



**Town of Gorham
DECEMBER 11, 2006
PLANNING BOARD MINUTES**

LOCATION: Municipal Center Council Chambers
75 South Street, Gorham, Maine

Members Present:

**SUSAN ROBIE, CHAIRWOMAN
DOUGLAS BOYCE, VICE CHAIR
THOMAS FICKETT
THOMAS HUGHES
MICHAEL PARKER
MARK STELMACK
EDWARD ZELMANOW**

Staff Present:

**DEBORAH FOSSUM, Dir. of Planning & Zoning
THOMAS POIRIER, Assistant Planner
NATALIE BURNS, Esq., Town Attorney
BARBARA SKINNER, Clerk of the Board**

The Chairwoman called the meeting to order at 7:00 and read the Agenda. The Clerk called the roll, noting that all members were present. The Chairwoman welcomed Thomas Poirier, the new Assistant Planner.

1. APPROVAL OF THE OCTOBER 2, 2006, and NOVEMBER 6, 2006, MINUTES

Mark Stelmack MOVED and Michael Parker SECONDED a motion to approve the minutes of October 2, 2006, as written and distributed. Motion CARRIED, 6 ayes (Douglas Boyce abstaining as not having been present at the October 2, 2006 meeting). [7:05 p.m.]

Mark Stelmack MOVED and Douglas Boyce SECONDED a motion to approve the minutes of November 6, 2006, as written and distributed. Motion CARRIED, 7 ayes. [7:06 p.m.]

2. COMMITTEE REPORTS

- A. Private Way Subcommittee:** Mr. Hughes reported that he had met with the Fire Chief, who is preparing a memo on his opinions about the Town's Private Way Ordinance with some suggested changes, on which Mr. Hughes, Mr. Fickett and Mr. Parker will review and report.
- B. Ordinance Subcommittee:** Mrs. Robie announced that the Ordinance Subcommittee has not met since the last Planning Board meeting.
- C. Sign Ordinance Committee:** Mrs. Robie announced that the Sign Ordinance is undergoing final revisions by Mark Eyerman and Ms. Fossum which ultimately will be reviewed by the Town Council Ordinance Committee.

3. CONSENT AGENDA

- A. STREET ACCEPTANCE REPORT - "JORDAN DRIVE" in JORDAN MEADOWS SUBDIVISION – off 59 WOOD ROAD - by RALPH VANCE LAND DEVELOPMENT**
Request for street acceptance by Ralph Vance Land Development. Zoned R; M54/L16.301-.312.
- B. FINAL SUBDIVISION PLAN - "PYAEVNA MEADOWS" / "SHANA LANE" & "TIA TRAIL" - off DINGLEY SPRING ROAD / FORT HILL ROAD -by BLACKWOOD ESTATES, LLC [Adam Mack, member]**
Request for a final approval of a 31-lot subdivision with two roads on 90+/- acres. Zoned R; M81/L27.001.

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to take Item 3A off the Consent Agenda and to bring it before the Planning Board for immediate consideration. Motion CARRIED, 7 ayes. [7:08 p.m.]

Mrs. Robie asked if the applicants have agreed to the proposed Conditions of Approval for Item 3B. Adam Mack, developer of Pyaevna Meadows, asked about Condition of Approval 11, dealing with the legal documents.

Douglas Boyce MOVED and Edward Zelmanow SECONDED a motion to take Item 3B off the Consent Agenda and to bring it before the Planning Board for immediate consideration. Motion CARRIED, 7 ayes. [7:09 p.m.]

Mrs. Robie ruled that Item 3A should be dealt with first.

- A. STREET ACCEPTANCE REPORT - “JORDAN DRIVE” in JORDAN MEADOWS SUBDIVISION – off 59 WOOD ROAD - by RALPH VANCE LAND DEVELOPMENT**
Request for street acceptance by Ralph Vance Land Development. Zoned R; M54/L16.301-.312.

Thomas Hughes MOVED and Douglas Boyce SECONDED a motion to recommend acceptance by the Town Council of Jordan Drive in Jordan Meadows Subdivision. Motion CARRIED, 7 ayes. [7:10 p.m.]

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- B. FINAL SUBDIVISION PLAN - “PYAEVNA MEADOWS” / “SHANA LANE” & “TIA TRAIL” - off DINGLEY SPRING ROAD / FORT HILL ROAD -by BLACKWOOD ESTATES, LLC [Adam Mack, member]**
Request for a final approval of a 31-lot subdivision with two roads on 90+/- acres. Zoned R; M81/L27.001.

Adam Mack asked about Condition of Approval 11, having to do with the legal documents, and asked if there was anything further he needed to do to comply. Ms. Fossum said that this is a standard Condition, and there was one additional change required by the Town Attorney, which had been provided to Mr. Mack by e-mail. Mr. Mack said he had not seen the e-mail, and asked if making the change would be sufficient. Ms. Fossum replied that the change should be made and the document provided to the Planning Department and recorded before the Mylar is released. Mr. Mack said he would make the requested change and agreed to the Conditions of Approval.

Michael Parker MOVED and Edward Zelmanow SECONDED a motion granting final subdivision approval to Pyaevna Meadows, a 31-lot subdivision with two roads on 90+/- acres. Zoned R; M81/L27.001. Motion CARRIED, 7 ayes. [7:13 p.m.]

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- 4. A. “STARGAZER CONDOMINIUM” – “BLUE LEDGE ROAD” - FINAL SUBDIVISION PLAN & SITE PLAN & SITE PLAN AMENDMENT – off 74 COUNTY ROAD – by HANS C. HANSEN, INC. Zoned R/SR; Map 3, Lot 22.**

Tom Greer, Pinkham & Greer, appeared on behalf of the applicants and introduced Mr. and Mrs. Hans Hansen and Chris Vaniotis, Esquire, attorney for Mr. and Mrs. Hansen. Mr. Greer said that all of the engineering items have been dealt with and responded as follows to the outstanding items: The Town Engineer has requested that the words “or the Town of Gorham” be removed from the drainage

easements in Easement Descriptions: 3,4,5,6,8, & 9 on Sheet C1.3, Easement Plan, noting that this is a change in the Town's philosophy to which the applicant will accede. Mr. Greer said he believes that the legal documents have been dealt with; technical and financial capacity have been established with a letter in the Town's standard format; the applicant has withdrawn his request to exempt Lot 1 from the Conditional Agreement via an e-mail communication from his Attorney; and the existing gas main will be dealt with by a Condition of Approval. The applicant has agreed that the offsite plans need to be approved by MDOT and the Town of Gorham staff. Mr. Greer said that the tax increment financing issue is being worked out between the applicant and the Town Council, the applicant has demonstrated that he has financial capacity to complete the project, and if the TIF is not worked out with the Town Council, the applicant will go ahead and do the project with his own funds. Mr. Greer commented that insofar as the Fire Chief's note about sprinkling the day care is concerned, the basement elevation has been removed from the structure and therefore it does not require sprinkling. Mr. Greer said that the applicant agrees with the modified Conditions of Approval.

Ms. Fossum made the staff comments, noting that Mr. Greer is correct about the change in the Town's policy on the drainage easements, the Town Attorney has confirmed that the legal documents are in good order, and the letter of technical and financial capacity is adequate. Ms. Fossum discussed the existing gas main, saying that Gary Kenny, Maine Natural Gas, revealed that Maine Natural Gas inspected the line when it was installed on Mr. Hansen's property in 2001, and the location, roughly in the center of the roadway and under the pavement, is fine by their standards. Ms. Fossum provided the Board with two conditions of approval to be added as follows: "That the applicant shall notify Maine Natural Gas prior to new construction or reconstruction of the roadway in the area of the existing gas line installed in 2001 for future use, as well as notify Maine Natural Gas of the date and time of the applicant's preconstruction meeting with Gorham staff;" and secondly, "That as part of any application for street acceptance of Blue Ledge Road, the applicant will provide a description of the precise location of the gas line." She explained that the gas line "meanders" in the roadway and its precise location must be established.

Ms. Fossum said the MDOT improvements have been reviewed as far as they can be at this time, and with the condition of approval the Town will be adequately involved in the process as the improvements are made in the future. Ms. Fossum also noted that the Tax Increment Financing item is a matter for the Town Council's consideration. She said that with the proposed conditions of approval, the 7-lot subdivision, encompassing 6 residential lots and a 4-unit condominium non-residential lot is ready for approval.

Mr. Greer responded to a query from Mr. Parker that the offsite improvement intersection design has been reviewed by DOT and probably will not change. Mr. Parker expressed his concern about cycling of the signal light; Mr. Greer described how the signal will be set up. Mr. Parker said he was concerned about granting approval of something that is in the hands of others and which may change. Ms. Fossum said that the Board has seen earlier plans and is aware of the concept plan that has been proposed, and that DOT will be reviewing the actual engineering plans. She said that if there are substantive changes from what the Town Engineer, the Public Works Director, the Town's Traffic Review Engineer and she have seen and have presented to the Board in the past, she believes that the application would have to come back to the Board. Mr. Parker also asked what action will be taken to prevent shortcutting of the signal at the right of way at the Verizon building. Mr. Greer replied that the Town will have to approach Verizon on this issue; Ms. Fossum indicated she would call Randy Dunton at DOT and would provide the Board with a memo on the matter.

Mr. Stelmack asked if the words "or the Town of Gorham" should also be removed from Easement Description 12. Ms. Fossum and Mr. Greer concurred that it should be removed. Mr. Stelmack asked about the requirement that the Town needs to provide written confirmation to the DEP that the Town will inspect and maintain stormwater facilities should the Town decide to accept the road. Ms. Burns replied

that this is a decision that the Town Council will have to make at the time of acceptance, a decision about what the policy of the Town is going to be going forward, as this is the first stormwater permit that the Town has seen with this condition placed upon the Town with the acceptance of the road.

Mr. Boyce indicated that he must leave the meeting. (7:30 p.m.)

Mr. Stelmack asked about the wording of the letter of technical and financial capacity. Ms. Burns said that banks typically will not provide financial assistance if approval does not occur or if the appraisal is not satisfactory, and this will be a conditional approval with no lots being sold until the performance guarantee is posted.

Based on questions raised by Mr. Parker about the fire pond, condition of approval #8 was modified, with the concurrence of the applicant, to read as follows: "That the applicant shall meet all of the Fire Chief's requirements as outlined in his memo to the Town Planner, dated October 26, 2006. If the fire pond does not meet the applicable Fire Protection Ordinance, the applicant shall install sprinkler systems in all residential structures and condominium units in accordance with the requirements of the Town's Sprinkler Ordinance." The Board concurred with this change of condition of approval #8, as well as the two added conditions dealing with the gas line.

PUBLIC COMMENT PERIOD OPENED:

Tom Ellsworth, Gorham Economic Development Corporation, spoke in support of the project, in particular the daycare center, which Mr. Ellsworth believes will be of significant value to the young families of Gorham.

PUBLIC COMMENT PERIOD ENDED.

Mark Stelmack MOVED and Michael Parker SECONDED a motion to grant final subdivision approval of the request by Hans C. Hansen, Inc. for a 7-lot subdivision encompassing 6 residential lots and a 4-unit business condominium lot on 23.8 acres on the site of the existing Hansen's Farm Market, with conditions of approval as posted prior to the meeting, amended at the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce no longer present). [7:55]

B. "GROWING YEARS DAYCARE" SITE PLAN/SPECIAL EXCEPTION USE

Request for final site plan approval of a proposed 6000 square foot daycare facility serving up to 49 children. Lot 1, Unit 2, Stargazer Subdivision. Zoned R; M3/L22

Mrs. Robie read the Special Exception Criteria which the proposed day care center must meet, and the Board considered each Finding separately as follows:

Finding 1. The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site, serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, and the visibility afforded to pedestrians and the operators of motor vehicles on such roads; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Finding 2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Finding 3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Finding 4. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Finding 5. The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Finding 6. The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shoreland vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty; by a show of hands, the Board concurred unanimously (6 ayes, Mr. Boyce no longer present).

Thomas Hughes MOVED and Mark Stelmack SECONDED a motion to accept the Growing Years Daycare Site Plan for Special Exception Use with conditions of approval as discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce no longer present).

Michael Parker MOVED and Edward Zelmanow SECONDED a motion to add the date of October 26, 2006 to Condition of Approval #4. Motion CARRIED, 6 ayes (Douglas Boyce no longer present) [7:55 p.m.]

C. "HANSEN'S FARM MARKET" SITE PLAN AMENDMENT

Request for approval of a site plan amendment for Hansen's Farm Market, Lot 1, Unit 2, Stargazer Subdivision. Zoned R/SR, Map 3, Lot 22.

Edward Zelmanow MOVED and Thomas Hughes SECONDED a motion to grant site plan amendment for Hansen's Farm Market, Lot 1, Unit 2, Stargazer Subdivision; Zoned R/SR, Map 3, Lot 22. Motion CARRIED, 6 ayes (Douglas Boyce no longer present). [7:44 p.m.]

5. SCHEDULE OPTIONAL MEETING. The Board concurred that no optional meeting need be scheduled.

6. ADJOURNMENT

Thomas Fickett MOVED and Edward Zelmanow SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Douglas Boyce no longer present). [7:58 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2006

3. CONSENT AGENDA

B. FINAL SUBDIVISION PLAN - "PYAEVNA MEADOWS" / "SHANA LANE" & "TIA TRAIL" - off DINGLEY SPRING ROAD / FORT HILL ROAD -by BLACKWOOD ESTATES, LLC [Adam Mack, member]

**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's Inspecting 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 in auto-cad format to the Town of Gorham Tax Assessor prior to the scheduled pre-construction meeting
6. That prior to any occupancy within the subdivision a 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 shall satisfy all of the Fire Chief's requirements as outlined in his memo to the Town Planner, dated July 19, 2006,
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 will be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
10. That prior to commencement of construction, the applicant shall provide a maintenance bond of \$25,000.00 against potential damage to Dingley Springs Road and that prior to the start of construction the developer will present to the Department of Public Works a video of the existing road surface that will be used to evaluate damages occurring over the construction period.
11. That prior to Planning Board endorsement of the final plans, the applicant shall submit revised homeowners documents and other required legal documents for final review and approval by the

Town Attorney. 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. 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; and

12. That these conditions of approval and the Final Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of any building permits for any of the lots within the subdivision.
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4. A. HANS C. HANSEN, INC. - "STARGAZER CONDOMINIUM" "BLUE LEDGE ROAD" - FINAL SUBDIVISION/SITE PLAN; Zoned R/SR, Map 3, Lot 22.

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's Inspecting 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 in auto-cad format to the Town of Gorham Tax Assessor prior to the scheduled pre-construction meeting
6. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Cumberland County Soil and Water Conservation District, Department of Environmental Protection, dated March, 1991;
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 shall meet all of the Fire Chief's requirements as outlined in his memo to the Town Planner, dated October 26, 2006. If the fire pond does not meet the applicable Fire Protection

Ordinance, the applicant shall install sprinkler systems in all residential structures and condominium units in accordance with the requirements of the Town's Sprinkler Ordinance;

9. That the applicant shall notify Maine Natural Gas prior to new construction or reconstruction of the roadway in the area of the existing gas line installed in 2001 for future use, as well as notify Maine Natural Gas of the date and time of the applicant's pre-construction meeting with Gorham staff;
10. That as part of any application for street acceptance of Blue Ledge Road, the applicant will provide a description of the precise location of the gas line;
11. 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 will be responsible for providing record drawings accurately reflecting these improvements as required by the Code;
12. That the applicant shall be responsible for recording the approved Homeowners Association documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board;
13. That no building permits shall be issued for any buildings within the subdivision until the applicant has received final approval from MDOT through a developer/state agreement and the Town of Gorham Director of Public Works for the proposed roadway and traffic signal improvements at the intersection of Route 22/114 and the proposed Blue Ledge Drive; and that the applicant shall provide a performance guarantee in an amount equal to 125% of the cost of all of these off-site traffic improvements as required by the approvals of the MDOT and approved by the Town of Gorham Director of Public Works; and
14. That these conditions of approval and the Final Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of any building permits for any of the lots within the subdivision.

4. B. HANS C. HANSEN, INC. - "GROWING YEARS DAYCARE" – SITE PLAN/SPECIAL EXCEPTION USE – OFF 74 COUNTY ROAD; Zoned R/SR, Map 3, Lot 22.

Approved
Conditions of Approval

1. That this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the Applicant and that any variation from the plans, or proposals and supporting documents is subject to review and approval by the Planning Board except for minor changes which the Director of Planning and Zoning may approve;
2. That complete sets of the final site plans shall be submitted to the Fire Chief, Code Enforcement Officer, and Town Engineer prior to the commencement of any earth-moving activities or site improvements associated with the day care center site, application for a building permit or application for a driveway permit, whichever occurs first;

3. That prior to the commencement of any site improvements and/or earth-moving activities, representatives of the developer, general contractor, site contractor, and the site design engineer shall arrange for a pre-construction meeting with the Town Planner and other staff members to review the proposed commencement date of the project, the overall schedule of improvements associated with the day care center, conditions of approval and site plan requirements;
 4. That the applicant shall meet all of the Fire Chief's requirements as outlined in his memo to the Town Planner, dated October 26, 2006;
 5. That the applicant shall obtain all necessary state and federal permits before commencing work on the site;
 6. That all site improvements shall be completed as shown on the approved plans prior to request for either temporary or final occupancy permits for the building; or a performance guarantee, covering the remaining site improvements shall be established through the Planning Department;
 7. That the off-site traffic improvements shall be completed, inspected and approved by the State's and Town's inspecting engineers prior to the occupancy of the day care center; and
 8. That these conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the commencement of any earth-moving activities or site improvements.
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**4. C. HANS C. HANSEN, INC. - "HANSEN'S FARM MARKET" SITE PLAN AMENDMENT;
Zoned R/SR, Map 3, Lot 22.**

**Approved
Conditions of Approval**

1. That this approval is limited to specific amendments proposed and is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Director of Planning may approve;
2. All other applicable conditions of approval attached to the original site plan approval and the amendments granted June 4, 2001, shall remain fully in effect;
3. That this amendment is subject to the requirements and conditions of approval attached to the approval of the Stargazer Subdivision/Condominium Plan, of which it is a part; and
4. That these conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the commencement of any earth-moving activities or site improvements.