ORR&RENO
ATTORNEYS AT LAW

Rachel Aslin Goldwasser
rgoldwasser@orr-reno.com
Direct Dial 603.223.9163
Direct Fax 603.223.9063
Admitted in NH and ME

September 28, 2012

Via Hand-Delivery and Electronic Mail
Ms. Jane Murray, Secretary
New Hampshire Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, NH 03302-0095

Re: Docket No. 2012-01 - Applicant's Memorandum Regarding Antrim Planning Board's "Residual Authority" Over Subdivision of Land Associated with a Renewable Energy Facility

Dear Ms. Murray:

Enclosed for filing with the New Hampshire Site Evaluation Committee in the above-captioned matter please find an original and 9 copies of Applicant's Memorandum Regarding Antrim Planning Board's "Residual Authority" Over Subdivision of Land Associated with a Renewable Energy Facility along with copies of Exhibit A.

Please contact me if there are any questions about this filing. Thank you.

Very truly yours,

Rachel A. Goldwasser

RAG/lbr
Enclosures

cc: Service List, excluding Committee Members
Clark A. Craig, Jr. (by first class mail)

923096_1

THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

DOCKET NO. 2012-01

APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY

APPLICANT'S MEMORANDUM REGARDING ANTRIM PLANNING BOARD'S "RESIDUAL AUTHORITY" OVER SUBDIVISION OF LAND ASSOCIATED WITH A RENEWABLE ENERGY FACILITY

NOW COMES Antrim Wind Energy, LLC ("AWE" or "the Applicant") by and through its undersigned attorneys, and, pursuant to the Presiding Officer's September 13, 2012 Order in this docket, respectfully submits this memorandum regarding what, if any, residual authority the Antrim Planning Board may have to permit a subdivided lot required by an energy project that falls within the Site Evaluation Committee's (the "SEC" or the "Committee") jurisdiction.

On September 6, 2012, the SEC held a hearing to determine the extent to which the Antrim Planning Board's subdivision authority is preempted by RSA 162-H. "After the subdivision oral argument the Committee voted to take additional procedural steps to review the Antrim subdivision regulations to determine whether the Antrim Planning Board retained residual authority pertaining to the proposed subdivision." *Order on Motions to Continue and Further Procedural Schedule* (Sept. 13, 2012) at 1. The SEC has ordered "[a]ll parties to file memoranda regarding the Antrim subdivision regulations and addressing which regulations[] should remain within the residual authority of the

Antrim Planning Board." *Id.* at 2. AWE submits the following memorandum in response to the SEC's order.

I. Municipal Regulation of Energy Projects is Wholly Preempted by RSA 162-H and No Residual Authority Remains in the Antrim Planning Board.

Review of the case law providing "residual authority" to local planning authorities, *see e.g.*, *Stablex Corp. v. Town of Hooksett*, 122 N.H. 1091 (1982), as well as the statutes underpinning that case law, indicates that RSA 162-H leaves no residual authority to a planning board. Furthermore, subdivision of land is undoubtedly considered "planning" and "land use" in the New Hampshire statutory scheme for the regulation of the development of land and is an integral part of the State's three prong structure for the development of land set out in Title LXIV of New Hampshire's statutes – zoning, site plan and subdivision.[1] Finally, review of the Town of Antrim Subdivision Regulations ("Regulations") demonstrates that the entirety of the Regulations are preempted by RSA 162-H because these Regulations are necessarily interrelated with Antrim's zoning ordinance and site plan regulations such that subdivision concerns cannot be extracted or read in isolation. The act of teasing out some "residual" subdivision authority from the broad powers granted to the SEC creates an artificial distinction where none actually exists, and is an invitation for complicated and confusing proceedings both at the SEC and at the planning board, in contravention of the express purpose of RSA 162-H which is to resolve all issues related to proposed energy facilities in an integrated fashion. RSA 162-H:1.

[1] AWE incorporates into the within memorandum by reference its position set forth in the *Applicant's Brief Regarding Authority of the Site Evaluation Committee to Create a Subdivided Lot* (July 24, 2012) ("Applicant's Brief"), that all aspects of the Town's subdivision regulations are preempted.

A. *Stablex* and its Progeny Demonstrate No Residual Municipal Authority Remains under RSA 162-H.

In direct and clear contrast to the statutes underlying *Stablex Corp. v. Town of Hooksett*, 122 N.H. 1091 (1982) and its progeny, RSA 162-H and the New Hampshire Supreme Court's analysis of it in *Public Service Co. of N.H. v. Town of Hampton*, 120 N.H. 68 (1980), clearly indicate complete preemption of municipal regulation for all energy project-related matters. RSA 162-H simply and clearly states that the SEC's decisions are to be "conclusive on all questions of siting, land use, air and water quality." RSA 162-H:16, II. The express purpose of the statute is to resolve all issues related to a proposed energy facility in "an integrated fashion," including "the planning, siting, construction, and operation of energy facilities." RSA 162-H:1. The New Hampshire Supreme Court has determined that the

> statutory scheme [for a precursor to RSA 162-H] envisions that **all** interests be considered and **all** regulatory agencies combine for the twin purposes of avoiding undue delay and resolving **all** issues 'in an integrated fashion.' By specifically requiring consideration of the views of municipal planning commissions and legislative bodies, the legislature assured that their concerns would be considered in the comprehensive site evaluation.

Public Service Co. of N.H. v. Town of Hampton, 120 N.H. 68, 70-71 (1980) (emphasis added). The Court also noted that the SEC "is required to review **all plans for the siting and construction**" of energy facilities. *Id.* at 70 (emphasis added). In view of the Court's interpretation of the expansive authority vested in the SEC, it is inconceivable that any residual authority remains with a local planning board. This position is further bolstered by legislative history. *See* HB 34, S. Jour. 570 (Mar. 27, 1974) ("[T]his is probably the largest environmental bill brought this session. It is an environmental bill. It is ***a land use bill.***") (emphasis added) (Sen. Porter addressing bill). Moreover, if the

Legislature had wanted to provide residual authority to municipalities in the "planning" and "siting" areas, it would have done so. *See, e.g., infra regarding North Country Environmental Services, Inc. v. Town of Bethlehem*, 150 N.H. 606, 616 (2004) (clause in RSA 149-M explicitly reserves right of municipality to regulate in certain areas). Instead, the Legislature established a process in RSA 162-H in which the planning and zoning boards can provide their views about subdivision issues to the SEC, which can consider and adopt those that it feels are appropriate when reviewing a project in its totality. RSA 162-H:16, IV(b).

In contrast, as discussed in detail below, the statutes interpreted in *Stablex*, *North Country Environmental Services, Inc. v. Town of Bethlehem*, 150 N.H. 606 (2004) ("NCES"), and *Bio Energy v. Town of Hopkinton*, 153 N.H. 145 (2005) are not holistic land use and siting statutes – they each concern a singular area of environmental regulation. Reliance on these cases to find "residual" planning board authority in this case would be a grave error. These cases do not indicate a change in the law of preemption in New Hampshire since the *Public Service Co. of New Hampshire* case. Rather, they indicate that a preemption analysis is driven by the individual facts of each case. The *Public Service Co. of New Hampshire* case – which specifically addresses the preemptive effective of RSA 162-H (and no other statute) – has been the law of the land for over thirty years[2]. During that time, the New Hampshire Supreme Court has not overturned its decision or otherwise indicated that the case is not good law. In addition, the Legislature has had several opportunities (including amendments to RSA 162-H in

[2] The *Public Service Co. of N.H.* case has been cited 14 times in other New Hampshire Supreme Court cases. It was distinguished (on factual issues) once, and has otherwise been relied on heavily by the New Hampshire Supreme Court as recently as 2003. *See, e.g., JTR Colebrook, Inc. v. Town of Colebrook*, 149 N.H. 767 (2003).

1991, 1998, and 2009) to amend RSA 162-H since the Supreme Court's ruling, and has not enacted changes to vest local planning boards with residual authority. Further, the SEC is distinguished from the state agencies implicated in *Stablex, NCES, and Bio Energy*, which were emphatically and explicitly not delegated municipal land use authority. RSA 162-H presents a regulatory scheme that is entirely different from the statutes addressed by the *Stablex*, *North Country* and *Bio Energy* cases, given its directive that the SEC's decision is "conclusive on all questions of siting, land use, air and water quality," as recognized by the Court in *Public Service Co. of New Hampshire v. Hampton*, 120 N.H. 68 (1980). RSA 162-H:16, II.

1. The Stablex *case and the text of RSA 147-A, -B, -C, and -D support a conclusion that RSA 162-H wholly preempts municipal land use and planning authorities.*

In *Stablex Corp. v. Town of Hooksett*, the Supreme Court considered New Hampshire's hazardous waste statutes. *Stablex*, 122 N.H. 1091 (1982). In response to a proposed hazardous waste facility, the town of Hooksett passed ordinances requiring a popular referendum for a hazardous waste facility to be built there. *Id.* at 1094-5. The statutory scheme required a permit from the Bureau of Solid Waste Management ("the Bureau") pursuant to RSA 147-A, and the question before the Court was whether the state's regulatory scheme preempted local regulation of *hazardous waste regulation*. Reviewing the narrow regulatory scheme set forth in RSA 147-A through -D, the Court found that the town's regulation of hazardous waste was preempted, but concluded that generalized local regulations could be applied.

It is noteworthy that land use, siting, or planning are not mentioned in the 1981 version of RSA 147-A under review in *Stablex*. The statute merely indicates that the

applicant must comply with rules adopted by the Bureau and that the applicant must provide proof of financial responsibility in the amount necessary to "(a) Protect the public health and welfare and the environment; and (b) Insure that appropriate measures will be taken to prevent present and future damage to the public health and safety or to the environment, in the event that the operations at the facility are abandoned, interrupted, or stopped." RSA 147-A:5, I (1981). And, contrary to RSA 162-H:16 and :1, RSA 147-A provided no express intent to preempt municipal authorities.

In fact, a related statute, RSA 147-C, indicates the Legislature's intent to *not preempt* local planning authorities. RSA 147-C, also discussed in *Stablex*, establishes a municipal review committee that must be appointed to "[r]epresent the town in the public hearing process relating to the facility's permit application," making recommendations to the Bureau. *Id.* at 1099 (quoting RSA 147-C:4, I(a) (Supp. 1981)). The Legislature explicitly stated that the municipal committee *does not* "preempt the powers of any local board or other local authority relative to the regulation of zoning and planning." RSA 147-C:6.[3] This statutory section indicates the Legislature's clear intention to leave some residual authority with town zoning and planning bodies for hazardous waste facilities. If the Legislature had desired this outcome for energy projects certificated by the SEC, it could have included a similar section in RSA 162-H. In fact, the Legislature had the opportunity to do just that, but it did not. *See Comments on Energy Facilities Siting Bill* (HB 736) [attached as Exhibit C to Applicant's Brief Regarding Authority of the Site Evaluation Committee to Create a Subdivided Lot (July 24, 2012)] ("The language in [section 162-H:16, II] seems to preempt local zoning and planning. . . . When this

[3] The Supreme Court stated, regarding this provision, that it concerned only the committee, and that it does not extend to an "overall limitation on the powers of the Bureau . . . ." *Stablex*, 122 N.H. at 1103.

sentence is read in conjunction with the statement of purpose, it implies that the state siting process overrides local zoning ordinances and the local Master Plan. I suggest you add language which clearly states that it is not the intent of this law to preempt local control.").

The Supreme Court in *Stablex* found that under RSA 147-C:6, together with the absence of any express statements regarding the scope of the State's preemption in RSA 147-A, -B, -C, or -D, some generalized planning requirements[4] that would be applied to "any industrial facility" should be applied to a hazardous waste facility. *Stablex*, 122 N.H. at 1104 (regarding traffic and roads, landscaping and building specifications, snow, garbage and sewage removal, etc...). This conclusion – which is arguably *dicta*, as the Court cited no precedent for it – stands in stark contrast with the Supreme Court's conclusion, only two years earlier, that the SEC preempts all local regulation because the statute's goal is to "provide a resolution, in an 'integrated fashion,' of all issues involving the selection of sites and routing of associated transmission lines. RSA 162-F:1." *Public Serv. Co. v. Town of Hampton*, 120 NH 68, 70 (1980). The reasons for the difference between these cases are clear – the statutes reviewed by the Court in each case have wholly different structures and goals, and deal with totally different issues. The hazardous waste statutes were developed to protect the public from hazardous waste sites, and to assure safe storage and disposal facilities. As a result, the statute provides the Bureau with relatively narrow jurisdiction regarding those issues. *Stablex*, 122 N.H. at 1097-8. The SEC, in contrast, is explicitly tasked with making decisions that are "conclusive on all questions of siting, land use, air and water quality," to provide a singular regulatory/procedural path for siting of energy facilities. RSA 162-H:16, II. The

[4] Subdivision authority is not among the residual local requirements identified by the Court in *Stablex*.

SEC's authority therefore preempts any municipal regulation of these facilities, including the subdivision of land upon which they are to be situated.

2. *The text of RSA 149-M and the Court's analysis in North Country Environmental Services support a finding that RSA 162-H completely preempts municipal land use and planning authorities.*

The second case concerning preemption which addresses a planning board's "residual" authority also reflects a fundamental difference between the power granted to the SEC under RSA 162-H and that granted to other agencies under other statutes. *North Country Environmental Services, Inc. v. Town of Bethlehem*, 150 N.H. 606 (2004) ("NCES"). *NCES* addressed whether RSA 149-M, regarding solid waste facilities, preempted the town's ability to enforce site planning restrictions, including those pertaining to height. RSA 149-M creates a regulatory process for the permitting of solid waste facilities. To issue a permit, the State must determine that the facility is in the "public benefit." Like RSA 147-C, RSA 149-M contains an express savings clause preserving local regulation of land use:

> The issuance of a facility permit by the department shall not affect any obligation to obtain local approvals required under all applicable, lawful local ordinances, codes, and regulations not inconsistent with this chapter. Local land use regulation of facility location shall be presumed lawful if administered in good faith, but such presumption shall not be conclusive.

Id. at 616 (quoting RSA 149-M:9). Even in the face of this savings clause, the Court stated that "courts should *err on the side of finding State law preemption*," and found that the Town could not regulate issues such as height restrictions, footprint, content and final grade slope. *Id.* at 617-18 (emphasis added).

The Court's reading of RSA 149-M, a statute that includes a savings clause, and is much more narrowly drafted than RSA 162-H, supports the conclusion that under RSA

162-H, all land use regulation – including subdivision authority – is preempted. *Accord Town of Pelham v. Browning Ferris Indus. of New Hampshire*, 141 N.H. 355, 363 (1996) (finding that RSA 149-M preempted a town's "requirement of obtaining exceptions and variances under the town's zoning ordinances and approval under the town health code" because those requirements "would amount to an impermissible 'veto power'").

3. *The* Bio Energy *case, which involved the narrow question of whether a town could regulate air emissions under RSA 125-C, presents a legal framework for preemption but is factually different from the instant case.*

In *Bio Energy v. Town of Hopkinton*, the issue was whether RSA 125-C preempted the Town's authority to regulate ***air emissions*** under its zoning enabling act. *Bio Energy v. Town of Hopkinton*, 153 N.H. 145 (2005). In that case, the Court found that the Town of Hopkinton had no authority to issue a cease and desist order based upon the emissions produced by the Bio Energy facility. Notwithstanding the Court's determination that RSA 125-C preempted the town from regulating an energy facility's air emissions, the Court went on to conclude that the town could apply certain local regulations that are unrelated to the regulation of air emissions.

The *Bio Energy* case is easily distinguishable from the instant case. The statute at issue there was RSA 125-C which "define[s] and establish[es] in detail a statewide permitting program to monitor ambient air quality throughout the State." *Id.* at 152. It provides for a permitting system for the "construction, installation, operation or material modification of air pollution devices and sources." *Id.* Unlike RSA 162-H, RSA 125-C does not encompass land use, siting, or planning *at all*, and therefore does not implicate the full complement of siting, land use, and planning concerns that are normally within the purview of municipalities. Thus, it is logical that Court in *Bio Energy* would

recognize that the town possessed some residual authority to regulate those issues that are unrelated to the state's preemptive regulation of air emissions. RSA 125-C is therefore thoroughly distinguishable from RSA 162-H, which expressly references land use and planning authorities, and provides – without a reservation of town authority or other savings clause – that the SEC's decisions "shall be conclusive on all questions of siting, land use, air and water quality." RSA 162-H:16, II. For these reasons, it is erroneous as a matter of law to rely on *Bio Energy* to determine that RSA 162-H leaves planning boards with residual regulatory authority over energy facility land use issues such as subdivisions.[5]

B. Land Use and Planning Regulations are Preempted by RSA 162-H.

As discussed above, preemption analysis encompasses a painstaking, line-by-line review of the statute in question, and the SEC should not merely rely on conclusions in case law concerning statutes that are unrelated to and dissimilar from RSA 162-H. The text of RSA 162-H indicates that "siting" and "land use" are to be conclusively decided by the SEC, RSA 162-H:16, II., and there is no savings clause concerning residual municipal regulation. Thus, analysis of whether any local "residual authority" remains requires consideration of terms "land use" and "siting" referenced in the statute.

As used in RSA 162-H, there is no question that the term "land use" concerns municipal planning and zoning, which includes a planning board's subdivision authority.

---

[5] *Accord Arthur Whitcomb, Inc. v. Town of Carroll*, 141 N.H. 402 (1996) (applying RSA 155-E regarding regulation of excavation, which requires a permit issued by a local authority such as a planning board in accordance with statutory standards which apply state-wide). Given the limited subject matter of RSA 155-E (detailed regulations regarding operation of excavation sites), and recognizing the Legislature's determination that "comprehensive and extensive local regulation of excavation . . . is in the best interest of the citizens and taxpayers of New Hampshire", the Supreme Court found that state regulation preempted local legislation applicable to excavation, but that local regulation regarding "such matters as traffic and roads, landscaping and building specifications, snow, garbage, and sewage removal, signs and other related subjects . . ." may be regulated by the municipality. *Id.*

"[P]lanning and zoning determine the ***use of land*** within the municipality in relationship to public utilities and the wise allocation of existing resources." Loughlin, 15 New Hampshire Practice: Land Use Planning and Zoning (4th Ed.) at § 29.03. As such, permitting a local board to apply zoning and site plan regulations to a project within the SEC's jurisdiction would contravene the Legislature's goal of establishing one stop siting for energy projects. *Applicant's Brief* at 5-6. Because the RSA 162-H constitutes a "site selection" process, it must preempt local zoning and planning. If it did not, the SEC could determine a site to be appropriate for development, but local land use boards could veto it, thereby superseding the SEC's determination and frustrating the purpose of RSA 162-H. This result is impermissible. Even if "a local ordinance does not expressly conflict with a State statute, it will be preempted when it frustrates the statute's purpose." *Bio Energy v. Town of Hopkinton,* 153 N.H. at 153

Requiring an SEC applicant to obtain variances and site plan approvals would frustrate the purpose of RSA 162-H by creating a complex, multi-jurisdictional process instead of the streamlined permitting process intended by the Legislature. For example, if a proposed transmission line did not meet the height restrictions set forth in applicable zoning ordinances, and if the developer were forced to present the project to each and every municipality implicated to seek variances, as well as site plan approvals for each section of the line located within separate municipalities, each individual zoning board and planning board would act as a separate decision maker and any of them could effectively veto a project, thereby obliterating the Legislature clear intent of "one stop siting" provided by RSA 162-H. To find that RSA 162-H does not preempt these local

regulations ignores the Legislature's goals of facilitating the permitting for energy facilities.

This analysis is not confined only to zoning and site plan regulations, because RSA 162-H does not distinguish between zoning board, site plan, and subdivision authorities. Instead, it uses the broad terms *siting*, *planning* and *land use* to encompass all aspects of a municipality's decision-making in these areas. RSA 162-H:1; RSA 162-H:16. The Legislature's use of the terms "land use" and "land-use planning" in RSA 162-H to describe the SEC's preemptive authority is telling. The planning board, which makes subdivision determinations, is defined as a "land use board" under RSA 672:7. *See also* RSA 673:1. In addition, RSA Chapter 674, which includes municipal authority for subdivision regulation, is entitled "Local *Land Use* Planning and Regulatory Powers." RSA Ch. 674 (Emphasis added). The other sections of Chapter 674 include zoning and site plans, as well as other local land use authorities. Thus, one must conclude that the Legislature intended to include subdivision authorities when it used the terms "land use" and "planning" in RSA 162-H:1 and :16.

Furthermore, the legal definition of "Land Use Regulation" is "an ordinance or other legislative enactment intended to govern the development of real estate." Black's Law Dictionary at 884 (7th Ed). Subdivision regulations, together with zoning and site plan regulations, are "land use regulations" because they govern the development of real estate. *See* RSA 672:14 (defining subdivision as "the division of the lot, tract, or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent lease, condominium conveyance or ***building development***.") (emphasis added). The implications of finding otherwise become clear

when one considers the hypothetical of the transmission facility, discussed above. If that facility included substations to deliver power to local communities, and if those substations, like the one at issue in the instant case, were to be located on land requiring subdivision, an applicant would potentially be required to seek subdivision approval from numerous municipalities – possibly throughout the length of the transmission line – thereby adding more layers of regulation, and potential veto of the project at the municipal level, all in contravention of the express language of RSA 162-H and in frustration of the statute's goal of providing an integrated permitting process for energy and associated facilities.

C. It is Impossible to Separate Subdivision Authority from Other Municipal Land Use Regulations.

Subdivision regulations, like other land use and planning authorities, must be viewed as preempted by RSA 162-H because they are inextricably linked such that it is nearly impossible to separate them from each other.[6] This point is underscored by the Antrim Planning Board's September 20, 2012 memo which states that "[a]ll subdivision applications are expected to comply with the Antrim Zoning Ordinance and Site Plan Review and Subdivision Regulations." *Memorandum from Antrim Planning Board to the New Hampshire Site Evaluation Committee* (Sept. 20, 2012) at 1. The Board also contends that it "cannot arbitrarily choose what portions of the Zoning Ordinance to disregard or Subdivision or Site Plan Review regulations to enforce." *Id.* at 2. This is

[6] The Planning Board has cited *Dovaro 12 Atlantic, LLC v. Town of Hampton*, 158 N.H. 222 (2009) and *Cohen v. Town of Henniker*, 134 N.H. 425 (1991) for the proposition that subdivision authority is distinct from land use and siting authorities. Both cases involve the condominiumization of prior legal nonconforming uses ("grandfathered uses"). In these cases, the developer sought subdivision merely to change the ownership structure of the property, and the planning boards rejected the request because the use was not allowed under the ordinance. The Court found, in both cases, that a special statute relating to condominiums applied, and because the applicants were not seeking to change the nonconforming uses, the planning board could not reject the applications. These cases are irrelevant to this case where, as is clear from the application, the subdivision is closely associated with a change in the use of the land.

because "[e]nactments in the field of zoning and subdivision control are necessarily related to each other *and must be read and considered together*. " Loughlin, 15 New Hampshire Practice: Land Use Planning and Zoning (4th Ed.) at § 29.03) (emphasis added). Application of subdivision regulations here, therefore, would result in the impermissible bootstrapping zoning and site plan regulations to the project's review.

Subdivision regulations are so deeply infused with site plan and use considerations that distinguishing such elements is difficult, if not impossible, as the Antrim Planning Board concedes in its September 20, 2012 memo. The following sections of the Antrim Regulations provide just a few examples that require the Planning Board to consider "land use" information in a subdivision application:

- Section IX.C.1 requires that the proposed use, building design and layout of any buildings on the proposed lot must meet the provisions of the Antrim Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and intent of the Master Plan.
- Section IX.C.9 provides that the subdivider must provide adequate safeguards against undesirable and preventable elements of pollution such as noise or electrical disturbance, which might prove to be harmful or a nuisance to persons, structures or adjacent properties.
- Section IX.E requires the subdivider to meet parking requirements as set forth in the zoning ordinance.
- Section IX.G requires the subdivider to certain road planning and layout requirements.

Furthermore, "subdivision regulations are often allowed to be more encompassing and intrusive on a particular parcel of land than zoning regulations." Loughlin, 15 New Hampshire Practice: Land Use Planning and Zoning (4th Ed.) at § 29.03). Thus, the broad nature of subdivision requirements permit a planning board to impose the type of restrictions that the Legislature has expressly delegated to the SEC to determine in its siting and planning of a project under RSA 162-H. For example, the Antrim Regulations

would require the Antrim Planning Board to obtain and consider the following when reviewing the proposed substation lot, all of which are already being addressed by the SEC:

- Section V.B.3.b(3) requires written approval by the NH DES Subsurface Systems Bureau for the subdivision;
- Section V.B.3.b(4) requires written approval of the NH Department of Transportation or the Antrim Road Agent for siting driveways and curb cuts with adequate lines of sight;
- Section V.B.3.b(5) requires a Site Specific Permit as specified by the NH DES Water Division;
- Section V.B.4.b requires copies of the NH DES Wetlands Bureau approval be provided to the Planning Board.

In addition, Section VIII of the Antrim Regulations governs the inspection, certification and acceptance of improvements, installations or facilities, creating yet another layer of regulation and approval for AWE. Finally, the Antrim Regulations allow the Planning Board to require additional information as it deems necessary in certain (undefined) situations and is not limited to the submission requirements in the regulations. *See*, Sections V.B.2 and V.C of the Antrim Subdivision Regulations. As evidenced by these few examples from the Antrim subdivision regulations, the potentially broad nature of subdivision regulations creates difficulties for developers if the SEC determines that some of a town's subdivision regulations could apply to an SEC jurisdictional project. Failure to correctly tease out which sections apply will result in duplicative and confusing regulatory processes for energy projects that the Legislature has clearly and continuously indicated should be subject to a single, integrated permitting process.

Further adding to the confusion, each town has different zoning and planning regulations. If RSA 162-H does not preempt all local land use authorities, a separate

analysis to untie the knot between preempted "land use" and non-preempted "land use" regulations must occur for each municipality implicated by an SEC-jurisdictional project. The SEC will have to delineate the line between preempted and not-preempted regulations for each town and each project touched by an energy project. This result certainly was not intended by the Legislature.

Requiring application of municipal planning processes would also permit subversion of SEC's approval of a particular facility. The subdivision process can be complex, multi-step, and laden with procedural requirements. For example, the Antrim land use regulations are contradictory with respect to whether the Antrim Wind project is a "major" or "minor" subdivision. According to the regulations, a major subdivision includes "all subdivisions which create more than two new lots in addition to an existing lot from which the subdivision is made or involves the construction of a road or *other improvements*." *Antrim Subdivision & Site Plan Review Regulations* at 12. This standard would appear to include the Antrim project because the substation is an "other improvement." However, the Zoning Ordinance indicates that a subdivision is major only if it includes "public improvements." *Antrim Zoning Manual*, Article III. Litigation regarding the simple question of *which regulations apply* could delay a project for years.[7] Appeals of subdivision decisions are taken to the superior court, RSA 677:15,

[7] An appeal of subdivision approval need not be brought by an applicant against a town – anyone with standing could appeal. RSA 677:15, I. If the issue on appeal is the construction of the zoning ordinance, then appeal must *first* be taken to the zoning board of adjustment. RSA 577:15, I; 676:5, III. After rehearing, appeals of zoning board decisions are taken to the superior court. RSA 677:3, 4. This means that an applicant could undertake the subdivision process, following the town's recommendation regarding which approval process applies, and then an abutter could appeal to zoning board of adjustment, and then to the superior court (thus inviting other, later appeals and potential remands), asserting that the incorrect process was undertaken, or that the rules were applied incorrectly. As such, requiring a separate subdivision process could add years to permitting a renewable energy project like Antrim Wind.

and provide a procedural means to filibuster final approval of a project, contravening the Legislature's intent to provide a single, simple process.

Finally, the goal of municipal regulation of subdivision is not furthered by requiring approval of a lot for an individual substation associated with a renewable energy facility. "Subdivision regulations are designed to control the division of land and to assure that such developments thereon are designed to accommodate the needs of the occupants of the subdivision." Loughlin, 15 New Hampshire Practice: Land Use Planning and Zoning (4th Ed.) at § 29.02. Here there are no "occupants" of the lot that will be created as the result of subdivision. A subdivision in this case is necessary in order to provide PSNH with a fee simple interest in the land it requires to build an unoccupied substation necessary to interconnect the Antrim Wind project with the transmission system. The SEC will take into account any concerns the Antrim planning authorities have regarding the division of the land. *See* RSA 162-H:16, IV(b). "By specifically requiring consideration of the views of municipal planning commission . . . the legislature assured that their concerns would be considered in the comprehensive site evaluation." *Public Service Co. of N.H.*, 120 N.H. at 71. Thus, this is not a case where an unregulated subdivision would be created; regulation is undertaken by the SEC with input from the municipality.

II. If the SEC Finds Residual Authority in the Planning Board, that Authority is Extremely Limited.

In the alternative, if the SEC determines that some portions of subdivision regulation are outside of its authority, those portions must be extremely limited. Because the SEC is delegated expansive authority for deciding "siting, land use, air and water quality" issues associated with renewable energy projects, RSA 162-H:16, II, whatever

residual power that arguably may remain with the town cannot be exercised in any manner that is inconsistent with the SEC's authority under RSA 162-H. *See Public Service Co. of New Hampshire,* 120 N.H. at 71. The Legislature established the SEC process to "ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic, and technical issues are resolved in an integrated fashion." RSA 162-H:1. Most elements of the subdivision regulations involve the areas of "land use" which are within the SEC's authority under RSA 162-H. To comply with the Committee's September 13, 2012 order, and without conceding that the Town of Antrim possesses residual authority to review the subdivision of the substation lot, AWE submits that certain submission and procedural provisions, as well as the dimensional and bound requirements of the Regulations, are the only residual powers that would arguably be retained by the Planning Board.

The relevant Regulations are divided into several sections, which need to be carefully parsed. In particular, the "procedure" section (Section IV), the submission requirements section (Section V) and the section regarding "general standards and requirements" (Section IX). AWE has undertaken an analysis of each of these sections, and presents, *arguendo*, which sections the SEC should consider outside the purview of "land use" under RSA 162-H. However, AWE cautions that these Regulations, as stated above, are complicated and intertwined with each other and with the zoning ordinance and it is difficult to determine exactly how to unravel some requirements from others. Because of the uncertainty regarding which regulations (major subdivision or minor subdivision) apply, AWE has undertaken an analysis of both. In addition to the narrative

analysis below, AWE provides the SEC, as Exhibit A attached, with an annotated copy of the Regulations showing those sections which are "residual" and that could be applied to the proposed substation lot, and those which are inapplicable because they are included within the "planning" and "land use" preemption of RSA 162-H.

A. Section II: Purpose

AWE notes that the purposes set out in the Regulations are encompassed by the decisions made by the SEC and that allowing the planning board to make determinations in accordance with the purposes of the Regulations would, in fact, result in exactly the type of duplicative and potentially contradictory regulation that the Legislature expressed concern about in drafting and amending RSA 162-H. *See, e.g.*, Antrim Regulations, paragraph A.1 (concerning "[t]he harmonious and aesthetically pleasing development of the Town of Antrim and its environs"). If the Antrim Planning Board can reject subdivision approval for an SEC-jurisdictional facility because it is not "aesthetically pleasing", the goals of RSA 162-H will be null and void.

B. Section IV: Procedure

Several portions of this section of the Regulations could be applied in part, but not in the whole. For example, Section IV.B.2, concerning which requirements must be met for an application to be considered complete, must be adjusted to reflect only those sections of the regulations that do not overlap with or are duplicative of criteria that the SEC applies in reviewing a project within its jurisdiction.

Section IV.C.4 of the regulations provides that "conditions of approval" must be met within one year. Given that the SEC – not the Planning Board- is authorized to impose conditions on an applicant, *see* RSA 162-H:16, VI, this section would not apply.

Section IV.C.5 includes a performance guarantee for all public improvements and other improvements related to the subdivision. Because all improvements and land use issues are to be addressed by the SEC, no performance guarantee may be required by the planning board.

Finally, it should be clarified here, and throughout, that the "project" for the purposes of the subdivision approval at issue here is not the entire wind energy project, but is only the proposed lot for the substation.

C. Section V.B: Submission Requirements for the Subdivision of Land For Minor Subdivisions

Section V.B.2 provides the planning board with the authority to require that a minor subdivision follow the process and requirements for major subdivision if it "significantly impact[s] the concerns herein contained." This authority should be eliminated because any reasoning that the subdivision would "significantly impact the concerns" of the Planning Board's many regulations would necessarily be tied to the land use, planning, siting, and environmental attributes of the project, all of which fall within the SEC's jurisdiction.

In Section V.B.3.a, paragraphs (4), (9), (10), part of (15), (26), and (29) should be excised because they involve land use concerns, including zoning classifications and analyses which fall within the SEC's jurisdiction, rather than the planning board's. Paragraphs (11), (12), (17), that portion of (19) related to wetlands, (25), and (28) should be excised because they involve environmental issues that are conclusively decided by the SEC.

In Section V.B.3.b, paragraphs (2) through (5) should be eliminated because they all involve permits issued as part of the SEC process. Section V.B.4, paragraphs (b),

regarding written approval from the Department of Environmental Services, and (e) involves a performance guarantee, both of which would be unnecessary given the very limited scope of any Planning Board residual authority.

D. Section V.C: Major Subdivisions

The last sentence contained in the first paragraph of Section V.C is expansive as it provides substantial opportunity for a planning board to require additional information. This is preempted by the SEC's jurisdiction, because it would permit a planning board to override the SEC's decision by subjectively requiring any additional information the planning board deems necessary, and permits the board to impose additional requirements that are not included in section V.C.1.

In Section V.C.1.a, paragraphs (4), (9), (10), (20), (21), (25), and (33) should be excised because they involve land use concerns, including zoning classifications and analyses which fall within the SEC's jurisdiction, rather than the planning board's. Paragraphs (11), (12), (16), that portion of (18) related to wetlands, (22), (23), (24), (32), and (34) should be excised because they involve environmental and planning issues which are conclusively decided by the SEC. Paragraph (27) should be clarified so that it only requires the existing recorded easements relating to the proposed lot be reviewed by the Town; easements related to the wind project and access to the improvements on the proposed lot are within the siting authority of the SEC. Paragraph (28) should be clarified to indicate that the "project" is the subdivision at issue, and not the entire energy project which is being considered by the SEC.

In Section (C)(1)(b), paragraph (1) should be eliminated because it involves land use, and falls within the SEC's preemptive jurisdiction. Paragraphs (3) through (7) all

concern issues addressed by the SEC in its certification process, and providing the Planning Board with jurisdiction over these issues will result in duplication, potential contradiction, and confusion. Paragraph (8) permits the planning board to require additional studies, all which fall within the SEC's jurisdiction, and therefore should not be required for subdivision approval for an energy facility under the SEC's jurisdiction. Paragraph (9), regarding projects of regional impact, is clearly encompassed by the SEC's process.

In Section V.C.2, paragraph (a)(1) should be limited to only those items required in the regulations deemed to apply to a SEC-jurisdictional project. Paragraph (b) is not relevant because all relevant approvals will be incorporated into the SEC's certificate. Paragraph (c) should be amended to reflect the fact that only changes relating to the residual subdivision authority of the planning board must require resubmission. Paragraph (e) does not apply, as no bond is relevant to the planning board's residual authority.

E. Section VII: Performance Guarantee

This section does not apply, as there would be no residual performance guarantee authority vested in the planning board; the certificate of site and facility conditions issued by the SEC would establish such guarantee (if any).

F. Section VIII: Inspection, Approval, and Acceptance of Improvements, Installations or Facilities

This section does not apply (though it references subdivision approvals) because no improvements, installations, or facilities will fall within the planning board's jurisdiction. They all fall within the land use and planning authorities of the SEC.

G. Section IX: General Standards and Requirements

The broad "General Standards and Requirements" section of the Regulations applies to both site plans and subdivisions. It is, unquestionably, a "planning" document, establishing the planning board's standards for approval of all development proposals which come before it. The vast majority of these requirements fall squarely within the SEC's jurisdiction and the planning board is therefore preempted from addressing them. All of the sections concern "land use" and "siting." However, given the SEC's discussion on September 6, a handful of these sections concern the lot size and configurations that the SEC may view as outside its purview. Only these very limited issues may be addressed by the planning board in its consideration of a site plan application.

As a preliminary matter, the second sentence in the first unnumbered paragraph of section IX must be redacted to reflect that the planning board may only refer to a consultant those subjects which remain in its purview after the SEC takes jurisdiction.

The sections which could, arguably, remain in the planning board's jurisdiction after the SEC takes jurisdiction are section (A), regarding lot size, configuration and frontage, and section (B) regarding bounds.

The remaining sections all fall within the SEC's land use and siting authorities, and are preempted in accordance with the text of RSA 162-H, the Supreme Court's jurisprudence, and the legislative history for the SEC as a "one stop siting" authority. Issues such as sanitary systems, driveway permits, storm water drainage, high intensity soils map, ground control with regard to wetland delineation, and waste disposal are issues addressed by state agencies as part of the SEC process. Other issues, such as the

design and layout of buildings, parking requirements, roadways, road construction, erosion and sediment control, are land use and planning concerns that fall within the SEC's purview and sole jurisdiction. In addition, supplemental analyses (see, for example, section (N) (Community Facilities Impact Analysis), are part of the SEC's consideration of the impacts on the orderly development of the region.

H. Remaining Sections

The remaining sections: Section X: Recording of Plat; Section XI: Waivers; and Section XIII: Enforcement would all arguably remain in the planning board's residual authority, assuming that the SEC rejects AWE's arguments regarding total preemption.

CONCLUSION

The SEC has authority to approve and sign the subdivision plat submitted by Antrim Wind Energy as Appendix 19. The express language of RSA 162-H, the legislative history, and the case law interpreting this particular statute all support this conclusion. Subdivision authority falls squarely within the "land use" authorities of the SEC. In the alternative, if the SEC determines that some residual subdivision authority remains in the Antrim Planning Board, that authority would be extremely limited and would concern only lot size, configuration and bounds, and must be exercised "in good faith and without exclusionary effect." *See Stablex Corp. v. Town of Hooksett*, 122 N.H. at 1104. This means that if Antrim Wind Energy were to submit its substation subdivision plat to the planning board in the instant case, the planning board could not deny subdivision approval. *See Applied Chemical Technology v. Town of Merrimack*, 126 N.H. 45, 47 (1985). ("denial of a site plan approval has a direct 'exclusionary effect' on siting . . . and thereby has a 'frustrating' effect on the State regulation.)

Respectfully submitted,

Antrim Wind Energy, LLC
By its attorneys,
ORR & RENO, P.A.
One Eagle Square
P.O. Box 3550
Concord, NH 03302-3550

By: _____
Susan S. Geiger
Telephone: (603) 223-9154
Email: sgeiger@orr-reno.com

By: _____
Rachel Aslin Goldwasser
Telephone: (603) 223-9163
Email: rag@orr-reno.com

September 28, 2012

Certificate of Service

I hereby certify that on this 28th day of September, 2012, a copy of the foregoing Memorandum was sent by electronic or U.S. mail, postage prepaid, to persons named on the Service List of this docket, excluding Committee Members.

_____
Rachel A. Goldwasser

922680_1

Exhibit A

ANTRIM SUBDIVISION
&
SITE PLAN REVIEW REGULATIONS

Antrim, New Hampshire
Last Amended: June 19, 2008

Subdivision Regulations Originally Adopted
March 12, 1968

Subdivision Regulations Amended
February 5, 1975
August 11, 1977
January 29, 1979

Subdivision Regulations Adopted (Previous Versions Rescinded)
December 12, 1980

Subdivision Regulations Amended
December 17, 1981

Site Plan Review Regulations Adopted
March 14, 1989

Subdivision & Site Plan Review Regulations Re-Adopted
September 26, 1991

Amended
October 15, 1992
January 2, 2003
December 18, 2003
January 20, 2005
February 2, 2006
September 21, 2006
March 19, 2007
February 27, 2008
June 19, 2008

ANTRIM SUBDIVISION AND SITE PLAN REGULATIONS

TABLE OF CONTENTS

	Page No.
Section I - Authority	4
Section II - Purpose	4
Section III - Definitions	4
Section IV - Procedure	5
Pre-application Review	5
Subdivision or Site Plan Application	6
Board Action on Completed Application	7
Section V - Submission Requirements for the Subdivision of Land	7
Application	7
Lot Line adjustment, Annexation, or Minor Subdivision	8
Major Subdivision	12
Section VI - Submission Requirements for Site Plan Review	18
Submission Requirements for Home Based Businesses	18
Submission Requirements for Minor Site Plan and Additions to Home Occupations	19
Submission Requirements for Major Site Plan Review	20
Section VII - Performance Bonds	27
Section VIII - Inspection, Approval and Acceptance of Improvements, Installations and Facilities	28
Section IX - General Standards and Requirements	28
Lots	28
Bounds	29
Design and Layout of Buildings	29
Sanitary Systems	30
Parking Requirements	31
Driveway Permits	31

Roadways 33

Road Construction 33

Storm Water Drainage for Roadways 35

Preparation of Public Roadways 35

Erosion and Sediment Control 36

Storm Water Drainage Plan 39

Plan for Disposal of Waste Generated During Construction 39

Community Facilities impact Analysis 39

High Intensity Soils Map 40

Ground Control 40

Special Flood Hazard Areas 41

Section X - Recording of Plat 42

Section XI - Waiver 42

Section XII - Enforcement 42

Appendix A - Antrim Road Acceptance, Reopening, & Reclassification Policy 43

SUBDIVISION and SITE PLAN REVIEW REGULATIONS

Section I: Authority

Pursuant to the authority vested in the Antrim Planning Board by the voters of the Town of Antrim in accordance with the provisions of the New Hampshire RSA 674:35 and 674:43, the Antrim Planning Board adopts the following Subdivision and Site Plan Review Regulations. These regulations govern the subdivision of land and the development or expansion of use of tracts for nonresidential uses and multi-family dwelling units other than one and two family dwelling units and conversion apartments. These regulations also apply to any change of use, additions or alterations that change the outward appearance of a structure used for nonresidential or multi-family purposes.

Section II: Purpose

A. The purpose of the Subdivision and Site Plan Regulations is to provide for:

1. The harmonious and aesthetically pleasing development of the Town of Antrim and its environs.

2. The proper arrangement and coordination of streets within subdivisions in relation to other existing or planned streets or with other features of the Town of Antrim.

3. Suitably located streets of sufficient width to accommodate existing and prospective traffic.

4. Open space of adequate size and proportions to allow for sufficient light and air.

5. Access for firefighting apparatus to buildings.

B. Further, these regulations provide against such scattered or premature subdivision of land or development as would involve danger or injury to health, safety or prosperity by reason of:

1. The lack of water supply or protection of groundwater quality.

2. Inadequate drainage or flooding of neighboring properties.

3. Inadequate roads, school facilities, fire protection, or other public services.

4. Excessive expenditure of public funds for the supply of such services.

5. Undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, or any other discharge into the environment which might prove harmful to persons, structures, or property.

Section III: Definitions

Definitions as adopted as the official Definitions for the Town of Antrim.

Section IV: Procedure

Whenever any subdivision of land or Site Plan is proposed, before any construction, land clearing or building development is begun, before any permit for the erection of any structure is issued and before any plat may be filed with the Hillsborough County Registry of Deeds, the applicant or the applicant's authorized agent shall apply for, and secure, approval of the proposed subdivision and/or site plan. The procedure, including the optional pre-application review provisions, for securing such approval is as follows:

A. Pre-application Review (optional)

Prior to formal submission of the application, the applicant may meet with the Planning Board to discuss a proposal without any binding decisions being made by either Planning Board or applicant. A pre-application review of subdivision and/or site plan proposal is divided into two phases:

1. Conceptual Consultation: RSA 676:4,II (a) & (c). Without the requirement of formal public notice, the prospective applicant may arrange to meet with the Planning Board at a regularly scheduled meeting for a preliminary consultation. Such consultation shall be directed at a review of procedural requirements. Discussions shall be of a general nature only and no decisions shall be made. No application form is required and no time limit is imposed for the conceptual consultation.

2. Design Review RSA 676:4,II (b) & (c). In order to engage in discussion concerning the specific details of a proposed subdivision or site plan, the prospective applicant may file an application for preliminary design review. This meeting is not a public hearing but public notice must be given not less than ten (10) days prior to the meeting and all abutters notified by certified or registered mail return receipt requested. A public notice of such hearing shall also be published in a newspaper of general circulation in the Town at least ten (10) days prior to said hearing. The notice shall include a general description of the proposal and shall identify the prospective applicant and the location of the proposal. No conclusions made at such a meeting are binding on either the Planning Board or the applicant.

a. An application shall be filed at least twenty-two (22) days prior to the regular meeting of the Planning Board at which it is to be discussed and all fees to cover administration and cost of notices must be paid.

b. The preliminary review application shall be made by the owner of the property or his duly authorized agent and shall include the following:

(1) Three copies of the application form provided by the Planning Board accompanied by the names and addresses of abutters as indicated in town records with one set of address labels.

(2) Three copies of a site survey showing pertinent features of the site, major topographical features of

the site, proposed layout of lots and streets, watercourses and wetlands, and any soils information that has been gathered.

c. Material presented during this phase shall be stamped "Design Review" but any information not modified or changed and meeting the requirements may be filed as part of the completed application and noted accordingly. If the applicant fails to submit a completed subdivision or site plan application within six (6) months, all materials must be updated and resubmitted.

B. Subdivision or Site Plan Application

1. The completed application shall be filed with the Secretary or Chairman of the Planning Board no less than twenty-two (22) days prior to the meeting at which the application will be formally submitted to the Planning Board. The application shall be made by the owner of the property or his duly authorized agent. The completed application shall consist of a completed copy of the application form provided by the Planning Board, a completed check list, and compliance with all of the requirements and specifications required for either the subdivision of land or site plan review, including: the presentation of all required drawings, layouts, reports or other technical data, the payment of all fees as required by the Planning Board in accordance with their fee schedule, and the names and addresses of all abutters as indicated in town records and address labels for same. All fees and the cost of mailing notice of all public hearings to abutters shall be paid by the applicant prior to the hearing.

2. The Planning Board shall use the requirements of these regulations[A1] to determine if an application is complete. An application must be either accepted or rejected, by roll call vote of the Planning Board, within 30 days of receipt of the application. An application will be accepted as complete if all requirements of these regulations have been met. However, if there are any missing components to the application, checklist, or plat(s), the applicant should/must submit written waivers for the missing items and/or if written waivers are not applicable or submitted, the Planning Board reserves the right to accept a partially completed application if it determines there is sufficient information to allow the board to begin deliberation, that missing items will be received in a timely manner, allowing deliberation to be completed and an informed decision rendered, within the statutory allotted time. Acceptance of an application as complete does not ensure approval of the application. In cases of non-acceptance of any application submitted to the Board, the grounds for such non-acceptance shall be stated in the minutes or records of the Planning Board and the applicant shall be notified of the action taken in writing not more than ten (10) days after the date of such action. (Amended January 18, 2007)

3. The Planning Board shall hold a public hearing for formal acceptance of the completed application. The applicant and abutters shall be notified, not less than ten (10) days prior to the hearing, by certified mail return receipt requested of the

time and place of such hearing. A public notice of such hearing shall also be published in a newspaper of general circulation in the Town at least ten (10) days prior to said hearing. The notice shall include a general description of the proposal that is the subject of the application and shall identify the applicant and the location of the proposal. All of the cost of notification shall be paid by the applicant.

C. Board Action on Completed Application.

1. The Planning Board shall consider the completed application within thirty (30) days following its acceptance. The Board shall act to approve, conditionally approve or disapprove within ninety (90) days after acceptance, subject to extension or waiver as provided in RSA 676:1,(f).

2. The Planning Board may refer the Subdivision or Site Plan to a consultant or consultants for review and comment. The applicant shall bear all costs of such consultants unless they have received a waiver under Section IX. Prior to referral, the applicant shall post a performance guarantee assuring payment of such services.

3. Changes to drawings and information requested of the applicant during the review process shall be submitted to the Town Planner seven (7) calendar days prior to the date of a continued hearing. Failure to do so may, at the discretion of the Planning Board Chairman, result in the scheduled hearing to be cancelled and rescheduled to a later date. (Adopted January 18, 2007)

~~4. Unless otherwise stated, all conditions of approval granted by the Planning Board must be met within one year from the date conditional approval is granted. Failure to meet this one-year deadline by the applicant will result in the approval being deemed null and void. The applicant may file an application with the Planning Board to extend the deadline for meeting conditions, providing that such filing is received by the Planning staff thirty (30) days prior to the expiration date. (Adopted January 18, 2007)~~

~~5. Before final approval is granted, a performance guarantee shall be posted covering the estimated cost of all on-site and off-site road(s), drainage, utility, parking, landscaping, erosion and sediment control improvements, any other improvements which are subject to those provisions in the General Regulations and Requirements (Section IX) governing the manner of installation or construction and the cost of the Town's inspection during the construction process.~~

Section V: Submission Requirements for the Subdivision of Land

A. Application

1. Fully executed and signed copies of the subdivision Application in triplicate giving:

a. Location of site, zoning district, tax map number and lot number.

b. Names of any adjoining streets.

c. Names and addresses of the owner(s) of record the applicant, the persons or firm preparing the map and abutting landowners.

d. All minor subdivision applications shall be accompanied by one set of address labels for abutters and all major subdivision applications shall be accompanied by three sets of address labels for abutters.

2. A written statement of purpose of the subdivision shall be a note on the subdivision plan. (Amended 2/2/06)

3. Plats for subdivisions shall have a survey of the entire lot. A prior survey may be used provided that it shows metes and bounds, meets all current subdivision regulations for surveys and is acceptable to the surveyor preparing the current subdivision plan by a note on the plan to that effect.(Amended 2/2/06)

B. Lot Line Adjustment, Annexation or Minor Subdivision

1. Lot Line Adjustment or Annexation--To qualify as a Lot Line Adjustment or Annexation, a proposal shall not constitute the creation of any new lot(s). These provisions shall be limited only to the exchange or transfer of land between existing adjacent lots. Such provisions shall not apply to any exchange which shall cause the creation of any substandard lot as per the Town of Antrim Zoning Ordinance, save those cases where a variance has been granted for such.

2. Minor Subdivision--To qualify as a minor subdivision a proposal shall not constitute the creation of more than two new lots in addition to an existing lot from which the subdivision is made, or involve the construction of a road or other improvements. The Planning Board may require additional information as deemed necessary in certain situations and is not limited to only the submission requirements listed under B,3. ~~Additionally, the Board may require a major subdivision plan be prepared should the proposal significantly impact the concerns herein contained.~~

3. Information required for all Lot Line Adjustments, Annexations and Minor Subdivisions.

a. Eight (8) copies of a plan or plat drawn at a scale no greater than 1 inch = 100 feet. A scale of 1 inch = 50 feet may be required if all details cannot be shown clearly at the greater scale. All plans shall be 22 x 34 inches. Oversized drawings will not be accepted. (Amended 2/2/06)

(1) Name and address of the person or firm preparing the plan.

(2) A vicinity sketch showing the location of the site in relation to the surrounding public street system. (Amended 2/2/06)

(3) North arrow, scale, date of original drawing and date of all subsequent changes.

~~(4) Current zoning classification (including overlaying districts, tax map and lot number) of the property and the location of any district boundaries if located within the site including the fifty (50) foot intrusion into the less restrictive district. (Amended 10/15/92 and 2/2/06)~~

(5) Property boundary lines, distances and bearings of such plotted to scale.

(6) Names of all current abutting property owners with deed book and page #'s. (Amended 2/2/06)

(7) Names, location and classification of all abutting streets.

(8) Lot number, area of the parcel (in square feet and acres), and street frontage. The Major lot retains the primary lot number. Subdivided lots are numbered -1, -2, etc. (Amended 2/2/06)

~~(9) Location of all buffers and setbacks by use of dashed lines.~~
~~(10) All existing buildings and driveways. (Amended 2/2/06)~~

~~(11) Location of wetlands and one hundred year flood elevation line (or a note if not) applicable (source of 100-year flood line – i.e. FEMA community/panel #) The Planning Board reserves the right to have these areas delineated by a Wetland Scientist or a Soil Scientist. (See Section IX,Q) (Amended 12/18/2003; Amended 2/2/06)~~

~~(12) Location of waterbodies, streams, rock ledges, cemeteries, drainage ditches and bridges if applicable or a note if there are none. The Planning Board reserves the right to have these areas delineated by a Wetland Scientist or a Soil Scientist. (Amended 12/18/03; Amended 2/2/06)~~

(13) Location of all easements on record as of the date of the preparation of the plan if applicable or a note if there are none. (Amended 2/2/06)

(14) All existing utilities. (Amended 2/2/06)

(15) Boundary lines, dimensions, ~~setback lines~~ and area of proposed lots. (See Section IX;A) (Amended 2/2/06)

(16) Location and type of all proposed and existing monuments.

~~(17) Location of all soil test pits, test borings, percolation test pits, and 4000 sq. ft. septic area on each proposed lot (for lots less than 5 acres and for lots within Shoreland Protection). (Amended 2/2/06)~~

(18) The existing grades, drainage systems and topographical contours at intervals not exceeding five (5) feet, with spot elevations where the grade is less than two (2) percent. Also, all low points, and high points and other areas needing spot elevations shall be shown using dashed lines. Contour lines are to be field run or photogrammetric and not interpolations of USGS maps. The source of the data shall be shown. (Amended 2/2/06)

(19) Ground control. (See Section IX,P)

(20) In the case of Annexations, a note indicating the property to which the lot will be annexed and that the lot from which the parcel is taken will remain a legal lot. (Added 10/15/92)

(21) A cover sheet showing the entire project whenever it cannot be shown at the required scale on a single plan of 22" x 34".
(22) Seal and signature of a duly licensed land surveyor in the State of New Hampshire attesting that:

(a) All bounds are set.

(b) A Note stating that the survey close(s) within one (1) foot/fifteen thousand (15,000) feet for lots within the Village Business District, Residential District, Lakefront Residential District, and Highway Business District and one (1) foot/seven thousand five hundred (7,500) feet in the Rural and Rural Conservation District. (Amended 2/2/06)

(c) The data set forth on this plan is based upon an actual field survey of the premises shown.

(23) Blocks for the endorsement by the owner and the Chairman and Secretary of the Planning Board. (Amended 2/2/06).

(24) Legend showing symbols, hatching and line types shown on the plan. (Adopted 2/2/06)

~~(25) Existing soils delineation based on the "Soils Survey of Hillsborough County, New Hampshire, Western Part" and a legend which explains the map symbols. (Adopted 2/2/06)~~

~~(26) If a variance or special exception was granted by the Antrim Zoning Board of Adjustment, a note on the plan stating what the variance was for and the date of the variance. (Adopted 2/2/06)~~

(27) Written Request for Waiver's, if any. (Adopted 2/2/06)

~~(28) The location of the proposed and existing wells with protective radius shown for each lot. (Adopted 2/2/06)~~

~~(29) Approval of the Antrim Planning Board for a Special Use Permit to disturb the 25' wetland buffer. (Adopted 2/2/06)~~

b. Additional Information

(1) Copies of deed restrictions or protective covenants for each definitely restricted section shall be submitted to the Board and boundaries of such shall be accurately presented on the submitted plan if applicable or a note if there are none. (Amended 2/2/06)

~~(2) Written approval from the Antrim Sewer and Water Department if such approval is required by the Planning Board. (Amended 2/2/06)~~

~~(3) Written Approval by the NHDES Subsurface Systems Bureau for the subdivision. (Amended 2/2/06)~~

~~(4) Written Approval of the New Hampshire Department of Transportation or the Antrim Road Agent for siting driveways & curb cuts with adequate lines of sight. (Amended 2/2/06)~~

~~(5) Site Specific Permit as specified by the NHDES Water Division. (Adopted 2/2/06)~~

4. Final Plan Submission.

a. A request for final approval of a plat or plan shall be accompanied by a final plan of such proposal legibly and clearly drawn as follows:

(1) The plan shall show all items required in the preliminary layout.

(2) The plan shall have a revision block giving the date and nature of all revisions since the date of original plan submitted.

(3) One Mylar and four dark line copies must be submitted.

(4) The seal and signature of a licensed land surveyor in the State of New Hampshire attesting that all bounds are set

~~b. Additional Approvals--Copies of all State and Town approvals and permits as follows:~~

~~(1) Written Approval of the NH DES Wetlands Bureau for relocation, filling, dredging or re-channeling of any natural or manmade drainage area, river, stream, pond, wet area, etc. (Amended 2/2/06)~~

c. No changes shall be made after the final plan has been approved without resubmission to the Planning Board for approval of such changes.

d. Prior to the final approval, the Planning Board shall have received, reviewed and accepted any consultant's report required by the Board with respect to the Subdivision Plan including Town Counsel review of covenants, easements and security documents. (Amended 2/2/06)

~~e. Prior to signature of the plan and its release for recording, a performance guarantee shall be posted established covering the estimated cost of all on-site and off-site road(s), drainage, utility, parking, landscaping, erosion and sediment control improvements, setting of bounds, and any other improvements which are subject to those provisions in the General Regulations and Requirements (Section IX) governing the manner of installation or construction and the cost of the Town's inspection during the construction process. (Amended 2/2/06)~~

C. Major Subdivisions

Major subdivisions shall include all subdivisions which create more than two new lots in addition to an existing lot from which the subdivision is made or involves the construction of a road or other improvements. ~~The Board may require additional information as deemed necessary in certain situations and is not limited to only the subdivision requirements listed under C, 1.~~

1. Information required for all Major subdivisions.

a. Eight (8) copies of a plan or plat drawn at a scale no greater than 1 inch = 100 feet. A scale of 1 inch = 50 feet may be required if all details cannot be shown clearly at the greater scale. All plans shall be 22" x 34". Oversized drawings will not be accepted. (Amended 2/2/06)

(1) Name and addresses of the person or firm preparing the plan.

(2) A vicinity sketch showing the location of the site in relation to the surrounding public street system. (Amended 2/2/06)

(3) North Arrow, scale, date of original drawing and revision block.

~~(4) Current zoning classification (including overlaying districts, tax map and lot number) of the property and the location of any district boundaries if located within the site including the fifty (50) foot intrusion into the less restrictive district. (Amended 10/15/92 and 2/2/06)~~

(5) Property boundary lines, distances and bearings of such plotted to scale.

(6) Names of all current abutting property owners with deed book and page #'s. (Amended 2/2/06)

(7) Names, location and classification of all abutting streets.

(8) Lot number, area of the parcel (in square feet and acres), and street frontage. The Major lot retains the primary lot number. Subdivided lots are numbered -1,-2, etc. (Amended 2/2/06)

~~(9) Location of all buffers and setbacks by the use of dashed lines.~~

~~(10) The location and size of all existing buildings and driveways. (Amended 2/2/06)~~

~~(11) Location of wetlands and one hundred-year flood elevation line if (or a note if not) applicable (source of 100-year flood line- i.e. FEMA community/ panel #). The Planning Board reserves the right to have these areas delineated by a Wetland Scientist or a Soil Scientist. (Amended 12/18/2003; Amended 2/2/06)~~

~~(12) Location of waterbodies, streams, rock ledges, cemeteries, drainage ditches and bridges if applicable or a note if there are none. The Planning Board reserves the right to have these areas delineated by a Wetland Scientist. (Amended 12/18/2003; Amended 2/2/06)~~

(13) Location of all easements on record as of the date of the preparation of the plan if applicable or a note if there are none. (Amended 2/2/06)

(14) All existing utilities. (Amended 2/2/06)

(15) Location and type of all proposed and existing monuments.

~~(16) Location of all soil test pits, test borings, percolation test pits, and 4000 sq. ft. septic area on each proposed lot (for lots less than 5 acres and for lots within Shoreland Protection) unless otherwise required by the Planning Board. (Amended 2/2/06)~~

(17) The existing grades, drainage systems and topographical contours at intervals not exceeding five (5) feet, with spot elevations where the grade is less than two (2) percent. Also, all low points, high points and other areas needing spot elevations shall be shown using dashed lines. Contour lines are to be field run or photogrammetric and not interpolations of USGS maps. The source of the data shall be shown. (Amended 2/2/06)

(18) Ground control. (See Section IX,P)

(19) Location and width of all proposed streets, sidewalks and other public ways and their grades, profiles and rights-of-ways. Location of handicap ramps for all sidewalks. Engineering specifications for paved areas, bridges and/or culverts as required. (See Section IX,E,F,G,H,I & J)

~~(20) A circulation plan of the interior of the lot showing provision for both auto and pedestrian circulation. An access plan showing means of access to the site and any proposed changes to existing public streets including any traffic control devices necessary in conjunction with the proposed site development plan.~~

~~(21) Location and design of all other proposed improvements for:~~

~~(a) Water supply showing location and size of water mains, fire hydrants and valves.~~

~~(b) Location of the existing effluent disposal area(s). Amended 2/2/06~~

~~(c) The location, size, grade and invert elevation of sanitary and/or storm sewers.~~

~~(d) Electric power supply with location of utility poles or underground conduits. If the utility company(s) requires an easement to provide service, no final approval shall be granted by the Planning Board until such easements are secured.~~

~~(22) Provisions for control of erosion and sedimentation both permanent and temporary (during construction). (See Section IX,K)~~

~~(23) A storm water drainage plan. (see Section IX,L)~~

~~(24) A plan for the disposal of waste generated on the site during development. (See Section IX,M)~~

~~(25) Construction drawings including but not limited to roads, walks, steps, curbing and drainage structures prepared by a Professional Engineer. (Amended 2/2/06)~~

(26) The location of any common lands and/or dedication of land for public or common ownership if applicable or a note if there are none. (See Section IX,C) (Amended 2/2/06)

(27) The location of easement, deed restrictions, dedications and covenants if applicable or a note if there are none with the following additional requirements: (Amended 2/2/06)

(a) Where the topography is such as to make difficult the inclusion of any facilities mentioned above within the public ways so laid out, the submitted layout shall show the boundaries of proposed permanent easements over or under private property. Easements shall not be less than fifteen (15) feet in width and shall have satisfactory access to existing or proposed public ways or as determined by the Board.

(b) Any existing or proposed easements shall be shown by a fine dashed line and clearly labeled and identified on the plan. If the easement is being dedicated on the plan, it shall be properly set out in the owner's certificate of dedication. If an easement shown on the plan is already on record, its recorded reference must be shown.

(c) The accurate outline of all property that is offered for dedication for public use must be designated, with the purpose indicated thereon, and of all property that may be reserved by deed restrictions or protective covenant in the deed for the common use of the property owners in the subdivision. Tracts offered for dedication other than for streets or easements should be designated by letter or number.

(28) A cover sheet showing the entire project [A2]whenever it cannot be shown at the required scale on a single plan of 22" x 34".

(29) Seal and signature of a licensed land surveyor in the State of New Hampshire attesting that:

(a) All bounds are set.

(b) A note stating that the survey close(s) within one (1) foot/fifteen thousand (15,000) feet for lots within the Village Business District, Residential District, Lakefront Residential District and Highway Business District and one (1) foot/seven thousand five hundred (7,500) feet in the Rural and Rural Conservation District.
(Amended 2/2/06)

(c) The date set forth on this Plan is based upon an actual field survey of the premises shown.

(30) Blocks for the endorsement by the owner and the Chairman and Secretary of the Planning Board. (Amended 2/2/06).

(31) Legend showing symbols, hatching and line types shown on the plan. (Adopted 2/2/06)

~~(32) Existing soils delineation based on the "Soils Survey of Hillsborough County, New Hampshire, Western Part" and a legend which explains the map symbols or site specific soil mapping when required by the Planning Board. (Adopted 2/2/06)~~

~~(33) If a variance or special exception was granted by the Antrim Zoning Board of Adjustment, a note on the plan stating what the variance was for and the date of the variance. (Adopted 2/2/06)~~

~~(34) The location of the proposed and existing wells with protective radius shown for each lot. (Adopted 2/2/06)~~

b. Additional Information

~~(1) The phasing of project construction, if staged.~~

(2) Copies of deed restrictions or protective covenants for each definitely restricted section shall be submitted to the Board and boundaries of such shall be accurately presented on the submitted plan if applicable or a note if there are none. (Amended 2/2/06)

~~(3) Written Approval from the Antrim Sewer and Water Department if such approval is required by the Planning Board. (Amended 2/2/06)~~

~~(4) Written Approval by the NHDES Subsurface Systems Bureau for the subdivision. (Amended 2/2/06)~~

~~(5) Written Recommendation of the Fire Safety Officer if requested. (Amended 2/2/06)~~

~~(6) Written Approval of the New Hampshire Department of Transportation or the Antrim Road Agent for siting driveways & curb cuts with adequate lines of sight. (Amended 2/2/06)~~

~~(7) Site Specific Permit as specified by the NHDES Water Division. (Amended 2/2/06)~~

~~*(8) The applicant may be required to submit the following:~~

~~(a) Community Facilities Impact Study (See Section IX,N)~~

~~(b) Soil Erosion and Sediment Control Plan (See Section IX,K,2)~~

~~(c) Site Specific Soil Survey (See Section IX,O) (Amended 2/2/06)~~

~~*Should the Planning Board determine some or all of the information described in Section V,C,1,b (8) above is to be required, the applicant shall be notified in writing within ten (10) days after the public hearing described in Section IV(3)above of the necessity to submit the information deemed a requirement by the Planning Board.~~

~~(9) The Board shall determine whether or not the development, if approved, could reasonably be construed as having the potential for regional impact.~~

2. Final Plan Submission.

a. A request for final approval of a plat or plan shall be accompanied by a final plan of such proposal legibly and clearly drawn as follows:

(1) The plan shall show all items required in the preliminary layout.[A3]

(2) The plan shall have a revision block giving the date and nature of all revisions since the date of original plan submitted

(3) One Mylar and four dark line copies must

be submitted.

(4) The seal and signature of a licensed land surveyor in the State of New Hampshire attesting that all bounds are set.

~~b. Additional Approvals--Copies of all State and Town approvals and permits as follows:~~

~~(1) Written Approval of the NH DES Wetlands Bureau for relocation, filling, dredging or re-channeling of any natural or manmade drainage area, river, stream, pond, wet area, etc. (Amended 2/2/06)~~

~~(2) Written approval of the Antrim Planning Board for a Special Use Permit to disturb the 25' wetland buffer. (Added 2/2/06)~~

c. No changes[A4] shall be made after the final plan has been approved without resubmission to the Planning Board for approval of such changes.

d. Prior to the final approval, the Planning Board shall have received, reviewed and accepted any consultant's report required by the Board with respect to the Subdivision Plan including Town Counsel review of covenants, easements and security documents. (Amended 2/2/06)

~~e. Prior to signature of the plan and its release for recording, a bond shall be posted or escrow account established covering the estimated cost of all on-site and off-site road(s), drainage, utility, parking, landscaping, erosion and sediment control improvements, setting of bounds, and any other improvements which are subject to those provisions in the General Regulations and Requirements (Section IX) governing the manner of installation or construction and the cost of the Town's inspection during the construction process. (Amended 2/2/06)~~

~~Section VI: Submission Requirements for Site Plan Review~~

~~A. Submission Requirements for Home Based Businesses and Change of Use. This includes proposals for uses which customarily or may properly be carried on entirely within a dwelling or other structure accessory to the dwelling, or the change of use of any existing building. This does not include any enlargement of the buildings.~~

~~1. Application~~

~~a. Fully executed and signed copies of the Building Permit Application in triplicate.~~

~~b. Fully executed and signed copies of the Home Occupation and change of Use Application in triplicate including:~~

~~(1) Location of site, zoning district, tax map number, lot number, names of any adjoining streets, names and addresses of the owners of record, of the applicant and abutting land owners. Amended 2/2/06)~~

~~(2) Area to be used for commercial purposes.~~

~~(3) Signed release for the Building Inspector to examine the property to see if it is suitable for the proposed use.~~

~~(4) A written statement describing the purpose of the proposed project and giving sufficient detail to determine compliance with the Town Ordinances and Regulations.~~

~~2. Plan of Development--A plot plan diagram (engineered plan not necessary), in triplicate, showing the following:~~

~~a. Shape and dimensions of the interior area to be used.~~

~~b. Any additions or changes to be made in the plumbing or electrical wiring.~~

~~C. The shape and dimensions of the proposed parking area.~~

~~d. Driveways and flow of traffic entering and exiting the site.~~

~~e. Location, size and character of all signs and exterior lighting.~~

~~3. Written Approval of the New Hampshire Department of Transportation or the Antrim Road Agent. (Amended 2/2/06)~~

~~**B. Submission Requirements for Minor Site Plan and additions to Home Occupations.** Minor Site Plan Reviews include proposals which involve six hundred (600) square feet, or less, of additional interior space for commercial activity.~~

~~1. Application~~

~~a. Fully executed and signed copies of the Minor Site Plan Review Application in triplicate including:~~

~~(1) Location of site, zoning district, tax map number, lot number, names of any adjoining street, names and addresses of the owners of record, of the applicant and abutting land owners. (Amended 2/2/06)~~

~~(2) Nature of change: Addition or Change of Use.~~

~~(3) Type of building: Residential, Commercial or Industrial.~~

~~(4) Area to be used for commercial purposes.~~

~~(5) Signed release for the Building Inspector to examine the property to see if it is suitable for the proposed use.~~

~~b. A written statement describing the purpose of the proposed project and giving sufficient detail to determine compliance with Town Ordinances and Regulations.~~

~~2. Plan of Development -- plan diagram (engineering plan not necessary), in triplicate showing the following:~~

~~a. Shape and dimensions of the interior area to be used.~~

~~b. Any additions or changes to be made in plumbing or electrical wiring.~~

~~c. Any changes in the sewage disposal system.~~

~~d. The shape and dimensions of the proposed parking area.~~

~~e. Driveways and flow of traffic entering and exiting the site.~~

~~f. Location, size and character of all signs and exterior lighting.~~

~~g. Provisions for storage and removal of rubbish.~~

~~h. Additions to inns, hotels and restaurants shall have handicap access if the enlargement has a value in excess of twenty five percent (25%) of its current value.~~

~~3. Additional Information~~

~~a. Written recommendation of the Fire Safety Officer if requested. (Amended 2/2/06)~~

~~b. Written approval from the Antrim Sewer and Water Department if such approval is required by the Planning Board. (Amended 2/2/06)~~

~~c. Written approval of the New Hampshire Department of Transportation or the Antrim Road Agent for siting driveways and curb cuts with adequate lines of sight. (Amended 2/2/06)~~

~~d. Written approval by the NH DES Subsurface Systems Bureau for any additions to any existing septic system, the construction of any new septic system, or to additions of buildings on a septic system. (Amended 2/2/06)~~

~~e. Written approval of the Antrim Planning Board for a Special Use Permit to disturb the 25' wetland buffer. (Amended 2/2/06)~~

~~C. Submission Requirements for Major Site Plan Review~~ ~~All commercial development and multi-family dwellings other than two family and conversion apartments, whether or not such development includes a subdivision or re-subdivision of the site, and which do not qualify for a Minor Site Plan Review shall include and be in full compliance with the requirements for a Major Site Plan Review listed below.~~

~~1. Application~~

~~a. Fully executed and signed copies of the Major Site Plan Review Application in triplicate, giving the location of the site, zoning district, tax map number, lot number, parcel number(s), name and addresses of the owners of record, of the applicant, of the persons or firm preparing the map, and abutting land owners with four (4) sets of address labels, along with the names of all adjoining streets.~~

~~b. A written statement describing the purpose of the proposed project, giving sufficient detail to determine compliance with the provisions of Site Plan Review Regulations and the Town Ordinances and Regulations in effect.~~

~~2. Any Major Site Plan Review which includes a subdivision of the site shall meet all the requirements of the subdivision of land.~~

~~3. Plan of Development- Eight (8) copies of a plan or plat drawn at a scale no greater than 1 inch = 100 feet. A scale of 1 inch = 50 feet may be required if all details cannot be shown clearly at the greater scale. All plans shall be 22 x 34 inches. Oversized drawings will not be accepted. (Amended 2/2/06)~~

~~a. Existing and Data information~~

~~(1) Name and address of the person or firm preparing the plan.~~

~~(2) A vicinity sketch showing the location of the site in relation to the surrounding public street system. (Amended 2/2/06)~~

~~(3) North arrow, scale, date of original drawing and revision block.~~

~~(4) Current zoning classification (including overlaying districts, tax map, and lot number) of the property and location of any district boundaries if located within the site including the fifty (50) foot intrusion into a less restrictive district. (Amended 2/2/06)~~

~~(5) Property boundary lines, distances, and bearings of such plotted to scale. (Amended 2/2/06)~~

~~(6) Names of all current abutting property owners with deed book and page numbers. (Amended 2/2/06)~~

~~(7) Names, location and classification of all abutting streets.~~

~~(8) The lot number, area of the parcel (in square feet and acres), and street frontage.~~

~~(9) Location of all buffers and setbacks for buildings, wetlands, parking and loading required by the Zoning Ordinance by use of dashed lines.~~

~~(10) The location, size, shape and height of all existing and proposed buildings, including any expansion or changes of existing structures with typical elevations and floor plans (See Section IX, C), and any existing or proposed parking areas or driveways. (Amended 2/2/06)~~

~~(11) Location of all existing buildings, intersecting roads or driveways within two hundred (200) feet of the parcel.~~

~~(12) Location of wetlands and one hundred year flood elevation line (or a note if not applicable); including the source of 100-year flood line – i.e. FEMA community/ panel #). The Planning Board reserves the right to have these areas delineated by a Wetland Scientist. (See Section IX,Q). (Amended 2/2/06)~~

~~(13) Location of waterbodies, streams, rock ledges, cemeteries, drainage ditches and bridges if applicable or a note if there are none. The Planning Board reserves the right to have there areas delineated by a Wetland Scientist. (Amended 2/2/06)~~

~~(14) Location of all easements on record as of the date of the preparation of the plan if applicable or a note if there are none.~~

~~(15) All existing utilities. (Amended 2/2/06)~~

~~(16) The existing grades, drainage systems and topographical contours at intervals not exceeding five (5) feet, with spot elevations where the grade is less than two (2%) percent. Also, all low points, high points, and other areas needing spot elevations shall be shown using dashed lines. Contour lines are to be field run or photogrammetric and not interpolations of USGS maps. The source of such data shall be shown. (Amended 2/2/06)~~

~~(17) Ground Control. (See Section IX,P)~~

~~(18) A cover sheet showing the entire project whenever it cannot be shown at the required scale on a single plan of 22" x 34".~~

~~(19) Seal and signature(s) of a licensed engineer or licensed land surveyor attesting (with a note stating) that the survey close(s) within one (1) foot/fifteen thousand (15,000) feet for lots within the Village Business District, Residential District, Lakefront Residential District, and Highway Business District and one (1) foot/seven thousand five hundred (7,500) feet in the Rural and Rural Conservation District and the data set forth on this plan is based upon the actual field survey of the premises shown. (Amended 2/2/06)~~

~~(20) Blocks for the endorsement by the owner, the Chairman, and the Secretary of the Planning Board. Amended 2/2/06)~~

~~b. Proposed Development~~

~~(1) The shape, size, height and location of the proposed structures, including any expansion or changes of existing structures, with typical elevations and floor plans. (See Section IX,C)~~

~~(2) Proposed streets, driveways, parking spaces and sidewalks, with indication of the direction of travel for one-way streets, and drives and inside radii of all curves. The width of streets, driveways and sidewalks. Sidewalks shall be provided with handicap ramps. The total number of parking spaces, loading spaces, and loading facilities shall be shown. (See Section IX,E,F & G)~~

~~(3) The location of all points of access to town roads and State highways.~~

~~(4) Street centerlines and rights-of-way lines and locations of adjacent streets and other public property within at least one hundred (100) feet of the subdivision or site. Street names, bearing and distances along centerlines.~~

~~(5) Street, sidewalk and bikeway cross sections and profiles, location of handicap ramps for all sidewalks, engineering specifications for paved areas, bridges and/or culverts as required. (See Section IX,H,I & J)~~

~~(6) A circulation plan of the interior of the lot showing provision for both auto and pedestrian circulation. An access plan showing means of access to the site and proposed changes to existing public streets including any traffic control devices necessary in conjunction with the proposed site development plan. (See Section IX,G)~~

~~(7) A utility plan showing:~~

~~(a) Water supply showing location and size of water mains, fire hydrants and valves.~~

~~(b) Location of the existing effluent disposal area(s). (Amended 2/2/06)~~

~~(c) The location, size, grade and invert elevation of sanitary and/or storm sewers.~~

~~(d) Storage tanks: location, size, type and protective barriers, if required.~~

~~(e) Location of utility poles and a layout indicating how the site will be served by electric, telephone, and any other public utility. If the utility company(s) requires an easement to provide service, no final approval shall be granted by the Planning Board until such easements are secured.~~

~~(8) Exterior lighting plan and proposed signs or instructional devices to be located on the site, including sign orientation, size, height and elevation view.~~

~~(9) Provisions for storage and removal of rubbish.~~

~~(10) Plans for snow removal and storage.~~

~~(11) Existing and proposed topography of the site at a five (5) foot interval of two (2) foot contour if major changes to the existing topography are being proposed.~~

~~(12) Provisions for control of erosion and sedimentation both permanent and temporary (during construction). (See Section IX,K)~~

~~(13) A storm water drainage plan. (See Section IX,L)~~

~~(14) A plan for the disposal of waste generated on the site during development. (See Section IX,M)~~

~~(15) Construction drawings including but not limited to roads, walks, steps, curbing and drainage structures.~~

~~(16.) A general landscaping plan and planting schedule, including the treatment of buffer areas and the location and types of trees and vegetation to be planted.~~

~~(17) The location, type and size of other screening, including fences and walls.~~

~~(18) The location of any common lands and/or dedication of land for public or common ownership. (See Section IX, C)~~

~~(19) Provisions for fire safety, prevention and control.~~

~~(20) The location of easement, deed restrictions, dedications and covenants, with the following additional requirements:~~

~~(a) Where the topography is such as to make difficult the inclusion of any facilities mentioned above within the public ways so laid out, the submitted layout shall show the boundaries of proposed permanent easements over or under private property. Easements shall not be less than fifteen (15) feet in width and shall have satisfactory access to existing or proposed public ways or as determined by the Board.~~

~~(b) Any existing or proposed easements shall be shown by a fine dashed line and clearly labeled and identified on the plan. If the easement is being dedicated by the plan, it shall be properly set out in the owner's certificate of dedication. If an easement shown on the plan is already on record, its recorded reference must be shown.~~

~~(c) The plan shall contain an accurate outline of all property that is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed restrictions or protective covenant in the deed for the common use of the property owners in the subdivision. Tracts offered for dedication other than for streets or easements should be designated by letter or number.~~

~~(21) Other information:~~

~~(a) The phasing of project construction, if staged.~~

~~(b) Copies of deed restrictions or protective covenants for each definitely restricted section shall be submitted to the Board and boundaries of such shall be accurately presented on the submitted plan if applicable or a note if there are none. (Amended 2/2/06)~~

~~(c) Written Approval from the Antrim Sewer and Water Department if such approval is required by the Planning Board. (Amended 2/2/06)~~

~~(d) Written Approval by the NH DES Subsurface Systems Bureau for any additions to any existing septic system or the construction of any new septic systems. (Amended 2/2/06)~~

~~(e) Written recommendation of the Fire Safety Officer if requested. (Amended 2/2/06)~~

~~(f) Written Approval of the New Hampshire Department of Transportation or the Antrim Road Agent for siting driveways & curb cuts with adequate lines of sight. (Amended 2/2/06)~~

~~(g) Site Specific Permit as specified by the NH DES Water Division.~~

~~*(h) The applicant may be required to conduct the following:~~

~~i. Community Facilities Impact Analysis. (See Section IX,N)~~

~~ii. Soil Erosion and Sediment Control Plan. (See Section IX,K,2)~~

~~iii. Site Specific Soil Survey. (See Section IX,O)~~

~~*Should the Planning Board determine some or all of the information described in Section VI,C,3,b(21),h, above is to be required, the applicant shall be notified in writing within ten (10) days after the public hearing described in Section IV (3)above of the necessity to submit that information deemed a requirement by the Planning Board.~~

~~4. Final Plan~~

~~a. A request for final approval of a plat or plan shall be accompanied by a final plan of such proposal legibly and clearly drawn as follows:~~

~~(1) The plan shall show all items required in the preliminary layout.~~

~~(2) The plan shall have a revision block giving the date and nature of all revisions since the date of the original plan submitted to the Planning Board.~~

~~(3) One Mylar and Four (4) dark line copies must be submitted. (Amended 2/2/06)~~

~~b. Additional Approvals-Copies of all state and town approvals and permits:~~

~~(1) Written Approval of the NH DES Wetlands Bureau for relocation, filling, dredging or re-channeling of~~

any natural or manmade drainage area, river, stream, pond, wet area, etc. (Amended 2/2/06)

(2) Written approval of the Antrim Planning Board for a Special Use Permit to disturb the 25' wetland buffer. (Added 2/2/06)

c. No changes shall be made after the final plan has been approved without resubmission to the Planning Board for approval of such changes.

d. Prior to final approval, the Planning Board shall have received and reviewed any consultant(s) report(s) required by the Board with respect to the Site Plan including Town Counsel review of covenants, easements, and security documents. (Amended 2/2/06)

e. Prior to the signature of the plan and its release for recording, a bond shall be posted or escrow account established covering the estimated cost of all on-site and off-site road(s), drainage, utilities, parking, landscaping, erosion and sediment control improvements, any other improvements which are subject to those provisions in the General Regulations and Requirements (Section IX) governing the manner of installation or construction and the cost of the Town's inspection during the construction process. (Amended 2/2/06)

Section VII: Performance Guarantee

A. The applicant shall post a performance guarantee assuring payment for a consultant or consultants requested by the Planning Board for review of the Subdivision and/or Site Plan Application and during the hearing process.

B. Prior to the signature of the plan its release for recording, the developer shall post a performance guarantee any time there are provisions in the plat for the construction of improvements.

1. The performance guarantee shall cover the estimated cost of all on-site and off-site road(s), drainage, utility, parking, landscaping, erosion and sediment, control improvements, and any other improvements which are subject to those provisions in the General Regulations and Requirements (Section IX) governing the manner of installation or construction and the cost of the Town's inspection during the construction process.

2. The performance guarantee shall assure the filing of an "as built" plan with the Board of Selectmen upon completion of the project.

3. The Board of Selectmen may authorize release of the performance guarantee for a project contingent upon the completion of minor changes or unfinished work and the posting of a performance guarantee to cover the estimated cost of such work.

4. The applicant shall provide a performance guarantee in an amount and with surety and conditions satisfactory to the Planning Board and Board of Selectmen and reviewed by Town Counsel, providing for and securing to the Town of Antrim the actual construction and installation of such improvements and utilities within a period of time specified by the Planning Board and expressed in the performance guarantee; and further, the Town of Antrim shall have the power to enforce such performance guarantee by all appropriate legal and equitable remedies.

Section VIII: Inspection, Approval and Acceptance of Improvements, Installations or Facilities.

A. Subdivision and Site Plan Review approvals are granted subject to certification of compliance upon completion of any construction and prior to any use of the approved project. The certificate of compliance shall be issued by the Selectmen or their designated agent after final inspection affirms the project as completed, to be in conformity with all permits theretofore issued by the Town and other governmental agencies and all plans and information on which the permits were issued.

B. All construction procedures under Subdivision and Site Plan Review Regulations shall be observed, inspected, and certified by the Selectmen, their designated agent, or a registered professional engineer, selected by the Planning Board, and paid for by the applicant.

C. Minor necessary changes may be required by the Selectmen or their designated agent. An inspection shall be completed within seven (7) working days of the request.

D. A performance guarantee for the completion of minor unfinished work may be accepted by the Selectmen in lieu of the total completion of the project at that time and thereupon a certificate of compliance may be issued.

E. Before certification can be granted, an "as built" Final Plan shall be submitted showing the actual location and position of all roads and utilities. The plan shall include the license number and seal of a licensed engineer or land surveyor licensed in the State of New Hampshire preparing the plan and form for endorsement by the Selectmen or their designated agent.

Section IX: General Standards and Requirements

The following regulations shall govern the Subdivision of land and the Site Plan Review. The Planning Board may refer any proposed subject [A5]to these General Standards and Requirements to a consultant or consultants for review and comment. Prior to referral, the applicant shall post a performance guarantee assuring payment of such services.

A. Lots

1. Lot size and configurations shall meet all requirements of the Antrim Zoning Ordinance. Irregular lot configurations involving

extremely acute angles between lot boundary lines, abnormally narrow strips of land or other arrangements limiting normal utilization of the lot area shall be avoided.

2. All lots shall have their minimum frontage on a state highway (excluding limited access highways), a class V road or a street within an approved subdivision plan. Subdivisions will not be approved on roads shown on Town records and plans as Discontinued, Discontinued Subject to Gates and Bars or Class VI Roads.

3. Lots shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan.

B. Bounds

The surveyor shall set bounds or post a performance guarantee for the cost of the permanent monuments before final Planning Board approval and signing of the plan. Bounds must be set using the following requirements: 1" x 24" iron rod or 6" x 6" x 36" granite markers set to a depth of 30" and/or markers as approved in detail by the Planning Board at all corners and changes in angle of the lot lines and not more than one thousand (1,000) feet apart along a straight line.

~~**C. Design and Layout of Buildings**~~

~~1. The proposed use, building design and layout shall meet the provisions of the Antrim Zoning Ordinance, Subdivision Regulations, Site Plan Review Regulations and intent of the Master Plan.~~

~~2. The proposed use and design layout will be in such a location and of such size and character that it will be in harmony with the appropriate and orderly development of the surrounding area.~~

~~3. The proposed use, building design and layout shall be in such a location and shall be of such a size, and layout so that all possible nuisances emanating there from are minimized.~~

~~4. The proposed location and height of buildings or structures, location, nature and height of walls and fences, parking, loading and landscaping shall be such that they will not interfere with, discourage or prevent the appropriate development in the use of land adjacent to the proposed site or reasonably affect its value.~~

~~5. All new or enlarged inns, hotels and restaurants shall have handicap access.~~

~~6. Signs shall be in accordance with the regulations of the Antrim Zoning ordinance and in addition shall be so designed and located as not to present a hazard, glare or unattractive appearance to adjacent properties, motorists or pedestrians.~~

~~7. The land indicated on the plan shall be of such a character that it can be used for building purposes without danger to~~

~~public health or the general welfare. Any buildings located in Special Flood Hazard Areas shall meet the requirements of Article XII - Flood Plain Development District (FDD) of the Antrim Zoning Ordinance.~~

~~8. If proposed use provides for open space or parks before approval, the Planning Board may, in proper cases, require the plat to show a park or parks suitably located for playground or other recreational purposes. The Planning Board may, by appropriate endorsement on the plat, require that no building be erected upon such park or parks without its approval. Areas set aside for parks or playgrounds to be dedicated or to be reserved for common use of all property owners by covenant in the deed, whether required or not required by the Planning Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.~~

~~9. The design shall provide adequate safeguards against undesirable and preventable elements of pollution such as noise, smoke, soot, particulates, odor, electrical disturbance or any other discharge into the environment which might prove to be harmful or a nuisance to persons, structures or adjacent properties.~~

~~10. The landscape shall be preserved in its natural state insofar as is practical by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.~~

~~11. The proposed development shall be related harmoniously to the existing terrain, and to the use, scale and proportions of existing and proposed buildings in the vicinity that have functions or visual relationships to the proposed development.~~

~~12. All open space shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties.~~

~~13. Any outside storage of rubbish and waste of any description shall be restrained by the use of a container or confined space to prevent refuse from being scattered by animals or weather.~~

~~14. Exposed storage areas, exposed machinery installations, service areas, truck loading areas and similar accessory uses and structures shall be subject to such setbacks, screen plantings or other screening and buffering methods as shall reasonably be required to prevent these areas from being incongruous with the existing or contemplated environment and surrounding properties.~~

~~15. Appropriate screening, as deemed necessary by the Planning Board, shall be required in cases to shield adjacent properties from incompatible uses.~~

~~D. Sanitary Systems~~

1. In areas not currently served by public sewer systems, it shall be the responsibility of the developer or his agent to provide information to prove that the area of each lot is adequate to permit the installation and operation of a sewage disposal system adequate to serve the development.

2. A septic approval by the New Hampshire Water Supply and Pollution Control Division is required for lots of less than five (5) acres and for all site plan developments.

3. The Board, when it deems necessary, may require that said plan contain a certification by a certified soils engineer and/or scientist as to the information therein contained. All fees shall be paid by the developer.

E. Parking Requirements

1. Off-street parking spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use or any change in an existing use in its entirety in accordance with the Antrim Zoning Ordinance Off Street Parking, Loading and Unloading Regulations.

2. Required off-street parking spaces shall continue to serve the uses or structures for which they were intended so long as said use or structure remains.

3. When the computation of required parking or loading spaces results in the requirements of a fractional space, any fraction over one-half shall require one space.

4. All off-street parking, loading or unloading shall be suitably improved, graded, surfaced and maintained so as to cause no nuisance from dust or storm drainage including ice and snow removal. Provisions will be made for snow removal to insure that no snow will be pushed, shoveled or placed in a public way.

5. Required off-street parking shall be provided on the same lot as the principal use it is required to serve, or when practical difficulties, as determined by the Planning Board, prevent its establishment upon the same lot, it shall be established no further than three hundred (300) feet from the closest lot line.

6. All parking areas shall be designed so as to prevent soil erosion and shall be included in the soil erosion and sediment control plan.

F. Driveway Permits

Any one desiring to construct, alter, repair or relocate a driveway in order to obtain access to an existing or proposed street or roadway, shall first apply for and obtain a permit from the Road Agent of the Town of Antrim or the State Highway Department, which permit shall provide for the construction, alteration, repair or relocation of such driveway in accordance with the following specifications:

~~1. Any driveways having access on a State highway must comply with RSA 236:13.~~

~~2. No construction of any driveway shall be conducted without such permit.~~

~~3. No use of such driveway (except of a temporary nature during construction) shall take place until the Road Agent shall inspect the construction of the driveway and certify that said driveway conforms to the specifications set forth in this regulation.~~

~~4. General Specifications~~

~~a. Minimum width at property line 20 feet.~~

~~b. Minimum distance between drives (same side of road) 50 feet in residential areas and 100 feet in rural areas.~~

~~c. Minimum distance from intersection (same side of road) 50 feet in residential areas and 100 feet in rural areas.~~

~~d. Minimum all seasons safe sight distance 200 feet.~~

~~5. in case of rear lots with private driveways to local streets, the above requirements shall be at the discretion of the Planning Board.~~

~~6. Upon any application for a driveway permit, the applicant shall confer with the Road Agent who shall determine specifications and other aspects of construction of said driveway as the Road Agent deems necessary in order to provide for adequate drainage, snow removal, safety, etc. to prevent interference with the proper use of existing access roads. It shall be a requirement of construction, that such specifications of the Road Agent be complied with prior to the use of such driveway.~~

~~a. All driveway culverts shall be smooth interior corrugated high density polyethylene pipe with a minimum diameter of fifteen (15) inches and a minimum cover of one and one-half (1½) times the diameter of the culvert. (Amended June 19, 2008)~~

~~b. All driveways shall have a negative grade at the road unless otherwise authorized by the Road Agent.~~

~~c. The driveway grade shall not exceed ten percent (10%) unless authorized by the Road Agent and the Antrim Planning Board.~~

~~7. Shared Driveways (Adopted 01/20/05)~~

~~a.A shared driveway shall serve no more than two lots.~~
~~b.The shared portion of the driveway shall be a minimum of twenty (20) feet wide.~~

c. The shared portion of the driveway shall not extend more than fifty (50) feet from the intersection with the highway.

d. Easements protecting the right of way for property owners must be incorporated into the land deeds.

G. Roadways

1. All roads shall conform to the standards of class V Roads or better, shall meet all specifications of this section, and shall be approved by the Planning Board.

2. No street shall be recommended for acceptance by the Board of Selectmen until it has been approved by the Planning Board in accordance with this ordinance.

3. The right of way shall be fifty (50) feet.

4. Road Layout

a. New streets shall be so laid out as to accommodate the continuation of the principal streets in adjoining subdivisions or for their proper protection when adjoining property is not subdivided.

b. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic.

(1) Unless two streets or roads entering an intersection are directly opposite each other, the minimum distance from another intersection shall be 100 feet.

(2) Minimum all seasons safe site distance 300 feet.

(3) Minimum radii of curves at intersections 30 feet at the curb line. The radii may be increased for heavy traffic flows, commercial or industrial activity.

(4) When a traffic impact study indicates, space must be provided for turning lanes as indicated.

5. Dead end streets shall be equipped at the closed end with a cul-de-sac or turn-around having a minimum radius of seventy-five (75) feet from the center of the circle to the right-of-way and with a grade not to exceed two percent (2%).

6. If a road is to be offered up for acceptance by the Town it must be paved per paragraph H.12 and certified by a professional engineer that it meets or exceeds Class V specifications at the time of acceptance. (Adopted 12/18/03)

H. Road Construction

~~1. All roads shall be constructed to meet the standards of Class V roads or better.~~

~~2. The right of way shall be fifty (50) feet.~~

~~3. The finished surface of the traveled way shall not be less than the width of connecting Town roads unless specifically approved by the Planning Board. The minimum width required shall be eighteen (18) feet. The road shall have at least four (4) foot gravel shoulders on each side of the traveled way before tapering off at a 3:1 slope to the ditch line.~~

~~4. The grade of a road shall not be less than one (1) percent nor more than ten percent (10%) unless specifically approved by the Planning Board.~~

~~5. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having no greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right of way line of the intersecting street unless specifically approved by the Planning Board.~~

~~6. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance. The sight distance profile shall allow for four (4) feet at the ditch line.~~

~~7. All loam, stumps and other improper road foundation material within the limits of the roadway and shoulders shall be removed. In embankment areas, suitable foundation materials shall be placed in one (1) foot layers and complicated, to form a suitable sub-grade.~~

~~8. Ledge and boulders shall be removed to a minimum of at least twenty-four (24) inches below base course gravel and replaced with sand or bank run gravel.~~

~~*9. Base course gravel shall consist of a minimum of twenty four,(24) inches of compacted gravel. It shall be applied in two (2) separate twelve (12) inch compacted layers. The base course shall contain no stone measuring larger than six (6) inches in diameter.~~

~~*10. Finish gravel shall consist of six (6) inches of crushed gravel.~~

~~*Note: The quality of the gravel must meet or exceed the standards outlined in the State of New Hampshire Standards and Specifications for Road and Bridge Construction as approved and Adopted in 1971.~~

~~11. All culverts under roadways shall be of reinforced concrete or smooth interior corrugated high density polyethylene pipe with~~

~~a minimum diameter of fifteen (15) inches and minimum cover of three to four (3-4) feet to final grade. There shall be headers on all inlets and spreaders on all outlets unless otherwise approved by the Planning Board. (Amended June 19, 2008)~~

~~12. Paved roads shall consist of three inches of hot bituminous concrete. It shall be applied in two (2) courses: a two (2) inch base course and a one (1) inch wearing course. The thickness specified shall be compacted. Pavement shall be applied by an approved paving contractor and in accordance with the State of New Hampshire Standards and Specifications for Road and Bridge Construction, Department of Transportation, 2002 *as subsequently amended and/or superseded.* (Amended 12/08/03)~~

~~13. The deadline for applying bituminous concrete is November 1 or when weather conditions are not acceptable as determined by the Town of Antrim Road Agent or the Planning Board Engineer.~~

~~I. Storm Water Drainage for Roadways~~

~~1. Proper drainage shall be installed subject to the storm water drainage plan as approved by the Planning Board and the Planning Board Engineer.~~

~~2. Natural watercourses shall be cleaned out and increased in size where necessary to handle storm run off. A permit must be obtained for any dredging and filling of streams or wetlands for the State of New Hampshire Department of Environmental Services Wetlands Board.~~

~~3. Drainage ditches shall be twelve (12) to eighteen (18) inches in depth with a 3:1 slope from the road surface to the bottom of ditch. Riprap is required in areas where water flow is excessive.~~

~~4. Storm drainage systems shall be designed to adequately handle a fifty (50) year storm frequency.~~

~~5. Culverts fifteen (15) inches or greater in diameter shall be of reinforced concrete or smooth interior corrugated high density polyethylene pipe having a minimum of three to four (3-4) feet of cover to final grade. There shall be headers on all inlets and spreaders on all outlets unless otherwise approved by the Planning Board. (Amended June 19, 2008)~~

~~6. Closed drainage may be required depending upon the steepness of the slope and/or the length of the slope. Closed drainage shall have catch basins every two hundred fifty (250) feet or less.~~

~~J. Preparation of Public Roadways.~~

~~1. Monuments of granite or concrete six (6) inches on the top and thirty-six (36) inches long shall be set with six (6) inches exposed above ground at all street corners and angle points in the street line as well as at the ends of all curves. All street lines shall have monuments set at a maximum of one thousand (1000) feet apart.~~

2. Sidewalks and curbing shall be constructed as directed by the Planning Board. All curbs shall be of either granite or concrete. All sidewalks shall have handicap ramps at suitable locations. The expense shall be borne by the developer.

3. Driveway culverts shall be installed if required at the direction of the Road Agent. This expense shall be borne by the developer.

4. Street signs, culverts and guardrails shall be installed as directed by the Road Agent. The expense shall be borne by the developer.

5. It shall be the responsibility of the developer planning and constructing a new road to do the following:

a. Advise the Planning Board and the Road Agent of his intent in order to secure approval of the proposed right-of-way.

b. Request an inspection and approval of the right-of-way after each of the following operations. The inspection shall be made by the Planning Board, the Planning Board Engineer and/or the Road Agent. The cost of inspection shall be borne by the developer.

(1) Clearing and grubbing.

(2) Installing drainage.

(3) Course gravel.

(4) Finish gravel.

(5) Surfacing.

(6) Loam, seeding, guard rails, signs and general cleanup.

(7) Monumentation.

c. The developer shall work from grade stakes set at fifty (50) foot stations along the length of the right-of-way. All stakes are to be intact when inspections are made.

d. Before final inspection, the developer shall remove all trash from the right-of-way and repair any damage to the road or shoulders.

K. Erosion and Sediment control

A soil erosion and sediment control plan shall be provided for all major subdivisions and major site plans where the soil surface is to be disturbed. Applicants may request the Planning Board to waive this requirement upon recommendation of the Hillsborough County Conservation District.

1. Definitions

a. Certification means a signed, written approval by the Planning Board that a soil erosion and sediment control plan complies with the applicable requirements of the regulations.

b. County Conservation District means the Hillsborough County Conservation District (HCCD).

c. Development means any construction or grading activities to improved or unimproved real estate.

d. Disturbed Area means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

e. Erosion means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

f. Grading means any excavation, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

g. Inspection means the periodic review of sediment and erosion control measures shown on the certified plan.

h. Sediment means solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

i. Soil means any unconsolidated mineral or organic material of any origin.

j. Soil Erosion and Sediment Control Plan means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

2. Erosion and Sediment Control Plan

a. To be eligible for certification, a soil erosion and sedimentation control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the likelihood of excessive storm water runoff from the proposed site, based on the best available technology. Such principles, methods and practices necessary for certification are found in the EROSION AND SEDIMENT CONTROL DESIGN HANDBOOK FOR DEVELOPING AREAS OF NEW HAMPSHIRE (1987) as amended. Alternative principles, methods and practices may be used with prior approval of the Planning Board. Said plan shall conform to and contain all items listed in the application requirements for a Major Subdivision or Site Plan.

b. Site development shall not begin unless the soil erosion and sediment control plan is approved by the Planning Board, those control measures, and facilities in the plan scheduled for installation prior to site development are installed and functional.

c. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the approved plan.

d. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the approved plan.

e. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the certified plan, may be covered in a performance guarantee acceptable to the Planning Board.

3. Minimum Acceptable Standards

a. Plans for soil erosion and sediment control shall be developed in accordance with these regulations using the planning considerations in the EROSION AND SEDIMENT CONTROL DESIGN HANDBOOK FOR DEVELOPING AREAS OF NEW HAMPSHIRE (1987), as amended. Soil erosion and sediment control plans shall result in a development that: minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

b. The minimum standards for individual measures are those in the EROSION AND SEDIMENT CONTROL DESIGN HANDBOOK FOR DEVELOPING AREAS OF NEW HAMPSHIRE (1987), as amended. The Planning Board may grant exceptions when requested by the applicant, in writing, if technically sound reasons are presented.

c. The Soil Conservation Service method is outlined from Appendix I of the EROSION AND SEDIMENT CONTROL DESIGN HANDBOOK FOR DEVELOPING AREAS OF NEW HAMPSHIRE (1987), as amended, shall be used in determining peak flow rates and volumes of run off unless an alternative method is approved by the Planning Board.

4. Issuance of Certification or Denial

a. The Planning Board shall either certify that the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this regulation or deny certification when the development proposal does not comply with these regulations.

b. Prior to certification, any plan submitted to the municipality may be reviewed by the Hillsborough County Conservation District which may make recommendations

~~concerning such a plan, provided such review shall be completed within thirty (30) days of the receipt of such a plan.~~

~~c. The Planning Board may forward a copy of the development proposal to the Conservation Commission, other review agency or consultant for review and comment.~~

~~5. Inspections shall be made by the Planning Board, the Building Inspector or other designated agent during development to ensure compliance with the certified plan and that control measures and facilities are properly performed or installed and maintained. The Planning Board may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the certified plan and are being operated and maintained.~~

~~L. Storm Water Drainage Plan.~~

~~1. The existing and proposed method of handling storm water.~~

~~2. The direction of flow of the run off using arrows.~~

~~3. The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.~~

~~4. Engineering calculations used to determine drainage and piping requirements based upon a fifty (50) year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surface (such as paving and building area) being proposed.~~

~~M. Plan for Disposal of Waste Generated During Development~~

~~1. The treatment and/or disposal of any displaced ledge and/or rocks.~~

~~2. The treatment and/or disposal of tree stumps, loam, dredgings, or subsoil.~~

~~N. Community Facilities Impact Analysis~~

~~1. Demographic Description - The analysis must identify the demographic market the project intends to serve, including:~~

~~a. Average family size.~~

~~b. Numbers and ages of families.~~

~~c. Anticipated time period to fill all units or lots.~~

~~2. Community Facilities Impact - The applicant shall conduct analysis of the following:~~

~~a. Estimated impact on sewage disposal system, including flow estimates and assessment of capacity.~~

~~b. Estimated impact on the water system, including flow estimates, capacity and assessment of existing or potential water pressure.~~

~~c. Estimated impact on the traffic system, including impact of traffic on immediate existing road structures.~~

~~d. Estimated impact on the school system.~~

~~e. Estimated impact on public safety providers including police, fire and ambulances.~~

~~f. Estimated impact on solid waste disposal system.~~

~~g. Estimated impact on existing storm water management systems, including flow and water quality.~~

~~h. Estimated impact on recreation resources.~~

~~i. Any other study deemed appropriate by the Planning Board.~~

~~O. High Intensity Soils Maps~~

~~1. High intensity soils maps are to be provided for major site plans and major subdivision plans on those occasions deemed necessary by the Board due to wetland, septic or drainage considerations.~~

~~2. The high intensity soils maps shall be prepared by a certified soil scientist who is qualified by the Hillsborough County Conservation District.~~

~~3. A high intensity soils map shall be drawn at a scale no greater than 1 inch = 100 feet and identified and mapped in accordance with high intensity soils mapping standards as adopted by the Hillsborough County Conservation District.~~

~~4. A paper copy of the high intensity soils survey shall be provided to the Planning Board. In addition to the soils information provided by the survey, the map shall have on it the following:~~

~~a. The signature of the certified soils scientist.~~

~~b. Any qualifying notes made by the soils scientist.~~

~~5. If a soils classification provided on the high intensity soils map is in dispute, the Planning Board may request an evaluation of the soil designations by the Hillsborough County Conservation District.~~

P. Ground Control

1. Ground control shall be marked, by the applicant, both on the site and on the plan map(s). The ground control shall consist of

numbered flags, stakes, walls, trees or other easily identifiable points on the property. These points will be well distributed throughout the site at a density of not less than four (4) points per acre. The numbered points must be identified by number on the plan. The purpose of this requirement is to provide easy identification for all parties required or interested in examining the site.

~~2. All wetland areas, prior to tree cutting and clearing shall be staked and flagged twenty-five (25) feet from the wetland boundary. These stakes shall be a maximum of fifty (50) feet apart for straight boundaries and twenty-five (25) feet apart for curved boundaries.~~

~~Q. Special Flood Hazard Areas~~

~~1. All proposals for development governed by these regulations having lands identified as Special Flood Hazard Areas (SFHA) by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Hillsborough, NH" dated [September 2007 – Insert Final Map Effective Date], together with the associated Flood Insurance Rate Maps (FIRMS)dated [September 2007 – Insert Final Map Effective Date] as amended, shall meet the requirements of Article XII – Flood Plain Development District (FDD) of the Antrim Zoning ordinance. (Amended February 18, 2007)~~

~~a. Base flood elevation (the level of the one hundred (100) year flood elevation line) data shall be provided for that portion of proposals within the Special Flood Hazard area.~~

~~b. All development proposals shall be reviewed to determine whether such proposals meet the requirements of the Zoning ordinance.~~

~~c. All installations shall be inspected by the Building inspector or other designated agent before they are certified for use.~~

~~2. Requirements for subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP) are as follows: (Added 01/02/2003, Amended February 18, 2007)~~

~~a. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.~~

~~b. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).~~

~~e. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:~~

~~(i) All such proposals are consistent with the need to minimize flood damage;~~

~~(ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and~~

~~(iii) Adequate drainage is provided to reduce exposure to flood hazards.~~

Section X: Recording of Plat (Amended January 18, 2007)

A. Subdivision plats shall be recorded by the Planning staff within thirty (30) days of receipt of the final drawings. Plans to be recorded will have all the required signatures, and any expenses for filing will be borne by the applicant in advance.

B. Prior to the recording of any plats in the registry of deeds which are not subdivisions, the surveyor shall file, for information purposes only, a copy of the survey with the Planning Board.

Section XI: Waivers

Upon a request *in writing* (Adopted February 2nd 2006) from an applicant or upon a motion of any regular member, the Board may vote to waive, in whole or in part, the requirements of Section V, VI and/or Section IX when the proposed Subdivision or Site Plan involves either no structural changes or only minor structural expansion, or when, in the majority opinion of the Board, the literal enforcement of the regulation would create an unnecessary hardship due to unique characteristics of the site in question, and such waiver would not adversely compromise the purpose or intent of the Subdivision and Site Plan Review Regulation.

Section XII: Enforcement

The Board of Selectmen is charged with the responsibility to enforce the provisions of these regulations.

Appendix A: Antrim Road Acceptance, Reopening, and Reclassification Policy

A. ACCEPTANCE OF A NEW ROAD

In accordance with RSA 674:40-a, the authority to accept dedicated streets was delegated to the Board of Selectmen by the legislative body of the Town of Antrim at the March 6, 1973 Town Meeting by vote in the affirmative on Article 16.

The following procedures shall apply to any person proposing to create a new road or highway, in conjunction with an application for subdivision or site plan review, intended to be dedicated to the Town of Antrim for acceptance by the Town:

1. The proposed road design, prepared in accordance with the Town of Antrim Subdivision and Site Plan Review Regulations and Road Design Specifications, shall be submitted to the Planning Board with an application for subdivision or site plan review. A note on the subdivision plan should clearly indicate the applicant's intention to dedicate the proposed new highway or road to the Town.

2. Upon receipt of a subdivision or site plan review application showing a proposed new road to be dedicated to the Town, the Planning Board Secretary will distribute copies of the plans to the Board of Selectmen, Town Planner, Road Agent, Police Chief, and Fire Chief for review and comment. Comments provided by these local officials will be considered by the Planning Board during the initial acceptance and final approval stages of the application review process.

3. The Planning Board will review the application in accordance with 676:4, including the proposed road design, and may ask the Town's consulting engineer to review and comment on the proposed road design to ensure the plan is in conformance with the Town's regulations and road design specifications. Such review shall be at the expense of the applicant.

4. Should the Planning Board vote to approve the application, the applicant should be aware that the Planning Board's approval to proceed does not constitute acceptance of the road, or that the Town will take over the road. This can be done only by the Board of Selectmen after the road has been completed and built to the Town's requirements and satisfactory confirmation of same is received from the Planning Board and the Town's consulting engineer(s).

5. The developer shall be responsible for providing and installing all standard street signs and lighting as recommended by the Police Department and required by the Planning Board for all highways and roads at his expense.

6. Once the highway or road has met all requirements for completion, it shall be posted "Private" until accepted by the Board of Selectmen.

7. a. Once the Planning Board has determined that the application has met all requirements, including final inspection by the Town's consulting engineer, the applicant or lot owners within the subdivision, may submit to the Board of Selectmen a written request to formally accept the road. Upon receipt of such a request, the Board of Selectmen will schedule a public hearing and render its decision considering whether there is public need for the highway.

b. Until such time as the road is accepted by the Board of Selectmen, it shall be the continuing responsibility of the creator of the road to provide for maintenance. This may be accomplished in several ways, including, but not limited to, the following:

(1) The creation of an association with the authority to assess individual lot owners, subject to approval of the Planning Board.
(2) Maintenance by the creator of the road.
(3) Entering into a contract for maintenance with the Town.

8. Once the highway or road is accepted by the Board of Selectmen they will notify the Planning Board, applicant, Post Office, Road Agent, Conval School District, Fire Chief, and Police Chief. Once such a notice is disseminated, the Town will assume full responsibility for the road or highway which shall have the status of a public highway under RSA 229:1, deemed a Class V highway, and subject to the municipality's duty of regular maintenance as per RSA 674:40-a and set forth in RSA 231.

The Planning Board does not have the authority to accept a highway, and therefore, it is in the best interest of the applicant to consult with the Board of Selectmen at the earliest possible stage

B. REOPENING & RECLASSIFICATION OF HIGHWAYS

A previously discontinued highway may be reopened upon petition to the selectmen in accordance with RSA 231:22

The selectmen, upon petition, have the authority to reclassify an existing Class IV, Class V or Class VI highway in accordance with RSA 231:22-aV and RSA 231:8

The Planning Board does not have the authority to re-open or reclassify a highway, and therefore, it is in the best interest of the applicant to consult with the Board of Selectmen at the earliest possible stage. (Adopted July 6, 2006)