



TOWN OF GORHAM
January 9, 2012
PLANNING BOARD MINUTES

LOCATION: Burleigh H. Loveitt Council Chambers, 75 South Street, Gorham, Maine

Members Present:

EDWARD L. ZELMANOW, Chairman
CHRISTOPHER HICKEY, Vice Chairman
THOMAS FICKETT
GEORGE FOX
ANDREW MCCULLOUGH
MELINDA SHAIN
COREY THERIAULT

Staff Present:

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

Edward Zelmanow, Chairman, called the meeting to order at 7:05 p.m. The Clerk called the roll, noting that all members were present.

APPROVAL OF THE DECEMBER 5, 2011 MINUTES

George Fox MOVED and Thomas Fickett SECONDED a motion to approve the minutes of the December 5, 2011 meeting as written and distributed. Motion CARRIED, 7 ayes. [7:03 p.m.]

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Theriault, Chairman of this Committee, noted that the Committee has not met since the last Planning Board meeting.
 - B. Streets and Ways Sub-Committee** – Mr. Zelmanow noted that this Subcommittee has elected Ms. Shain as Chairperson. Ms. Shain reported that prior to this evening's meeting, the Subcommittee met and will be meeting again in the near future.
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CHAIRMAN'S REPORT – No report.

ADMINISTRATIVE REVIEW REPORT

Mr. Poirier reported that Sappi Corporation's application for approval of a bridge for angler access at Mallison Falls has been approved.

Mr. Poirier replied to a query from Mr. Zelmanow that staff is working with the engineer for the Sawyer Estates application to find a suitable resolution which will meet the Town's requirements and those of the developer.

Mr. Poirier told Mr. Theriault that there is a new private way application, "Tranquil Drive," that has just been received and which should be on the Board's February agenda for discussion. Mr. Poirier suggested that a site walk for this private way be scheduled.

Mr. Zelmanow asked Mr. Poirier to comment about the first 4 items on the agenda, all of which involve Contract Zone applications. Mr. Poirier referred the Board to the packet attachment entitled "Contract Zone Agreement A," which represents the language originally forwarded to the Board by the Town

Council. In addition, there is a “Contract Zone Agreement B,” which shows changes in blue recommended by the Planning Board at its December 5, 2011 meeting. In version “B” there are also some changes in red in the Permitted Uses section regarding distilling and brewing, the addition of residential units above the first floor as part of a mixed use building, and the deletion of “distilling” and “brewing” from paragraph 3, all of which are changes suggested by the Town Council at its last meeting when the Contract Zone applications of Chadbourne, Frick, Green, McFarland and Ordway were considered and approved. The Council wanted the Board to review its latest changes in connection with the Contract Zone applications currently before the Board this evening for Albert, Bearce, Bruni and Burke.

Version “B,” of the Contract Zone agreement language is as follows:

“CONTRACT ZONE AGREEMENT

VERSION B

This Contract Zoning Agreement, made this _____ day of _____, 2012, by and between the **TOWN OF GORHAM**, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter “the Town”) and _____, a resident of the Town of Gorham, County of Cumberland and State of Maine, with a mailing address of _____

WHEREAS, _____ (the “Property Owner”) is the owner of _____ parcel of real estate located at or near _____ County Road in Gorham, Maine, consisting of approximately _____ acres located near the intersection of Route 22 and Route 114 (hereinafter “the Properties”); and

WHEREAS, the Property consists of _____ lot identified on the Town’s assessing records as Tax Map _____, Lot _____, and

WHEREAS, the Properties are currently located in the _____ District, as established by the Town’s Land Use and Development Code; and

WHEREAS, the Property is located in an area with significant motor vehicle traffic, especially at the nearby intersection of Route 22 and Route 114; and

WHEREAS, a greater flexibility of uses than is allowed in the underlying zoning district is appropriate in light of the unique nature of the site and its proximity to the major intersection; and

WHEREAS, the high volume of traffic, particularly at the intersection, makes it difficult to develop the Property for residential purposes; and

WHEREAS, certain non-residential uses have been determined to be appropriate for the site, subject to the restrictions set forth in this Agreement, in addition to the applicable requirements of the Land Use and Development Code; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended the rezoning of the Property; and

WHEREAS, the rezoning will be consistent with the goals of the 1993 Gorham Comprehensive Plan, by promoting additional job opportunities and providing for development that is “carried out in a manner that is environmentally sound and which minimizes the impact on surrounding properties” (Chapter 3, Section 3.g); and

WHEREAS, a portion of the Property is located in an area shown on the Revised Land Use Plan in the Comprehensive Plan as “Neighborhood Center,” which calls for “a mix of land uses in these centers, including residential uses, services, small scale retail uses that primarily meet local needs, and specialty commercial uses that are appropriate to the area”; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town’s Comprehensive Plan and has authorized the execution of this Contract Zoning Agreement on _____, 2012;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. **Amendment of Zoning Map.** The Town will amend the Zoning Map of the Town of Gorham, as amended, a copy of which is on file at the Gorham Municipal Offices and which is incorporated by reference in the Land Use and Development Code, Chapter I, Section I, Subsection C, by adopting the map change amendment shown on Attachment 1.

2. **Permitted uses.** The Property Owners are authorized to establish on the Property any of the following uses without additional Town Council authorization:

- a. Funeral home.
- b. Day Care Centers, as defined in Chapter I, Section V of the Land Use and Development Code.
- c. **Business, Personal and Repair** Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code.
- d. Convenience stores, either with or without associated gasoline sales.
- e. Sit-down restaurants.
- f. Retail stores that are 7,000 square feet or less in total footprint.
- g. Professional offices, including real estate offices, medical offices, attorneys' offices, and similar offices that are not high generators of traffic.
- h. Banks.
- i. **Residential uses in existence on the Property on the date of this Agreement.**
- j. **Distilling and brewing.**
- k. **Residential dwelling units above the first floor as part of a mixed use building.**

No drive-through or drive-up facilities shall be allowed with any of the above-listed permitted uses, unless the Planning Board finds as part of site plan review, based upon a traffic study to be provided by the applicant, that the proposed use will not result in vehicles queuing in front of the proposed building or on the roadway serving the lot. The applicant for a use shall be responsible for all required traffic mitigation costs identified by the traffic study **and/or the Public Works Director and those required by the Planning Board.** ~~and~~ **The applicant** shall acquire any permits required by the Maine Department of Transportation.

3. **Additional uses allowed with Town Council approval.** The following uses may be established if specifically authorized by the Town Council:

Light industrial uses of 10,000 square feet or less in total floor area. Such uses shall include the assembly of materials but shall exclude basic processes such as smelting, refining, **distilling**, forging, **brewing** and similar processes involving converting raw materials to a finished or semi-finished product. Examples of light industrial uses are bakeries, laboratories, and businesses that assemble materials into a finished product.

4. **Performance standards.** All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Land Use and Development Code.

5. **Dimensional requirements.** All development on the Property shall comply with the following dimensional requirements:

- a. Minimum lot size: None.
- b. Minimum street frontage: None.
- c. Minimum side and rear setbacks: 10 feet, unless the side or rear of a lot is located on Route 22/114.
- d. Minimum front setback: 10 feet, unless the lot has frontage on Route 22/114. For a lot without frontage, the front setback shall be measured from the property line parallel with the major access to the property.
- e. Minimum setback from Route 22/114: 70 feet for any business that includes the sale of gasoline; 40 feet for all other uses.
- f. Maximum building height: None.

- g. Minimum setbacks from residential properties: 20 feet, measured from the property line.
6. **Other requirements.** All development on the property shall comply with the following requirements:
- a. The required minimum landscape buffer along Rt. 22/114 shall be 70 feet of plants and materials as required by the Planning Board for those uses ~~that include~~ the sale of gasoline. The required minimum landscape buffer along Rt. 22/114 shall be 40 feet of plants and materials as required by the Planning Board for all ~~other~~ uses. ~~that do not include the sale of gasoline.~~
 - b. ~~The site shall be~~ ~~Entrances and exits shall be~~ designed to minimize the number of entrances and exits. ~~exists~~
 - c. ~~As needed,~~ the hours of operation will be established by the Planning Board.
 - d. To the extent possible, parking shall be ~~behind~~ the building. ~~in the rear of buildings and parking lots shall be interconnected.~~ The Planning Board may consider parking at the side of the building if ~~an applicant a use~~ can show a hardship, but under no circumstances shall parking be allowed in the front yard or in the required buffer area ~~as stated in paragraph 6(a).~~ ~~between Rt. 114/22 and the project.~~ For purposes of this section, the front yard for a lot without street frontage shall be considered to be the area between the property line parallel with the principal access to the property and the front of the building on the lot.
 - e. All property shall pay normally assessed property taxes or if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100 % of the amount that would have been paid if the business was subjected to the property tax.
 - f. The application fee for the contract zone normally due at the time the application is submitted shall be deferred. The applicant shall pay a ~~\$3,500 an~~ application fee ~~equal to \$3,500~~ as a final condition for the completion of any required site plan review, or, if more than one lot is subject to this Contract Zoning Agreement, shall pay the deferred application fee for the contract zone in the amount of \$3,500 divided by the subject number of lots, up to the first 7 lots, with the first payment due at the completion of any required site plan review and the per lot payment for the remaining lots due at the closing for each of the respective lots.
 - g. The applicant shall make a contribution of ~~\$10,000 per lot or business unit for each lot sold~~ towards the future extension of public sewer. ~~of \$10,000 per lot or business unit for each lot sold.~~ The contribution shall be due at closing for each individual lot.
 - h. The building and lot design shall be consistent with a traditional New England Village Character.
 - i. ~~Vehicular and pedestrian connections shall be required between parking lots located on the Property and parking lots located in any adjoining contract zones, with the location and design to be approved by the Planning Board during site plan review.~~
 - j. ~~Sidewalks shall be required along any roads created on the Property.~~
 - k. ~~Signage on the Property shall be governed by the Roadside Environment requirements of Chapter II, Section III of the Land Use and Development Code.~~
7. **Agreement to be recorded.** The Property Owners shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.
8. **Amendments to Agreement.** The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owners or their successors in interest to the Property.

9. **Site plan and subdivision review.** Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required by the Land Use and Development Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owners, any entity affiliated with the Property Owners that takes title to the Property, their successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives.

The provisions of this Agreement, including the permitted uses listed in paragraph 2 and 3 and the dimensional requirements, are intended to replace the uses and dimensional requirements of the existing Rural District. The above restrictions, provisions and conditions are an essential part of the rezoning, shall run with the Property, shall bind the Property Owners, their successors in interest and any assigns of said Property or any part thereof or interest therein, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham.

If any of the restrictions, provisions, conditions, or portions of this Agreement is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use and Development Code of the Town of Gorham and any applicable amendments thereto or replacement thereof.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Land Use and Development Code. Following any determination of a zoning violation by the Court or the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Property Owners or their successors or assigns fail to develop and operate the project in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of the Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, Property shall then be used only for such other uses as are otherwise allowed by law.”

Mr. Poirier noted that a public hearing will need to be held for each of the 4 applications this evening and said there is a draft motion for the Board to consider.

Mr. Zelmanow confirmed to Mr. Theriault that the current version “B” includes the changes the Board recommended during its December 5, 2011 meeting, as well as the changes proposed by the Town Council at its meeting of January 3, 2012. Ms. Shain commented that each review of the contract zones seems to produce changes, and asked if the 5 applications considered at the Board’s December 5, 2011 meeting are now final and in effect. She said that it is possible that there could be future inconsistencies with still other Contract Zone agreements for applicants yet to come forward. M. Zelmanow concurred, noting that there are differences between the original Hansen Contract Zone and subsequent ones, each wave that has gone through is a little different. Mr. Hickey commented that there is no sunset provision; Mr. Zelmanow said that the Contract Zone for a parcel would prevail should the entire area be rezoned.

Mr. Hickey said he believes that the Board had an in-depth and productive discussion at its December 5, 2011 meeting considering the 5 Contract Zone applications before it at that time, placing a priority on consistency, and he does not see that any of these parcels under consideration this evening are unique or warranting any changes beyond what was done previously. Mr. McCullough agreed.

Mr. Zelmanow said he would open each public hearing separately, inviting the public to comment on each application. Mr. McCullough told the Board that he works with Mr. Albert but feels he can participate fairly. There was no dissension by the Board with Mr. McCullough's participation.

ITEM 1 PUBLIC HEARING – Contract Zone Application of Kurt Albert, Map 4, Lots 9.002 and 9.003, in the Rural and Stream Protection Overlay Sub district zoning districts.

PUBLIC COMMENT PERIOD OPENED: Hans Hansen, abutter. Mr. Hansen said that if there is anything in any one of these Contract Zones that is not in the Contract Zone approved for his property, he would ask for an amendment if necessary from the Council and the Planning Board.

James Bruni, via email: "Sirs, I would to voice my support for the proposed zoning change for not only my property but for the other properties being considered for the same zoning change. I believe that it is in the best long range interests to the Town of Gorham as well as the neighborhood of South Gorham.

I would like this e-mail entered into the Planning Board's minutes.

Sincerely,
James Bruni"

PUBLIC COMMENT PERIOD ENDED.

Mr. Hickey asked which Contract Zone would prevail should two different parcels with different Contract Zone approvals be combined; Mr. Poirier said he would check with the Town Attorney on this question.

Public hearing closed at 7:20 p.m.

ITEM 2 PUBLIC HEARING – Contract Zone Application of Chandler and Christine Bearce, Map 6, Lot 8, in the Suburban Residential zoning district.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Public hearing closed at 7:21 p.m.

ITEM 3 PUBLIC HEARING – Contract Zone Application of James Bruni, Map 4, Lot 6.008, in the Rural zoning district.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD ENDED.

Public hearing closed at 7:22 p.m.

ITEM 4 PUBLIC HEARING – Contract Zone Application of Donna Burke, Map 6, Lot 27, in the Suburban Residential zoning district.

PUBLIC COMMENT PERIOD OPENED: None offered.

PUBLIC COMMENT PERIOD CLOSED.

Public hearing closed at 7:23 p.m.

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to recommend adoption of the Contract Zoning Agreement between Kurt Albert, Tax Map 4, Lots 9.002 and 9.003, in the Rural and Stream Protection Overlay Sub district zoning districts, and the Town of Gorham, as amended by the Planning Board. Motion CARRIED, 6 ayes, 1 nay (Therault). [7:25 p.m.]

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to recommend adoption of the Contract Zoning Agreement between Chandler and Christine Bearce, Tax Map 6, Lot 8, in the Suburban Residential zoning district, and the Town of Gorham, as amended by the Planning Board. Motion CARRIED, 6 ayes, 1 nay (Therault). [7:26 p.m.]

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to recommend adoption of the Contract Zoning Agreement between James Bruni, Tax Map 4, Lot 6.008, in the Rural zoning district, and the Town of Gorham, as amended by the Planning Board. Motion CARRIED, 6 ayes, 1 nay (Therault). [7:27 p.m.]

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to recommend adoption of the Contract Zoning Agreement between Donna Burke, Tax Map 6, Lot 27, in the Suburban Residential zoning district, and the Town of Gorham, as amended by the Planning Board. Motion CARRIED, 6 ayes, 1 nay (Therault). [7:28 p.m.]

ITEM 5 Preliminary Subdivision Review – Application of Paul Gore for Approval of Bartlett Woods Subdivision, a 5-lot subdivision on Map 12, Lots 7 and 10, located on Alberta Way off Bartlett Road, in the Rural zoning district.

Mr. Poirier gave a brief overview of the project, noting that at the Board's last review of the project, October 3, 2011, the following items were discussed: requirement for the extension of public water, the configuration of lot 1, stormwater management, and the driveway locations for lots 2 and 3. Mr. Poirier said that in his latest submission, the applicant has requested a waiver of the requirement to submit a nitrate analysis.

Items of note that the Board may wish to consider include that the applicant has requested a waiver from certain on-the-ground topographic survey information, asking for the ability to use topographic information that is approximate and not taken from an on-the-ground survey. The Board may wish to decide whether to allow the use of that approximate information or require that a ground survey be completed for the remaining section of the site. Mr. Poirier noted that since the applicant proposes to use the easement on the Donald and Eileen Mayo property where the Mayos' septic system is located for the water main extension and has discussed with the Mayos moving their septic system. Staff has asked the applicant to provide a letter from the Mayos agreeing to the relocation of their septic system. As of this date, no such letter has been provided by the applicant.

Mr. Poirier noted that the Board has not done a site walk on the site; while it is not a requirement for subdivision, the Board should discuss whether a site walk is warranted.

Mr. Poirier said that the final item of note is that the applicant has provided a letter of financial capacity. While this is not a part of preliminary review, to expedite final review the Board could consider the applicant's desire to sell a lot before putting up his performance guarantee, which is not allowed by the Land Use and Development Code. The applicant would have to post a performance guarantee prior to selling of lots and/or recording the plans.

Andrew Morrell, BH2M Engineers, appeared on behalf of the applicant and said that the applicant is moving forward with extending public water down the existing easement located off New Portland Road, just under 300 feet to extend from the end of the existing watermain to the end of Alberta Way. The watermain would then be extended down Alberta Way to Bartlett Road, where there would be a fire hydrant. The extension of public water does affect the existing septic system on the parcel identified as that of Donald and Eileen Mayo; their septic system is in the middle of the existing easement. Mr. Morrell said that the applicant has agreed to relocate the Mayos' septic system as part of this proposal; the design of the septic system and all pertinent information will be included in the final plan. They are asking for a waiver from the nitrate analysis requirement because of the extension of public water to serve the proposed lots. Mr. Morrell said that the driveway locations for lots 2 and 3 are per the Fire Chief's recommended locations. He noted that Alberta Way was approved by the Board in March 2011.

Mr. Morrell replied to Mr. Theriault that the utilities will be underground.

Mr. Zelmanow commented that there is as yet no letter from Mr. and Mrs. Mayo agreeing to the relocation of their septic system. Mr. Morrell said that the developer has met with the Mayos, and the intent is to move forward with the relocated septic. Mr. Zelmanow said that without their agreement, the relocation of the septic system will not occur, which means that technically there is no way to extend public water to the development. Mr. Theriault said that in addition to a letter from the Mayos granting permission to move their septic system, there needs to be confirmation that it can be relocated somewhere else on the Mayo property.

Mr. Fickett and Mr. Morrell discussed the locations and kinds of test pits that have been done on the applicant's property. Mr. Morrell said he would confirm with Albert Frick Associates what the initials "bh" stand for in describing certain test pits. Mr. Fickett suggested that a test pit will have to be done on the Mayo property as well.

Mr. Zelmanow said that the nitrate analysis waiver approval and preliminary approval will have to be contingent on whether the Mayos will allow their septic system to be moved, and if in fact it can be moved, to locate the public water main in the 50 foot utility easement on the parcel belonging to the Mayos. Mr. Hickey confirmed with Mr. Morrell that a letter from the Mayos and an HHE200 septic design will be provided. Mr. Theriault confirmed with Mr. Zelmanow that if public water is provided, there will be no need for the nitrate analysis.

In response to Mr. Theriault, Mr. Morrell replied that topographic survey has been provided for 65-70% of the site. One of the deductions in calculating net residential density is slopes greater than 20%, and some areas have been taken out in their on-ground survey for that deduction. Mr. Morrell described how some approximate topography has been provided on those areas where there is no on-ground survey, with information based on Town archives and the high intensity soils survey done by Albert Frick Associates that shows soils and slope classifications. Mr. Morrell said they are asking the Board for a waiver of the on-ground survey requirements and the ability to utilize approximate topographic information on certain areas of the parcel including the rear where there is a large wetland and the back of lots 4 and 5. Mr. Morrell said that in part they used information provided by the Town of Gorham in 2006-2007 and have done so in the past as well. Mr. Poirier said he is not aware of 2-foot topos taken of the whole Town. In response to Mr. Zelmanow, Mr. Poirier said that when projects come forward they are typically done with on-the-ground topos, with a brief description of how the information was obtained.

In response to Mr. Zelmanow as to why a complete on-the-ground survey was not done, Mr. Morrell said that parts of the site are thickly overgrown and flat so a survey of the entire parcel was not done. Mr. Morrell said that all areas of the site which are proposed to be developed have had on-the-ground surveys done.

After considerable discussion the Board concurred that an on-the-ground survey of the entire parcel should be provided by the applicant. Mr. Morrell agreed to do so.

The Board also agreed to leave the financial capacity issue for discussion when the applicant comes before it for final approval.

PUBLIC COMMENT PERIOD OPENED: Diana Libby, abutter on Bartlett Road across from Alberta Way. Asked for clarification of number of lots, which in October were 6 and now are 5. Mr. Poirier replied that the outsale parcel has been removed from the subdivision and developed, making it now a 5-lot subdivision. Ms. Libby asked if the outsale lot would be under the same rules as the subdivision; Mr. Poirier replied that that lot has already been developed and is outside the subdivision. Ms. Libby asked if the question about the topo study would impact drainage; Mr. Zelmanow said it should not affect the drainage, it will give the Board an opportunity to see the layout of the land and how much of it will be useable for development. Ms. Libby asked for confirmation that drainage is intended to be directed to the back of Alberta Way.

With regard to the applicant's financial capacity, Ms. Libby asked if the applicant has specified which lot he is going to sell after subdivision approval to fund the development. Mr. Zelmanow replied that no lot has been specified and the plan would not be approved until the Board has proof of the applicant's financial capacity. Mr. Poirier said that the Code does not allow the sale of lots in approved subdivisions prior to obtaining a performance guarantee to construct a subdivision. There must be a performance guarantee in hand before a mylar can be released for recording to prevent lots being sold that will not have the infrastructure constructed to support them.

Ms. Libby asked who will maintain the stormwater management of the subdivision. Mr. Morrell replied that the applicant plans to sell the 5 proposed lots. There will be a homeowners' association put together for maintenance of stormwater on the private way.

Ms. Libby asked if the number of vehicle trips anticipated from this development could impact any future industrial use for her property should she decide to sell her property. Mr. Zelmanow replied that what Ms. Libby might do with her land does not pertain to what the Board is considering this evening. Mr. Zelmanow suggested she address her question on this issue to the Town Planner.

Molly Sinclair Bull, Esquire, Cooper & Bull, P.A., Westbrook, introduced herself as attorney for Mr. and Mrs. Mayo. She said her clients are very concerned that the development of the easement would overburden their ownership rights to the land. In reply to Mr. Zelmanow, Ms. Bull said that on January 4, 1988 the Mayos' predecessors, the Martins, purchased the property from Mr. Gore and installed the septic system.

END OF PUBLIC COMMENT PERIOD

Mr. Theriault said that a site walk would be appropriate; the Board concurred. Mr. Morrell said that the road right-of-way has been cleared but the rest of the site is low-lying shrubbery. Mr. Theriault said he would like to see what is possible to see of the easement.

Mr. Zelmanow summed up this evening's discussion as follows: the Board will hold off on preliminary approval and the nitrate analysis waiver request, the applicant will perform the on-the-ground survey and will provide proof of financial capacity. Mr. Morrell asked if the Board approves of the driveway locations for lots 2 and 3; Mr. McCullough suggested that the driveways be marked for the site walk.

OTHER BUSINESS Mr. Poirier asked if the Board would be willing to do a site walk early in the morning.

ADJOURNMENT

Thomas Fickett MOVED and Andrew McCullough SECONDED a motion to adjourn. Motion CARRIED, 7 ayes. [8:27 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2011