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Members of the Planning Board

I am writing to explain some of the new challenges the board will face implementing RSA 674:59 Workforce housing under our ordinance as presently written. We will be breaking new ground as a town as we work through the approval process of our first application. You may have read the guide book "Meeting the Workforce Challenge" in preparing to understand these changes. This book is well written, but it was written for the New Hampshire Housing Finance Authority. The stated mission of the NHFA per its website indicate that the authority "promotes, finances and supports affordable housing". I want to point out some of the nuances of the workforce housing law that you may not be aware of.

Since this is the first workforce housing project the planning board has seen, there are some new processes to consider that the board is not used to. Per the workforce housing RSA 674:59, in order to control workforce housing development the town must either show that it has its fair share of local workforce housing (RSA 674:59 III) or it must show that it provides "reasonable and realistic opportunities" to build workforce housing (RSA 674:59 I). If the town cannot show compliance the developer may appeal to the superior court which may decide to allow construction of the development (RSA 674:61). Since Hollis has not prepared an argument to show that we meet our "fair share" of affordable housing (We do by the way but we need to prove it) we must rely on the fact that there are "reasonable and realistic opportunities" to construct WFH to justify the use of our municipal zoning authority. The state RSA limits our responsibility to providing economically viable development opportunities (RSA 674:60 III)

This implies that we are only required by state law to approve as much density as is necessary to make a project economically viable. That puts the planning board in new territory. The planning board must now understand all of the costs of a project and assign a reasonable profit to the developer, then choose the allowed density to make the project economically viable. The state law is not intended to be a carte blanche approval of any high density project.

Along with the mandate for Workforce housing the state has given planning boards 2 additional tools to control workforce housing development. Firstly, per RSA 674:60 II, the applicant must now establish all the costs of development if they want to challenge the conditions imposed by the planning board. They are required to show how any of the imposed conditions prevent the proposed development from being economically viable. Our present ordinance supports this with Sec XVIII paragraph G 3

3. At the Planning Board's discretion, the applicant may be required to submit project cost estimates including land, development and construction costs; financing, profit, and sales costs; and other cost factors.

The 2nd tool is a follow up hearing to allow the developer to challenge any conditions or limits that the planning board imposes RSA 674:60 III (a). This additional hearing will allow the planning board to loosen the imposed density requirements if the developer shows that the imposed conditions or density restriction make the project no longer economically feasible. This is a second chance option for the town to address conditions it has imposed before the developer applies for expedited approval from the superior court.

Based on this it is imperative for the planning board to consider what a fair profit is for a developer, and to accurately understand the costs of development. In this way the planning board would reduce a project's approved density to a level that would just allow the developer a reasonable profit and no more. If the planning board was too restrictive, the developer would use the additional hearing to request density relief and thus the pair would negotiate the lawful required density and no more.

I have been studying this matter intensely and I have recommendations to make regarding the implementation of procedures and workflows to make this happen. I have drafted flow charts to reflect needed updates to our procedures. There are many areas of our current ordinance that need to be revised to correctly implement RSA 674:59 in a way that meets Hollis's needs. I have further examples of NH Supreme Court decisions which point out the weakness of our

ordinance. There are other questions about its implementation including why commercial development is included in our WFH ordinance. (I can't find it mandated by the state). In addition, there are strategic questions to ask as well. Such as weather are we taking on the cost of enforcing the price restrictions on these properties (We are not required to see RSA 6745:60 IV). This is a complicated matter and it will need effort and budget to get right. The select board has recommended that I take this matter up at the planning board. I recommend calling a "workshop" session in the beginning of April so we can discuss this in detail. Please advise me of your decision.

Regards,

Joseph Garruba

CC: Select Board