



Town of Gorham  
September 8, 2008  
PLANNING BOARD MINUTES

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

**Members Present:**

SUSAN ROBIE, CHAIRWOMAN  
THOMAS FICKETT  
THOMAS HUGHES  
MICHAEL PARKER  
MARK STELMACK  
EDWARD ZELMANOW

**Staff Present:**

DEBORAH FOSSUM, Dir. of Planning & Zoning  
THOMAS POIRIER, Assistant Planner  
BARBARA SKINNER, Clerk of the Board

**Members Absent:**

DOUGLAS BOYCE, VICE CHAIRMAN

The Chairwoman called the meeting to order at 7:00 and read the Agenda.

Edward Zelmanow **MOVED** and Thomas Fickett **SECONDED** a motion to move Item 10, Private Way – by Mark & Angela Theriault and Paul & Joyce Theriault. -- off Ossipee Trail, a request for approval of a 645 foot private way (“Noble’s Way”) to serve three lots; zoned R, (M60/L 13 & 13.001), to be heard after Item 4 on the Agenda. Motion **CARRIED**, 6 ayes (Douglas Boyce absent). [7:02 p.m.]

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The Clerk called the roll, noting that Vice Chairman Douglas Boyce was absent.

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**1. APPROVAL OF THE MINUTES FROM THE AUGUST 11, 2008 MEETING:**

Thomas Fickett **MOVED** and Michael Parker **SECONDED** a motion to approve the minutes of August 11, 2008 as written and distributed. Motion **CARRIED**, 5 ayes (Douglas Boyce absent, and Thomas Hughes abstaining as not having been present at the August 11, 2008 meeting). [7:03 p.m.]

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**2. COMMITTEE REPORTS**

- A. Ordinance Review Committee** – Ms. Robie reported that a workshop was held to work on an amendment to allow bed and breakfast facilities with public dining as an addition to the Code. The outcome of that discussion was a list of criteria, which the Planning staff will draft, in the proper format, which will then be reviewed by the full Planning Board, to be followed by a public hearing.
- B. Sign Ordinance Sub-Committee** – Ms. Robie reported that the Sub-committee is disbanded because the Town Council passed the sign ordinance. However, documents need to be prepared to explain the ordinance and it is necessary to discuss the provisions of the sign ordinance with the Code Enforcement Officer, which will be scheduled in early October.
- C. Streets and Ways Sub-Committee** – Mr. Hughes reported that there will be a meeting of this sub-committee within the next two weeks with the Fire Chief.

### 3. MINOR SITE PLAN REPORT

Ms. Fossum reported that within the past month, 3 minor site plan applications have been approved: Odias Bachelder's request for a used automobile business on Main Street; the application of Custom Coach and Limousine to occupy a building in the Industrial Park at 19 Bartlett Road; and Shaw Earthworks' proposal for a contractor's site in the New Portland Parkway Commercial Subdivision. Two new minor site plan applications have been received in the past month: an amendment to a site plan for Biodiversity, at 25 Flagg Meadow Road, approved some years ago, for expanded parking; and Flaggship Landscaping's request for approval of an amendment to Paul Gore's site at 669 Main Street to add a storage area for peat and mulch materials use in Flaggship's landscaping operations. Under review currently is a proposal for a laundromat in Little Falls, and a project which has been dormant since last March but is now reviving is a proposal by Guerin Properties off New Portland Road to split its parcel and sell a separate piece to a woodworking business already located on the site.

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### 4. CONSENT AGENDA:

#### A. SITE PLAN AMENDMENT-- Rust Road Reclamation -- by C & C Family, LLC

Request for amendment to plan approved on July 14, 2008. Zoned Rural, M43/L21.

Ms. Robie explained that this item can be administrative in nature to be approved by the Board without discussion unless a request is made to take the item off the Consent Agenda by either a Board member or a member of the public.

**Thomas Fickett MOVED and Mark Stelmack SECONDED a motion to remove the item from the Consent Agenda. Motion CARRIED, 4 ayes (Hughes, Fickett, Robie, Stelmack) and 2 nays (Parker and Zelmanow) and Douglas Boyce absent.**

Ms. Fossum confirmed that the proposed Conditions of Approval for this item are available to the public on the table at the back of the Chambers.

Mr. Fickett questioned the use of the word "passable" in Condition of Approval #2 to describe the condition to which the road is to be restored, noting that the road is passable now. He confirmed that the Council ordered that the road be restored to its pre-existing condition. Ms. Fossum replied to Mr. Fickett that the Court's order of 2007 is referenced in the original Conditions of Approval that were attached to the site plan.

Alan Rust, 56 Rust Road, abutter, came to the podium and said that the Court decision upheld the Council order which ordered C&C Family LLC to remove the obstruction on Rust Road and that the site had to be restored to its original condition. Mr. Rust said that the Court order attempted to make the road "passable" for logging and farm vehicles, but all that was done was to remove the loam over the area in question. He said the abutters would like to see that the conditions agreed to at the July meeting are met. He said no preliminary engineering work was done on site, and stressed that the loaming and seeding as suggested by the applicant was not part of the original condition of the road.

Ms. Fossum explained that C&C Family, LLC, has asked if the Town would approve either a field change or a de minimis change, approved by the Planning Director, to the July 2008 Conditions of Approval to allow a request to remove the material in the right of way placed there in the past and not bring in additional gravel from offsite to improve the road as was originally required by the Board. However, Ms. Fossum said she believed that this is more significant than a de minimis change, which is why it is before the Planning Board. It has been taken off the Consent Agenda for discussion by the Board as it is apparent that it is more significant in the Board's view. She said the applicant's proposal is to remove the requirement to restore Rust Road right of way with 12" of aggregate subbase and 3" of crushed aggregate base material from off-site, but instead to restore of the right of way with the earthen material currently

onsite, overlaid with 4” of loam and seed. Ms. Fossum read from the applicant’s engineer’s letter of August 1, 2008, that “After the meeting, we visited the site and were joined by the Town’s Public Works Director, Bob Burns. The area just westerly of the berm was observed to be a natural granular material. It is the applicant’s intention to remove the earth berm to the original level, which will place it in this granular material. Upon completion, the right-of-way will have 4 inches of loam returned to it and seeded, returning it an agricultural condition similar to much of the remaining right-of-way.” She said that Condition of Approval #2, should the Board approve the applicant’s request, was drafted to anticipate the conditions that may be there when the material placed 4 years ago has been removed and would remove the applicant’s proposal to loam and seed the right of way.

Ms. Robie stated that what the Board approved in July called for putting in 15 inches of gravel in the area that is to be restored in accordance with the Court’s order. This proposal is to change that by removing the requirement altogether by putting in granular material already in the area and then cover it with 4 inches of loam and seeding it. The proposed Conditions of Approval would not require the installation of the 15 inches of gravel in the right of way.

Walter Stinson, Sebago Technics, confirmed that before the fill was brought on site, no initial topographic work had been done in the area to determine the exact grades. He said he believes it is clear where the limits of the fill are and that defines the existing ground, so they have worked backwards from there to achieve slope on the road that would drain. But the intent is to take out the fill which had been brought in, the difference between fill and native ground is clear, and there is a good granular material to the west of the area, believed to be native material. He said that once the fill has been removed, he believes that what will be left is that granular material. He noted that having the Public Works Director overseeing the work will protect everyone, and that they agree to Condition of Approval #2’s requirement that if suitable material is not found on site, the applicant shall be required to supply suitable material from off site.

Mr. Stelmack noted that Condition of Approval #2 speaks only to the material that will be approved by the Public Works Director; it does not say that the Public Works Director will approve the condition of the road. After discussion, Ms. Robie summarized the Board’s revision of Condition of Approval #2 as follows: “That the material used to restore the Rust Road right of way to a condition in accordance with the Court’s decision shall meet the approval of the Public Works Director and if suitable material is not found on site the applicant shall be required to supply suitable material from off site.” Mr. Rust said that change is acceptable to the abutters so long as the loaming and seeding is removed from the proposal and the Public Works Director approves the work being done.

Ms. Fossum said that the portion of the plan note referencing “the placement of four inches of loam and seed” should be removed;” Mr. Stinson concurred and said the drawings will be revised. The 3:1 slopes, however, still will need to be seeded. There also needs to be a signature block added to the plan.

**Mark Stelmack MOVED and Thomas Hughes SECONDED a motion to amend the plan to remove any reference to loaming and seeding of the road bed and to add the conditions of approval as modified during the meeting, with the change in Condition of Approval #2 to remove the word “passable.” Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:50 p.m.]**

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The following item is taken out of order by the motion of Mr. Zelmanow, having earlier been approved by the Board.

**10. PRIVATE WAY:**

**Noble’s Way – by Mark & Angela Theriault and Paul & Joyce Theriault.**

Request for a 645-foot gravel road to serve three lots. Zoned R (M60/L 13 & 13.001).

Les Berry, BH2M, appeared on behalf of the applicants and explained that the applicants own two lots at 153 Ossipee Trail, which are currently adjacent grandfathered, non-conforming lots, which they are proposing to combine the two lots and create three conforming lots, open space, and a 645 private way. He said that they have applied on August 29, 2008, for a Permit by Rule with the DEP for approval of the proposed stream crossing. He asked that Condition of Approval #6, "That the applicant shall remove the shed located within the setbacks of lot 2 prior to issuance of a building permit for lot 3," be changed to "...prior to the issuance of an *occupancy permit* for lot 3."

Mr. Poirier gave the staff comments and said that a Staff Review Memo was sent to the applicants containing certain staff requests for changes to the plan. He said that staff has discussed these changes with Mr. Berry and have agreed that the majority of the proposed changes can be handled at the pre-construction meeting instead of requiring changes to the plan, with the exception of the August 27, 2008, comment of the Town's review engineer, SYTDesign, that the stream crossing section should specify pipe bedding, pipe backfill, compaction requirements, and 2:1 slope stabilization methods. Those details will be added to the plan prior to the Board's endorsement and is outlined in Condition of Approval #10, "That the applicant shall make changes to the plan as outlined in the Planning Department's Review Memo dated September 4, 2008 prior to the Planning Board's endorsement of the private way plan."

Mr. Poirier said that staff has no objection to acceding to Mr. Berry's request that Condition of Approval #6 to be changed to "... prior to the issuance of an *occupancy permit*..." instead of a *building permit*.

Mr. Parker said that a decision needs to be made on the need for a guardrail on the down sloping left slope by the embankment as it crosses the creek. Mr. Poirier said he had further conversations with the Town's review engineer, Amy Bates, who cited engineering standards referencing low volume roads such as this private way with the slope proposed do not require guardrails or boulders.

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

**Michael Parker MOVED and Thomas Hughes SECONDED a motion to grant Mark, Angela, Paul, & Joyce Theriault's request for approval of the private way plan for Noble's Way located off Ossipee Trail, a 645' private way serving 3 lots, with conditions of approval as posted prior to the meeting, amended during the meeting and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce absent). [7:58 p.m.]**

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## 5 **PUBLIC HEARING:**

### **Proposed amendments to the Land Use and Development Code, Chapter IV, Site Plan Review, Sections III, IV, VI and VIII.**

Proposed amendments to improve upon the permitting process for minor site plan applications.

Ms. Fossum explained that the current process under Site Plan Review is to categorize projects as either major or minor site plans; the minor site plans are reviewed by the Site Plan Review Committee, an administrative review process. The changes that have been proposed are ones to the minor site plan review process that the Town Council Ordinance Committee and staff have been working on, intended to shorten the review time and speed up the approval process for applicants who are required to go through the minor site plan application process.

She said that the main changes to the ordinance are as follows:

1. To rename minor developments "Administrative Review Projects" and the process an "Administrative Review Process;"

2. To remove the extra steps outlined in the classification process;
3. To shorten the number of days allowed for determining that the submission meets the submission requirements of the ordinance from 15 to 10 working days;
4. To shorten the allotted staff review-time from 15 to 10 working days;
5. To shorten the abutter comment period from 15 to 10 working days; and
6. To shorten the time allowed for scheduling a workshop should there be adverse comments from abutters or staff from 15 to 10 working days.

Ms. Fossum replied to a query from Ms. Robie that currently projects up to 20,000 square feet in the Industrial district are classified as minor sites, but the amount of parking associated with that size will trigger the threshold for major site plan. Therefore, it was deemed appropriate to reduce that threshold to 15,000 square feet, with anything below 15,000 square feet being subject to minor site plan and anything above 15,000 square feet being subject to major site plan review.

Ms. Fossum said that staff will give these projects a very high priority based on the new time frames to expedite and create a more efficient minor site plan review process.

PUBLIC COMMENT PERIOD OPENED:       None offered.

PUBLIC COMMENT PERIOD ENDED.

**Michael Parker MOVED and Thomas Fickett SECONDED a motion to recommend adoption of the proposed amendments to the Land Use and Development Code, Chapter IV, Site Plan Review, Section III, IV, VI and VII, which are proposed to improve upon the permitting process for minor site plan applications.**

Discussion: Mr. Zelmanow pointed out that it is Section VII and not Section VIII that is proposed to be amended.

**Michael Parker revised his motion to change Section VIII to Section VII and Mr. Fickett seconded the revised motion. Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:00 p.m.]**

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**Michael Parker MOVED and Thomas Hughes SECONDED a motion to change the order of the remaining items to be heard so that Agenda Item 8, “Public Hearing, Site Plan Amendment -- Plan-It Recycling & Transfer -- By CLRS Properties, LLC, Ron Smalley, proposed amendment to use a mobile, 1,400 square foot picking station, zoned I (M12/L26.001),” is heard next., before Items 6 and 7.**

Discussion: Ms. Robie said she would object to such a change in that there is no way to know how many people in the audience are present for the other public hearings on the agenda, such as Item 9. **Michael Parker MOVED and Thomas Hughes SECONDED an amended motion to move Item 8 and Item 9, “Public Hearing - Site Plan– by Peter Lyford, d/b/a Lyford Landscaping – “Scott’s Lawn Care Franchise” – Lot 7, Olde Canal Business Park - off Mosher Road, a request for approval of a 5,250 square foot single story office and shop building with an additional 1,875 square foot attached covered storage area and associated parking, zoned I (M34/L3.007), before Items 6 and 7.**

Discussion: Ms. Robie asked for a show of hands as to the how many of the public wish to speak on the public hearings advertised in their current order before voting on the motion.

**Motion FAILED, 2 ayes (Parker and Hughes) and 4 nays (Fickett, Robie, Stelmack and Zelmanow) and Douglas Boyce absent. [8:05]**

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**6. PUBLIC HEARING:**

**Proposed amendments to the Land Use and Development Code, Chapter II, Section V, I, Subdivision, Private Way And Site Construction, Monitoring of Public Improvements (4)**

Proposed amendments to modify the requirements for certification of improvements by applicants.

Ms. Fossum explained that the Land Use and Development Code currently requires the submission of record drawings as well as a letter of certification from the developer's engineer certifying that all public improvements have been built according to the approved plans for the development, prior to the issuance of any certificate of occupancy. Often times, there is a request for an occupancy permit before the public improvements associated with the project have been completed. As a practical matter, staff has accepted letters certifying that the improvements completed thus far have been completed in accordance with the plan. The proposed amendments recognize the need for this interim submission and will specifically allow for it. Furthermore, the Public Works Director has suggested that the requirement for both a letter and the record drawings is essentially a duplication of effort and that the most important submission from his point of view for the Town to have is the record drawings. The proposed amendment has been drafted to remove the requirement for a letter of certification by the developer's engineer and replace it with requirements for record drawings at the end of the project, as well as midway through the project when the occupancy permits are requested.

Ms. Fossum advised Mr. Stelmack that there is a temporary certificate that can be issued. Mr. Poirier said the intent is to deal with large subdivisions, that when the first certificate of occupancy permits are issued typically not all the improvements have been constructed. He said that an engineer would submit a first set of drawings to the Public Works Director and then revise them once the improvements are completed.

PUBLIC HEARING OPENED: David Kent, 726 Fort Hill Road, expressed concern about a private way behind his property which was never properly inspected or completed and said he hoped that such a problem would never occur again.

PUBLIC COMMENT PERIOD ENDED.

**Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to recommend adoption of the proposed amendments to the Land Use and Development Code, Chapter II, Section V, I, Subdivision, Private Way And Site Construction, Monitoring of Public Improvements (4), that are proposed to modify the requirements for certification of improvements by applicants. Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:11 p.m.]**

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Ms. Robie asked for a show of hands of people who wish to speak on Item 7, dealing with the Noise Ordinance, and as a result thereof recommended that the Board take up the remaining Agenda items in the order in which they are listed.

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*Stretch Break to 8:22 p.m.*

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**7. PUBLIC HEARING:**

**Proposed amendment to the Land Use and Development Code, Chapter II, General Standards of Performance and Chapter IV, Site Plan Review.**

Proposed amendments to the Noise Ordinance.

Ms. Robie gave an overview of the additions to the proposed amendments to the Noise Ordinance which the Planning Board is recommending. She said that the first change is to Table 1, dealing with the district classification of a lot that "The district classification of a lot is determined by that lot's zoning

classification. Where two lots of differing district classifications abut, the residential sound level limit shall apply.” Continuing to page 2 discussing short duration repetitive sounds, Ms. Robie said that the Board is recommending several changes, the first being “(I) For short duration repetitive sounds, 5 dBA shall be added to each of the observed levels of the short duration repetitive sounds per hour that result from routine operation of the development for the purposes of determining compliance with the above sound level limits. The resultant adjusted A-weighted hourly equivalent sound shall not exceed the sound level limit (dBA) permitted in the district as established by Table 1.” In addition, the following language is added: “ii. For short duration repetitive sounds resulting from scrap metal, drop forge and metal fabrication operations or developments, which the Board determines, due to their character and/or duration, are particularly annoying or pose a threat to the health and welfare of nearby neighbors, the maximum sound level of the short duration repetitive sounds shall not exceed the following limits (a) At any protected location in an area for which the zoning (with the phrase “if unzoned” left out because there is no unzoned land in Gorham) is Residential...” with the dBA limits given. For section (b) of ii, the unzoned comment was also eliminated. Ms. Robie noted that the language dealing with short duration repetitive sounds comes from the State DEP ordinance.

Continuing, Ms. Robie explained that because a protected location is not defined in the Ordinance language for Gorham, the definition from the Maine DEP statute is included.

Ms. Robie explained that on page 3 of the draft ordinance, the list of activities that are not subject to sound level limits is recommended to be deleted from this section, which is part of Site Plan Review, and placed in Chapter II, General Standards of Performance, Section I – Environmental, H. Noise Abatement, as a new section 3). This is a recommendation from the Town’s legal counsel, because that is part of the clarification of the general statute which is enforceable by the Code Officer. The only exception left under Site Plan Review is on page 4 of the draft, “The noise levels established by this section will not apply at lot lines where the abutting property owner has granted a noise easement to the applicant.” In addition, the method of measurement is to be changed to “an hourly A-weighted equivalent sound level ...” for consistency throughout the ordinance.

Under Chapter II, General Standards of Performance, H. Noise Abatement, the Planning Board has recommended the following to 1): “Noise may be equal to but not exceed an hourly A-weighted equivalent sound level of 75 decibels (dBA) (as defined and established by ANSI standards measured at any boundary line.” She noted that this section shall not apply to mineral exploration, excavation or gravel pits that are subject to the provisions of Chapter II, Section I, C(5)(a)(3) of this Code because those provisions refer to gravel pits and quarries that are operating under an Intent to Comply application to the State of Maine which has stricter sound requirements than those in Section H or what is proposed for site plan. A section 3) has been added to include the list of activities that are exempt from regulation of noise by state law.

Further under Section IV, Site Plan Review, an additional item, g, has been added to the section entitled Applicability, when a plan goes from minor to major site plan review, which states that “the new non-residential use will not generate more noise than the current use and the current use does not exceed the noise limits under the site plan review standards;” therefore, the new non-residential use would not have to go major site plan review.

Under Chapter II: General Standards of Performance, Section I – Environmental – C. Mineral Exploration Excavation and Gravel Pits, the Board is recommending deletion of the reference to “...noise may not exceed 100 decibels at 600 cps when measured at the source.” Additionally, under Chapter IV, Site Plan Review, Section IX, Approval Criteria and Standards, “Item T – Noise Abatement. Where there is a conflict between those noise requirements and the standards of this section, the more restrictive requirements shall govern” should be applied to the plan review of new and existing gravel pits in Chapter II, C. Mineral Exploration and Excavation and Gravel Pits.

**PUBLIC COMMENT PERIOD OPENED:** Hans Hansen, South Gorham, said that under the ordinance it would appear that his agricultural facility, even though it is on the list of exclusions under b) Daytime agricultural and timber harvesting, it would be excluded to the daytime hours specified of 7:00 a.m. to 7:00 p.m. Mr. Hansen said this would present a hardship to the farmers in Gorham to be limited to these hours. He said it would impact his bee keeping and other farming activities. Mr. Hansen recommended no restriction of hours on farming by removing the word “daytime” and suggested separating out timber harvesting from agricultural activities.

William Rust, Rusty Knoll Farm, 68 Dow Road, noted that milking machines can start as early as 3:00 a.m., and spraying can start at 5:00 a.m. He said it would be useful to have the “daytime” restriction removed.

David Kent, 726 Fort Hill Road, commented that lawn mowing in 3c) could also cause problems if someone was mowing their lawn at 7:30 in the morning. He wondered what the decibel ratings are of some of the activities listed in the exemptions. He said he continues to be concerned about things that are anti-business. Ms. Robie suggested replacing the phrase “daytime” with “day light.”

Dan Martin, 110 Gateway Commons Drive, thanked the Board for its work on the ordinance and said he believes it reflects a fair approach to the ordinance. He said he did not believe it was anti-business and some effort has to be made to live within the noise boundaries. He said it is all measurable, and it all depends on how far machinery is from the property line  
**PUBLIC COMMENT PERIOD ENDED.**

Mr. Hughes said he appreciated Mr. Hansen’s comments, noting that “daytime” varies a great deal, depending on the time of year, and should be replaced by “day light.” Ms. Robie said she would leave the daytime hour restriction of 7:00 a.m. to 7 p.m. on 3a), Construction and demolition, as well as 3b) Timber harvesting. The Board concurred that no restriction should be placed on agricultural and the word daytime should be added to timber harvesting, and “daytime” under 3c) landscaping and lawn mowing should be replaced with “daylight.”

Mr. Zelmanow asked who would grant prior approval from the Town of Gorham to extend the exemption for construction and demolition work. Ms. Fossum said staff will research to determine the appropriate person.

Mr. Hughes said he was opposed to telling businesses when they can and cannot work. Mr. Parker replied that businesses are not being restricted on when they can work, the proposed ordinance restricts when people can make exceptionally loud noises.

**Edward Zelmanow MOVED and Michael Parker SECONDED a motion to recommend adoption of the proposed amendments to the Land Use and Development Code, Chapter II, General Standards of Performance and Chapter IV, Site Plan Review, relating to noise abatement, with the changes recommended by the Planning Board. Motion CARRIED, 6 ayes (Douglas Boyce absent). [8:50 p.m.]**

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**8. PUBLIC HEARING:**

**Site Plan Amendment -- Plan-It Recycling & Transfer -- By CLRS Properties, LLC, Ron Smalley.** Proposed amendment to use a mobile, 1,400 square foot picking station. Zoned I (M12/L26.001).

Scott Collins, St. Germain & Associates, introduced the applicant, Ron Smalley, and described the location of the picking station, which he said is about 120 feet long, 11 or 12 feet wide, and about 15 feet high, and is powered by a diesel engine attached to the station. He said the station has been in place and



in operation for some 6 months or longer. He said its purpose is to allow workers the opportunity to pull recyclable materials out of construction and demolition debris, such as metal, wood, concrete brick and block, and cardboard. The material is dropped into a hopper at one end of the picker and passes on a slow moving horizontal conveyer where workers are stationed periodically who pull the recyclable materials off the belt and drop the materials into bins. What is not picked off the conveyor at the other end are the materials that go to the landfill. Since the picker has been in operation, the recycling rate is greater than 50%, as compared to the 18% before the picker was installed. Mr. Collins explained the recycling "rate" to Mr. Hughes that if 100 tons of material came into the facility before the picker was installed, only 18 tons were recycled, and the remaining 82 tons were taken to the landfill; however, with the picker installed, it is now 50-50. There were 8 workers at the facility before the picking station and there are now 25 workers.

Mr. Collins described the screening measures that have been implemented in addition to what was initially requested by the Planning Board: an 8-foot high stockade fence has been added in 2006 at the northwest corner of the property, as a result of conversations at the site walk, an extension of that fence was erected to screen the picking station and portions of the facility from traffic on Route 25 from Gorham into Westbrook. He said of the number of white pines that have been planted along the western property boundary in 2003, it is proposed to move 12 of those trees to supplement the trees in front of the stockade fence. There is also a proposal for a new litter fence, with six telephone poles already in place, which will be 30 feet high, the first 20 feet being made of a privacy screen along the eastern boundary and part of the northern boundary, with a 10 foot traditional litter fence on top. Mr. Collins passed around a sample of the fabric of the proposed privacy screen which is designed to screen the picking station from traffic on Juniper Lane, as well as some of the residences and the American Legion Post and traffic travelling from Westbrook into Gorham. Mr. Collins showed photographs of the proposed privacy screen and how it would screen Juniper Lane and Route 25.

Mr. Hughes noted that when the picking station was installed, the piles of debris decreased in size, and said he would rather look at a picking station instead of piles of debris. Mr. Collins said that the picking machine has now been painted green and a dust control machine, called a "dust boss," has been purchased, and Plan-It is committed to pick up litter along the property boundaries, adjacent roads and neighboring properties on a daily basis.

Mr. Collins told Mr. Parker that the materials that are sorted out go into piles on the ground. Mr. Collins to Mr. Parker asked that the dust boss's water pressure has been adjusted and it is now operable. Mr. Hughes asked why the 30 foot privacy fence could not be made entirely of the material shown to the Board; Mr. Collins replied that it is not so much of a cost issue as the fabric is basically a sail, being 96% woven fabric. He said there will be messenger wire behind the fabric to support it. Mr. Parker asked the abutters to comment if the dust boss is having a positive effect on the baseball field.

Mr. Poirier gave the staff comments, stating that a Staff Review Memo was completed on May 19, 2008, and comments were received from the Fire Chief, Code Enforcement Officer and Assessor. The Board held a site walk on May 15, 2008. On August 15, 2008, the applicant resubmitted, addressing staff comments. Staff emailed Mr. Collins requesting some additional enhanced photos to assist the Board in reviewing the adequacy of the proposed screening fence as well as proposed landscaping. Those photos were submitted on September 3, 2008. Staff has received multiple abutter concerns, both emails and telephone calls, copies of all of which are included in the Board's packets.

Mr. Poirier said that staff has drafted Conditions of Approval should they be required, with some unique to this project: #4: "That the site improvements shown on the approved plan shall be completed within 60 days of the Planning Board's endorsement of the final plan;" #5: "That prior to the start of construction the applicant shall establish a performance guarantee covering the proposed site improvements through the Planning Department;" and #8: "That within 30 days of completion of the additional screening the

Planning Board will have the opportunity to review the screening and make a decision on whether additional screening is warranted.”

Mr. Fickett confirmed the number of workers with the applicant as 25, and commented that only 10 parking spaces are shown on the plan, with one handicapped space. He asked if any adjustments to the parking have been made. Mr. Smalley replied that most of the additional workers hired car pool and take public transportation, but there is a gravel based area to the side of the parking lot that would accommodate probably 8 more vehicles. Mr. Hughes asked about the number of trucks bringing in and taking out materials. Mr. Smalley replied that many independent truckers have gone out of business due to increased fuel surcharges so they have started moving material on their own. Mr. Parker asked Mr. Collins if there are any engineering drawings on the fence supports; Mr. Smalley replied that it is not an engineered fence; rather, the supports have been installed based on the suggestions of the manufacturer of the screening fabric. Mr. Poirier said that the issue of an engineered fence could be posed to the Town’s review engineer and feedback could be brought back to the Board. Mr. Collins said they can check with the fabric’s manufacturer.

Ms. Robie said that the proposed privacy fence from Westbrook to Gorham will make a huge difference; however, going the other way it appears that the applicant has done nothing to meet the ordinance requirements to screen the piles, which can be higher than 20 feet, and the picker. She quoted from the ordinance that fencing, screening, landscape berms, natural features or combinations thereof shall be utilized to shield from the view of abutting residential properties and public ways along the perimeter setback of the industrial district all loading, unloading operations, storage and repair work areas, commercial vehicle parking, waste disposal and collection areas. She said the height of the stockade fence is inadequate and asked the applicant to consider putting the screening along the side that is visible driving from Gorham to Westbrook. She also noted that the 30 days mentioned in Condition of Approval #8 is not the right criteria for the Board to judge the effectiveness of the screening; the right criteria is in the dead of winter when there is no natural coverage from trees and bushes screening it.

**PUBLIC COMMENT PERIOD OPENED:** David Martin, past Commander and Manager of Westbrook Memorial Post 197 in Westbrook. Mr. Martin said that the American Legion Post is the closest abutter to the applicant’s site, and said it has a very negative impact on the rental part of his business, which constitutes about 20% of the total. He said there were no rentals for the month of July and usually May, June, July and August he is booked. Mr. Martin said the proposed screening will help, but it will not resolve other problems such as odor and air quality at the ball field leased for 25 years to the Westbrook Little League, possibility of fire at the facility.

**Michael Parker MOVED and Thomas Fickett SECONDED a motion to waive the ten o’clock rule. Motion CARRIED, 6 ayes (Douglas Boyce absent). [9:15 p.m.]**

Robert Morrell, 260 Conant Street, said he owns two properties on Juniper Lane abutting the site. Said he believes that while recycling is needed, approval of Plan-It Recycling in this location was in error as his property values have declined 20%. Commented about the orange color of the picker and appreciates that it has not been painted. Mr. Morrell said he had met with Mr. Smalley to discuss buffering and that Mr. Smalley would talk to a landscape architect and get back to him, which he has not done. Mr. Morrell commented about the Code Enforcement Officer’s decision to permit the picker while the applicant sought an amendment to his plan. Mr. Morrell said that even with the proposed changes it is not enough and no further expansion should be permitted.

Eric Dudley, 17 Blackbrook Road, City Engineer for Westbrook, said he was speaking on behalf of Westbrook Mayor Bruce Chuluda. Spoke about Westbrook’s concerns about noise, dust, visual impact, debris, the only way to control noise would be to enclose part of the operation, and noted that the dust boss was not in operation when he visited the site three times last week. Said that the poles to support the privacy screening should be engineered and that the company installing the fabric for the fencing cannot

know the soils conditions. Indicated that the greatest visual impact is on Juniper Lane, particularly in between Mr. Morrell's two homes, which are significantly higher than the rest of the area. Mr. Dudley noted that Westbrook has suggested that the applicant should plant evergreen trees on the first 200 to 250 feet from Route 25 in the right of way on Juniper Lane, which the City of Westbrook would maintain, but apparently the applicant has decided he is not interested in doing that. He said that the City of Westbrook still offers to maintain any such trees, which offer he would like the Planning Board to consider. He said he believes that Gorham has done a great job of notifying Westbrook of all the meetings and what has been going on with this project and others. In Ms. Robie's query, Mr. Dudley replied that the evergreens on Juniper Lane would be planted for the first 200 to 250 feet of Juniper Lane from Route 25 headed south on the west side of the street.

PUBLIC COMMENT PERIOD ENDED. (9:45 p.m.)

The Planning Board, the applicant and his engineer, along with comments from Mr. Morrell, had an in depth discussion of the potential efficacy of the applicant's proposed screening of the picker. The Board also discussed whether or not it was appropriate to vote on the picker this evening, but it was concluded that the screening of the picker is integral to the issue and it is not possible to determine if the proposed screening meets the requirements of the ordinance as outlined on pages 58 and 59 of the Code. Mr. Stelmack referred to a workshop the Board had had with a landscape architect where the objectives of landscaping were discussed, and noted that there are many issues that the Board is not able to adequately address about the proposed buffering for screening the picker and what is to be accomplished. As a result, the Board concurred that the applicant should hire a landscape architect to review and evaluate the applicant's proposed buffering to screen the picker coming both east and west, Route 25 going both ways and Juniper Lane, and tell the Board if it meets the requirements of the Code, based on pages 58 and 59 of the Code. It was also decided that a review engineer should assess the placement of the privacy fence's poles. Mr. Collins said that the applicant would accept the Board's request of an independent review, so long as it is specific to the picking station and not the entire facility. Mr. Collins said if the Board does not vote on the application this evening, it leaves the facility vulnerable to being shut down by the Code Enforcement Officer. Mr. Parker suggested that the Planning Director advise the Code Enforcement Officer of this evening's events and let him know the Board's decision to continue the public hearing while the applicant seeks the advice of a landscape architect.

**Edward Zelmanow MOVED and Michael Parker SECONDED a motion to postpone the public hearing on this item to the October 6, 2008 meeting.**

Discussion: Ms. Fossum advised that the Board should continue the public hearing to the October 6, 2008 meeting.

**Edward Zelmanow MOVED and Michael Parker SECONDED an amended motion to continue the public hearing to the Board's October 6, 2008 meeting.**

Discussion: Mr. Collins asked for confirmation that a landscape architect is being retained to look at visual buffering along Route 25 in both directions and on Juniper Lane. Ms. Robie said the objective is to meet the ordinance as outlined on pages 58 and 59 of the Code.

**Motion CARRIED, 6 ayes (Douglas Boyce absent). [10:30 p.m.]**

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**9. SITE PLAN – by Peter Lyford, d/b/a Lyford Landscaping – “Scott’s Lawn Care Franchise” – Lot 7, Olde Canal Business Park - off Mosher Road.**

**PUBLIC HEARING**

Request for approval of a 5,250 square foot single story office and shop building with an additional 1,875 square foot attached covered storage area and associated parking. Zoned I (M34/L3.007).

Fred Marshall, Plymouth Engineering, introduced the applicant, Peter Lyford, and his contractor, Greg Patterson. Mr. Marshall described the project, noting that the MDEP permits limit the Lot to the following limits: building envelope: 1.25 acres; impervious area: 0.81 acres; lawn area: 0.13 acres; and disturbed area: 0.94 acres. He noted that the building envelope is actually .8, impervious area is .8, lawn

area is .13, and the disturbed area is .94, and described how the calculations were made. He said that the area that was incorrectly cleared by Grondin will be re-landscaped to provide buffering and revegetation. He said that there appears to be a vegetated buffer within an area 25 feet back from the wetland line. No activity is proposed to occur in that no-disturbance buffer of 25 feet from the wetland. He said that all stormwater within the paved area is to be collected through 3 catch basins to be piped into the stormwater collection system of the entire business park. He said the dumpster location has been moved. Mr. Marshall said there is adequate space for a 40-foot truck to maneuver within the site but primarily the vehicles operated by this applicant will be pickup trucks or panel vans.

Mr. Poirier gave the staff comments, noting that the site had been cleared just prior to the sitewalk on August 4, 2008. The Board asked at the sitewalk that the limits of the clearing to be identified. Staff visited the site and measured the clearing, which exceeded what was shown on the plan submitted by the applicant. Staff's Plan Review Memo of August 3, 2008, was in excess of DEP's requirements and encroached on the no-disturbance buffer. Since that time, the applicant has resubmitted a plan showing revegetation of the area north of the vehicle maneuvering area. Staff has submitted that plan to the Town's review engineer at SYTDesign, who emailed staff today that the Board may wish to consider requiring a guarantee on the planting. Mr. Poirier said that he and the Assistant Code Enforcement Officer went to the site today and noted that there is a slope just east of the wetland showing some rutting from the clearing equipment which will require some additional erosion control to stabilize that portion. Mr. Poirier said that possibly there should be an additional condition of approval which states "That the applicant shall stabilize the soils disturbed during the lot clearing activities in the wetland buffer and on slopes located north of the vehicle maneuvering area meeting the Code Enforcement Officer's and/or Compliance Officer's approval prior to the issuance of a building permit."

Mr. Poirier also indicated that staff has forwarded the applicant the new Sign Ordinance now currently in effect. He said that the applicant is currently proposing a 72 square foot sign, and under the new ordinance, in the industrial/business environment, the applicant would be allowed one ground mounted or pole mounted business sign having not more than 36 square feet of sign area and not being more than 16 feet in height. He said the applicant is also allowed a 1.5 square foot sign area for each foot of width of the primary front façade of the building facing the primary adjacent street as measured on the building foot print to a maximum of 250 square feet. The proposed building is 70 square feet, which would permit a 105 square foot sign.

Mr. Poirier said that due to unforeseen circumstances, the Town's review engineer was not able to provide her review comments to staff of September 5, 2008; they were forwarded to the applicant and attached to the Board's review packet tonight. Therefore, staff is also recommending a condition of approval stating "That the applicant shall revise the plans per SYTDesign's review comments dated September 5, 2008 prior to the Planning Board's endorsement of the final plan."

Mr. Marshall asked about Condition of Approval #3, requiring submitting property line information in auto cad format, and asked about Condition of Approval #6, "That the building construction plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting." Mr. Poirier replied that this is a standard Condition required by the Fire Chief, and Mr. Marshall should discuss his question directly with the Chief to satisfy his requirements.

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

**Thomas Hughes MOVED and Michael Parker SECONDED a motion to grant Peter Lyford, d/b/a Lyford Landscaping request for approval of a site plan to construct a 5,250 square foot building, a 1, 825 square foot covered storage area, along with associated site improvements on lot Map 34 Lot 3.007 with conditions of approval as posted prior to the meeting, with two**

**additional conditions as added to during the discussion, and discussed with the applicant. Motion CARRIED, 6 ayes (Douglas Boyce absent). [10:50]**

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**9. SCHEDULE OPTIONAL MEETING – None needed.**

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**10. ADJOURNMENT**

**Michael Parker MOVED and Edward Zelmanow SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Douglas Boyce absent). [10:51 p.m.]**

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2008

**3 A. SITE PLAN AMENDMENT– Rust Road Reclamation -- by C & C Family, LLC**

**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 applicants 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 material used to restore the Rust Road right of way to a condition in accordance with the Court’s decision shall meet the approval of the Public Works Director and if suitable material is not found on site the applicant shall be required to supply suitable material from off site.
  3. That all other applicable conditions of approval attached to the original site plan shall remain fully in effect and;
  4. That the 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 issuance of any building permits or commencement of any improvements on the site.
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**9. SITE PLAN – by Peter Lyford, d/b/a Lyford Landscaping – “Scott’s Lawn Care Franchise” – Lot 7, Olde Canal Business Park - off Mosher Road.**

**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 minimus 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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting
4. 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, latest edition;
5. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated within the approved private way, the applicant and the design engineer shall arrange pre-construction meeting with the Planning Department, Town Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;

6. That the building construction plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting;
7. That the building shall meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1;
8. That the building shall be completely sprinkled, including the storage overhang, meeting all requirements of the Town of Gorham's Sprinkler Ordinance;
9. That the sprinkler plans shall be submit to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting, the sprinkler plans shall be submitted to the Gorham Fire Department at least two weeks prior to the installation of the system;
10. That the sprinkler control room shall have a door leading directly to the outside with a door labeled "Sprinkler Control Room";
11. That a complete list and amounts of all hazardous materials and their MSDS sheets shall be supplied to the Gorham Fire Department prior to issuance of an occupancy permit;
12. That the applicant shall revise the plans per SYTDesign's review comments dated September 5, 2008 prior to the Planning Board's endorsement of the final plan.
13. That the applicant shall stabilize the soils disturbed during the lot clearing activities in the wetland buffer and on slopes located north of the vehicle maneuvering area, meeting the Code Enforcement Officer's and/or Compliance Officer's approval prior to the issuance of a building permit.
14. That prior to the issuance of a temporary or final occupancy permit, the Code Enforcement Officer shall determine that all required site improvements have been constructed in accordance with the approved plans and specifications or a performance guarantee covering the remaining site improvements shall be established through the Planning Department;
15. That at least one week prior to the date of the pre-construction meeting, a complete set of the final approved plan set will be delivered to planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Director of Planning; and
16. That the 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 issuance of any building permits or commencement of any improvements on the site.

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**10. Private Way - Noble's Way – by Mark & Angela Theriault and Paul & Joyce Theriault.**

**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 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. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That at least one week prior to the date of the pre-construction meeting, a complete set of the final approved plan set will be delivered to planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Director of Planning;
5. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated within the approved private way, the applicant and the design engineer shall arrange pre-construction meeting with the Planning Department, Town Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
6. That the applicant shall remove the shed located within the setbacks of lot 2 prior to issuance of an occupancy permit for lot 3;
7. That prior to the commencement of construction of the private way, the applicant will establish a performance guarantee with the Planning Department to cover the cost of constructing the paved apron;
8. 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;
9. That the private way shall be properly maintained for access of emergency vehicles year round;
10. That the applicant shall make changes to the plan as outlined in the Planning Department's Review Memo dated September 4, 2008 prior to the Planning Board's endorsement of the private way plan;
11. 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, latest edition;
12. That prior to the issuance of the first occupancy permit the applicant's engineer shall certify that the private way has 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;
13. That the private way plan, Private Way Maintenance Agreement, and decision document shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board; and that a receipt from the Cumberland County Registry of Deeds showing the date, and book and page number of the recorded plan and a copy of the recorded decision document and Private Way Maintenance Agreement shall be returned to the Town Planner.