



Town of Gorham
May 3, 2010
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
THOMAS HUGHES, Vice-Chairman
LAUREN CARRIER
THOMAS FICKETT
GEORGE FOX
CHRISTOPHER HICKEY
ANDREW MCCULLOUGH

Staff Present:

THOMAS POIRIER, Town Planner
BARBARA SKINNER, Clerk of the Board

Edward Zelmanow, Chairman, called the meeting to order at 7:04 p.m. and read the 3 item Agenda. The Clerk called the roll, noting that all members were present.

APPROVAL OF THE APRIL 26, 2010 MINUTES

Thomas Fickett MOVED and Lauren Carrier SECONDED a motion to approve the minutes of April 26, 2010. Motion CARRIED, 7 ayes [7:05 p.m.]

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Zelmanow reported that there is no new information to report since the Board's last meeting on April 26, 2010.
 - B. Streets and Ways Sub-Committee** – No report.
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ADMINISTRATIVE REVIEW REPORT

Mr. Poirier reported that Dana Lampron has submitted revised plans on April 28, 2010, for the 30,000 gallon propane storage facility located at the intersection of Dingley Spring Road and State Route 25. Those plans have been submitted for staff to review.

Mr. Zelmanow explained that the Board's process will now be different than in the past in that the Town Planner will make the initial presentation of an item and go over any points for Board consideration. This way, while the applicant is making the presentation, Board members can have the items already before them for discussion with the applicant.

- ITEM 1. Pre-Application Site Plan** — Shaw Brother Construction, Owner, proposes to construct Phase 2 of the 329 Mosher Road Site which includes a main office, maintenance facility, enclosed storage area and associated commercial, employee, and visitor parking areas on 126.13 acres at 329 Mosher Road, located on Map 31, Lot 15.009 & Map 34, Lot 15.001 situated in the Industrial (**I**) zoning district.

Mr. Poirier explained that the application has been advertised as a pre-application. Mr. Poirier explained that a pre-application means that the applicant is before the Board for review of his proposal, the project has not been sent out for staff review and there are no motions required. Board members can give input to the applicant on what they would like to see on a plan and ask any questions they may have. Mr. Poirier said that a site walk should be set up in this phase of the project, as during the Phase I review it was decided that a site walk should be scheduled for Phase II, which is now before the Board.

Danny Shaw, co-owner of Shaw Brothers Construction, came to the podium and introduced his brother John Shaw and Walt Stinson from Sebago Technics. Mr. Shaw thanked the Board for the phased approval of the project, as the Phase I project has kept people employed during the winter right after the property was purchased. He said that work has been ongoing with architects and engineers to establish a timeless brick, granite and copper building design which he trusts will be a credit to Shaw Brothers and the Town of Gorham.

Walt Stinson, Sebago Technics, gave the Board a brief historical overview of the project, referring to the 2008 quarry permit on some 120 acres, with 5 acres being retained by LaChance Brick. Shaw Brothers has since bought that parcel and proposes to utilize it to accommodate the new office building and shop complex. Mr. Stinson said that the Board on December 7, 2009, granted approval of Phase I of the site plan amendment to demolish the LaChance buildings, to construct a stormwater treatment and detention pond on the southerly part of the site, to obtain permits to fill the site and bring it to subgrade, and to obtain permits to provide both sewer and water to the site.

Mr. Stinson showed the Board the proposed site plan, with the parcel in Phase II being approximately 11.6 acres. He showed the proposed new building, an approximately 6200 square foot two story office building, the new maintenance shop of some 28,325 square feet, and an 80 by 300 square foot steel storage building on the northerly end of the site. Mr. Stinson said the sketch plan provides for 182 passenger vehicle parking spaces, 20 pickup spaces, 42 truck spaces to accommodate fuel trucks, gravel trucks and low bed tractor trailers. In addition, there will be 38 parking spaces for equipment storage such as excavators and bull dozers. He pointed out a 3-bay refueling station, which will have storage for 20,000 gallons of both diesel and off-road fuel, and 10,000 gallons of gasoline, or a total of 50,000 gallons of fuel stored on site. He pointed out a set of truck scales and an office for trucks using the quarry and the asphalt plant.

Mr. Stinson then showed the Board renderings of what the building will look like. It will be a two-story office building with a maintenance shop out back, built of brick, appropriate to the prior use of the site, with granite lintels around the windows and along the foundation. Mr. Stinson said that the applicant would like the building to be visible, so the landscaping shown is foundation plantings, a lawn area out front, and shade trees along the road frontage. Details on the landscaping will be presented the next time the applicant comes before the Board.

Referring to the 24,000 square foot storage building, Mr. Stinson said it will be divided into bays with access to each bay by vehicles and through a manned door. The building will be used for storage of equipment, tools and materials.

Mr. Stinson asked the Board to consider site walks to Shaw Brothers' existing facility as well as the Brickyard site.

Mr. Stinson confirmed to Mr. McCullough that the building will be a LEED certified building. Again in response to Mr. McCullough, Mr. Stinson said that the stormwater facilities have been designed to accommodate all of the paved impervious surfaces involved with the new buildings, both in stormwater quality and quantity. Mr. Stinson said they are required to treat at least 95% of the water that falls on the

site, and the proposed ponds will do that. Mr. Stinson replied to a query from Mr. Fox that the storage building will be made out of steel roofing and siding. Mr. Hughes asked how far away the storage building would be from the asphalt plant when it is on site; Mr. Stinson said the asphalt plant location is some 275 feet away, and there is a berm over 20 feet high on the north side of the site. Mr. Zelmanow spoke of the discussion during the quarry/asphalt plant deliberations concerning the screening of the asphalt plant from the road provided by the then-existing LaChance buildings, and asked if there would be any landscaping provided since those buildings are now gone. Mr. Stinson said that as far as screening the asphalt plant is concerned, they think the building itself and the shade trees out front should draw attention away from the asphalt plant. Mr. Zelmanow suggested that the Board look at what views would be like from the road during the site walk.

Mr. Stinson said there will be signage on the building and there will also be signage at each of the driveway entrances. Details will be provided with the next submission. Hours of operation will be 24 a day, with current operations at 22 hours per day of shifts doing maintenance in the shop. Mr. Zelmanow asked about back-up alarms on the vehicles; Mr. Shaw and Mr. Zelmanow discussed the truck traffic movements that will occur on-site based on work shifts, with most of the truck traffic moving forward as opposed to backing out.

Mr. Zelmanow asked if there will be a need for a traffic study. Mr. Stinson said that an updated study will be submitted with the next submittal. Mr. Shaw said he believes the issue has been resolved.

Mr. Zelmanow asked if the Brickyard Quarry plans will need to be amended to show the changes to the stormwater ponds. Mr. Stinson replied he has not planned on doing that; if a modification of the Brickyard approval becomes necessary, they will do so but these are not huge modifications. Mr. Poirier said that will be evaluated once the submission comes in. Mr. Stinson replied to Mr. Hughes that a photometric study has been done, to be included with the next submittal, and there will be full cut-off lighting, a combination of building lights and lights around the perimeter of the site. Mr. Stinson said they are hoping to be on the Board's June agenda.

PUBLIC COMMENT PERIOD OPENED: None offered. [7:28 p.m.]

ITEM 2. PUBLIC HEARING

Site Plan Review —Town of Gorham, Owner, proposes to construct Phase I of the Chick Property which consists of a storm water management wetpond, a connection road between State Route 25 and 202, and two parking areas with 103 parking spaces on 85.38 acres at 270 Main Street, located on Map/Lots 26/4, 26/4.001, 30/14, 30/15, 30/17, and 99/53, situated in the Urban Residential and Office Residential (UR & OR) zoning districts.

Mr. Poirier introduced the item, noting that it is advertised as a public hearing and the public will be allowed to speak. It is a continued review from the Board's April 5, 2010 meeting, so the Board members who were not present at that meeting need to identify that they were not present, that they have reviewed the materials submitted and the minutes of the April 5, 2010 meeting and affirm that they feel confident to move forward in participating in tonight's review. Abutters comments have been received on April 29, 2010 from Noel Dunn, submitted to the Board for review this evening. Mr. Poirier said that the applicant has requested a waiver from the submission requirement for a traffic impact analysis demonstrating the impact of the proposed project when the site plan provides parking for fifty or more vehicles, and per the Board's April 5, 2010 request, the applicant has submitted the 2008 Maine Transportation Traffic Counts for roads in the vicinity of the Chick property. Mr. Poirier said that the applicant has also identified

buffering and landscaping to the front of the Public Safety building and the proposed parking area, which the Board should review to determine its adequacy to meet the Ordinance requirements.

Stephen , DeLuca-Hoffman, came to the podium and gave the Board a brief overview of the project. He noted that the DEP notified the Town that the property requires a Site Location Permit because over 3 acres of impervious surface have been constructed on the site since 1975, primarily associated with the Narragansett School. Mr. Bushey said that the master plan for activities on the site was also presented to the DEP, and the DEP's primary concern is that stormwater systems be installed to address stormwater on the property. The first item of master plan activity, therefore, for which Board approval is being sought in this initial phase of activity is a stormwater management pond between the school and the Public Safety building. He discussed the wetpond that will be constructed and the stormwater discharge and management.

Mr. Bushey then spoke about the second item of master plan activity, the connector road between Route 25 to the west side of the Public Safety building, through the existing parking lot, and proceeding to the north to Route 202 through the field area. The existing tree and vegetation buffer separating residents from the property on the west side will not be impacted. The roadway will veer away from the existing gate area at Route 202 to maximize sight lines in each direction. The road has been designed to meet the Town's urban collector standards, and rather than being a 24 foot wide road with 4-foot gravel shoulders, it will be a 24-foot wide road with curbing, shoulders and open swale system for drainage. The primary reason for the curbing is to dissuade parking but every 200 feet or so there will be openings in the curbing to allow for drainage with erosion control methods employed at those openings. Additionally, Mr. Bushey said that the curbing should also control traffic speed along the road, which will primarily be used as access to the ball fields and by public safety vehicles, principally the police department with the fire department continuing to use its current pattern out to Route 25.

Mr. Bushey discussed future options under the property's master plan involving recreational uses, proposed connection to Libby Avenue, and other aspects envisioned for the site. He said that the football field will be moved to where the soccer field is today, the goal posts will be shifted and the concession stand moved as well.

Mr. Bushey then responded to questions from abutters, the first being those posed by Theresa Connolly at 11 Bouchard Drive, as follows:

- Question 1: What will be the primary use of the road connecting 202 and 25?
Answer: Basically for a combination of uses: field access ultimately for the current recreational functions and those which will occur in the future. There will be public safety users, with the fire department continuing to use their current exit road and perhaps using the new road to return, and the police department will be more likely to use the new road both going out and returning. The final use will be as a connector road between Route 25 and 202.
- Question 2: Will it be used for emergency vehicles departing for calls? Will lights and sirens be used? Will the fire station be reconfigured to make use of the road for departing engines?
Answer: The first part of the question has already been answered. Doesn't believe that the building will be reconfigured and cannot speak as to lights and sirens as public safety vehicles move in and out of the property.
- Question 3: Is the road considered a 'public highway' under title 29-A?

- If yes, will it be considered “abutting improved school property;: therefore considered a “school zone” which meets the requirements of 15 m.p.h. during recess or closing hours.
Or will it be considered residential area, which meets the requirements of 25 m.p.h.
- Answer: This will be designed as a public road. This would need to be signed as a school zone area with 15 m.p.h. Ultimately the master plans envisions an addition to the school with a separation between the bus drop-off area and parent drop-off and/or parking.
- Question 4: Will the road connect to Bouchard Drive?
Answer: It is not planned to connect the road to Bouchard Drive.
- Question 5: How far away from the current end of pavement of Bouchard Drive will the road be?
Answer: Edge of pavement of the road to the edge of Bouchard Drive will be about 55 feet.
- Question 6: Will there be landscaping to block the end of the road (Bouchard) and lessen noise?
Answer: Fencing is proposed relative to pedestrian access to funnel people from the residential to the field areas and to promote safety. Additional landscaping to buffer Bouchard Drive is certainly up for discussion.
- Question 7: Will there be a barrier to protect the children on Bouchard from the road if there is not going to be direct access?
Answer: There is proposed to be a chain link fence with an opening only at Bouchard Drive to a crosswalk across the road.
- Question 8: Will there be any sound mitigation for residents of Bouchard Drive?
Answer: Outside of any landscaping that might be discussed tonight, there is no sound mitigation proposed.
- Question 9: Will there be a cross walk with lights to access the fields from Bouchard Drive?
Answer: No lights, but certainly a cross walk is proposed at that point. An at-grade striped cross walk is proposed, but no raised table.
- Question 10: Will there be a sidewalk on the new road? Will there be curbs?
Answer: Not now, but perhaps in the future.
- Question 11: What precautions will be taken to control speed on the road?
Answer: There will be curbing to control speed, but it is not expected that speed will be an issue on this road, especially in front of the police department facility.
- Question 12: How will parking be controlled?
Answer: Will be controlled by curbing.
- Question 13: Will there streetlights on the road? Crossing lights?
Answer: No streetlights are proposed, nor any crossing lights.

Question 14: Will construction vehicles be using Bouchard Drive during the construction to access the project? Will employees of the construction companies be parking on Bouchard to access the project?

Answer: It is not envisioned that either construction employees or vehicles will use Bouchard Drive; stipulations can be made within the contract documents to prohibit any construction traffic.

Question 15: What will be the hours of construction on the project?

Answer: 7:00 a.m. to 7:00 p.m.

Questions from Ronald and Laura Smith, 25 Donna Street:

Question 1: What will the distance be from our property to the new street?

Answer: 60 feet

Question 2: What will be used to buffer the house from the street? Will we be able to access the fields from our backyard?

Answer: Existing trees, buffering and fencing to allow controlled access at Bouchard Drive.

Question 3: Will it be safe for children to cross our backyard to the ballfields? Will there be a sidewalk? Where will the street lights be located? Hopefully not in our bedroom windows!

Answer: Should be a safe environment for children; no sidewalk; no street lights.

Question 4: Will drainage from the new street cause water problems in our basement? It is very wet in the area behind our house.

Answer: Drainage swales on each side of the road will collect stormwater runoff from the road, directing it through pipes to a drainage basin. Water from the midpoint of the property will drain down the road to the detention pond. The drainage swale on the westerly side will improve drainage conditions. There will be no water generated by the new road impervious area or parking lots areas being directed toward the west; it will be directed to new systems and to the detention basin.

Question 5: How much traffic will there be? What will the speed on this new street be?

Answer: Discussed later.

Question 6: Can you fill in that small pond behind our house?

Answer: Is not familiar with the pond and cannot answer.

Question 7: Will the Fire trucks exit their building directly onto this street or do they need to go out onto Main Street and take a sharp right to get onto street?

Answer: The fire department will probably continue their usual route on to Main Street.

In response to the Smith's handwritten question, it is anticipated that the ice rink will continue on the property.

Mr. Bushey then addressed the concerns of Noel Dunn at 85 Gray Road about buffering of her property. He said that the opportunity exists to add fill to the existing path to create a small berm with additional plantings.

Mr. Bushey discussed the 2008 Maine Transportation Traffic Count report, noting that on Route 25 there were 12,400 vehicles, which numbers decreased since the construction of the by-pass to about 10,000, and the number of vehicles on Route 202 has gone from 4200 to 4700. He said that there is one traffic movement to consider, left turns from 202 into the new road, but based on the State's volume warrants, it appears unlikely that there would be enough vehicles turning left into the new road to warrant a left hand turn lane. The road will be designed to Town standards, radii will be appropriately met, there are adequate sight lines on Routes 25 and 202, and there will be signage. For all of these reasons, Mr. Bushey feels that the waiver request for a traffic analysis is justified at this time. However, future development might warrant having an analysis done.

Mr. Zelmanow asked each new Board member to state that the record of the previous Board meeting when the application was first discussed has been reviewed and each member is satisfied that he or she can participate in discussion and voting on the application. Ms. Carrier said she reviewed all of the materials that have been provided and she is comfortable with participating. Mr. Fox stated that he has reviewed the prior meeting documentation and feels comfortable being involved in the decision making process. Mr. Hickey said that he is comfortable participating from his review of the materials provided and being present at the site walk. Mr. McCullough said he was not able to attend the April 5, 2010 Planning Board meeting but did attend the April 15, 2010 sitewalk, has reviewed the taping of the prior meeting and the minutes, and feels comfortable participating.

Ms. Carrier asked whether a speed table to slow down traffic would be more effective than posting a 15 mph speed limit. After discussion, including acknowledgement of the difficulty Public Works would experience in plowing a road with speed tables, the general impression that speed tables or speed bumps are not an effective speed deterrent, and a consensus that there should be signage limiting speed to 15 mph, a poll of the Board indicated that the majority is not in favor of speed bumps at this time. Mr. Fox asked if there might not be alternative methods to slow speed down instead of speed bumps, saying that the benefit of the through access created by the road is outweighed by the impact of that road, citing safety of the neighbors and children using the recreational property.

Mr. Hughes commented that he cannot see a single good reason for the road in that it will not help the fire department or the police department, that it will not be used much, and that it will be dangerous because of the children who will be using the playing fields. He said he believes that an access road into the area is justified, but not a connecting road going through to and connecting with Route 202.

Mr. Bushey replied to a query from Mr. Fickett that the wet ponds are designed for a 100-year storm, and that there is a sidewalk on Bouchard Drive that could be extended with a stone dust path to the playing fields.

Mr. Zelmanow asked if through truck traffic could be restricted from the road; Mr. Bushey said that seemed a reasonable thing to do. Mr. Bushey told Mr. Zelmanow that the distance between the new road and Narragansett School is between 500 to 600 feet and children are not directly adjacent to the new road.

David Cole, Town Manager, approached the podium and explained that when the property was first purchased in 1968, the access road planned at that time was only an access road for public safety. However, the eventual build-out of the site as envisioned by the master plan calls for road infrastructure to support that facility. There will be some traffic that will want to go from Route 25 to Route 202, and it is in the Town's best interest to allow different access points for traffic to go through. The benefit to public safety vehicles is probably minor and will remain minor in the future, so the primary purpose of the road is to provide access into the facility and to allow traffic through. Mr. Cole said he believes that current traffic patterns on the site involving the playing fields are much more dangerous and the road will only increase safety. In response to a direct query from Ms. Carrier about raised tables, Mr. Cole said that

raised tables are not considered now, but perhaps in the future if the safety measures now being considered do not work, but noted the difficulty in maintaining them, Public Works' dislike of them, and potential liability exposure to the Town.

Mr. Hughes asked Mr. Cole if consideration could be given to building the road only part way and leaving the connection to Route 202 until future development. Mr. Cole replied that bond funding is dedicated to this project and said he can see no benefit to postponement – if it makes sense later to allow traffic through, then it makes sense do it now and get the benefit now instead of later. Mr. Hughes concurred that the cost today will be less than the cost of doing it later.

Mr. Hickey asked whether additional no parking signs will be installed; Mr. Bushey replied that there will be signs along the road every 100 – 150 feet from the Public Safety building. Mr. Hickey and Mr. Bushey discussed drainage along the existing swale near Bouchard Drive, with Mr. Bushey saying they will try to minimize any cutting of trees and add buffering with the removal of the parking lot.

Mr. Fox asked Mr. Cole if there is any sense for the timing of future phases. Mr. Cole replied the phases will occur over a long period of time based on the availability of the necessary funding. Mr. Fox commented that the road will benefit future functions.

Mr. Zelmanow reviewed some of the issues noted by staff: Mr. Bushey said that initially there were guard rails along the pond, but now the plans show a 6-foot high chain link fence. It is proposed to have slip form concrete curb with granite at the radii of Routes 25 and 202. There will be curb breaks every 200 feet to allow stormwater to flow into the roadside swales. There will be stone on those openings to deal with erosion. Landscaping details along Route 25 were discussed by Mr. Bushey, who noted that 2 two-foot berms will be installed, landscaped with 4 deciduous trees and multiple shrub and ground plantings, based on input from the Recreation Department.

PUBLIC COMMENT PERIOD OPENED: Jeanne Lavoie, 66 Hillview Road, spoke about the loss of green space, fields and trail areas, expressed concern that the road will be dangerous for children, and suggested that the road is “luxury accessibility.” She also questioned the wisdom about spending money simply because it is available.

Joe Denehy, 101 Gray Road, said that the road is a bad idea as it will funnel traffic onto it, dangerous for children, and suggested that the road should be made with turn-arounds at both ends. He asked about a possible connection to Bouchard and spoke about increased truck traffic on 202. He also spoke to the loss of views and trails in the future. Suggested a better use of the funds would be to improve the condition of current road.

Grant Caron, 16 Bouchard Drive, said that the road is dangerous as children are dropped anywhere and its use by public safety vehicles is also dangerous.

Ron Smith, 25 Donna Street, asked how curbs will slow down traffic and will there be drainage on both sides of the road, which would prevent access to the fields and make crossing the road dangerous. He asked Mr. Cole to explain why the funding has to be used for this project and why this road is advantageous to the Town.

Ryan Senatore, 67 Gray Road, expressed concern about safety issues and asked for some physical way to slow traffic down.

PUBLIC COMMENT HEARING ENDED. (8:50 p.m.)

Mr. Bushey responded to some of the public comments by noting that curbing visually narrows a road instead of shoulders, which make a road seem wider. People will not need to cross drainage swales as there will be a painted crosswalk and a fence proposed on both sides of Bouchard Drive to direct pedestrians from abutting residential properties to the pedestrian crosswalk, utilizing a culverted ditch crossing over the drainage swales.

Mr. Cole explained that in 2005 the Town issued a bond for two purposes: primarily to do this project and for other work at the Chick Property. The funding loaned under this bond must be used for the purpose for which it was loaned, and it is not possible to use the funds for other purposes. He said that the Town has a good bond rating and has planned for this project since 2005. He said that traffic planners agree that it is better to have more connections between roads to lessen traffic congestion, but the primary purpose for this road is to provide the infrastructure needed for this plan.

Mr. Hughes said that his concern is with after-school activities, not an issue with children during the school day. Ms. Carrier asked about parking in future phases; she and Mr. Zelmanow suggested that there be a path connection to the new 64-space parking lot to the current paved lot. Mr. Cole agreed that would be feasible. Mr. Cole said he is not aware of any interest on the part of the Town in connecting to Bouchard Drive unless the residents themselves do want it. Ms. Carrier asked how significant the buffering of Bouchard Drive can be made; Mr. Bushey replied he would like the flexibility of working with staff to determine what would be a good plan.

The Board discussed the applicant's request for a waiver from Chapter IV – Site Plan, Section VIII, 1), d. 2 for a traffic impact analysis. Mr. Zelmanow said that if the Board should grant the waiver, there must be a finding of fact that the current design of the road is sufficient, given the traffic information presented by the applicant, and by that finding, the Board could grant the waiver. Mr. Bushey referred the Board again to the 2008 Maine Transportation Traffic Counts for roads in the vicinity of the Chick property noting that no new uses are being proposed for the site, the road is being designed to the Town's urban connector standard of 250 to 2500 vehicles per day, and left hand turns are well below DOT standard thresholds warranting a left-hand turn lane. A straw poll of the Board indicated that a majority of the members felt that the traffic impact analysis should be waived.

Andrew McCullough MOVED and Thomas Fickett SECONDED a motion to grant a waiver from Chapter IV – Site Plan, Section VIII – Procedures for Major Developments, 1), d. 2. requiring a traffic impact analysis with the finding of fact that the information that has been submitted by the applicant on the estimated traffic usage is adequate.

Discussion: Mr. Zelmanow suggested an amendment to the finding of fact in indicated that not only the information submitted by the applicant is adequate, but what was discussed here this evening as well serves as a basis for the Board's finding. Mr. McCullough agreed to the amendment.

Motion CARRIED, 7 ayes [9:24 p.m.].

Thomas Fickett MOVED and Thomas Hughes SECONDED a motion to waive the 10:00 o'clock rule. Motion CARRIED, 7 ayes. [9:25 p.m.]

Mr. Zelmanow summarized proposed new conditions of approval as follows: the prohibition of through trucks, adding a path from the new 64-space parking lot to Narragansett School's current parking lot; meeting with Planning staff regarding additional buffering between Bouchard Drive and the new road; and moving the swale area.

The Board discussed methods of controlling traffic on the proposed road, including gates, speed bumps, dead ending, and limited access.

Ten Minute Break to 9:40 p.m.

The Planning Board reviewed the Findings of Fact on this project.

FINDINGS OF FACT

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.

The applicant has provided existing condition, grading, drainage, and access road plans for Phase-I and a conceptual Master Plan for the Chick Property. The plans identify site development details and accurately reflect the site's ability to support the proposed development.

- 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.

The applicant has provided the 2008 Maine Transportation Traffic Counts for roads in the vicinity of the Chick Property. The applicant has submitted traffic information that has been discussed here this evening and found to be sufficient to meet this criterion. The Board this evening has approved a waiver from the requirement for a traffic impact analysis.

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

Access to the Gorham Public Safety building will be via an access road built to the Town's urban sub-collector standards. The access road will also serve as a connector between Main Street and Gray Road.

No changes are proposed to the existing Narragansett School access driveway.

The connector road will have appropriate signage prohibiting through truck traffic.

Signs will be posted noting a school zone with a 15 mile per hour speed limit when children are present.

Additional signage regarding "no parking" on the access road will be posted.

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

An access road to the Town's urban sub-collector road standard will provide access to the Public Safety Building and the ballfields located behind the Public Safety building. The access road will also provide a connection between State Routes 25 and 202. Parking lot access driveways and aisle widths are proposed to be 24' wide allowing for two way traffic. The 24' parking aisle width also provides sufficient space for cars to back out of parking spaces.

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

The applicant has provided a painted pedestrian crosswalk on the urban sub-collector road. The pedestrian crosswalk is located directly across from the Bouchard Drive ROW. A 4' high black vinyl-coated chain link fence will be located along the western property line on both sides of the Bouchard Drive ROW. The chain link fence will serve to direct pedestrians from the abutting residential properties to the pedestrian crosswalk.

Individuals parking in the northern parking lot desiring to access the football and multipurpose fields will utilize a culverted ditch crossing located north of the parking lot's access drive. Public access to a southern parking lot utilized by the Fire and Police personnel will be hindered by a 4' high black vinyl-coated chain link fence.

At this phase of development, no sidewalks are proposed along the connector road. Future phases of Chick Property master plan currently show the location of a sidewalk along the connector road. A paved path will be added from the 64-space parking lot as shown on the plan to connect to the currently existing parking lot on the west side of the Narragansett School.

- 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: *The applicant has received DEP approval for the stormwater management system and the proposed improvements to the site, Site Location of Development Act permit # L-24350-22-C-N.*

Stormwater along the urban sub-collector will be directed to curb breaks to allow the stormwater to enter the roadside ditch. Stormwater from parking areas and a majority of the road ditch will be collected in catch basins and inlet pipes. Once collected, stormwater will discharge into wetpond #1 for treatment. Stormwater from the northern portion of the urban sub-collector road will be collected in two catch basins at the intersection with Gray Road and directed into the Gray Road stormwater drainage system.

The existing Main Street (State Route 25) culvert will be slip-lined where possible and new culvert will be installed where slip-lining is not possible, except for the portion of the concrete pipe located under Main Street.

Stone will placed at curb breaks to prevent erosion.

- 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.

The applicant has provided adequate erosion control details for the project on the Erosion and Sediment Control Plan: Sheet 6A, Erosion and Sediment Control Plan- Future Phases: Sheet 6B, Erosion Control Details: Sheet 10A and Erosion Control Narrative: Sheet 10B.

- 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.

No changes to the water supply for the Public Safety or the Narragansett School buildings are proposed during Phase I. Future phases of construction show the installation of 1,135' of 8" waterline from Bouchard Drive ROW to the center of the Chick Property.

- 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.

No changes to the sanitary sewer system for the Public Safety or the Narragansett School buildings are proposed during Phase I. Future phases of construction show the installation of 1,135' of 8" sanitary sewer line from the Bouchard Drive ROW to the center of the Chick Property.

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

The utilities used to supply power for special events held in the common yard area located between the Public Safety and the Narragansett School buildings will need to be relocated for the construction of wetpond #1. The utilities to be relocated are: an electrical panel, 14" electrical box, transformer on electrical pad, and 2 utility poles.

- 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.
Construction activities in the northeastern corner of the site will limit tree clearing to those trees located adjacent to the proposed through-access road. The applicant is also proposing to limit the wetland impacts to 14,862 sq. ft. for the construction of wetpond #1. The drainage ditch on the southwestern corner of the road will be moved closer to the western side of the road.
- 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
No changes are proposed to the site's existing lighting.
- O. Waste Disposal** - The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.
The Phase I plan will not affect the Public Safety building or the Narragansett School's current waste disposal locations or protocol.
- 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.
Chapter II, Section II - Parking, Loading and Traffic, A. Off-Street Parking Standards, 6), b) Where such off-street parking shall abut a lot in a Residence Zone of a lot in residential use, a landscaped buffer and/or fence, not less than 48 inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved. Sheet 5C: The applicant has identified the construction of 2 two-foot high berms landscaped with 4 deciduous trees and multiple shrub and ground plantings to buffer the front parking area from Main Street. The proposed species and plantings are to be provided by the Recreation Department. A berm shall be added to the Route 202 side of the proposed road in the vicinity of the Noel Dunn property..
- 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.
This standard does not apply because the parcels are not located in the Shoreland Overlay District.
- 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.
The applicant proposes to fund the project through annual appropriations within the Municipal budget, impact fees, and/or Municipal bonds. The Town of Gorham has numerous experiences in construction, operation, and maintenance of similar projects throughout the Town.

- 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 applicant is proposing to leave a portion of the existing trees along the western property line to buffer the road and parking areas from the abutting residential neighbors.
Additional buffering will be added to the end of Bouchard Drive and the applicant will meet with Town Staff to develop that plan.*
- 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 Phase I portion of the Chick Property will not increase the noise level generated on the site.

Lauren Carrier MOVED and Thomas Fickett SECONDED a motion that the applicant has met the approval criteria and standards of Chapter IV, Section IX, Subsections A through T, excluding Subsection C. Motion CARRIED, 7 ayes. [10:13 p.m.]

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion that the applicant has met the approval criteria standards of Chapter IV, Section IX, Subsection C with the changes discussed this evening. Motion CARRIED, 5 ayes, 2 nays (Hughes and Fox). [10:14 p.m.]

NOW THEREFORE on the 3rd day of May, 2010, the Gorham Planning Board unanimously adopts Findings of Fact A through T excepting C and adopts Finding of Fact C with a five aye – two nay (Hughes and Fox) vote, and based on these Findings determines that the proposed project will have no significant detrimental impact.

Rather than listing separate conditions for those items discussed this evening, Mr. Poirier suggested adding one condition that the applicant will make all the changes to the approved plan as discussed with the Planning Board before the signing of the mylar.

Thomas Hughes MOVED and Thomas Fickett SECONDED a motion to accept the proposed conditions of approval as distributed tonight and modified this evening. Motion CARRIED, 7 ayes. [10:16 p.m.]

PROPOSED 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, the applicant is responsible for obtaining all required local, state and federal permits;
3. 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;
4. That prior to the commencement of any site improvements, land clearing and/or earth-moving activities associated with the site plan approval, the applicant and the design engineer shall arrange a pre-construction meeting with the Town's Review 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;

5. That the applicant will make the changes recommended by the Planning Board this evening prior to the Board's signing of the mylar;
6. That the Planning Board Chairman is authorized by the Planning Board to sign these Findings of Fact on behalf of the entire Board; and
7. That these conditions of approval must be added to the site plan and the site plan 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 site plan shall be returned to the own Planner prior to the start of site construction.

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to grant major site plan approval of Phase I to the Town of Gorham, for the construction of a storm water management wetpond, a connection road between State Route 25 and 202, and two parking areas with 103 parking spaces on 85.38 acres, located at 270 Main Street, on Map/Lots 26/4, 26/4.001, 30/14, 30/15, 30/17, and 99/53, situated in the Urban Residential and Office Residential zoning districts, with conditions of approval as discussed with the applicant and modified here this evening. Motion CARRIED, 6 ayes, 1 nay (Thomas Hughes). [10:17 p.m.]

ITEM 3 PUBLIC HEARING (Continued)

Site Plan / Special Exception Review — PineCrest Bed & Breakfast, LLC, Owner, proposes to discontinue dining for private club members and proposes to add public dining as an accessory use to the existing Bed and Breakfast Establishment, located on ±0.76 acres at 91 South Street, Assessor's Map 106 Lot 42, and situated in the Urban Residential (**UR**) zoning district.

Mr. Poirier introduced the item, noting that it is the continuation of a public hearing that was first held on March 1, 2010. New Planning Board members have been appointed since that time, so they will need to state for the record that they have reviewed the application, read the prior minutes and feel comfortable reviewing the project and participating this evening.

Mr. Poirier said that items of note for Planning Board review include questions regarding parking on the site, both parking in the front yard setback as well as granting a waiver for parking. Staff has contacted legal counsel for its opinion, which is included in the Board's packet as item #7. Mr. Poirier said that the Land Use Code does not allow parking in the front yard setback for any commercial or industrial use. The applicant received minor site plan approval for 5 parking spaces, which is the only approval on record for the number of parking spaces on the parcel. The Code Enforcement Officer did grant approval for expanding the pavement on that parcel but did not approve any parking layout as part of his allowing expansion of the pavement. The applicant is requesting a waiver in the parking requirements, based on Chapter II, Section II – A, 8, c). The Board should discuss this with the applicant this evening.

The applicant is proposing to add new commercial ventilation equipment for the kitchen and has provided information on the system. The Board should look at that information to determine if the applicant's proposal will comply with the Town's noise regulations.

Ms. Carrier said she has reviewed the previous minutes and material and is comfortable reviewing the project this evening. Mr. Fox said he has reviewed the previous minutes and is comfortable being

involved in the review. Mr. Hickey said he has looked through the information to date and feels comfortable reviewing the application. Mr. McCullough said he did not attend the March 1, 2010 meeting but did attend the site walk on April 30, he has reviewed the prior DVDs and feels comfortable speaking on the application.

Sarah A. McDaniel, Esquire, appeared as attorney for PineCrest Bed and Breakfast, LLC, owners of the PineCrest Inn. Ms. McDaniel said that prior to 1993 the building was an apartment building, and in 1993 the then-owners applied for site plan approval to convert it to a bed and breakfast. "Bed and breakfast" at that time was not identified in the ordinance as a use by that name, it came under "rooming house" use, so it was approved in 1993 as that use. The applicant in 1993 submitted an application showing the configuration of the parking area, showing 5 spaces which went down to the property boundary and 3 spaces at the end of the drive. When the application was approved, the Board approved the 3 spaces at the end of the drive and for the 5 spaces a five-foot setback from the property line was required with landscaping, and approved an enlargement of the setbacks. Ms. McDaniel later amended the 1993 information to indicate that approval was not granted by the Planning Board but as minor site plan committee approval). As a condition of approval, the pavement could occur over a 2-year period. In 1995, when the owner went to do his paving, he was also adding a shed and a side porch, so he went to the Code Enforcement Office and got a building permit for all 3 items. At the time the CEO approved a 60 by 50 foot parking lot maintaining the 5-foot vegetated setback. No spaces or configurations were shown but the 60 by 50 foot lot was approved. That permit was not appealed at any time, and that parking lot has been in use the entire time. Ms. McDaniel cited various court cases that recognize when a building permit is not appealed, the permit is valid. Ms. McDaniel said that in 2006 PineCrest purchased the property and attempted to add public dining as a "social institution use," which was denied by the Code Enforcement Officer as being a restaurant. PineCrest appealed the CEO's decision to the Zoning Board of Appeal, which in 2006 looked at the ordinance and found that private dining for club members is an allowed use in the urban residential district under the social institutional use. She said that while the ZBA in 2006 was not looking specifically at setbacks, just the use, the existence of the parking lot, its size and number of spaces, has been public knowledge. Private dinner club dining has been held at the PineCrest since 2006 on Thursdays, Fridays and Saturdays, members only, which is the use proposed to be continued on this property without the membership requirement.

Ms. McDaniel referred to the 2008 amendment to the Land Use Code which encoded for the first time an ordinance with the use category of "bed and breakfast, bed and breakfast establishment, and bed and breakfast establishment with a dining use." PineCrest could have continued its use as private membership dining, but it wants to now open it to the public and change that marketing limitation. Nothing is proposed to change on the ground, there are no changes proposed to landscaping or to the parking lot, which has 11 spaces with 2 spaces at the end of the driveway.

Ms. McDaniel said she believes that most of the special exception standards are satisfied, as are the approval criteria and standards. She said that key issues identified deal with the special exception standard about nuisance to the neighborhood, a site plan standard dealing with noise, and both standards deal with parking and safety issues. In terms of nuisance to neighbors, the hours of operation for the bed and breakfast are between 7:00 a.m. and 10:00 p.m.; the last outside dining occurs at 9:00 p.m.; there is a petition signed by some 6 neighbors in support of the proposal. Insofar as noise is concerned, the only physical change on the property is the new vent oven; data in the applicant's April 7, 2010 submissions shows that the sound of the fan 5 feet away is at 60 decibels and at 50 feet away, the nearest property line, the sound is 43 decibels. Site plan standards in the Residential district require that noise be kept under 50 dBA at night and under 60 dBA during the day, the fan will not be going after 10:00 p.m., but even when it is going at 10:00, its noise at the lot line will be well under the requirement at night.

Ms. McDaniel said that the ordinance requirement for parking for a bed and breakfast with dining establishment is 29 parking spaces: it requires 2 spaces for the bed and breakfast owners, 2 spaces for staff, 7 spaces for the lodging guests (1 for each room), and then 18 spaces for the number of dining seats, which are capped under the ordinance at 35, or five times the number of guest rooms. The proposed parking spaces include all 11 spaces in the lot, including the use of 2 off-street spaces at the end of the driveway, and, under the bed and breakfast ordinance, on-street parking immediately adjacent to the lot can be utilized, which Ms. McDaniel asserts to be 6 spaces, for a total of 19, or 10 spaces less than that required under the ordinance.

Continuing, Ms. McDaniel said that the ordinance does allow the Board to waive and reduce the required parking standards in two instances which she believes applies: first, if there is on-street parking within 200 feet of the property line, those spaces can be considered available to help satisfy the 10 spaces that are short. Ms. McDaniel referred to the petition signed by neighbors on South Street who do not object to on-street parking in connection with the PineCrest; therefore, she stated that there are 19 available parking spaces on or immediately abutting the property and 7 on-street spaces within 200 feet of the property for a total of 26 available spaces, only 3 less than the required 29 parking spaces. Additionally, she believes that there would be parking spaces across the street. The second reason the Board can grant a waiver is if there is less need for as many seats as the ordinance calls for. She stated that the PineCrest's records show that in 2008 65% of the diners were lodging guests, and in 2009 50% of the diners were lodging guests; therefore, there is not the same need for 35 parking spaces for diners if half of the diners are already staying at the PineCrest and parked there. Additionally, she believes that the standards are too high. For these reasons she believes that the Board can grant a waiver of the 3 spaces they are requesting.

Ms. McDaniel addressed seating limitation of 35 under the ordinance; currently, under the private dinner club, there are no seating limitations. She said that historically there have been 20 seats in the dining area and 8 seats in the bar area, but no food has been served there. In the summer, the seats will be moved, so instead of seating 20 people in the dining room, they will seat 20 out on the porch. She said that the applicant is applying now for approval of the full 35 seat maximum allowed under the ordinance. Ms. McDaniel noted that the ordinance does allow dining 7 days a week for a bed and breakfast establishment with dining from 7:00 to 10:00 p.m. and said that the applicant is requesting the full approval to do that should it be decided to add other days for dining in the future.

Following Ms. McDaniel's presentation, the Board discussed the parking issues at length, particularly the fact that the CEO approved a 60 by 50 foot paved area in 1995 but without any delineated parking spaces and that only 5 spaces in the front were ever approved.. Ms. Carrier stated that she was a member of the ZBA in 2006 when that board considered the private dinner club proposal, that the only thing discussed was the use and that parking was not addressed at all. Ms. McDaniel said that since parking did not become an issue before the ZBA, that demonstrates her assertion that there has never been any enforcement action or claim that there was a violation, and no one has ever appealed the parking that has been in place over the past 15 years. Mr. Zelmanow stated that the parking lot shown in the present sketch was never approved or permitted and the only permitted parking is shown in the 1993 site plan. Mr. Zelmanow said that an improper use should not be allowed to continue, and that the CEO permit showing a paved area does not imply more spaces.

Mr. Hughes expressed concern that the application is turning into a full-blown restaurant and retaining the present parking configuration within the setback and trying to maneuver there is dangerous and inappropriate. Ms. Carrier asked what the setback requirements were in 1995; Mr. Poirier said if the use was a bed and breakfast commercial setbacks would have been applied. Ms. McDaniel said that the use was permitted in the district at that time because it was considered a rooming house residential use. Mr.

Poirier said he would need to research the question because a residential use would not be considered under minor site plan review, typically only a commercial use would go to minor site plan review.

Ms. Carrier confirmed that just because a non-conforming use does not get caught, that does not make it conforming. Mr. Zelmanow said that the Board does not have authority to approve the additional onsite parking in the front set back of a commercial use. Based on comments from Mr. Fox, Mr. Zelmanow, Mr. Hughes and Mr. McCullough about seeing a plan showing the parking spaces on site and those on the street in order to determine how many spaces would have to be waived, Mr. Poirier suggested that the applicant lay out on a plan showing the parking spaces on site and within 200 feet of the property for the Board's review.

Ms. McDaniel announced that the applicant is withdrawing his application. [11:10 p.m.]

Thomas Fickett MOVED and Thomas Hughes SECONDED a motion to adjourn. Motion CARRIED, 7 AYES. [11:10 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2010