

Town of Chester Impact Fee Feasibility Study

Introduction

As requested by the Chester Planning Board, the purpose of this study is to evaluate the feasibility of assessing impact fees for planned and future capital facility improvements necessitated by new growth within the community.

Specifically, the study:

- evaluates the town's current and future capital facility needs considering the town's recently updated Capital Improvement Program and Master Plan and interviews held with Department Heads;
- what would be needed to go about developing an impact fee methodology;
- whether it would be in the best interest of the town to proceed with the assessment of impact fees and if so when; and
- what would be required to assess and administer the fees.

Currently, impact fees are assessed by the following communities located adjacent to or near the Town of Chester:

- Town of Danville for schools
- Town of Brentwood for schools
- Town of Raymond for schools and roads
- Town of Hooksett for schools, public safety and roads
- Town of Deerfield for solid waste and schools (\$3,000 per unit)
- Town of Londonderry for traffic, schools, library, police and fire
- Town of Sandown for schools
- Town of Fremont for schools (\$3,700 per unit)
- Town of Candia (currently under consideration for traffic and solid waste)

The Impact Fee Concept

As defined under RSA 674:21, an impact fee means a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the municipality, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative school district of which the municipality is a member; public safety facilities; solid waste collection;

transfer, recycling, processing and disposal facilities; public library facilities, and public recreational facilities not including public open space.

The amount of the impact fee must be a proportional share of the municipality's capital improvement costs which is reasonably related to the capital needs generated by the development and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading and ongoing maintenance of existing facilities and infrastructure, the need for which is not created by new development, can not be paid for by impact fees.

As specified by state statute, all impact fees assessed by a municipality must be segregated and accounted for separately from the general fund and may be spent upon order of the municipal governing body. Expenditure of impact fees can only be used for the capital improvements for which the fee was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

Elements of an Impact Fee Ordinance

There are two important steps that must be addressed by a municipality in order to assess impact fees. The first step is to develop an **impact fee ordinance** which must be approved by voters as part of the town's zoning ordinance. The second step is preparation of the necessary **impact fee studies, methodologies and related fee schedules** which justify the fee as development proposals are submitted to the planning board for review and approval. The impact fee study and fee schedule can be adopted and/or amended by the planning board upon a public hearing anytime after the impact fee ordinance has been approved by the town. Typical impact fee studies, methodologies and fee schedules cost anywhere from \$3,000 to \$5,000 to prepare for each capital facility type (e.g. public schools, roads, library, police, fire, etc.).

In addition to these two steps, in order to adopt an impact fee ordinance, a municipality must have enacted a capital improvements program pursuant to RSA 674:5-7. This requirement has been satisfied as the Chester Planning Board updated and adopted the town's 2008-2014 CIP on December 5, 2007.

Most impact fee ordinances consist of standard boiler plate language which authorizes the assessment and applicability of the fees, presents the justification for assessing impact fees, sets forth the definitions and imposition of the fees, including the computation, payment, administration and use of the fees, and procedures for accepting waivers and issuing refunds.

An example impact fee ordinance from the Town of Fremont is provided in the Appendix of this report. This example ordinance can be used as the foundation of an impact fee ordinance for the Town of Chester, however, the ordinance needs to be compared to RSA 674:21 to reflect recent changes which have been made to the state statutes since the ordinance was last adopted and amended.

As required under RSA 674:21, all impact fees imposed upon new development are assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees can be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. As stated by state statute, impact fees are intended to reflect the effect of the development upon municipal facilities at the time of the issuance of the building permit.

Impact fees can also be collected at the time a Certificate of Occupancy is issued, but if no certificate of occupancy is required, the fees can be collected when the development is ready for its intended use. In addition, nothing in the state statutes prevents a municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternative schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provided suitable measures of security so as to guarantee future payment of the assessed impact fee.

The impact fee ordinance must also specify reasonable times (after which any portion of the fee which has not been encumbered or otherwise legally bound to be spent for the purpose it was collected) be refunded, with any accrued interest. The maximum time considered reasonable by state statute is 6 years.

In addition, unless otherwise specified in the ordinance, any decision under an impact fee ordinance may be appealed in the same manner provided by statute for appeals from the officer or board making that decision. Also, the ordinance may provide for a waiver process, including criteria for the granting of such waiver. It is not unusual to see planning boards provide impact fee waivers for affordable or elderly housing.

Lastly, it is important to note under state law that the adoption of a growth management limitation or moratorium by a municipality will not affect any development with respect to which an impact fee has been paid or assessed as part of the approval for that development.

More importantly, as specified by state statute, municipalities may adopt an impact fee ordinance and continue to require developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. Off-site improvements are generally referred to as improvements that are necessitated by a development but which are located outside of the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board.

However, to avoid the appearance of developer's double-paying for necessary improvements, particularly highway, drainage and other similar needs, many municipalities allow a credit of the impact fee (all or a portion) when off-site

improvements are performed. When the off-site improvement costs exceed the impact fee, the entire fee is credited. If the impact fee is greater than the construction costs for the off-site improvements, the amount of the construction costs is subtracted, and a reduced impact fee is paid. Generally, in order for this credit approach to work, the identified off-site improvements need to be consistent with the amount of the construction costs on which the highway impact fees, for example, are based.

Developing a Fee Methodology for Chester

In evaluating the feasibility of impact fees for the Town of Chester now and in the future, the following public facility needs are considered:

- Public Safety – Police and Fire
- Solid Waste
- Libraries
- Recreation
- Highways
- Schools

During September and October 2008, interviews were conducted with Town Department Heads and other public officials to discuss (1) the town's existing Capital Improvement Program (CIP) projects as well as new projects that may be anticipated in the future; (2) each department's facility and expansion needs which the town will be facing in the future due to new growth; (3) growth demands and pressures on existing facilities; and (4) space/capacity issues with existing facilities.

In addition, Department Heads were asked to provide or share any feasibility studies, concept plans or actual engineering drawings and plans that may have been prepared for new or expanded facilities and building improvements. The results of these interviews and the information obtained follows.

Highways – Mike Oleson, Road Agent (mltrain@gsi.net)

At the time of the interview (September 29, 2008), the Road Agent indicated that the cost of asphalt was approximately \$99/ton and that while all the highway projects identified in the town's CIP had been turned down by voters at the 2008 town meeting, the town had paid approximately \$200,000 for engineering work to bid the reconstruction of East Derry Road and that this was still a major priority of the department. The Road Agent anticipated that there would likely be another bond issue to address East Derry Road to be presented at the 2009 town meeting, however, due to the economy, he has since decided to pursue separate warrant articles for specific projects.

The Road Agent also indicated that the current operating budget of the highway department is approximately \$400,454 of which only \$40,000 is set aside for asphalt (mostly patch work) with the balance used for plowing, sanding, salting and brush. The

town's former firehouse located on Chester Street currently serves as the highway department's main facility. The Road Agent indicated that despite only one desk and bathroom in the building, the overall size of the building is limited for the storage of big equipment (plow trucks, etc., particularly when the plow wings are still on the trucks). The Road Agent noted that the town's salt storage shed which was built in 2003 on Dump Road is adequate. The town's current Master Plan indicates that the highway department would like to build a new highway garage on Dump Road, near the salt storage shed to consolidate their operations in one location.

Similar to many other town departments, the highway department needs additional personnel, either one full-time or part-time position. Also the Road Agent has indicated that the town needs a gravel and sand pit, a new tractor and plow truck. Also many roads in Chester are in need of improvements. Unpaved segments of Shattigee Road, Old Sandown Road, and Wason Road need to be paved. Additionally, there are many existing paved roads in Chester which need to be reconstructed.

The town's current CIP identifies a total of 15 roads requiring paving and/or reconstruction totaling an estimated cost of approximately \$2.9 million over the next seven years. No building or facility improvements are included in the current CIP.

As a guide using the town's most recent road evaluation performed by DuBois & King, Inc. in November 2007 and the most recent cost estimate prepared for East Derry Road (which is 1 mile in length), the Road Agent recently calculated a local road reconstruction cost per linear foot including the addition of 15% for inflation and other costs. This factor was then used to update and prioritize the list of roads in the town's current CIP for the purpose of creating a preliminary road improvement plan (2009-2015) for the town. This information is provided in the following table.

Findings

Because the town's current CIP includes (1) a future schedule of identified highway department projects and the Town Road Agent has developed a more up to date preliminary road improvement plan (which further refines the town's capital highway projects needs) and (2) many of these highway project needs are the result of existing and projected future traffic impacts as well as the need for enhanced highway capacity, a highway or traffic impact fee for the Town of Chester is justified and can be readily calculated and implemented.

However, it is recommended that a highway or traffic impact fee not be assessed until such time as (1) the Town of Chester voters have approved the necessary warrant articles to undertake these projects and (2) the town's current CIP is amended to include the Road Agent's most recent preliminary road improvement plan, which includes all the requested warrant articles. Once the traffic impact fee is developed and assessed, the fees collected in various parts of the town could be applied to the construction costs of the specific highway projects implemented in that area or they could be used to pay down the interest cost of any necessary project financing.

HIGHWAY DEPARTMENT

Description of Project or Equipment	Gross Capital Cost	Available Revenue	Source Other Funds	From Local Funds	Annualized Town Capital Cost Funded From Taxes							
					2009	2010	2011	2012	2013	2014	2015	
					ROADS							
E. Derry Rd and Harantis Lk Rd Ext - Reconstruct 8/10 mile and shim and overlay 4/10 mile.					960000							
No. Pond Rd - Reconstruct 7/10 mile from Rt. 102 in						660000						
Halls Village Rd - Replace 2 culverts with box culverts located at 162 Halls Village Rd and Hart Roberts Rd								125000				
Halls Village Rd - Reconstruct including gravel portion									1320000			
Old Sandown Rd - Reconstruct including gravel portion										675000		
Edwards Mill Rd - Install box culvert/bridge											120000	

HIGHWAY DEPARTMENT

Description of Project or Equipment	Gross Capital Cost	Available Revenue	Source Other Funds	From Local Funds	Annualized Town Capital Cost Funded From Taxes							
					2016	2017	2018	2019	2020	2021	2022	
					ROADS							
Harantis Lk Rd - Reconstruct					855000							
Pulpit Rock Rd - Reconstruct and pave						180000						
Donna St and Carlin St - Reconstruct								340000				
Homan Way, Parker Rd, Rand Dr and Jennifer Dr - Reclamation and minor drainage repair									420,000			
Birch Road - Reconstruct with drainage										315,000		
Definition: Reconstruction could include the following pending an engineering review of the road: engineering, reclamation, fill, drainage and paving.												
The roads are based on the most recent evaluation performed by DuBois & King, Inc in November 2007 and the cost is based on the most recent cost estimate done for East Derry Road which is 1 mile long.												
The Road Agent was not specific as to the years the work would be done.												
											11-18-08	

Schools – Leslie Leahy, Principal at Chester Academy (887-3621, Ext. 145)

During the interview, the Principal of Chester Academy indicated that by law the town must bring kindergarten to the school next year (FY 2009) which would consist of a half day program for an estimated 45 to 50 students. The Principal has stated that the existing school building currently does not have adequate space for the two kindergarten classes estimated to be needed for these students. The Principal also noted during the interview that the state may have funding to assist the town in the installation of portable classroom for up to three years before the School District is obligated to provide a more permanent solution. However, the decision whether to pursue these portable or modular classrooms would need to be made by Dr. Victor Petzy, Superintendent of Chester School District, SAU 82 and the town.

In addition, in September 2008, the Chester School District contracted with Goudreau & Associates Architects (GAA) to undertake a cost feasibility study relative to planning an addition of two kindergarten rooms at the Chester Academy. A copy of this report is included in the Appendix of this study. Construction of the two additional classrooms is estimated to cost a total of \$603,898.

According to the Principal, while the town’s overall student population has decreased evenly across many grade levels, the Chester Academy facility does not have adequate space or capacity to support the addition of two new kindergarten classes. In addition, the Principal has indicated that based upon the current school board policy that “class size in the Chester School District shall not exceed more than 18 pupils in grades pre-school to grade 4 and no more than 25 pupils in grades 5 to 8” and given that the existing library is also used as a classroom for elementary classes as well as for individual student needs, existing space at Chester Academy is at a premium. A breakdown of the number of existing pupils and classroom space by grade (FY 2008) has been provided by the Principal as follows:

Pre-K (SPED)	26
1 st grade: Classrooms A-16, B-16, C-17 and D-17	66
2 nd grade: Classrooms A-17, B-17, C-17 and D-16	67
3 rd grade: Classrooms A-18, B-16, C-18 and D-16	68
4 th grade: Classrooms A-20, B-21, C-20 and D-21	82
5 th grade: Classrooms A-23, B-20, C-21 and D-19	76
6 th grade: Classrooms A-23, B-20, C-21 and D-20	84
7 th grade: varies-approximately 21 per class	83
8 th grade: varies-approximately 21 per class	<u>82</u>
Total	634 students

Classroom size = 960 square feet
Building size = 75,128 square feet

The town's current Master Plan indicates that Chester Academy's core capacity of 800 students can be accommodated in the facility's existing 34 instructional classrooms. In addition, the town's existing CIP indicates that as of October 2007, the school could host an additional 114 students, a fourteen percent increase, before reaching its core capacity.

However the town's existing CIP also reports that the facility's optimal classroom capacity (600) continues to be exceeded with enrollments ranging from 601 in FY 2000 to 686 in FY 2007. While total enrollment has dropped from 686 to 634 between FY 07 and 08, the addition of 45 to 50 new kindergarten pupils would push enrollment figures back up to pre FY 07 levels thereby continuing to strain optimal classroom capacity.

The Academy was originally constructed in 1999 with 27 instructional classrooms for grades 1-8 and later expanded in 2003 to add an additional 10 classrooms. The school also houses three additional classrooms for Title 1 enrichment, music and art, a gymnasium, cafeteria, and media center.

To track the future student population demand on Chester Academy, the SAU has prepared two sets of projections for the school. The first simply moves the existing number of students in each grade through to the next grade and the second adds a two percent increase in each grade level.

Given current economic conditions and reductions in the issuance of new building permits in the town, it is not anticipated that the school will continue to experience annualized rates of growth around 5 percent which it did between 1996 and 2005. Therefore, it is not likely that the school will exceed its core capacity of 800 students anytime soon. However, it is likely that the school's optimal classroom capacity will continue to be exceeded, particularly with the addition of kindergarten classes.

Findings

Currently, there are no capital improvement projects identified or included for Chester Academy within the town's existing CIP. When a decision is made to move forward with either the portable kindergarten classes or an addition to the school building for two new kindergarten classes, it is recommended that the town's CIP be amended accordingly.

Once these decisions/actions have taken place, a school impact fee could be developed and assessed to help recoup the cost of this capital improvement. However, this impact fee could only capture the proportionate cost of this capital improvement due to new growth within the community. Given current building trends, this proportionate share may not be significant to justify or warrant the fee. In addition, the fee would need to be based upon facility standards reflecting the current space/capacity issues of the existing school building, number and size of existing classrooms, and estimated future enrollment.

Recreation – Steve Moltenbrey, Recreation Coordinator

The recreation department is responsible for coordinating the operation of the multi-purpose room of the old elementary school (currently the town office building) and operating the general use field in the center of town adjacent to Chester Academy as well as the soccer and ball fields at Wason Pond. The Wason Pond Conservation and Recreation Committee are responsible for the Wason Pond Conservation and Recreation Area.

According to the Recreation Coordinator and town's CIP some of the town's major capital recreation needs include the construction of additional ball fields. This need has been expressed in CIPs dating back to 1996. In addition, there is the need for continued purchase of open space/conservation lands as identified in the town's open space plan.

Impact fees can not be used to purchase open space. However, impact fees can be used to purchase recreation land and build new recreation facilities to address growth or in anticipation of growth.

In 2003, the town voted to spend \$1.5 million in conservation bond funds to purchase the former Silver Sands 105-acre campground for future recreation and conservation purposes. Since the purchase of this land, the Wason Pond Committee has completed a comprehensive land development plan for the area which includes both conservation lands and active recreation facilities, consisting of a swimming area, playground and two baseball fields (see Wason Pond Conservation & Recreation Area Master Plan, June 2005). While an initial recreation facility development cost of \$50,000 was approved for the site, the full cost of site development and the construction of facilities were not addressed. Therefore, there remains significant and ongoing recreation construction needs.

In response to these needs, four capital improvement projects for recreation were included in the town's existing CIP. These projects include: decommissioning all electrical systems in the former campground area estimated to cost \$15,000; construction of athletic fields and related buildings and restrooms estimated to cost \$400,000; construction of a footbridge across Wason Dam estimated to cost \$30,000 and purchase of additional land for conservation purposes. In addition to these projects is the need to repair Wason dam.

Findings

Among the four existing CIP projects, only the construction of athletic fields and related buildings and restrooms and the footbridge across Wason Dam would qualify for impact fees. A recreation impact fee for these improvements is justified and could be readily calculated. However, it is recommended that the development and assessment of this fee wait until town voters decide to appropriate, raise or seek the necessary funding to implement these capital projects.

Library – Melissa Rossetti, Librarian

As stated in the town's existing CIP, the most immediate capital improvement project and need for the library at this time is a new circulation desk and kitchen renovation which has been estimated to cost around \$15,000. Because the library building is owned by the Library Trustees and not the Town of Chester, this project was not included in the town's CIP. This need is also confirmed in the town's existing master plan. The master plan also identifies that while the library has adequate space and capacity now for the size of its current collection, in another five years or so overcrowding is expected to become an issue in the future.

Findings

Because the proposed circulation desk and kitchen renovation is primarily an upgrade of existing facilities and not a building or capacity expansion necessitated by new growth within the community, a library impact fee is not justified or legally defensible at this time. However, in the future if the town decides that a new library building needs to be financed and constructed in Chester, an impact fee to help pay for the cost of the new facility would be justified.

Solid Waste – Bonnie Healy, Supervisor

The Solid Waste Supervisor has indicated that there are no plans for expansion of the town's transfer station. This is confirmed as there are no capital improvement projects included in the town's existing CIP. Chester's existing master plan also confirms that the town has no short and long-term solid waste disposal facility needs. The facility is well positioned to handle the future solid waste disposal needs of Chester. In addition, mandatory recycling and clear bag ordinances, as well as improvements to the town's recycling program have contributed to a reduction in overall solid waste tonnage and an increase in recycling. In the future, the town may also experience continued economic benefits when the new comingling recycling facility in Manchester opens.

Public Safety, Fire – Rich Antoine, Fire Chief

As reported in Chester's master plan the most pressing needs for the fire department are completing improvements to the town's existing relatively new seven bay fire station, including upgrading building security and purchasing and installing an auto-start generator. These needs are confirmed in the town's current CIP which identifies the following capital improvement project needs: \$35,000 for a generator and \$180,000 for a rescue truck. A number of other projects were submitted, but not included in the CIP as they relate more to building upgrades. These projects consist of a vehicle exhaust extraction system; finishing the concrete floors in the bay areas; and upgrading the emergency access road from the fire station to Rt. 102.

In addition to these needs, during the interview the Fire Chief reported that the town has less than 2 years left on its existing contract with the Town of Derry for ambulance transport service and that the town needs to renew this contract. The Fire Chief also reported that approximately 65 percent of the increasing numbers of EMT calls in the community are medical related and that additional full time EMTs (certified at all 3 levels) may be needed.

The Fire Chief indicated that most likely a warrant article would be submitted for the 2009 town meeting to purchase the rescue truck. In the future, the department would like to purchase an ambulance as well as replace the department's existing engine truck and ladder truck purchased in the 80s with one combined ladder/engine truck. In addition, the Fire Chief indicated that in the future the town would need to consider adding a full-time chief and second in command.

Also, depending upon homeland security and emergency management needs of the town, the fire station facility in the future may need to be expanded or a mobile trailer added to the site to establish a new special operations center or hazardous materials unit. Currently, all dispatching through the town of Derry is in good shape.

Findings

Typically impact fees are put into place to address facility capacity and expansion needs necessitated by new growth in a community. While most of the capital needs of the fire department are upgrades and improvements to the existing facility, these upgrades and improvements are not capacity-driven or the result of new growth within the community.

Therefore, it would be difficult to justify developing and assessing a public safety impact fee to purchase and install a generator, upgrade building security and emergency access, and install exhaust and make concrete improvements.

Nevertheless, it may be possible to develop a vehicle/equipment component to a public safety impact fee to recoup the cost of purchasing a new ambulance, rescue truck, fire/ladder engine truck which reflects the cost of this equipment necessitated by new growth in the community.

However, before such a fee is calculated and assessed, it is recommended that a legal opinion be obtained from the town's attorney to determine under New Hampshire state law if such a component of a public safety impact fee could be developed and assessed independent of the facilities (capacity and expansion) component of such a fee.

Public Safety, Police – Bill Burke, Police Chief

As reported by the Police Chief and the town's existing CIP, the police department occupies approximately 4,000 square feet of renovated space in the former Chester Elementary School, sharing the building with the Town Offices. Donated funds were used to make these improvements. The department consists of three rooms for offices and a conference room. There is also a booking area and two temporary holding areas.

For the past six years, this renovation has addressed the department's basic spatial needs. However, in response to the Planning Board's request for CIP projects, the Police Chief submitted a request to remove two portable classrooms at the back of the building (currently storing yard sale items) and build a new detached three bay garage with insulated doors. This garage would be used for the purpose of limited vehicle maintenance and to secure storage of supplies. Road access to the new garage would be on the northerly side of the building with a walkway from the garage directly to the police department entrance. The total cost of this project is estimated to be \$72,320 as reported in the town's existing CIP. Overall, this project received a high priority score from the Planning Board for inclusion in the CIP.

In addition to this project, the Police Chief recently contacted the New Hampshire Local Government Center to conduct an inspection of the department's facilities and any liability concerns. A copy of this inspection report is included in the Appendix of this study. Generally, the inspection found the lobby area of the department in need of a separate entrance for bringing arrested individuals directly to the booking area. In addition, the inspection found that the window access to the secretary/receptionist should be shatterproof glass.

The next area of concern identified by the inspection is the booking room which lacks a video system to record booking or interviewing and as stated above this area should have a separate entrance directly from the cruiser parking area or garage/sally-port if this CIP project is constructed in the future.

Also the inspection report recommends that the evidence room needs to be improved for the separate storage of guns and drugs, etc and that this is a major liability to the department. The report recommends that the room be enlarged and locking cabinets are purchased to secure evidence. Lastly, the report recommends that the police department update its SOP's and secure a grant through the NH Chiefs of Police to help offset the cost of this program.

In addition to the three-bay garage addition project, the town's existing CIP includes the replacement of cruisers for the department at an estimated cost of \$116,000. In the past, according to the Police Chief, these projects have not been put before the town for a vote. The Chief reported that three of the department's four existing cruisers need to be replaced and that he was planning to submit another police cruiser warrant article for the 2009 meeting for \$16,500.

Findings

As previously noted, impact fees are typically put into place to address facility capacity and expansion needs necessitated by new growth. Because the NH Local Government inspection report recommends and the town's existing CIP includes the proposed three-bay garage addition to the police department headquarters, the importance and need for this project is justified and developing an impact fee for this facility improvement can be readily implemented and assessed.

However, because of the complexity and the need to address a number of facility improvements and spatial needs of the department as part of this project, it is recommended that a public safety fee for the police department not be assessed until such time as the Board of Selectmen and the town voters have approved an overall police department building improvement plan and necessary financing. Also once developed this overall building improvement plan and identified costs should be included in the town's CIP.

In the meantime before this plan and necessary financing are decided, it may be possible to develop a vehicle/equipment component to the public safety impact fee to help recoup the cost of purchasing new cruisers for the department. However, before such a fee is calculated and assessed, it is recommended that a legal opinion be obtained from the town's attorney to determine under New Hampshire state law if such a component of a public safety impact fee could be developed and assessed independent of the facilities (capacity and expansion) component of such a fee.

Recommendations

1. Before impact fees are developed in Chester, the Planning Board should first assess the political feasibility of establishing these fees and consider developing an impact fee ordinance for the 2010 town meeting;
2. The following priority of fees should be taken into consideration in deciding to establish fees within the community:

Traffic Impact Fee
Recreation
Public Safety – police
Public Safety – fire
Schools

Appendix

Example Impact Fee Ordinance from the Town of Fremont, NH

ARTICLE XIV IMPACT FEES FOR PUBLIC CAPITAL FACILITIES ORDINANCE

Section 1. AUTHORITY AND APPLICABILITY

- A. This Section is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Section shall be the responsibility of the Planning Board. This Section, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Section, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Fremont or the Fremont School District.
- B. The public facilities for which impact fees may be assessed in Fremont may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; stormwater, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the proportional share of capital facilities of a cooperative or regional school district of which Fremont becomes a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.
- C. Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.
- D. The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

Section 2. FINDINGS

The Town of Fremont hereby finds that:

- A. The Town of Fremont is responsible for and committed to the provision of public facilities and services and standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;
- B. Capital facilities have been and will be provided by the Town;
- C. The Town's legislative body has authorized the Planning Board to prepare and amend a Capital Improvements Program per NH RSA 674:5-8, and the Planning Board has prepared and adopted said program;
- D. An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Fremont;
- E. New development in Fremont will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents, businesses, and other needs occasioned by the development of land;
- F. Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development;
- G. In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare;
- H. Impact fees assessed pursuant to this Section will not exceed the costs of:
 - 1. Providing additional public capital facilities necessitated by new development in Fremont; and/or
 - 2. Compensating the Town of Fremont or the Fremont School District for facility capacity that it provide in anticipation of new development in Fremont.

Section 3. DEFINITIONS

- A. The applicant for the issuance of a permit that would create new development as defined in this section.
- B. New Development. An activity that results in:
 - 1. Subdivision, site development, building construction or other land use that

- results in an increase in demand for capital improvement facilities as identified in the Planning Board's impact fee schedules; or,
2. The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board. New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the Town of Fremont.

Section 4. COMPUTATION OF IMPACT FEE

- A. The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Fremont. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Planning offices of the Town of Fremont.
- B. In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Section.

Section 5. ASSESSMENT OF IMPACT FEES

- A. Impact fees shall be assessed on new development to compensate the Town of Fremont for the proportional share of the public capital facility costs generated by that development.
- B. Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Section in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Section.

Section 6. WAIVERS

The Planning Board may grant full or partial waivers of impact fees where the Board finds that one (1) or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

- A. A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age sixty two (62) or over. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least twenty (20) years.
- B. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Section.
- C. The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.
- D. The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.
- E. A feepayer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the

proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer. A person may request a full or partial waiver of impact fees, other than those that expressly protect public health standards, for construction within a plat or site plan approved by the Planning Board prior to the effective date of this Section (insert date of ordinance posting). Prior to granting such a waiver, the Board must find that the proposed construction is entitled to the four (4) year exemption provided by RSA 674:39, pursuant to that statute.

Section 7. PAYMENT OF IMPACT FEE

- A. No permit shall be issued for new development as defined in this Section until the impact fee has been assessed by the Building Inspector. The feepayer shall either agree to pay the impact fee prior to issuance of a building permit or shall post a performance guarantee acceptable to the Planning Board with the Planning Board prior to the issuance of any building permit to ensure payment of all fees. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule for payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Fremont.
- B. Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the Town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system, is issued.

Section 8. APPEALS UNDER THIS SECTION

- A. A party aggrieved by a decision under this Section may appeal such decision to the Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

Section 9. ADMINISTRATION OF FUNDS COLLECTED

- A. All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a nonlapsing special revenue fund account and under no circumstances shall

such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts.

- B. The Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership and tax map reference number of properties for which fees have been paid under this Section for each permit so affected for a period of at least ten (10) years from the date of receipt of the impact fee payment associated with the issuance of each permit.
- C. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Fremont School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the Fremont School District in anticipation of the needs for which the impact fee was collected.
- D. In the event that bonds or similar debt instruments have been or will be issued by the Town of Fremont or the Fremont School District for the funding of capacity related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.
- E. At the end of each month, the Treasurer shall make a report giving a particular account of all impact fee transactions during that month. At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

Section 10. USE OF FUNDS

- A. Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.
- B. Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.
- C. Funds may be used to provide refunds consistent with the provisions of this Section.

Section 11. REFUND OF FEES PAID

- A. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
1. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
 2. The calculation of an impact fee has been predicated upon some portion of capital improvement costs being borne by the municipality, and the legislative body has failed to appropriate the municipality's share of the capital improvements with six (6) years of complete and final payment of the impact fee assessed.
- B. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

Section 12. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this Section does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

Section 13. SCATTERED OR PREMATURE DEVELOPMENT

Nothing in this Section shall be construed so as to limit the existing authority of the Fremont Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Fremont Zoning Ordinance, or the Fremont Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

Section 14. REVIEW AND CHANGE IN METHOD OF ASSESSMENT

The methodologies adopted by the Planning Board for impact fee assessment, and the associated fee schedules, shall be reviewed periodically and amended as necessary by the Planning Board. Such review shall take place not more than five (5) years from the initial adoption of this Section, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula. Failure to conduct a periodic review of the methodology shall not, in and of itself, invalidate any fee imposed. Any proposal for changes

in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

September 2, 2008

Dr. Victor Petzy, Superintendent
Chester School District, SAU 82
22 Murphy Drive
Chester, NH 03036

Re: Kindergarten Addition to Chester Academy

Dear Vic,

Per our Agreement of August 7, 2008, Goudreau & Associates Architects (GAA) is pleased to present this report for the work done relative to the planning of the addition of two kindergarten rooms at the Chester Academy. Contained in this report is a brief description of the planning and thought process that was undertaken between GAA, yourself, administrative staff and members of the Kindergarten Committee. Also included in this report are schematic drawings of plans and elevations as well as an associated schematic cost estimate for the project.

Over the course of several meetings on site with those mentioned above, the following topics were reviewed:

Portables:

The possibility of placing several portable classrooms on site, to be used temporarily for the kindergarten program, were discussed. It is our understanding that this option was under consideration because the State of NH Dept. of Education would pay the full cost of the portables for several years before the District would be obligated to provide a more permanent solution. Schematic sketches C-1 & C-2 illustrate the two options under consideration. C-1 locates the portables in the lawn areas on either side of the 2002 addition, while C-2 locates them closer to where the permanent addition is proposed to go. C-2 makes more sense from a programming standpoint as it places the students closer to core facilities and to each other, and does not require circulation through the elementary wing to access the facilities. C-1 has the advantage of being "out of the way" during the construction of the permanent addition.

Kindergarten Addition:

Similar locations were reviewed for the addition as were contemplated for the portables. In the final analysis, attaching the addition to the existing building in lieu of a stand-alone facility across the access road seemed the most cost-effective and functional solution. The location shown on sketches C-1, C-2 & SKA-1 locate the addition on the east side of the existing gymnasium/cafeteria portion of the existing building. This location allows direct access for the students to the core facilities (without circulating through the elementary wing) and also minimizes the loss of existing windows currently used by program areas.



Goudreau & Associates Architects, PLLC
48 Bittersweet Lane
Chester, NH 03036

Tel: (603) 887-2300
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The addition is comprised of two full-size kindergarten classrooms with a shared restroom/changing area "suite" accessed directly from each classroom. The classrooms are proposed to be separated by a movable partition for flexibility, allowing separate teaching rooms or one larger teaching area for group activities. Each classroom has adequate storage space for classroom supplies as well as student "cubbies" for backpacks and an area for coats & boots. A counter unit with cabinets and sink is also anticipated for each classroom.

Construction Options:

There was brief discussion relative to the options for the construction of the addition itself. Both on-site built (similar to the 2002 addition) and off-site panelization were discussed. It is GAA's view that panelization, while allowing for the possibility of a shorter construction timeframe (panel production offsite in controlled environment), is the less desirable option of the two for the following reasons:

1. There isn't enough repetition in the scope of the project to realize the economic benefits of mass producing panels.
2. The addition would not have the same masonry appearance as the rest of the facility.

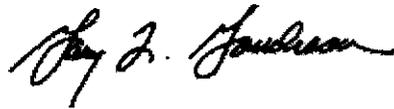
It is therefore our recommendation that the addition be site built as was the addition in 2002, and in the location identified on the accompanying sketches. This will provide the school with a facility that will be long lasting, and will appear to have been part of the original design of the building from the beginning (see SKA-2 for exterior elevations).

Cost Estimate:

A more comprehensive estimate (compared to that done on 7/13/08) has been done as part of this report. Please see attachment.

We are pleased to be able to assist the Chester School District once again, and look forward to a positive outcome for this project next spring. Please let us know if we can be of further assistance.

Sincerely,

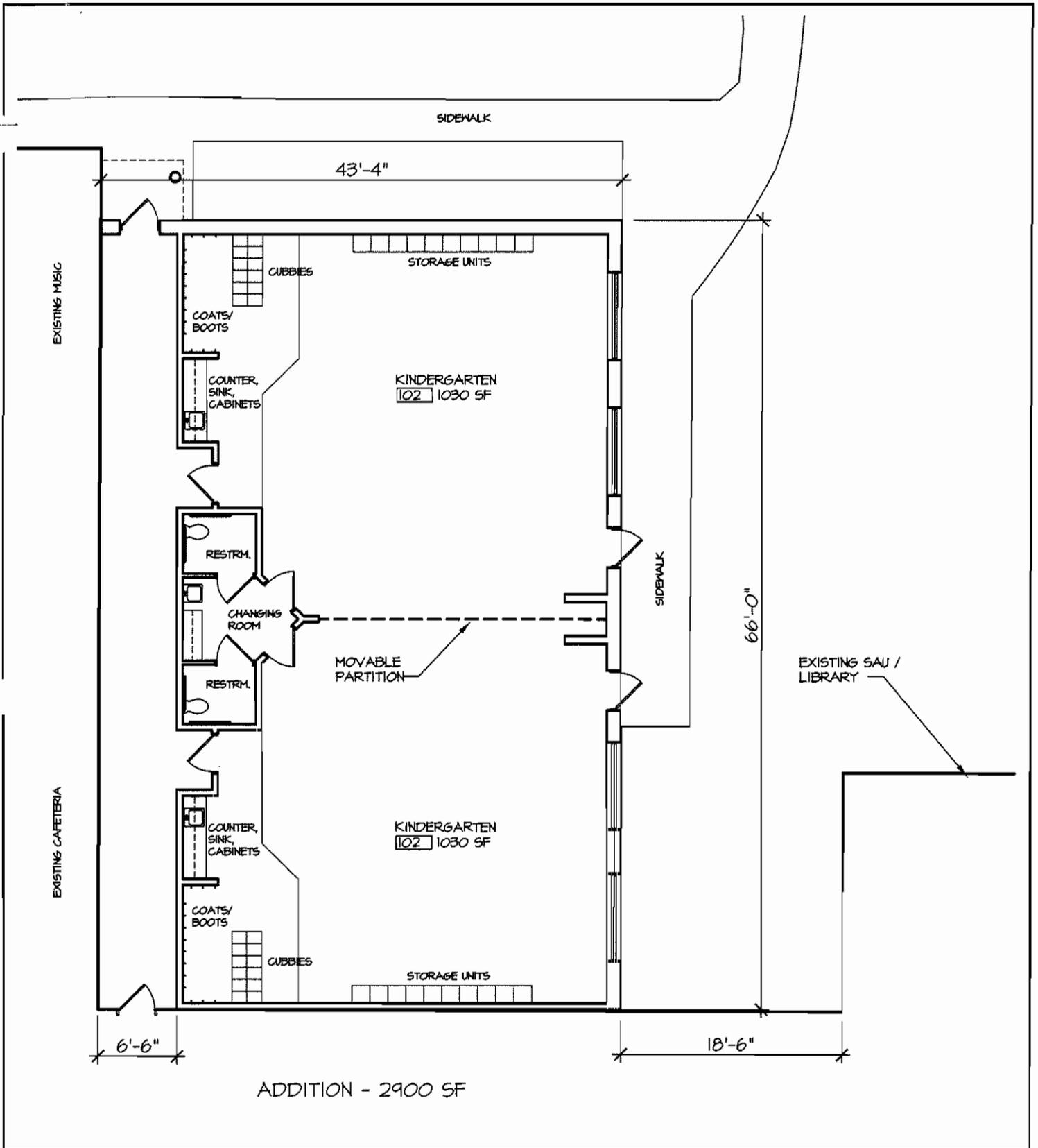


Gary L. Goudreau
President



Goudreau & Associates Architects, PLLC
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CHESTER ACADEMY
KINDERGARTEN ADDITION

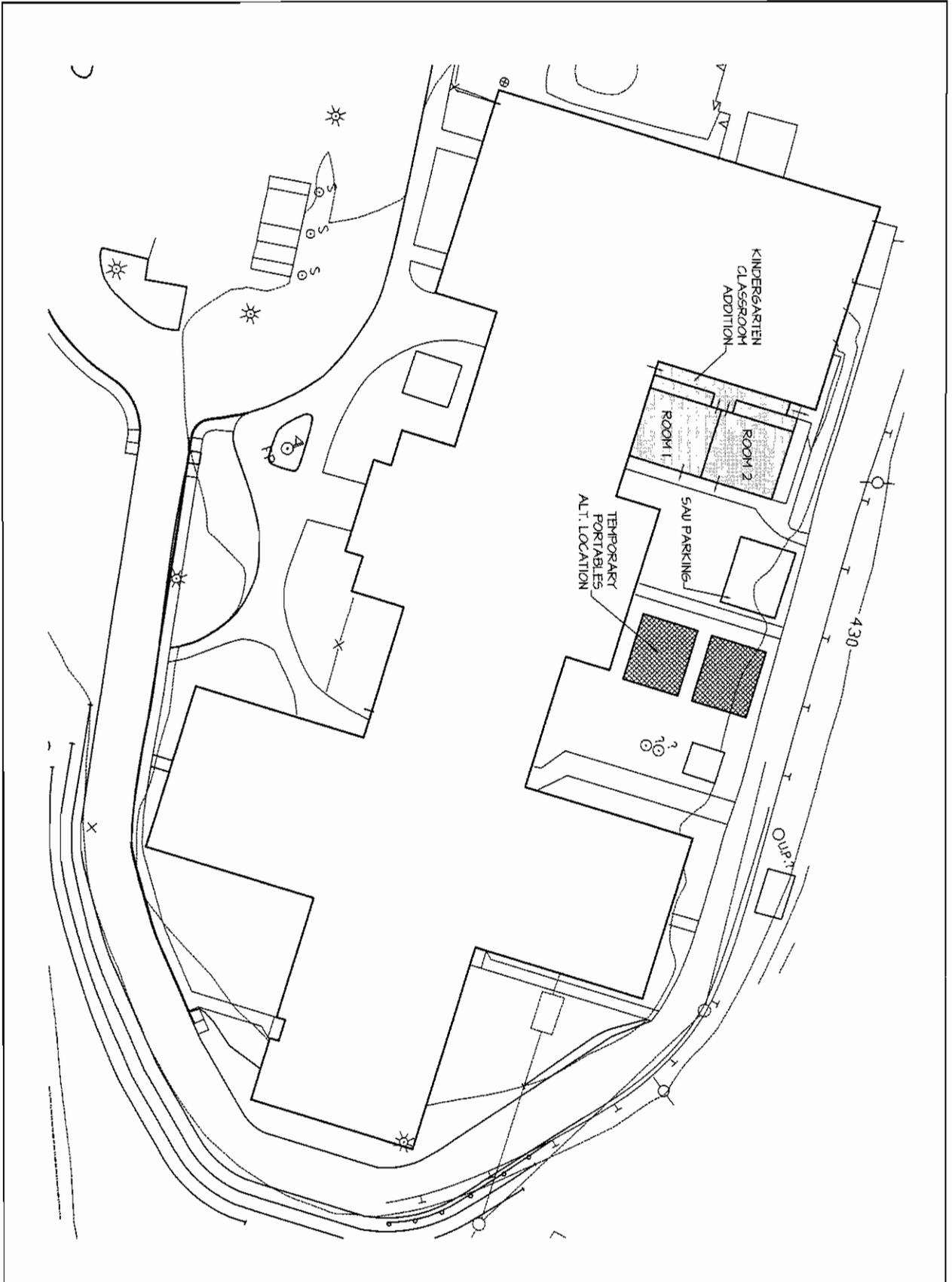
FLOOR PLAN



GOUDREAU & ASSOCIATES
ARCHITECTS, PLLC
48 BITTERSWEET LANE
CHESTER, NH 03056
TEL: (603) 887-2300
FAX: (603) 887-2302

SCALE: 3/32"=1'-0"
PROJECT NO: 2008.03
DATE: 9/1/08

SKA-1

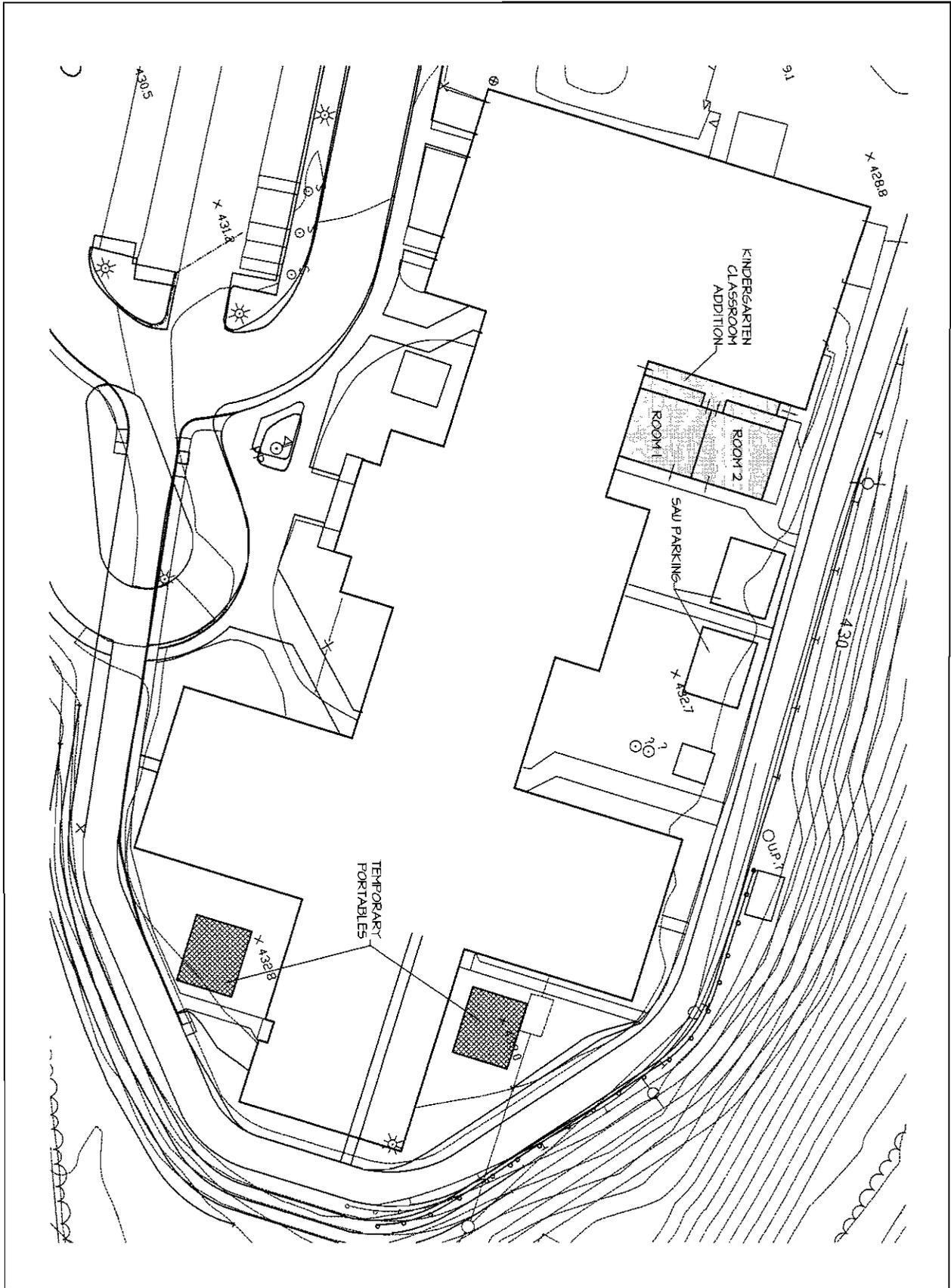


TITLE: SITE PLAN - ALT.
 DATE: 02/08
 REV: 01/08
 SCALE: NONE
 DRAWN BY: BLP
 CHECKED BY: DVC
 SCALE: NONE

CHESTER ACADEMY KINDERGARTEN ADDITION
 CHESTER ACADEMY
 CHESTER, NEW HAMPSHIRE

SCADREAU & ASSOCIATES ARCHITECTS, PLLC
 40 BETHLEHEM LANE
 CHESTER, NH 03026
 TEL: (603) 887-2500
 FAX: (603) 887-2502

C-2



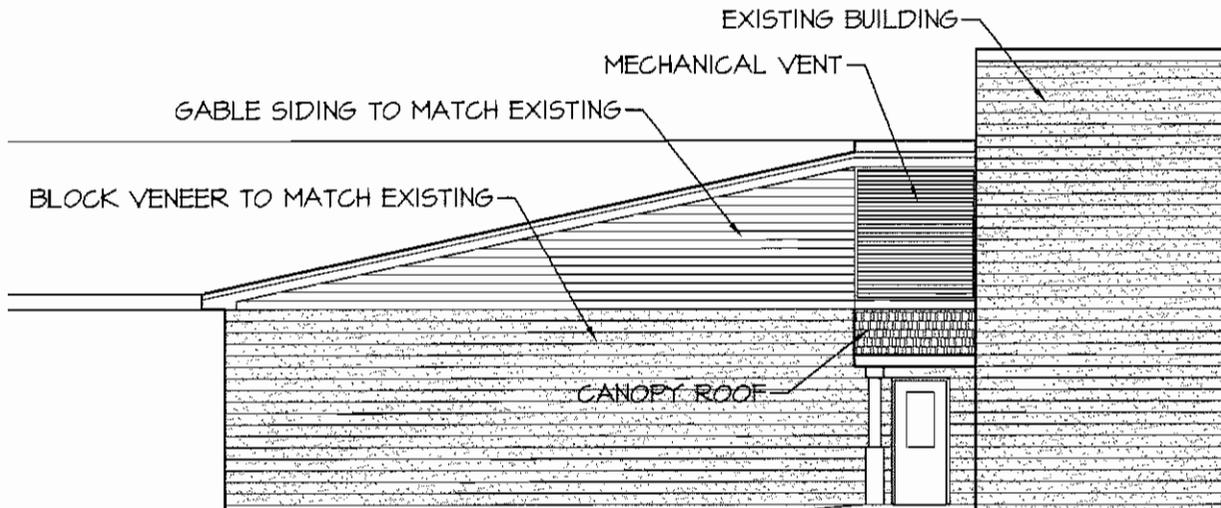
TITLE: **SITE PLAN**
 DRAWN BY: **SLB**
 DATE: **4/2/08**
 REV: **01/08**
 SCALE: **NONE**

CHESTER ACADEMY KINDERGARTEN ADDITION
CHESTER ACADEMY
CHESTER, NEW HAMPSHIRE

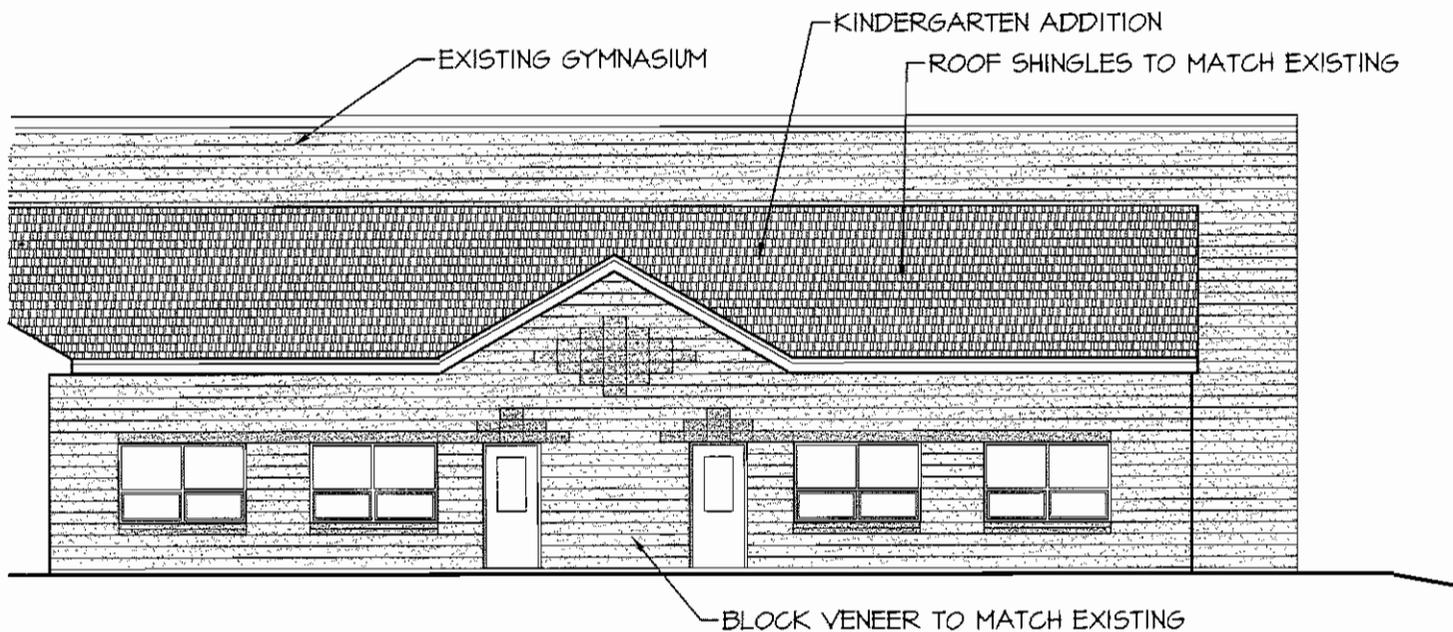
SOUKREAU & ASSOCIATES ARCHITECTS, PLLC
 48 BETHLEHEM LAKE
 CHESTER, NH 03026
 TEL. (603) 891-2800
 FAX. (603) 891-2802

SHEET NO. **C-1**

SCALE



1 NORTH ELEVATION
 $3/32" = 1'-0"$



2 EAST ELEVATION
 $3/32" = 1'-0"$

CHESTER ACADEMY
 KINDERGARTEN ADDITION

FLOOR PLAN



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 FAX: (603) 887-2302

SCALE: $3/32" = 1'-0"$
 PROJECT NO: 2008.03
 DATE: 9/1/08

SKA-2



Kindergarten Addition

Chester Academy, Chester, NH
Schematic Cost Estimate - 9-2-08

General Conditions:	\$45,000
Sitework:	\$40,000
Foundations:	\$15,000
Masonry:	\$55,000
Misc. Steel:	\$5,000
Rough Carpentry:	\$18,000
Finish Carpentry:	\$8,000
Roofing:	\$12,000
Insulation/Firestopping:	\$7,000
Sealants:	\$2,400
Exterior Windows:	\$8,000
Exterior Louvers:	\$1,800
Doors, Frames & Hardware:	\$10,000
Ceilings:	\$8,800
Flooring:	\$9,000
Window Treatments:	\$2,000
Painting:	\$8,200
Toilet Accessories:	\$1,000
Signage:	\$800
Visual Display Boards:	\$2,500
Fire Extinguishers:	\$1,200
Moveable Partitions:	\$5,000
HVAC & Plumbing:	\$75,000
Electrical/Fire Alarm:	\$40,000
Sprinkler System:	\$7,500
Security & Telcom Allowance:	\$5,000

Subtotal: **\$393,200**

Contingency @ 10%: **\$39,320**

Subtotal: **\$432,520**

GC Overhead & Profit @ 15%: **\$64,878**

Construction Total: **\$497,398**

Total Project Cost Estimate:

Construction:	\$497,398
Arch/Eng. Fees:	\$49,000
Construction Testing:	\$3,000
Geotech Borings & Report:	\$4,500
Clerk of Works:	\$15,000
FF&E Allowance:	\$5,000
Owner's Contingency:	\$25,000
Legal/Bond Allowance:	\$5,000
Total Project Cost Estimate:	\$603,898

April 21, 2008

Board of Selectmen
Town of Chester
84 Chester Street
Chester, NH 03036

Dear Sirs:

On 4/21/08 I, along with Wynette DeGroot, conducted a Safety Inspection of the Chester Police Department. This inspection was requested by Chief William Burke, to determine if the NH Local Government Center had any liability concerns that the town should be addressing. We were advised that the department consists of 3 full-time officers supplemented by 10 part-time officers and an administrative secretary, whose current schedule is 20 hours per week.

40

The first area that was reviewed was the parking lot. This area appears to be large enough for the amount of vehicular traffic encountered at the current activity levels. The parking lot has no security cameras.

The lobby of the police department appears adequate for the size of the department. I was advised by Chief Burke that all department activity comes and goes via this lobby. This would include arrested individuals. The lobby does provide public access to a bathroom. The secretary/receptionist is separated from the lobby by a wood wall, with a sliding glass window. The lobby is the first area of potential liability for the Town of Chester. I would recommend that a separate entrance be provided for officers to bring arrested individuals directly into the booking area. This would allow for better officer safety as well as the safety of the general public and other department personnel. The second area of concern is the window access to the secretary/receptionist. The window should be, at minimum, shatterproof glass and preferably bullet proof. Persons who might become violent in the lobby should not be able to gain access to the reception area. The current configuration could be easily broken and entry made.

The next area of concern and a potential liability is the booking room. Currently the area provides two cells for the detention of arrestees. As stated above the booking area should have a separate entrance directly from the cruiser parking area or garage/sally-port if constructed in the future. In its current configuration the department can not provide sight and sound separation of juvenile offenders from the public. The booking area does not have a video system to record booking or interviewing. I was advised that officers routinely process individuals, male or female, alone in the booking room.

CAMERAS NOW INSTALLED

I strongly recommend that a recorded surveillance system be installed in the booking room as well as all parking lots, entrances, hallways interview/interrogation rooms and any other common area of the police station. These systems, while expensive, have proven invaluable when officers are accused of excessive use of force, sexual harassment, or misconduct of any kind.

BRING PEOPLE AS WE SPEAK

The evidence room is not adequate for the amount of evidence being stored at this time. Chief Burke had Sgt. Aaron Berube open the evidence room so that I could view the amount of evidence within. I observed a large volume of firearms sitting on the floor or leaned up against lockers, unsecured. I noted evidence stored on shelves in various types of containers. I inquired if drugs and drug paraphernalia were in the room and if they were separately secured. Chief Burke advised that there were drugs and paraphernalia in the room and they were not separately secured. At minimum, guns and drugs need to be separately secured within a secure evidence room. Chief Burke explained that the best he could do was provide a detailed evidence tracking system for all evidence in the room. He explained that access to the room was limited to his evidence officer, Sgt. Aaron Berube. The evidence room is a high liability concern. It is recommended that the evidence room be enlarged. Locking cabinets should be purchased to separately secure guns and drugs or a separate room within the evidence room be constructed for each of this type of evidence.

I then inquired of Chief Burke when the last time he had updated his SOP's. He indicated that it had been sometime and that he usually did it when something came up. I recommend that the department undertake the State Accreditation process, with a goal of State Recognition. The state program is administered by the NH Police Standards & Training and is modeled after The Commission on Accreditation for Law Enforcement Agencies (CALEA). The NH Local Government Center, as well as the NH Chiefs of Police have grant programs to help offset the cost of this program. I would be more than willing to provide the department with more information on this program. I advised Chief Burke that I would provide the SOP's from the Town of Dunbarton Police Department, who had achieved National Recognition from CALEA. The Dunbarton Police Department is of similar size.

If you have questions or need clarification on the above items do not hesitate to contact myself or Wynette DeGroot.

Sincerely,

Butch Burbank
Risk Management Representative
New Hampshire Local Government Center
25 Triangle Park Drive
PO Box 617
Concord, NH 03302-0617
Tel: 603.224.7447 x316
E-Mail:bburbank@nhlgc.org

Cc: Chief William Burke