



**Town of Gorham**  
**MAY 15, 2006**  
**PLANNING BOARD MINUTES**

LOCATION: Gorham High School Auditorium, 41 Morrill Avenue, Gorham, Maine

**Members Present:**

**DOUGLAS BOYCE, VICE-CHAIR**  
**THOMAS HUGHES**  
**MICHAEL PARKER**  
**MARK STELMACK**  
**EDWARD ZELMANOW**

**Staff Present:**

**DEBORAH FOSSUM, Dir. of Planning & Zoning**  
**BARBARA SKINNER, Clerk of the Board**  
**NATALIE BURNS, ESQ., Town Attorney**

**Members Absent:**

**SUSAN ROBIE, CHAIR.**  
**THOMAS FICKETT**

**Staff Absent:**

**AARON SHIELDS, ASSISTANT PLANNER**

The Vice Chairman called the meeting to order at 7:05 p.m. and read the agenda, explaining that this is a continuation of the meeting of May 1, 2006, when, due to the 10:00 o'clock rule, not all the items on that Agenda were heard. The Clerk of the Board called the roll, noting that Susan Robie, Chairwoman, and Thomas Fickett were absent.

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**ITEM FOR RECONSIDERATION**

**GRAVEL PIT PLAN AMENDMENT – “MIDDLE JAM PIT” – off 50-60 MIDDLE JAM ROAD – by R.J. GRONDIN & SONS, INC. [Map97/Lot31 & Map98/Lot 1, 2 & 6]**

**Michael Parker MOVED and Thomas Hughes SECONDED a motion to reconsider the Board's May 1, 2006 motion to deny R.J. Grondin & Sons' request for approval of a special exception use permit at the Middle Jam Road gravel pit.** Mr. Parker said the motion was made in order to give R.J. Grondin & Sons, Inc., an opportunity to respond to the Board's May 1, 2006 motion to deny R.J. Grondin & Sons' request for approval of a Special Exception use permit at the Middle Jam Road gravel pit, without having to begin the approval process again with a brand new application on their gravel pit plan amendment application.

**DISCUSSION:** Mr. Boyce said that the motion to reconsider their action at the May 1, 2006 meeting does not mean that the Board members have changed their minds relative to what was discussed at that meeting and to the Board's decision that the applicant had not met its burden under the Special Exception Standards. He said that the Board, however, did not by its vote intend to preclude the applicant from coming back before the Board with additional information that the applicant can satisfy the Special Exception criteria in order to obtain Board approval. Mr. Boyce said that this motion for reconsideration would allow the application to be postponed or tabled in order to allow the applicant to continue to work on the application. He said that should the applicant submit new information, the item will be noticed and advertised as a public hearing to allow public participation on the new information. Mr. Stelmack said that the Board would not expect the applicant to come back with the same presentation as was heard at the May 1, 2006 meeting; the Board would anticipate that the applicant would return with specific answers to the issues raised by the Planning Board at the May 1 meeting and to address those issues to the Board's satisfaction before any further action was to occur on the application.

Staff had no comments.

**Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent). [7:09 p.m.]**

**Michael Parker MOVED and Thomas Hughes SECONDED a motion to table R.J. Grondin & Sons request for approval of a special exception use permit for the Middle Jam Road Gravel Pit.**

DISCUSSION: Ms. Burns noted that there is no discussion on a tabling motion, but this is technically a postponement motion which can be discussed, and while the Board has always used the word “table,” it is generally understood to be a postponement. Mr. Stelmack reiterated that the Board would anticipate that the applicant would come back to the Board and address the Board’s specific concerns as stated during the May 1, 2006, meeting with regard to the individual Special Exception criteria.

**Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent).** [7:11 p.m.]

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1. *[Item 6 postponed from the May 1, 2006, Agenda]*

**SITE PLAN – “VILLAGE MALL SHOPPING CENTER” – 80-108 MAIN STREET – by ABBA INVESTMENT REALTY, LLC, KEVIN P. GAGNON, MEMBER PUBLIC HEARING**

Request for approval of a master plan for the signage at the Village Mall Shopping Center, 94 Main Street, and Pre-Application discussion of a proposed site plan for an interconnected driveway between lots 102/144 and 102/143 with access to Water Street from the Village Mall Shopping Center. Zoned UC; M102/L144, 146, and 143.

Kevin Gagnon explained that his initial approval involved returning before the Board for signage approval. He showed the current signage and then described what is proposed, which will be individual tenant signs with externally lit lettering raised about one half to three quarters of an inch high on a backdrop board that is 2 feet by 18 feet (36 square feet, or 12 square feet more than the 24 square feet being the maximum size allowed without Planning Board approval) and which will be located within a horizontal face along the front of the mall. All the signs will have gooseneck lights fixtures illuminating them. Mr. Gagnon explained that Movie Gallery has a permit from the Town for their sign, which is 30 inches by 30 feet, and they are unwilling to change it. He said that the professional, two-story building will have a sign identifying it by the street number, 94, on the gable, with a listing of all the tenants on the first level. Mr. Gagnon said where the island is now, it is proposed that there be a 5 by 9 foot sign, 3.3 feet off the ground, listing all the tenants in the shopping center. He said that the pylon sign will remain the same, except that certain architectural details will be added to it. He said that the light fixtures will be changed to match those at the Rite Aid location.

Ms. Fossum gave the staff comments, noting that as a condition of approval in September for the site plan of the façade improvements on the Village Mall, the applicant was required to come back with a master plan for the signage for the Planning Board’s review and approval before the signs go up. The proposed signs on the Mall section exceed the maximum area permitted by the Code, and therefore the increase of up to 50% requires Planning Board approval. She noted that the Ordinance requires that the Board find that the increase is needed to provide appropriate visibility for the businesses, that the increase will not detract from the value of nearby properties, and that the increase in the size of these signs will result in signs of an appropriate scale for the location of the project.

Mr. Boyce, Mr. Parker and Mr. Gagnon discussed various aspects of the proposed signs, the signage band, and the mounting boards for the individual signs. Mr. Gagnon said that the Movie Gallery sign will interrupt the continuity of the signage, but indicated that there isn’t much he can do about that sign. Ms. Fossum confirmed to Mr. Stelmack that none of the individual signs will exceed 36 square feet, and noted that the mounting board for each tenant is the sign, with the exception being the Movie Gallery. Mr. Gagnon responded to Mr. Boyce that Movie Gallery does not have any rights in its lease to any particular signage on the pylon sign. Mr. Zelmanow commended Mr. Gagnon for the work being done at the Mall,

and asked if the free standing sign at the professional building will be lit; Mr. Gagnon replied it will only be ground lit. Mr. Hughes concurred with Mr. Zelmanow's compliments on the improvement to the Mall.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Mr. Boyce summarized Mr. Gagnon's signage plan as consisting of sign boards for the retail tenants of 36 square feet, an increase by 50% of the 24 square feet that is allowed, individual sign boards for each of the retail tenants, and a free standing sign with some additional signage for the professional office. Mr. Boyce indicated that the Board needs to make findings of fact relative to allowing the 50% increase as follows:

**Findings of Fact:**

1. That the increase is needed to provide appropriate visibility for the business,
2. That the increase will not detract from the value of nearby properties, and
3. That the increase will result in signs of an appropriate scale for the location of the project.

Mr. Boyce asked for a show of hands indicating agreement on each finding of fact with the following results:

1. That the increase is needed to provide appropriate visibility for the business: 5 ayes (Susan Robie and Thomas Fickett absent)
2. That the increase will not detract from the value of nearby properties: 5 ayes (Susan Robie and Thomas Fickett absent)
3. That the increase will result in signs of an appropriate scale for the location of the project: 5 ayes (Susan Robie and Thomas Fickett absent) [7:40 p.m.]

**Mark Stelmack MOVED and Thomas Hughes SECONDED a motion to grant Abba Investment Realty's request for the replacement of the existing signage in the Village Mall Shopping Center with new signs of 36 square feet each for each business located in the Center.**

DISCUSSION: Mr. Parker asked if the peculiarities of the Movie Gallery sign could be recorded in the approval so that it is clearly understandable why that sign is different from the rest. Ms. Fossum said that the minutes can reflect the discussion that was had tonight by the Board and the applicant, and, in addition, if a new tenant were to lease that space the lease could be renegotiated or perhaps the applicant could renegotiate the lease with Movie Gallery at some point in the future so the sign can be brought into scale with the rest of the signage. She said that if another business were to locate there the Code Enforcement Officer under the Code would be required to bring it into compliance. Mr. Gagnon indicated that lease negotiations with Movie Gallery would take place in 3 years and it is his intention to make sure that the current sign would not be permitted. Mr. Boyce confirmed that the 36 square feet applies to the retail signs and the others are as submitted for the professional office space in the sizes as proposed by the applicant.

**Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent). [7:45 p.m.]**

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1. *[Item 6 postponed from the May 1, 2006, Agenda]* [Continued]

**ABBA INVESTMENT REALTY, LLC, KEVIN P. GAGNON, MEMBER**

Pre-Application discussion of a proposed site plan for an interconnected driveway between lots 102/144 and 102/143 with access to Water Street from the Village Mall Shopping Center. Zoned UC; M102/L144, 146, and 143

Mr. Boyce explained that the second part of this Item involves Mr. Gagnon's request for a pre-application site plan discussion for an interconnected driveway between the Village Mall and Water Street, with modifications to the property at the corner of Water Street and Main Street.

Mr. Gagnon explained that as part of the overall improvements to the Shopping Center, he is proposing to modify the parking and drive aisles associated with the newly acquired Gorham Savings Bank annex building and to connect the two sites to allow traffic to exit out onto Water Street. He said that in order to offset his cost in purchasing the building, he would like to have the drive-through reopened. He noted that incorporating removable speed bumps could be a method to prevent any such interconnection being used as a bypass.

Les Berry, BH2M Engineers, said that this subdivision predates the zoning Ordinance, some of it is grandfathered, and noted that it has been modified a number of times over the years. Mr. Berry discussed the approved parking to be added next to the gas station which has never been done and said that the parking lot in the rear of the building will be reactivated for employee parking. He discussed the curb cuts presently at the Gorham Savings Bank building, one on Main Street and 3 on Water Street, and said an attempt is being made to position the drive-through with the required 60 feet to the street. Mr. Berry said that this corner of the world will be a good site walk to look at such issues as drainage, alignment of the houses, and distances between the different structures.

Mr. Boyce asked staff if this application would combine the two pieces of property into one new site plan, or whether it is two separate features. Ms. Fossum replied that the Gorham Savings Bank annex was built back in the 60s and there is no site plan in the files, so it does not appear to have gone through any site plan approvals in the past. She said that she views it as amendment to the Village Mall, almost as an annexation to the site plan, but if it is owned in a different name it would make it a stand alone project; however, in either case it needs to go through site plan review.

Ms. Fossum said the applicant has raised some of the issues, and another issue, which needs to be looked at, is that of drainage. She said that some of the traffic history available on the Elm, Water and Main Street intersection has been shared with the applicant. She said that under the Town's Master Plan for the Village, interconnection of the Village Mall to Water Street has been encouraged, and it is seen as having great benefit for the Village area, although there are some issues that need to be worked through with the applicant.

Mr. Stelmack and Mr. Berry discussed the requirement for 60 feet that a vehicle has to drive before reaching the street for the drive-through, noting that is the reason there are some unique configurations to achieve that 60 feet on other sites in the Village. Mr. Parker asked if a site plan would be submitted for this separately; Mr. Gagnon replied that the property is titled to a separate entity and the plan would be submitted separately, with reciprocal easements running between the two properties. Mr. Gagnon confirmed with Ms. Fossum that the paved area has been approved in the past, and the only thing that changes on the Mall plan is the reduction in the island, other than the reconfiguration of the parking lot. Mr. Boyce noted that there are two actions that need to be taken, one is to reconfigure the parking in front of the professional office space and make the interconnection with Water Street, and the other action is the redevelopment of the former bank property.

Mr. Boyce indicated that he would not be in favor of approving any layout for the bank property without a specific development proposal with appropriate traffic engineering to support the proposal, such as number of trips anticipated, their impact on Water Street and the traffic signal operations on Main Street. He said that the interconnection would be highly desirable. In reply to a question from Mr. Stelmack, Mr. Gagnon replied that the interior traffic circulation, based on a preliminary study by Mr. Berry's firm, is the best for the site. Mr. Berry explained what minor improvements could have been made, but essentially the layout would have to remain the same, based on the traffic circulation and patterns. Mr.

Stelmack asked if Mr. Berry and/or Mr. Gagnon was considering a traffic study. Mr. Berry replied that if the former bank building could accommodate a drive-through, then they would have an upper level traffic study done, and if the drive-through were not possible, they would discuss with staff what type of study a traffic engineer would feel to be appropriate.

Mr. Boyce said that as there is no site plan, a site walk would not be reflective of what the applicant might be proposing. Mr. Hughes commented that there should be a sketch at the site walk of what is being proposed.

**PUBLIC COMMENT PERIOD OPENED:**

Chuck Barr, 32 Church Street, spoke of concerns about an increase in traffic in the neighborhood, presence of children in the neighborhood, the use of the neighborhood as a by-pass, suggested a left turn only on Water Street at the light at Main Street, mentioned danger to bikers and skateboarders.

Brendan Hill, 17 Water Street, expressed concern at increasing economic development in Gorham at the expense of the neighborhood, use of the neighborhood as a bypass, noted that the 3-way stop signs at Church and Water Street are not always observed, there are many pedestrians and no sidewalk on Water Street, and spoke of concerns about the rear parking lot and need for a buffer. Mr. Hill said that a contractor clearcut a large area of their property by mistake.

Sherry Fontaine, 26 Church Street, spoke about installation of the 3-way stop signs at Church and Water as a result of the traffic study commissioned by the Town Council, gave her observed statistics of drivers who do not observe the stop signs, lack of sidewalk on Water Street, narrowness of street. She indicated that she has never seen more than two or three cars waiting to come out of the Village Mall onto Main Street. She also complained of a jackhammer in operation on Sunday morning.

Sean Munkacsi, 34 Church Street, commended Mr. Gagnon for his upgrades to the Village Mall, and spoke of traffic and safety concerns, increased use by USM students of Church and Water Streets, decrease in value of neighborhood properties, and safety issues. He then read the following letter into the record:

“To the Gorham Planning Board:

We are writing this letter to provide our input regarding the Pre-Application discussion of the proposed site plan for an interconnected driveway to provide access to Water Street from the Village Mall Shopping Center. As residents of Church and Water Streets, we would like to state very clearly that any plan to allow traffic additional access to our neighborhood should be strongly rejected. Traffic – the amount of traffic as well as the speed with which it travels – has been a long-standing topic of considerable discussion between the Town Council and residents of the Church Street neighborhood for many years. One year ago, the Town Council responded to a report from the Council’s Economic Development/Capital Improvement Committee by ordering the placement of 2 additional Stop signs on Water Street. The residents were told that the additional signs would be a first step, with re-assessment of the need for further traffic calming measures after they had been in place for a trial period. While the 3-way stop at the intersection of Church and Water Streets has helped slow the traffic slightly on Water Street, it has had no impact on Church Street whatsoever.

For the purpose of tonight’s Pre-Application discussion, a copy of the traffic study report, written in January 2005 by Gorrill-Palmer Consulting Engineers, Inc., is attached. You can see that the traffic using Church Street is already significant, with 1,210 cars traveling Church Street daily. Typically, drivers show blatant disregard for the posted 25 mph speed limit, actually becoming angry when one of us motions to them to slow down.

Our neighborhood has 16 young children. Last week, our 82 year old neighbor was hit by a vehicle while crossing Main Street at the intersection of Water and Main Street. She was in the crosswalk and had a walk signal. Our concerns about traffic volume and speed are very real. Access to Water Street from the Village Mall will only add another 'cut-through.' The Planning Board should work with the Village Mall Shopping center to find a more appropriate way to manage the traffic their shopping center creates. Thank you.

Signed:

Janice and Jim Boyko, 27 Church Street

Ed Keiser, 25 Church Street

Sean Munkacsi, Tiffany White, 34 Church Street

Rick and Meg Kusturin, 36 Church Street

Jim and Kathy Brown, 11 Water Street

Sherrie Fontaine, 26 Church Street

Charles Barr, 32 Church Street"

PUBLIC COMMENT PERIOD ENDED.

Mr. Boyce indicated that a site walk should be set. He commended the neighbors for appearing, saying it is helpful to know who has concerns and what those concerns are.

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2. *[Item 7 postponed from the May 1, 2006, Agenda]*

**FINAL SUBDIVISION PLAN – “COTTON FARM ESTATES” / “COTTON DRIVE” – off FARRINGTON ROAD - by VAN E. HERTEL, JR.**

Request for final plan approval of a 14-lot residential subdivision on 27.3 acres. Zoned R; M57/L10.

Bill Thompson, BH2M, appeared on behalf of the applicants and presented an overview of the project. He indicated that Lot 9 will derive its frontage from Route 25 but its access will be through a driveway easement back onto Cotton Drive. He also said that the driveways for Lots 4 and 5 will be internal to Cotton Drive, and Lots 1 and 2 will share a driveway on Farrington Road. He said that Cotton Drive will be a Rural Access road, 740 feet long, 20 feet wide with 4-foot gravel shoulders. Mr. Thompson said the applicant will upgrade 1450 feet on Farrington Road and will work with the Town according to the proposed improvements outlined in a letter from Tim Braun, the Town Engineer, dated March 15, 2006. He said that the legal documents have been reviewed and the applicant has submitted a letter from Gorham Savings Bank concerning its financial capacity to complete the project.

Ms. Fossum gave the staff comments, and asked Mr. Thompson if information on the maintenance of the stormwater buffers has been added into the homeowners' documents, saying this was one final question by the Town Attorney. If it has not, a condition of approval can be fashioned to address that issue. Ms. Fossum said that Mr. Braun's letter of March 15 concerning the improvements to Farrington Road will be attached to the Conditions of Approval. Mr. Thompson replied that he had spoken with the Assistant Planner about which document should contain the language about the maintenance of the buffers language, either the homeowners' documents or the deed covenants, and he will work with staff to fit the language into either document or both.

Mr. Stelmack asked about the maintenance plan calling for monthly inspection requirement of the stormwater facility, and the review engineer for the Town calling for something somewhat less stringent. Mr. Thompson replied that is the State recommended timing of frequency of maintenance. Mr. Stelmack asked if the association would hire someone to do those inspections; Mr. Thompson replied that it would be to the homeowners' benefit to have someone qualified to do those inspections. Mr. Parker asked about the method of inspections, expressing some doubt that they would occur on the monthly schedule. Ms. Burns replied that as a condition of approval and also as a note on the plan, the requirement of maintenance is something that is enforceable by the Town, as well as by the individual homeowners, one against another, if, for example, someone blocks a drainage easement. She said that the reason why a

separate incorporation of the maintenance plan, both into the homeowners' association documents and into a note on the approved subdivision plan, is so that both the Town and the homeowners have the ability to enforce it. Ms. Burns said the Town would probably not follow up on the monthly inspection requirement; rather, the Town would make sure that the stormwater continues to function as it was designed to function. Mr. Parker said he believes that this frequency of inspection is a burden to the homeowners. Ms. Fossum said that while the Town doesn't interact with the homeowners' associations, that does not remove their responsibilities, which are clearly spelled out.

PUBLIC COMMENT PERIOD OPENED: None offered.  
PUBLIC COMMENT PERIOD ENDED.

**Mark Stelmack MOVED and Michael Parker SECONDED a motion to grant final subdivision approval of Van E. Hertel, Jr.'s request for Cotton Farm Subdivision, a proposed 14-lot residential subdivision on 27.3 acres off Farrington Road with conditions of approval as posted prior to the meeting and discussed with the applicant.**

DISCUSSION: Mr. Zelmanow asked if the motion should be amended to include a new Condition of Approval as discussed this evening. Ms. Fossum read the new Condition, as follows: "That the homeowners' association shall be responsible for maintenance of the stormwater buffers and that a note or notes specifying these responsibilities shall be added to the final plan and incorporated into the homeowners' association documents prior to the endorsement of the subdivision Mylar by the Planning Board." The amendment to incorporate the new Condition into the motion was accepted by the movant and seconder.

**Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent). [8:52 p.m.]**

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*Stretch Break to 9:00 p.m.*

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3. *[Item 8 postponed from the May 1, 2006, Agenda]*

**FINAL SUBDIVISION – "DAVIS FARM ESTATES" / "CAMERON DRIVE" & "DYLAN LANE" - by JUSTIN A. AND KELLY L. DEARBORN**

Request for final plan approval of a 14-lot residential subdivision on 16.56 acres off Davis Annex Road. Zoned SR, M38/L3.

Andy Morrell, BH2M Engineers, appeared on behalf of the applicants and said that the legal documents have been revised to satisfy the Town Attorney and staff. He said that to accommodate a future right of way, what is referred to on the plan as Parcel A, at the end of the right of way, will be conveyed as part of Lot #5, and includes the land area necessary to meet the 40,000 square foot lot size. The plan also shows Parcel B, which is the hammerhead turnaround that will be part of the right of way until such time as the road is proposed to extend through. The owner of Lot 5 would convey Parcel A to the Town of Gorham and the Town (if permitted by the Town Council) will then convey Parcel B to Lot 5 to make up for the land area removed from Parcel. This is summarized on the plan as Plan Note 27.

Mr. Morrell said that the applicant has also worked with the Town Engineer and the Public Works Director to resolve the issue of improvements to Davis Annex Road, and it has been agreed that no building permits will be provided until test pits have been dug to determine if additional gravel is needed. Notes have been added to the plan with this information. The plan set includes two sheets that identify the existing conditions of Davis Annex, proposed waterline installation and associated improvements.

Mr. Morrell said that the applicant is in agreement with the Conditions of Approval except to request one minor revision to Condition No. 10 which presently states: "That prior to the sale or conveyance of any lots within the subdivision and prior to the commencement of construction, the applicant shall provide a

performance guarantee in a form acceptable...” Mr. Morrell said that the applicant would like to insert “of the Davis Annex improvements” after the phrase “... prior to the commencement of construction” so that the new language would read “... prior to the commencement of construction *of the Davis Annex improvements*, the applicant shall provide ...”

Ms. Fossum gave the staff comments, indicating that the applicant has addressed the concerns raised at preliminary plan approval, one of the major ones being the right of way extension. She said that legal documents have been reviewed by staff and have been revised to satisfy the Town Attorney’s and staff’s concerns. Financial and technical capacity have been reviewed and found to be satisfactory. She said that the Davis Annex Road improvements are outlined in detail in correspondence from Tim Braun, the Town Engineer, and have been agreed to by the applicant and as such have become part of the record.

Ms. Fossum indicated that an abutter along Davis Farm Annex has expressed concern about the blasting necessary to lay the water line, and two new conditions of approval have been added which will become new Condition of Approval #12 and Condition of Approval #13. Condition of Approval #12 will read: “That all blasting operations will be performed in accordance with OSHA Standard 29 CFR PART 1926 Subpart U - Blasting and the Use of Explosives and MDOT Standard Specification - Division 100 - GENERAL CONDITION 105.2.6 Use of Explosives” and Condition of Approval #13 will read: “That all structures located within 600’ of the centerline of Davis Annex Road shall have a pre-blast survey conducted, including video taping, and this shall be submitted to staff prior to any commencement of this blasting.”

Mr. Hughes questioned the practicality of COA #13, and asked if staff had received pre-blast videotapes in the past. Ms. Fossum said the tapes are usually kept by the blaster, and that in actuality she did not believe staff should be the repository of the tapes; however, she would like verification that a survey was in fact done. After discussion and consultation with the Town Attorney, COA #13 was changed to read: “That all structures located within 600’ of the centerline of Davis Annex Road shall have a pre-blast survey conducted, including video taping, prior to the commencement of this blasting, and a list of the structures surveyed shall be submitted to staff.” Mr. Morrell indicated that the applicant was satisfied with the new conditions.

At the request of Mr. Parker, Mr. Morrell explained that the applicant’s change to Condition #10 is based on the fact that the applicant would like to have to pay the performance guarantee for the Davis Annex Road improvements when the construction is to begin on the improvements, as opposed to the way the Condition is written now. Ms. Fossum said that in the past, it has been required that the offsite improvements be guaranteed before commencement, so that the Town can complete the improvements if anything happens. She said if there were no offsite improvements, the developer is permitted to begin construction and construct a portion of the road and infrastructure prior to putting up the performance guarantee; it is only when a developer wants to convey a lot or pull a building permit that he has to put the balance into a performance guarantee. In this instance, however, Ms. Fossum said that there are offsite improvements that are required, and if lots were to be conveyed out of the subdivision with no performance guarantee on the offsite improvements, if something unfortunate happened, the Town would not have the funds needed to complete that offsite work. Ms. Fossum noted that the Town Attorney is comfortable with the proposed change, that the developer can begin construction of the subdivision roads themselves and if he wants to begin the Davis Annex work, he must post his bond; however, if he sells a lot first within the subdivision then he must post a bond for everything. Ms. Burns said her recommendation is to adopt the language proposed by the applicant. In response to a query from Mr. Stelmack, Ms. Burns confirmed that Condition #10 addresses only the Davis Annex Road improvements because it is something beyond what might normally be required under the terms of the ordinance. Ms. Fossum said there is a standard plan note that covers the subdivision improvements.

PUBLIC COMMENT PERIOD OPENED:       None offered.

PUBLIC COMMENT PERIOD ENDED.

**Michael Parker MOVED and Edward Zelmanow SECONDED a motion to grant final subdivision approval of Justin A. and Kelly L. Dearborn's request for Davis Farm Estates Subdivision, a proposed 13-lot residential subdivision on 16.56 acres off Davis Annex road with conditions of approval as posted prior to the meeting and as modified at tonight's meeting and discussed with the applicant. Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent). [9:25 p.m.]**

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4. *[Item 9 postponed from the May 1, 2006, Agenda]*  
**PRE-APPLICATION CONFERENCE: PRIVATE WAY APPLICATION – off 34 ROBIE STREET – by JOCK D. AND SUSAN P. ROBIE**

Discussion of a proposal for a private way off Robie Street to serve 1 lot. Zoned UR; M25/L9.

Andy Morrell, BH2M Engineers, appeared on behalf of the applicants and explained that the applicants are proposing a private way to serve a gift family lot. The private way will be approximately 450 feet long ending in a hammerhead turnaround, the private way will be located in a strip of land is 40 feet wide and an easement of 10 feet on abutting land of Frederick Robie, Jr., in order to obtain the 50 foot right of way required. Mr. Morrell said that the Town dumps runoff from Robie Street and portions of South Street within the 40-foot strip of land on site. He said he has met several times with the Public Works Director, Bob Burns, to discuss this, and there is under consideration an open ditch system along each side of the road to relocate the runoff and the use a level spreader device at the end. Mr. Morrell said that the Public Works Director has agreed to contribute some funding to these improvements, and the applicants will then give the Town a formal easement on the property to release the runoff on their site. Mr. Morrell said the applicants would like to schedule a site walk.

Ms. Fossum read into the record the following letter:

“Town Planner, Deb Fossum  
Gorham Planning Board  
270 Main Street  
Gorham, ME 04038-1382

Please have the following letter read into the record of the Gorham Planning Board meeting May 1, 2006.

My nephew Jock Robie and his wife Susan have approached me about a right of way easement where my land adjoins theirs at the corner of Robie Street and Robie Avenue. I agree in general with their objective of providing access to the back part of their property including a lot which they intend to transfer to their son.

I have, however, several concerns which I would like the planning board to be aware of:

1. I am concerned about drainage. The storm drain system which drains Robie Street and part of South Street at present empties into a depression in this area. The depression is the remains of an old gravel pit which served to distribute the storm drain runoff into the water table. If the drainage is channeled into a ditch and carried several hundred feet along a new private way there is the potential for unintended erosion. I will want to fully understand the drainage consequences of any road before it is built on the proposed easement before I agree to it. I would also like a clarification of the town's responsibility in regards to runoff that is deposited on my land.

2. I want to be sure that I have unobstructed access to my property from Robie Street. I would like to make sure that anything that is done provides for enough frontage from my property for a legal right of way at the corner of Robie Street and Robie Avenue.

3. My property is currently managed as a woodlot and is assessed "Tree Growth" for tax purposes accordingly. I would like to avoid inadvertently changing the tax status of this property.

4. After discussing the options for a private way I have agreed with Jock and Susan that a required turnaround (hammerhead) could be located on my property as part of the easement agreement. I would like assurance from the planning board that this hammerhead could be used as a point of access to my property for logging and other activities.

Please keep me informed of any meetings or other activities that relate to this matter.

Thank you for your consideration.

Faithfully,  
Frederick Robie, Jr.  
5 Riverdale, Orono, Maine"

Ms. Fossum gave brief staff comments, noting that Mr. Morrell has been working with the Public Works Director on the major issue of drainage.

Mr. Morrell pointed out the location of the Town's current drainage culvert on the plan and said there is no defined stream. Mr. Stelmack pointed out a discrepancy in the survey in how the 40 foot strip should be designated, which Mr. Morrell indicated he would correct.

PUBLIC COMMENT PERIOD OPENED: None offered.  
PUBLIC COMMENT PERIOD ENDED.

Mr. Boyce indicated that a site walk would be scheduled.

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## 5. SCHEDULE NEXT PLANNING BOARD MEETING

Ms. Fossum noted that the next Planning Board meeting will occur on the regularly scheduled date of Monday, June 5, 2006.

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## 6. ADJOURNMENT

**Michael Parker MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (Susan Robie and Thomas Fickett absent). [9:36 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2006

**2. FINAL SUBDIVISION PLAN – “COTTON FARM ESTATES” / “COTTON DRIVE”– off FARRINGTON ROAD - by VAN E. HERTEL, JR.**

Request for final plan approval of a 14-lot residential subdivision on 27.3 acres. Zoned R; M57/L10.

**Approved**  
**Conditions of Approval**

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicant and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for de minimis changes which the Director of Planning may approve;
2. That the applicant is responsible for obtaining all local, state and federal permits required for the development of this project;
3. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange for a pre-construction meeting with the Planning Staff, Public Works Director, Fire Chief, Code Enforcement Officer, Town Engineer, Site Contractor, Design Engineer and himself to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
4. That 3 (three) complete sets of the final approved plan set will be delivered to (1) the Inspecting Engineer, (2) Public Works Director, and (3) Director of Planning one week prior to the pre-construction meeting;
5. That the applicant shall provide property line information and site information, including each sheet of the final approved set of plans for the project, in auto-cad format (version 2000) to the Planning Office prior to the scheduled pre-construction meeting and upon completion of the project shall also provide the final record drawings in auto-cad format to the Public Works Department;
6. That prior to any occupancy within the subdivision each structure shall be properly numbered with the number visible from the street year round;
7. That the applicant shall be responsible for the cost and installation of all required street signs to be placed in locations approved by the Fire Chief and Police Chief;
8. That the applicant’s engineer shall certify that the streets or ways have been constructed in accordance with the specifications of the Town of Gorham’s Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board prior to the issuance of the first occupancy permit. Furthermore the applicant’s engineer shall be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
9. That all homes within the subdivision will be sprinkled and the sprinkler plans must be submitted to the State Fire Marshal’s office and the Gorham Fire Department for review and permitting. The plans to Gorham Fire shall be submitted at least two weeks prior to the start of construction of the system in each building;
10. That the applicant shall create a homeowners association or other legal entity acceptable to the Town and shall submit the association documents or declaration creating the association or other

legal entity in a form acceptable to the Town Attorney. The documents or declaration shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of all streets within the subdivision, and shall state that the homeowners association and/or the lot owners shall be responsible for all costs related to the street in the event that the streets within this subdivision are not offered to or accepted by the Gorham Town Council. The applicant shall be responsible for recording the approved documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board;

11. That the applicant will be responsible for improvements to Farrington Road, beginning at the intersection of Route 25 and Farrington Road and extending 1450 linear feet to the southeast corner of Lot # 1, in accordance with the terms set forth in the letter from Timothy Braun, Town Engineer, to Planning Staff, dated March 15, 2006 and attached hereto. The form and amount of any performance guarantees to cover those improvements will comply with the requirements of the Land Use and Development Code and must be posted prior to the commencement of any site improvements and prior to the conveyance of any lots within the subdivision;
12. That the homeowners' association shall be responsible for maintenance of the stormwater buffers and that a note or notes specifying these responsibilities shall be added to the final plan and incorporated into the homeowners' association documents prior to the endorsement of the subdivision Mylar by the Planning Board; and
13. That these conditions of approval and the Final Subdivision Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.

**3. FINAL SUBDIVISION – “DAVIS FARM ESTATE” / “CAMERON DRIVE” & “DYLAN LANE” - by JUSTIN A. AND KELLY L. DEARBORN**

Request for final plan approval of a 14-lot residential subdivision on 16.56 acres off Davis Annex Road. Zoned SR, M38/L3.

**Approved**  
**Conditions of Approval**

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicant and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for de minimis changes which the Director of Planning may approve;
2. That the applicant is responsible for obtaining all local, state and federal permits required for the development of this project;
3. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange for a pre-construction meeting with the Planning Staff, Public Works Director, Fire Chief, Code Enforcement Officer, Town Engineer, Site Contractor, Design Engineer and himself to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
4. That 3 (three) complete sets of the final approved plan set will be delivered to (1) the Inspecting Engineer, (2) Public Works Director, and (3) Director of Planning one week prior to the pre-construction meeting;
5. That the applicant shall provide property line information and site information, including each sheet of the final approved set of plans for the project, in auto-cad format (version 2000) to the Planning Office prior to the scheduled pre-construction meeting and upon completion of the project shall also provide the final record drawings in auto-cad format to the Public Works Department;
6. That prior to any occupancy within the subdivision each structure shall be properly numbered with the number visible from the street year round;
7. That the applicant shall be responsible for the cost and installation of all required street signs to be placed in locations approved by the Fire Chief and Police Chief;
8. That the final hydrant locations shall be determined by the Fire Chief at the time of installation. The cost of the hydrants and their installation shall be the developer's responsibility;
9. That the applicant's engineer shall certify that the streets or ways have been constructed in accordance with the specifications of the Town of Gorham's Land Use and Development Code and in accordance with the plans and specifications approved by the Planning Board. Furthermore the applicant's engineer shall be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
10. That prior to the sale or conveyance of any lots within the subdivision and prior to the commencement of construction of the Davis Annex improvements, the applicant shall provide a performance guarantee in a form acceptable to the Town Attorney and Town Manager for the

installation of a water line and the roadway improvements within Davis Annex Road and the amount of that guarantee is subject to review and approval by the Town Engineer;

11. The applicant shall create a homeowners association or other legal entity acceptable to the Town and shall submit the association documents or declaration creating the association or other legal entity in a form acceptable to the Town Attorney. The documents or declaration shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of all streets within the subdivision, and shall state that the homeowners association and/or the lot owners shall be responsible for all costs related to the street in the event that the streets within this subdivision are not offered to or accepted by the Gorham Town Council. The applicant shall be responsible for recording the approved documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board;
12. That all blasting operations will be performed in accordance with OSHA Standard 29 CFR PART 1926 Subpart U - Blasting and the Use of Explosives and MDOT Standard Specification - Division 100 - GENERAL CONDITION 105.2.6 Use of Explosives;
13. That all structures located within 600' of the centerline of Davis Annex Road shall have a pre-blast survey conducted, including video taping, prior to the commencement of this blasting, and a list of the structures surveyed shall be submitted to staff;
14. That these conditions of approval and the Final Subdivision Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the scheduling of a pre-construction meeting.