance of a buffer of 100 feet from the wetland edge as described in Section 2.A.iii.d.II, above; and
 - maintenance of a buffer of 200 feet around all documented Vernal Pools.

iv. Small animal husbandry shall be conducted in accordance with the NH Department of Agriculture, Food, and Markets publication “Best Management Practices for Agriculture in New Hampshire,” or successor publication.

B. Subdivision & Separate Conveyance. The Conservation Area shall not be subdivided so as to create additional or reconfigured municipally approved lots (including by boundary or lot line adjustment), and none of the lots, tracts, sites, or other divisions of land which together may comprise the Conservation Area shall be conveyed separately from one another. However, as exceptions to this use limitation only, the Landowner shall be permitted to:

- i. Adjust internal boundaries of lots or tracts comprising the Conservation Area only so long as said adjustment does not alter the perimeter boundary or ownership of the Conservation Area;
- ii. Rent or lease any or all of the Conservation Area for a use or activity permitted by this Easement;
- iii. Subdivide (including by boundary or lot line adjustment) and convey any physical portion of the fee interest in the Conservation Area to a public agency or qualified organization described in Section 5. “Burdens & Benefits,” below (hereinafter “Qualified Holder”) as an addition to an existing, abutting conservation area held in fee by said entity or organization, but only under the following conditions:
 - a. The Landowner obtains advance written approval of such conveyance by the Easement Holder after the latter finds, in its sole discretion, that the proposed conveyance is consistent with the Purposes of this Easement;
 - b. Fee interest in the premises so conveyed shall continue to be held only by a Qualified Holder;
 - c. The Landowner ensures the recording of a survey plan of the area being subdivided or conveyed;
 - d. The premises so conveyed shall continue to be subject to the terms and conditions of this Easement. Any reference to the “Landowner” in this Easement shall refer to the owner(s) of each of the resulting tracts, shall apply to the owner(s) of each tract as the time, facts, and circumstances may indicate and require, and shall not create an obligation upon, or require the participation of, the owner(s) of the other tract(s) if the particular matter at issue does not involve the owner(s) of the other tract(s); and
 - e. The deed(s) for any conveyance of fee title to a subdivided or separately conveyed portion of the Conservation Area shall contain a specific reference to this Easement and a statement confirming what portions of certain allowable, numerical limits described in this Easement, such as but not limited to those for impervious surfaces (Section 2.C.ii.), certain covered structures (Section 2.C.iii.b.), sand or gravel extraction operations (Section 2.E.iv), renewable energy production facilities (Section 3.A.ii.), and commercial activities with *de minimis* impacts (Sections 3.B.i.f.) are applicable and allocated to the conveyed premises relative to the total of such limits applicable to the entire Conservation Area as of execution of this Easement.

There shall be no limit on the number of times the Landowner may exercise the rights

described in the provisions of Sections 2.B. i-iii. above nor on the number of separately conveyable interests or lots resulting therefrom. Nothing in this Section B shall be interpreted to prohibit Grantors from separately conveying the portion of Londonderry Tax Map 17, Lot 10 not included in the Conservation Easement Area.

C. Structures & Improvements. The following provisions shall apply to structures or improvements on the Conservation Area:

- i. No structure or improvement shall be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, above, or below the Conservation Area, except for structures and improvements which:
 - a. Assist in the accomplishment of forestry, agriculture, small animal husbandry, conservation, habitat management, outdoor educational, or outdoor recreational uses on the Conservation Area, which may include but shall not be limited to: permeable roads, fences, bridges, trails, interpretive or directional signage, or boardwalks; this provision does not permit structures intended for overnight recreational use in accordance with Section 2.K., below; and
 - b. Do not cause the total impervious surface coverage of the Conservation Area to exceed 5,000 square feet; for the purposes of this restriction, impervious surfaces are defined as material that does not allow water to percolate into the soil on the Conservation Area. Impervious surfaces include but are not limited to buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Notwithstanding the foregoing, impervious surfaces shall specifically exclude bridges; boardwalks; culverts; impervious surfaces not in place year-round such as tents and awnings; and roadways, or other improvements established on the Conservation Area by third parties exercising lawful rights obtained prior to the date of this Easement; and
 - c. Are not detrimental to the Purposes of this Easement.
- ii. Prior to the Landowner's construction, placement, introduction, enlargement, or relocation of any structure with a footprint exceeding two hundred and fifty (250) square feet, the Landowner must obtain written approval of the same from the Easement Holder. The footprint of any roofed structure shall include the area within the dripline. For an enlargement of a structure, the square footage calculation under this provision shall only be the enlargement and shall not include the original structure.
 - a. At least forty-five (45) days prior to the commencement of any such construction, placement, introduction, enlargement, relocation, or on-site preparation therefor including but not limited to land clearing, the Landowner shall provide the Easement Holder with written notice with details of said structure including but not limited to scope, size, and location, and method and timing of said construction/installation. Within thirty (30) days after Easement Holder's receipt of such notice, the Easement Holder shall inform the Landowner in writing of its approval, approval with conditions, or disapproval of the proposed structure, such approval not to be unreasonably withheld. Any disapproval shall specify the reasons therefor.

iii. Notwithstanding the above provisions of this Section 2.C., there shall not be constructed, placed, introduced, enlarged, relocated, used, maintained, repaired, replaced, rebuilt, or improved on, under, or above the Conservation Area any of the following structures or improvements, including any portion thereof: commercial business facility, dwelling, mobile home, cabin, residential driveway, any portion of a septic system, underground petroleum/gas storage tank, tower, tennis court, swimming pool, athletic field, golf course, or aircraft landing area.

D. **Signs & Outdoor Advertising Structures.** No outdoor advertising structures shall be displayed on the Conservation Area except as desirable or necessary in the accomplishment of the forestry, agriculture, small animal husbandry, conservation, or outdoor recreational or outdoor educational uses of the Conservation Area, and provided such structures are not detrimental to the Purposes of this Easement. No sign on the Conservation Area shall be artificially illuminated.

E. **Soil Disturbance, Water Manipulation & Extraction, & Topographic Alteration.** No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat, nor any extraction of surface or subsurface water resources, shall be allowed on or under the Conservation Area unless such activities:

- i. are in the accomplishment of agriculture, small animal husbandry, forestry, conservation, habitat management, outdoor recreation, or outdoor education on the Conservation Area; and
- ii. do not significantly impair significant natural communities, or significant plant and animal species or their habitats with such determination of significance and impairment, in the sole discretion of the Easement Holder, to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for the identification or conservation of such communities, species, or habitats; and
- iii. do not significantly impair significant cultural, historical, or archaeological resources with such determination of significance and impairment, in the sole discretion of the Easement Holder, to be based upon information from the New Hampshire State Archaeologist, the New Hampshire Division of Historic Resources, or other party or agency then recognized by the State of New Hampshire as having responsibility for the identification or conservation of such resources; and
- iv. do not degrade or threaten to degrade the quality and sustainable yield of ground and surface water resources associated with the Conservation Area; and
- v. are guided by relevant BMPs; and
- iv. are not detrimental to the Purposes of this Easement.

Prior to commencement of any such activities, all necessary federal, state, local, and other governmental permits and approvals shall be secured.

F. **Mining & Extraction.** There shall be no mining, quarrying, excavation, drilling, or removal (hereinafter referred to as “Extractive Activities”) of surface or subsurface

materials, including but not limited to hydrocarbons, rocks, minerals, gravel, sand, topsoil, or other similar materials (hereinafter referred to as “Extractive Materials”), on, under, or from the Conservation Area, unless Extractive Activities will have a limited and localized impact on the Conservation Area, shall not be irretrievably destructive of the Conservation Attributes, shall not be detrimental to the Purposes of this Easement, and all of the following additional conditions are met:

- i. Said Extractive Activities shall be undertaken in furtherance of improvements made on or to the Conservation Area pursuant to and consistent with Sections 2.A. “Forestry,” 2.C. “Structures & Improvements,” and 2.E. “Soil Disturbance...,” and shall be guided by relevant BMPs;
- ii. No Extractive Materials shall be removed from the Conservation Area, except with advance written approval of the Easement Holder.

G. **Disposal.** There shall be no dumping, disposal, or burning on, above, or below the Conservation Area of man-made materials or materials then known to be environmentally hazardous, except as may be permitted elsewhere in this Easement, and except man-made materials as may be permitted by advance written approval of the Easement Holder following receipt from the Landowner of a proposed plan for said disposal and following determination by the Easement Holder, in its sole discretion, that the implementation of said plan would not be detrimental to the Purposes of this Easement, nor significantly impair the Conservation Attributes.

H. **Landowner’s Conveyance of Right of Way or Easements** - No rights-of-way or easements of ingress or egress in favor of any third party shall be created or developed into, on, over, or across the Conservation Area without the prior written approval of the Easement Holder, except those of record as of the execution of this Easement and those specifically permitted in the provisions of this Easement. Notwithstanding the foregoing, any application by the Landowner for enrollment in, release from, or other change with respect to N.H. Current Use Assessment under RSA 79-A or N.H. Conservation Restriction Assessment under RSA 79-B, both as may be amended from time to time, shall be exempt from this Section 2.H.

I. **Use of Conservation Area for Developing Other Premises** - The Conservation Area shall not be used to satisfy the density, open space, frontage, setback, or other requirements of any applicable zoning ordinance, subdivision regulation, site plan regulation, or other land and water use regulation of any governmental unit with respect to the development of any other premises, including but not limited to adjacent public waters, in which the Landowner may otherwise have certain rights. Notwithstanding the foregoing, said governmental regulations shall not include those governing N.H. Current Use Assessment under RSA 79-A and N.H. Conservation Restriction Assessment under RSA 79-B, both as may be amended from time to time.

J. **Boundary Markers.** The Landowner shall not move, remove, or alter iron rods, stone piles, stone bounds, or other monuments or markers designating a point or witness point in association with the legal boundary of the Conservation Area except as permitted by RSA 472:6 (“Removing or Altering Boundary Markers”) as may be amended from time to time.

K. **Public Access.** - Pursuant to RSA 227-M:15, there is hereby conveyed the right of pedestrian access to, on, and across the Conservation Area by members of the public for hunting, fishing, and transitory passive recreational purposes (but not camping or other overnight use unless approved in writing by the Grantors and copied to the Easement Holder), except that either the Easement Holder or Landowner may post against or limit such access, if such activities become inconsistent with the purposes for protecting the Conservation Area and/or when public safety would be at risk. Notwithstanding the above, Easement Holder or Landowner shall have the right to post the Conservation Area against:

- i. vehicles, motorized or otherwise,
- ii. access to forest land during harvesting, establishment of plantations or other active management activities,
- iii. access to the interior of any buildings or structures on the Conservation Area,
- iv. access by members of the general public during an emergency situation, but only for so long as the emergency situation exists and subject to the posting entity providing notice of such temporary posting to the other Party at the earliest practicable time, and
- v. access to locations within the Conservation Area that become subject to incidents of problematic or abusive uses or behaviors by said public that are detrimental to the Purposes of this Easement or significantly impairing of the Conservation Attributes and/or where such access would place the public safety at risk, but only after the Landowner obtains Easement Holder's prior written approval of such posting for the purpose of managing such issues for a defined period of time as the Easement Holder and Landowner may agree. Said problematic or abusive uses or public safety concerns may include but shall not be limited to: making of fires, malicious destruction of the Landowner's real or personal property, potential hazards for visitors atypical to a natural and undeveloped setting, or development of unauthorized trails or structures.

However, nothing in the foregoing shall be construed as conveying a right for the public to build trails, install improvements or alter Landowner's property in any way. This right of public access shall not entitle any person to charge others for access to the Conservation Area or programs on the Conservation Area without Landowner's prior approval. Nothing herein shall prohibit either Easement Holder or Landowner from disallowing specific individuals or entities access under lawful court orders or injunctive relief. Neither Easement Holder nor Landowner shall be liable to any user of this right of access for injuries suffered on the Conservation Area unless those injuries are caused by that party's willful or wanton misconduct.

The intent of the Parties is to permit the Landowner to undertake all other uses of the Conservation Area that are not detrimental to the Purposes of this Deed, as determined by Easement Holder, and that are not expressly prohibited herein.

3. **RESERVED RIGHTS OF LANDOWNER**

Notwithstanding any other provision of this Easement, and specifically as exceptions to the restrictions of Section 2. "Use Limitations," above, the Landowner reserves the following rights on, over, and under the Conservation Area:

A. **Educational & Recreational Activities** - Subject to the following conditions, the Landowner or its designee(s) reserves the right to sponsor and conduct educational and recreational activities on the Conservation Area, including but not limited to the hosting of school programs; youth, family, community, and adult environment-related educational and recreational programs; events, demonstrations, classes, studies, ecological experiments, trail races, passive recreation programs (such as birding, hiking, snowshoeing, or cross country skiing tours), or other organized outdoor educational and recreational events, provided such activities shall not be detrimental to the Purposes of this Easement nor materially impair the Conservation Attributes. Landowner or its designee(s) reserves the right to collect fees for such sponsored educational & recreational activities, to include agritourism as defined in RSA 21:34-a,vi; however, the Landowner or its designee(s) shall not charge fees or admission to the general public for access to the Conservation Area for allowed uses as otherwise provided in this Easement that are independent of Landowner's said sponsored educational or recreational activities. The conduct of such sponsored educational or recreational activities shall not be detrimental to the Purposes of this Easement nor materially impair the Conservation Attributes. This provision is an exception to the limitation on commercial activities on the Conservation Area under Section 2.A. above.

B. **Motorized Vehicles and Equipment** – The Landowner reserves the right to operate motorized vehicles, and permit others to operate said vehicles, for the purposes of maintaining, managing and monitoring the Conservation Area, including but not limited to emergency rescue operations, forestry, habitat management, education management, recreation management, small animal husbandry and to control or remove non-native or invasive species.

C. **Trails** - The Landowner shall have the right to clear, construct, relocate and maintain trails for outdoor recreational and/or outdoor educational activities within and across the Conservation Area.

- i. All trails shall be consistent with and not detrimental to the Purposes of this Easement and shall conform to best practices recommended by the State of New Hampshire and Appalachian Mountain Club or similar trail-maintaining organization (For reference, see Appalachian Mountain Club, The Complete Guide to Trail Building and Maintenance, 2017, 5th edition; and State of New Hampshire, Best Management Practices for Erosion Control During Trail Maintenance and Construction, 2017, or similar successor publications).
- ii. The Landowner shall bear the cost of constructing, maintaining, and repairing said trails.
- iii. Included in this Section 3.C is the right to install benches, trail signage, bridges, and other improvements commonly associated with recreational trail usage, including viewing areas, landings, and ramps.
- iv. The Landowner shall notify the Easement Holder in writing at least thirty (30)

days before constructing new trails or relocating existing trails.

This provision is an exception to the limitation on disturbance of soil surfaces on the Conservation Area under Section 2.C. and the movement and excavation of surface and subsurface materials under Section 2.E. above.

D. **Signs** - The Landowner shall have the right to place, maintain, and replace signs on the Conservation Area as follows:

- i. Signs, and/or boundary markings (e.g., metal tags, blazes) to facilitate inspection of the Conservation Area and to identify the Conservation Area as conservation land, said signs or boundary markings located along the Conservation Area's boundaries.
- ii. Signs and kiosk, to identify to the public that the Conservation Area is conserved land as may be required. Said signs shall be located at a visible location on the Conservation Area. The Landowner shall be responsible for ensuring that said sign(s) conform with applicable local, state, and federal regulations and shall bear the cost of installation.

E. **Archaeological Investigations** - The Landowner reserves the right to permit archaeological investigations on the Conservation Area after receiving written approval from the Easement Holder. Prior to permitting any such investigations, the Landowner shall send written notice to the New Hampshire State Archaeologist (or other person or agency then recognized by the State as having responsibility for archaeological resources) for review and comment, and to the Easement Holder, such notice describing the nature, scope, location, timetable, qualifications of investigators, site restoration, research proposal, and any other material aspect of the proposed activity. The Landowner and the Easement Holder shall request the State Archaeologist (or other person or agency, as above) to consider the proposal, to apply the standards as specified in rules implementing RSA 227-C:7 (Permits Issued for State Lands and Waters), as may be amended from time to time, and to provide written comments to the Landowner and the Easement Holder. The Easement Holder may, in its sole discretion, approve the proposed investigations only if it finds that all of the following conditions are met:

- i) The archaeological investigations shall be conducted by qualified individuals and according to a specific research proposal;
- ii) The proposed activities will not harm state or federally recognized rare, endangered, or threatened species, or exemplary natural communities, such determination of harm to be based upon information from the New Hampshire Natural Heritage Bureau, the New Hampshire Fish and Game Department, or the agency then recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
- iii) The proposed activities will not be materially detrimental to the Purposes of this Easement.

4. **SUBSEQUENT TRANSFER, TAXES, & MAINTENANCE**

A. The Landowner shall notify the Easement Holder in writing at least ten (10) days prior to the transfer of title to the Conservation Area or to any portion thereof permitted

hereby. Transfer of title shall include but not be limited to any change in Trustee if the Conservation Area is held in trust. Said notice shall include the name and contact information for the new owner. Further, the Landowner shall make specific reference to this Easement in any deed or other document transferring such title.

B. The Easement Holder shall be under no obligation to maintain the Conservation Area or pay any taxes or assessments thereon.

5. **BURDENS & BENEFITS**

A. The burden of the Easement conveyed hereby shall run with the Conservation Area and shall be enforceable against all future owners and tenants in perpetuity. In the event of any rent or lease of all or a portion of the Conservation Area as permitted by this Easement, the Landowner shall remain responsible for conformance and compliance with all of the terms of this Easement. The benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable, in whole or in part, only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any charitable conservation organization, but only if said governmental or charitable recipient is a “qualified organization” within the meaning of Section 170(h)(3) of said Code (“Qualified Holder”) and thus: has among its purposes the conservation and preservation of land and water areas; agrees to and is capable of protecting the conservation Purposes of this Easement; and has the resources to enforce the restrictions of this Easement. Further, a Qualified Holder must meet the qualifications established in NH RSA 477:46, as may be amended from time to time. Any such assignee’s or transferee’s power of assignment or transfer shall be similarly limited. If the Easement Holder or any Right of Enforcement Holder transfers its interest in this Easement to another Qualified Holder, the transferor shall provide written notice of same to the Landowner and to the other holder(s) of interests in this Easement no later than ten (10) days after the date of said transfer.

B. Notwithstanding any other provisions in this Easement to the contrary, this Easement evidences no intent to, and does not, convey or afford to any parties other than signatories to this Easement any rights herein, including enforcement rights.

6. **AFFIRMATIVE RIGHTS OF EASEMENT HOLDER**

A. **Access to Conservation Area.** The Easement Holder shall have access to the Conservation Area and all its parts for such inspection and documentation (including but not limited to taking photographs and collecting data) as are necessary to determine compliance with and to enforce this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

B. **Review of Ongoing Activities.** In furtherance of the exercise of the Easement Holder’s stewardship obligations under Section 6.A., above, the Easement Holder shall have the right, but not obligation, to review and assess all ongoing activities, uses, and associated impacts on the Conservation Area. Said impacts may include but shall not be limited to impacts which were not anticipated as of the Easement Holder’s earlier issuance of written approval of certain uses or activities, whether due to the accumulation

of impacts over time, or the emergence or detection of impacts for the first time, or otherwise. If the Landowner, or any of his or her agents or representatives such as but not limited to any Qualified Person with respect to forestry, assists the Easement Holder in undertaking such review, for example, by joining in a site visit to the Conservation Area, the rendering of such assistance shall be at the expense of the Landowner. For any activity or use for which the Easement Holder has already provided specific written approval to the Landowner, if the Easement Holder finds upon inspection that said activity or use exceeds what was permitted within said written approval, or that the impacts of said activity or use are significantly impairing Conservation Attributes or are otherwise detrimental to the Purposes of this Easement, the Easement Holder shall have the right to modify or revoke said approval in accordance with the terms of said approval. The Landowner's continuation of any activity or use in excess of what is provided for within said written approval shall not give rise to any claim of prescriptive right or waiver of the terms and conditions of this Easement.

C. **Boundary Signs.** To facilitate such inspection and to identify the Conservation Area as conservation land protected by the Easement Holder, the Easement Holder shall have the right to place and maintain signs, each of which shall not have a face exceeding twenty-four (24) square inches in size, along the Conservation Area's boundaries. Additional signage can be posted to acknowledge the roles of the Easement Holder, and Funders role in protecting the Conservation Area.

7. **RESOLUTION OF DISAGREEMENTS**

A. **Informal Dialogue.** The Landowner and the Easement Holder desire that issues arising from time to time concerning the interpretation of this Easement, or any use or activity on the Conservation Area, will first be addressed through candid and open communication between the Parties rather than unnecessarily formal or adversarial action. Therefore, if either party becomes concerned about whether any proposed or actual use, activity, or failure to take action (which together for the purposes of this Section 8 "Resolution of Disagreements" shall be referred to as the "Activity") complies with this Easement, wherever reasonably possible the concerned party shall notify the other party of the concern, and the Parties shall explore the possibility of reaching an agreeable resolution by informal dialogue.

B. **Mediation.** If informal dialogue does not resolve a disagreement regarding the Activity, and if the Landowner agrees not to proceed or continue with the Activity pending resolution of the disagreement concerning the Activity, either party may refer the disagreement to mediation by written notice to the other. Within ten (10) days of the delivery of such a notice, the Parties shall agree on a single impartial mediator. Mediation shall be conducted in Concord, New Hampshire, or such other location as the Parties shall agree. Each party shall pay its own legal fees and other associated costs, and the costs of mediation shall be split equally between the Parties. NHDES shall not be obligated to engage in mediation under this Section 8.B.

C. **Legal Action.** Notwithstanding the availability of mediation to address disagreements concerning the compliance of any Activity with this Easement, if the Easement Holder believes that some use, activity, or failure to take action of the Landowner or of a third party is causing irreparable harm or damage to the Conservation

Area, or creates an imminent threat of same, the Easement Holder may seek a temporary restraining order, preliminary injunction or other form of equitable relief from any court of competent jurisdiction to cause the cessation of any such damage or harm or threat of same.

8. **BREACH OF EASEMENT – EASEMENT HOLDER’S REMEDIES**

A. **Notification of Breach & Demand for Action.**

- i. If the Easement Holder determines that a violation or breach of this Easement has occurred (which together shall hereinafter be referred to as “breach”), the Easement Holder shall have the rights to provide notice and demand corrective action to cure the breach, except as otherwise provided for in Section 9.J. “Causes Beyond Landowner’s Control,” below. In addition, and only within the context of the preceding sentence, where the breach involves damage, disturbance, or harm (hereinafter referred to as “damage”) to the Conservation Area, the Easement Holder shall have the right to demand corrective action to require the restoration of the portion of the Conservation Area so damaged to its prior condition as of creation of this Easement.
- ii. If the Landowner learns of a breach, or purported breach, from a source other than the Easement Holder, the Landowner shall notify the Easement Holder of same within five (5) days after learning of same.

B. **Performance by Landowner.** Within thirty (30) days after the Landowner’s receipt of such notice from the Easement Holder, the Landowner shall undertake those actions, including but not limited to restoration, which are reasonably calculated to cure swiftly said breach and to repair any damage. The Landowner shall promptly notify the Easement Holder of its actions taken hereunder. If the Landowner believes that said thirty (30) day period is insufficient to accomplish said cure, the Landowner may request an extension of time by submitting to the Easement Holder within ten (10) days after the aforesaid notice a proposed plan of action to cure said breach (hereinafter “Cure Plan”) for the Easement Holder’s review and possible approval. Within fifteen (15) days after the Easement Holder’s receipt of the Cure Plan, the Easement Holder shall approve or disapprove in writing of said plan, and shall so inform the Landowner. Any disapproval shall specify the reasons therefor. If the Easement Holder does not approve of the Cure Plan in its entirety, the Landowner retains the aforesaid burden to cure said breach within the originally established thirty (30) day period.

C. **Failure by Landowner.** If the Landowner fails to perform its obligations under the immediately preceding Section 9.B. “Performance...,” or fails to continue diligently to cure any breach until finally cured, the Easement Holder may undertake any actions, in the Landowner’s name, that are reasonably necessary to repair any damage or to cure such breach, including but not limited to an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Conservation Area to the condition that existed as of creation of this Easement.

D. **Easement Holder’s Remedies.** If the Easement Holder, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant

damage to any Conservation Attribute, the Easement Holder may pursue its remedies under this Section 8 “Breach of Easement...” without prior notice to the Landowner or without waiting for the period provided for cure to expire.

E. **Damages.** The Easement Holder shall be entitled to recover damages from the party directly or primarily responsible for the breach or for damage to any Conservation Attributes protected hereby, including but not limited to damages for the loss of scenic, aesthetic, or environmental attributes of the Conservation Area. Without limiting the Landowner’s liability therefor, the Easement Holder, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Conservation Area.

F. **Easement Holder’s Rights Additive.** The Easement Holder’s rights under this Section 9 “Breach of Easement...” are in addition to the provisions of Section 7 “Resolution of Disagreements,” said Section 7 also applying to any disagreement that may arise with respect to activities undertaken in response to a notice of breach and the exercise of the Easement Holder’s rights hereunder.

G. **Immediate Danger of Irreparable Damage.** If at any time the Easement Holder determines, in its sole discretion, that Conservation Attributes protected by this Easement are in immediate danger of irreparable damage, the Easement Holder may seek the injunctive relief described in Section 9.C. “Failure by Landowner,” both prohibitive and mandatory, in addition to such other relief to which the Easement Holder may be entitled, including but not limited to specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. All of the Easement Holder’s remedies described in this Section 8 “Breach of Easement...” shall be available to the Easement Holder and shall be in addition to all remedies now or hereafter existing at law or in equity.

H. **Costs.** Provided that the Landowner is directly or primarily responsible for the breach, including responsibilities identified in Section 8.J.ii., below, all reasonable costs incurred by the Easement Holder in enforcing the terms of this Easement against the Landowner, including, without limitation, staff and consultant costs, reasonable attorneys’ fees and costs and expenses of suit, and any costs of restoration necessitated by the Landowner’s breach of this Easement shall be borne by the Landowner; however, if the Landowner ultimately prevails in an enforcement action, each party shall bear its own costs. Notwithstanding the foregoing, if the Easement Holder initiates litigation against the Landowner to enforce this Easement, and if the court determines that the litigation was initiated without reasonable cause or in bad faith, then the court may require the Easement Holder to reimburse the Landowner’s reasonable costs and reasonable attorney’s fees in defending the action.

I. **Forbearance by Easement Holder.** No failure, forbearance, omission, or delay by the Easement Holder in exercising any right, power, or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, remedy, power, or privilege hereunder.

J. **Causes Beyond Landowner’s Control.** The Landowner and Easement Holder shall have the following rights and obligations for acts or occurrences on the

Conservation Area that are beyond the direct control of the Landowner.

- i. **Natural Causes.** Nothing contained in this Easement shall be construed to entitle the Easement Holder to bring any action against the Landowner for any damage to, or change in, the Conservation Area resulting from natural causes beyond the Landowner's control, including but not limited to such natural disasters or occurrences as fire, flood, storm, disease, infestation and earth movement, or from any prudent action taken by the Landowner under emergency conditions to prevent, abate, or mitigate significant damage to the Conservation Area or to any party resulting from such causes.
- ii. **Third Parties.** The Landowner is responsible for the acts and omissions of other parties acting on the Landowner's behalf or direction, acting as the Landowner's tenant, or acting with the Landowner's permission, and of other parties encroaching with the Landowner's knowledge, and the Easement Holder shall have the right to enforce against the Landowner for events or circumstances inconsistent with this Easement resulting from such acts or omissions. However, as to the acts or omissions of third parties other than the aforesaid parties, the Easement Holder shall not have a right to enforce against the Landowner unless the Landowner is complicit in said acts or omissions, fails to cooperate with the Easement Holder in all respects to halt or abate the event or circumstance of non-compliance resulting from such acts or omissions, or fails to report such acts or omissions to the Easement Holder as provided for in Section 8.A. "Notification of Breach & Demand for Action."
- iii. **Notice to Landowner.** Upon the Easement Holder's receipt of information concerning a purported breach of this Easement apparently caused by circumstances beyond the Landowner's control, such as but not limited to acts of God and unauthorized actions by third parties, the Easement Holder shall give reasonable notice of same to the Landowner.
- iv. **Remedies.** The Easement Holder and the Landowner reserve the right, separately or collectively, to pursue all legal and equitable remedies, as set forth in this Section 9 "Breach of Easement..." against any third party responsible for any actions inconsistent with this Easement, and, further, prior to either party taking any such separate action, the acting party shall provide timely advance notice and description of said intended action to the other party. Further, the Landowner shall, at the Easement Holder's option, assign the Landowner's right of action against such third party to the Easement Holder, or appoint the Easement Holder as the Landowner's attorney in fact for the purpose of pursuing an enforcement suit or action against such third party.

10. **PROCEEDINGS INVOLVING OTHER PARTIES**

In the event of any legal or administrative proceeding or dispute relating to the Conservation Area and which involves the Landowner and a party or parties other than the Easement Holder, the Landowner shall provide to the Easement Holder prompt notice and, upon the Easement Holder's request, copies of any and all documents relating to any such proceeding or dispute. Further, the Landowner shall give the Easement Holder the opportunity to participate in the defense, settlement, or resolution of any such proceeding or dispute. If the Easement Holder

elects to participate in such proceeding or dispute, no such settlement or resolution shall be agreed to without the prior written consent of the Easement Holder.

11. **NOTICES**

All notices, requests and other communications, required to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested, or by prepaid overnight delivery service providing a signed receipt for delivery, to the appropriate address set forth above or at such other address as the Parties may hereafter designate by notice given in accordance herewith. In addition, acceptable notice shall - include:

- A. Digital forms of written communication, including but not limited to email, with confirmation of delivery by the sender and non-automatic acknowledgment of receipt by the recipient; and
- B. Such other forms of notice as the Landowner and the Easement Holder may agree on from time to time.

Notice shall be deemed to have been given when so delivered or mailed.

12. **SEVERABILITY**

If any provision of this Easement, or the application thereof to any party or circumstance, is found to be invalid by a court of competent jurisdiction, or otherwise, the remainder of the provisions of this Easement or the application of such provision to parties or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

13. **ENVIRONMENTAL RESPONSIBILITIES**

Except as otherwise specifically set forth herein, nothing in this Easement shall be construed as giving any right or ability to the Easement Holder to exercise physical or managerial control of any of the Landowner's activities on the Conservation Area. Under no circumstance shall this Easement be construed such that the Easement Holder shall become an operator with respect to the Conservation Area within the meaning of the Comprehensive Environmental Response Compensation and Liability Act of 1980 as amended ("CERCLA"), or of any other federal, state, or local law or regulation making operators of property responsible for remediation of contamination.

14. **EXTINGUISHMENT & CONDEMNATION**

- A. **Extinguishment.** If an unexpected change in the conditions surrounding the Conservation Area makes impossible or impracticable the continued use of the Conservation Area for the Purposes of this Easement, this Easement can only be extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds from any sale, exchange, or involuntary conversion of all or any portion of the Conservation Area subsequent to such judicial extinguishment, and to which the Landowner and the Easement Holder may be entitled, shall be allocated among the Landowner and the Easement Holder in proportion to their respective interests in the real estate so sold, exchanged, or converted in accordance with Section 14.C. "Valuation & Allocation of Proceeds," below. Each party shall be responsible for covering the expenses of its own actions.

- i. In making this grant of Easement, the Landowner has considered and acknowledges the possibility that uses prohibited by the terms of this Easement may become more economically viable than the uses specifically reserved by the Landowner pursuant to this Easement. Any such change in economic conditions shall not be deemed to be circumstances justifying the extinguishment of this Easement pursuant to this Section 14.A. “Extinguishment.”
- B. **Condemnation.** If all or any part of the Conservation Area is taken, in whole or in part, by exercise of the power of eminent domain by public, corporate or other authority so as to extinguish this Easement, in whole or in part, or if all or a part of the Conservation Area is lawfully sold without the restrictions imposed hereunder in lieu of the exercise, and under the threat, of eminent domain (both subsequently referred to as a “taking”), the Landowner and the Easement Holder, as the holders of the real estate so taken, shall thereupon act jointly to recover the full value of their respective interests in the real estate so taken and to recover all direct or incidental damages resulting therefrom (to be referred to hereinafter as “the Proceeds”). The Proceeds shall be allocated among the Landowner and the Easement Holder in proportion to their respective interests in the taken real estate in accordance with Section 14.C. “Valuation & Allocation of Proceeds,” below.
- C. **Valuation & Allocation of Proceeds.** This Easement constitutes a real property interest immediately vested in the Easement Holder that entitles the Easement Holder to compensation upon the extinguishment or condemnation of any portion of the Easement, determined as follows:
 - i. With respect to a proposed extinguishment, termination, or condemnation action, the Landowner, the Easement Holder, stipulate that the fair market value of the easement as of the time of extinguishment, termination or condemnation is ninety five percent (95%), hereinafter the “Proportionate Share,” of the fair market value of the land unencumbered by this Easement. The Proportionate Share will remain constant over time. Said percentage is obtained by dividing the appraised fair market value of the Conservation Area as of the creation of said easement by the appraised fair market value of the Conservation Area unencumbered as of that same time. Said appraisal was prepared by Kevin McManus of McManus & Nault Appraisal Company, Inc., with effective date of November 1, 2023, a qualified appraiser licensed in the State of New Hampshire, and copies of same have been provided to the Landowner, the Easement Holder, LCHIP and NHDES.
 - ii. If this Easement is extinguished, terminated, or condemned, in whole or in part, then the Landowner must reimburse the Easement Holder, an amount equal to the Proportionate Share of the fair market value of that portion of the Conservation Area subject to said extinguishment, termination, or condemnation and unencumbered by this Easement, only if compensation resulting from said extinguishment, termination, or condemnation and owed to the Easement Holder has first been paid to the Landowner. The fair market value will be determined at the time all or a part of this Easement is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal must be completed by a certified general appraiser and be approved by the Easement Holder.

D. **Use of Proceeds for Conservation Purposes.** The Easement Holder shall use any proceeds received under the circumstances described in this Section 14 “Extinguishment & Condemnation” in a manner consistent with the conservation Purposes of this Easement.

15. **AMENDMENT & DISCRETIONARY CONSENT**

The Landowner and Easement Holder recognize and agree that natural conditions, landscapes, consistency of uses, cultural conditions, and technologies change over time, and that unforeseen or changed circumstances could arise in which an amendment to certain terms or restrictions of this Easement would be appropriate and desirable, or that some activities may require the discretionary consent of the Easement Holder, as further described below. To this end, the Landowner and Easement Holder have the right to agree to amendments to this Easement, and the Easement Holder may exercise discretionary consent, all in accordance with:

- The provisions and limitations of this Section 15;
- The then-current policies of the Easement Holder; and
- Applicable governmental laws, rules, regulations, and guidelines.

Any amendment or exercise of discretionary consent shall:

- Be consistent with the Purposes of this Easement; and
- Not significantly impair Conservation Attributes; and
- Not affect the qualification of this Easement or the status of the Easement Holder under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code of 1986 and regulations promulgated thereunder, and NH RSA 477:45-47, all as may be amended from time to time; and
- Not affect the perpetual duration of this Easement or the perpetual protection of its Purposes.

Any request by the Landowner for an amendment or for discretionary consent shall be in writing and shall describe the proposed amendment or the activity for which consent is sought in sufficient detail to allow the Easement Holder and Right of Enforcement Holders to judge the consistency of the request and of the proposed activity with the Purposes and other terms and conditions of this Easement. To evaluate and then make a determination on the Landowner’s request, the Easement Holder shall have the right to engage independent experts, at the Landowner’s sole cost, necessary for the Easement Holder to evaluate the adequacy of the proposal. If a proposed amendment or exercise of discretionary consent has aspects which, in some respects, would be detrimental to the Purposes of this Easement or would impair the Conservation Attributes, but, in other respects, enhance said Purposes or Conservation Attributes, then the Easement Holder and Right of Enforcement Holders shall evaluate the net effect of such impacts when considering any amendment or exercise of discretionary consent. Nothing in this Section 15 shall require the Easement Holder to consider, negotiate, or approve any proposed amendment or request for discretionary consent. Each Party shall have sole discretion in all of its determinations regarding an amendment of this Easement or discretionary consent therefor.

A. **Amendments.** Any amendment shall be executed by the Landowner and Easement Holder, subject to review by the N.H. Attorney General’s Office, Charitable Trusts Unit as necessary, and shall be recorded in the Rockingham County Registry of Deeds.

B. **Discretionary Consent.** If the Landowner and the Easement Holder agree that any activity otherwise prohibited herein or not contemplated by the Easement is desirable, and if the Easement Holder determines, in its sole discretion, that such activity (i) is not detrimental to the Purposes of the Easement and (ii) would not have more than *de minimis* negative impacts on the Conservation Attributes protected hereby, the Easement Holder may then consent to such activity. The Easement Holder's consent to a proposed use or activity may be limited or restricted in time, locale, or by ownership, and shall be in writing.

C. Notwithstanding the foregoing, the Landowner and the Easement Holder shall have no right or power to agree to any amendment or consent to any activities that would result in the termination of this Easement.

16. **GOVERNING LAW & INTERPRETATION**

This Easement shall be interpreted under and governed by the laws of the State of New Hampshire, and shall be liberally construed to effect the Purposes of the Easement, especially in the case of any ambiguity in the meaning or interpretation of any terms or provisions of this Easement. In the event that any provision or clause in this Easement conflicts with applicable law, such conflict shall not affect other provisions hereof which can be given effect without the conflicting provision. To this end the provisions of this Easement are declared to be severable. See Section 12.

17. **GOVERNMENTAL APPROVALS**

The Landowner shall carry out all activities and uses of the Conservation Area in accordance with all applicable local, state, federal, and other governmental laws and regulations, and shall be solely responsible for securing in a timely fashion all necessary governmental permits and approvals in association therewith; the Landowner's failure to do so shall be a breach of this Easement. Further, the Landowner explicitly acknowledges and accepts the fact that governmental laws or regulations may change, including but not limited to the possibility of said laws and regulations being more limiting of the Landowner's use rights than this Easement.

18. **NO MERGER**

This Easement is to last in perpetuity, and to that end, no conveyance by the Landowner of the underlying fee interest in the Conservation Area, or by the Easement Holder of this Easement, or by the holder of any other third-party interest in this Easement of its interest, to any other party holding an interest in the Conservation Area shall be deemed to extinguish or eliminate this Easement or any portion thereof under the doctrine of "merger" or any other legal doctrine.

19. **HOLD HARMLESS**

The Landowner shall release, hold harmless, defend, and indemnify the Easement Holder, except as provided for in Section 9.J. "Causes Beyond Landowner's Control," from any and all liabilities including but not limited to injuries, losses, damages, judgments, costs, expenses and fees which the Easement Holder may suffer or incur as a result of, arising out of, or connected with: (A) the activities of the Landowner on the Conservation Area, other than those caused by the negligent acts or acts of misconduct by the Easement Holder; or (B) violation or alleged violation of, or other failure to comply with, any state, federal or local law, regulation or requirement by the Landowner in any way affecting, involving, or relating to the Conservation Area.

20. ENTIRE AGREEMENT

This instrument sets forth the entire agreement of the Parties with respect to this Easement and supersedes all prior discussions, negotiations, understandings, and agreements relating to this Easement, all of which are merged herein. The Easement Holder and Landowner by accepting and recording this Easement, shall be bound by, observe, and enforce the provisions hereof and assume(s) the rights and responsibilities herein granted to and incumbent upon the Easement Holder, all in the furtherance of the conservation purposes for which this Easement is delivered.

21. ENVIRONMENTAL WARRANTY

The Landowner warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. The Landowner warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Conservation Area. The Landowner further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect. "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

22. COUNTERPARTS AND EFFECTIVE DATE

This Easement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

This Easement is effective as of the date of the last signature below.

The remainder of this page is left intentionally blank.

KENNETH R. MERRILL

Kenneth R. Merrill

CAROLINE J. SCHULZE

Caroline J. Schulze

**STATE NEW HAMPSHIRE
COUNTY OF MERRIMACK**

This instrument was acknowledged before me on this ____ day of _____
2023 by Kenneth R. Merrill and Caroline J. Schulze. The identity of the subscribing parties were
determined by

(check box that applies and complete blank line, if any):

- My personal knowledge of the identity of said person OR
- The oath or affirmation of a credible witness, _____ (name of
witness), the witness being personally known to me OR
- The following identification documents: _____
(driver's license, passport, other).

Notary Public/Justice of the Peace

(Printed name)

My Commission Expires: _____

ACCEPTED BY THE TOWN OF LONDONDERRY

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2023.

By: _____
Printed Name: Michael Malaguti
Title: Town Manager, Town of Londonderry, NH 03053
Duly Authorized
Date: _____

STATE OF NEW HAMPSHIRE

COUNTY OF ROCKINGHAM

This instrument was acknowledged before me on this _____ day of _____, 2023 by _____,

(name of individuals and titles)

on behalf of the Town of Londonderry Town Council. The identity of the subscribing party was determined by (check box that applies and complete blank line, if any):

- My personal knowledge of the identity of said persons OR
- The oath or affirmation of a credible witness, _____ (name of witness), the witness being personally known to me OR
- The following identification documents: _____ (driver's license, passport, other).

Notary Public/Justice of the Peace

(Printed name)

My Commission Expires: _____ By:

Title: _____
Duly Authorized

Date: _____

**APPENDIX A [TO BE COMPLETED AFTER RECEIPT OF TITLE REPORT]
LEGAL DESCRIPTION OF CONSERVATION AREA**

A certain parcel of land being unimproved land, consisting of approximately 20.5 acres, being a portion of Londonderry Tax Map 17, Lot 10, situated on Mammoth Road in the Town of Londonderry, County of Rockingham, State of New Hampshire, shown on a survey plan entitled "Lot Line Adjustment Lands of Merrill and Smith Assessor's Map 017 Lots 010 & 011 Mammoth Road, Londonderry, NH" prepared James E. Franklin, LLC, last revised June 3, 2010, and recorded as Plan No. D-36397 on June 10, 2010, at the Rockingham County Registry of Deeds (hereinafter "Survey Plan"), and more particularly bounded and described as follows, and all distances being approximate unless otherwise noted:

Beginning at

Thence proceeding N 5°16'44" E 64.18 feet along said stone wall to a NH Highway Bound next to said stone wall;

Thence proceeding _____ to the **point of beginning**.

Comprising 20.5 acres, more or less.

MEANING AND INTENDING to describe a portion of the premises conveyed

SUBJECT TO the Following:

SUBJECT TO, AND WITH THE BENEFIT OF, as the case may be, all easements, restrictions, encumbrances, and other matters of record insofar as the same are applicable to the Conservation Area conveyed herein.

Except as otherwise provided herein, the provisions of this Conservation Easement shall run with the Conservation Area and shall be enforceable against all future owners and tenants in perpetuity.

This is not homestead property. Exempt from transfer tax under RSA 78-B:2, I. Exempt from LCHIP surcharge under RSA 478:17-g, II(a).

Environmental Site Review

1. Project Description

Project Name: Merrill/Schulze Easement

Location: 387 Mammoth Road, Londonderry, NH 03053

Parcel: Map 7, Lot 10

Owners: Kenneth Merrill & Caroline Schulze

Prepared for: Town of Londonderry Conservation Commission

Purpose: Grant of a conservation easement from the owners to the Town of Londonderry

2. Site Information

A. Agricultural Use: None.

B. Forest Management: None. The forest was flattened by the 1938 hurricane and has not been managed since that event. It has regenerated into a largely uniform medium aged hardwood overstory dominated by oak with significant white pine saplings in the understory.

C. Manufacturing: None.

D. Chemical Use: None.

E. Waste/Sewage/Wastewater: None observed or recorded.

F. Buildings/Structures: None.

G. Mining: None.

H. Use of Surrounding Properties: The owners' residence abuts the northeast corner; it is served by an on-site septic system. The remaining land to the north is undeveloped. The land to the west lies down slope and contains a commercial office building, buffered by a narrow wooded area. The land to the south is a orchard and farm owned by the grantors of the easement. The property is bounded on the east by Mammoth Road; on the opposite is other undeveloped land owned by the grantors of the easement.

I. Landowner Interview: Grantors state that the property has been unused and undisturbed during their ownership.

3. Description of Investigation

A. Physical Inspection: Mike Speltz of the Londonderry Conservation Commission conducted a physical inspection of the property on 31 October 2023. He can be reached at 603-432-4121, at 18 Sugar Plum Lane, Londonderry, NH. Over a two hour period he inspected the site beginning at Mammoth road and moving counter clockwise around the property with deviations to inspect the wetland features and height of land.

B. Documents Reviewed: the property file at the Londonderry Town Offices and a search of the property transactions on the online database of the Rockingham County Registry of Deeds. No adverse information was uncovered.

C. Interviews: The owners were interviewed for information on site and use history. Their contact information is above. There were no significant findings.

4. Summary of Finding/Preparer's Recommendation

The property is free of any environmental conditions. The steep terrain limits its vulnerability to groundwater pollution from adjoining properties. There are numerous past environmental incidents within a mile of the property, but no active threats. Like much of western Londonderry the property is exposed to PFAS contamination from the St. Gobain industrial site, however the easement does not allow for groundwater extraction. I recommend the Town proceed with acquiring the easement.

5. Certification by Preparer

I certify that this report is true and correct, based on the information available to me.

By Michael Speltz

Date 14 DEC 2023

Preparer: Michael Speltz

Address: 18 Sugar Plum Lane, Londonderry, NH. 03053

Email: mspeltz@londonderrynh.org

Phone: 603-432-4121

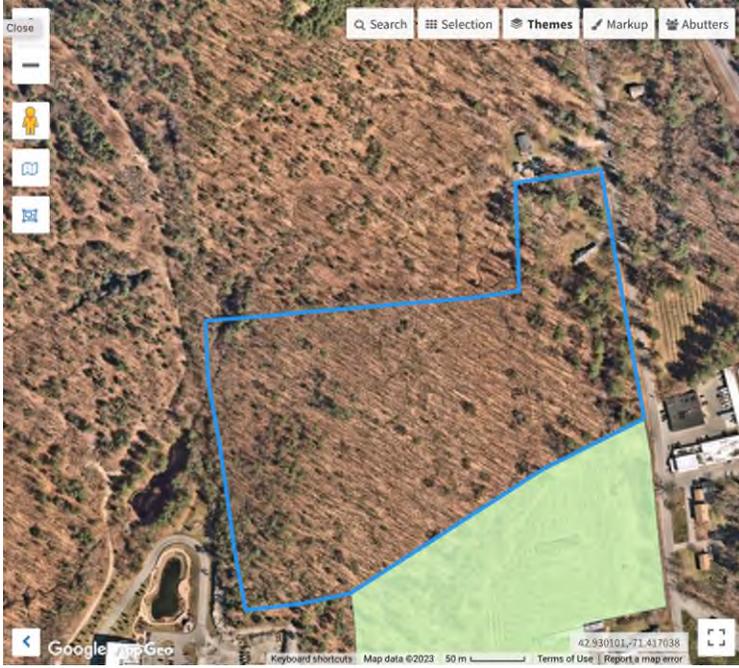
Background: 11 years as a land agent at the Society for the Protection of NH Forests

6. Attachments

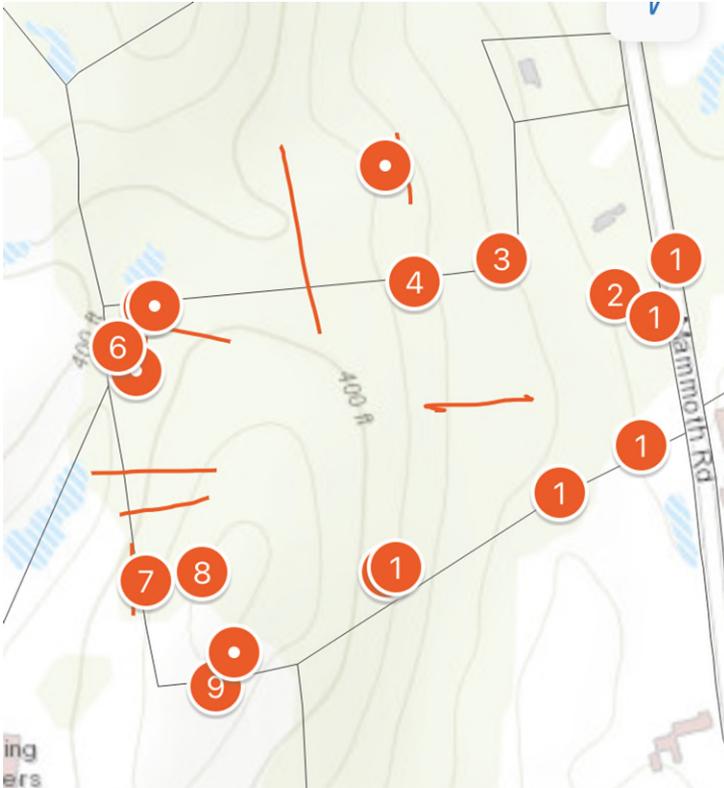
- A. Aerial photograph showing property bounds
 - B. Inspection map showing route followed
 - C. Correspondence from municipal officials
 - D. NH DES OneStop map
 - E. Survey (by reference): See RCRD Plan D-363907; the plan shows no structures, ditches, dumps; no evidence of contamination was discovered and thus not recorded.
-

Attachments

A. Aerial Photo



B. Inspection Route Followed



C. Correspondence from Municipal Officials

Mike:

I also checked with John Trottier on this and we are not aware of any issues with this property.

Thanks,

Bob

Robert (Bob) Kerry
Environmental Engineer
Londonderry Department of Engineering and Environmental Services
268B Mammoth Rd.
Londonderry, NH 03053
P (603) 432-1100 ext. 132
C (603) 548-4858
F (603) 432-1128
rkerry@londonderrynh.org

Mike,

The Town changed our email address so we are just now receiving some old emails. I do not see any issues with this property.

Can you please update my email to bjohnson@londonderryhfire.gov

Thank you,
Brian

Brian G. Johnson
Division Chief of Fire Prevention
Londonderry Fire Department
Phone: 603-432-1124 ext. 316
Email: bjohnson@londonderryhfire.gov
280 Mammoth Rd.
Londonderry, NH 03053
www.londonderrynh.gov

-----Original Message-----

From: Mike Speltz <MSpeltz@londonderrynh.org>
Sent: Wednesday, December 6, 2023 5:17 PM
To: Brian G. Johnson <bjohnson@londonderrynh.org>; Robert Kerry <rkerry@londonderrynh.org>
Subject: Proposed Conservation Easement

Gentlemen, the Town is considering the purchase of a conservation easement from Kenneth Merrill and Caroline Schullze on 20.79 acres of land they own at 387 Mammoth Road, a portion of Map 17, Lot 10. As part of the due diligence prior to the purchase, I would like to know whether you are aware of any environmental contamination or incidents that might affect the condition of the property.

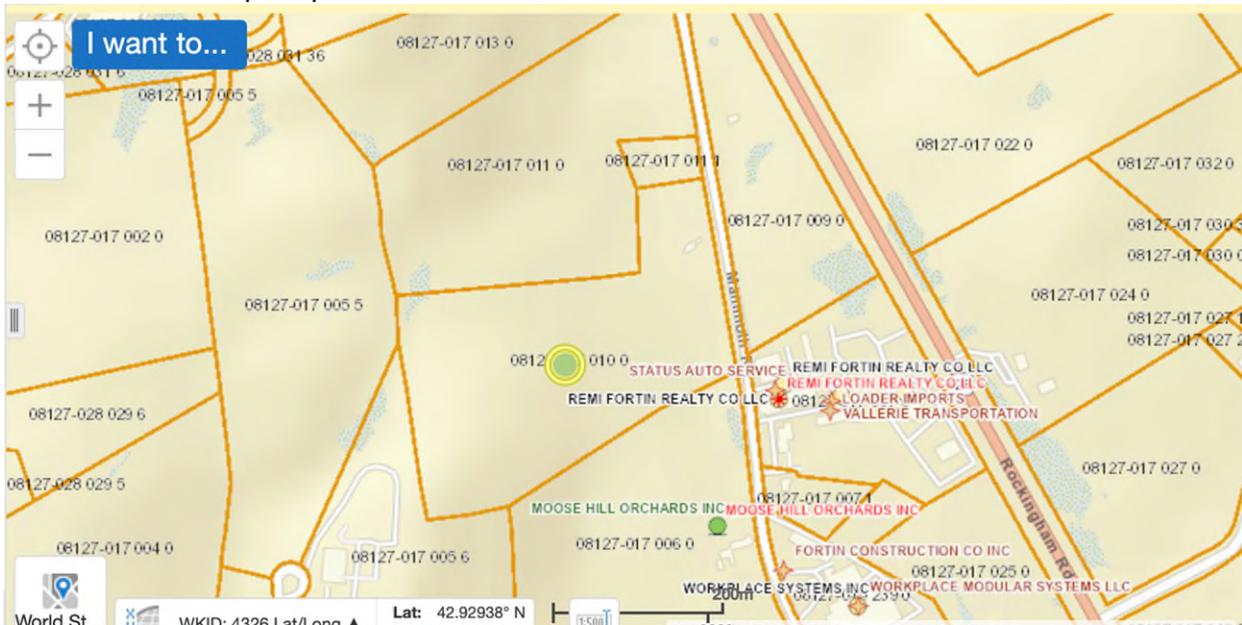
I will attach an aerial and top map showing the location of the property.

Thank you for help on this,

Mike Speltz
Londonderry Conservation Commission

This email was scanned by Bitdefender

D. NH DES OneStop Map



The Remediation site shown as Fortin Realty was for a leaking underground storage tank. The case has been closed by DES. The above ground storage tank site labeled “Moose Hill Orchard” is likely an incorrect reference to the Merrill orchard. DES has closed its investigation of this site.

Conservation Easement Baseline Documentation Report

(To satisfy Treasury Regulation 1.170A-14(g)(5))

Property (“Conservation Area”):

Project Name: Merrill-Schulze Easement
Date Protected:
Acreage: 20.79
Road: Mammoth Road
Municipality/County: Londonderry / Rockingham

Recordation: The Conservation Easement Deed is recorded at the Rockingham County Registry of Deeds at Book_____, Page_____.
The Survey is recorded at Rockingham County Registry of Deeds as D-36397.

Grantors/Landowners:

Name(s): Kenneth Merrill and Caroline Schulze

Address: 587 Mammoth Road

Grantee/Easement Holder: 268 B, Mammoth Road, Londonderry, NH 03053

Land Types: 95% Forestland 00% Agriculture / Fields 00% Other
 5% Wetland 00% Buildings & Grounds

Project Background & Description: The Merrill orchard and farm, abutting the Conservation Area to the south, is subject to a conservation easement from a prior transaction. The Grantors of this easement wish to extend the area of conserved land to the north. The Grantors residence abuts the northeast corner of the Conservation Area. The sale of the easement is funded by the Town of Londonderry Conservation Commission’s Conservation Fund.

The Merrill farm is an important part of Londonderry’s agricultural economy and its cultural history. This new easement extends the protected area around the easement and protects its existing conservation values.

Conservation Attributes of Conservation Area:

- **Aquatic Resources.** The Conservation Area has an intermittent stream that originates in a forested wetland partially on the Conservation Area, flows across the western portion of the Conservation Area into an emergent scrub/shrub wetland just west of the Conservation Area; this stream because a tributary of the Little Cohas Brook and Marsh, which are highly ranked habitat in the NH Wildlife Action Plan.
- **Community Educational, Scientific, and Recreational/Scenic Resources –** The Conservation Area provides access to the summit of “Merrill Hill” with views as far as Mount Monadnock and the intervening countryside. The variety of habitat types in a small area supports instruction in natural history.

- **Wildlife Habitat** – NH Wildlife Action Plan habitat types include hemlock-hardwood-pine; grassland and Appalachian oak-pine.
- **Uncommon Species.** The following species were reported by the NH Natural Heritage Bureau (NHNHB) near the Conservation Area: Blandings Turtle (*Emydoidea blandingii*), Eastern Hognose Snake (*Hererodon platirhinos*), New England Cottontail (*Sylvilagus transitionalis*), Smooth Green Snake (*Opheodrys vernalis*), and Spotted Turtle (*Climmys guttata*).
- **Regional Connectivity** - The Conservation Area appears on the NH Fish & Game connectivity map as an important wildlife corridor.
- **Water quality and Supply.** The Conservation Area lies entirely in the Pennichuck Waterworks SWPA (Master ID 18579) serving 87,923 people. The Little Cohas enters the Merrimack River just north of the Pennichuck intake. The Conservation Area abuts the Holton Wellhead Protection Area.
- **Regional Conservation Priority:** The US Department of Agriculture has identified the Merrimack River as the most at-risk river in the nation from loss of forest land. Little Cohas Brook flows directly into the Merrimack.
- **Historic/Cultural Value:** The Conservation Area includes a portion of the original Mammoth Road, marked by stone walls, and constructed in about 1836.

Buildings, Structures, Improvements & Disturbances:

Buildings, Structures, Improvements-

Old Mammoth Road – stone walls mark the eastern and western sides of the original right of way of Mammoth Road. They extend north-south through the southern two-thirds of the Conservation Area.

Power Lines & Road Right of Ways – The property’s eastern boundary is along the modern right of way of Mammoth Road. There are utility lines that run along Mammoth Road in the Town’s right of way.

Proposed Improvement – The Grantor’s have no current plans to improve the property, however its proximity to the remainder of the farm allows for the expansion of agricultural uses consistent with the terms of the easement.

Boundaries- The property was recently surveyed by abutters to the west and in connection with the land transfers documented by the survey. Corners are all monumented with pins; extensive flagging remains from the survey work.

Certifications

A. Certification of Accuracy – Baseline Preparer

In compliance with Treasury Regulation 1.170A-14(g)(5), this natural resources inventory (Baseline Documentation Report) is an accurate representation of the protected property at the time of the execution of the conservation easement. I certify that I am the principal preparer for this Report based on my field survey(s) occurring on October 31, 2023. The entirety of this Report is intended to aid in the enforcement of the conservation easement.

Mike Speltz, Londonderry Conservation Commission
Baseline Preparer

Qualifications and Experience: 22 years of land conservation experience and a Master's of Science in Environmental Conservation from the University of New Hampshire, in Durham, New Hampshire.

Date: _____

A. Certification of Record – Custodian of Records

I certify that this natural resources inventory (Baseline Documentation Report) was prepared in the Town of Londonderry's regular course of business of creating baseline documentation reports to steward its conservation easement portfolio. This Report was completed shortly after the baseline preparer's final visit to the protected property and just before the closing of the conservation easement. The preparation of this Report complies with the Town's general procedures for creating and maintaining business records and specifically with its procedures for the creation of baseline documentation reports.

X _____

Marge Badois

Custodian of Records for the Londonderry Conservation Commission

Date: _____

B. Certification of Acceptance – Landowner

In compliance with Treasury Regulation 1.170A-14(g)(5), we certify that we have read and independently reviewed this natural resources inventory (Baseline Documentation Report) and certify that it is an accurate representation of the protected property at the time of the execution of the conservation easement. We accept and acknowledge that the entirety of this Report is intended to aid in the enforcement of the conservation easement. Since documentation (information, exhibits, or photographs) for this Report was prepared in advance of the closing and date of the execution of the conservation easement, we further certify that the condition of the protected property as depicted in this Report has not materially changed as of the date of this certification.

X _____
Kenneth Merrill

Date: _____

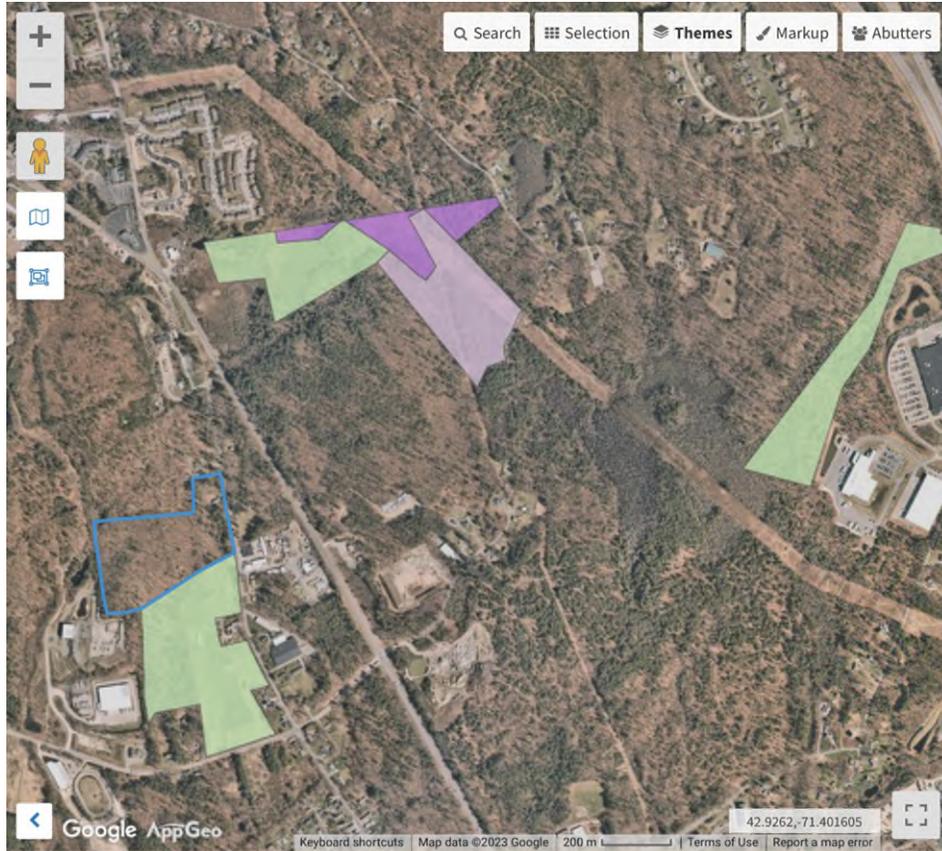
X _____
Caroline Schulze

Date: _____

Exhibits to this Report:

- A: Maps
 - Map 1: Nearby Conservation Lands
 - Map 2: Aerial Image (2023)
 - Map 3: Features (Incl. Exh.B Photopts.), (2019) Aerial Image
 - Map 4: Water Resources & Topography
 - Map 5: NH Wildlife Action Plan--Tier Habitat Rankings
 - Map 6: Land Cover Types (Wildlife Action Plan 2020)
 - Map 7: Soils
- B: Photo Report & Affidavit
- C: Survey Plan recorded as Plan # D-43903 in the Rockingham County Registry of Deeds, by reference
- D: New Hampshire Natural Heritage Bureau Report

Exhibit A, Maps



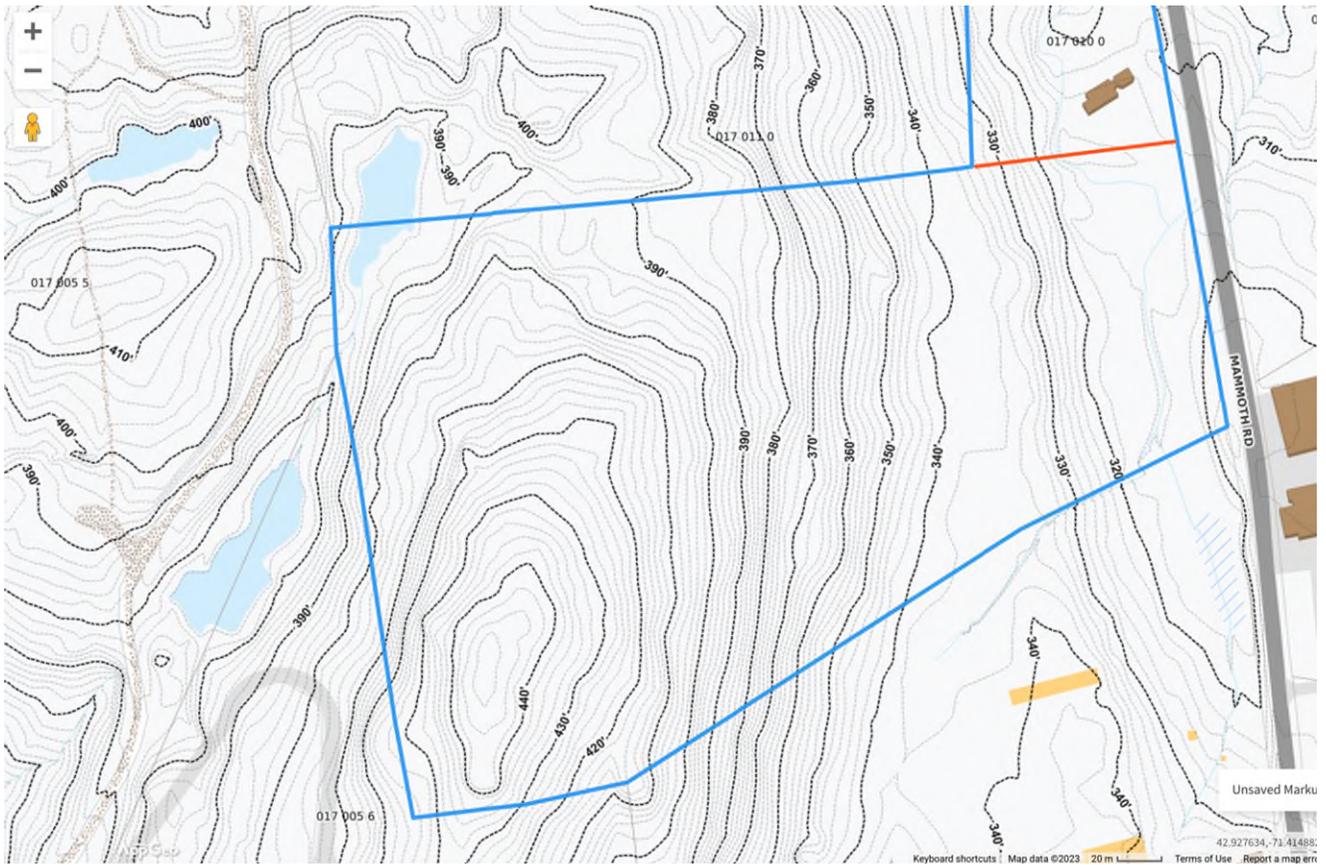
Map 1, Nearby Conservation Lands



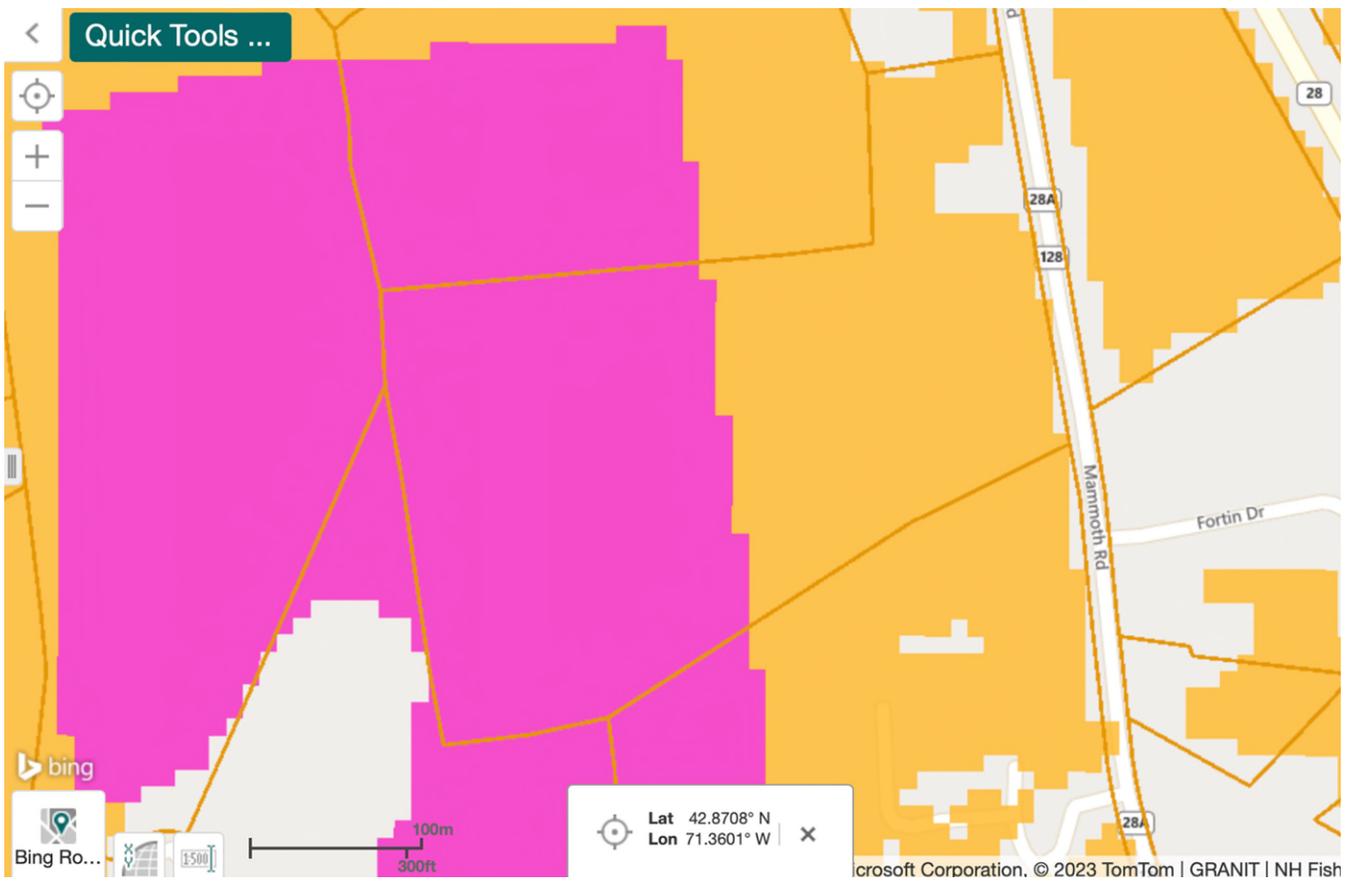
Map 2, Aerial Image



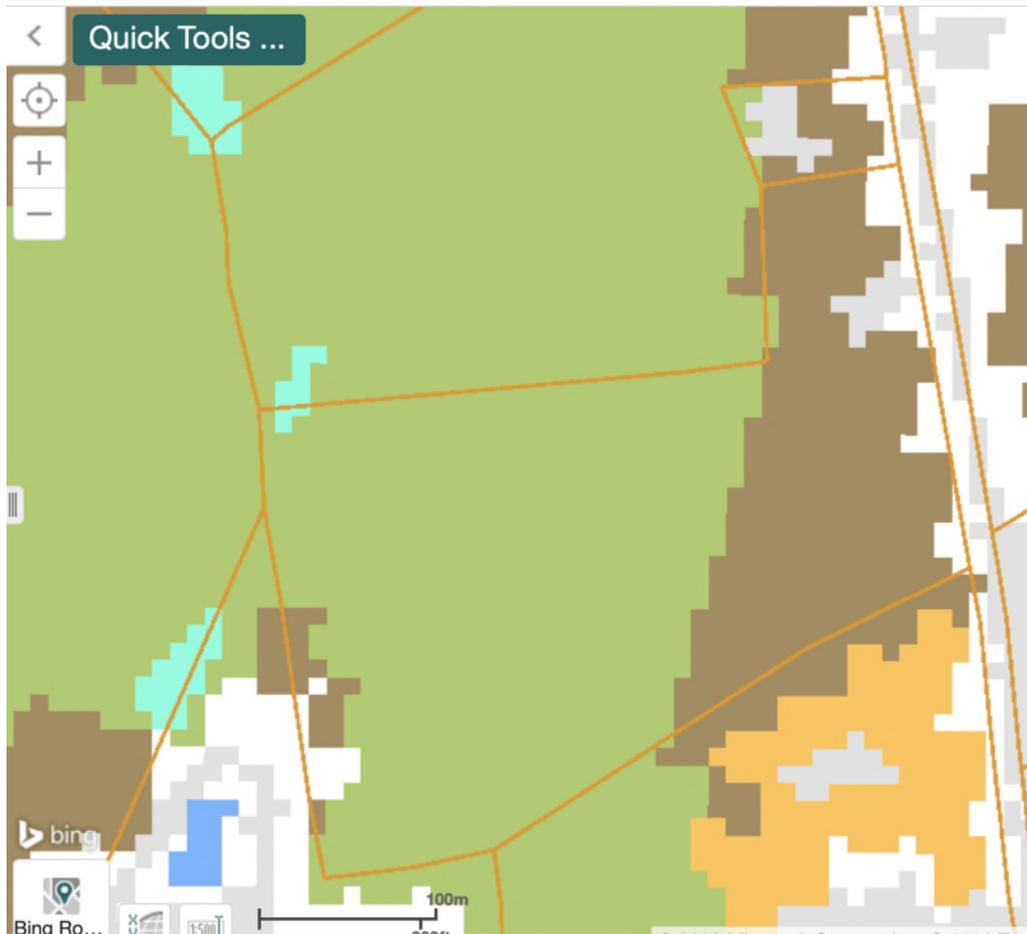
Map 3, Photo Points



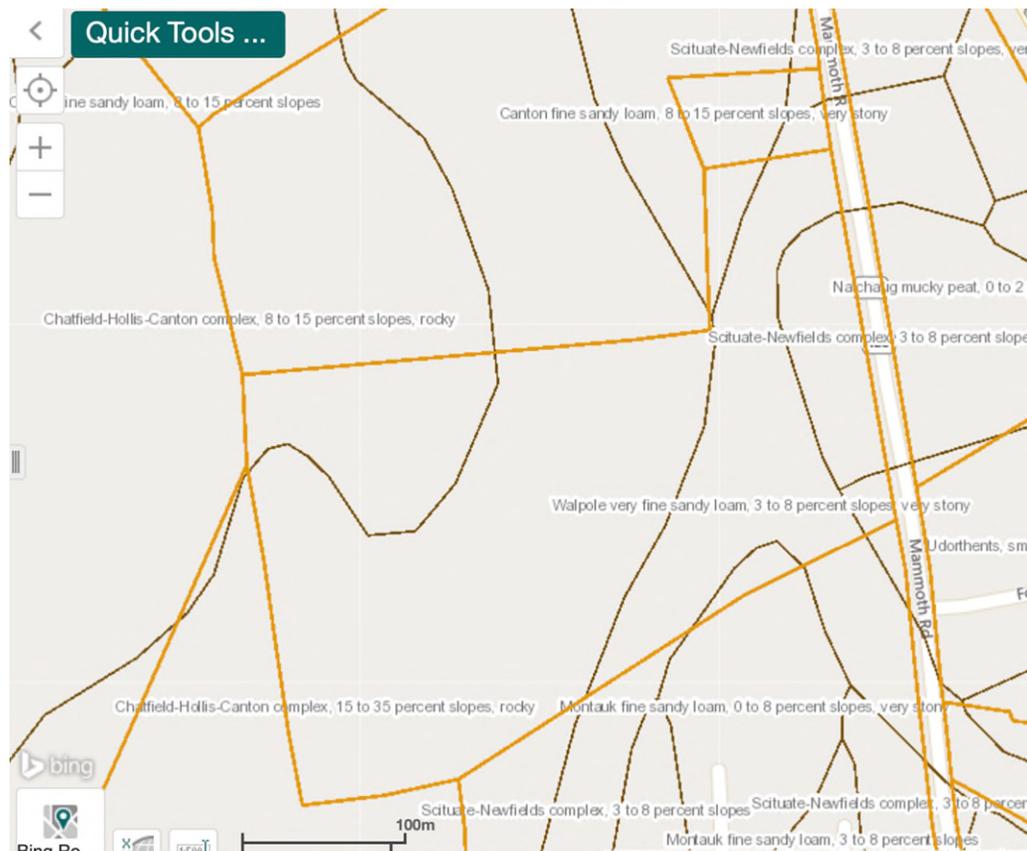
Map 4, Water Resources & Topography



Map 5, NH Wildlife Action Plan (Pink color is best in state, Tier 1; Yellow color is supporting habitat, Tier 3)



Map 6, Land Cover Types (NH WAP 2020; Green is hemlock-hardwood-pine; Brown is Appalachian Oak-Pine)



Map 7, Soils

Exhibit B, Photos and Affidavit



Frontage on Mammoth Road, looking south



Wetland in NW corner



Old Mammoth Road, looking south



View from height of land near western bound



View of farm looking south



Stream channed leading southwest from wetland in northwest corner



S

Small drainage coming off wetland to swale along Mammoth Road



Old Mammoth Road looking north



Developed property to the west; note substantial wooded buffer



Wetland on lower/eastern portion of property

Affidavit: The above photos were taken by Mike Speltz on October 31, 2023, at the locations shown on Map 3, Photo Points. Precise lat/long and time of day are embedded in the metadata of each photo.

By: _____

Mike Speltz
Londonderry Conservation Commission

Date: _____

Exhibit D, NH Natural Heritage Bureau Report

NHB DataCheck Results Letter NH Natural Heritage Bureau Please note: maps and NHB record pages are **confidential** and shall be redacted from public documents.

NH Dept. of Natural & Cultural Resources 3 of 13 Natural Heritage Bureau - Division of Forests and Lands
nhbreview@dncr.nh.gov (603) 271- 2834

NHB Database Records:

The following record(s) have been documented in the vicinity of the proposed project.

Please see the map and detailed information about the record(s) on the following pages.

	State1	Federal	Notes
Vertebrate species			
Blanding's Turtle (<i>Emydoidea blandingii</i>)	E	--	Contact the NH Fish & Game Dept (see below).
Eastern Hognose Snake (<i>Heterodon platirhinos</i>)*	E	--	Contact the NH Fish & Game Dept (see above).
New England Cottontail (<i>Sylvilagus transitionalis</i>)	E	--	Contact the NH Fish & Game Dept (see above).
Smooth Green Snake (<i>Opheodrys vernalis</i>)	SC	--	Contact the NH Fish & Game Dept (see above).
Spotted Turtle (<i>Clemmys guttata</i>)	T	--	Contact the NH Fish & Game Dept (see below).



1024 Suncook Valley Hwy., Unit 5-D
 Epsom NH, 03234
 TEL: 603.736.8500
 www.BergeronProtectiveClothing.com

QUOTATION

No. : 213731

Doc. Date : 11/20/2023
Payment Terms : NET30
Valid Until: 12/29/2023
Customer PO:
Salesperson : Jackson Hillsgrove
Page : Page 1 of 2

Bill To

Londonderry NH Fire Department
 Bruce Hallowell
 280 Mammoth Road
 Londonderry NH 03053

Ship To :

Bruce Hallowell
 280 Mammoth Road
 Londonderry NH 03053

Quantity	Style	Description	Unit Price	Your Cost
5	DG7LMB	Globe G-Xcel Jacket, Agility FreeFAS Color: Dark Gold Glide Ice with Nomex NanoThermal Liner Stedair 4000 Moisture Barrier 3" L/Y NFPA Basic Triple Trim- (R/O Triple Trim for Officers) 2" Scotchlith letters "LONDONDERRY" Row B-(R/O for Officers) Hung Letter Patch for Last Names Zipper In/Velcro Out Closure Kevlar Backed Semi Expansion Pockets 2 x 8 x 8 with Fleece Handwarmers Self Material Mic Strap Above Radio Pocket Survivor Light Holder Right Chest American Flag Left Sleeve Dragon Hide Cuffs Std Collar Loop Std Curved Pocket on Thermal Liner Std Neck Velcro on Collar and Liner Std Drag Rescue Device Black Arashield Pocket Pull Tabs Radio Pocket- Left Chest 3 x 4.5 x 9 Std 3" Trim Over Radio Pocket Std Stored Energy Band Upper	2,155.35	10,776.75
5	N100741	Replace GXL Wristers with GXT Sleevevell	44.72	223.62
5	190549N	Wristers, Nomex Hand and Wrist Guards	7.16	35.80
40	19721	Letter, 3" Scotchlite Location: Hung Letter Patch Add \$4.20 per letter to add name to hung letter patch. For planning purposes this quote uses 8 letters per jacket. L/Y for Firefighters, R/O for Officers	4.20	168.00
5	GGCJN	Globe Guard Component Jacket - Neoprene / Tecasafe Plus	92.93	464.67
5	VELRECONLY	Receiving Velcro for Future Sleeve Patch Location: Right Sleeve	13.00	65.00
5	PATCH	Velcro Shoulder Patch for Dept. Patch	33.00	165.00

*Notice: Products marked as 'Contains PFAS Chemicals' are considered notification; pursuant to NH Law 154:8-c Firefighting PPE. Financing options available on turnout gear purchases. Prices quoted do not include shipping and handling. Shipping is FOB factory. This quote is based on current prices, subject to change by Manufacturer without notice. TERMS NET 30 Days. Add 3% fee when paying via credit card. Exchanges may incur additional handling charges. Late fee 2% per mo. \$25 returned check fee MC/ Visa /Discover accepted.

Quantity	Style	Description	Unit Price	Your Cost
		Location: Right Sleeve		
			Subtotal:	\$11,898.84
5	FG7LMB	Globe GPS Pant, Agility, FreeFAS Color: Dark Gold Glide Ice Nomex Nano Thermal Liner Stedair 4000 Moisture Barrier L/Y Triple Trim Around Cuffs-R/O for Officers Velcro Closure Black Nomex Belt with Wide Belt Loops Dragon Hide Knees and Cuffs Silizone Padded Knees Sewn on Liner Padded Rip-cord Suspenders with L/Y trim, R/O for Officers Right IH Rope Pocket 2 x 10 x 10 Black Arashield Pocket Pull Tabs Kevlar Lined Expansion Pockets Left Expansion Pocket 2 x 10 x 10 with Kevlar Pouch Pocket and Flap Split 1/3 Rear - 2/3 Front Dragon Hide Pocket Reinforcement (Outside)	1,980.45	9,902.27
5	CHS	Globe Firesuits Carabiner Hold Down Strap - - Left Belt Loop	6.25	31.27
5	GGCPN	Globe Guard Components Pant Cuff And Fly - Neoprene/Tecasafe Plus	60.81	304.05
5	N227301-GPS	GPS Pant, Escape Belt Closure	370.14	1,082.66
			Subtotal:	\$11,320.25

Subtotal 23,219.09
Total 23,219.09

*Notice: Products marked as 'Contains PFAS Chemicals' are considered notification; pursuant to NH Law 154:8-c Firefighting PPE. Financing options available on turnout gear purchases. Prices quoted do not include shipping and handling. Shipping is FOB factory. This quote is based on current prices, subject to change by Manufacturer without notice. TERMS NET 30 Days. Add 3% fee when paying via credit card. Exchanges may incur additional handling charges. Late fee 2% per mo. \$25 returned check fee MC/ Visa /Discover accepted.

FIRE TECH & SAFETY OF NEW ENGLAND, INC.
 100 Business Park Dr., Unit 6
 Tyngsborough, MA 01879
 1-800-256-8700 Fax (978) 649-6833



Name / Address
LONDONDERRY FIRE DEPT-NH 280 MAMMOTH RD. LONDONDERRY, NH 03053

Quote

Date	Quote #
10/31/2023	203398

Valid for 15 Days



Project	Terms	Rep
	Net 30	RF

Qty	Description	Unit Price	Total
10	SCOTT X3PSC, 4.5, C5, QD 18 SEMS	7,182.60	71,826.00
10	SCOTT MEDIUM VISION C5	350.00	3,500.00
20	SCOTT 4.5 30 MIN. CARBON CYLINDER	1,115.00	22,300.00
	PRICING COMPLIANT WITH MASS STATE CONTRACT PSE01 - PLEASE SEE FTS TERMS AND CONDITIONS FOR MORE INFORMATION.	0.00	0.00
	MASSACHUSETTS STATE CONTRACT PSE01 FREIGHT EXCEPTION: INCLUDES ALL TRANSPORTATION FEES, HANDLING COST, PRODUCT INSPECTION AND TRAINING. SEE FTS TERMS AND CONDITIONS FOR MORE INFORMATION.	0.00	0.00

Total	\$97,626.00
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Notice: One or more of the products listed above may contain PFAS. For detailed product information please call 800-256-8700.
 Fire Tech & Safety Terms and Conditions: <https://firetechusa.com/FTSTAC.pdf>
 Unless otherwise noted on this quote, freight may be added at time of invoicing as Prepay & Add terms

1 **Londonderry Town Council Minutes**
2 **Monday, December 4, 2023**
3 **7:00 PM**
4 **Moose Hill Council Chambers**

5
6 **Meeting Link:** <http://173.166.17.35/CablecastPublicSite/show/12450?channel=4>
7

8 **Attendance:** Chairman John Farrell; Vice Chairman Chad Franz; Councilors Ted Combes, Jim
9 Butler, and Ron Dunn; Town Manager Michael Malaguti; Assistant Town Manager Kellie Caron.
10

11 **CALL TO ORDER**

12
13 Chairman Farrell called the Town Council meeting to order at 7:00 PM. The Pledge was led by
14 Chairman Farrell. This was followed by a moment of silence led by Chairman Farrell for the
15 families and first responders of Londonderry.
16

17 **PUBLIC COMMENT**

18
19 Chairman Farrell opened public comment.
20

21 **Name:** Brian Chirichiello, Commissioner of Rockingham County

22 **Address:** N/A

23 Chirichiello attended the meeting to provide an update on the county. Chirichiello went over the
24 county budget and provided an overview of what services the county provides. Chirichiello
25 continued by stating the taxation amounts over the years and provided numbers. Chirichiello ended
26 his comment describing the ARPA funds the county received was 60.2 million dollars of which
27 38 million will be used for a new building housing the Sheriff's Department, , Registry of Deeds
28 and County Attorneys. Chirichiello pressed one more point explaining the new building will be
29 powered by 880 solar panels which results in a return on investment of around 22.5 million dollars.
30

31 Chairman Cassidy of the Budget Committee questioned Chirichiello if the Felonies First program
32 was being discontinued and if more cases are coming back to the Town of Londonderry. Town
33 Manager Malaguti explained the Felonies First program ending will only affect where the case
34 starts for prosecution.
35

36 **Name:** Chief Bo Butler

37 **Address:** N/A

38 Chief Butler delivered a command update. Butler explained the LFD looked internally for
39 paramedics for faster turnaround. Butler was happy to report 2 members of LFD graduated
40 Paramedic Training. Butler continued with 2 new fire personnel are going through training and
41 will graduate on January 9th. Butler stated LFD is constructing a training building behind Central
42 Station. It is constructed out of 3 shipping containers. Butler explained he is avidly seeking COVID
43 reimbursement from FEMA. LFD is working to secure \$600,000 from FEMA by auditing calls to
44 provide data supporting the amount of calls related to COVID for the potential reimbursement.
45 Butler ended with announcing some promotions including Fred Heinrich as the new Assistant Fire
46 Chief.

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Name: Jim Green

Address: 22 Sugarplum Lane

Green addressed his support for the Leach Library. Green explained senior citizens are keeping up with a world that is ever changing due to the library staff. Green ended with thanking the Council for their time.

Name: Erin Matlin, Library Director

Address: N/A

Matlin opened her public comment with advocating for the library. Matlin explained the library needs the GMILCS consortium and her job is to advocate for the best services in the community which GMILCS would provide. Matlin shared Londonderry is surrounded by towns who are in the consortium and in her professional opinion it is embarrassing to not be providing the service.

Name: Donna Plante, Assistant Library Director

Address: N/A

Plante added more benefits that were not mentioned in the previous meeting. Some of those included a more detailed description on ILL's and how they can take 1-4 weeks to receive an item that is requested whereas GMILCS would get the material within 1-3 days. Plante explained you can see what materials other libraries have in stock in real time to educate the patrons if they would rather go to a participating library if Leach did not have it in house. She described how GMILCS systems connect with the state whereas their current system does not. Plante explained the Library is taking many steps to save time and money. Plante ended with the community survey shows the public wanted GMILCS.

Name: Megan Donovan

Address: 45 Chase Rd

Donovan shared growing up with a single parent, the library was very influential in her life with the services Leach supplies. Donovan shared she is in favor of the library as well as to please take note of the amount of detail Matlin puts into the library.

Name: Kimberly Bears

Address: 19 Adams Rd

Bears explained she has been apart of consortiums since she graduated high school and that she would have it no other way than the consortium. Bears ended noting the library is a need and thanked the council.

Name: Jessica Butcher

Address: 30 Main St

Butcher expressed her frustrations with the 30 Main Street apartments in regards to the health issue on the 4th floor. Butcher explained there is an active bug infestation with a vile odor being present in the main hallway. Butcher said she personally is getting rid of 30-40 flies a day in her apartment. Butcher thanked Nick Codner for being so helpful and concerned for the issue as well. Chairman Farrell expressed his apologies and told Butcher a health officer, LFD, and LPD will come first thing in the morning to get some answers and this resolved.

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Name: Martha Smith

Address: 38 Shasta Dr

Smith commends the library and expressed her support for Leach. Smith wanted to understand the meaning of the word “floodplain” in reference to the zoning amendment scheduled for a first reading. Chairman Farrell explained that the only thing they will read in the Town Council meeting regarding the Ordinance questioned would be the amendment. Assistant Town Manger Kellie Caron reassured Smith she will provide the definition and answer the questions she has after the meeting.

Name: Amy Evanstino

Address: 6 Willow Lane

Evanstino requested the Town Council move forward with the library’s requested budget. Evanstino said she was surprised when she first moved here the library was not part of the consortium.

Name: Kristine Perez

Address: 5 Wesley Dr

Perez requested if when we post jobs for the Town Hall they can be made public. Town Manager Malaguti shared they do so on multiple outlets. Perez shared concern about the voter checklist and how over the past two months over 1200 names have been removed from the voter list that have been sitting there from 2018-2023 illegally. She stating we know perhaps at least of 90 people who do not live in Londonderry who voted in the 2020 election which is of grave concern. Perez explained she feels this should be updated more often. She stated she is working with the Attorney General on this. Chairman Farrell asked if she’s brought forward these 90 illegal voters to the Attorney General for charges. Perez responded that she’s in the process and indicated her first priority is to ensure the accuracy of the checklist. Chairman Farrell urged Perez to take the matter to the Attorney General.

Cheryl ____. 1:55 (comment about the library)

Name: Kim Bernard, Chief of Police

Address: N/A

Bernard wanted to take some time to acknowledge the outstanding work the LPD have done. Three officers where recognized in North Conway at an event from the New Hampshire Association of Chiefs of Police. Bernard shared the honorable story of the three brave men who stopped an individual from harming anyone and themselves. Bernard thanked the council.

Chairman Farrell closed public comment.

PUBLIC HEARINGS

Resolution #2023-25 – Acceptance of Unanticipated Revenue for Fire Station Training

Vice Chairman Franz moved to open the public hearing. Councilor Dunn seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

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Motion passed 5-0-0.
Battalion Chief Anderson explained the money LFD is receiving is from the State of New Hampshire. The State Fire Academy offers grant funded classes which if approved the money goes back into the general fund.
Vice Chairman Franz moved to approve Resolution #2023-25. Councilor Dunn seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

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Motion passed 5-0-0.
Vice Chairman Franz moved to close the public hearing. Councilor Dunn seconded the motion.

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

153
154

Motion passed 5-0-0.

155

NEW BUSINESS

156

Ordinance #2023-06 – An Amendment to the Londonderry Zoning Ordinance Relative to Section 4.6.3 Floodplain Overlay District (First Reading)

157
158
159

160
 161 **Ordinance #2023-07 – An Amendment to the Londonderry Zoning Ordinance Relative to**
 162 **Adding “Hospital” as a Permitted Use in the Gateway Business District (First Reading)**
 163

164 Vice Chairman Franz moved to waive the first reading. Councilor Combes seconded the motion.
 165

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

166
 167 Motion passed 5-0-0.
 168

169 **Pickleball Taskforce Presentation**
 170

171 Brian Samolyk & Stephen Spaziani approached the Council. Samolyk explained the process. The
 172 Taskforce went through in order to have an appropriate presentation with accurate quotes. Samolyk
 173 continued with describing the trusted advisers they had spoken to including Litchfield Recreation
 174 Commission, PB Association, Hampstead Health & Fitness and Nashua Parks and Recreation. The
 175 Taskforce described other towns’ set ups and emphasized they are NOT tennis courts being
 176 repurposed, rather, they are separate entities. Based on the RFQ sent out there are a total of 7
 177 phases for the project. Samolyk & Spaziani explained there are designs for a 6 court and 10 court
 178 set up and provided numbers. Samolyk stated 6 courts would range between \$360,000 to \$560,000,
 179 whereas 10 courts would range between \$490,000 to \$740,000. Spaziani shared the demographics
 180 of current players and shared there is an uptick in the under 20 crowd which is the fastest growing.
 181 The Taskforce ended with asking for recommendations and thanked the Council. Councilor
 182 Combes commended the Taskforce for their continued work and research.
 183

184 **Budget Workshop Discussion**
 185

186 Justin Campo provided an updated tax rate calculation sheet as well as re organized the budgets to
 187 have less items as one offs. Chairman Cassidy asked if Campo had the numbers for the firefighter
 188 adds. Campo advised it is around \$351,000 and around \$422,000 with overtime for phasing in the
 189 4 positions over one year. If done all at once, the amount changes to around \$465,000 \$559,000
 190 with overtime. This is assuming everything is a family plan with dental and uniform allowances
 191 built in. Campo also brought attention to the prosecutor position. The prosecutor position is a
 192 \$95,000 salary and assuming full benefits on a family plan the total would be \$162,024.11 a year.
 193

194 Chairman Farrell explained how he and Councilor Butler attended the Lions Hall meeting
 195 regarding temporary fixes. Farrell explained the floor can be fixed by filling it which would lead
 196 to stabilization. The second floor will be roped off to avoid ADA and Farrell reiterated they will
 197 have some sort of finalized idea at the end of December. Farrell ended by explaining the bathrooms

198 will be up to code.

199

200 Councilor Butler explained some people want to tear it down and others want to fix it. Butler
201 prefers to fix it due to it being historic. Butler explained he will listen to whatever the public
202 suggests regarding the Lions Hall. Farrell concludes the discussion on Lions Hall by stating they
203 are waiting on pricing before moving forward with anything.

204

205 Town manager Malaguti supplied the 2024 draft warrant articles. Malaguti pointed attention to
206 Article No. 3 in regards to the water infrastructure project. Malaguti summarized the Town would
207 be getting the beginning of a water main for \$2 million since the remaining \$23 million is being
208 covered in other areas. Malaguti explained he spoke with the DES commissioner to apply for a
209 state revolving fund to continue the venture in the future. The commissioner has vowed to support
210 the community and do workshops for education on the matter per Chairman Farrell. It was
211 mentioned Utilities Committee Chair Lynn Wiles is working on a television program on the public
212 access network for the water subcommittee to interview Malaguti on this topic in time for the
213 election and budget process.

214

215 Malaguti continued, referencing Article No. 7 which mentions MS-1 funding. Malaguti explained
216 it requires us to maintain a storm water draining system. It is a legally obligated mandate that the
217 Town is seeking additional funding for. Article No. 14 is the Lions Hall and Malaguti mentioned
218 everything suggested so far is up for discussion. Malaguti shared Pickleball will need to have
219 language as well as headcounts for LPD & LFD.

220

221 The Town Council and the Budget Committee agreed to add warrant articles for Pickleball, 4
222 full-time positions for the Fire Department, and a prosecutor for the Police Department.

223

224 Sarah Meier of the Budget Committee asked if we can put the GMILCS consortium on the ballot.
225 Farrell explained it is a separate form of government and the Trustees can decide what happens for
226 the library.

227

228 Farrell shared the tax bills are late and that the tax bills are going out by the end of the week at the
229 absolute latest. Revaluations used to happen every 5 years but changed to every 2 years to
230 stabilize the valuations.

231

232 **OLD BUSINESS**

233

234 **Old Mammoth Road Calming Measures**

235

236 Councilor Butler started his presentation via PowerPoint for the public. Butler referenced a
237 previous speed enforcement report from 2019. Butler did say to get some updated information he
238 sat at the intersection and watched the traffic. After speaking to the residents and watching the
239 traffic, Butler does think there is a problem. Butler did explain with more people living in town
240 can result in the increase in traffic and to be mindful of that. Butler shared findings with some
241 possible solutions including speed cushions, more stop signs, and a combination of the proposed
242 solutions.

243

244 Malaguti shared staff met with the School District and closing the road would result in longer bus
 245 routes. Chairman Farrell acknowledged the concerns. Butler shared the most economical way to
 246 approach this is to do a hybrid of the options displayed in the PowerPoint. On December 18th's
 247 Town Council meeting the Council will hear proposed recommendation from DPW, Engineering,
 248 LFD, and LPD on the calming measures.

249
 250 Chief Bernard explained the LPD has been out on those roads after the 2019 initial report. Bernard
 251 explained there are over 500 roads in town and they do their very best to protect all roads. As of
 252 April, and November of this year there was directed patrols issued for the concerned streets.

253
 254 Robyn Stewart from 522 Old Mammoth advised the speed bumps may be more dangerous because
 255 people will launch off of them and not slow down. Ryan Gore from 542 Mammoth Rd shared
 256 seeing the amount of speed is scary with children and families living on this street. Gore asked if
 257 it was possible to put a no through traffic sign is an option. Farrell explained signs have to be
 258 enforced.

259

260 **APPROVAL OF MINUTES**

261

262 Vice Chairman Franz moved to approve the November 20, 2023, Town Council minutes as
 263 amended. Councilor Combes seconded the motion. Councilor Butler abstained.

264

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Abstain
Ted Combes	Yes
Ron Dunn	Yes

265

266 Motion passed 4-0-0 with Councilor Butler abstaining.

267

268 Vice Chairman Franz moved to approve the November 20, 2023, unsealed nonpublic Town
 269 Council minutes. Councilor Combes seconded the motion. Councilor Butler abstained.

270

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Abstain
Ted Combes	Yes
Ron Dunn	Yes

271

272 Motion passed 4-0-0 with Councilor Butler abstaining.

273 **REAPPOINTMENTS**

274
 275 Vice Chairman Franz moved to reappoint the health officers. Councilor Combes seconded the
 276 motion.
 277

John Farrell	Yes
Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

278
 279 Motion passed 5-0-0.

280
 281 **OTHER BUSINESS**

282
 283 N/A

284
 285 **Liaison Reports**

286
 287 Councilor Combes inquired whether we are continuing to research the automatic electronic sign
 288 and was informed this will be presented on December 18.

289
 290 Vice Chairman Franz shared the School Board’s update regarding the new purchasing policy
 291 which is on its 4th reading. Franz went into detail of the spending approvals.

292
 293 **Town Manager Report**

294
 295 Mr. Malaguti recognized Kirsten Hildonen for creating the Londonderry Lantern and the great
 296 success it has had.

297
 298 Assistant Town Manager Caron made her report.

299
 300 **MEETING SCHEDULE**

- 301
 302 • January 11, 2023: Moose Hill Council Chambers, 7:00 p.m.

303
 304 **ADJOURNMENT**

305
 306 Vice Chairman Franz moved to adjourn. Councilor Dunn seconded the motion.

307

John Farrell	Yes
--------------	-----

Chad Franz	Yes
Jim Butler	Yes
Ted Combes	Yes
Ron Dunn	Yes

308

309 Motion passed 5-0-0.

310

311 Meeting adjourned at 9:52 p.m.

312

313 Minutes prepared by Cameron Maher

APPLICANTS FOR APPOINTED BOARDS - TERM BEGINNING 1/1/2024

December 18, 2023

BOARD	TOTAL # OF SPOTS	FULL	ALT	TERM END	APPLICANTS
Conservation Commission	4	3	1	12/2026 (all)	Marge Badois* Deb Lievens* Tiffani Macarelli*
Heritage Commission	4	2	2	12/2026 (2 full, 1 alt) 12/2024 (1 alt)	Krys Kenney* David Colglazier* Vickie Bradley (HC or RC)
LHRA	1	1	0	12/2028	Dan Root*
Planning Board	2	2	0	12/2026 (all)	Ann Chiampa* Art Rugg*
Recreation Commission	3	2	1	12/2026 (1 full, 1 alt) 12/2024 (1 full)	Jim Loiselle* Kristina Ciarametaro Vickie Bradley (HC or RC)
Senior Resources	2	1	1	12/2026 (1) 12/2024 (1)	none
Southern NH Planning <i>*goes to Planning Board first</i>	2	0	2	12/2024 (all)	Jeff Penta* Ray Breslin (applied late)
Zoning Board of Adjustment	1	0	1	12/2026	none

(*) indicates sitting member