

# CHAPTER

## INCENTIVE HOUSING ZONE (IHZ) STUDY

### Introduction

The Andover Planning and Zoning Commission (PZC) has been concerned about the need for workforce housing for many years. For the purposes of this report workforce housing is defined as housing affordable to those making up to 80% of the area median income.

| Town of Andover                | Family Size |           |           |           |           |
|--------------------------------|-------------|-----------|-----------|-----------|-----------|
| <b>Median Income-\$87,500</b>  | <u>1</u>    | <u>2</u>  | <u>3</u>  | <u>4</u>  | <u>5</u>  |
| <b>Low (80%) Income Limits</b> | \$ 46,100   | \$ 52,650 | \$ 59,250 | \$ 65,800 | \$ 71,100 |

Source: Huduser.org

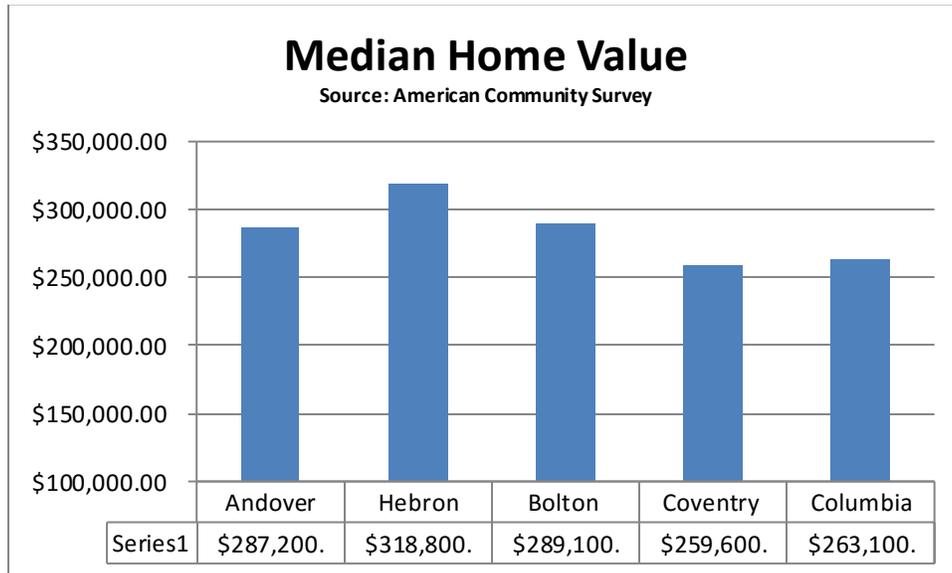
The Commission understands that most young professionals (insufficient income, down-payment, poor credit, student loans) be unable to buy a home in Andover and there are very few rental options. This means those young people born and raised in Andover may not be able to remain. The Commission also recognizes that the significantly aging population in Andover will want to remain in Town but may very well want to down size to smaller and more affordable units. It is also well understood that market demand is changing and far more people want higher density housing options that are walkable and proximate to places of worship, shopping and social and recreational opportunities.

The town’s Plan of Conservation and Development (POCD), adopted pursuant to CGS Sec. 8-23, recognizes the lack of housing choice and affordable housing in Andover. The Plan states:

***“It is recommended that Andover proactively address this issue (affordable housing) by adopting regulations providing for affordable housing which developers interested in developing affordable housing would be obligated to follow.”***

The current zoning regulations for Andover permit only single family housing development, on either 1 or 2 acre lots. As a result, Andover’s housing stock consists of 94% single family residences and 6 % multifamily. In 2015 the Town of Andover had 1,317 dwelling units. Fifty five (55) or 4.18% of those units were considered “assisted units” under the States Affordable Housing Appeals Act, (CGS 8-30g) The goal of CGS CGS 8-30g is to have 10% of the housing stock in each town in Connecticut deemed assisted units. In Andover this translates to seventy seven (77) additional assisted units. Once the 10% goal is reached Andover would be exempt for the provisions of CGS 8-30g.

In relation to surrounding communities, the median home value is very similar. Due to a lack of, infrastructure, employment opportunities, shopping and other services, Andover can hardly be considered a good location to help solve the regions affordable housing needs.



However, Andover is still subject to the provisions of CGS 8-30g. The significance of this act is that it allows developers to disregard zoning rules while also shifting the burden of proof to the town to justify a denial. It becomes very difficult for a town to deny an application, which **does not** meet current zoning but does meet the minimum standards found in the act. Essentially, in order to deny an application, the town is required to find documented and proven public health and / or safety concerns. CGS 8-30g applications brought by private developers are often time consuming, expensive and divisive within the neighborhood and the government. They often create ill will regarding the need and importance of affordable housing.

The IHZ process, including public workshops and hearings, will help to educate the community, establish a plan for future workforce housing and put the town in control over future development applications. This study will also determine the best course of action to achieve the construction of the final seventy-seven (77) units of workforce housing. The town’s goal is to achieve the statutorily mandated 10% by the year 2025.

## The Need for Workforce Housing in Andover

In 2015 the Town of Andover had 1,317 dwelling units. Fifty-five (55) or 4.18% of those units were considered “assisted units” under the State’s Affordable Housing Appeals Act. (8-30g). To reach the goal of 10% the town would have to allow for the construction of seventy-seven (77) additional “assisted units”.

It is an accepted mortgage underwriting requirement and a requirement of the act that no more than 30% of a family's income can be dedicated to mortgage payments, real estate taxes and homeowner’s insurance. The attached fact sheets from the *Partnership for Strong Communities (HomeCT)* program provides helpful information on housing in Andover in relation to the rest of the state. These sheets indicate that 49% of renters and 25% of homeowners in Andover spend more than 30% of their income on housing, a clear indicator of the need for more affordable options for town residents.

Eighty (80%) percent of the median income in Andover for a family of four is \$65,800. The 80% of median income in Tolland County is \$64,424. This means that a family with Andover's and the region’s median income can dedicate \$1,974 and \$1,787 to housing costs, respectfully.

The median home price in Andover is \$287,200. Considering a 20% down payment and a mortgage interest rate of 3% a typical mortgage for a median priced home in Andover would be \$ 969. Taxes on the home would be \$6,240 and homeowners insurance would be approximately \$1,200.

This translates into a housing payment of \$1,589 per month.

While this example suggests a family of four making exactly 80% of the median income can afford to purchase the median priced home in Andover, those making slightly less would not qualify. The example also makes some very significant assumptions. It assumes the family buying the home has an acceptable credit score, approximately \$ 5,000 for closing costs and a down payment of \$57,440 for a conventional mortgage. Unfortunately, many young professionals have student loans and most families don’t have the ability to save close to \$60,000 with a \$70,000 annual income.

Considering all these factors, this means that well over half of the units in Andover are out of reach for those making less than 80% of the area median income. In February of 2016 *Realtor.com* had 31 listings in Andover and only 10 of them were below the median home value and most were older and had other characteristics which would not be conducive to a modern family. (1 bath, only 2 bedrooms, need for renovation)

While apartments are a more affordable option and often the first step leading to homeownership the supply is nowhere near sufficient to meet the demand for Andover's high school and college graduates and others who would like to remain in Andover. The HomeCT data sheets indicates there are sixty-six (66) units in Andover and some are age and income restricted.

**Conclusion - the median income in Andover and the region, coupled with other mortgage requirements, is not sufficient to purchase the median priced home or rent an apartment in Andover. Furthermore the supply of rental units is too small to satisfy market demand.**

## Incentive Housing Zones

The Planning and Zoning Commission is committed to investigating changes to the zoning regulations to provide for more housing options and greater housing diversity in town. The Commission understands the need to respond to the changing demographics of the state and the county.

Connecticut General Statutes authorizes the Commissioner of the Department of Housing (DOH) to:

*“make grants to municipalities for the purpose of providing technical assistance and pre-development funds in the planning of incentive housing zones, the adoption of incentive housing zone regulations and design standards, the review and revision as needed of applicable subdivision regulations and applications to the Secretary for preliminary or final approval”.*

The Andover Planning and Zoning Commission applied for and received a \$20,000 technical assistance grant from the Connecticut Department of Housing to study the feasibility of establishing an Incentive Housing Zone(s) (IHZ) in Andover.

The objective of this study is to create the framework which will lead to the creation of workforce housing while retaining some control over location and appearance of the housing options. Ninety-four (94%) percent of the housing units are single family detached homes. To diversify the housing stock the Commission will look much more carefully at attached housing units clustered on a portion of a property with the remainder preserved as open space. It is anticipated that the mixture of housing options will include attached rental and homeownership aimed at Andover residents, town employees and others with incomes at or below 80% of the area median income.

This study will set the stage for four (4) outcomes:

1. Permissive zoning and preliminary studies for three (3) areas in proximity to RT 6;
2. Sufficient information to market these areas to high quality developers;
3. More assisted housing units available to those at or below 80% of median income;
4. 10% of all units in Andover assisted as defined in 8-30g by 2025.

### **Requirements for an Incentive Housing Zone (IHZ)**

Title 8 Chapter 124b of the Connecticut General Statutes allows for the creation of Incentive Housing Zones (IHZ).

An IHZ is a zone adopted by the planning and zoning commission in accordance with the statute as an overlay zone to one or more existing zones, in an eligible location.

IHZ's must be located in eligible locations. An eligible location as defined by statute is an (A) An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal; (B) an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j; or (C) an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone.

The eligible locations must include "Developable land" which means the area within the boundaries of an approved incentive housing zone that feasibly can be developed into residential or mixed uses consistent with the statute.

Developable land does not include (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses as defined in chapter 440; and (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

If the above criteria are satisfied and an IHZ(s) is established in Andover an Incentive housing development can occur. A Incentive housing development means a residential or mixed-use development that is proposed or located within an approved incentive housing zone and is eligible for financial incentive payments and not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy of the development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income.

The Statute has specific requirements for the Incentive Housing Overlay Zone regulations. In order to be approved by the state Department of Housing (DOH) and be eligible for additional incentives the Andover IHZ zone must adhere to the following requirements:

1. The zone shall be consistent with the State Plan of Conservation and Development and be located in an eligible location
2. Regulations of the zone shall permit, as of right, incentive housing development
3. Zone must comply with minimum allowable density requirements:
  - 6 units/acre for single-family housing
  - 10 units/acre for duplex or townhouse housing
  - 20 units/acre for multifamily housing

In Andover lower densities (4/6/10) are allowed with DOH approval.

4. Minimum as of right density allowed by the zone must increase the density allowed by the underlying zone by *at least 25%*
5. Minimum densities prescribed above shall be subject only to site plan or subdivision procedures, and shall not be subject to special permit or special exception procedures, requirements or standards

The Commission can also modify, waive or delete dimensional standards contained in the underlying zone and the regulations may allow for a mix of business, commercial or other nonresidential uses. The zone may overlay all or any part of an existing historic district. The regulation can also include architectural design standards for buildings constructed within the zone.

### **Potential Benefits of Establishing an Incentive Housing Zone**

The State of Connecticut has shown a commitment to affordable housing and is very interested in the establishment of IHZ's in Connecticut towns. The State Legislature approved IHZ legislation with the inclusion of additional funding for communities that establish IHZ's. This funding includes:

- Zone Adoption Grant – the Department of Housing may make a payment of up to \$50,000 for adoption of an IHZ, subject to the availability of funds.
- Phase II Pre-Development Funding of up to \$50,000 may be available through a grant application process. These funds are intended to further a specific incentive housing development project and can be used for things such as planning and design costs, costs associated with land purchases, permitting, etc.

- Building Permit Grants – The Department of Housing may make payments of up to \$2,000 for each multi-family, duplex or townhouse unit permitted, and up to \$5,000 for each single-family unit permitted in an approved IHZ, subject to availability of funds.

Source: CT Dept. of Housing

### Site Analysis for Possible IHZ's

As discussed above IHZ's must be located in eligible locations.

An "eligible location" is defined based on the following criteria:

- ***"An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal";***

The only parcels in Andover which could arguably satisfy this criteria are the parcels in proximity to the Route 6 corridor. The Route 6 corridor is served by mass transit and there are bus stops along it. These stops could certainly be enhanced if the demand existed.

- ***"an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j"; or***

Again the Route 6 corridor is the only location in town. Route 6 contains Andover's only commercial area and the establishment of a village district is recommended in the 2016 Plan of Conservation and Development.

- ***"an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone."***

The Plan of Conservation and Development recognizes the underutilized area currently considered the town center as an area with significant potential. The POCD proposes infrastructure improvements and a village district designation.

- **Consistency with State Plan of Conservation and Development.**

The final criteria for an IHZ is that the location must be consistent with the State Plan of Conservation and Development. The only designation in the 2013-2018 Locational Guide Map of the State Plan that would allow higher density more intensive development in Andover is the Village Priority Funding area. (Village PFA)

Town staff has extensive experience in Andover and is familiar with the ownership of the parcels, the wetlands and, most importantly, the soils within the town. After discussions with the Planning and Zoning Commission and with the Town Zoning Agent, Wetlands Agent and Sanitarian it was determined that three (3) parcels would be investigated more carefully.

The following parcels are designated Village PFA and satisfy the “eligible location” criteria:

- Site A- Phelps Property Shoddy Mill Road 52.4 acres
- Site B - Rosewood Acres Property Lindholms Corner acres
- Site C - Town of Andover Property School Street 70 acres

The following Phase 1 initial site analysis uses available public information from the Town of Andover and the Capital Region Council of Governments Geographic Information System.

Phase 2 of the study will determine the net developable acreage and develop concept plans on how development might proceed for each parcel based on each sites natural characteristics, including preliminary septic suitability analysis and traffic impacts. This Phase 2 will also including a draft IHZ regulation suitable for presentation at a future public hearing.

### Site A- Phelps Property Shoddy Mill Road 52.4 acres

|   |  |
|---|--|
| <p>Map 27 Block 18 Lot 4<br/>                 Parcels ID – 09013001-428<br/>                 Address 28 Shoddy Mill Rd.<br/>                 Owner: Ruth Phelps<br/>                 Acreage: 3.1 acres<br/>                 2,800 sq.ft. Single Family Home built in 1900<br/>                 Assessed Value \$140,700<br/>                 Current Zoning: R40 Single Family Residential<br/>                 Utilities: On Site Septic and Well</p> | <p>Map 27 Block 18 Lot 6,<br/>                 Parcels ID – 09013001-429<br/>                 Address Shoddy Mill Rd.<br/>                 Owner: John F. Phelps<br/>                 Acreage: 52.8 acres<br/>                 Public Act 490 assessed Value \$4800<br/>                 Current Zoning: R40 Single Family Residential<br/>                 Utilities: On Site Septic and Well</p> |
|---|--|

## Discussion

The subject parcel is 52.4 acres. It is totally forested and classified as forest land for tax purposes. The most unique aspect of the land is its XXXXX feet of frontage along the Hop River Rail Trail and Route 6. The parcel is also in close proximity to the “town center” area.

### **Access**

Upon review of the attached maps it becomes apparent the only legal frontage available to the subject parcel is along the State of CT Route 6 right of way, which includes the Hop River Rail Trail. The Rail trail is considered a state park and access rights to cross the rail trail with a road or access drive could be very difficult to obtain. There are also significant topographic challenges, including a significant retaining wall running along Route 6.

The alternate access to the subject parcel is over land owned by Ruth Phelps. The property is 3.1 acres and contains a single family home and small horse farm. Access to the subject parcel using this property is slightly complicated by an elevation change of approximately 12 feet from the road to the elevation of the subject property. Also the CRCOG mapping displays a wetland corridor along the south western boundary of the property. This wetland appears questionable on the aerial photos and would have to be field verified. However, if accurate, the house would have to be included in any development scenario

### **Road Conditions and Sight lines**

Shoddy Mill Road is somewhat of a collector road with a width of approximately feet. Sight lines from

### **Route 6 Corridor Study**

The Route 6 Hop River Corridor Study was a significant regional study completed by the Capital Region Council of Governments. The advisory committee included representatives from Andover. The overall master plan for the Route 6 corridor identifies the Phelps property as a property suitable for higher density residential with possible mixed use, with a 150-foot undisturbed buffer along the rail trail with building facades facing the rail trail, Route 6 and the Town Center. This study will be taken into consideration as the concept plan for the property is developed.

### **Topography**

The subject property is undulating with several areas of steep slope, particularly along the rail trail and the area where it rises to its peak elevation of 460 feet. However, there are small pockets of gradual slope which certainly would be considered developable. See attached topography map.

### **Inland Wetland and Watercourses**

The CROG GIS system displays a wetland corridor along the south western boundary of the property. The existence and extent of this wetland would need to be field verified. If accurate it complicates access but does not otherwise impede the development of this parcel.

### **Statutory definition of “Developable land” determination of “net developable acres”**

CGS Chapter 124b defines what can be considered developable land.

Developable land does not include

- (A) Land already committed to a public use or purpose, whether publicly or privately owned;
- (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement;
- (C) land otherwise subject to an enforceable restriction on or prohibition of development;
- (D) wetlands or watercourses as defined in chapter 440; and
- (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

For the subject property criteria A,B, and C are not applicable. Criteria D is applicable and for this exercise the land shown as inland wetland soils will be eliminated from total lot area and any density calculation. Criteria E is also applicable. There are significant areas where topography and adjacency to wetlands would complicate the development of the parcel. For this reason, those areas will also be removed from the total lot area and density calculation.

## Site B - Rosewood Enterprises LLC Rt. 87 / Rt. 6 - 56 acres

Map 38/Block 40/Lots 15-1 thru 15-10

Parcel ID: Multiple

Address : Lindholm's Corner, Route 6 and Route 87 -

Owner : Rosewood Enterprises LLC

Acreage: 10 individual parcels – Total acreage - 56.77 acres

Current Zoning : : R40 Single Family Residential and Business (approx.. 4 acres)

Utilities : On Site Septic and Well

### Discussion

The subject parcel is 56.77 acres. It is totally forested and classified as forest land for tax purposes. The most unique aspect of the land is the fact that it has been previously subdivided into ten (10) residential building lots ranging in size from 1.58 acres to 9.77 acres. This equates to an average lot size of 5.67 acres and overall density of .17 units per acre. This level of density is exactly the opposite of what the IHZ legislation encourages and exactly the opposite of what demographic trends suggest will be needed in the future.

The parcel abuts several lots that have already been developed with single family homes in Andover. It is also adjacent to the Town of Columbia and eight (8) single family homes in Columbia. This fact will require notice to the regional planning agency for any re-zoning and notice to the town clerk for any proposed development. These facts could complicate development proposals but due to the nature of clustered higher density development significantly larger buffers and open spaces can be provided.

### **Access**

The parcel is unique in that it is located at the intersection of Route 6 and Route 87 and a local cul-de-sac known as Lindholms Corner. The subject property has access to all of these frontages.

### **Road Conditions and Sight lines**

Lindholms Corner is a local cul-de-sac with very little traffic volume. It is in good condition and its intersection with Route 87 has good sight lines.

Route 6 is a major State highway and a major east – west thoroughfare in Connecticut. It has an average daily traffic count of cars. Recent improvements to the road have created significant width and shoulders. The sight lines at the subject sites frontage on Route 6 appear to be adequate.

Route 87 has an ADT of cars per day. It also is a state highway. The parcels frontage on Route 87 is at the south western extreme of the site adjacent to the Town of Columbia.

### **Route 6 Corridor Study**

The Route 6 Hop River Corridor Study was a significant regional study completed by the Capital Region Council of Governments. The advisory committee included representatives from Andover. The study does not make any recommendations for this parcel but it does recommend higher density residential on the opposite side of Route 87.

### **Topography**

The property is undulating with several areas of steep slope. Its elevation ranges from 300 feet at Route 6 to its peak elevation of 520 feet at the Columbia town line. There are small pockets of gradual slope which certainly would be considered developable for higher density development.

### **Inland Wetland and Watercourses**

The CRCOG GIS system displays a significant wetland corridor along the south western boundary of the property at its Route 87 frontage. The existence and extent of this wetland would need to be confirmed by reviewing the maps from the previous subdivision approval. Based on the tax maps up to five (5) crossings could have been approved for five (5) single family house lots. A reduction in wetland crossings to service one cluster of higher density development within the property would certainly be advantageous from a cost and environmental perspective.

### **Statutory definition of “Developable land” determination of “net developable”**

CGS Chapter 124b defines what can be considered developable land.

Developable land does not include

- (A) Land already committed to a public use or purpose, whether publicly or privately owned;
- (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement;
- (C) land otherwise subject to an enforceable restriction on or prohibition of development;
- (D) wetlands or watercourses as defined in chapter 440; and
- (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

For the subject property criteria A,B, and C are not applicable. Criteria D is applicable and for this exercise the land shown as inland wetland soils will be eliminated from total lot area and any density calculation. Criteria E is also applicable. There are significant areas where topography and adjacency to wetlands would complicate the development of the parcel. For this reason, those areas will also be removed from the total lot area and density calculation.

### Site C – Town owned School Road property.

Map 33 Block 33 Lot  
Address : 11 School Road  
Owner : Town of Andover  
Acreage: 70.5 acres  
Current Zoning : R40 Single Family Residential  
Utilities : On Site Septic and Well

#### Discussion

The subject parcel is 70.5 acres and is owned by the Town of Andover. There is an adjacent three (3) acre property also owned by the Town. The Town Hall, the Fire House and the Elementary School and associated parking, playgrounds and sports fields are contained on the property. The remainder of the property is wooded and there is ample room for subdivision and further development. The property also abuts the Hop River Rail Trail on its northeast boundary. Any future development will have to be extremely sensitive to the fact that the Andover Elementary School exists in close proximity.

A vision for this property and the development potential of this property for housing and other uses is discussed extensively in the 2016 Plan of Conservation and Development (POCD). Any proposal must be consistent with that vision.

An excerpt from the POCD is as follows:

*“Area 1 is 20.75 acres and the topography is very gradual. The high pressure gas line bisects the area and certainly needs to be carefully considered in any design. ”*

*“At the same time, carefully designed and clustered senior or 55 and older housing would complement the adjacent governmental buildings and create a “village” atmosphere which could be very desirable. A higher density living option for 55 and older would give Andover residents an option to stay in Andover and place them in an area that is conducive to walking and offers volunteer opportunities in the school and the town offices.”*

*“Depending on soil conditions, opening a new development to market rate housing, would create a very attractive living environment within a short walk to the elementary school, connected to the future town center and the lake. Market rate attached style housing could attract those in the 30-50 range and does not create an abundance of school children.”*

*“Area 2 is 25.42 acres. Areas 2 can support the above mentioned housing options.... ”*

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**Access**

The parcel has frontage on RT 316 (Hebron Road) and School Road. The frontage on Rt 316 is essentially unusable due to a small pond and wetland corridor. This leaves the only access on School Road. Access into the property would be most feasible on either side of the fire house.

**Road Conditions and Sight lines**

School Road is a local collector road heavily utilized by the Andover Lake neighborhood and traffic to and from the municipal facilities. The sight lines from possible points of intersection appear adequate

**Route 6 Corridor Study**

The Route 6 Hop River Corridor Study was a significant regional study completed by the Capital Region Council of Governments. The advisory committee included representatives from Andover. The study does not make any recommendations for this parcel.

**Topography**

The property is undulating with several areas of steep slope. Its elevation ranges from 446 feet at School Road to a high point of 490 feet and then falls quickly to 330 feet at the Hop River Rail Trail. As discussed above there are 2 large areas which can accommodate development. There is also a large area of steeply sloping land which would not be considered developable.

**Inland Wetland and Watercourses**

The CRCOG GIS system displays a significant wetland corridor bisecting the property. The wetland divides the 2 development areas discussed above. The development area adjacent to the municipal complex which would not require a wetland crossing would be considered the most developable. The second area could be developed with a wetland crossing at the narrowest point in the wetland corridor.

**Statutory definition of “Developable land” determination of “net developable”**

CGS Chapter 124b defines what can be considered developable land.

Developable land does not include

- (A) Land already committed to a public use or purpose, whether publicly or privately owned;
- (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement;
- (C) land otherwise subject to an enforceable restriction on or prohibition of development;

- (D) wetlands or watercourses as defined in chapter 440; and
- (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.

Phase 2 will examine the deed for this parcel but for this phase 1 preliminary investigation it is understood that this parcel is municipally owned but the undeveloped areas are not committed to a public purpose and are available for further development. The land associated with the school, the town hall and the firehouse would be excluded from the area and density calculation. An access road would have to enter from School Road in proximity to the town hall/firehouse.

The wetlands and a reasonable buffer around the wetland and areas of steep slope would not be considered developable land and therefore would be excluded from area and density calculations.

### **Impact on School System**

The education budget is by far the largest expense to the residents of the Town of Andover. Therefore, when discussing residential development, the impact on the school system must be carefully considered.

The industry standard for projecting the number of public school children from a development is Rutgers University, Center for Urban Policy Research Residential Demographic Multipliers — Estimates of the Occupants of New Housing - (Residents, School-Age Children, Public School-Age Children) by State, Housing Type, Housing Size, and Housing Price This study has been proven to be extremely accurate when predicting the impacts of new development.

This study concludes that attached one (1) bedroom ownership units do not produce any children and two (2) bedroom units produce .03 public school children per unit. Assuming a 30 unit development includes 20 two (2) bedroom units and 10 one (1) bedroom units the data indicates there will be one (1) public school child.

Additionally, the CT Data Center projects that the school age population will decline by % by 2025. This will certainly off-set any impacts on the school system that might occur because of new development.

Based on the above information the conclusion can be drawn that higher density one (1) and two (2) bedroom units will have a very minimal impact on the school system.

## Incentive Housing Zone Study Phase II

The Phase 1 initial site analysis used available public information from the Town of Andover and the Capital Region Council of Governments Geographic Information System to identify and discuss the three parcels the Town will study for possible inclusion in an Incentive Housing Zone overlay zone. The inclusion and discussion of any property in this report is only advisory and has no impact on the legal status of the property nor does it establish any additional rights or opportunities onto a property. To include any property in an overlay zone the normal statutory zone change process must be followed. This includes a public hearing with notice.

The Phase 1 sites identified and chosen by the Planning and Zoning Commission for additional study are:

- Site A- Phelps Property, Shoddy Mill Road - 52.4 acres
- Site B - Rosewood Acres Property, Lindholms Corner - 55.19 acres
- Site C - Town of Andover Property, School Street - 70 acres

Phase 2 of the study will determine the net developable acreage and develop concept plans on how development might proceed for each parcel based on each sites natural characteristics.

The size of these parcels and the proposed developments will be an issue in a small Town such as Andover. Even after subtracting “undevelopable land” in accordance with the statute, a significant number of units will be required to satisfy IHZ density requirements. For instance, even if a 50-acre parcel is reduced to 20 acres of developable land with a required density at six (6) units per acre the parcel must yield 120 units to satisfy IHZ criteria. Even though the affordable units would bring the town much closer to the 10 % goal, it is doubtful that the Commission or the town is interested in promoting a 120-unit development.

### On Site Well and Septic Requirements

The biggest challenge for all of the properties will be siting an Incentive Housing Zone compliant development that meets the densities required by the IHZ program in the absence of public water and sewer in Andover. Having to site septic and well fields with the required separation distances and achieve a suitable layout of dwelling units is very challenging even on parcels as large as the ones being considered. Moreover, the densities required by the IHZ program on a parcel will in all likelihood require a community water system (CWS) and a community septic system of greater than 5,000 gallons per day.

### On Site Sewage Disposal

A community septic requires a very complicated and expensive design. It also entails a very lengthy permitting process through the State Department of Energy and Environmental Protection (DEEP). Most developers will try to avoid a community septic system. In Connecticut each bedroom in a development is assumed to have a flow of 150 gallons of effluent per day into a septic system. The table below displays the required size of a septic tank for various development scenarios:

| <b>Development</b>                | <b># of bedrooms</b>   | <b>Required size of septic tank</b> |
|-----------------------------------|------------------------|-------------------------------------|
| 30 – 1 bedroom attached townhomes | 30 @ 150 gallons / day | 4,500 gallons                       |
| 20 - 1 bedroom attached townhomes | 20 @ 150 gallons / day | 9,000 gallons                       |
| 10 – 2 bedroom attached townhomes | 20 @ 150 gallons / day |                                     |

The next table displays the agency responsible for permitting septic system for a proposed development, based on the size of the septic tank:

| <b>Size of Septic Tank</b> | <b>Permitting Agency</b>                          |
|----------------------------|---|
| Less than 2,000 gallons    | Local Health Department                           |
| 2,000 – 5,000 gallons      | State Health Department                           |
| Greater than 5,000 gallons | Department of Energy and Environmental Protection |

Based on the above tables any development with more than thirty- three (33) bedrooms will require a 5,000-gallon DEEP approved community septic system. This requirement complicates, but does not prevent, the development of attached townhouse or multifamily units in Andover.

For this exercise, sites will be designed to stay below the 5,000-gallon threshold.

## On Site Potable Water

In Connecticut, there are separating requirements for private on-site wells. The most stringent requirement is a 75-foot radius around the well head. There can be no sanitary sewage facilities within that radius.

The State of Connecticut defines a "community water system" (CWS) as a public water system that serves at least twenty-five (25) residents.

To avoid sprawl, achieve the density envisioned by the state program and create and create an economically viable project a CWS appears to be necessary.

It would be the responsibility of a homeowner's association to operate the CWS. A CWS is carefully regulated by the State Department of Health and requires frequent testing by a state certified operator of CWS's. The Section Chief for the CT Department of Public Health Drinking Water Section estimated the cost of a CWS for a 30-40-unit development to be approximately \$800,000.

The cost of such a system would have to be spread over the number of units in the development. It will be very difficult to design an economically feasible development in Andover that can absorb these costs and match Andover's small town rural character.

Multiple wells may be possible to avoid a CWS but the state may frown on such an attempt to circumvent the requirements.

## Traffic

Traffic is always a major consideration for any type of development. When evaluating a project's traffic impacts the first consideration is the amount of existing traffic on the roadway that will serve the development.

*Average Daily Traffic (ADT) - is defined as the total volume of vehicle traffic of a roadway for a 24-hour period on a particular day.*

The most recent information from the CT DOT [Traffic Monitoring Volume Information - Traffic Count Data](#) available on the CT DOT website provides ADT information for the State highways located in Andover.

Rosewood Acres property - The vast majority of cars will travel in the morning from RT 87 and to RT 6. The movement will be reversed during the afternoon peak. Traffic counts on RT 6 in the vicinity of the Rosewood Acres property west of the intersection with RT 87 had an ADT of 17,100 cars. East of RT 87 there was an ADT of 13,700 cars. These counts indicate a large number of cars turn up RT 87. The ADT on RT 87 was 3,200 cars.

Phelps property - This property will be accessed via Shoddy Mill Road, a local collector road. The vast majority of the cars will travel south to RT 6. The movement will be reversed during the afternoon peak

with cars traveling from RT 6 up Shoddy Mill Road. The ADT on RT 6 at the Shoddy Mill Road intersection was 19,100 cars per day.

Town property – This property will be accessed via School Street, a local collector road. The vast majority of cars will travel in the morning from School Street to RT 316 and then southerly to RT 6. The movement will be reversed during the afternoon peak. The ADT on RT 316 just after its intersection with Boston Hill Road was 2,700 cars and 2200 cars just after its intersection with School Street. These traffic counts suggest that there is an ADT on School Street of approximately 500 cars per day. ADT on RT 6 west of its intersection with RT 316 was 19,100 and 17,900 east of the intersection with RT 316.

### **Peak hour**

The state traffic count data allows for the determination of peak hour traffic counts.

The peak hour is defined as a period at the beginning and at the end of the work day when large numbers of people are traveling to or from work.

Peak hour is the most important traffic count to understand when estimating a projects impact on the local road network. It is the peak hour when the majority of cars leave and return to the site.

The traffic counts at the peak hour at specific locations are:

#### **Phelps property**

RT 6 west of RT 316 - AM peak 7:00 – 8:00 AM – 1,770 cars  
PM peak – 4:00 – 5:00 PM – 1,665 cars

#### **Town property**

RT 316 - AM peak – 7:00 – 8:00 AM – 244 cars  
PM peak – 5:00 – 6:00 PM – 253 cars

#### **Rosewood Acres property**

RT 87 - AM peak – 7:00 – 8:00 AM – 214 cars  
PM peak – 4:00 – 5:00 AM – 342 cars  
RT 6 west of RT 87 - AM peak – 6:00 – 7:00 AM – 1,613 cars  
PM peak – 3:00 – 4:00 PM – 1,574 cars

### Trip Generation

The final figure necessary is trip generation. Basically how many cars will be leaving and returning to the site at the morning and afternoon peak hours. The Institute of Transportation Engineers (ITE) provides trip generation rates for various land uses. The table below displays trip generation rates for various residential land uses.

| Type of Housing                                    | Peak hour trips per dwelling unit |
|--|-----------------------------------|
| Single-Family Detached Housing Dwelling Units      | 1.00                              |
| Apartment Dwelling Units                           | 0.62                              |
| Low-Rise Apartment Dwelling Units                  | 0.58                              |
| Residential Condominium / Townhouse Dwelling Units | 0.52                              |
| Senior Adult Housing - Detached Dwelling Units     | 0.27                              |
| Senior Adult Housing - Attached Dwelling Units     | 0.25                              |
| Congregate Care Facility Dwelling Units            | 0.17                              |

Source: ITE

The three (3) most likely residential land use types in an Andover IHZ are residential condominium / townhouse, low-rise apartment and senior adult housing. To be conservative this study will use the highest trip generator - low-rise apartment at .058 trips per unit.

### Impact on schools

The Partnership for Strong Communities Housing Profiles used 2010 census figures and projections out to 2025 to conclude that:

**“Andover is one of 153 communities that could see potentially significant declines in school enrollment through 2025 because of a projected decline in school aged population (5-19) of 38% between 2015 -2025”**

Because of these projections indicating significant declines in school enrollment there will be capacity in the school budget and system to absorb any children coming from a large development.

The industry standard for projecting the number of public school children from a development is Rutgers University, Center for Urban Policy Research Residential Demographic Multipliers – Estimates of the Occupants of New Housing - (Residents, School-Age Children, Public School-Age Children) by State, Housing Type, Housing Size, and Housing Price

This group does extensive research from existing developments and demographic trends and produces State specific tables to estimate the number of public school children a development will produce. The relevant CT table is attached.

The most relevant land use types for this study are:

- Own Single family attached 2 bedroom .20 public school children per unit
- Own 5 plus units 2 bedroom .02 public school children per unit
- Rental 5 plus units 1 bedroom .04 public school children per unit
- Rental 5 plus units 2 bedroom .25 public school children per unit

This study will use the most conservative figure of .25 public school children per unit.

**Phelps Property**

**Phelps Site Analysis**

As displayed on the Phelps Property Site Analysis map, a large portion of the property contains slopes in excess of 20% and a linear wetland/stream corridor on the south western boundary. In accordance with the states definition of developable land these areas have been eliminated from the developable land calculation and 2 development areas have been identified. These development areas are indicated on the site analysis map as Possible Development Area #1 and #2.

Possible Development Area #1 is 7.7 acres and #2 is 9.4 acres.

Based on the states definition to qualify for Incentive Housing Zone (IHZ) benefits these areas would have to be developed at:

| Density                              | Possible Development Area #1 | Possible Development Area #2 |
|--------------------------------------|------------------------------|------------------------------|
| 4 units/acre - single-family housing | 31 units                     | 46 units                     |
| 6 units/acre - townhouse housing     | 38 units                     | 56 units                     |

After identifying the potential development areas, the consulting team attempted to layout potential development options. The attached maps display a single family option (Option 1) and a townhouse option (Option 2).

### **Option 1 – Single Family**

The Option 1 map displays 16 individual lots in the range of 10,000-15,000 sq.ft. per lot. The density with this design is 2 units per acre. The homes would be typical 1,200 sq.ft. 2- bedroom single family homes with a building foot print of 24 feet by 36 feet. This layout also includes eight (8) 1 acre plus market rate lots and requires over 2,000 sq.ft of roadway to access the site.

The major advantages to this layout is the fact that the individual lots can be serviced by individual wells which would avoid the need for a costly community well. The 16 – 2 bedroom homes would require a community septic system of 3,840 gallons (**150 per bedroom- minus 20% for water saving**) which avoids the costly and complicated need for DEEP permitting.

The primary concern with this layout is the cost of the 2,000 linear feet of road and the potential wetland crossing needed to access the site. The other concern- are 2-bedroom affordable single family homes marketable or would people prefer 3 bedrooms?

### **Option 2 – Townhouse with garages**

Option 2 displays 27 townhouses with garages. Fourteen (14) of the units would be 2- bedroom and thirteen (13) of the units would be 1 bedroom. The density with this design is 2.87 units per acre. The access is much easier and less expensive, the septic design avoids DEEP permitting. It is expected that the market will be strong for a rental option such as this.

The primary concern is the need for a community water system (CWS). A CWS is permitted and regulated by the State Health Department. Spreading the high cost to construct and maintain a CWS over 27 units may be cost prohibitive.

### **Phelps Property Traffic Conclusion**

Phelps property - Based a trip generation rate of 0.58 trips per unit the 51 units proposed using Option 1 and Option 2 on the Phelps property would generate 40 peak hour trips. Adding these peak hour trips to the current peak hour trips of 1,770 vehicles on RT 6 is a 2.2 % increase in traffic. This increase is spread over the course of 60 minutes and would be unrecognizable.

### **Phelps Property Impact on Schools**

Phelps Property - Assuming the 50- unit development on the Phelps property which includes single family and 1 bedroom and 2-bedroom townhouse units the data indicates there will be:

50- 2 bedroom 50\*.25 = 13 public school children

TOTAL 13 public school children spread throughout all grades

**Phelps Property – Conclusion**

The two development options fail to meet the IHZ requirements of 4 and 6 units per acre.

Combining the development options into one development site would result in 17 acres. To meet the IHZ requirements 68 single family homes or 102 townhouses would have to be placed on the property. With the cost, spacing and size requirements of community septic and water systems, the sites physical constraints, extensive site work and road costs these options would be highly undesirable.

**Rosewood Property**

The Rosewood Property Site Analysis map again displays large portions of the property that contain slopes in excess of 20% and a wetland system along the western boundary in close proximity to the Route 87 frontage. These areas have been eliminated from the developable land calculation and 3 development areas have been identified. These development areas are indicated on the site analysis map as Possible Development Area #1, #2 and #3. This study evaluates the development potential for 2 of these areas.

Possible Development Area #1 is 5.75 acres, #2 is 16.4 acres.

Based on the states definition to qualify for Incentive Housing Zone benefits these areas would have to be developed at:

| Density                              | Possible Development Area #1 | Possible Development Area #2 |
|--------------------------------------|------------------------------|------------------------------|
| 4 units/acre - single-family housing | 23 units                     | 35 units                     |
| 6 units/acre - townhouse housing     | 66 units                     | 98 units                     |

**Rosewood Site Analysis**

After identifying the potential development areas, the consulting team attempted to layout potential development options. The attached maps display two (2) development options.



**Town Hall Property**

Town Hall Property Site Analysis

The Town Hall Property Site Analysis map eliminates a very large portion of the property on the eastern side of the wetland due to steeply sloping areas and a plateau area that has development potential but is completely surrounded by steep slopes. A large wetland system also bisects the property. The wetland further isolates the steep sloping area. These wetlands have also been eliminated from the density calculation. While the eastern half of the property has been eliminated from consideration for this study it does have development potential but far more extensive site work would be required.

One possible development area has been identified on this property to the west of the wetland system immediately behind the Town Hall and the Fire Station. This study evaluates the development potential for this area.

The acreage included in this Possible Development Area #1 is approximately 12 acres.

Based on the states definition to qualify for Incentive Housing Zone benefits these areas would have to be developed at:

| Density                              | Possible Development Area #1 |
|--------------------------------------|------------------------------|
| 4 units/acre - single-family housing | 48 units                     |
| 6 units/acre - townhouse housing     | 72 units                     |

Option 1

Option 2

Town Hall Property – Traffic Impact

Based a trip generation rate of 0.58 trips per unit the 42 units proposed on the town property would generate 25 peak hour trips. Adding these peak hour trips to the current peak hour trips of 244 on RT 316 is a 10 % increase in traffic. This increase is spread over the course of 60 minutes and would be unrecognizable.

Based on State of CT DOT ADT figures it is reasonable to estimate an ADT of 500 cars per day on School St. The peak hour trips on RT 316 are 244. This represents 9% of the total ADT for RT 316. Applying this 9% to the 500 car ADT on School Street results in a peak hour trip volume of 45 cars. Adding the

projected 25 peak hour cars to the existing peak hour of 45 cars represents a significant increase in peak hour traffic spread over 60 minutes. However, the road way is certainly adequate to handle the additional traffic but there may be an increase in queuing time at the School St/RT 316 intersection. The town may want to consider single family or assisted senior housing on this property to reduce peak hour trips.

#### **Town Hall Property Impact on Schools**

Town Property - Assuming the 42-unit development on the town property which includes 2 bedroom units the data indicates there will be:

42- 2 bedroom units       $42 \cdot .25 = 4.4$  public school children

TOTAL                                      11 public school children

### **Conclusions- Where to go from here?**

## **Appendix - Potential IHZ Regulations**

### *Definitions*

- Townhouse - a residential building consisting of a single-family dwelling unit constructed in a group of three (3) or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides. (State definition)
- Two family residence – two dwelling units in the same building on one lot **(also known as a duplex)**.
- Eligible Household – a household whose annual income is at or below 80 percent of the area median income for Andover, as determined and reported by the United State Department of Housing and Urban Development (HUD).
- Incentive Housing Development – a residential or mixed-use development that is located within the Andover Incentive Housing Overlay Zone and that complies with the statutory requirements set forth in the Connecticut General Statutes Sections 8-13m to 8-13x, as amended and Section 9A of the Andover Zoning Regulations.
- Incentive Housing Restriction – A deed restriction, covenant or site plan approval condition constituting a binding obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by Connecticut General Statutes Sections 8-13m to 8-13x, as amended and Section 9A of the Andover Zoning Regulations.
- Incentive Housing Unit – a dwelling unit within an Incentive Housing Development that is subject to an Incentive Housing Restriction.

### **9A INCENTIVE HOUSING OVERLAY ZONE (IHZ)**

#### **9A.1 Purpose.**

A. The Incentive Housing Overlay Zone (IHZ) is adopted pursuant to the authority of Connecticut General Statutes Chapter 124b. Its purpose is to encourage affordable housing in both residential and business districts that have the transportation connections, nearby access to amenities and services, and infrastructure necessary to support concentrations of development.

B. The IHZ seeks to avoid sprawl and traffic congestion by encouraging a more vibrant residential component to business or mixed use areas to sustain a lifestyle in which residents can walk or use public transportation to reach jobs, services, and recreational or cultural opportunities.

## **9A.2 General Requirements.**

A. Any such zone shall be in compliance with the locational requirements of Connecticut General Statutes Chapter 1245b.

### **B. Subzones.**

a. The Commission may designate subzones within an overall IHZ in which different types of uses may be permitted, as in the case of a mixed-use incentive housing development.

b. Each IHZ may consist of one or more subzones, which may overlay each other as well as the underlying district. Within any IHZ, there may be any or all of three (3) subzones, designated as:

- i. Townhouse TH Subzone,
- ii. Multi-family MF Subzone, or
- iii. Mixed-use MU Subzone.

## **9A.3 Bulk Requirements**

A. The following Bulk Requirements shall apply when an IHZ project is proposed. The requirements in the Underlying Zone (UZ) remain in effect when noted UZ.

Density.

- a. Density is calculated by the number of units allowed per area.
- b. The residential densities will be calculated by apportioning the total acreage of the incentive housing development in the same proportion that each type of housing bears to the total number of dwelling units.
- c. For any incentive housing development to be developed in phases, each phase will comply with the minimum residential densities and the incentive housing restrictions set forth in

this section.

d. Public Applicant. In the case of an incentive housing development proposed by a public applicant, the residential densities will be in accordance with a waiver as may be granted by the Secretary of the Office of Policy and Management in accordance with Connecticut General Statutes Section 8-13n(b)(3).

**C. Buffers.**

a. From Rear Property Line.

i. Where the underlying district is a residential district, no less than ten (10) feet.

ii. Where the underlying district is business or industrial district, in accordance with the underlying district.

iii. For non-residential uses, in accordance with the underlying district.

b. From Other Property Line.

i. Where the underlying district is a residential district, no less than ten (10) feet.

ii. Where the underlying district is a business or industrial district, in accordance with the underlying district.

c. For non-resident uses, in accordance with the underlying district.

**D. Minor Accessory Buildings or Structures.**

i. For residential uses, same as for principal buildings or structures, above.

ii. For non-residential uses, in accordance with the underlying district.

**9A.4 Principal Uses and Activities.**

A. Prior to the approval of any application for Certificate of Zoning Compliance for any Incentive Housing Development that includes any principal or accessory use permitted under this Section, a Site Plan will be submitted to and approved by the Commission.

In considering an incentive housing development, the Commission will find that any application for an incentive housing development will comply with the provisions of this Section, as well as the Site Plan Objectives and, for uses requiring a Special Exception, the General Standards for Special Exception Uses.

**9A.5 Accessory Uses.**

Any accessory use as permitted in the underlying district and subject to the requirements and approval procedures as may be applicable to the uses.

**9A.6 Incentive Housing Restriction.**

A. For an incentive housing development proposed by a private applicant at least 20 percent of the dwelling units will be rented or conveyed subject to an incentive housing restriction requiring that, for at least 30 years after the initial occupancy of the development, the dwelling units will be sold or rented at, or below, prices that will preserve the units as housing for which persons pay 30 percent or less of their annual income, where the income is less than or equal to 80 percent or less of the median income. In determining compliance with this paragraph, the Commission will utilize regulations or guidelines published by the Connecticut Office of Policy and Management, or any other successor agency designated in accordance with Connecticut General Statutes Sections 8-13m to 8-13x.

B. Public Applicant for Incentive Housing Development. For an incentive housing development proposed by a public applicant, 100 percent of the dwelling units will be rented or conveyed subject to an incentive housing restriction requiring that for at least 30 years after the initial occupancy of the development, the dwelling units may be sold or rented at, or below, prices that will preserve the units as housing for which persons pay 30 percent or less of their annual income, where the income is less than or equal to 80 percent or less of the median income. In determining compliance with this paragraph, the Commission will utilize regulations or

guidelines published by the Connecticut Office of Policy and Management or any other successor agency designated in accordance with Connecticut General Statutes Sections 8-13m. to 8-13x.

#### **9A.7 Submission of Affordability Plan.**

Each applicant for an incentive housing development will provide an affordability plan that will detail the administration, monitoring and enforcement of the dwelling units to be sold or rented at below-market rates as described above. The plan will include proposed deed restrictions or covenants, lease agreements, common interest ownership documents, bylaws, rules and regulations, sample income calculations, and any other information as the Commission may require to establish compliance with this Section and Connecticut General Statutes Sections 8-13m. to 8-13x.

#### **9A.8 Designation of Administering Agency.**

The applicant will indicate the name, address and other contact information for the agency that will administer the sale or rental of dwelling units that are subject to the below-market sale or rental in accordance with this Section.

#### **9A.9 Approval of IHZ or Subzones.**

A. In considering each subzone, or any IHZ as a whole, the Commission will find that any application for an Incentive Housing Overlay Zone or subzone will comply with the provisions of this Section and the Connecticut General Statutes Chapter 124b.

B. In establishing a subzone, the Commission will have the discretion to exclude one (1) or more uses that would otherwise be permitted in an incentive housing development in that subzone, including uses permitted in the underlying district, which exclusions, if any, will be stated in the resolution creating or amending the subzone and will become part of the text describing the Incentive Housing Overlay Zone.

#### **9A.10 Design Standards.**

A. Applicable Standards. Incentive Housing Development applications shall apply the design criteria to accomplish the following:

a. ensure that development is complementary to adjacent or neighboring buildings or structures and consistent with the housing plan provided for in Connecticut General Statutes Section 8-13p, and

b. address the scale or proportions of buildings; site coverage; alignment, width or grade of streets or sidewalks; type or location of infrastructure; location of building or garage entrances; off-street parking; protection of significant natural site features; location or design of open spaces; signage; or setbacks or buffering from adjacent properties;

Provided that the applications of such standards will not unreasonably impair the economic or physical feasibility of constructing housing at the minimum densities and with the required incentive housing restriction set forth in this Section.

#### **9A.11 Application Processing For Incentive Housing Developments.**

A. Incentive Housing Development Proposed within an Existing Incentive Housing Overlay Zone. For incentive housing developments involving land already designated as an Incentive Housing Overlay Zone on the Andover Zoning Map, applicants shall submit a site plan application in accordance with Section 8.4 of these regulations.

a. The Commission shall conduct a public hearing in accordance with the timeframe requirements in Section 8-7d(b) of the Connecticut General Statutes.

B. Application to Expand an Existing Incentive Housing Overlay Zone, or Establish a New Incentive

Housing Overlay Zone. For projects involving land not designated as an Incentive Housing Zone on the Andover Zoning Map, applicants shall submit a zoning map amendment application in accordance with Section 8.7 of these regulations. Upon approval of the zoning map amendment, the applicant may seek approval in accordance with subsection A above.

**9A.12 Decision Considerations.**

A. Approval of an incentive housing development. The Commission may waive any standards that would unreasonably impair the economic or physical feasibility of constructing dwellings at minimum densities or with required incentive housing restrictions set forth in this Section. The Commission will approve an incentive housing development subject only to conditions necessary to:

- a. ensure substantial compliance of any proposed development with the requirements of this Section, the design standards of these regulations and, if applicable, the subdivision regulations; or
- b. to mitigate any extraordinary adverse impacts of development on nearby properties.

B. Denial of an incentive housing development application. An application may be denied only on the grounds:

1. the development does not meet the requirements set forth in this Section;
2. the applicant failed to submit information or fees required by the regulations and necessary for an adequate and timely review of the design or potential impacts of the development
3. it is not possible to adequately mitigate significant adverse project impacts on nearby properties using conditions of approval acceptable to the applicant.

**9A.13 Method of Ownership.**

A. Dwelling units. Dwelling units may be offered for sale or for rent in individual, cooperative or condominium ownership. Documentation as to management, organization and incorporation of applicable ownership associations shall be submitted to the Commission at the time of filing of the application for incentive housing development.

B. Methods of Open Space Reservation. All open space or supporting facilities and systems will be in compliance with applicable law and provide for maintenance, liability, financing or rights of access and use by residents of the incentive housing development as is acceptable to the Commission. Open space areas required will be permanently reserved for the designated use by means acceptable to and approved by the Commission, such as, but not limited to:

a. Deeded to the Town.

b. Deeded to a non-profit organization acceptable to the Commission. Such nonprofit organization will have as its purpose the preservation of open space land. The deed to such organization will contain language satisfactory to the Commission requiring that the land be held in perpetuity as open space

land for the use of the public. The deed to the organization will contain the provision that in event of the dissolution of the corporation, the property will be conveyed to the Town, or subject to the approval of the Commission, to another non-profit corporation.

c. Open space may be conveyed by warranty deed to a homeowner's association within the development upon

such terms and conditions as specified by the Commission. When tracts are conveyed in this manner, a copy of the by-laws of the homeowners' association will be submitted as a part of the application for the IHZ Development.

d. Perpetual easement. Where the right of use, interest or privilege, short of fee ownership in the open space owned by another, is obtained by the town or acceptable non-profit organization, a deed stipulating that the owner transfers development rights to, and open

space or scenic easements over, the land will be required, the fee owner will retain the fee title to the premises and all incidents of fee ownership, except the right to construct any structure, sign, fence or other improvement, or to alter the contours. Minimum lot requirements and density cannot be satisfied by use of land dedicated to open space.

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