

GORHAM TOWN COUNCIL
AMENDED
MEETING MINUTES
REGULAR MEETING
January 3, 2012– 7:00 p.m.
Gorham Municipal Center – Burleigh H. Loveitt Council Chambers

Chairman Caldwell opened the meeting with the Pledge of Allegiance: there were fourteen (14) members of the public present at the start of the meeting.

Roll Call of the Town Council: Present Chairman Caldwell; Councilors: Pressey, Phinney, Phillips, Robinson, Gagnon and Mattingly.

Also present were the Town Manager, David Cole and the Deputy Town Clerk, Jennifer Elliott

Moved by Councilor Phinney, seconded by Councilor Gagnon and VOTED to accept the minutes of the December 6, 2011 Town Council Regular Meeting. 7 yeas

Open Public Communications

State Representative Jane Knapp spoke regarding firewood safety and invasive insects that can travel on firewood coming into the State, welfare fraud hotline updates and she encourages everyone to come up and observe the Legislature is session. There will also be lead testing pamphlets sent out to help families address lead issues in their home.

School Committee Report

James Hager, Chairman of the School Committee reported that the Maine Department of Education is expecting a cutback in funding. He gave a link to the Department of Education's website. The Gorham High School athletic Director, Tim Spear had distributed complimentary passes to the Town Councilors and hope that they can attend home athletic events. He stated that the next School Committee meeting would be held on January 11 at 7 pm.

Councilor Communications

Councilor Pressey reported that on December 14th he attended an Elected Officials State Transportation forum and that it will be televised on Go-Cat in the near future.

Councilor Gagnon reported that the Finance Committee met with the auditors and the Audit was very strong. He thanked everyone for the help on the 275th Founders celebration.

Councilor Mattingly reported that New Year's Gorham was a big success and thanks for all the hard work.

Councilor Robinson reported that looking into the cost of having a camera and audio equipment in Conference Room A for Workshops is roughly \$5,000. They are moving forward on getting estimates.

Chairman's Report

Chairman Caldwell thanked the New Year's Eve committee on a great successful event.

Town Manager's Report

Town Manager, David Cole reported that the New Year's Eve celebration was a success. He introduced the new Finance Director, Sharon LeFlamme. He reported that Service pins were issued to Public Works employees Derrick Littlefield, 5 year pin, and Gina Roberts. 15 year pin. Also Jeri Sheldon, HR Director and Assistant to the Town Manager, received a 20 year pin.

Tom Ellsworth, President of GEDC, read the Annual Report that covers the calendar year. He stated that the primary objective of the Gorham Economic Development Corporation is to retain and attract business to the Town of Gorham. Small and medium sized businesses are the backbone of our local economy providing good, services, jobs and tax revenue.

The Town Manager, David Cole reported that the next meeting of the GEDC will be January 11, 2012 at 8 am at USM

Old Business

Item #8103 Moved, Seconded and VOTED, ORDERED, that the Town Council refer a request to do a contract zone for property located at 34 County Road (Tax Map 6, lot 14), with substantially similar terms and conditions that were approved for the Hans Hansen Contract Zone, to the Planning Board for public hearing and their recommendation. 7 years

Item#8105 The Order as Moved and Seconded at a previous meeting as VOTED to POSTPONE, to the March 6, 2012 Regular Town Council Meeting, that the Town Council authorize the Capital Improvements/Economic Development Committee of the Gorham Town Council to engage in a discussion with regard to the property located on the corner of Main Street and New Portland Road formerly known as the Mobile Gas Station and to provide ideas, options and a possible direction in a report with recommendations back to the Town Council. 7 years

New Business

Public

Hearing #1 A Public Hearing on the renewal Restaurant Liquor License in the name of Thatcher's of Gorham. There were no comments from the public and the hearing closed.

Item #8110 Moved by Councilor Phinney, Seconded by Councilor Phillips and ORDERED that the Town Council approve a renewal Restaurant Liquor License in the name of Thatcher's of Gorham d/b/a Thatcher's Restaurant and Sports Pub located at 29B School Street. 7 years

Public

Hearing #2 A Public Hearing on the renewal Liquor License in the name of Matt Mattingly, d/b/a PineCrest Bed & Breakfast Inn LLC. Councilor Mattingly asked permission to recuse himself from the order and vote. There were no comments from the public and the hearing was closed.

Item #8111 Moved by Councilor Robinson, Seconded by Councilor Phillips and ORDERED that the Town Council approve a renewal Liquor License in the name of Matt Mattingly, d/b/a PineCrest Bed & Breakfast Inn LLC, 91 South Street. 6 years (Mattingly abstaining)

Public

Hearing #3 Public Hearing on a request from Dennis Chadbourne to develop a contract zone for property located at 83 County Road. (Tax Map 6, Lot 30) a request from Albert Frick to develop a contract zone for property located at 95 County Road (Tax Map 4, lot 9 and Tax Map 6, lot 31) and a request from Michael and Sara Ordway to develop a contract zone for property located at 94 County Road, (Tax Map 4, lot 6.00)1 and a request from Mary McFarland to develop a contract zone for property located at 86 County Road, (Tax Map 3, lot 22.002) and a request from Marion Green to develop a contract zone on property located at 68 County Road. (Tax Map 6, lot 28).

There was no comment from the public and the hearing was closed.

The prepared Orders for items #8112, #8113, #8114, #8115, and #8116 were moved by Councilor Phinney and Seconded by Councilor Robinson. The items were discussed at the same time but voted on separately.

Moved by Councilor Phinney and Seconded by Councilor Robinson and VOTED to AMEND the prepared Orders to add recommended Planning Board changes to the existing changes of the said contract zone.

7 years

Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the previous amendment to strike “distilling” and “brewing” from section #3 in the Planning Board recommendations and add the words “distilling” and “brewing” to section 2 in new paragraph “J”. 7 years

Moved by Councilor Pressey and Seconded by Councilor Phillips and VOTED to AMEND the orders by adding into section #2, new paragraph “K” to read; “Residential dwelling units above the first floor as part of a mixed use building. 7 years

Item #8112 Moved by Councilor Phinney, Seconded by Councilor Phillips to waive the reading of the prepared order. 7 years The amended order was VOTED resulting in the following:

WHEREAS, Dennis Chadbourne (the “Property Owner”) is the owner of a parcel of real estate located at 83 County Road in Gorham, Maine, consisting of approximately 3.3 acres located near the intersection of Route 22 and Route 114 (hereinafter “the Property”); and

WHEREAS, the Property is identified on the Town’s Tax Map 6 as Lot 30; and

WHEREAS, the Property is currently located in the Rural District, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on January 3, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Gorham, is hereby amended to incorporate this Contract Zone.
2. **Permitted uses.** The Property Owner is authorized to establish on the Property any of the following uses without additional Town Council authorization:
 - a. Funeral home.
 - b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
 - c. Business, Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
 - d. Convenience stores, either with or without associated gasoline sales.
 - e. Sit-down restaurants.
 - f. Retail stores that are 7,000 square feet or less in total footprint.
 - g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
 - h. Banks.
 - i. Residential uses in existence on the Property on the date of this agreement.
 - j. Distilling and Brewing
 - k. Residential dwelling units above the first floor as part of a mixed use building.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, forging, and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.
- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.

6. **Other requirements.** All development on the property shall comply with the following requirements:

- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses. That include the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all uses.
- b. The site shall be designed to minimize the number of entrances and exits.
- c. The hours of operation will be established by the Planning Board.
- d. To the extent possible, parking shall be behind the building. The Planning Board may consider parking at the side of the building if an applicant can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the required buffer area as stated in paragraph 6 (a). For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.

e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subject to the property tax.

f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a \$3,500 application fee as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.

g. The applicant shall make a contribution of \$10,000 per lot or business unit for each lot sold towards the future extension of public sewer. The contribution shall be due at closing for each individual lot.

h. The building and lot design shall be consistent with a traditional New England Village Character.

i. Vehicular and pedestrian connections shall be required between parking lots located on the property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.

k. Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.

7. **Agreement to be recorded.** The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner or his successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with the Property Owner that takes title to the Property, his successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owner, his successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Property Owner or his successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law. 7 years

Item #8113 Moved by Councilor Phinney, Seconded by Councilor Robinson to waive the reading of the prepared order. 7 yeas Moved by Councilor Phinney and Seconded by Councilor Robinson and VOTED to AMEND the prepared orders to add recommended Planning Board changes to the existing changes of the said contract zone. 7 yeas

Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the previous amendment to strike “distilling” and “brewing” from section #3 in the Planning Board recommendations and add the words “distilling” and “brewing” to section 2 in new paragraph “J” 7 yeas

Moved by Councilor Pressey and Seconded by Councilor Phillips and VOTED to AMEND the orders by adding into section #2, new paragraph “K” to read; “Residential dwelling units above the first floor as part of a mixed use building. 7 yeas

The amended order was VOTED resulting in the following:

WHEREAS, Albert and Charlene Frick (the “Property Owners”) are the owners of two parcels of real estate located at or near 95 County Road in Gorham, Maine, consisting of approximately 7 acres and 8.2 acres located near the intersection of Route 22 and Route 114 (hereinafter “the Property”); and

WHEREAS, the Property consists of two lots identified in the Town’s assessing records as Tax Map 6, Lot 31 and Tax Map 4, Lot 9; and

WHEREAS, the Property is currently located in the Rural and Shoreland Zone Districts, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town's Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on January 3, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Gorham, is hereby amended to incorporate this Contract Zone.
2. **Permitted uses.** The Property Owner is authorized to establish on the Property any of the following uses without additional Town Council authorization:
 - a. Funeral home.
 - b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
 - c. Business, Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
 - d. Convenience stores, either with or without associated gasoline sales.
 - e. Sit-down restaurants.
 - f. Retail stores that are 7,000 square feet or less in total footprint.
 - g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
 - h. Banks.
 - i. Residential uses in existence on the Property on the date of this agreement.
 - j. Distilling and Brewing
 - k. Residential dwelling units above the first floor as part of a mixed use building.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, forging, and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.
- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.

6. **Other requirements.** All development on the property shall comply with the following requirements:

- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses. That include the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all uses.
- b. The site shall be designed to minimize the number of entrances and exits.
- c. The hours of operation will be established by the Planning Board.
- d. To the extent possible, parking shall be behind the building. The Planning Board may consider parking at the side of the building if an applicant can show a hardship, but under no circumstances shall parking be allowed

in the front yard or in the required buffer area as stated in paragraph 6 (a). For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.

e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subject to the property tax.

f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a \$3,500 application fee as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.

g. The applicant shall make a contribution of \$10,000 per lot or business unit for each lot sold towards the future extension of public sewer. The contribution shall be due at closing for each individual lot.

h. The building and lot design shall be consistent with a traditional New England Village Character.

i. Vehicular and pedestrian connections shall be required between parking lots located on the property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.

k. Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.

7. **Agreement to be recorded.** The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner or his successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with the Property Owner that takes title to the Property, his successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owner, his successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Property Owner or his successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law. 7 years

Item #8114

Moved by Councilor Phinney, Seconded by Councilor Pressey to waive the reading of the prepared order. 7 yeas

Moved by Councilor Phinney and Seconded by Councilor Robinson and VOTED to AMEND the prepared orders to add recommended Planning Board changes to the existing changes of the said contract zone. 7 yeas

Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the previous amendment to strike “distilling” and “brewing” from section #3 in the Planning Board recommendations and add the words “distilling” and “brewing” to section 2 in new paragraph “J” 7 yeas

Moved by Councilor Pressey and Seconded by Councilor Phillips and VOTED to AMEND the orders by adding into section #2, new paragraph “K” to read; “Residential dwelling units above the first floor as part of a mixed use building. 7 yeas

The amended order was VOTED resulting in the following

WHEREAS, Michael and Sara Ordway (the “Property Owners”) are the owners of a parcel of real estate located at 94 County Road in Gorham, Maine, consisting of approximately 2.6 acres located near the intersection of Route 22 and Route 114 (hereinafter “the Property”); and

WHEREAS, the Property is identified on the Town’s Tax Map 4 as Lot 6.001; and

WHEREAS, the Property is currently located in the Rural District, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on January 3, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Gorham is hereby amended to incorporate this Contract Zone.
2. **Permitted uses.** The Property Owner is authorized to establish on the Property any of the following uses without additional Town Council authorization:
 - a. Funeral home.
 - b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
 - c. Business, Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
 - d. Convenience stores, either with or without associated gasoline sales.
 - e. Sit-down restaurants.
 - f. Retail stores that are 7,000 square feet or less in total footprint.
 - g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
 - h. Banks.
 - i. Residential uses in existence on the Property on the date of this agreement.
 - j. Distilling and Brewing
 - k. Residential dwelling units above the first floor as part of a mixed use building.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, forging, and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.
- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.

6. **Other requirements.** All development on the property shall comply with the following requirements:

- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses. That include the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all uses.
- b. The site shall be designed to minimize the number of entrances and exits..
- c. The hours of operation will be established by the Planning Board.
- d. To the extent possible, parking shall be behind the building. The Planning Board may consider parking at the side of the building if an applicant can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the required buffer area as stated in paragraph 6 (a). For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.

e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subject to the property tax.

f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a \$3,500 application fee as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.

g. The applicant shall make a contribution of \$10,000 per lot or business unit for each lot sold towards the future extension of public sewer. The contribution shall be due at closing for each individual lot.

h. The building and lot design shall be consistent with a traditional New England Village Character.

i. Vehicular and pedestrian connections shall be required between parking lots located on the property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.

k. Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.

7. **Agreement to be recorded.** The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner or his successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with the Property Owner that takes title to the Property, his successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owner, his successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site. In the event that the Property Owner or his successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law. 7 years

Item #8115 Moved by Councilor Phinney, Seconded by Councilor Pressey to waive the reading of the prepared order. 7 years Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the prepared orders to add recommended Planning Board changes to the existing changes of the said contract zone. 7 years

Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the previous amendment to strike “distilling” and “brewing” from section #3 in the Planning Board recommendations and add the words “distilling” and “brewing” to section 2 in new paragraph “J” 7 years

Moved by Councilor Pressey and Seconded by Councilor Phillips and VOTED to AMEND the orders by adding into section #2, new paragraph “K” to read; “Residential dwelling units above the first floor as part of a mixed use building. 7 years

The amended order was VOTED resulting in the following:

WHEREAS, Mary McFarland (the “Property Owner”) is the owner of a parcel of real estate located at 86 County Road in Gorham, Maine, consisting of approximately 1.8 acres located near the intersection of Route 22 and Route 114 (hereinafter “the Property”); and

WHEREAS, the Property is identified on the Town’s Tax Map 3 as Lot 22.002; and

WHEREAS, the Property is currently located in the Rural District, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on January 3, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Gorham, is hereby amended to incorporate this Contract Zone.
2. **Permitted uses.** The Property Owner is authorized to establish on the Property any of the following uses without additional Town Council authorization:
 - a. Funeral home.
 - b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
 - c. Business, Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
 - d. Convenience stores, either with or without associated gasoline sales.
 - e. Sit-down restaurants.
 - f. Retail stores that are 7,000 square feet or less in total footprint.
 - g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
 - h. Banks.
 - i. Residential uses in existence on the Property on the date of this agreement.
 - j. Distilling and Brewing
 - k. Residential dwelling units above the first floor as part of a mixed use building.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, forging, and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.
- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.

6. **Other requirements.** All development on the property shall comply with the following requirements:

- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses. That include the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all uses.
- b. The site shall be designed to minimize the number of entrances and exits..
- c. The hours of operation will be established by the Planning Board.
- d. To the extent possible, parking shall be behind the building. The Planning Board may consider parking at the side of the building if an applicant can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the required buffer area as stated in paragraph 6 (a). For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.

e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subject to the property tax.

f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a \$3,500 application fee as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.

g. The applicant shall make a contribution of \$10,000 per lot or business unit for each lot sold towards the future extension of public sewer. The contribution shall be due at closing for each individual lot.

h. The building and lot design shall be consistent with a traditional New England Village Character.

i. Vehicular and pedestrian connections shall be required between parking lots located on the property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.

k. Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.

7. **Agreement to be recorded.** The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner or his successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with the Property Owner that takes title to the Property, his successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owner, his successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site. In the event that the Property Owner or his successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law. 7 years

Item #8116

Moved by Councilor Phinney, Seconded by Councilor Pressey to waive the reading of the prepared Order. 7 years

Moved by Councilor Phinney and Seconded by Councilor Robinson and VOTED to AMEND the prepared order to add recommended Planning Board changes to the existing changes of the said contract zone. 7 years

Moved by Councilor Phinney and Seconded by Councilor Gagnon and VOTED to AMEND the previous amendment to strike “distilling” and “brewing” from section #3 in the Planning Board recommendations and add the words “distilling” and “brewing” to section 2 in new paragraph “J” 7 years

Moved by Councilor Pressey and Seconded by Councilor Phillips and VOTED to AMEND the orders by adding into section #2, new paragraph “K” to read; “Residential dwelling units above the first floor as part of a mixed use building. 7 years

The amended order was VOTED resulting in the following:

WHEREAS, Marion Green (the “Property Owner”) is the owner of a parcel of real estate located at 68 County Road in Gorham, Maine, consisting of approximately 1 acre located near the intersection of Route 22 and Route 114 (hereinafter “the Property”); and

WHEREAS, the Property is identified on the Town’s Tax Map 6 as Lot 28; and

WHEREAS, the Property is currently located in the Suburban Residential District, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on January 3, 2011;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Zoning Map of the Town of Gorham, is hereby amended to incorporate this Contract Zone.
2. **Permitted uses.** The Property Owner is authorized to establish on the Property any of the following uses without additional Town Council authorization:
 - a. Funeral home.

- b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
- c. Business, Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
- d. Convenience stores, either with or without associated gasoline sales.
- e. Sit-down restaurants.
- f. Retail stores that are 7,000 square feet or less in total footprint.
- g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
- h. Banks.
- i. Residential uses in existence on the Property on the date of this agreement.
- j. Distilling and Brewing
- k. Residential dwelling units above the first floor as part of a mixed use building.

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study and shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, forging, and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.
- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.

6. **Other requirements.** All development on the property shall comply with the following requirements:

- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses. That include the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all uses.
- b. The site shall be designed to minimize the number of entrances and exits.
- c. The hours of operation will be established by the Planning Board.
- d. To the extent possible, parking shall be behind the building. The Planning Board may consider parking at the side of the building if an applicant can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the required buffer area as stated in paragraph 6 (a). For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.
- e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subject to the property tax.

f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a \$3,500 application fee as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the

first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.

- g. The applicant shall make a contribution of \$10,000 per lot or business unit for each lot sold towards the future extension of public sewer. The contribution shall be due at closing for each individual lot.
- h. The building and lot design shall be consistent with a traditional New England Village Character.
- i. Vehicular and pedestrian connections shall be required between parking lots located on the property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.
- k. Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.

7. **Agreement to be recorded.** The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.

8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner or his successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with the Property Owner that takes title to the Property, his successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owner, his successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site. In the event that the Property Owner or his successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law. 7 years

Public

Hearing #4 A Public Hearing on a proposal to amend Chapter IV, Site Plan Review of the Land Use and Development Code to clarify that an impervious surface included pavement, concrete, brick and gravel. There was no comment from the public and the hearing was closed.

Item #8117 Moved by Councilor Phinney, Seconded by Councilor Pressey to waive the reading of the prepared order. 7 years Moved by Councilor Phinney, Seconded by Councilor Gagnon and ORDERED that the Town Council amend Chapter IV, Site Plan Review of the Land Use and Development Code to clarify that a paved area includes an impervious surface including pavement, concrete, bricks and gravel. 7 years

Whereas, the Towns' Land Use and Development Code distinguishes when a project may go through Administrative Site Review instead of Site Plan Review by the Planning Board, and

Whereas, current language in the Land Use and Development Code refers to paved areas of less than 10,000 sf being allowed to go through Administrative Site Review, creating a question about whether projects with the other kinds of impervious surface may go through Administrative Site Review or must go through Site Plan Review by the Planning Board, and

Whereas it has been the intent to allow Administrative Review for all impervious surfaces of 10,000 square feet or less,

Now Therefore Be It Ordered that the Town Council adopt the following Amendment;

CHAPTER IV – SITE PLAN REVIEW

SECTION II – APPLICABILITY

A. The requirements of this section shall apply to the following:

8) The construction or expansion of paved areas, an impervious surface such as, but not limited to: pavement, concrete, brick, stone and gravel including access drives and parking lots involving an area of more than one thousand (1,000) square feet;

SECTION III – CLASSIFICATION OF PROJECTS

A. Projects subject to site plan review shall be divided into two (2) classes, Administrative Review Projects and major developments.

1) An Administrative Review project shall be subject to Administrative Review and shall include any project which:

i. Involves the construction or expansion of paved areas an impervious surface such as, but not limited to: pavement, concrete, brick, stone and gravel with fewer than ten thousand (10,000) square feet of area within any three-year period. 7 years

Item #8118 The order as read was Moved by Councilor Phinney, Seconded by Councilor Robinson and VOTED to POSTPONE action to the May 2012 Regular Town Council meeting to consider that the Town Council adopt a new Shoreland Zoning Map. 4 Yeas 3 Nays (Pressey, Caldwell, Robinson)

Item #8119 Moved by Councilor Phinney, Seconded by Councilor Robinson and ORDERED that the Town Council refinance the remaining General Obligation Bonds issued for the Middle School Project and the expansion of Baxter Memorial Library.

WHEREAS, the Town has previously issued its \$21,225,000 General Obligation Bonds, dated as of September 1, 2002 (the "2002 Bonds") which were issued to finance costs of a school construction project for the Middle School at Weeks Road and an expansion of the Baxter Memorial Library (collectively the "Project"); and

WHEREAS, due to a decline in interest rates, the Town desires to refinance the 2002 Bonds through a refunding in order to obtain debt service savings;

NOW, THEREFORE, be it voted, resolved, and ordered by the Town Council of Gorham, Maine:

Section 1: Authorization of Bonds. The issue and sale of the Town's general obligation bonds in an aggregate principal amount not to exceed \$11,525,000 (the "Bonds") to refund or refinance the 2002 Bonds, or such portion thereof as determined by the Town Treasurer, is hereby authorized pursuant to the provisions of Section 5772 of Title 30-A of the Maine Revised Statutes, the Town Charter, referendum elections of the Town held on May 15, 2001 and June 11, 2002, orders of the Town Council adopted on August 6, 2002 and all other authority thereto enabling. The Town Treasurer is hereby authorized to prepare, issue, and sell the Bonds at one time, or from time to time, as one or more separate bond issues, and to determine the date(s), form(s), denominations, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by his execution thereof. The Bonds shall be designated "Town of Gorham, Maine, General Obligation Refunding Bonds." Each Bond issued hereunder shall be signed by the Treasurer, shall be countersigned by the Chair of the Town Council, and shall be sealed with the seal of the Town, attested to by its Clerk. The Treasurer is hereby authorized to provide that any of the Bonds hereinbefore authorized be made callable, with or without premium, prior to their maturity.

Section 2: Contracts. The Treasurer is authorized to negotiate, execute and deliver, in the name of and on behalf of the Town such contracts, agreements, and other documents, including refunding escrow agreements, bond purchase agreements, and other agreements, instruments and certificates as may be necessary or appropriate as determined and approved by the Treasurer in connection with the issuance of the Bonds and the refunding of the 2002 Bonds, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Treasurer, such approval to be conclusively evidenced by his execution thereof.

Section 3: Financial Advisor; Underwriter. The Treasurer is hereby authorized to select a financial advisor for the sale of the Bonds and an underwriter for the Bonds, and the Treasurer of the Town be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith. The Bonds may be sold at a public or private sale and the Treasurer of the Town is authorized and empowered to arrange for the underwriting of the Bonds at private sale through negotiated agreement, compensation for such underwriting to be provided by negotiated fee payable out of a premium on the sale of the Bonds or in such other manner as approved by the Treasurer of the Town.

Section 4: Official Statement. The Treasurer is hereby authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer, and that the distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds be and hereby is approved.

Section 5: Transfer Agent; Escrow Agent; Verification Agent. The Treasurer is hereby authorized to select (a) the registrar, paying agent and transfer agent (the "Transfer Agent"), (b) a verification agent relating to the escrow for an advance refunding of the 2002 Bonds or a portion thereof, and (c) an escrow agent for the refunding of the 2002 Bonds, and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services.

Section 6: Registration. The Bonds shall be transferable only on registration books of the Town kept by the Transfer Agent, and said principal amount of the Bonds of the same maturity (but not of other maturity) in the denomination of \$5,000 or any multiple thereof (or such other minimum denomination as the Treasurer shall establish) upon surrender thereof at the principal office of the Transfer Agent, with a written instrument of transfer satisfactory to the Transfer Agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a Bond, the Town and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new Bonds upon exchanges or transfer thereof to be paid by the person requesting the same.

Section 7: Book Entry. The Treasurer is hereby authorized to undertake all acts necessary to provide, if deemed necessary or appropriate by the Treasurer in his discretion, for the issuance and transfer of such Bonds in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing Order above regarding physical transfer of Bonds, and the Treasurer is hereby authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

Section 8: Exchanges and Transfers. The Treasurer and Chair of the Town Council from time to time shall execute such Bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to be executed as above described, and in case any officer of the Town whose signature appears on any Bond shall cease to be such officer before the delivery of said Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

Section 9: Tax-Exempt Covenants. The Treasurer is hereby authorized to covenant and certify on behalf of the Town that no part of the proceeds of the issue and sale of the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and that no part of the proceeds of the issue and sale of such Bonds (including any bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The Treasurer is hereby authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of the Bonds, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the Bonds will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds to be subject to federal income taxation.

Section 10: Disclosure. The Treasurer is hereby authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

Section 11: Town Officials. If any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds had not ceased to be such officer or official; and also any such Bonds may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds any such person shall not have been such officer or official.

Section 12: Deputy Officers. If the Treasurer, Chair of the Town Council or Clerk are for any reason unavailable to approve and execute the Bonds or any of the related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

Section 13: Other Actions. The Treasurer, Chair of the Town Council, Clerk and other appropriate officers of the Town are hereby authorized and empowered to do all such acts and things, and to execute, deliver, file, approve, and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts, and other documents as may be necessary or advisable, with the advice of counsel for the Town, including but not limited to any certificates, bond insurance agreements, notices of sale and other documents as may be necessary or appropriate in connection with the sale of the Bonds and any letter of credit agreement or liquidity facility agreement necessary to the issuance of any Bonds, to carry out the provisions of the resolutions heretofore adopted at this meeting in connection with the Project, the execution, sale, and delivery by the Town of the Bonds and the execution and delivery of any related financing documents. The Treasurer is authorized to deposit the proceeds of the Bonds pursuant to the escrow deposit agreement, and to call for redemption and defease the 2002 Bonds which are to be advance refunded by the Bonds.

Section 14: Tax Levy. In each of the years during which any of the Bonds issued hereunder are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said Bonds, payable in such year, and the principal of such Bonds maturing in such year.

Section 15: Consolidation. Any or all of the Bonds issued hereunder may be consolidated with and become a part of any other issue of general obligation bonds authorized to be issued by any previous or subsequent Order of the Town Council of the Town of Gorham.

Section 16: Investment Earnings; Premium. The investment earnings on the proceeds of the Bonds, if any, and the excess proceeds and premium of the sale of the Bonds, if any, be and hereby are appropriated to be used to fund the refunding escrow for the 2002 Bonds, to pay redemption premium on the 2002 Bonds, to pay interest on the 2002 Bonds or the Bonds and to pay issuance costs for the Bonds. 7 years

Item #8120 The prepared Order was Moved by Councilor Mattingly, Seconded by Councilor Gagnon. Moved by Councilor Mattingly, Seconded by Councilor Gagnon to AMEND the prepared Order to add “conveyance” on #2, and #3 to say: “TERMS: A 10% deposit remitted with sealed bids (nonrefundable as to the highest bidder) in CASH or CERTIFIED U.S. FUNDS; made payable to the Town of Gorham, with balance due and payable within 45 days from date of high bidder notification of the Town of Gorham’s acceptance. Non-winning bids will receive a full deposit refunds.” 7 years

The Order as AMENDED was VOTED resulting in the following; ORDERED, that the Town Council authorize the Town Manager and Finance Director to solicit sealed bids for a small parcel of land located off Fort Hill Road, Tax Map 81lot 28 and sometimes referred to as the old Wescott School lot, with minimum bid requirements:

1. Minimum bid of \$5,000
2. Conveyance of the property will be by quit claim deed,
3. TERMS: A 10% deposit remitted with sealed bids (nonrefundable as to the highest bidder) in CASH or CERTIFIED U.S. FUNDS, made payable to the Town of Gorham, with balance due and payable within 45 days from the date of high bidder notification of the Town of Gorham’s acceptance. Non-winning bids will receive full deposit refunds. Item as amended.

7 years

Item #8121 Moved by Councilor Phinney, Seconded by Councilor Robinson and ORDERED, that the Town Council authorize the Capital Improvements/ Economic Development Committee to meet with the Recreation Director to discuss the short term use of the Little Falls School, Robie Gym and Old Robie School and update the Town Council on the discussions at a future meeting. 7 years

Item #8122 The prepared Order was Moved by Councilor Gagnon, Seconded by Councilor Mattingly to AMEND the prepared Order to add “in village, Town sidewalks and trails” after the word parking. Moved by Councilor Gagnon, Seconded by Councilor Mattingly and VOTED to Move the question. 7 years The Order as AMENDED was VOTED resulting in the following; ORDERED that the Town Council authorize the Capital Improvements/Economic Development Committee continue to review the connectivity between parking in village, Town sidewalks and trails in Gorham Village and report back to the Town Council at a future meeting. 7 years

Item #8123 The prepared Order was Moved by Councilor Gagnon, Seconded by Councilor Pressey. Moved by Councilor Pressey, Seconded by Councilor Gagnon to AMEND the prepared Order to send it to a workshop instead of the Capital Improvements/Economic Development Committee. 6 Years, 1 Nay (Robinson) Moved by Councilor Robinson, Seconded by Councilor Phinney and VOTED to Move the question. 7 years. After further discussion, Councilor Mattingly Moved the question. 5 years, 2 nays (Phinney, Robinson) The Order as AMENDED was VOTED resulting in the following; Ordered, that the Town Council authorize a workshop to meet with the Department Managers, Town Manager and appropriate School Department personnel to review their capital needs and compile a list in preparation for updating the Town’s Capital Improvement Planning Document that was approved by the Town Council on March 1, 2011. 5 years, 2 nays (Phinney, Robinson)

Prior to the above vote, a Motion to amend the amendment to include personnel Failed of Passage 7 Nays (Caldwell, Pressey, Phinney, Phillips, Robinson, Gagnon and Mattingly)

Item #8124 The Prepared Order was Moved by Councilor Gagnon, Seconded by Councilor Mattingly, Moved by Councilor Phinney, Seconded by Councilor Gagnon to AMEND the prepared order to add “and surrounding area” after Mechanic Street. 7 yeas The Amended Order was Moved by Councilor Phinney, Seconded by Councilor Robinson and VOTED; ORDERED that the Town Council authorize the Capital Improvements/Economic Development Committee to meet with property owners in the Elm Street, Railroad Avenue and Mechanic Street and surrounding area to discuss how the Town can help the area to develop and report back to the Town Council at a future meeting. 6 yeas, 1 nay (Caldwell)

Item #8125 The Prepared Order was Moved by Councilor Phinney, Seconded by Councilor Robinson. Moved by Councilor Phinney, Seconded by Councilor Robinson to AMEND the prepared Order to send this directly to the Planning Board instead of the Ordinance Committee. 5 yeas. 2 nays (Gagnon, Pressey). The Amended Order was VOTED, ORDERED, that the Town Council refer a proposal from the Planning Board to amend Chapter IV, Site Plan Review that would allow the Planning Board the option of conducting a site walk instead of requiring a site walk, for Site Plan Review, to the Planning Board for their review and recommendation. 5 yeas 2 nays (Pressey, Gagnon)

Item#8126 The following item FAILED FOR LACK OF MOTION the Town Council refer a proposal from the Planning Board to amend Chapter IV, Site Plan Review Section IX, of the Land Use and Development Code, by adding a new paragraph N, Wildlife, Scenery and Unique and Critical Areas to the Ordinance Committee for their review and recommendation.

Moved by Councilor Phinney, Seconded by Councilor Robinson and VOTED to ADJOURN. Time of adjournment 10:16 pm. 7 yeas

A TRUE RECORD OF MEETING

ATTEST:

Jennifer Elliott, Deputy Clerk