

Land Use Regulation and Policy Audit

*Lancaster, New Hampshire
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Introduction

This land use regulation and policy audit is designed to identify the implications of the existing land use planning and regulations in Lancaster, New Hampshire. The timing for undertaking this audit is perfect in Lancaster as the community just completed a Master Plan update in 2011. This audit will identify any inconsistencies between the Master Plan and the current versions of the Zoning Ordinance, Site Plan Review and Subdivision Regulations. The purpose of conducting an audit of a community's planning documents and land use regulations is to ensure that the Future Land Use Plan and associated recommendations in the Master Plan can actually be implemented under the existing regulations. If there are inconsistencies in these relationships, it is important to address them before it is too late and the community is no longer able to achieve its stated vision.

Through a generous grant from the Tillotson Foundation the Town was able to hire Jeffrey H. Taylor & Associates to conduct this audit. The overall finding of this effort is that there are some topics where the specifics of the land use regulations do not serve the policy statements of the Master Plan. This is a critical point. If the regulations do not assist with the implementation of the Vision in the Master Plan, that Vision is not likely to be achieved.

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During the public input sessions at the start of this project there was a great deal of interest in distinguishing between the various commercial areas in Lancaster. This was identified because of how different the downtown area is from the rest of the community. Interest also exists in developing design standards to protect and enhance this district. Elsewhere in the commercial zone there is interest in controlling curb cuts that impede roadway capacity and safety (also known as access management), and guiding future commercial development away from a conventional strip development. In the Agricultural Zone there is interest in guiding future development in a way that protects critical natural resources including agricultural soils and maintains the low density rural settlement pattern overall. Guidelines for these goals and other regulatory changes will be presented in greater detail in this audit report.

Key Audit findings:

- The Commercial district along Main Street needs to be split into at least two sub-districts.
- In the Downtown a Form Based Code would better serve this densely developed portion of Lancaster.
- In the Highway Commercial areas building placement is still a concern, and in some areas a more nodal pattern could be encouraged.
- In the Residential District there is a need to revisit the required setbacks and permitted uses.
- In the Agricultural district additional regulatory tools are needed to protect the development pattern and critical resources. Cluster development, lot size averaging, and maybe a change in minimum lot size should all be considered.

Master Plan Findings

The current Master Plan recognizes the importance of the Downtown area and of the surrounding natural resources and working landscapes that provide the possibility of a sustainable existence for future generations of Lancaster residents. Achieving this will require the creation and promotion of revised land use regulations. The following items from the Master Plan should be used to guide the drafting of new land use regulations that will lead future development and land use changes toward Lancaster's Vision.

Guiding Principles from the 2011 Master Plan

The plan seeks to maintain and/or improve:

- the 'quality of life' for the residents of Lancaster.
- the quality of drinking water supplies and aquifers.
- the economic foundation of the town.
- the 'rural character' of the town.
- the 'sense of community' among its residents.
- the 'uncrowded living conditions' and 'aesthetics' unique to the town.
- the 'peace and quiet' of the town.
- the 'natural and reasonable growth' of the town ... and
- the 'preservation of Main Street' and its historic nature.

Like many vision statements these points provide a sense of what the Town as a whole values and the general direction it would like to move in, but really lacks the details to make the Vision a reality. The goals and objectives from each of the Master Plan Chapters provide additional details on how to achieve this future in Lancaster.

Regulatory Findings by Topic

The following section of Regulatory Findings and recommendations includes guidelines and goals that have been articulated in the Master Plan. Do to the overlap of some of the Master Plan chapters the findings have been consolidated under specific topic headings.

Cultural and Economic Resources

The Social and Economic Resources section of the Master Plan and the Historic and Cultural section identify similar issues including concern over development on Main Street and how the community's historic character is threatened by development. This includes the need to:

- Plan for the orderly development and redevelopment of Main Street so that its beauty and historic character are balanced with the need for downtown economic development.
- Promote and implement new planning techniques through zoning and site plan review that foster creative and attractive development. For example encouraging parking to the rear of buildings on Main Street and maintaining the historic façades.
- Develop a method for ensuring that all commercial properties are properly maintained and meet all life safety and health codes.
- Concern over traffic congestion, curb cuts and gas/convenience stores who are incompatible with the character of Main Street.
- Make conscious efforts to blend new development with the traditional village setting.
- Generate public support for façade improvements and the protection of historic structures.

This was echoed by Board members and residents during the public feedback sessions at the start of this project. Main Street is designated as a Commercial Zone in the current zoning ordinance, but clearly has three district areas. The downtown business area at the core of the District, a less intense area to the north that includes parks and churches, and a retail area that is more automobile oriented which continues out onto North main Street and Bridge Street.

Commercial District:

- After a complete review of the downtown zoning and collecting feedback, it is clear that the time has come to create at least two distinct commercial districts. One of these should be focused on the downtown core where the buildings are close together, exhibiting both mixed uses and multi-story development, providing the opportunity to encourage pedestrian activity. This area would be well served by a Form Based Code, which places an emphasis on building location and size and would work to preserve the existing pattern of development.
- A fuller purpose statement could be crafted for each of the resulting Commercial Districts in order to place emphasis on other critical issues, like transportation, design, building materials, etc. These might emphasize that this is the core of the community and that a mix of uses (including residential) are desired here. Also, these areas should be pedestrian and bicycle friendly.
- If the downtown core becomes its own distinct district, there will be little difference between the remaining Commercial and Commercial-Industrial areas. At this point these areas should be re-examined and new districts/boundaries can be developed.
- To ensure that commercial uses are properly maintained and meet all codes there will need to be a commitment to code enforcement by the town. For new developments this could also include performance guarantees for the landscaping and infrastructure installed.

Design Guidelines:

- Create and adopt design guidelines and/or incorporate them into the Form Based Code provisions.
- Design Standards for other areas outside the downtown core could include guidance on landscape standards, including recommendations for the use of native plants.

Home Businesses:

- Need guidelines for on-site storage at home businesses. This could include a year-round screening requirement for materials stored outside as part of the business operation.

Signs:

- Consider a thorough evaluation and comparison to newer regulations from other communities (Dover, Durham, etc.).
- Allow signage for small businesses around town.
- No guidance on illumination currently exists.
 - Require externally illuminated signs to be illuminated from above to reduce light pollution and the amount of illumination needed overall.
 - Require that lights used on signage be turned off at a certain time rather than staying on all night unless it is a use that is open all night.
 - Consider the energy and light pollution impact of internally illuminated signs.

Site Design:

- Amend regulations to allow for more effective buffering and screening year-round – especially between potentially conflicting uses. This could include a combination of fences, berms, and landscaping elements as necessary.
- Review parking requirements and promote flexibility to meet these requirements in the downtown.
- Favor side and rear parking in the regulations where feasible. The community can decide to encourage or require this, and that decision will likely depend on the zone in question.
- Develop a shared driveway requirement and require interior streets and interconnected driveways for sites that access Routes 2 and 3 to limit curb cuts and strip development in these commercial areas. Typically this is referred to as access management.

Design Guidelines for new development should be created to encourage incorporating Architectural features at a scale found in Lancaster. Which features are identified and encouraged will be a decision for the community to make while drafting the guidelines. Here are two different approaches that can serve as examples.

In Dover language was included in the Form Based Code and it is incentivized with a quicker approval process (170 10-1 F):

<http://www.ci.dover.nh.us/code/Zoning%20OrdinanceWITHLINKS.pdf>

In Windham the design regulations are included as part of the Site Plan Review process:

<http://www.windhamnewhampshire.com/updated/Ordinances/Zoning/DesignRegulations.pdf>

Access Management:

- As identified in the Site Design section there is a need to develop better access management guidelines. These should include a shared driveway requirement, interior streets, and interconnected driveways at a minimum. The focus is on sites that access Routes 2 and 3 to limit curb cuts and strip development in these commercial areas, but these could also be considered on Town roads in the Downtown and other areas that have higher traffic volumes.
- Roads and Utilities – clearly state access management as a goal in this section.
- Encourage or require shared drives, as well as shared parking facilities and access to adjacent sites.

Traffic Calming and Pedestrian Access:

- Be sure to provide protected pedestrian access through projects with large parking lots.
- Incorporate traffic calming design features to slow traffic and create a safe environment for pedestrians. This can be accomplished by including language in the Site Plan Review regulations that would apply to new commercial developments. Another way to accomplish this goal is to lead by example when working on municipal roadway projects or working with the NHDOT on changes to the state routes.

Administrative Changes:

- Allow minor site plan review by staff as identified in the existing Site Plan Review Regulations. This is possible Under RSA 674:43, III, the town meeting may authorize the planning board to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified administrators chosen by the planning board from the departments of public works, engineering, community development, planning or other similar departments in the municipality. This special site review committee may have final authority to approve or disapprove site plans reviewed by it, but if this power is granted the decision of the committee may be appealed to the full planning board within 20 days of the committee's decision. All of the planning board's normal procedures under RSA 676:4 shall apply to the actions of the special site review committee, except that the committee shall act to approve or disapprove an application within 60 days after its submission.

2. Housing

This section of the Master Plan recommends that Lancaster maintain a fair balance of housing alternatives for all citizens. It also suggests that:

- Manufactured housing be permitted on individual lots in designated areas of all zoning districts;
- Residents don't want large lots and frontages to result in the loss of productive land;
- The community should offer incentives for residential development which compliments town character in the village and preserves open space in the rest of town;
- Density bonuses for new housing developments if added units are for elderly housing and located in-town.
- Lancaster should remain a walkable community with infrastructure in good repair.

Housing Alternatives:

- Pursue incentives like extra dwelling units for multi-bedroom units in the Downtown Commercial District and extra dwelling units for housing developments that preserve open space would help Lancaster meet its housing goals.
- Create an overlay zoning district for areas with prime agricultural soils. This could include reduced frontages and maximum lot sizes for what is need to provide water/sewer. The intent would be to keep units off these soils and cluster them elsewhere on the property.
- Encourage utilization of available "in-town" property for housing. This could include opportunities for large mixed use structures that include housing on upper floors, or even Cottage Housing which includes a number of small units clustered together.
- Revise zoning bylaws to encourage rental opportunities for all income levels. This would include promoting a provision for Accessory Dwelling units.

Open Space Development (Cluster Development) Zoning:

- Avoid simply using lot size and frontage to control growth, as this may lead to a sprawl pattern of development over time. Other regulatory tools may be necessary to create the desired patterns of development. Promoting the use of the cluster development provision in the Agricultural District is one existing example.
- Clustered Development needs to be enabled in the zoning before it can be used and the design guidelines can remain in the Site Plan Review and Subdivision regulations. The model ordinance found here is a good resource: http://des.nh.gov/organization/divisions/water/wmb/repp/innovative_land_use.htm
- As the enabling language is being added to the Zoning Ordinance, it is a good time to revisit the standards and look at the use of requirements or incentives that will help achieve Lancaster's goals. This could include keeping development off of prime agricultural soils, and providing a density bonus at a minimum for projects that accomplish this.
- The use of this regulatory tool in the Agricultural District and the potential use of the Village Plan Alternative (RSA 674:21) in and near the Downtown will help use land more efficiently in future developments, while preserving natural resources and working landscapes for future generations.
- Consider requiring Open Space Developments for major subdivisions in portions of the Agricultural District, especially on prime agricultural soils.
- Consider adding an incentive like additional units for developments that incorporate energy conservation or sustainability in their design.
- Recommend applicants use the 4 step design process articulated by Randall Arendt to create cluster development proposals (Arendt - *Conservation Design for Subdivisions: A Practical Guide for Creating Open Space Networks*)

- Consider adopting *Lot Size Averaging* or *Feature Based Density* as a tool for guiding the design of smaller subdivisions outside the Commercial District in Lancaster. Model language for both tools can be found at: http://des.nh.gov/organization/divisions/water/wmb/repp/innovative_land_use.htm

Manufactured Housing:

- Remove Article 7 from the Zoning and have all Manufactured Housing developments follow the subdivision provisions as necessary. This includes the use of the Cluster Development provision.
- This would result in manufactured housing units being treated the same as any other type of housing rather than as a noxious use. It appears that this provision was not being utilized in Lancaster anymore.
- Clarification on Mobile Homes, Manufactured Homes, and Modular Homes:
 - Homes built AFTER 1976 should, technically, no longer be referred to as *Mobile Homes* but instead are considered *Manufactured Homes* and are built to a higher standard of quality according to HUD. Manufactured Homes are built entirely in a factory under the federal building code administered by the Department of Housing and Urban Development (HUD). Manufactured homes can be placed on a basement and include multi-wides and expandable manufactured homes. Excluded are travel trailers, motor homes, and modular housing.
 - A *Modular Home* is manufactured in a production facility and then transported and assembled on location. The assembly process typically uses a traditional concrete foundation (permanent). Modular homes are built to either local or state building codes as opposed to manufactured homes which are also built in a factory but are governed by a federal building code.

Accessory Dwelling Units:

- Accessory dwelling units provide for greater housing flexibility, and often result in a range of units across the spectrum of affordability that do not have a big impact on the landscape. This is currently allowed through the dwelling unit density provisions, but could be made much clearer.
- If this use is to be identified, a definition is needed for accessory dwelling units.
- Accessory dwelling units should be allowed in specific districts and clarified in the list of uses. This type of housing unit is often identified as being smaller than the primary residential structure, and may be within the primary structure or located in an accessory structure. These decisions can be addressed at the Town's discretion when drafting these regulations.
- Here is a link to some discussion related to Accessory Dwelling Units and how some communities are incorporating them:
<http://www.nh.gov/oepr/resourcelibrary/referencelibrary/a/accessorydwellingunits/plan-link2.htm>

Back Lots:

- Back lots provide some flexibility for future development in the Agricultural District without consuming all of the road frontage. If the use of back lots is encouraged within Lancaster it could include a provision for multiple lots if agricultural land along the roadway is protected from development. In all cases the use of shared driveways should continue to be required.

Multi-Family Units:

- Consider adding Multi-Family units as a permitted use in the Agricultural District to aid farmers that may need to construct housing for their workers, and to assist meeting the State requirement that workforce housing units be allowed in at least 50% of the community.

3. Natural Resources

This section of the Master Plan calls for preserving rural character and open space while promoting the sustainable use and stewardship of land through policies and regulations. There is a large dairy farming presence in the community and a farm on Main St. There are significant agricultural fields along the Connecticut River currently, but these areas and others are currently zoned for development. While the Master Plan suggests that the planning and zoning boards will encourage land protection and conservation measures, there is no natural resource inventory to inform these efforts in a comprehensive way.

Floodplain Management:

- Discourage development in the floodplain. This could be done using an overlay district that restricts the permitted uses in floodplain areas. The permitted uses could be focused on agriculture and recreation based uses that can withstand flooding and do not alter the flood storage capacity of these areas. If this is implemented it will be important to update the “special flood hazard area” of the site plan regulations. Conway, NH has done something similar by establishing a Floodplain Conservation Overlay District the details can be found in Section 147-13-14 of this document:
<http://www.conwaynh.org/assets/pdf/2011%20Adopted%20041211.pdf>

Landscaping:

- Encourage use of native species in landscaping, and encourage creation of rich plantings that provide ecosystem services (i.e. food, clean water, habitat, etc.). An excellent resource for applicants is *Integrated Landscaping: Following Nature’s Lead* (NH Cooperative Extension) to promote the use of indigenous species, and the use of edible landscaping that is visually interesting and provides a food source for animals and humans.

Stormwater:

- Require stormwater to be treated onsite, and encourage or require Low Impact Development design features as a lower energy and more ecological approach to handling stormwater (The *Innovative Land Use Planning Techniques Handbook* available from the NH Department of Environmental Services is an excellent resource). This more natural treatment of stormwater could also include the use of bio-retention areas on major roadways as part of a “green streets” approach. These design standards (pervious pavement, storm water treatment and infiltration, etc.) should be included in the Site Plan Regulations to guide the design of these facilities.
- Consider the impact of the larger storm events being experienced in New Hampshire as you determine culvert size and the storage capability of stormwater systems in new developments.

Overlay Regulations:

- Adopt overlay zones to protect important natural resources (wetlands, steep slopes, water supplies, etc.)
- The most pressing of these may be an overlay district to guide development on scenic ridgelines, mountaintops, and steep slopes where there are both visual and water quality implications from future development.

Erosion and Sedimentation:

- Erosion and sedimentation control regulations are needed in both the site plan review and subdivision regulations.

Green Building:

- Adopt a Green Building provision in the Commercial and Commercial–Industrial Districts that provides incentives for new commercial development to pursue Leadership in Energy and Environmental Design (LEED) certification, or a similar standard, and include a combination of energy production and sustainable design features. This could include an expedited review process or greater density.

Open Space and Agriculture:

- If open space is desired in future subdivisions under Section 7.01 some guidance should be provided to the applicant to ensure the type of resources that are most important to Lancaster are included in these areas. This could include a requirement that the Four Step Design Process (developed by Randall Arendt) for conservation subdivisions be used.
- Ensure that the subdivision regulations are farm friendly, and that barriers to active agricultural operations have been removed. Refer to the NH Office of Energy and Planning Document “*Preserving Rural Character: The Agriculture Connection.*”

4. Energy

This section of the Master Plan is new in Lancaster and recognizes the importance of energy efficiency and conservation to reduce demand for energy. It recommends:

- Working with others to protect and expand public transportation opportunities; and
- Developing programs to make energy efficiency upgrades in older homes affordable.

General:

- In the Zoning Purpose Statement consider adding “promote energy conservation, and an energy efficient land use pattern.”
- Consider adopting the Small Wind Energy Systems model ordinance for Lancaster.
- Consider providing incentives (like expedited review) for projects that are eligible for Energy Star or LEED certification.

Outdoor Lighting:

- Adopt outdoor lighting regulations that require full cutoff fixtures and reduce the potential for light pollution as outlined by the International Dark Sky Association. The NH Office of Energy and Planning and the *Innovative Land Use Planning Techniques Handbook* available from the NH Department of Environmental Services are two additional resources.

5. Land Use

Lancaster’s existing land use pattern includes a village center still surrounded by farm fields and forestland. More than 60% of the town is forested and 14% of the town is farmland. This is a remarkable pattern of development that the Master Plan recommends preserving as new development is accommodated.

Dimensional Standards:

- Expand the description of the Agricultural District to clarify that the intent is to see residential units at a much lower density overall, and to cluster new units when possible to retain important natural resources and working landscapes that are critical to Lancaster’s long-term sustainability.
- In the Agricultural District where lower density residential development is the goal, consider increasing the minimum lot size significantly (10 acres or more), but allow the option of conservation subdivisions or other alternatives with smaller lots and a percentage of protected land set aside for its natural resource value.
- New housing developments in Lancaster are often in 3-5 lot subdivisions with onsite water/sewer. It is important to ensure that there are mechanisms in place to appropriately guide these smaller developments. The use of *Lot Size Averaging* or *Feature Based Density* would be appropriate.
- Review and revise setbacks as they relate to accessory structures and possibly additions. This seems to be the most common cause for Zoning Board cases and could be eliminated.
- Zone for nodal development (denser centers of mixed use development) rather than strip development in the Commercial and Commercial-Industrial Districts outside of the downtown core. Along with access management standards this will coordinate future development activity without negatively impacting the primary transportation corridors (Routes 2 and 3).

Permitted Uses:

- Allow small livestock in the Residential Zone. There are now several good examples of this in New Hampshire communities (Concord, Dover, etc.)
- Don’t let commercial uses expand onto Route 2 East.
- Consider allowing neighborhood scale commercial in the Residential District (i.e. corner store).

Site Design:

- Make provisions for snow removal and winter maintenance (salt storage, etc.).

Administrative:

- Revise and expand definitions based on any changes made.

Summary

This Master Plan and Land Use Regulation Audit should serve as an implementation tool for the Town of Lancaster. Our suggestion would be to review and prioritize these issues with the Planning Board and then proceed with implementation. Overall Lancaster is in an excellent position to guide future development in keeping with the Vision of a strong Downtown core surrounded by a landscape of natural resources and agriculture if changes are made in the land use regulations. This will allow for a more efficient land use pattern and protection of the critical natural resources that will provide options for future generations of Lancaster residents to meet their needs in a sustainable fashion. This audit should serve as a work plan to begin this process, but as new strategies become available for meeting the intent of the Master Plan they should also be considered.