



Town of Gorham  
November 2, 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:**

THOMAS POIRIER, Town Planner  
SANDRA J. MOWERY, Zoning Administrator  
BARBARA C. SKINNER, Clerk of the Board

The Chairwoman called the meeting to order at 7:05p.m. and read the agenda. The Clerk called the roll, noting that all members were present.

**1. APPROVAL OF THE OCTOBER 5, 2009 MINUTES and OCTOBER 8, 2009 SPECIAL MEETING MINUTES.**

Thomas Fickett **MOVED** and Douglas Boyce **SECONDED** a motion to approve the minutes of October 5, 2009. Motion **CARRIED**, 7 ayes. [7:05 p.m.]

Mark Stelmack **MOVED** and Thomas Fickett **SECONDED** a motion to approve the minutes of the October 8, 2009 Special Meeting.

Discussion: Mr. Stelmack noted that the ending time of the meeting should be 9:26 a.m., not p.m.

Motion **CARRIED** to approve the October 8, 2009 minutes as corrected, 4 ayes (Douglas Boyce, Thomas Fickett and Edward Zelmanow abstaining as not having been present at the meeting). [7.07 p.m.]

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**2. COMMITTEE REPORTS**

**A. Ordinance Review Committee** – Ms. Robie reported that this committee finalized the ordinance work that had been ongoing with Deborah Fossum, former Town Planner, and as a result language has been forwarded to the Town Council’s Ordinance Committee modifying the Village standards concerning the location of a principle building at the “build-to” line of the parcel; three proposed ordinance changes have been forwarded to the Town Council, dealing with less than lot-sized open space in the Transfer Development district, less than lot-sized lots for pump stations, sunset provisions for applications when requested information has not been provided within 12 months for major site plans and subdivisions and 6 months for Administrative Review projects, as well as sunset provisions for special exception permits. In addition, the Ordinance Committee has received from Mark Eyerman some development guide lines to review for Transfer Development projects.

**B. Sign Ordinance Sub-Committee** – Ms. Robie said that while this subcommittee has not met, there are some minor changes moving from the Council’s Ordinance subcommittee to the Council, having to do with off-premises signs, signs on corner lots and temporary signs.

**C. Streets and Ways Sub-Committee** – No report.

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**3. ADMINISTRATIVE REVIEW REPORT**

Mr. Poirier reported that the only project ongoing in the Administrative Review process is the Mallison Street recreation area by Sappi; the applicant has requested postponement of the review of this application pending resolution of their FERC licensing requirements.

4. PUBLIC HEARING

**Proposed Amendments to the Gorham Land Use and Development Code, Chapter I, Zoning Regulations, Section I, General, G. Changes and Amendments and H. Contract Zoning; Chapter II, General Standards of Performance, Section I, Environmental, C. Mineral Exploration, Excavation and Gravel Pits, Subsections 3 and 4; Chapter II, General Standards of Performance, Section I, Environmental, E, Shoreland Area Protection; Section V, Minimum Standards for the Design and Construction of Streets and Ways; H. Standards for Private Ways; I. Subdivision, Private Way and Site Construction of Public Improvements; and Section IX, Independent Consulting and Peer Review Fees; Chapter III, Subdivision, Section III, Preliminary Plan; and Section IV, Final Plan.; and Chapter VI, Wireless Telecommunications Facilities, Section 5, Approval Process.**

Proposed amendments to the Gorham Land Use and Development Code, Chapter I, Zoning Regulations, Section I, General, G. Changes and Amendments and H. Contract Zoning; Chapter II, General Standards of Performance, Section I, Environmental, C. Mineral Exploration, Excavation and Gravel Pits, Subsections 3 and 4; Chapter II, General Standards of Performance, Section I, Environmental, E, Shoreland Area Protection; Section V, Minimum Standards for the Design and Construction of Streets and Ways; H. Standards for Private Ways; I. Subdivision, Private Way and Site Construction of Public Improvements; and Section IX, Independent Consulting and Peer Review Fees; Chapter III, Subdivision, Section III, Preliminary Plan; and Section IV, Final Plan.; and Chapter VI, Wireless Telecommunications Facilities, Section 5, Approval Process.

Ms. Robie reported that this amendment language has been available to the public for two weeks for review. She said that the language is designed to assist developers in determining what their costs would be as they go through the Town's approval process. The Board has also discussed the item in workshop.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Ms. Robie said that the Board has one substantive change to the draft language which has been available for public viewing as follows: on page 7 of 13 of the draft, under Chapter II, Section IX, Independent Consulting and Peer Review fees, item B):

“An escrow account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed for peer review pursuant to this Section. The original deposit shall be an amount specific to the application, as recorded elsewhere in this Code. It is the duty of the Town Planner to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75 percent of the original deposit. Any excess amount deposited with the Town in advance will be promptly refunded to the applicant after receipt of as-built record drawings” instead of the original language of “after final action on the application.”

**Thomas Hughes MOVED and Michael Parker SECONDED a motion to recommend adoption of the proposed amendments to the Land Use Code, Chapter I, Zoning Regulations, Section I, General, G. Changes and Amendments and H. Contract Zoning; Chapter II, General Standards of Performance, Section I, Environmental, C. Mineral Exploration, Excavation and Gravel Pits, Subsections 3 and 4; Chapter II, General Standards of Performance, Section I, Environmental, E, Shoreland Area Protection; Section V, Minimum Standards for the Design and Construction of Streets and Ways; H. Standards for Private Ways; I. Subdivision, Private Way and Site Construction of Public Improvements; and Section IX, Independent Consulting and Peer Review Fees; Chapter III, Subdivision, Section III, Preliminary Plan; and Section IV, Final Plan.; and Chapter VI, Wireless Telecommunications Facilities, Section 5, Approval Process, as discussed and amended this evening. Motion CARRIED, 7 ayes. [7:14 p.m.]**

**5. MAJOR SITE PLAN REVIEW - 329 MOSHER ROAD – BY SHAW BROTHERS CONSTRUCTION**

To review a request for approval of a site plan application for the first phase of redevelopment of the LaChance Brickyard facility to Shaw Brothers Construction offices, shop facility and associated outbuildings. Zoned Industrial (M34/L9).

Dan Shaw, Shaw Brothers Construction, came to the podium and described the proposed site plan application. He said that since the Board approved the Brickyard Quarry and Asphalt Plant project, LaChance Brick has decided to sell the remaining parcel of land with their various outbuildings to Shaw Brothers, so that Shaw Brothers now owns the entire parcel. Attempts to buy the westerly adjacent property to their existing facility on Route 25 have not been successful, so the intent is to build a new Shaw Brothers facility on the LaChance site. Mr. Shaw said that a large percentage of their work force had to be laid off due to the economic slowdown this past year, and this proposed site plan redevelopment of the LaChance property is an attempt to provide employment for their employees. He said that plans are to build “green,” a complex that is state of the art and ahead of its time. Plans include a new larger office building, a larger maintenance shop with larger overhead cranes, radiant heat, truck lifts, grease recovery system, a fabrication welding shop, two warehouses, crusher maintenance facility, truck scales with a scale office, and a 50,000-plus gallon fueling system. Mr. Shaw said that this facility will have truck and equipment parking which will be visible to the road as they do not wish to hide their company.

Mr. Shaw said that phase 1 will consist of demolition of all of the LaChance buildings, temporarily capping all the utilities, bringing sewer into the site from across Route 237, filling the site to subgrade, obtaining approval of and constructing a stormwater system, securing approval to use the existing traffic study, and approval of the landscaping. He said he is aware that if approval of phase 1 is granted, there may be problems with phase 2 with discussions to be had on such items as lighting and building facades; however, they would like to have the assurance that they can proceed under the ordinance. Mr. Shaw also asked for assurances on how the required public hearings would be conducted, as well as what peer review, if any, might be required.

Mr. Shaw said that while they do not as yet have a concrete plan, they are asking for approval of phase 1 of the redevelopment, some of which involves Board approval and some of which does not. Mr. Shaw asked that the Board provide feedback on whether it will work with them to expedite their approval, and even though they recognize that there will be some issues to be resolved once a plan has been submitted, they are hoping that if the project meets ordinance requirements, they would like to be confident that timely approval can be secured. If a long delay is anticipated, they would keep the existing LaChance buildings as storage and build their new facility at another location.

Mr. Shaw asked to hear from Board members as to what their opinions are about the project. He asked that a site walk be postponed until phase 2 comes before the Board as the Board has seen the site before. Mr. Shaw also asked if the Board could grant final approval for phase 1 of the project at the Board’s December meeting.

Walter Stinson, Sebago Technics, came to the podium, described phase 1 of the project and asked for early feedback from the Board. He said that the LaChance site is about 5 acres in size, with about 35,000 square feet of building left on the site. It will require some 2 to 6 feet of fill to bring the elevation up to subgrade at the existing entrance. Utilities will be brought to the site, with a sewer stub brought across Route 237 from the existing pump station, water service to the site has been installed as part of the quarry facility, the existing gas service will be capped off but at some point will be run back into the site. Mr. Stinson said the new stormwater treatment standards, recently enacted by DEP, will need to be met. He said the site will be graded at about a 2% slope from west towards Route 237 on the east, water will be gathered in a drainage

swale, brought across an access road in a culvert to a stormwater treatment pond or wet pond. However, other alternatives are being looked at as well for stormwater treatment. Mr. Stinson said that the quarry was originally permitted with a requirement for a 100-foot buffer along Route 237, and the treatment pond as presently conceived would be part of that buffer, which would not be permitted, so they propose to reconfigure the quarry lot and of the LaChance parcel in order to meet buffer requirements and not intrude on the 100-foot buffer.

Mr. Stinson pointed out that the current landscaping will be continued across the LaChance site. He showed the Board a number of photographs taken of the LaChance buildings demonstrating conditions on the parcel. Mr. Parker and Mr. Stinson discussed where the access road will be moved. Mr. Stelmack and Mr. Stinson discussed the proposed fill material. Mr. Stelmack and Mr. Stinson discussed the proposed stormwater treatment pond, with Mr. Stinson noting that no more impervious surfaces will be created on the LaChance site than are there now. Mr. Stinson indicated that the wet pond would be built in phase 1 of the project, and the plan will be finalized for the December meeting submission.

Mr. Poirier gave the staff comments, noting that staff notes were prepared based on the applicant's October 20, 2009 submission. Review of the proposal will require site plan review for the LaChance Brick site, as well as a gravel pit amendment for the Brickyard Quarry regarding splitting of a section of the old gravel pit lot into the LaChance site. Mr. Stinson said that a meeting was held with staff about realigning the three sites to address buffering concerns, but it has not been officially presented to staff for review. Mr. Poirier said there is a 2-week public hearing notification requirement on the quarry, and the submission deadline for the December 7 meeting is November 6, 2009. Mr. Stinson confirmed that the applicant is not required to go through Site Location of Development Law, based on correspondence from Mark Stebbins of DEP, because the LaChance site is located within a licensed quarry operating under the Performance Standards for Rock Quarries.

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

Ms. Robie commented that the Board will approve any application which meets the ordinance, and what Mr. Shaw described as going in the site sounds like an exciting project. She said that all submissions must be timely received, as what is presented when the project is advertised for public hearing two weeks before the meeting date is what the public hearing is held on. Mr. Parker said he believes the Board will be concerned about runoff, feels that late changes or "surprises" could impact the complexity of the application and its approval by the Board, but overall the proposal appears to be a good addition for Shaw Brothers, is a permitted use in an industrial zoned area, and phase 1 looks fairly straightforward. Mr. Boyce said he feels the project can get approval if it meets the standards of the ordinance and believes it is a very good use of the property. Mr. Shaw told Mr. Boyce that it could be 8 months to a year before the phase 2 project can come before the Board. Mr. Shaw told Ms. Robie that most of the work in phase 2 is inside the facility. Mr. Hughes said he thinks phase 1 looks pretty simple, but that should not be construed as tacit approval of phase 2, and it is not a matter of the Board "wanting" the applicant to develop the LaChance site, it has to do more with whether the project will meet the ordinance requirements and fit in with the rest of the site plan. Ms. Robie concurred with Mr. Hughes' statements.

Ms. Robie polled the Board on the question of a site walk; it was unanimous that there is no need for a site walk. Mr. Zelmanow suggested that it might be helpful to look at the current Shaw facility before phase 2 comes before the Board. Mr. Shaw concurred that it could be a good idea, and also agreed to conduct tours of the Brickyard gravel pit and asphalt plant.

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*Ten Minute Stretch Break to 8:20 p.m.*

**6. PRIVATE WAY REVIEW – JUNEAU WAY – OFF NEW PORTLAND ROAD – BY PAUL ERSKINE**

To review a request for Private Way Approval for a private way off New Portland Road. Zoned Suburban Residential/Black Brook & Brackett Road Special Protection District (M27/L12.001).

Paul Erskine, applicant, came to the podium and described the private way as being an 800 foot frontage road to serve two to six lots. The site is 12.5 acres, and the Black Brook and Brackett Road Special Protection District encompasses approximately 3 acres of the site. There will be no wells in the Special Protection District, which will be established in the road maintenance agreement. He said that the lot he proposes for his personal use will be served by a one-inch water line stub already in place on Libby Avenue.

Mr. Poirier gave the staff comments, asking if the Board would like to add a condition of approval limiting access to the private way for the lots served by the private way, instead of having individual driveways off Libby Avenue and New Portland Road; and a condition of approval requiring that the applicant provide evidence that any new wells will comply with applicable state and local requirements.

The Board concurred that a condition of approval should be added which states “That access for any lots served by the private way shall be from Juneau Way.” The Board also concurred that a condition of approval is not required concerning new wells.

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

**Michael Parker MOVED and Douglas Boyce SECONDED a motion to grant approval of the plan of private way for Juneau Way, an 850 foot private way, located off New Portland Road, as requested by Paul Erskine, with conditions of approval as posted prior to the meeting, discussed with the applicant, and amended this evening. Motion CARRIED, 7 ayes. [8:30 p.m.]**

**Mark Stelmack MOVED and Douglas Boyce SECONDED a motion to adopt the Findings of Fact and based on these Findings determines that the proposed project will have no significant detrimental impact to the Town of Gorham.**

Discussion: The Board concurred that the Planning Board Chairwoman can sign the Findings of Fact on behalf of the Board. Mr. Zelmanow suggested that a final copy of the Findings be prepared for subsequent meetings so that if there are no changes to the Findings, the Chair can sign them immediately after the meeting is concluded.

**Douglas Boyce MOVED and Thomas Fickett SECONDED a motion that a condition of approval will be added that the Chairwoman can sign the Findings of Fact on behalf of the Board. Motion CARRIED, 7 ayes. [8:31 p.m.]**

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**7. CONDO SUBDIVISION/MAJOR SITE PLAN REVIEW – HAWKES FARM – OFF MAIN STREET – BY DESIGN DWELLINGS.**

To review a request for final approval of a 44-unit detached single-family residential condominium subdivision on a 13.85 acre parcel located on Main Street near the intersection of Main Street and Elizabeth Street, with two roads. Zoned Office Residential (M26/L13.201-13.244 & 13.002).

Shawn Frank, Sebago Technics, appeared on behalf of the applicant and gave a brief overview of the project, noting that the present proposal is to develop the 44 units in seven phases of building development due to financing constraints. Streets will be 24 feet of pavement, curbing on both sides, and sidewalk on one side. There will be 3 stormwater ponds. Mr. Frank discussed the sewer system design, extension of water throughout the project, and street trees to be installed in association with individual lot development. Plans have been submitted for a sidewalk on Main Street as part of phase 3; Mr. Frank noted that there is a

condition of approval that the sidewalk construction start no later than July of 2010. He said that their stormwater analyses for the 10, 25 and 100 storm events have been added to the regional drainage analysis done in connection with earlier projects showing that this project will have no impact on peak rates of runoff to the culvert. The stormwater permit has been received from the MeDEP. Mr. Frank asked that the conditions of approval include language stating that "... the distance between the existing dirt driveway entrance (the entrance), currently used as access to the Shaw Brothers Construction property (4659/49), and the proposed new paved entrance for Tink Road is approximately 125 feet. Approval of Hawkes does not restrict future use of the entrance" to accommodate the abutting landowners on the question of the proposed access to New Portland Road."

Ms. Robie noted that the application before the Board this evening is different from the one the Board saw when it granted the project conditional preliminary approval in that it is now contemplated as a phased development and the Board has not had the opportunity to discuss the phasing. Mr. Parker said he did not believe that the issue of phasing is sufficient to rescind the conditional preliminary approval. Susan Duchaine, applicant, came to the podium to explain the reasoning behind the proposed phasing, based on Fannie Mae and Freddie Mac financing approval requirements. In response to a question from Mr. Stelmack, Ms. Duchaine said that phases 1 and 2 will be built together; phases 3, 4 and 5 together; and phases 6 and 7 last, and said they will not skip phases. Mr. Hughes confirmed with Mr. Poirier that there is nothing in the ordinance that limits phasing, it is more at the discretion of the Board as to how phasing progresses. Mr. Poirier said the major issue with the phasing is at what point in the phasing would the Board like to see the connection to New Portland Road made. Mr. Poirier said that staff feels that the applicant has submitted plans meeting all of the conditions of the conditional preliminary approval. A poll of the Board resulted in an unanimous decision not to rescind the previous conditional preliminary approval.

Mr. Fickett asked when the pumping station will be up and running; Mr. Frank replied that in the first two phases, the sewer will be gravity fed to Main Street, and the pumping station will be up and running in phase 3. Ms. Duchaine said that before they can get building permits for phase 3, they will need to post a bond for whatever has to be done in that phase, which would include the pump. Mr. Poirier referred the Board's attention to Condition of Approval #3, "That prior to the commencement of construction on any part thereof of Phase 3, the Developer shall have acquired approval from the Portland Water District for the pump station design."

The Board next discussed the phasing of the connection of Tink Drive to New Portland Road, with the following condition of approval crafted: "That the connection of Tink Drive and all associated infrastructure shall be completed to the New Portland Road before starting construction of the 23<sup>rd</sup> unit." It was also determined that the existing structure will be removed before the start of construction.

A condition of approval was written to address the timing of the Main Street sidewalk construction as follows: "That the installation of the offsite sidewalk in the Main Street right of way shall commence no later than July 01, 2010 and will be completed within 90 days."

Mr. Poirier gave the staff comments, asking if the Board wishes to consider the proposed improvement guarantee as a condition of approval, and if the Board wishes to grant the applicant's request for a waiver from the 30-foot drainage easement requirement to 15 feet. Those drainage easements, such as that between units 12 and 13 and 25 and 26, will not be maintained by the Town but by the homeowners' association. Mr. Poirier said that the Town's attorney is satisfied with the proposed language of "... the distance between the existing dirt driveway entrance (the entrance), currently used as access to the Shaw Brothers Construction property (4659/49), and the proposed new paved entrance for Tink Road is approximately 125 feet. Approval of Hawkes does not restrict future use of the entrance."

Ms. Duchaine commented that the "in lieu" language has always been permitted in the past. Mr. Stelmack asked if there has ever been a problem to the Town in accepting the "in lieu" language; Mr. Poirier said there

have been subdivisions that have sold lots in the past without putting up their performance guarantee, which have then become enforcement actions. Ms. Mowery said that if the Board chooses to adopt the "in lieu" condition of approval, the Board should consider requiring the applicant to put up an escrow for field inspection. Ms. Duchaine said she has no problem with that.

**PUBLIC COMMENT PERIOD OPENED:** Stig Ammentorp, son-in-law of abutter Dorothy Shaw, expressed concern about how runoff will be channeled off her property and asked about the farm stand lot, noting that drainage from that area impacted his mother-in-law's property. He asked for a ditch or berm to re-direct that water back into the drainage system. Ms. Duchaine said that as phases 1 and 2 are being built, the stormwater ponds for those areas will be built at the same time. Mr. Frank said that DEP requires that stormwater requirements for each phase be met as the phases are constructed. Ms. Duchaine said that whatever happens on the farm stand lot, care will be taken not to direct water on another property.

Arthur Berry, Meadowbrook Drive, Meadowbrook West, clarified that it is not the practice of Meadowbrook West to insure that the box culvert remains unclogged but rather he believes that it is the responsibility of the abutting condominium association. He said that since it was cleaned out in the mid-1990s it has been functioning and doing the job.

Lynn O'Leary, abutter, asked about the phasing and timing of the project.

**PUBLIC COMMENT PERIOD ENDED.**

**Douglas Boyce MOVED and Thomas Hughes SECONDED a motion to grant the applicant's request for a waiver of the 30-foot minimum utility width. Motion CARRIED, 7 ayes. [9:35 p.m.]**

Mr. Zelmanow queried the applicant about the project sign; a condition of approval was created as follows: "That the applicant shall submit details regarding the proposed project sign to insure that it meets the requirements of the Land Use Code."

Ms. Robie summarized the conditions of approval added this evening as follows:

"That the installation of the offsite sidewalk in the Main Street right of way shall commence no later than July 01, 2010 and will be completed within 90 days;"

"That the connection of Tink Drive and all associated infrastructure shall be completed to the New Portland Road before starting construction of the 23<sup>rd</sup> unit;"

"That the applicant shall submit details regarding the proposed project sign to insure that it meets the requirements of the Land Use Code;"

"That the distance between the existing dirt driveway entrance (the entrance), currently used as access to the Shaw Brothers Construction property (4659/49), and the proposed new paved entrance for Tink Road is approximately 125 feet. Approval of Hawkes does not restrict future use of the entrance;" and

"That the Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board."

Mr. Poirier noted that original Condition of Approval #10 be deleted ("That prior to the commencement of any work on site, a cost estimate for that particular proposed phase of construction needs to be submitted to the Town Planner, and all performance guarantees for that phase of construction shall be satisfied.")

The Board discussed requiring the developer to maintain the box culvert and agreed that it is not the responsibility of the developer to maintain that culvert and the Board could not require that maintenance.

Mr. Parker asked staff to research the details of the approval of the condominium association abutting Meadowbrook to see if they indeed have the responsibility of keeping the box culvert cleared.

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Ms. Robie noted that the Findings of Fact, Section F, dealing with stormwater, should be amended to indicate that the Board granted the applicant's request for waiver of the 30-foot utility easement requirement at its November 2, 2009 meeting.

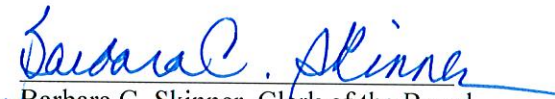
**Edward Zelmanow MOVED and Michael Parker SECONDED a motion to grant final subdivision and site plan approval for the Hawkes Farm Condominiums, a 44-unit condominium development, located off Main Street, as requested by Design Dwellings, adopting each proposed Finding of Fact as written and amended here this evening, with conditions of approval as posted prior to the meeting and discussed with the applicant and also amended this evening. Motion CARRIED, 7 ayes. [9:55 p.m.]**

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## 8. ADJOURNMENT

**Douglas Boyce MOVED and Michael Parker SECONDED a motion to adjourn. [9:55 p.m.]**

Respectfully submitted,

  
Barbara C. Skinner, Clerk of the Board  
November 2, 2009



**6. PRIVATE WAY REVIEW – JUNEAU WAY – OFF NEW PORTLAND ROAD – BY PAUL ERSKINE**

**APPROVED FINDINGS OF FACT AND  
CONDITIONS OF APPROVAL**

**Findings of Fact**

**Chapter II, Section V. Minimum Standards for the Design and Construction of Streets and Ways.**

**H. Standards for Private Ways.**

*The Planning Board may approve the use of private ways to provide access to individual lots of land provided that the following conditions are met:*

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

*The applicant is proposing a maximum number of 6 units or lots to be served by the private way. The applicant is proposing to split a new lot every 5 years.*

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The plan shall:

- be labeled "Plan of a Private Way"
- provide an approval block for the signatures of a legal majority of the Planning Board
  - i. include a line for the date of approval
  - ii. "Private Way, Approved by the Town of Gorham Planning Board".
- show information sufficient to establish on the ground the exact location, direction, width and length of the private way.
- provide a street plan, profile and cross section prepared in accordance with Chapter II, Section V., E., 3 for each private way.
- provide the following note, "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 way has not been built to public way standards, the Town Council will not accept it as a public way."

*The plan is labeled correctly and has the required approval block for signatures.*

*SD 10/14/09: All of the comments outlined in previous review letters, and most recently in our review letter dated May 5, 2009, have been addressed. From an engineering perspective, we feel that the plans are acceptable for approval, if the Planning Board is so inclined.*

*The required plan note has been added as Private Way General Note 12.*

- 3) If a private way provides access to 2 or more lots, a maintenance agreement shall be prepared for the lots accessed by any private way. This agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement shall also

specify that the Town of Gorham shall not be responsible for the maintenance, plowing or repair of the private way. This agreement, upon approval by the Planning Board, shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board.

*The applicant has provided a private way maintenance agreement meeting the requirements of the LUC.*

*Fire Chief 10/19/09: Past history has repeatedly shown that private ways are very poorly maintained, and wintertime poses a very serious issue of emergency vehicle access, with little enforcement available to the Town. I would state for the record, and make notice that the Fire Department cannot and will not be held responsible for incidents where we can not gain access to buildings or incidents on these private ways that are not properly maintained.*

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The paved apron shall be constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 1/2" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

*The private way meets the 50' right-of-way and paved apron requirements.*

- 5) Private ways shall be designed to conform with the standards presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10.

*SD 10/14/09: From an engineering perspective, we feel that the plans are acceptable for approval, if the Planning Board is so inclined.*

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes

*The proposal is for a maximum of 6 lots or 6 dwelling units.*

- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).

*The land area of the private way is not used to satisfy the minimum lot area for lot 1.*

#### **Chapter I Section XVII – Black Brook and Brackett Road Special protection District.**

*The purpose of this subsection is to further the maintenance of safe and healthful conditions; to ensure that new and existing development in this district has safe water for consumption and use.*

#### **B Applicability**

The Black Brook and Brackett Roads Special Protection District applies to area designated on the Zoning Map as the Black Brook and Brackett Roads Special Protection District, which includes the Remedial

Activities Area, the Water Resource Management Area and the Limited Water Resource Management Area.

*The southeast corner of the parcel is located in the Black Brook and Brackett Road Special Protection District's Water Resource Management Area and the Limited Water Resource Management Area.*

C Prohibited Activities

The following restrictions apply in the Remedial Activities Area and the Water Resource Management Area.

1. The drilling of any new residential, commercial, industrial or other water supply wells is not allowed.
2. The removal of groundwater by any new commercial, residential, or industrial development is not allowed.
3. Blasting is not allowed, except by the Portland Water District contractors or anyone authorized by the PWD to do such work for the purpose of extending a water main.
4. Hydraulic fracturing, over pumping, blasting or pressure intensive methods to increase the yield of existing wells are not allowed.

*Construction of the private way is located outside of Black Brook and Brackett Roads Special Protection District.*

*Private way plan note 27 and the private way maintenance agreement states that, "No wells shall be placed within the Black Brook and Brackett Road Remedial Activities Area, Water Resource Management Area, or the Limited Water Resource Management Area per the Private Way Maintenance Agreement.*

D. Development to Extend Public Water

Any application for a subdivision, residential structure or development, except the development of accessory buildings, that occurs after March 14, 2000 within the Remedial Activities Area or Water Resource Management Area that occurs within the Limited Water Resource Management area after March 14, 2000 and prior to March 1, 2004, must provide public water, at the developers expense, from a public water supply by extending a water main pursuant to the conditions established by the PWD and within the restrictions established by this section, unless the developer of the lot can demonstrate to the Town that it will comply with the requirements set forth below.

Where the developer of a lot within the district proposes to supply from a private source located outside this Special Protection District, or from an existing private water supply located within the District, the following restrictions shall apply:

1. The developer shall not undertake any activity prohibited in subsection C in developing the required infrastructure to bring the water to the lot.
2. The developer shall also provide to the Town satisfactory evidence that the private water supply complies with all applicable State and local requirements, and
3. That the Maine Department of Environmental Protection has reviewed the proposal and has made written recommendations concerning any proposed shared use of an existing private water supply located within the District. In the event that the MDEP recommends that any conditions be placed upon a shared existing water supply, the CEO shall include such conditions on any building permits issued for structures that will share the water supply. Any work undertaken and any required studies shall be at the sole expense of the developer.

*As stated above the applicant is not proposing to locate any wells within the Black Brook and Brackett Road Special Protection District.*

*For lots located within the Special Protection District that are supplied from a private water source outside the district, the Special Protection District requires evidence that the private water supply complies with applicable State and local requirements.*

E. Limited Water Resource Management Area

Any developer of a subdivision, residential structure, or commercial or industrial development which relies on or creates a private water supply well within the Limited Water Resource Management Area does so at the developer's own risk, and with the knowledge that the potential for contamination exists in the neighborhood, and that if any new water supply wells located within the Limited Water Resource Management Area are found to be contaminated with chemicals attributable to the Wyman Auto Body site, such wells must be properly abandoned at the well owner's expense, pursuant to the well abandonment procedures established in Section F. of this ordinance and in accordance with the applicable regulations established by the State of Maine.

*The applicant is not proposing to locate a water supply well in the Limited Water Resource Management Area.*

**NOW THEREFORE** on the 2<sup>nd</sup> day of November, 2009, the Gorham Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed project will have no significant detrimental impact, and the Gorham Planning board hereby votes to grant a **Private Way** approval to **Paul Erskine** to construct an 850' private way built to the 2-6 lot private way standards located on Map 27, Lot 12.001 and is situated in the Suburban Residential and Black Brook and Brackett Road Special Protection Districts.

**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 access for any lots served by the private way shall be from Juneau Way;

7. That the private way shall be properly maintained for access of emergency vehicles year round;
8. That the houses shall be properly numbered with the numbers being visible from the private way year around;
9. That prior to the issuance of any occupancy permits for any of the lots served by the private way, the developer's engineer shall submit an accurate final set of stamped "as-built" record drawings meeting the approval of the Town Engineer;
10. 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;
11. That the Planning Board Chairman is authorized by the Planning Board to sign these Findings of Fact on behalf of the entire Board; and
12. That the private way plan, approved 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 be returned to the Town Planner.

Vote of 7 in favor; \_\_ against; \_\_ abstained

**SO APPROVED BY THE GORHAM PLANNING BOARD ON THE 2nd DAY OF NOVEMBER,  
2009**

**CONDO SUBDIVISION/MAJOR SITE PLAN REVIEW – HAWKES FARM – OFF MAIN STREET  
– BY DESIGN DWELLINGS**

**APPROVED FINDINGS OF FACT AND  
CONDITIONS OF APPROVAL**

**Findings of Fact**

Chapter III, Section III.C.2 The proposed development plan:

- a) shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter II

*Town's legal counsel finds no issues with the offer of cession. Maintenance and reporting requirements for the stormwater features outside the road ROW, including but not limited to storm drain pipes and structures, ditches, and stormwater ponds, shall remain the responsibility of the homeowners' association.*

- b) will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

*At the August 24, 2009 meeting the Board did not choose to consider a waiver of 'entrance separation standards' between the proposed Tink Drive entrance and the existing Shaw Brothers entrance off New Portland Road.*

*Access from both Main Street and New Portland Road assumes that traffic from the 44 units will be dispersed with approximately 220 ADTs to/from the adjacent streets – therefore Tink Road will meet the definition of an urban access street (<250 ADTs).*

*A letter from Shaw Brothers to Design Dwellings, dated August 20, 2009, says Shaw Brothers intends to deed property to construct a public road entrance on New Portland Road. 102309: Town's legal counsel finds no issues with the easement documents*

- c) will not place an unreasonable burden, by either direct cause or subsequent effect, on the ability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

**FIRE AND POLICE PROTECTION:**

Hydrant locations are shown on sheet 6 of 15 that meet the general locations specified by the Fire Chief.

Planning has received approval from all departments for the proposed street names.

**SEWER:** There are no issues with the proposed sanitary sewer phasing plan. The applicant will be required to design the pump station to the Portland Water District requirements as outlined in the October 23, 2009 PWD letter.

**GAS:** The gas line will be constructed in phases.

**WASTE REMOVAL:**

See part e., below, regarding solid waste disposal.

**ADEQUATE ROADS AND TRANSPORTATION:**

Internal streets are looped and will provide two means of ingress/egress to the site. There are no issues with street geometry and street width.

RECREATIONAL FACILITIES: A basket ball court is proposed in the common area.

SCHOOL FACILITIES: The proposed residential development is near the town center and well situated for access to local schools.

- d) has sufficient water supply available for present and future needs as reasonably foreseeable.

*October 05, 2009 the Portland Water District issues a letter to Sebago Technics which lists requirements for the proposed water collection system, the pump station and the water system.*

*On 10-26-09 a letter from the Portland Water District dated Oct. 23, 2009 indicates there is an available water supply for present and future needs for this project. The letter also indicates that a stub-out to the property line to serve the Shaw Brothers parcel (in the future) is acceptable; however there can be no guarantee of water service to the Shaw Brother's parcel until plans are provided for future development:*

- e) adequately provides solid waste disposal and sewage waste disposal for present and future needs as reasonably foreseeable.

*Solid waste disposal is the responsibility of the Home Owner's Association.*

*A detail for the precast manhole no. 2 has been added to plan sheet 6, so that points of entry for the numerous lines entering into the manhole will be precast to maintain the integrity of the structure.*

*On October 23, 2009 the Portland Water District issued a "Specifications for Components for Submersible Water Pumping Stations" for the Hawkes Farm pump station. The letter is attached; see page 24 of 26 of these staff notes.*

- f) will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

*SYTDesign has reviewed the Stormwater management drainage report and plan and finds the proposed drainage system will not pollute surficial or ground waters.*

*The proposed residential subdivision will not create undue pollution of air.*

- g) will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

*Ch.IV, Sec. IX.G. A comprehensive erosion control plan has been provided which is in accordance with the latest State BMP guidance document.*

- h) will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features, and change of ground water table so that a dangerous or unhealthy condition may result.

*Review of the storm water management plan indicates the proposed development does not directly contribute to a water body and will not result in change to the existing water table.*

- i) will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets

*The project is an infill project surrounded by development. The proposed residential subdivision will provide housing, landscaping and amenities. No scenic vistas, historic sites or irreplaceable natural or manmade assets will be affected.*

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter VIII.

*The plan provides for an open space that includes a basket ball court for recreation.*

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
  - a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
  - b) **Owners Association:** A homeowners association shall be formed to provide for the perpetual care of commonly owned recreation land.

*The plan provides for an open space that includes a basket ball court for recreation.*

#### Chapter III-Section IV – Final Plan

#### C. IMPROVEMENT GUARANTEE. 2) –Application:

- a) Before the recording of final subdivision plats, or as a condition of approval, the Planning Board shall require and shall accept in accordance with the standards adopted by ordinance, ...
  - 1) 25% of the cost of installation
  - 2) Provision for maintenance guarantee for a period not to exceed one year after final acceptance of the improvement, in a amount not to exceed 15% of the cost of improvements...

*On Sept. 08, 2009 the Applicant submitted a letter from Gorham Savings Bank, not dated, that says the applicant has historically demonstrated financial capabilities, and advises the letter is not a commitment to lend.*

*On October 07, 2009 the Applicant submitted a letter (see page 2) from Sebago Technics to the Town Planner, dated, says, "The letter from Gorham Savings Bank does not represent a commitment to lend as financial institutions will not provide commitment to finance prior to a project receiving final approval from the Town."*

*On 10-23-09 and 10-26-09 via email: An itemized construction cost estimate of the improvements for phases 1 through 7 has been submitted.*

- 1) The Planning Board shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

*The subdivision plan shows easement locations, metes and bounds and use of proposed easements.*

The project will be required to meet the standards and requirements outlined in the Town's Post Construction Stormwater Monitoring Ordinance which went into effect October 1, 2009. The HOA



is responsible for stormwater inspection, maintenance and reporting responsibilities to the Town as well as to the DEP.

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the Issuance of Preliminary Approval.

*On August 24, 2009 the Planning Board granted a 'Conditional Preliminary Approval. On October 07, 2009, the Applicant submitted phasing plans that the Board has not reviewed/ considered. Review of the proposed phasing plan by staff and the peer review engineer indicates there are no issues with the proposed phasing plan.*

#### **Chapter IV Section IX - Approval Criteria and Standards**

- A. **Utilization of the Site** - The plan for the development will reflect the natural capabilities of the site to support development.

*There are no issues identified that indicate the proposed development is not suitable to the site.*

- B. **Access to the Site** - Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

*At the request of the Board, the Applicant provided a second means of ingress/egress from Tink Drive onto New Portland Road. The proposed entrance off New Portland Road should do much to reduce vehicular traffic from the site onto Main Street; therefore the Board did not require a traffic study*

- C. **Access into the Site** - Vehicular access into the development will provide for safe and convenient access.

*The proposed site plan provides access from both Main Street and New Portland Road.*

- D. **Internal Vehicular Circulation** - The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.

*Internal roads are shown on the site plan that provide for full onsite passenger and emergency vehicular circulation.*

SD 101309: The previous plan set proposed a two-phase construction process; the current plans reflect a seven-phase project.

*The end of pavement for each phase is noted on the plans; a temporary turnaround will be constructed with Phase 3 improvements.*

- E. **Pedestrian Circulation** - The development plan will provide for a system of pedestrian circulation within and to the development

*Based upon the discussion with the Planning Board at their August 24, 2009 meeting, the sidewalk extension is proposed along the southern side of Main Street; to be constructed in Phase 3. A side walk is not proposed to be extended along New Portland Road.*

- F. **Storm water Management** - Adequate provisions will be made for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage system and maintenance plan which will not have adverse impacts on abutting or downstream properties:

On October 23, 2009 the Applicant submitted via email the signed and approved MeDEP approval # L-24665-NJ-A-N (Approval), dated 10/22/09. See pages 18 -24 of these staff notes.

SD 092209: Some of the proposed drainage easements are 15-feet wide (i.e., SD-4, SD-5, SD-3,SD-16, and sewer line between Units 16 & 17 to the property line) which is less than the 30-foot minimum width required for utilities by the Ordinance (Chapter II, Section V.G.3). The applicant is requesting a waiver, which the Planning Board granted at its meeting on November 2, 2009.

On 09/2/209 SYTDesign says they have been told that flooding occurs at the existing culvert on Meadowbrook West Condominium parcel due to brush and debris that clogs the system. On October 07, 2009 a letter from Sebago Technics to the Town Planner says, "Based on our conversations with the members of the Meadowbrook West Condominium Association that joined us for a site walk of this property, they currently assure that the inlet to the culvert remains free from debris and that no recent flooding has occurred due to blockage of the culvert since they started that practice."

SD 100709 & 101309 - Ch.IV, Sec. IX.F. The regional stormwater analysis provided concludes that there will be no significant impact to off-site drainage, including the concrete box culvert (common interest point). Based upon the HydroCAD data provided, it appears the peak ponding elevation at the box culvert during the 100-year storm event would not be increased as a result of the proposed development.

10-23-09: With respect to concerns of the ponds having a significant effect on ground water adjacent to proximate buildings we suggest that the native marine silts into which the ponds are excavated likely have an extremely slow rate of permeability and any movement of ground water can be easily relieved by the foundation drains.

10-23-09: Sheet 13 of 16 shows foundation drains to the storm drain system with backflow devices to prevent backup of stormwater into the foundation drain.

On 10-27-09 the Applicant submitted plans that show all outlet drains for foundations drains that contribute to detention ponds are above the 25 year storm event elevation.

The revised construction phasing plan has coordinated the appropriate stormwater management features to provide treatment of runoff from the road section and units associated with each of the phases.

- G. **Erosion Control** - For all projects, building and site designs and roadway layouts will fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

Ch.IV, Sec. IX.G. A comprehensive erosion control plan has been provided which is in accordance with the latest State BMP guidance document.

- H. **Water Supply** - The development will be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

On 10-26-09 a letter from the Portland Water District dated Oct. 23, 2009 indicates there is an available water supply for present and future needs for this project. The letter also indicates that a stub-out to the property line to serve the Shaw Brothers parcel (in the future) is acceptable; however there can be no guarantee of water service to the Shaw Brother's parcel until plans are provided for future development:

- I. **Sewage Disposal** - A sanitary sewer system will be installed at the expense of the developer if the project is located within a sewer service area as identified by the sewer user ordinance. The Site Plan Review Committee or Planning Board may allow individual subsurface waste disposal systems to be used where sewer service is not available.

*A detail for the precast manhole no. 2 has been added to plan sheet 6, so that points of entry for the numerous lines entering into the manhole will be precast to maintain the integrity of the structure.*

- J. Utilities** - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project.

*Electric and telephone lines will be underground in schedule 40 PVC*

- K. Natural Features** - The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction.

*No issues regarding negative impact to the environment have been identified.*

- L. Groundwater Protection** - The proposed site development and use will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems.

*No well or subsurface waste disposal is proposed.*

*The proposed storm water management system will not introduce unfiltered surface runoff into the groundwater table.*

- M. Exterior Lighting** - The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

*At the August 24, 2009 meeting the Board determined two street lights placed at opposite ends of the site is adequate.*

- O. Waste Disposal** - The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.

*Solid waste disposal is the responsibility of the Home Owner's Association. This is a proposed residential development; therefore solid wastes and hazardous wastes are not an issue*

- P. Landscaping** - The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.

*Plantings are shown to border the basketball court.*

*Several of the proposed street tree locations conflict with foundation drain lines and water services. Additionally, the trees in the center of the cul-de-sac could be reoriented further from the utility lines to reduce future damage from tree roots*

- Q. Shoreland Relationship** - The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of occupants of the development.

*The proposed site is not situated on or within the shoreland zone. This site does not border a navigable water body.*

- R. **Technical and Financial Capacity.** The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with this Code and the approved plan.

*On Sept. 08, 2009 the Applicant submitted a letter from Gorham Savings Bank, not dated, that says the applicant has historically demonstrated financial capabilities, and advises the letter is not a commitment to lend.*

*On October 07, 2009 the Applicant submitted a letter (see page 2) from Sebago Technics to the Town Planner, dated, says, "The letter from Gorham Savings Bank does not represent a commitment to lend as financial institutions will not provide commitment to finance prior to a project receiving final approval from the Town."*

*On 10-23-09 and 10-26-09 via email: An itemized construction cost estimate of the improvements for phases 1 through 7 has been submitted.*

- S. **Buffering** - The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.

*The landscaping plans show additional buffering around the basket ball court, the adjacent wetlands and the abutting residence of Gary and Cynthia Hawkes.*

*SYTDesign finds all landscaping issues are resolved.*

- T. **Noise** – The applicant has demonstrated that the development will comply with the noise regulations listed in Table 1 – *Sound Level Limits* and the associated ordinances.

*The proposed project is a residential subdivision; this standard does not apply.*

**NOW THEREFORE** on the 2<sup>nd</sup> day of November, 2009, the Gorham Planning Board adopts each of the foregoing Findings of Fact and based on these Findings determines the proposed project will have no significant detrimental impact, and the Gorham Planning board hereby votes to grant a **Condominium Subdivision, Major Site Plan** approval to **Design Dwellings, Inc.** to construct a 44-unit condominium development on ±13.86 acres situated between Main Street and New Portland Road, located on Map 26 Lot 13, 13.002 and 13.003, known as the Catherine B. Hawkes parcel, situated in both the Office Residential (**OR**) and the Urban Residential (**UR**) zoning districts.

**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 the applicant shall create a homeowners association or other legal entity acceptable to the Town and shall submit the association documents or declaration creating the association or other legal entity in a form acceptable to the Town Attorney. The documents or declaration shall specify the rights and responsibilities of each unit owner with respect to the maintenance, repair, and plowing of the common drive within the subdivision, and shall state that the homeowners association and/or the lot owners shall be responsible for all costs related to the common drive. The applicant shall be responsible for recording the approved documents in the Cumberland County Registry of Deeds within 30 days of the date of approval of the subdivision by the Planning Board;
6. That prior to the commencement of construction on any part thereof of Phase 3, the Developer shall have acquired approval from the Portland Water District for the pump station design;
7. That prior to the issuance of a building permit, a payment amount for Recreational Facilities and Open Space Impact Fee in accordance with Chapter VIII must be determined and paid;
8. That prior to the commencement of work on this site, an escrow fund for site inspections will be established with the Town, and a preconstruction meeting with Town's engineer for construction scheduling and field inspections shall be held;
9. That in lieu of a performance guarantee for the construction of each phase of the project improvements, no lot or parcel may be conveyed and no building permit for any building within a phase shall be issued by the building inspector until the completion within that phase of development of all street, utilities and other public or quasi-public improvements. If the applicant wishes to convey a lot within a phase prior to all project improvements being completed within that phase, a performance guarantee equal to the costs of the remaining improvements within that phase of development shall be submitted to the town planner and approved by the town manager and town attorney;
10. That the distance between the existing dirt driveway entrance (the entrance), currently used as access to the Shaw Brothers Construction property (4659/49), and the proposed new paved entrance for Tink Road is approximately 125 feet. Approval of Hawkes does not restrict future use of the entrance;
11. That the connection of Tink Drive and all associated infrastructure shall be completed to the New Portland Road before starting construction of the 23<sup>rd</sup> unit;
12. That the installation of the offsite sidewalk in the Main Street right of way shall commence no later than July 01, 2010 and will be completed within 90 days;
13. That the applicant shall submit details regarding the proposed project sign to insure that it meets the requirements of the Land Use Code;
14. That the Planning Board Chairman is authorized by the Planning Board to sign these Findings of Fact on behalf of the entire Board; and
15. That these conditions of approval and the Final Plans shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to issuance of any building permits for any of the lots within the subdivision.

Vote of 7 in favor; \_\_ against; \_\_ abstained

**SO APPROVED BY THE GORHAM PLANNING BOARD ON THE 2nd DAY OF NOVEMBER,  
2009**