



**Town of Gorham
March 9, 2009
PLANNING BOARD MINUTES**

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

Members Present:

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

Staff Present:

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

The Chairwoman called the meeting to order at 7:06 p.m. and read the Agenda. The Clerk called the roll, noting that everyone was present.

1. APPROVAL OF THE FEBRUARY 2, 2009 MINUTES

Michael Parker MOVED and Thomas Hughes SECONDED a motion to approve the minutes of February 2, 2009 as written and distributed. Motion CARRIED, 6 ayes (Edward Zelmanow abstaining as not having been present at the February 2, 2009 meeting). [7:10 p.m.]

2. COMMITTEE REPORTS

- A. Ordinance Review Committee** – Ms. Robie reported during its workshop meeting earlier this evening, the Board discussed the proposed Bed and Breakfast ordinance language, which will be forwarded to the Town Council’s Ordinance Committee. The proposed sunset language is scheduled for public hearing this evening as Item 6 on the Agenda.
- B. Sign Ordinance Sub-Committee** – Ms. Robie reported that an amendment to the Sign Ordinance relating to the replacement of non-conforming signs is scheduled for public hearing this evening as Item 5 on the Agenda.
- C. Streets and Ways Sub-Committee** – No report.

3. ADMINISTRATIVE SITE PLAN REPORTS

Ms. Fossum reported that there have been no new site plan submissions in the past month that are subject to Administrative Review.

Ms. Robie explained that the following items are administrative in nature and have been recommended for approval by staff. Unless a Board member or a member of the public wishes to have an item taken off the Consent Agenda for discussion, the items will be voted on as a single item without discussion.

3. CONSENT AGENDA

A. PRIVATE WAY AMENDMENT – Small Pond Road – off County Road – by Rudolph Ahlquist

Request for approval of an amendment to relocate the entrance to Small Pond Road by Rudolph Ahlquist. Zoned: Rural; Map 15 / Lot 24.002.

B. SITE PLAN AMENDMENT -- Plan-It Recycling & Transfer -- By CLRS Properties, LLC, Ron Smalley. Request for an amendment to Condition of Approval #5 to extend the time period for installation of the visual screen beyond March 1, 2009. Zoned I, (M12/L26.001).

There being no requests to remove any item from the Consent Agenda by either a Board member or the public,

Michael Parker MOVED and Douglas Boyce SECONDED a motion for approval of the items on the Consent Agenda with proposed conditions of approval.

Discussion: Ms. Fossum confirmed that the applicants have seen and consented to the Conditions of Approval.

Motion CARRIED, 7 ayes. [7:12 p.m.]

Douglas Boyce MOVED and Thomas Fickett SECONDED a motion to move Items 5 and 6 to the end of the Agenda in order to accommodate the applicants present for the other items on the Agenda.

Discussion: Ms. Robie asked if there were any objections from the public, the Board or staff. There were no objections.

Motion CARRIED, 7 ayes. [7:13 p.m.]

7. PUBLIC HEARING: SITE PLAN APPLICATION – SOUTH GORHAM SUBSTATION – OFF STRAW ROAD BY CENTRAL MAINE POWER

Request for approval of a proposal to extend the South Gorham Substation to accommodate a new auto-transformer and an addition to the existing control house off Straw Road. Zoned Rural, Map 4/Lot 10 and Map 18/Lots 1 and 12.

Samantha Perkins, OEST Associates, appeared on behalf of the applicant and gave the Board an overview of the project, showing the proposed area of expansion and structures. Ms. Perkins said that several permits have been applied for, Maine DEP Site Location Permit, an NRPA Tier 3 permit, and an Army Corps of Engineers Permit, and indicated that MEDEP is drafting up the required permits now. The Army Corps of Engineers permit was received in October. She said that as the project will impact some 45,000 square feet of wetland, the applicant will pay a \$173,000 in lieu fee. Ms. Perkins said that CMP has agreed to the Fire Chief's request regarding funding the fire pond upgrade and servicing on Amy's Way, as well as the Public Works Director's request to maintain and upgrade Straw Road and Washburn Drive.

Mr. Poirier gave the staff comments, noting that the applicant has included a landscaping plan showing the installation of considerable vegetated buffering along the northeastern property line with Straw Road. He said that the applicant is proposing to install two wall mounted luminaries, one above each of the new control house entrance doors, which will be full cut-off fixtures. These lights will be placed on an automatic timer, coming on at dusk and shutting off at dawn. The applicant is also proposing to install twenty-two full-cut off pole mounted Mongoose luminaries, to be located away from the live substation conductors and equipment so they can be easily serviced, and also on an automatic timer coming on at dusk and shutting off at dawn. The last type of lighting proposed is thirteen Holophane Predator work luminaries to be installed on the steel

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most structures throughout the expanded substation yard. The lights will be directed to those areas that require routine maintenance and operation. Mr. Poirier noted that the proposed lighting is only for the expansion of the substation and does not include any lighting that is currently in use at the old substation.

Mr. Poirier referred to the Fire Chief's request about updating the fire pond of Amy's Way, which is included in Condition of Approval #6, "That the applicant shall construct or fund the upgrading of Amy's Way fire pond to meet the Town of Gorham Fire Department's fire protection requirements for the site." Mr. Poirier said that a memo was received today from the Public Works Director, outlining his concerns about the numerous construction vehicle trips which will use Washburn Drive and Straw Road; Conditions of Approval #8, 9, 10, 11 and 12 have been added to address those concerns, as follows:

8. That the applicant shall maintain Washburn Drive and Straw Road (from Route 114 to the site entrance) in a condition suitable for traffic as outlined in the Public Works Director's memo dated 03/09/09 to Tom Poirier, Assistant Planner;
9. That the applicant shall make the required improvements to Straw Road and Washburn Drive as outlined in Public Works Director memo dated 03/09/09 to Tom Poirier, Assistant Planner;
10. That prior to start of construction, the existing condition of the Washburn Drive culvert shall be surveyed and photo-documented by the Gorham Public Works Department to evaluate any damages occurring to the culvert over the site construction period;
11. That the applicant shall repair damages to the Washburn Drive culvert resulting from site construction activities as outlined in the Public Works Director's memo dated 03/09/09 to Tom Poirier, Assistant Planner;
12. That prior to the pre-construction meeting the applicant shall establish a performance guarantee equaling 150% of the construction costs of the proposed improvements to Washburn Drive and Straw Road per the approval of the Public Works Director and Town Planner."

Mr. Poirier said the applicant has not received DEP permit approvals but would like to receive Planning Board site plan approval contingent on the DEP permit approvals. Planning Board's policy has been to require Maine DEP approvals prior to final approval but the Planning Board has granted exceptions for similar projects in the past. Staff has added condition of approval numbers 4 and 5 to address the applicant's request, as follows: "4. That the site plan approval is dependent upon and limited to the applicant receiving Maine DEP permit approvals" and "5. That Town staff will review the Maine DEP permits for compliance with the Site Plan approval and at Town staff discretion Maine DEP modifications to the plans or submission materials may require the applicant to receive Planning Board approval for site plan application modifications."

Ms. Robie asked Ms. Perkins whether the lighting will be changed in the existing section of the substation. Ms. Perkins said that the lighting will be changed and that the perimeter lighting, on 30 foot poles, will be placed in the off position. Mr. Begin, CMP project manager, described the "friendly lighting" as providing a halo down on the ground. He confirmed to Mr. Boyce that the foot-candle readings will go to zero before reaching the property lines. Ms. Robie asked if the applicant would accept a condition of approval regarding the changeout of the remaining lights in the other areas. Mr. Begin said they would accept such a change but it would have to wait until the end of the proposed project. Mr. Begin said that their "friendly lighting" is simply to accommodate the Town of Gorham, but no safety concerns are sacrificed. Ms. Burns proposed the following language for a condition of approval: "That the applicant shall modify the lighting on the remainder of the site to comply with the 'friendly lighting' plan proposed for this site plan, with the change to occur by December 31, 2010; and an extension of this time period may be approved by the Town Planner as a de minimis change." The Board concurred with the proposed condition of approval.

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

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Ms. Robie commented that the Board's practice has been to place an item on the Consent Agenda pending receipt of the requisite MEDEP permits and asked for the Board's input. Ms. Perkins said they are hoping to get the DEP permit within the next week and are hoping for mobilization by April 6. Mr. Begin asked if they can just send in the permit without having to come back before the Board. Ms. Fossum said that if the project is approved tonight and the DEP permit is provided to the Town with no changes, the applicant would go ahead with recording of the decision document and a preconstruction meeting would be scheduled in order to accommodate the April 6 date. If the permit came back and there were significant changes, the applicant would have to come back for site plan amendment. Ms. Fossum said that if the item were placed on the Consent Agenda for April 6, the applicant could not go forward with its mobilization date because the decision document would need to be recorded and the preconstruction meeting would have to be held, which would probably add another week even if the application were fast-tracked. Mr. Parker said that even if the Board were to approve the project, the mylar still would have to be signed, so he would recommend the Board not being asked to sign the mylar without the final DEP permit in hand. The Board concurred, and Ms. Robie said that the two conditions of approval crafted by staff (#4 and #5) shall remain unchanged.

Edward Zelmanow MOVED and Douglas Boyce SECONDED a motion to grant approval of Central Maine Power's request to expand the South Gorham Substation to accommodate a new auto-transformer and an addition to the existing control house off Straw Road, with conditions of approval as posted to the meeting and discussed with the applicant, and so amended here this evening. Motion CARRIED, 7 ayes. [7:45 p.m.]

8. PUBLIC HEARING: SITE PLAN AMENDMENT – KINGS FARM MARKET – 44 COUNTY ROAD – BY BARBARA KING

Request for approval of a proposal to relocate an existing greenhouse structure and replace two additional greenhouse structures with a 60' x 100' metal pole barn and attached 40' x 100' deck at the corner of County and Burnham Roads. Zoned Suburban Residential, Map 6, Lot 19.

Lisa King, applicant, explained that Kings Farm Market is located at 4 Burnham Road. She described the proposal and referred to the issues of stormwater and traffic which were raised during the sitewalk. She pointed out a ditch on the eastern side of the property that historically has taken water to the back of the property; they would like to upgrade the ditch to a swale which would divert stormwater under a gravel road servicing the cell tower into an existing farm pond. Concerning the issue of traffic, Ms. King said they are not proposing to expand the business, they are not bringing in new products lines or increasing any of the sales areas, they are not trying to get new customers, they are only trying to service existing customers and therefore will not create any additional traffic.

Mr. Boyce asked about the construction of the area being called a "deck." Ms. King said it will be a 100' by 100' cement pad on which will be placed the 60' by 100' pole barn, with the remainder of the pad being the deck, which will not be covered. Mr. Parker asked about the property line delineated on the plan; Ms. King replied that that information came when the property was surveyed for the cell tower. He asked if the new deck or pad has been plotted relative to the surveyor reference points. Ms. King replied that references have been taken from the cell tower survey; Mr. Parker stressed that it is important that a survey be done to site the pad. Ms. King said they are planning to have a surveyor come out in the spring to set the corners.

At Mr. Parker's request, Ms. King described the structure as an open-walled pole barn constructed of telephone poles milled to specific size to serve as supports with the eastern side of the barn to be covered with lattice. She said it will be an engineered structure.

Mr. Poirier gave the staff comments. He said the size of the building and of the attached deck require that the project be reviewed under major site plan criteria. He said the applicant is facing time constraints and would like specific guidance from the Board as to which requirements can be waived and which requirements the Board would require. He said that staff has received abutter concerns about buffering; the

applicants' recent submission includes a stockade fence between the abutter's property and the proposed new structure. At the site walk, concern was expressed about groundwater contamination and the abutter requested groundwater testing due to the possibility of nitrates leaching into the groundwater.

Ms. King said that DEP had come out and discussed with them the issue of compost leaching into the groundwater, an issue raised during the sitewalk. She said DEP had no issue with how compost is being stored on the site, and they will discuss the impact of fertilizers leaching into groundwater. Ms. Fossum said that no DEP permits are required.

Ms. Robie commented that the Board is being asked to review all of the submission requirements for major site plan to determine if they are any the Board is willing to waive in this instance. Mr. Stelmack said it would be difficult for the Board to indicate what waivers could be granted without knowing in advance what waivers the applicant want. Ms. Fossum said the applicant would be seeking a waiver from having to submit a full stormwater plan, there is a question of whether Ms. King's sketch plan is adequate or would a simplified engineering drawing be adequate, and whether a traffic study is required.

Ms. Robie noted that page 194 of the Code, section "d," "Assessments of the Impact of the Project," refers to the requirement for a groundwater impact analysis prepared by a groundwater hydrologist for projects with a capacity of 2000 gallons per day. Ms. Fossum said that the 2000 gallon figure is not triggered by this project. Additionally, the second paragraph is section "d" relates to a traffic impact analysis if the project provides parking for 50 or more vehicles or generates more than 100 trips during the a.m. or p.m. peak hours. Ms. Robie summarized the 4 issues as follows: the details of the drawing that are required, the stormwater issue, the Board's assessment of whether there is a traffic impact, and the groundwater impact. Mr. Parker commented that this is request to an existing approved site plan, and the change in essence is to increase the impervious area by 4000 square feet, which may or may not require a new stormwater runoff model, but it is not a change in where compost is being stored, so the hydrogeologic study might be waived.

PUBLIC COMMENT PERIOD OPENED: Hans Hansen, County Road, discussed concerns with impact on ground water and would like DEP to certify in writing that this site is safe to build on, with clean fill and no contamination under the building. He expressed concerns about the use of creosoted or treated telephone poles penetrating the soil and impacting groundwater, and asked what happened to the plastic buildings and how they were dealt with. Mr. Hansen would like to see groundwater monitoring wells set up and any wells on site should be located on the plan at least 100 feet from points of contamination. He would like staff to get a letter about the health of the water, a permit from DEP and a permit from the Department of Agriculture to make sure that the groundwater is protected at all costs. Mr. Hansen asserted that the applicants have composted on site without DEP permits and expressed concern about fertilizers in use on site. He also asked if this project would circumvent any barn and fire ordinances and would like a ruling on this issue from the Town Attorney.

Paulette Brim, 40 County Road, asked that the property line be surveyed to make sure that the building is located within the lines. She would like to see a stockade fence along the property line and agrees with Mr. Hansen's concerns about groundwater. Ms. Robie noted that this property was surveyed when the cell tower was put in and it appears that the boundary pins along Ms. Brim's property line were identified. Ms. Brim said she was not aware of that and if it was done properly done, she would be satisfied. Robie suggested going back into the cell tower records to determine that the survey was signed and sealed.

PUBLIC HEARING CONTINUED. [8:16 p.m.]

Ms. King told the Board that she holds a Food Establishment license in order to accept food stamps and the water is tested yearly at the drilled well at the corner of the deck. It is water that is used to water plants. Mr. Boyce said it would be useful to show the location of that well on a plan, as well as any information about the well's construction, and asked if there is access to any data to the testing. Ms. King said she believes she can get records from the person who drilled the well, and that she has testing data as well. She said the well is protected and no vehicles are permitted around it.

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Mr. Boyce said the applicant's sketch is well done, and it would be appropriate to go back to the surveyor who surveyed the property for the cell tower and get an updated survey to reflect any changes that have occurred as well as locating the proposed building and improvements on that same plan. Ms. Robie said it would be useful to delineate the other wells associated with the property; Ms. King said the wells in the back have not been used for many years.

Mr. Hughes concurred with Mr. Boyce's suggestion for an updated engineering drawing; he said he was concerned about the increase to the impervious surfaces and believes some sort of stormwater analysis needs to be done. Ms. Robie referred the Board to item 8 under "Proposed Development Activity" on page 193 of the Code relative to the requirements for stormwater drainage and erosion control. Mr. Stelmack agreed that a drainage study needs to be done, quoting item 8d, "Engineering calculations used to determine drainage requirements ... if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area)..." Mr. Stelmack said that in order to do that study, a good topographic plan will be necessary, but that could probably be derived from the existing plan with some updates as discussed.

Mr. Parker asked if the original approved site plan included any stormwater information. Ms. Fossum said there is an approved site plan, but it did not include stormwater analysis or any topography; it was primarily a drawing submitted by the applicant, which the Town Engineer at the time verified would pose no concerns. Mr. Parker said if it had had a stormwater analysis, he would be inclined to ask a review engineer if an additional 4000 square feet of impervious area would justify another stormwater review, but as the site has never had a stormwater review, he concurs with Mr. Hughes and Mr. Parker.

Ms. Robie said that the Board is asking the applicant to locate wells on the plan, the corners of the new building should be located on the ground as they are on the plan, and there needs to be a stormwater plan including topography and as outlined in item d of the Assessment of the Impact of the Project on page 194 of the Code. Ms. Robie said that an analysis of the two dug wells on site would be a more useful measure of any groundwater contamination rather than the information from the drilled well and asked that any report from DEP should be provided for the Board's information. Ms. King said these wells are tested every year and she will contact DEP for documentation.

Mr. Hughes said he did not see the need for a traffic study; a majority of the Board agreed with that assessment.

Finally, the Board discussed the issue of groundwater impact. Mr. Stelmack he said there have been some comments from the public that there might be some groundwater impact; however, he sees nothing to indicate that there is. Therefore, he is reluctant to require the applicant to do any site investigation to determine that there is a water quality problem; the burden of proof should be evidence that there is a problem and then the applicants could react to that. He thinks that all the applicants need to do is submit groundwater data that they already have and the Board can consider that. Mr. Parker said if no contamination has occurred in the past, he believes it is unlikely that a covered site with a concrete pad can contribute any contamination, but he would like to see any results from water sampling that are available. Mr. Hughes agreed, but said he would like to know more about the poles to be used. Ms. King explained that the poles will be set on top of the concrete pad and will not be placed in the ground.

Mr. Parker said he would like to see engineering drawings of the structure, including the pad.

After hearing from the Board members, Ms. Robie summarized what will be required of the applicants as follows: they will provide an upgraded survey; they will provide a stormwater plan including topographic information; and groundwater information on the dug wells will be provided, along with any DEP reports. A

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traffic study is not required. Engineering drawings of the building should be provided, as well as specifying the building materials proposed.

Mark Stelmack MOVED and Edward Zelmanow SECONDED a motion to continue the public hearing to a date to be determined. Motion CARRIED, 7 ayes. [8:40 p.m.]

Ten Minute Stretch Break

Mark Stelmack MOVED to waive the 10:00 o'clock rule. There being no second, Mr. Stelmack withdrew his motion.

Douglas Boyce MOVED and Edward Zelmanow SECONDED a motion to observe the 10:00 o'clock rule.

Discussion: Mr. Hughes expressed concern about having moved the public hearings to the end of the agenda. Ms. Burns suggested that the Board could take public comment on the proposed ordinance changes after the next two items and then continue the public hearings on the changes to a later date with additional public comment. It was determined that another meeting of the Board could be held on March 23 to discuss the ordinance changes.

Motion CARRIED, 6 ayes and 1 nay (Mr. Hughes). [8:51 p.m.]

9. PRELIMINARY & FINAL SUBDIVISION/PRIVATE WAY - HUNTER ESTATES / SHYANNE WAY – OFF NORTH GORHAM ROAD - BY PAUL SMITH

Request for preliminary and final subdivision approval of a four lot subdivision on 6+ acres at 112 North Gorham Road with approval of a private way approximately 666' named Shyanne Way off North Gorham Road. Zoned SR, (Map 93/Lot 29).

Paul Smith, applicant, 46 Phinney Street, told the Board he believes he has submitted all the required information. He said that the issue of a drainage easement is being incorporated by his attorney into the road maintenance agreement and is also shown on the plan.

Mr. Poirier reviewed the particulars of the project for the Board. He said that the Board denied the applicant's request for a waiver from a high intensity soil survey and nitrate plume analysis at its December, 2007, meeting, and the applicant therefore submitted the soil survey and nitrate plume analysis on August 28, 2008. With regard to the legal drainage easement language, staff has drafted condition of approval #13 to address this issue as follows: "That the legal easement documents shall be submitted for review and approval of Town Staff and the Town Attorney prior to the Planning Board's Endorsement of the final plan." He noted that even though a substantial portion of the private way has been constructed, the applicant's professional engineer will be required to provide stamped as-built record drawings showing that the private way has been constructed according to approved plans. Mr. Poirier said that Bob Burns, Town Engineer, will review the as-builts and certification for approval. Since the majority of the private way has been constructed, the applicant plans on funding the remaining construction through personal funds and therefore requests a waiver for proof of financial capacity.

Staff has advised the applicant that he has substantially completed the submission requirements, and the applicant has been advised to request a waiver of the procedures leading up to final subdivision approval. Mr. Poirier said that the applicant has submitted revised plans in response to staff's review memo of February 13, 2009. Finally, Mr. Poirier said that an abutter who maintains an active working farm is requesting that a plan note be added notifying potential buyers of the many typical smells and noises associated with farming. Staff has added Condition of Approval #12 to address the abutter's concern, as follows: "That the applicant shall add a plan note to the subdivision plan for review and staff approval,

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identifying the northern abutting property runs a small farming operation with associated noise and smells attributed to farming.”

Mr. Stelmack asked if there is a precedent for waiving the requirement for financial capacity with the use of personal funds. Mr. Poirier replied that notes indicating the use of personal funds have been seen in the past, and in this instance, a large portion of the construction of the private way has already been completed.

Mark Stelmack MOVED and Thomas Hughes SECONDED a motion to grant the applicant’s request for waiver of financial capacity based on the explanation given by staff. Motion CARRIED, 7 ayes. [9:00 p.m.]

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to grant the applicant’s request for waiver from the procedures leading up to final subdivision approval under the ordinances. Motion CARRIED, 7 ayes. [9:01 p.m.]

Edward Zelmanow MOVED and Thomas Fickett SECONDED a motion to grant approval for Paul Smith’s request for private way, preliminary, and final subdivision approvals for Hunter Estates Subdivision and Shyanne’s Way, with conditions of approval as posted prior to the meeting and discussed with the applicant.

Discussion: Mr. Parker noted that since the applicant built the road before approval, it will be the responsibility of the applicant’s engineer to be able to certify that the plans which the Board is approving are in fact how the road was built. Mr. Parker said he had hoped the engineer would be present to tell the Board how he will do that. Mr. Smith replied that he built the road to Town standards and he told the engineer to draw what he built; tests were made on the gravel and its depth to show what the road was for the engineer to draw. Mr. Poirier said the Town Engineer will review the as-built drawings to ensure they meet the drawings that the Board approves tonight. If the Town Engineer feels that the gravel is inadequate or that additional testing is required, he can request that from the applicant’s engineer to be sure that the road meets the standards of the Code. Ms. Fossum said that when Mr. Smith began construction of his road, there was a Town Engineer on staff so there is a record of the early construction that occurred on site.

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

Motion CARRIED, 6 ayes and 1 nay (Mr. Parker). [9:05 p.m.]

10. SUBDIVISION AMENDMENT / SITE PLAN – FAIRVIEW ACRES SUBDIVISION – OFF MOSHER ROAD -- BY DESIGN DWELLINGS

Discussion of a proposal to develop Lot 1 of Fairview Acres Subdivision as a 5-unit commercial/office condominium development with five buildings. Zoned: Commercial Office; Map 32 / Lot 24.001.

Shawn Frank, Sebago Technics, appeared on behalf of the applicant, Susan Duchaine, who is also present. He gave an overview of the project, noting the common driveway proposed to access the upland portion of the site. Utilities are available off Main Street, as well as public water. Sewer service is available from Route 237; four treatment ponds are proposed within the project for runoff which after treatment will be directed back into the wetlands. He said that 95% of the impervious areas will be treated, and 80% of the non-impervious areas. There is one specific user, Design Dwellings, for Building 5, for which review and approval is requested, and the remaining 4 commercial buildings would require site plan approval when the applicant has found a specific owner for a building. Mr. Frank referred again to Ms. Duchaine’s reluctance to show the location of the northern by-pass route on the plan. Insofar as traffic is concerned, a MDOT traffic movement permit will be required and a scoping meeting will need to be scheduled. He said that the access driveway and drives throughout are 24 feet wide, paved surface, with curbing on one side to direct

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stormwater. Initial landscaping along the boundary has been proposed, but it is anticipated that more specific landscaping proposals will occur during site plan approvals as the various owners come before the Board.

Mr. Boyce commented that the road configuration has changed from the earlier design. Mr. Frank said the configuration has been modified as being a slightly less impact on the wetlands and as a better access design for properties in the rear. Mr. Parker reminded Mr. Frank that the Board would like to see more rather than less impervious area on the plan. Mr. Frank explained in detail the proposed stormwater treatment.

Mr. Poirier said the item is on for discussion to give the applicant insight into several threshold issues, one of which is showing the by-pass route on the plan. He noted that the Town Manager has conferred with the Town Council, who would like to continue the practice of showing the by-pass location on plans proceeding through the review process.

Mr. Poirier said that the proposed entrance to the site is located outside the Compact Area, so it falls within DEP jurisdiction, and the Board might like to see DEP's requirements before assessing if a peer traffic engineer review is needed.

Mr. Poirier said that past condominium projects' driveways have been required to be built to an appropriate corresponding Land Use Code street classification. The Board should advise the applicant what standard the driveway should be built to.

Mr. Poirier referred to the Code's extensive requirements for buffering commercial land uses from residents and/or other residential zones, as well as from public ways. The Board should look at the proposed single row of trees and shrubs located along the eastern and southeaster property lines to determine if that is adequate, and the Board may also ask for landscape renderings by a Landscape Architect.

Mr. Parker asked what standard the drive is proposed to be; Mr. Frank replied that the road would be 24 feet wide but he did not specifically compare it to Gorham's road standards. Mr. Poirier said that the width of the proposed drive meets the standards of a gravel private way and the pavement does not meet the standard of a public way. Ms. Fossum said that the road standard would be determined by anticipated traffic volumes at maximum buildout. Mr. Parker asked if traffic weight should also be considered. Mr. Frank said they could work with a spec of 18 and 3 to make sure that the pavement section meets Town requirements. Ms. Robie noted that correct turning radii will be required if the roads will be used by large trucks.

Mr. Poirier confirmed with Ms. Robie that the need for a peer review traffic engineer could be postponed until the DOT's requirements for the traffic movement permit are known.

The Board discussed with Ms. Duchaine what use she anticipates for Building 5 and her office. She said it would be mainly office use, with some equipment such as dump trucks and backhoes to be serviced occasionally in a service bay. Mr. Stelmack asked if this is not more of an industrial use. Ms. Fossum said the Code Enforcement Officer will have to provide a determination if this is a permitted use in the Commercial Office District. Ms. Duchaine said she does not anticipate this will be an industrial park, and as each building is sold, the owner will come before the Board with their own plan for site plan review.

The Board discussed with Ms. Duchaine the issue of showing the by-pass location on the plan, with Ms. Duchaine again restating her reluctance to do so. Ms. Robie said that at the request of the Town Council, the Board has had a practice of asking developers to show the by-pass location. She polled the Board to determine if the applicant should put the by-pass location on the plans; five Board members felt it should be shown, and two (Mr. Fickett and Mr. Hughes) did not. Mr. Stelmack said he was on the public advisory committee for the by-pass and can vouch that the environmental assessment has been completed, and that what is shown on the map is a fixed location. Ms. Duchaine indicated that the map provided this evening is the first time she has seen the location of the proposed northern by-pass and said it goes through her property. Mr. Parker suggested that Ms. Duchaine go before the Town Council and asked to be exempted

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from showing the by-pass location. Mr. Hughes asked if there is a legal position on this issue; Mr. Burns commented that there is nothing that precludes the Board from asking that this be delineated on the plan and there is nothing that requires it either.

Mr. Frank asked what setbacks would be involved and what the implications are associated with showing the by-pass. Mr. Stelmack said this is not a new requirement, there have been developments showing the southern by-pass route, and staff should be able to research those applications and let the developer know. Ms. Duchaine said they will lay it out and she will go before the Town Council to get exempted from showing the by-pass on her plan. Ms. Fossum said staff can perhaps contact HNTB to get a better map showing the by-pass in detail.

The Board then discussed the requirement for landscape buffering with Mr. Frank and Ms. Duchaine. Mr. Stelmack asked for a rendering of the proposed landscaping with reference to the abutters to show visually how that would meet the requirements of the Code. The applicant agreed to do so. Mr. Poirier asked if the 50 foot buffers along Routes 25 and 237 will be proposed as part of this application. Mr. Frank said the areas would be there, but he was not proposing to specifically landscape them at this time, that will be the responsibility of whoever buys Lot 1. He said that the specifics associated with the landscaping would be done as part of site plan review, and each lot owner would present a landscaping plan at the time of review. Ms. Duchaine said that as the tenants came along, they would come before the Board with a site plan showing landscaping plans and building plans. Ms. Burns said they will not buy any land because it is a condominium, what they will buy is a building or have the right to put a building on an area, which is a limited common element and not privately owned. Ms. Burns said the question is whether this will be a common space or a limited common element assigned to an individual to do. She said that landscaping associated with a building is part of a limited common element, but when landscaping is associated with the entire development, that is a common area that is maintained by the entire condominium association. A poll of the Board resulted in most of the members concurring that it is the responsibility of the developer to provide the buffers along the road. Ultimately Mr. Stelmack said he would like to see a master landscaping plan where everything that is going to be perimeter buffer, including along the road and resident abutters, is shown so the Board can approve the master plan. Mr. Stelmack said how it gets built and who is responsible for it is another issue, but it gets built to the master plan that the Board has approved. Ms. Duchaine said she believes that suggestion is fair; the rest of the Board concurred.

Mr. Stelmack asked if the requirement on page 62 of the Code dealing with “traditional New England Village design...” applied to this project. Ms. Fossum said that there are some general guidelines in the Master Plan; Ms. Duchaine said she is familiar with what has to be submitted.

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

5. PUBLIC HEARING: Proposed Amendments to the Gorham Land Use and Development Code, Chapter II, Section III, Signs relating to the replacement of non-conforming signs

Proposed amendments to the Sign Ordinance relating to the replacement of non-conforming signs.

6. PUBLIC HEARING: Proposed Amendments to the Gorham Land Use and Development Code, relating to the adoption of sunset provisions for various applications and development approvals.

Proposed amendments to the Land Use and Development Code relating to sunset provisions for various Planning Board applications and development approvals.

Edward Zelmanow MOVED and Mark Stelmack SECONDED a motion to postpone Items 5 and 6 until the next meeting of the Planning Board on March 23, 2009. Motion CARRIED, 7 ayes.
[10:16 p.m.]

11. SCHEDULE OPTIONAL MEETING - March 23, 2009

12. ADJOURNMENT – 10:17 p.m.

Michael Parker MOVED and Douglas Boyce SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [10:16 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2009

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4. CONSENT AGENDA

A. PRIVATE WAY AMENDMENT – Small Pond Road – off County Road – by Rudolph Ahlquist

Request for approval of an amendment to relocate the entrance to Small Pond Road by Rudolph Ahlquist. Zoned: Rural; Map 15 / Lot 24.002.

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 minor changes which the Director of Planning may approve;
2. That all other applicable conditions of approval attached to the original private way plan approval and previously granted amendments shall remain fully in effect;
3. That the applicant is responsible for obtaining all required local, state, and federal permits;
4. 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;
5. 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; and
6. That these Conditions of Approval, the Private Way Plan and the Declaration of Maintenance of Private Way shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner.

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4. **CONSENT AGENDA**

B. SITE PLAN AMENDMENT -- Plan-It Recycling & Transfer -- By CLRS Properties, LLC, Ron Smalley.

**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 all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control Handbook: Best Management Practices," Department of Environmental Protection, latest edition;
4. That the applicant shall add the proposed additional plantings recommended by Terrence J. DeWan & Associates to the final plan prior to the Planning Board's endorsement of the final plan;
5. That the visual screen shown on the approved plan shall be completed within 60 days of the Planning Board's approval of this amendment of the final plan and the additional landscaping proposed by Terrence J. DeWan & Associates Landscape Architects & Planners shall be installed by June 15, 2008;
6. That all other applicable conditions of approval attached to the site plan approvals shall remain fully in effect;
7. That if it is determined by the Code Enforcement Officer that the effectiveness of the visual screen has been compromised, the visual screen shall immediately be repaired;
8. That prior to the commencement of any site improvements and/or earth-moving activities, representatives of the applicant and site contractor, shall arrange for a pre-construction meeting with staff members to review the proposed commencement date of the project, the overall schedule of improvements, conditions of approval, and site plan requirements;
9. That 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;
10. That if the picking station needs to be moved on the site, the applicant shall notify the Planning Director, confer with the Planning Director as to the visual impact of the new location of the picking station, and if the Planning Director deems the visual impact to be a problem with the view shed, the applicant shall come back to the Planning Board for site plan amendment; and
11. That the conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's approval of the amendment, 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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7. PUBLIC HEARING: SITE PLAN APPLICATION – SOUTH GORHAM SUBSTATION – OFF STRAW ROAD BY CENTRAL MAINE POWER

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 all construction and site alterations shall be done in accordance with the “Maine Erosion and Sediment Control: Best Management Practices,” Department of Environmental Protection, latest edition;
4. That the site plan approval is dependent upon and limited to the applicant receiving Maine DEP permit approvals;
5. That Town staff will review the Maine DEP permits for compliance with the Site Plan approval and at Town staff’s discretion Maine DEP modifications to the plans or submission materials may require the applicant to receive Planning Board approval for site plan modifications;
6. That the applicant shall construct or fund the upgrading of Amy’s Way fire pond to meet the Town of Gorham Fire Department’s fire protection requirements for the site;
7. 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;
8. That the applicant shall maintain Washburn Drive and Straw Road (from Route 114 to the site entrance) in a condition suitable for traffic as outlined in the Public Works Director’s memo dated 03/09/09 to Tom Poirier, Assistant Planner;
9. That the applicant shall make the required improvements to Straw Road and Washburn Drive as outlined in Public Works Director memo dated 03/09/09 to Tom Poirier, Assistant Planner;
10. That prior to start of construction, the existing condition of the Washburn Drive culvert shall be surveyed and photo-documented by the Gorham Public Works Department to evaluate any damages occurring to the culvert over the site construction period;
11. That the applicant shall repair damages to the Washburn Drive culvert resulting from site construction activities as outlined in the Public Works Director’s memo dated 03/09/09 to Tom Poirier, Assistant Planner;
12. That prior to the pre-construction meeting the applicant shall establish a performance guarantee equaling 150% of the construction costs of the proposed improvements to Washburn Drive and Straw Road per the approval of the Public Works Director and Town Planner;
13. That all other applicable conditions of approval attached to the past site plan approvals shall remain fully in effect;

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14. That at least one week prior to the date of the pre-construction meeting, four complete sets of the final approved plan set will be delivered to the Planning Office for distribution to: (1) Code Office, (2) Public Works Director, (3) Compliance, and (4) Director of Planning;
15. That prior to the commencement of any site improvements and/or earth-moving activities, representatives of the developer, 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, conditions of approval, and site plan requirements;
16. That the site improvements shall be completed as shown on the approval 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;
17. That the applicant shall modify the lighting on the remainder of the site to comply with the “friendly lighting” plan proposed for this site plan, with the change to occur by December 31, 2010; and an extension of this time period may be approved by the Town Planner as a de minimis change; and
18. 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. PRELIMINARY & FINAL SUBDIVISION/PRIVATE WAY - HUNTER ESTATES / SHYANNE WAY – OFF NORTH GORHAM ROAD - BY PAUL SMITH

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 subdivision and private ways;
3. That the private ways shall be maintained for emergency vehicles year-round;
4. That the private ways shall be designed and constructed to conform to the standards for private ways as presented in the Land Use and Development Code, Town of Gorham, Section V, Subsection H, latest revision;
5. That the Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private ways have not been built to public way standards, the Town Council will not accept them as public ways;
6. That prior to the commencement of any site improvements and/or earth-moving activities associated within the approved subdivision, the applicant shall arrange through the Planning Office a pre-construction meeting with the Inspecting Engineer, Public Works Director, Code Enforcement Officer and the Planning Director to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
7. That prior to occupancy each house within the subdivision shall be properly numbered with the number visible from the private way year round;
8. That prior to the scheduling of the pre-construction meeting, the applicant shall provide property line information and site information in Auto-cad format to the Assistant Planner;
9. That at least one week prior to the date of the pre-construction meeting, four complete sets of the final approved plan set will be delivered to the Planning Office for distribution to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Director of Planning;
10. That prior to the issuance of the first occupancy permit the applicant's professional engineer shall provided stamped as-built record drawings detailing 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;
11. 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;
12. That the applicant shall add a plan note to the subdivision plan for review and staff approval, identifying the northern abutting property runs a small farming operation with associated noise and smells attributed to farming;

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13. That the legal easement documents shall be submitted for review and approval of Town Staff and the Town Attorney prior to the Planning Board's Endorsement of the final plan;
14. That all houses shall be sprinkled, meeting all applicable sections of the Town of Gorham's Sprinkler Ordinance;
15. That sprinkler plans shall be submitted to the State Fire Marshal's Office and the Gorham Fire Department for review and permitting.
16. That the sprinkler plans shall be submitted to the Gorham Fire Department at least two weeks prior to the start of installation of the system;
17. That Sprinkler test papers shall be provided to the Gorham Fire Department at the time of the certificate of occupancy inspection; and
18. That the conditions of approval, Private Way Plan, Declaration of Maintenance of Private Way, and the Final Subdivision Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plans, and dated copies 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 within the subdivision.