



**Town of Gorham**  
**PLANNING BOARD WORKSHOP NOTES**  
**January 12, 2009**

A workshop meeting of the Gorham Planning Board was held on Monday, January 12, 2009 at 6:00 p.m. in the Municipal Center Council Chambers, 75 South Street, Gorham, Maine.

In attendance were Susan Robie, Chairperson, Douglas Boyce, Thomas Fickett, Thomas Hughes, Michael Parker and Edward Zelmanow. Mark Stelmack was absent. Also present were Town Planner Deborah Fossum, Assistant Planner Thomas Poirier, and Planning Board Clerk Barbara Skinner.

**1. APPROVAL OF THE DECEMBER 1, 2008, WORKSHOP NOTES.**

There were no comments or corrections to the December 1, 2008 Workshop Notes.

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**2. CHAIRMAN'S REPORT**

Ms. Robie stated that she would not report on the Ordinance Committee or the Sign Committee until the regular meeting.

Ms. Robie asked Ms. Fossum about the deadlines involved with the Plan-It Recycling application. Ms. Fossum replied that the decision document has been recorded and a preconstruction meeting is in the process of being scheduled, and said she believes that the applicant is still within his deadline.

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**3. PRE-APPLICATION CONFERENCE: SUBDIVISION AMENDMENT / SITE PLAN APPLICATION – FAIRVIEW ACRES SUBDIVISION – MOSHER ROAD -- BY DESIGN DWELLINGS –**

Presentation of a proposal to develop Lot 1 of Fairview Acres Subdivision with 5 commercial/office buildings. Zoned: Commercial Office; Map 32 / Lot 24.001.

Shawn Frank, Sebago Technics, appeared on behalf of the applicant Design Dwellings. Mr. Frank described the project as being at the intersection of Mosher Road and Main Street (Routes 237 and 25), the access is off Mosher Road via an existing access road established in the June 2, 1986 plan approval of the Fairview Acres Subdivision, with five separate office/commercial buildings proposed in the uplands of Lot 1 of the site. A series of access drives are proposed to the buildings, with parking off the access drives, and there is a potential drive-through for a bank-type user, although there are no specific users at this time. Because of the topography, the access drives and parking approach the property lines, and it is proposed to install fencing with screening and buffering. Because of the wetlands, the DEP and Army Corps of Engineers have been contacted, and Mr. Frank said it does seem to be a permissible project. The next step is to pull together a complete NRPA permit application to the DEP and an Army Corps permit, with copies submitted to the Town.

Mr. Frank said that they are held by the DOT to the location of the existing access off Mosher Road, and they will not be permitted to create an access off Route 25. However, the reconstruction of the Route 25 and 237 and new traffic light have changed driving habits, and it does seem that the access off Mosher Road is an adequate distance from that intersection.

He said that there will be public sewer and water to the site, with electrical and telephone service proposed to be extended underground.

Stormwater management will be an issue to be dealt with when the DEP/Army Corps process begins.

Mr. Poirier gave the staff comments, noting that the approval of the original subdivision stated that Lots 2, 3, 4 and 5 were to be used as residential lots, but a plan note indicates that the designation of Lot 1 was reserved until the completion of the Comprehensive Plan. He said that the applicant's sketch plan has been distributed to the Town's review staff for input, and review comments have been received from the Town's review engineer, Amy Bates, the Town Assessor, and Fire Chief.

Mr. Poirier explained that as the proposal is to construct a 5-building office/commercial park on Lot 1 of the site, the proposal will require subdivision amendment approval, site plan approval for the park, and possibly site plan approval for each of the buildings in the park. Lot 1 is located in the Commercial/Office District and must meet the specific performance standards of that District, as well as the standards outlined in Chapter II, General Performance Standards, Chapter III, Subdivision, and Chapter IV, Site Plan Review.

Staff has noted items in its review of the plan which the Board might wish to discuss with the applicant. Including the following:

- Will the 48" fence proposed for the southerly property boundary meet the requirements of the Commercial/ Office performance standards landscaped buffer?
- The lot is located in the vicinity of the proposed northerly route of the Gorham By-Pass. The Town Council has directed that plans located along the proposed Gorham By-Pass routes shall show the By-Pass route's location on the plan with a note regarding the possible future by-pass.
- Will the project be phased or completed in a single phase?
- The location of the proposed access driveway is in close proximity to the State Route 237 and State Route 25 intersection, which has just recently been rebuilt by the state. The Planning Board should discuss any traffic concerns they foresee with the proposed entrance/ exit onto State Route 237 as well as any additional traffic analysis needed as part of the applicant's submission.

Mr. Hughes asked Mr. Frank to clarify if the proposal is to make five lots out of one lot or to put five buildings on one lot. Mr. Frank replied that for the back four buildings it is anticipated that there will be a commercial condominium association for the four buildings on one lot. Mr. Parker confirmed that 2, 3, 4 and 5 have private homes constructed on them already. Ms. Robie confirmed that there is enough frontage for two separate lots and the proposed road would be a driveway. Mr. Frank said they anticipate going through subdivision and site plan, with there being one lot and the remainder of the property being the second lot, with access all off from a private driveway, and everything associated with the site being the responsibility of the commercial condo association. Mr. Frank replied to a query from Mr. Hughes that the site has sufficient frontage, about 420 feet, along Route 237 and there appears to be frontage of about 188 feet on Route 25 as well.

Mr. Frank showed Mr. Parker on the plan what constituted the original subdivision plan, with Lots 1, 2, 3, 4 and 5 serviced by Fairview Lane. He said the original 4 lots have been developed, and their amendment is to allow the proposed condominium association or dividing the lot into two lots.

Mr. Hughes asked staff what the zoning was when the subdivision was initially approved; Ms. Fossum said there has been some zoning change in that area, but that it may have previously been Roadside Commercial. Mr. Boyce noted that the plan submitted indicated that the zone was Suburban Residential for the 14 acre parcel at the time of the initial approval in 1986. Ms. Fossum said that as the plan indicates, the Comprehensive Plan was anticipated at that time to move to some sort of commercial zoning.

Ms. Robie expressed concern about a drive-through establishment in building one, intended to be serviced by an access driveway, saying that it would appear that the drive construction would be dependent on the intensity of use of the drive-through. Mr. Frank said the initial plan was for a 24-foot wide road, with sufficient shoulders and gravel, with possible widening at the intersection and appropriate turning lanes if

necessary. Ms. Robie confirmed that restaurant uses are permitted uses in the district. Mr. Frank replied to Mr. Zelmanow's question about dumpsters by saying that the association will be responsible for trash, with perhaps one central dumpster, but that will depend on the users. Ms. Robie said that if a fast food restaurant is proposed, there will be significant issues of traffic, separation of the intersection, and construction of the road.

Mr. Boyce noted that page 60 of the Code listing the permitted uses in the Commercial Office District shows "Retail Stores" as the first use listed. He said permitted use #13 is shown as "Drive-through service when it is accessory to a permitted use," and page 32, in the Definitions section of the Code, a "retail store" is defined as including restaurants. Ms. Robie cautioned about making sure that the road is built to be adequate for the use.

Susan Duchaine, applicant, came to the podium and told the Board that she anticipates a possible use of a credit union or small branch bank. Mr. Boyce asked if the nature of potential users dictates 4 separate buildings as opposed to building one multi-tenant structure. Ms. Duchaine replied that she has had inquiries from possible users who would like to have their own buildings, such as a gym, and she might have her own offices at this location. In response to Mr. Hughes, she said there would probably not be more than one tenant in a building, and that she anticipates bringing natural gas on site.

Mr. Frank answered a query from Mr. Parker that this will be a Tier I wetland impact under a 15,000 square foot impact. Mr. Frank said that the impervious figure would probably represent the maximum impact anticipated.

Ms. Robie said she would appreciate some thought being given to shade trees on the site to make it a more attractive gateway into Gorham. Ms. Duchaine said she agrees and would like this to be a good project.

Ms. Robie replied to Mr. Parker that the ordinance has not been changed about the standards to which a condominium access road must be built and that it is silent as to whether it needs a 50-foot right-of-way. Ms. Duchaine said if the road were to be built to public standards it would impact more wetlands. Mr. Frank commented that with a public road, the associated right-of-way and the front setbacks associated with the right-of-way "eat up" a lot of developable land. Mr. Parker said that the Board in the past has defined how the road is constructed by what it will be servicing, a comparable Town road standard for whatever it will be serving.

**PUBLIC COMMENT PERIOD OPENED:** Allison Rimkunas, 413 Mosher Road, asked for a summary of what has been discussed, specifically the wetlands and the proposed By-Pass. Ms. Robie replied that the Board has talked about the wetlands and said that the proposed By-Pass must be located on the plans if it falls within the requisite distance of the By-Pass. Ms. Rimkunas expressed concerns about bulldozing which occurred in the spring, seemingly without a permit, and the incorrect placement of a driveway, asking if someone will keep an eye on the development. Ms. Duchaine said that a certain amount of fill is allowed in a wetland that does not require a permit, which was done; DEP is satisfied that what has been done is satisfactory. She said that Army Corps has indicated they will not require a permit but they will be kept in the loop. Ms. Duchaine said that the incorrectly placed driveway has been taken care of.

Ms. Robie explained that this is a pre-application conference, and once there is a formal application, the Planning Board will schedule a site walk to which all abutters and other interested parties will be invited, and for subdivision there must be a preliminary and final approval, so there is plenty of time for input from the public.

Ms. Duchaine said she is not really interested in showing the proposed By-Pass on her plans as it might preclude buyers from being interested in buying. She asked if putting that on the plan is a requirement or simply a request by the Board as she would prefer not to do that. Ms. Fossum said she believes that it was by action of the Council, perhaps in the year 2000, when the most recent By-Pass study was getting under way,

as a reaction to various property owners who had purchased without knowing there was a potential By-Pass route in the vicinity of their subdivisions. Ms. Fossum said she can think of some 4 or 5 subdivisions that show the potential alignment of the By-Pass. Ms. Duchaine reiterated her reluctance to put that information on the plans, saying that there is no guarantee a future By-Pass will ever be built.

Ms. Robie asked staff to look into what was required by the Council. Ms. Fossum said that the Council has approved both the northern and southern By-Pass corridors.

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**4. PRE-APPLICATION CONFERENCE: SUBDIVISION AMENDMENT & PRIVATE WAY APPLICATION – FAIRFIELD WOODS SUBDIVISION – BUCK STREET -- BY CHRIS DUCHAINE.**

Presentation of a proposal to amend Fairfield Woods Subdivision to create two new lots and construct a private way. Zoned: Rural & Suburban Residential/Shoreland Zone, Resource Protection; Map 79 / Lot 3&4/21.

Shawn Frank, Sebago Technics, appeared on behalf of the applicant, Chris Duchaine, and explained that this is an amendment to the Fairfield Woods Subdivision, which was originally approved on April 3, 2006. Mr. Duchaine is the owner of Lot 2, and is applying for approval to extend his driveway, Copperhead Road, to create a private way to provide access to two additional lots which would be gifted to family members. Mr. Frank said one of the big issues is the 100 year flood plain and the actual elevation associated with it, and said that the original engineer for the subdivision came up with an elevation of 220.9, which encompasses most of the area involved. He said that they are not convinced that they are in the flood plain, but they will look at the elevation again.

Mr. Poirier gave the Board an overview of the subdivision, saying that Fairfield Woods was approved as a 3-lot subdivision on 72.57 acres in 2006 for Ben and Sandy Smith. In April of 2007 the Smiths sought approval of a subdivision amendment to split Lot 1 to create a 27.7 acre Lot 1A and a 5.16 acre new Lot 1B with a share driveway off Buck Street. That amendment was approved on September 17, 2007.

Mr. Poirier said that it appears this applicant's proposed two new lots and septic systems are located entirely within the 100 year flood plan, leaving no possibility of locating houses or septic systems outside of the floodplain. He said that Gorham's Land Use Code, Chapter V: Floodplain Management states: "No 'new construction' or new placement of any 'structure,' including manufactured home,' nor new sewage disposal system shall be permitted in an area of special flood hazard." The definition in the code of special flood hazard is an area which has a one percent chance or greater of flooding in a given year and is know as the base flood elevation or 100-year flood plain. Mr. Poirier said that the applicant will have to provide information supporting adjusting the floodplain.

In addition, since this is a subdivision amendment, Mr. Poirier noted that the Land Use Code requires the Planning Board to consider ROW continuation to undeveloped adjoining property unless the Planning Board determines it is not in the public interest and (1) the topography is not suitable for access to adjoining land, or (2) the project is surrounded by wetlands and no suitable land is available for continuation. Staff has included an aerial photograph taken in spring of 2006 showing the availability of land abutting the applicant's lot.

Ms. Robie commented that Branch Brook is of special to Inland Fisheries and Wildlife because of the native trout population and the Board has tried to make sure that their input is taken into account when reviewing projects that impact Branch Brook.

Mr. Parker asked if the two lots intended to be gifted to family still must conform to the requirements of subdivision review, even though they would not be a subdivision. Ms. Fossum replied that they do because they are located within the perimeter of an existing subdivision. Mr. Parker asked how many lots were calculated originally; did that Net Residential Density calculation allow for 7 lots. Mr. Parker also asked if

the Code Officer would permit building in the floodplain. Mr. Fickett commented that it appears that the Net Residential Density calculations for the original subdivision allow 15 lots.

Susan Duchaine came to the podium and said she believes that these lots are exempt from subdivision review. She asked the Planning Director to provide a legal opinion in writing on this question.

Mr. Boyce said that insofar as a road extension to abutting property is concerned, it would appear that Copperhead Road terminates in wetland and that the abutter has frontage and a home has already been built.

Ms. Robie said even if the lots are gifted, they have to conform to all the standards. Ms. Duchaine confirmed that they have to conform to lot size, frontage (which is why they are before the Board, to get the private way extended for frontage), as well as complying with all environmental issues.

**PUBLIC COMMENT PERIOD OPENED:** Al Rumery, 212 Buck Street, asked for confirmation that the two pieces of property were within the 100 year floodplain. Ms. Robie said there does not appear to be room for houses and septic systems that are not within the floodplain and that it is up to the applicants to prove that the 2 lots are not in the floodplain.

**PUBLIC COMMENT PERIOD ENDED.**

There being no further comments, the workshop was adjourned at 7:05 to proceed to the regular Planning Board meeting.

Respectfully submitted,

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Barbara C. Skinner, Clerk of the Board  
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