



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

REPORT TO PLANNING BOARD

FROM: AnneMarie Skinner, City Planner

DATE: August 14, 2025

SUBJECT: Request to reduce impact fees to \$0 for duplexes at unaddressed Sewalls Falls Road and 3 Palm Street

Recommendation:

Deny the applicant's request for waiver or alternatively a reduction of impact fees for unaddressed property located at Sewalls Falls Road and 3 Palm Street.

Background:

The authority to assess impact fees is established by New Hampshire State Law RSA 674:21. In accordance therewith, the City's Public Capital Facilities Impact Fees Ordinance was adopted in June 2001. It is codified in Chapter 29.2 of the Code of Ordinances.

The purpose of impact fees is to defray the costs of capital improvements necessitated by new development. The City's fees were established in accordance with an expansion study, which was completed in 2001. As the Planning Board knows from its recent review of the impact fee ordinance, impact fees have not been adjusted for inflation since 2014; therefore, the City's current impact fees are significantly less than what the City could otherwise be assessing to new development.

The City currently assesses transportation and recreation impact fees for new residential development. It is important to note that the City previously assessed school impact fees to new residential development as well. However, in October 2017, the City Council reduced the school impact fee to \$0 as debt service for certain previously completed capital improvement projects in the Concord Union and Merrimack Valley School Districts had been fully retired.

The City Council has adopted a waiver procedure for impact fees under Section 29.2-1-2 (e). An applicant must apply for a waiver prior to the date of determination of the impact fee by the Clerk. Further, the waiver request must meet one of the specific public policy exemptions outlined in the ordinance as follows:

- a) Waiver of school impact fees for senior housing;

- b) Waiver of transportation and school impact fees for market rate housing in the Central Business Performance District;
- c) Waiver of all impact fees for non-residential uses; or
- d) Reduction or limitation of impact fees for would remove blight and create tangible community and economic development benefits for the City.

Section 29.2-1-2 of the Zoning Code states the following:

- Any person or entity undertaking new development shall pay impact fees as set forth in the ordinance, and no new development shall be used or occupied until the applicable impact fees have been paid.
- Impact fees are assessed by the Clerk prior to the issuance of a building permit.
- The amount of the impact fees is determined using the information in Tables 1, 2, and 3 of Section 29.2-1-2.
- If an applicant elects to dispute the amount of an impact fee, the applicant may prepare and submit to the Clerk an independent fee calculation study for the new development that is proposed.
- The Clerk shall review such study, but is not required to accept any study deemed to be inaccurate or unreliable and may require the applicant to submit additional documents for consideration.
- If an acceptable independent fee calculation study is presented, the Clerk may, but is not obligated to, adjust the amount of the impact fee for the new development, taking into consideration the information and data presented in the independent fee calculation study.
- If the applicant cannot agree with the Clerk as to the acceptability of an independent fee calculation or the appropriate adjustment to an impact fee based upon an independent fee calculation, the applicant may request a hearing before the Planning Board on the acceptability of an independent fee calculation and the appropriate adjustment to an impact fee based upon an independent fee calculation.
- The Planning Board's decision on the issue shall be final.

Regarding impact fees for a new duplex at unaddressed Sewalls Falls Rd, identified as Tax Map Lot 202Z 21, and a new duplex at 3 Palm St, please note the following:

1. A building permit application for a duplex at unaddressed Sewalls Falls Rd was submitted on July 31, 2025. (Variances are required to establish the duplex.)
2. On August 4, 2025, Code Administration requested that the Clerk determine the impact fees for the Sewalls Falls Rd duplex.
3. On August 7, 2025, the Clerk used the tables from Section 29.2-1-2 of the Zoning Code to determine the recreational facilities impact fee of \$2,127 (\$1,063.50 per unit) and transportation facilities impact fee of \$2,817.98 (\$1,408.99 per unit).
4. The Clerk uploaded the impact fee worksheet listing the impact fees for the Sewalls Falls Rd duplex on August 7, 2025, available online. No determination of impact fees has been made for 3 Palm St.
5. Code Administration has not yet invoiced the impact fees for the Sewalls Falls Rd duplex.

6. On August 12, 2025, the applicant emailed a formal request of waiver or reduction of impact fees for the Sewalls Falls Rd duplex. Staff notes that the determination of the fees took place on August 7, 2025, and the waiver request was received after the date of determination.
7. The Clerk denied the waiver request based on Section 29.2-1-2(e)(1) and the reduction request to \$0 based on Section 29.2-1-2(b)(6) and (7).
8. Per Section 29.2-1-2(b)(9), when the appropriate adjustment to an impact fee based upon an independent fee calculation or the acceptability of an independent fee calculation study is in question, the applicant may request a hearing before the Planning Board.
9. Subsequent to the Clerk's denial of the waiver and reduction based on the acceptability of an independent fee calculation study, the applicant requested on August 13, 2025, that the matter be heard by the Planning Board.
10. At the same time, the applicant requested a reduction to \$0 for the proposed new duplex at 3 Palm St. The reduction request was denied by the Clerk based on Section 29.2-1-2(b)(6) and (7) in that a reliable independent fee calculation study was not provided by the applicant.

Discussion:

The applicant is seeking waiver or reduction of impact fees for unaddressed property located at Sewalls Falls Road and 3 Palm Street. Neither property qualifies for any waivers in the impact fees ordinance.

The applicant does not qualify for a waiver under Section 29.2-1-2(e) of the in the impact fees ordinance. Moreover, even if the applicant had qualified, the applicant submitted the Sewalls Falls Road waiver request after the determination of the fee by the Clerk of the Board whereas waivers are required to be requested prior to that determination.

The applicant has also requested a reduction of impact fees. While the applicant may make such request, the applicant's request is predicated on Section 29.2-1-2(b)(5) of the impact fees ordinance. This section pertains to when a dispute arises on the calculation of an impact fee regarding the classification of the use by the Clerk. There is no dispute regarding the applicant's proposed uses for either the Sewalls Falls Road or Palm Street properties. Moreover, the "independent fee calculation" presented by the applicant contains no substantive data or analysis, and is merely the applicant's unsubstantiated opinion as to what a reasonable fee would be in the applicant's opinion; therefore, there are no reasonable grounds for granting the applicant's request.