

To preserve the proper balance, the ordinance should:

- Provide clearer baseline standards for key determinations, particularly community benefit and density bonuses
- Require findings to reference specific ordinance criteria, not just general objectives
- Avoid reliance on purely subjective or open-ended standards

This does not require reducing Board discretion, but rather anchoring it more firmly in the ordinance itself.

Conclusion

The proposed PUD ordinance is a substantial and generally positive modernization. It improves structure, transparency, and alignment with planning goals. However, several areas would benefit from targeted refinement to ensure the ordinance is predictable, enforceable, and legally defensible.

The most immediate areas for revision are the phasing provisions and the calibration of the density bonus framework. The definition and application of “community benefit” and the two-year expiration period also merit adjustment to avoid unintended consequences.

With these refinements, the ordinance will be better positioned to achieve its stated objectives while providing clear guidance to applicants, the Planning Board, and the public.

1. Close the Contiguity Loophole

Draft language: “Parcels separated by a road, right-of-way, utility corridor, waterway...shall be considered contiguous...” (5.2.6(B))

Fix: “Parcels separated by major roads, utility corridors, or rights-of-way shall not qualify as contiguous unless the applicant proves they operate as one unified development with no adverse impacts to traffic, safety, or town services.”

Why: Prevents “patchwork PUDs” assembled solely to meet the 100-acre minimum.

2. Require Independent Fiscal, Traffic & Infrastructure Analysis

The draft requires the Board to consider: “Adequacy of public infrastructure...” and “Fiscal and economic impacts...” (5.2.9(A)(4–5))

Fix: Require independent third-party studies, selected by the Town and paid by the applicant, for:

- Fiscal impact
- Traffic impact
- Water/sewer capacity
- Storm-water & groundwater impacts

Why: Protects taxpayers from hidden long-term costs and prevents developers from self-certifying benefits.

3. Define “Community Benefit” So It Cannot Be Abused

Draft definition: “A measurable, tangible improvement...beyond what would otherwise be required...” (5.2.3)

Fix: “Community benefit shall not include any improvement the developer is required to build to mitigate the project’s own impacts, including but not limited to internal roads, sidewalks, drainage, utilities, traffic mitigation, or other infrastructure necessary for the development to function. These are obligations, not bonuses.”

Why: Prevents developers from claiming required improvements as “benefits” to justify density bonuses.

4. Establish a Minimum 40% Open Space Requirement

The draft defines open space but sets **no minimum** and allows storm-water basins to count.

Fix: Add a new section requiring:

-
- **40% minimum open space**
-
- **At least 50% contiguous**
-
- **No more than 50% wetlands/steep slopes**
-

- **Protected by a recorded conservation easement**

Why: Ensures open space is real, usable, and ecologically meaningful — not leftover scraps.

5. Strengthen Water & Groundwater Protections

Draft only states: “All PUDs must comply with applicable... stormwater and environmental protection.” (5.2.8(D))

Fix: Require:

- Hydrogeologic study
- Groundwater impact assessment
- Stormwater infiltration analysis
- Independent third-party review

Why: Protects wells, aquifers, and drinking water — especially critical as density increases.

6. Make Traffic Mitigation Mandatory, Not Optional

Draft says: “Transportation improvements...may” be required. (5.2.9(B)(7))

Fix:

- Change “may” to “**shall require**”
- Require improvements to be **built and operational** before more than **25% of residential COs** are issued

Why: Prevents hundreds of units from being occupied before roads are upgraded.

7. Tighten Density Bonus Rules

Draft allows: Up to 25% more density (5.2.8(C)(3))

Fix:

- Require independent fiscal analysis showing **net-positive impact**
- Require **quantifiable** community benefits
- Cap density at **7.5 units/acre**
- Prohibit bonuses in environmentally sensitive areas

Why: Prevents runaway density increases and ensures taxpayers aren't subsidizing development.

8. Strengthen Phasing Requirements

Draft says: “A substantial portion” of commercial must be built first. (5.2.4(H))

Fix: “**No more than 25% of residential units may receive certificates of occupancy until at least 40% of the approved commercial square footage has reached active and substantial development, as defined by RSA 674:39 and the Town's Site Plan Regulations.**” “**Failure to meet phasing requirements shall result in automatic suspension of further residential permits until compliance is achieved.**”

Why: Ensures the commercial tax base is delivered — not promised and abandoned.

9. Make Enforcement of Covenants Mandatory

Draft says: Enforcement is “at the Town’s option.” (5.2.8(F))

Fix: “All covenants, restrictions, and easements shall be enforceable by the Town at the developer’s expense.”

Why: Ensures long-term compliance and protects residents.

10. Protect the Conservation Overlay District (COD)

Fix: “No PUD may waive or reduce Conservation Overlay District buffers or protections.”

Why: COD buffers protect wetlands and drinking water — they cannot be negotiated away.

11. Add a Project Timeline / Restart Requirement

Fix: “If a PUD has not commenced active and substantial development within two (2) years of approval, the approval shall expire and the applicant must reapply under the zoning ordinance then in effect. Extensions may only be granted for unforeseen circumstances beyond the applicant’s control and shall not exceed one year.”

Why: Prevents developers from freezing zoning for decades and forces timely project start.

THE FIVE MOST IMPORTANT FIXES (If Time Is Short Tonight)

1. **40% minimum contiguous open space**
2. **Mandatory traffic mitigation & phasing tied to road improvements**
3. **Mandatory hydrogeologic & groundwater studies**
4. **Independent fiscal analysis for density bonuses**
5. **Close the contiguity loophole**

These five alone dramatically reduce overdevelopment risk and protect water, roads, and taxpayers.

Thank you, Mr. Chair.

The PUD ordinance is one of the most powerful tools in our zoning code. It can shape hundreds of acres at a time, and once approved, it locks in development rights for decades.

That means we have one chance — right now — to get this right.

The draft before us is a major improvement, but it still leaves the Town exposed in several critical areas.

The fixes I've proposed tonight are not anti-development. They are pro-taxpayer, pro-infrastructure, and pro-water-protection. They ensure that any PUD we approve is fiscally responsible, environmentally sound, and aligned with the Master Plan.

To be clear, **the five most important fixes we need tonight are:**

1. **A minimum of 40% contiguous open space**
2. **Mandatory traffic mitigation and phasing tied to road improvements**
3. **Mandatory hydrogeologic and groundwater studies**
4. **Independent fiscal analysis for any density bonuses**
5. **Closing the contiguity loophole so scattered parcels cannot be stitched together**

These five alone dramatically reduce overdevelopment risk and protect our water, our roads, and our taxpayers.

-When the ordinance says parcels “separated by a road or utility corridor shall be considered contiguous,” that’s a loophole we must close.

-When density bonuses can be granted without independent fiscal analysis, that’s a risk we cannot take.

-When open space has no minimum requirement, when traffic mitigation is optional, when groundwater studies are not required

— those are weaknesses that will cost this town far more in the long run than any developer contribution.

My goal is simple: if a PUD is approved in Londonderry, it must protect our water, protect our roads, protect our neighborhoods, and protect our taxpayers.

These amendments do exactly that.

I urge the Board to incorporate these changes so that this ordinance becomes what it is intended to be — a tool for smart, balanced, sustainable growth that truly benefits the people who live here.