

Town of Warner, New Hampshire NH 103 Access Management Study

December 5, 2005

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Town of Warner, New Hampshire NH 103 Access Management Study

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A. Introduction

At Town Meeting 2004, the Town of Warner approved funding to provide the local match for two related projects, the Warner Exit 9 Design Charette developed by Plan NH, and the NH 103 Access Management Study. Assistance in the preparation of the Access Management Study was provided by the Central New Hampshire Regional Planning Commission (CNHRPC) and Waterfield Design Group, Inc. (WDG).

The funding for the NH 103 Access Management Study was provided by NHDOT (80%) with the remainder provided by the Town. Representatives of the Planning Board participated in the development of the funding application.

The Study Committee formed to prepare the Access Management Study met monthly between May and October 2005. A well-attended public meeting was held on August 25, and representatives of Town Boards were invited to discuss the study and provide input on September 22.

It is important to note the timing of the Design Charette and Access Management Study. The Charette was undertaken on June 11 and 12, 2004, and the Access Management was initiated in Summer 2005. This allowed many of the concepts included in the Charette to be included in the Access Management Plan.

The results of the study include a proposed graphic-based Access Management Plan, recommendations for changes to the Zoning Ordinance, and several other recommendations ranging from the near-term development of a Memorandum of Understanding between the Town and NHDOT District 5 related to the issuance of driveway permits on state highways in Warner to the future relocation of the existing Park and Ride to a NHDOT owned lot just to the west of Exit 9.

It should be emphasized that the proposed Access Management Plan can serve as a framework for future development in the Warner Intervale area. While the locations of driveway access points are not officially established by the proposed Access Management Plan, it is believed that the availability of the plan will lead to constructive discussions between developers and the Planning Board as the area develops.

B. Traffic Summary

1.0 Introduction

The following provides a summary of the existing geometric and traffic conditions along the NH 103 corridor in Warner. The limits of the study along NH 103 are East Sutton Road to the west and North Road to the east. The study area includes the intersection with the I-89 Exit 9 ramps, driveway to the Market Basket Plaza, the park and ride lot and North Road.

2.0 Existing Geometry

NH Route 103 is a two lane arterial that traverses the town of Warner from the southeast to the northwest. The project area for this Access Management Study stretches from North Road at the east to East Sutton Road to the west. The speed limit in the study area is 35 mph from North Road to the intersection with Waterloo Street at which point it increases to 50 mph.

The I-89 Exit 9 interchange ramps create a series of major intersections as NH 103 passes under I-89. The interchange provides full access to and from the interstate and left turn lanes are provided at the northbound and southbound on-ramps. All of the interchange intersections are unsignalized.

The Market Basket Plaza creates another major unsignalized intersection on NH 103 just east of I-89. Left turn lanes are provided on NH 103 to enter the plaza to the north and the gas station to the south of NH 103. Immediately east of the Market Basket driveway, and on the north side of NH 103, is a 25 space park-and-ride lot. A one-way driveway provides access at the easterly end of the lot and egress on the westerly side of the lot.

North Road intersects NH 103 to the north and is unsignalized. East Sutton Road creates a four-way intersection with NH 103 and Waterloo Street intersects NH 103 to the south. Both of these intersections are unsignalized.

NH Route 103 is commercially developed to the east of Interstate 89 with gas stations, a shopping plaza, a McDonald's and a Park and Ride located between the interstate and North Road. There are three undeveloped commercial parcels located on the south side of NH 103 opposite the park and ride lot, and one lot located at the corner of North Road and NH 103. The Market Basket Plaza also has a substantial amount of land available for potential additional development. The western portion of the study area is developed with single-family dwellings on the south side of NH 103, although the driveways are located on Waterloo Street. The north side of NH 103 to the west of the interstate is sparsely developed with a State Forest and State and municipal uses occupying three large parcels. Immediately west of I-89 and south of NH 103 is a stated owned parcel of land that represents a potential development site.

The limited access right of way from the interstate extends east to the Market Basket Plaza driveway and west to the intersection with Waterloo Street. The limited access right of way restricts future driveways from accessing Route 103, unless permitted by NH DOT.

3.0 Traffic

NH Route 103 is a main arterial into the Village of Warner as well as the primary route to the Lake Sunapee State Park. Lake Sunapee State Park is west of the Interstate at Exit 9, while the Village is just a mile or so the east. The CNHRPC collected traffic data along NH 103 for a 7 day period from June 7 – 14, 2005. This data was collected using pneumatic tubes along Route 103 west of 89, between 89 and the Market Basket Plaza, and east of the plaza. Data was also collected on the I-89 NB on and off ramps, SB on and off ramps, and on the Market Basket Plaza driveway. The peak volumes for this area occurred on Friday evening and Saturday morning and mid-afternoon. The peak hour traffic volumes for each roadway segment are summarized below:

Table 1.0 – Traffic Volumes - June 2005

Location	Friday Evening (VPH)	Saturday Morn./Afternoon (VPH)
NH 103 West of I-89		
Eastbound	214	296
Westbound	314	283
NH 103 East of I-89		
Eastbound	461	454
Westbound	440	429
NH 103 East of Market Basket		
Eastbound	258	234
Westbound	325	368
Market Basket Drive		
Northbound	300	310
Southbound	314	286
I-89 Ramps		
NB on-ramp	181	141
NB off-ramp	309	214
SB on-ramp	234*	210
SB off-ramp	155	130

* Represents AM peak hour

The interchange itself and the commercial development immediately east generate the highest traffic volumes within the study limits. Traffic exits Interstate 89 at exit 9 and passes through the commercial district and on to downtown. NH 103 to the west of the interstate carries a substantially lower volume as compared to the segment to the east. Traffic volumes drop to the east of the Market Basket Plaza.

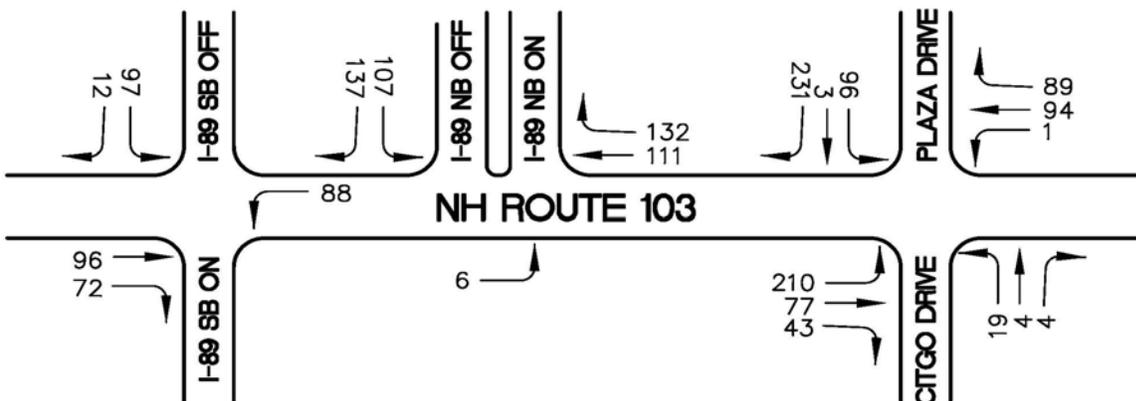
The New Hampshire Department of Transportation operates a permanent traffic recorder on Interstate 89 in this area collecting Annual Average Daily Traffic on a monthly basis. The data collected from this counter from 2004 indicates that the summer months, in particular August, are the busiest time of year with the highest traffic volumes for this region. Table 2 provides a summary of the seasonally adjusted peak hour volumes:

Table 2.0 – Seasonally Adjusted Traffic Volumes - June 2005

Location	Friday Evening (VPH)	Saturday Morn./Afternoon (VPH)
NH 103 West of I-89		
Eastbound	246	361
Westbound	361	345
NH 103 East of I-89		
Eastbound	530	553
Westbound	506	523
NH 103 East of Market Basket		
Eastbound	296	285
Westbound	373	449
Market Basket Drive		
Northbound	345	378
Southbound	361	349
I-89 Ramps		
NB on-ramp	208	172
NB off-ramp	355	261
SB on-ramp	269*	256
SB off-ramp	178	158

* Represents AM peak hour

Intersection turning movement counts (TMC's) were also conducted to determine turning movements at the intersections of Route 103 with Interstate 89 and the Market Basket Plaza Driveway. These turning movement counts were conducted during the afternoon peak hour on Tuesday July 19, 2005. The counts are shown on the figure below:



The TMC's show that while there is nearly a 50/50 split of turning traffic exiting I-89 northbound, approximately 90% of traffic exiting I-89 southbound turn east towards downtown Warner. When traveling NH 103 westbound approximately 40% turn right onto I-89 north.

The Market Basket Plaza intersection count included east and west volumes on Route 103, the plaza drive, and the westerly CITGO driveway. This count shows that the majority of the traffic enters and exits this intersection to the west, presumably coming from the interstate. Nearly 65 percent of the eastbound traffic on NH 103 turns left into the Market Basket Plaza while approximately 25 percent continues east. The traffic exiting the plaza has similar characteristics. Nearly 70 percent of the exiting traffic takes a right onto NH 103 (westbound) while only 30% takes a left. Westbound traffic on NH 103 splits nearly 50/50 with traffic turning right into the plaza or continuing on west.

4.0 Intersection Capacity and Signal Warrants

Intersection capacity analysis was performed the two major intersections within the study area using the Highway Capacity Software®. The NH 103 / Market Basket Plaza intersection currently operates under a stop control with the Plaza and CITGO driveways having stop signs. Traffic heading east and westbound on Route 103 experience minimal delay and the left turns operate at Level of Service (LOS) A. The north and southbound movements out of the driveways experience considerable delay with an LOS ranging between D and E. The left turn movements from these driveways operate at LOS F during the peak hour.

An intersection capacity analysis was also performed at the NH 103 / I-89 NB ramps intersection. At this intersection the I-89 northbound off-ramp is under stop control. This intersection experiences very little delay during the peak hour. The right and left turn movement from the I-89 off-ramp operates at a LOS B.

A signal warrant analysis was also performed on both of these intersections. A traffic signal can be installed if certain thresholds or warrants as published in the Manual of Uniform Traffic Control Devices (MUTCD) are met. For this effort three of the signal warrants, all focusing on traffic volumes on the major and minor roadway, were reviewed.

Based on the June 2005 traffic data, the intersection of NH 103 and Market Basket Plaza Drive meets and exceeds the minimum threshold for the peak hour, 4-hour and 8-hour signal warrants. This intersection can expect to experience increased delays, specifically on the minor approaches, as development of this corridor increases unless a signal is installed.

The intersection of NH 103 and I-89 northbound on/off-ramps does not meet any of the three traffic volume related signal warrants based on existing 2005 traffic volumes. However, this does not mean that future traffic growth due to development along the corridor will not push this intersection above the minimum thresholds. It is recommended that this intersection be analyzed in the future as development along NH 103 continues and general background growth occurs.

5.0 Accidents

Accident data for the study corridor was collected from the New Hampshire Department of Transportation for 2002 and 2003. The NHDOT has a system for recording date, time, location, cause, injuries, and other specifics of a given accident. However, in some instances this

information can still be quite vague and therefore we have identified and mapped accidents, but may not have complete and detailed information for all of them.

In 2002 there were 7 reported accidents that occurred within the study area. There were 14 accidents reported in 2003. Of the 21 accidents, ten occurred in the vicinity of the I-89 ramps, three at the Market Basket Driveway and two occurred at North Road. Seven of the accidents resulted in injuries and one accident just west of I-89 involved a fatality. Many of the accidents are rear-end or fixed object collisions which are often caused by driver error.

C. Zoning/Land Use Regulations

1.0 Introduction

A number of recent changes to the Zoning Ordinance and Site Plan Review Regulations over the last several years have given the Planning Board improved tools when considering development proposals in the Warner Intervale area. The purpose of the Zoning/Land Use Regulation analysis is to identify opportunities to further improve the zoning ordinance and land use regulations related to access management and other concerns in the Intervale area.

2.0 Existing Conditions

Zoning Ordinance

NH Route 103 crosses through four zoning districts within the Town of Warner. The Commercial District (C-1) extends along both sides of Route 103 from North Road to Waterloo St. A portion of this area from North Road to Interstate 89 is further defined as the Warner Intervale Overlay District (INT). Heading west from Waterloo Street, the parcels south of NH 103 are within the Low Density Residential District (R-3) while the parcels to the north are within the Open Conservation District (OC-1). These districts are defined below:

- **Commercial District (C-1)** – permits business and commercial establishments as well as certain dwelling and light industrial uses. The purpose of this district is to encourage growth of this type in the proximity of the interstate highway interchanges.
- **Low Density Residential District (R-3)** – designated for residential and agricultural uses on land remote from municipal water and sewer services and which because of its character requires large minimum lot sizes.
- **Open Conservation District (OC-1)** – designated for agricultural, forestry, and very limited residential uses on inaccessible land, which because of steepness of slope, poor drainage, or periodic flooding shall not be intensively developed.
- **Warner Intervale Overlay District (INT)** – purpose is to provide a framework for development in this area as a commercial and social hub for the community, compatible with Warner’s character as an historic New England town, and providing an appropriate entrance to the Village.

The Warner Interval Overlay District was adopted at 2005 Town Meeting. Located in the area immediately east of Exit 9, it is a relatively small area within the overall Commercial District.

The purpose of the district is to:

provide a framework for development in this area as a commercial and social hub for the community, compatible with Warner's character as an historic New England town, and providing an appropriate entrance to the Village...

An important consideration in the district is that accommodations shall be provided within and between developed parcels for non-vehicular travel, specifically including travel by foot and bicycle.

The permitted uses and uses allowed by special exception in the Intervale District are a subset of those allowed in the C-1 District, eliminating uses that do not further the overall purpose of the district. Uses not permitted include automotive repair and sales, a majority of Wholesale, Transportation and Industrial uses, and agricultural uses.

Site Plan Review Regulations

Updated Site Plan Review Regulations and Design Review Standards were approved in May 2003. The regulations and standards contain a variety of elements that serve to clarify the requirements for developers of commercial or multi-family developments in Warner. Many examples of current planning practice are included in the current regulations, including:

- Access, Parking, Loading and Pedestrian Safety Standards;
- Exterior Lighting Standards;
- Exterior Building Façade Performance Standards;
- Landscaping Standards; and
- Signage Design Standards.

The current Site Plan Review Regulations and Design Review Standards offer a proactive approach to help the Planning Board meet the goals outlined in the Intervale Overlay District.

3.0 Recommendations

Proposed changes to the Site Plan Review Regulations and Design Review Standards and Zoning Ordinance are attached as Appendix A. Recommended changes to the Site Plan Review Regulations and Design Review Standards involve only the addition of a section related to Noise Standards. Proposed modifications to the Zoning Ordinance include the following:

- Proposed modifications to the C-1 District to further vehicular access between adjacent parcels;
- The development of potential incentive bonuses in the C-1 District;
- Noise Standards;
- Lighting and Illumination Standards;
- The development of a Planned Unit Development overlay district; and
- Proposed Revisions to Article XVII – Board of Adjustment

In addition to the potential modifications to the zoning ordinance that follow, it is recommended that the Planning Board review the boundaries of the Intervale Overlay District to determine if it is warranted to extend the district westerly to Waterloo Street.

D. Access Management Plan

Access Management is the process of managing access to land development while preserving capacity and improving safety. It's the control and regulation of spacing and design of driveways, medians, median openings, and traffic signals.

The NH 103 Access Management Plan is a graphic representation, both near and long-term, that delineates parcel specific present and future driveway locations, joint accesses, and intersections including future plans for signalization. The Plan is comprised of the attached Development and Access Plan and Long Term Access Plan.

The Access Management Plan was guided by three of the principles of Access management:

1. Limit the number of conflict points
2. Separate conflict areas
3. Remove turning vehicles from thru traffic

The objectives were to enhance safety, efficiency and the aesthetics of the corridor. Other "tools" to be applied concurrently with the Plan are the Zoning Ordinances and Site Plan Regulations, and the Warner Master Plan. A key element in implementing the Plan is the seamless communication between NHDOT District Five and the officials of the Town of Warner during the review and approval process for site plans and driveway permits.

Based upon a review of traffic data and operations, accident history, and development potential along NH 103 between East Sutton Road and North Street, the following access points are recommended and identified on the Plan. Unless specifically identified, the discussion relates to the Development and Access Plan. Details from the Long Term Access Plan are highlighted expressly.

West of Interstate 89:

- East Sutton Drive and Newmarket Road – This is an existing 4-way intersection with E. Sutton Road on the north side of NH 103. The current stop-sign control will remain.
- Parcel 17-3-5 – Located at the corner of East Sutton Road and NH 103 will have access / egress off East Sutton Road.
- Parcel 17-3-6 – Town-owned land on the north side of NH 103. Current access is via a joint driveway with parcel 17-1 (State-owned). Although the Controlled Access Right-of-way (R.O.W.) provides a curb cut for each of these lots it is suggested that a shared driveway remain.

- Parcel 37-1 – located on the south side of NH 103 opposite the town-owned parcel. The Controlled Access R.O.W. allows one driveway onto NH 103 from this parcel.
- Waterloo Street – Intersects with NH 103 to the south. Stop controlled intersection to remain.
- Parcel 36-2 – State-owned land to south of NH 103 immediately west of I-89. Former site of NHDOT salt sheds. See discussion of NHDOT park-n-ride located within NH 103 R.O.W.
- Parcel 14-10 – North side of NH 103 adjacent to I-89 southbound. This parcel was granted access to NH 103 when the Limited Access R.O.W. was defined for the interstate. A full service driveway should only be considered if the I-89 southbound on-ramp is reconstructed and relocated in the easterly direction.

East of Interstate 89:

- Parcel 14-5 – Existing gas station and convenience store south of NH 103. Currently operates with two curb cuts, one located directly opposite the Market Basket Plaza Driveway. Align westerly driveway with Plaza Driveway and install traffic signal. Westerly driveway to be right-in, right-out only.
- Parcel 14-8 – Existing gas station and convenience store north of NH 103. Currently shares access with Market Basket Plaza (lot 14-7) and McDonald's (Lot 14-7-1). Access to remain.
- Parcel 14-7 – Market Basket Plaza and undeveloped land north of NH 103. Currently shares access with lots 14-5 and 14-7-1.

This intersection is currently under stop control, however original traffic study for the plaza indicated that signal warrants were met, and a review of current traffic volumes reinforces the need for a traffic signal. Accident data also suggests that a traffic signal may be appropriate. The intersection is signalized in the Long Term Access Plan.

- NH DOT park-n-ride located within NH 103 R.O.W. – Operates with two curb cuts. The easterly drive is one-way in and the westerly drive is one-way out. The exit drive is located very close to the Market Basket Driveway and creates an additional conflict area within the larger Market Basket intersection. It is suggested that this driveway be removed and the easterly driveway be reconfigured to provide access and egress to the parking lot.

Throughout the Access Management Planning process, the town has expressed a desire to have the current park-n-ride lot relocated to the state-owned land west of I-89 (parcel 36-2). In order for a park-n-ride lot to be successful on this parcel, it would have to be made more visible and likely require an entrance off of NH 103 within the limited access R.O.W. If parcel 14-10 were to be developed, and the southbound on-ramp is reconfigured, it may be possible to construct a viable park-n-ride lot on parcel 36-2. A potential design of the park-n-ride is portrayed in the Long Term Access Plan.

- Parcel 4-1 – South side of NH 103. Currently undeveloped with plans before the Planning Board. Provide a shared driveway, under stop control, with Parcel 4-2.
- Parcel 4-2 – South side of NH 103. Currently undeveloped with plans before the Planning Board. Provide a shared driveway, under stop control, with Parcel 4-1.

The shared driveway for parcels 4-1 and 4-2 would be located directly opposite a reconfigured driveway into the park-n-ride lot. Left turn lanes would be constructed on NH 103 for access to the north and south and to remove turning vehicles from the higher thru traffic volumes. A raised median is suggested to better define the entrances and prohibit additional full service driveways.

In the Long Term Access Plan, the potential need to signalize both the Market Basket and North Road intersections would result in the need to continue the raised median for the full length between the signals, which would restrict the access to these parcels to right-in and right-out only (see discussion of Parcel 14-15). Due to this potential, easements ~~shall~~ should be provided to the abutting parcels such that exiting traffic can be directed to the appropriate intersection with NH 103.

- Parcel 14-13 – North side of NH 103 at the corner of North Road. Currently undeveloped. Access to be provided off of North Road and thru a shared driveway with the NH DOT park-n-ride lot.
- Parcel 4-3 – South side of NH 103 located opposite North Road. Access to be provided directly opposite of North Road, and an easement to be provided to provide a connection to Parcel 4-2.
- Parcel 14-15 poses a multitude of development options, some of which could generate a significant amount of traffic that would have to pass thru the North Road/NH 103 intersection. The town could either limit development on this parcel such that the traffic generated could be effectively regulated with the existing stop sign. On the other hand, if a large scale development is considered that generates traffic volumes that trigger traffic signal warrants at NH 103, it is likely that the resulting geometry on NH 103 would limit access onto parcels 14-13, 14-2, and 14-1 to right-in and right-out only. The planning and future development of parcel 14-15 will have a significant effect on the access management plan for NH 103, east of I-89.

Access Management Plan Sequencing

The relatively short section of NH 103 between I-89 and North Road has a mix of development and several vacant parcels on the cusp of being developed. Due to its proximity to the interchange, and the land uses that exist, traffic volumes are higher than on NH 103 to the east and west. With small to mid-sized development opportunities on each side of NH 103, and a suggested traffic signal at the Plaza Driveway, it is suggested that left turns and a raised median be provided along this entire length of the corridor. This will provide clearly marked driveway openings, remove turning vehicles from the thru traffic and limit conflict points to the

intersections identified. The median and left turn lanes may be constructed over time as development progresses within the corridor.

If warranted in the future, a traffic signal at North Road, in coordination with a signal at the Market Basket Plaza, would necessitate the extension of the raised median for the entire length between the two signals. As described under Parcel 14-15, this would result in the limiting of access onto parcels 14-13, 14-2 and 14-1, and emphasizes the need for the provision of easements to abutting properties to ensure future access for these parcels to full service intersections.

E. Draft Memorandum of Understanding

A draft Memorandum of Understanding (MOU) between the NHDOT and local communities to better coordinate the local/state highway access management process is attached as Appendix B. The MOU has been developed over the last several years, and serves to mandate timely communication between NHDOT and the Planning Board during the development review process.

The MOU has been discussed with staff from NHDOT District 5, and the development of the NH 103 Access Management Plan is acknowledged as being a prerequisite for the agreement to move forward. Approval of the MOU by the Town of Warner and NHDOT will play a large role in fostering a cooperative approach to the development of the Warner Intervale area. In addition, it is hoped that this cooperative approach will extend to all state highways in the Town of Warner.

F. Implementation

There are a number of issues discussed throughout this Access Management Study, emphasizing the need for the Town of Warner to approach the issue of Access Management in the Warner Intervale area in a variety of ways. The following is a summary of the recommended means of implementing the recommendations contained within the study.

Access Management Plan - The Access Management Plan itself consists of the Access and Development Plan and Long Term Access Plan and the description of the plans contained within Section D of this study. It is recommended that the Planning Board adopt this Access Management Plan and utilize it as appropriate when considering development plan proposals or other changes within the study area.

A key to the future implementation of the Access Management Plan will be financial considerations. Options for funding future improvements will likely involve a combination of transportation-related exactions from individual development proposals within the study area, potential assistance from NHDOT through the State Highway Aid Program, and local funding.

- Exactions - RSA 674:21, V(j), allows a municipality to require developers to pay for the cost of off-site improvement needs *necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan*

approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development.

A key element of this statute is the following: *The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction.*

- NHDOT State Highway Aid Program - Funding for large scale projects can be sought by the Town through the NHDOT State Highway Aid Program. The program requires a one-third local match of a total project cost.
- Local Match - Some projects, specifically projects such as the installation of a traffic signal at the Market Basket Plaza, will need some level of funding from the Town in addition to funding raised through exactions or potential funding available through the NHDOT State Highway Aid Program. The Town is encouraged to begin budgeting for improvements in the Warner Intervale area through the capital reserves budgeting process.

Memorandum of Understanding (MOU) - The Planning Board should take a proactive approach to the adoption of the MOU between NHDOT and the Town relative to access management. Subsequent to the approval of the NH 103 Access Management Plan and approval of the MOU language by the Town, the Town should seek approval by NHDOT District 5 and the Commissioner of NHDOT.

Zoning/Land Use Regulations – A summary of recommendations for changes to the Site Plan Review Regulations and Zoning Ordinance are contained in Section C of this study, with specific language contained in Appendix A. The recommended zoning/land use regulations changes are meant a starting point for changes to be made over the next several years.

Appendix A-

Site Plan Review Regulations and Design Review Standards and Zoning Ordinance Recommendations

Proposed modifications to the Site Plan Review Regulations and Design Review Standards and Zoning Ordinance

Noise Standards

A. Table of Restrictions: The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be established by the time period and type of land use district listed below. Sound pressure levels shall be measured at all major lot lines, at a height of at least four feet above the ground surface.

Zoning Districts	Sound Pressure Level Limits Measured in Decibels			
	7 a.m.-7 p.m.		7 p.m.-7 a.m.	
	dB(A)	dB(C)	dB(A)	dB(C)
R-1, R-2, R-3, OC-1 and OR	55	67	45	67
B-1, C-1 and INT	60	72	50	62

1. The levels specified may be exceeded by 10 decibels for a single period, no longer than 15 minutes, in any one day.
2. Both dB(A) and dB(C) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of this Ordinance.

B. Measurement of Noise

1. Noise shall be measured at any adjoining property line with a sound meter meeting the standards of the American National Standards Institute Specification for General Purpose Sound Level Meters (ANSI S1.4-1983 [R 2001]).
2. The slow meter response of the sound-level meter shall be used in order to best determine that the amplitude has not exceeded the limiting noise level set forth in this section.

C. Exemptions: The following uses and activities shall be exempt from the provisions of this section:

1. Safety signals, warning devices, emergency relief valves, emergency generators, and other emergency equipment when in operation due to an emergency, or testing or other planned operation; testing or other planned operation shall take place only during the day as defined in this section.

2. Unamplified human voices and crowd noises generated at gatherings open to the public.
3. Power tools, including lawn mowers, snow blowers and chain saws, when used for the construction or maintenance of property.

Proposed modifications to the Zoning Ordinance

Article XI - Commercial District C-1

Insert to new section J:

- J. Accommodation shall be provided within and between developed parcels for vehicular (when feasible) traffic. Vehicular traffic connectivity shall be addressed through the use of cross access drives or other access management techniques.

Insert to new section C.1.c:

c. Public Right of Way (Front Structure) Setback

1. An incentive bonus standard has been developed wherein front structure setback requirements may be relaxed for those who choose to develop sites utilizing one of the following options:
 - a. Placement of all parking and circulation pavements to the side and rear of proposed buildings.
 - b. Provision of shared access drives and parking.
 - c. Development of a landscaped berm within the front setback area, with a height no less than 8 feet.
2. Those who choose to take advantage of this Incentive Bonus Standard may reduce their required front structure setback by fifty percent (50%) of that otherwise required within this District, subject to the minimum front structure setback dimension. In effect, use of this Incentive Bonus Standard expands the envelope of available building area on any given site.

Revise section E (Impervious Surfaces) from

- E. No more than 70% of the lot may be covered by impermeable surfaces, such as buildings and paved areas.

Proposed new language for Section E:

E. Maximum Impervious Coverage

1. No more than 70% of the lot may be covered by impermeable surfaces, such as buildings and paved areas.
2. An incentive bonus standard has been developed wherein Maximum Impervious Coverage may be increased for those who choose to develop sites utilizing one of the following options:
 - a. Placement of all parking and circulation pavements to the side and rear of proposed buildings.
 - b. Provision of shared access drives and parking.
3. Those who choose to take advantage of this Incentive Bonus Standard may increase their allowable maximum impervious coverage up to 80% of the gross lot area, provided all landscape strips, parking lot landscape requirements, and other screening is provided as required by this ordinance.

Noise Standards

A. Table of Restrictions: The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance shall be established by the time period and type of land use district listed below. Sound pressure levels shall be measured at all major lot lines, at a height of at least four feet above the ground surface.

Zoning Districts	Sound Pressure Level Limits Measured in Decibels			
	7 a.m.-7 p.m.		7 p.m.-7 a.m.	
	dB(A)	dB(C)	dB(A)	dB(C)
R-1, R-2, R-3, OC-1 and OR	55	67	45	67
B-1, C-1 and INT	60	72	50	62

1. The levels specified may be exceeded by 10 decibels for a single period, no longer than 15 minutes, in any one day.
2. Both dB(A) and dB(C) scales shall be used, and a violation of either standard shall be deemed to constitute a violation of this Ordinance.

B. Measurement of Noise

1. Noise shall be measured at any adjoining property line with a sound meter meeting the standards of the American National Standards Institute Specification for General Purpose Sound Level Meters (ANSI S1.4-1983 [R 2001]).

2. The slow meter response of the sound-level meter shall be used in order to best determine that the amplitude has not exceeded the limiting noise level set forth in this section.
- C. Exemptions: The following uses and activities shall be exempt from the provisions of this section:
1. Safety signals, warning devices, emergency relief valves, emergency generators, and other emergency equipment when in operation due to an emergency, or testing or other planned operation; testing or other planned operation shall take place only during the day as defined in this section.
 2. Unamplified human voices and crowd noises generated at gatherings open to the public.
 3. Power tools, including lawn mowers, snow blowers and chain saws, when used for the construction or maintenance of property.

Lighting and Illumination

- A. Intent and Purpose: This ordinance is intended to regulate the spill over of light and glare and to avoid unsafe and unpleasant conditions as a result of poorly designed or installed exterior lighting. Further purposes are to enhance and protect the quality of the New Hampshire night sky, Warner's rural character, and conserve energy and resources. These concerns are balanced while maintaining safety, security and productivity by establishing limits for the area that certain kinds of outdoor-lighting fixtures can illuminate and by limiting the total allowable illumination in the Town of Warner.
- B. Applicability: In addition to the General Requirements found below, detailed lighting requirements shall be set forth in the Town of Warner Site Plan Review Regulations. The Planning Board shall review and approve the lighting design as part of the site plan process for new development and redevelopment proposals.
- C. General Lighting Requirements
1. All lighting in the Town of Warner shall be designed to coordinate with the building architecture and landscaping and should contribute to the character of the property, neighborhood and street.
 2. Lighting fixtures shall be positioned to prevent undesirable incidental illumination of abutting properties, the street and the nighttime sky. Glare, directions, and light level should be considered in design of illumination plans.

3. Fixtures and lighting systems used for safety and security shall be in good working order and shall be maintained in a manner that serves the original design intent of the system.
 4. Existing lighting sources that do not present a health and safety issue with respect to glare on public ways or nuisance as a result of off-site illumination shall be exempt from the provisions of this ordinance.
 5. Whenever outside lighting is proposed in a site plan review, it shall be accompanied by a formal lighting plan which will require Planning Board approval.
 6. New fixtures accompanying establishment of new uses or change of use that requires Site Plan Review shall have lighting plans approved as part of the Site Plan Review process.
 7. Lighting sources shall be installed and maintained so that it does not impede or interfere with oncoming traffic.
- D. Exceptions: These regulations do not apply to individual dwelling units, public rights-of-way, lighting necessary for emergency equipment or work conducted for the safety, health or welfare of the community, and illumination of flags of the United States, the State of New Hampshire, and other patriotic flags.

Article ___ - Planned Unit Development Overlay District

A Planned Unit Development (PUD) allows a landowner to propose his/her own development project largely independent from current land use regulations otherwise applicable to that property. A PUD master plan is akin to a special zoning district designation for a particular tract of land in terms of uses, dimensions, and other development standards. (Note: every reference to master plan in this PUD ordinance refers to the PUD master plan rather than the Town of Warner Master Plan, except where the latter is specifically referred to as such.)

The purpose of this ordinance is to promote flexibility in large-scale development by considering project proposals based upon a comprehensive, integrated and detailed plan rather than the specific constraints applicable to piecemeal lot-by-lot development under conventional zoning. A PUD should improve the quality of new development by encouraging aesthetically attractive features and promoting quality site and architectural design.

A. Authority. This section is adopted pursuant to New Hampshire RSA 674:21 Innovative Land Use Controls subsection I. (e) Planned unit development.

B. Process. The process for administering a Planned Unit Development is as follows:

1. Due to the complexity inherent in PUDs, prior to developing a detailed PUD proposal or submitting an application applicants are strongly encouraged to hold a conceptual discussion with the Planning Board.
2. The applicant submits a formal PUD application (also known as the proposed PUD master plan) as specified elsewhere in this section.
3. The Planning Board holds a public hearing on the PUD application and determines whether or not it is complete, in accordance with this ordinance. The board must take final action on the application within 65 days of a finding of completeness.
4. The Planning Board approves, denies, or approves with conditions the PUD application. An applicant may appeal any such decision of the Planning Board in the same manner specified for appeals for site plan determinations and subdivision determinations (RSA 677:15).
5. The Planning Board maintains a record of all approved PUD master plans. The PUD is demarcated on the official Zoning Map of the Town (over the underlying zoning district) and

labeled based on the order in which the master plan was approved (as PUD-1, PUD-2, etc.).

6. Subsequent to the PUD approval, the applicant submits a separate site plan application and/or subdivision application for development of the tract in accordance with the master plan. In the event of a conflict between the terms of the approved master plan and the terms of the site plan regulations or subdivision regulations, the terms of the approved master plan shall control.
7. Any development on the subject property must be consistent with the approved master plan as determined by the Planning Board. While it is the master plan, rather than the underlying zoning district, that regulates development of the subject tract, there shall remain an underlying zoning designation for the tract at all times.
8. In the event active and substantial development or building has not begun on the site by the owner or the owner's successor-in-interest in accordance with the approved master plan within four years after the date of approval, or in accordance with other specific terms of the approval, then the master plan shall be deemed to have expired and the underlying zoning shall then control development of the land. Landowners may apply to the Planning Board for extensions of this time period for good cause shown.
9. Landowners may apply to amend all or a portion of an approved PUD following the same process applicable to the establishment of a PUD. A landowner may extinguish a PUD by notifying the Planning Board in writing that he/she does not intend to utilize the PUD.

C. PUD Master Plan

1. In devising the PUD master plan, subject to specific limitations, guidelines, and objectives stated elsewhere in this ordinance, there is flexibility in the selection of land uses, density, setbacks, buffers, building heights, lot sizes, lot dimensions, parking requirements, and most site design and development standards contained in the Zoning Ordinance, Site Plan Regulations, Subdivision Regulations.
2. The master plan is composed of: a) all of the elements submitted by the applicant which describe the project including a land plan (drawing), land use list, PUD application, narrative, architectural guidelines (if applicable), and other development guidelines; and b) any additions, deletions, modifications, and/or clarifications stipulated by the Planning Board in its approval.

3. The land plan delineates one or more land use areas. An accompanying land use list gives a designation for each land use area specifying approximate acreage, types of uses, density and any other development standards peculiar to that area.

D. Basic Requirements. The following requirements apply:

1. Location. PUDs are permitted only in the Commercial District C-1 and Warner Intervale Overlay zoning districts. They are permitted on one or more lots, or portions of lots, of land.
2. Tract size. The minimum area required for a PUD shall be twenty (20) contiguous acres of land. Where portions of the tract are separated by a road, road right-of-way, utility, waterway, or another like element, the land shall be deemed contiguous unless the intervening feature is of such a nature that the Planning Board determines that the land could not function effectively as a PUD.
3. Ownership. The PUD shall be under unified ownership or control at the time of application. However, the tract may be subsequently subdivided consistent with the terms and conditions of the approved master plan. Multiple parties may own, manage, and/or develop various components of the PUD provided that the overall PUD remains integrated.

E. Permitted Uses. The following uses may be proposed for inclusion in a PUD. However, no use is permitted in a PUD unless specifically approved by the Planning Board as part of the master plan.

1. Any residential use(s) proposed by the applicant which, as reasonably determined by the Planning Board, meet(s) the requirements and objectives of this ordinance. These may include dwelling units in the following forms:
 - a. Single-family detached;
 - b. Rowhouses/townhouses;
 - c. Duplexes;
 - d. Attached or detached condominium units;
 - e. Multi-family units; and
 - f. Housing for persons fifty-five (55) years of age and over.
2. Any uses that are permitted in the underlying zoning district, either by right, special exception, or conditional use permit (at such time as this procedure may be established) except for those uses specifically prohibited below; any uses that are allowed in the underlying zoning district under an existing permit or as existing nonconforming uses.
3. Any uses that are customarily accessory to uses approved in the PUD Master Plan.

4. Nonresidential Uses. Any nonresidential use(s) proposed by the applicant which, as reasonably determined by the Planning Board, meet(s) the requirements and objectives of this ordinance except for those specifically prohibited below. Nonresidential uses should be compatible in scale and design with residential uses, be attractive and low key (in terms of building design, signage, lighting, and treatment of parking), and have a strong pedestrian orientation. The types of non-residential uses compatible with a PUD include (but are not limited to) the following:
 - a. Community function halls;
 - b. Neighborhood scale commercial uses such as convenience stores, craft store, drug stores, restaurants, beauty shops, tailors, laundromats, banking establishments;
 - c. Professional offices;
 - d. Medical care uses, including medical care office buildings;
 - e. Day care facilities for adults and children;
 - f. Other civic uses such as schools, government offices, and churches;
 - g. Inns and bed and breakfasts;
 - h. Indoor and outdoor recreation facilities; and
 - i. Sales office for the sale or rental of property in the PUD.

5. Prohibited uses and designs. The following uses and designs are not permitted in a PUD unless they are already allowed in the underlying zoning district under an existing permit or as existing non-conforming uses: commercial telecommunication towers/wireless communications facilities as a primary use, any industrial use, warehousing or storage as a primary use, automobile/vehicle dealerships (new or used), any individual retail sales or service operation with a building footprint exceeding 20,000 square feet, gasoline stations, any restaurant with a drive up window, and internally illuminated signage.

F. Standards of Development. The following standards shall apply to all PUDs:

1. All PUDs shall contain a minimum of twenty (20%) percent of the total gross acreage of the site as open space. Plans for ownership and maintenance of all open space areas must be determined at the time of either master plan approval or site plan/subdivision approval.
2. No more than fifty (50%) percent of the PUD site, excluding open space, shall be devoted to parking, streets, buildings, and accessory structures, except in the case of a bona fide traditional neighborhood development.
3. Off-street parking and loading shall comply with the Warner Zoning Ordinance for each proposed use. However, the Planning

Board may grant waivers for parking if the Board finds that waivers will be compatible with the design and purposes of the PUD.

4. All utilities shall be located underground, unless the Planning Board determines that significantly unfavorable site conditions warrant above ground installation.
5. The overall residential density of a PUD may not exceed six residential dwelling units (including single family homes) per gross acre of the PUD tract. In determining appropriate density, in addition to other criteria here, the Planning Board shall pay special attention to the amount of buildable land contained on the tract as determined or reasonably estimated in the submission materials). The commercial uses delineated above may be located in a flexible spatial environment, assuring compatibility with residential uses and with the overall development design, provided that non-residential uses do not exceed 25% of the gross tract area of the PUD. These limitations herein: a) are maximums and should not be construed as by right permitted levels of development, and b) may be waived in the case of a bona fide traditional neighborhood development.
6. No building shall exceed four (4) stories in height (except for cupolas, dormers, building towers, and similar elements).
7. Flexible street design, compatible with the design of the PUD is encouraged. Street designs which promote a sustainable community living environment within the PUD are encouraged. Street widths may be reduced from the provisions of the Zoning Ordinance and Subdivision Regulations where a reduction in street size is compatible with the harmonious development of the PUD and accommodates emergency vehicles and other functional needs.
8. The PUD shall be in compliance with a) all standards contained within the Zoning Ordinance, Site Plan Regulations, and Subdivision Regulations unless waived or modified as part of the master plan and b) all applicable local, state, and federal law relating to public health and safety, building construction, drainage, nuisances, and protection of natural and cultural resources (these standards may not be waived or modified).
9. All roads and structures shall be set back a minimum of fifty (50) feet from all exterior PUD tract boundaries which abut residential uses except where transportation or use linkages are desired. Landscaping and other screening devices shall be designed to provide a reasonable buffer between the PUD and adjoining property except where compatible uses adjoin one another.

10. Private roads may be utilized provided acceptable arrangements are made for their ownership and maintenance.
11. In a PUD where ownership is subject to restrictions, covenants and other agreements, those documents shall be recorded in the Merrimack County Registry of Deeds and shall be subject to the reasonable approval of the Planning Board.
12. Where municipal water and/or sewer service is reasonably available the applicant must tie in. However, for good cause the Planning Board may grant a waiver from this requirement.
13. Any proposed covenants, restrictions, and easements must be approved by the Planning Board. A provision must be built into the documents providing for municipal enforcement of the covenants, restrictions, and easements at the Town of Warner's option and at the developer's expense under appropriate circumstances.

G. Criteria for review of PUD proposals. The following criteria shall guide the Planning Board in determining appropriate land uses, densities, and other development standards for the PUD. *It is emphasized that the determination of whether or not a proposal meets the intent and objectives of this ordinance is made by the Planning Board in its reasonable discretion.*

1. General Considerations. The Planning Board shall consider the following:
 - a. Standards of underlying zoning district - permitted uses, densities, and other standards. However, these standards shall not be controlling provided the applicant is otherwise in compliance with the terms of this ordinance;
 - b. Provisions of Town of Warner Zoning Ordinance, Site Plan Regulations, Subdivision Regulations, and other applicable town, state, and federal law, where appropriate;
 - c. Consistency with the Town of Warner Master Plan;
 - d. Conformance with the intent and objectives of this ordinance;
 - e. Infrastructure capacity and the effect of the PUD upon public services and public safety; and
 - f. Prospective fiscal impact upon the Town of Warner.
2. Specific objectives. Every PUD should incorporate a number of the following elements. Their usage defines a planned unit development and justifies departures from standards otherwise applicable under conventional zoning (introduction of new uses, more intensive land uses, higher density, novel design approaches, etc.).
 - a. Traditional neighborhood development approaches;
 - b. Creation of a network of narrow, attractive, walkable streets;

- c. Inclusion of a harmonious mix of uses;
- d. Provisions for quality architectural design
- e. Placement of structures on most suitable sites with consideration of topography, soils, vegetation, slope, etc.;
- f. Preservation of significant open space;
- g. Preservation of natural vegetation and other important natural features;
- h. Preservation of important cultural resources such as stone walls and other archaeological sites;
- i. Development of active or passive recreational areas;
- j. Quality landscaping;
- k. Use of sidewalks, bikeways, and other multi-use paths;
- l. Use of traffic mitigation or traffic calming measures;
- m. Significant screening of, or rear placement of, parking areas;
- n. Sustainable design and construction practices promoting energy conservation;
- o. Other public benefits such as provision of a community center or day care center; and
- p. Public access to community facilities in the PUD.

H. Submission Requirements

1. Materials. The applicant for a PUD shall provide the following materials (in format and number as reasonably determined by the Planning Board):
 - a. Completed PUD application
 - b. Narrative, including a statement of purpose for the PUD and how it meets the goals of this ordinance
 - c. Proposed land plan
 - d. Proposed land use list
 - e. Completed abutters list
 - f. PUD application fee
2. Information. The applicant for a PUD shall provide the following information. Given the amount of information needed it is recommended that the plan be developed and refined through several conceptual/preliminary iterations with the staff and Planning Board. Many of these items may be presented as approximations or preliminary estimates subject to change, where appropriate.
 - a. Present underlying zoning classification and zoning classification of all adjoining lots
 - b. Topographic information on the tract including soil types, wetlands, surface water, land contours, natural and cultural resources, ridges and knolls, rock outcrops, steep slopes, etc. This information may be presented in an overview format, in less detail than would be required of a site plan or subdivision application provided that a clear

sense of the tract is conveyed sufficient to evaluate the PUD proposal (for example, wetlands need not be professionally delineated if potentially wet low lying areas are roughly indicated).

- c. Total acreage of the tract; rough delineation of each land use area with approximate acreage,
- d. Proposed uses for each land use area, preferably given with some specificity.
- e. Proposed total number of dwelling units and overall residential density for the tract
- f. Proposed number of dwelling units for each land use area.
- g. Proposed location, size, use(s) for each structure.
- h. Proposed location, width, and materials of all streets, drives, sidewalks, and paths.
- i. Proposed location and number of spaces for each parking area.
- j. Proposed open space areas
- k. Natural and cultural resources proposed to be preserved
- l. Proposed buffers, if appropriate, to adjoining properties
- m. Brief explanation or sketch of proposed landscaping
- n. Brief explanation or sketch of proposed water and sewer/septic systems
- o. Brief explanation or sketch of proposed stormwater management plan
- p. Brief explanation or sketch of other proposed utilities
- q. Brief explanation or sketch of proposed firefighting strategy
- r. Proposed architectural standards or guidelines or brief explanation/sketch of architectural treatment
- s. Proposed time schedule for completion of the project, phasing schedule (if applicable depending on scale and type of PUD), plans for bonding if applicable, and well thought out plan to ensure that the amenities will be completed as proposed and in a timely manner.

- t. Proposed covenants, restrictions and easements and how they will be monitored and enforced, if applicable.
- u. Proposed ownership arrangement of each section of the PUD whether to be subdivided, held in fee simple, owned under a condominium arrangement, established as a homeowners association, etc.
- v. Proposed articles of incorporation and bylaws of any corporation and/or homeowners association to be formed.
- w. Any other information that the Planning Board or Town Counsel may deem reasonably necessary.

I. Interpretation/application of PUD master plan. The Planning Board shall review any site plan or subdivision application for its conformity with the approved PUD master plan, however the PUD will control over site review and subdivision regulations. The board may use its discretion in determining if particular items are consistent with the intent of the plan.

1. Many items in the PUD Master Plan will be presented and construed to be in preliminary sketch form subject to preparation of detailed, engineering analysis and some modification at the site plan/subdivision application stage consistent with the master plan. These items include exact lot locations and layouts, exact locations of roads and paths, size and configuration of parking lots, utility information, water and sewer/septic, drainage, landscaping, and architectural renderings. (For example, the land plan may show numerous trees to be planted. The applicant would be able to significantly modify the locations and types of planting at the site plan stage provided the intent of the landscaping element as presented in the land plan is met.)
2. All development standards must ultimately be determinable for each land use area. Where specific development standards are neither stated nor implied in the PUD master plan, the most appropriate standards otherwise applicable (from the Zoning Ordinance, Site Plan Regulations, and/or Subdivision Regulations) shall apply as determined by the Planning Board. (For example, an area designated for single-family homes in the PUD master plan does not specify front setbacks. The front setbacks contained in the underlying zoning district would then apply.)

Proposed Revisions to Article XVII - Board of Adjustment

ARTICLE XVII
BOARD OF ADJUSTMENT

- A. Establishment of Board/Appointment and Terms: Pursuant to RSA 673:3,5 and 6, Local Land Use Boards, the Board shall be established, and all appointments made by the Board of Selectmen for the positions of regular and alternate members. Membership shall consist of five members, and up to five alternate members, for three-year terms to hear appeals from the provisions or administration of this Ordinance. Alternate members may fulfill the duties and responsibilities of a regular member when a regular member is not present or is disqualified from consideration of a particular application.
- B. Duties and Powers of the Board of Adjustment (Board): Subject to the provisions as outlined the Board shall:
1. Hear and decide appeals of administrative officials where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance. The Board may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, or decision, as ought to be made and to that end shall have all the powers of the administrative official from whom the appeal is taken;
 2. Hear and decide Special Exceptions to the terms of this Ordinance;
 3. Authorize, upon appeal in specific cases, such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done;
 4. Hear and render determinations on any questions relative to the exact location of any district boundary shown on the zoning map;
 5. Act and hear appeals, as per RSA 673:1 (v), as amended, as the Building Code Board of Appeals; and Act and hear appeals, as per RSA 676:5(III), as amended, of any decision made by the Planning Board regarding specific terms of this Ordinance.
- C. Application Requirements
1. An application to the Board shall include a completed application form, plans, and supplemental information as may be required for the specific type of appeal.

2. The application shall be filed at least fourteen business days before a regularly scheduled meeting of the Board.
3. Applications and appeals to the Board shall be taken according to the rules set by State Statutes.
4. A nonrefundable fee shall be submitted with the application materials and other supporting evident to be considered as part of the application.
5. Burden of Applicant: The applicant shall provide and bear the burden of presenting sufficient evident to allow the Board to make findings to all conditions and finding of fact required in granting a variance or specific exception.

D. Organization and Rules of Procedure

1. Election: On an annual basis, the Board shall elect a chairman and other officers from among its membership.
2. Meeting Schedule: The Board shall adopt, and from time to time amend, Rules of Procedure for the conduct of its business. The rules of procedure shall establish a regular meeting schedule so as to allow for the expeditious consideration of appeals.
3. Open meetings: All meetings of the Board shall be open to the public, pursuant to the provisions of RSA 91-A, Access to Public Records and Meetings.
4. Joint Meetings: Pursuant to RSA 676:2 as may be amended, the Board may conduct a joint meeting or hearing with another land use board.
5. Receipt of testimony: At the public hearing, the Board shall hear or receive oral or written testimony from the applicant and all abutters, any non-abutters who can demonstrate that they are directly affected by the application upon which the hearing is being held.
6. Public Record: Representations made at the public hearing or material submitted to the Board shall be part of the public record.
7. Findings of Fact: The Board shall present findings of fact for all its decisions and shall enter such findings in its records.
8. Notification: A notice of public hearing shall be given to the applicant and all abutters by certified mail not less than ten (10) days before the date of the meeting. The notice shall also be posted in at least two public places and published in a paper of general circulation in the Town of Warner at least (10) days prior to the hearing.

9. Issuance of Decision: Pursuant to RSA 676:3 Issuance of Decision, as may be amended, within seventy-two hours after a vote on an application, a written record of the decision shall be available for public inspection at the office of the Board. The record of decision shall state whether the application was approved or denied, include any conditions if approved, and state the reasons for the decision. A copy of the record of decision shall be sent by first-class mail to the applicant. Copies shall also be provided to the Planning Board, Town Assessor, Building Inspector, Board of Selectmen, town staff as deemed necessary by the Board, and others who may specifically request a copy. Said letter shall be available for public review in the Town Offices during normal business hours. The cost for a copy of the letter or other information in the file should be at the rate.
 10. Rehearing: As provided for in RSA 677:2, within thirty days after any order or decision by the Board, any party to the action or any person directly affected may move for a rehearing in respect to the any matter determined in the decision, and must specify grounds in the motion for rehearing. The Zoning Board of Adjustment may grant a rehearing if, in the opinion of the Board, there is sufficient reason presented in the applicant's motion for rehearing.
 11. Appeal to Superior Court: No appeal from any decision may be taken to Superior Court unless the appellant has first made application for a rehearing as provided above (see RSA 677:4).
- E. Equitable Waivers of Dimensional Requirements: The Board of Adjustment shall have the authority to grant equitable waivers of dimensional requirements pursuant to the provisions and requirements of RSA 674:33-a.
- F. Authorization of Variances: Upon appeal the Board may authorize a variance from the terms of this Ordinance for a particular use, a parcel of land, an existing building, or a proposed building pursuant to RSA 674:33 as may be amended.
1. The Board may authorize a variance from this Ordinance only after the applicant has demonstrated to the Board all of the following. Each of the following conditions must be found in order for a variance to be legally granted, as confirmed in writing by the Board. All five variance criteria must be met for the variance to be granted.
 - a. No diminution in value of surrounding properties would be suffered.
 - b. Granting the variance will not be contrary to the public interest.

c. Denial of the variance would impose unnecessary hardship upon the applicant. For applicants seeking a use variance or an area (dimensional) variance, the criteria for demonstrating hardship shall be as outlined below.

(1) Applicant seeking use variance

- a. The zoning restriction as applied interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment.
- b. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.
- c. The variance would not injure the public or private rights of others.

(2) Applicant seeking area (dimensional) variance

- a. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.
- b. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
- c. By granting the variance, substantial justice would be done.
- d. The use must not be contrary to the spirit of the ordinance

G. Granting of Special Exceptions.

1. The Board shall hear and decide requests for a special exception and shall grant a special exception only when it finds that each of the following criteria have been met:

- a. The use requested is identified in the Use Table of the Zoning Ordinance for a special exception in that respective zoning district, or as otherwise stated in the Zoning Ordinance.
- b. The proposed location is appropriate for the requested use and serves to provide a desirable amenity for the immediate area.
- c. The requested use will not impair the integrity or character of the district, adjoining districts, or other land uses of the abutting properties. The requested use will not create hazards to the health, safety, or general

welfare of the public, and be detrimental or out of character to neighboring properties.

- d. The proposed use will not create excessive demand on municipal services including but not limited to police protection, fire protection, and solid waste disposal.
 - e. The proposed use will not generate traffic volumes that will overburden existing roads and highways. The requested use will not create undue traffic congestion or impair pedestrian safety.
 - f. The proposed use will not have an adverse impact on the natural environment.
 - g. The proposed use will not adversely affect groundwater resources.
2. In granting a special exception, the Board of Adjustment may attach appropriate conditions to assure that the general criteria can be met and enforced, including but not limited to:
- a. Increasing setback and yard dimensions, which are greater than the minimum requirements.
 - b. Modifications of the external features of the building or structures, and limiting the lot coverage or building height and dimensions.
 - c. Requiring suitable landscaping, screening and maintenance or restoration of natural buffer areas where necessary to reduce noise and glare.
 - d. The removal or modification of non-conforming uses, signs, buildings, or structures.
 - e. Professional or technical studies or the funding thereof, for the purpose of monitoring compliance of specific elements regarding the site, and to verify the impact of the use on municipal services, traffic, and public safety, noise, air quality, and ground and surface water quality.
 - f. Limiting the number of occupants and methods and time of operation of the proposed use.
 - g. Specifying the numbers and locations of driveways and accesses for the requested use and property.
 - h. Reducing the number, size and illumination of signs.
3. The following uses may be by approved of the Board as a special exception provided they meet the conditions described

in this section and are permitted by special exception in the respective zoning district(s) in which it will be located:

- a. Gasoline filling and service stations if each of the following conditions and standards are satisfied:
 - 1) Appropriate and adequate screening of the site to abutting property owners so as to not detract from the usefulness of their property;
 - 2) Appropriate screening of trash storage containers and other potentially unattractive site features;
 - 3) Access to a signalized intersection if warranted by a traffic study;
 - 4) Appropriate and attractive landscaping maintained; and
 - 5) Lighting which will not spill on to abutting property.
- b. Car Washes: Car Washes shall be permitted by Special Exception if each of the following conditions and standards are satisfied and are permitted by special exception in the respective zoning district(s) in which it will be located:
 - 1) The car wash shall be equipped to recycle water to minimize the use of water and equipped with water treatment facilities;
 - 2) All wastewater, after treatment, shall be discharged into a sanitary sewer system;
 - 3) The property shall have a water supply sufficient to support the car wash;
 - 4) There shall be sufficient areas on the site for the stacking and queuing of vehicles entering, exiting and using the site so as not to interfere with traffic flow on the site and on to any private or public street, or other vehicular way used to access the property for its intended use;
 - 5) The car wash shall be equipped with a drain system to capture stormwater and other water such as that which may drip off washed vehicles; and
 - 6) The applicant shall demonstrate to the satisfaction of the Board of Adjustment that lighting, buffer areas, noise level, environmental controls including waste water recycling, sludge and sediment handling, and internal vehicular circulation shall be adequately provided for and/or controlled, and that there are no adverse traffic impacts on public roads, to ensure conformance with the

standards applicable to special exception uses.

- c. Drive-Through Businesses: Drive-through businesses shall be permitted by Special Exception only if each of the following conditions and standards are satisfied:
- 1) There shall be an off-street approach lane of 200 feet for drive-through facilities, which shall not conflict with parking spaces;
 - 2) There shall be adequate internal and external traffic circulation in order to promote traffic safety. In determining the adequacy of the circulation, the Board may consider the number of curb cuts and the orderly flow of traffic entering and exiting the site. With respect to corner lots, the exits of the site shall be located on the less busy or secondary street and at least 100 feet from the intersection.
 - 3) Minimum lot width: 150 feet; and
 - 4) The site plan shall contain suitable landscaping which shall include maintenance of a suitably landscaped area between the drive-through business and any abutting residential use or residential zoning district.
- H. Time Limit: Any special exception or variance granted by the Board shall be valid for a period of two (2) years, from the date the variance or special exception was granted. If the use or construction so authorized by the variance or special exception has not commenced within the two (2) year period from the date of the decision, then the variance or special exception shall be deemed to have expired and the Board of Adjustment's authorization shall be considered null and void.

If after commencement, a variance or special is abandoned for a period of two (2) years, then the variance or special exception shall be deemed to have expired and cannot be reestablished without a new application process and affirmative decision by the Board.

**Appendix B –
Draft Access Management Memorandum of Understanding**

D R A F T (1/20/05)

**MEMORANDUM OF UNDERSTANDING
FOR
COORDINATING HIGHWAY ACCESS MANAGEMENT**

**BETWEEN
NEW HAMPSHIRE, DEPARTMENT OF TRANSPORTATION
AND
CITY/TOWN OF _____**

This Memorandum of Understanding is made between the State of New Hampshire, Department of Transportation (hereinafter referred to as "DEPARTMENT") and the Town (or City) of _____ (hereinafter referred to as "TOWN" (or "CITY")) and entered into on _____.

The Parties to this Understanding witness that:

WHEREAS, the DEPARTMENT has the statutory responsibility and permitting authority, under RSA 236, to issue driveway access permits on state highways; and

WHEREAS, the TOWN, has the statutory authority under RSA 674 to enact zoning and building ordinances, subdivision, and site plan review regulations to regulate the use and site development of property adjoining the highway; and

WHEREAS, the DEPARTMENT and the TOWN mutually recognize the continuing necessity to plan and coordinate future land use and access to highways, in order to preserve highway capacity and public safety, and;

WHEREAS the DEPARTMENT and the TOWN mutually recognize and agree that the preserving the safety and maximizing the capacity of state highways is in the public interest,

THEREFORE, BE IT RESOLVED, that the following provisions of this Memorandum of Understanding are agreeable to all parties;

Article I: Statement of Purpose

The DEPARTMENT and City/Town enter into this Understanding to improve access management of state highways within its boundaries. For the purposes of this Understanding, access management shall include coordination in the planning, design, control, and determination of access points to facilities, and in the issuance of driveway access permits.

Article II: Scope of Understanding:

The provisions of this Understanding shall apply to all state highways or segments of state highways located within the City/Town as identified in City/Town access management plan and agreed upon by the City/Town and the Department (List as follows:)

Article III: Joint Responsibilities

1. It shall be the joint responsibilities of the DEPARTMENT and the CITY/TOWN to develop and adopt agreed upon procedures for the coordination between site plan approvals and driveway access permits.
2. The CITY/TOWN and the DEPARTMENT may establish an Access Management Technical Guidance Committee for the purpose of coordinating the concurrent review of site plans and driveway access permit applications to ensure their conformance with state and local access management plans and/or standards.

Article IV: Responsibilities of the CITY/TOWN

1. Access management standards developed, adopted, and/or enforced by a City/Town shall not conflict with best practices for access management where a state highway is involved. These standards may take the form of zoning ordinances, site plan review, subdivision regulations and requirements, roadway construction standards, or a combination of these, and shall be applied to all future development and redevelopment of land accessing state highways. Such standards shall be developed in consultation with the DEPARTMENT and Regional Planning Commissions. Copies of all such standards, and subsequent amendments thereto, shall be provided to the DEPARTMENT to be kept on file at the Central and District Offices.
2. Where appropriate and necessary as determined by the Town, the Town may develop, in cooperation or consultation with the DEPARTMENT, adopt, and amend site or parcel-specific access management plans for specific highway corridors or segments. Such plans shall define the number, as well as, general location and design of future access locations to be permitted on specific parcels or sites. The Plans, and any subsequent amendments thereto, shall be forwarded to the DEPARTMENT to be kept on file at the Central and District Offices. The number, location, and design of access points shall be consistent with the Department's "Policy for the Permitting of Driveways and Other Accesses to the State Highway System".
3. In the event that waivers or variances to the adopted access management standards or plans are proposed, the Town shall inform the DEPARTMENT of such waivers or variances prior to local approval of the plans. Notice will be made prior to the issuance of the local approval and with sufficient time to allow for comment from and consultation with the DEPARTMENT.

4. The Town shall notify the DEPARTMENT District Engineer upon receipt of any development proposal or change of use that will require a state driveway access permit and solicit input regarding access design.
5. The Town shall require that driveway access(es), including type, design, number, and location, be permitted only in accordance with its adopted access management standards and any applicable site-specific access plans.
6. The CITY/TOWN shall coordinate and cooperate with the Department throughout the development/driveway permitting process (including approval of access development), as described in the procedures set forth in Article III Section 1.

Article V: Responsibilities of the DEPARTMENT

1. The DEPARTMENT's Design Bureaus and District Engineer will provide information, technical assistance, and advice to the CITY/TOWN in the development of local access management standards and site or parcel level access management plans.
2. The DEPARTMENT District Engineer shall notify the CITY/TOWN designee upon receipt of any application for driveway access permits and scheduled scoping meetings by transmitting a copy of such application or meeting notice, along with a request for comments. On Department sponsored projects, the Department's Project Manager will bear the responsibility to notify the CITY/TOWN of the Department's intentions.
3. The DEPARTMENT District Engineer shall coordinate and cooperate with the municipality throughout the development/driveway permitting process (including issuance of drive permits), as described in the procedures set forth in Article III Section 1.

Article VI: Effective Date and Amendments to Memorandum of Understanding

1. This Understanding shall become effective upon execution by the DEPARTMENT and the CITY/TOWN and shall remain in force until terminated under provisions of Article VII, or until superseded by a new Understanding.
2. This Understanding may be amended from as facts or circumstances warrant or as may be required by state or federal laws, administrative regulations, or other orders or guidelines having the full force and effect of law.

Article VII: Termination of Understanding

The DEPARTMENT or CITY/TOWN may terminate this Understanding by giving ninety (90) day written notice of such termination to the other party.

IN WITNESS WHEREOF, the parties have hereto caused this Understanding to be executed by their proper officers and representatives.

FOR THE CITY/TOWN OF _____ :

Planning Board

by _____ Date _____
Chair

Board of Selectmen/Mayor

by _____ Date _____
Chair

FOR STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION:

by _____ Date _____
District Engineer

by _____ Date _____
Commissioner