



Town of Gorham
April 2, 2012
PLANNING BOARD MINUTES

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

Members Present:

EDWARD ZELMANOW, Chairman
CHRISTOPHER HICKEY, Vice Chairman
THOMAS FICKETT
ANDREW MCCULLOUGH
MELINDA SHAIN
COREY THERIAULT

Staff Present:

THOMAS M. POIRIER,
BARBARA C. SKINNER, Clerk of the Board

Edward Zelmanow, Chairman, called the meeting to order at 7:00 p.m. The Clerk called the roll, noting that all members were present.

APPROVAL OF THE MARCH 5, 2012 MINUTES

Melinda Shain MOVED and Christopher Hickey SECONDED a motion to approve the minutes of the March 5, 2012 meeting as written and distributed.

DISCUSSION: With regard to Item 2 in the minutes, Mr. McCullough asked that the Clerk amend the minutes to clarify when Owens McCullough, the applicant's engineer, was referred to as opposed to when Board member Andrew McCullough was speaking.

Motion to approve the corrected minutes CARRIED, 5 ayes (George Fox abstaining as not having been present at the March 5, 2012 meeting). [7:03 p.m.]

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Theriault, Chairman of this Committee, said that the Committee has not met. Mr. Zelmanow noted that the Board at this evening's workshop meeting recommended referring to the subcommittee for its review certain ordinance amendments relating to streets offered for acceptance.
- B. Streets and Ways Sub-Committee** – Ms. Shain reported that a site walk had been held on February 16, 2012, for the Hurteau private way, and that this subcommittee had met on March 29, 2012, to review recommendations about DOT sight distance changes to make them consistent, which will be discussed at the next workshop. Also reviewed was some language requested by the Public Works Director to standardize certain pavement edge overlay, standardized light fixture requirements and when differing road widths are triggered.

CHAIRMAN'S REPORT – NO REPORT

ADMINISTRATIVE REVIEW REPORT

Mr. Poirier reported that the only new items to report are the two pre-applications which are on tonight's agenda.

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- ITEM 1 PUBLIC HEARING (Continued from February 6, 2012) - Subdivision / Site Plan Amendment Review: Gorham Village Green Condo Association and Gorham Village Green, LLC are proposing to delete the "Over 55" age requirement, and change the "Form of Ownership" from condominium to single family house lots via "Cluster Subdivision". The**

property is located off Libby Avenue, Map 109 Lots 10.501 to 10.510, Office Residential (OR) district.

Mr. Poirier reminded the Board that this application was last before the Board on February 6, 2012, when it was granted preliminary approval. Staff has completed Findings of Fact and proposed conditions of approval for the Board's review.

Les Berry, BH2M, representing Gorham Village Green, LLC, and Gorham Village Green Condominium Association, came to the podium and noted that after a meeting with staff, they have come to the conclusion that the project is not grandfathered but must meet the current standards. Based on the current standards in Chapter II, Mr. Berry said that a right-of-way must be provided to abutting land unless the Planning Board waives the requirement due to either the topography involved or wetlands. Because the development is built out, with the exception of Lots 7 and 8, and all the land surrounding the project is fully developed except the rear of the abutting property on the west side, the only viable location for a 50-foot right-of-way is through wetlands. In addition, Mr. Berry said that the land abutting to the west is already served by a private way.

Mr. Poirier said this is the first time the Board has had to review the issue of a private way coming back for approval as a public street. He discussed the changes to the Code since the project was approved that deal with a private way being presented for approval as a public street and the requirement dictating the need for future road connection rights-of-way to be dedicated to the Town for acceptance. Mr. Berry said there would be no adverse impact in putting the right-of-way on the plan, so after considerable discussion the Board concurred that the 50-foot right-of-way should be shown on the plan between Lots 8 and 9.

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

APPROVED FINDINGS OF FACT

CHAPTER III, Section III – Preliminary Plan Review

Section C.2

- 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.

Gorham Village Green Cluster Subdivision is subject to the Maine Department of Environmental Protection permit number: L-22611-TC-A-N and the U.S. Army Corps of Engineers permit number: NAE-2005-3471.

Gorham Village Green Cluster Subdivision conforms with the Comprehensive Plan, and with all pertinent State and local codes and ordinances including requirements for development identified under Chapter II.

- 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.

The subdivision is served by a single road, Town Common Road, which has been designed to meet the Town's Urban Access standard. No changes to the road layout or construction are proposed. Access to the site is via Libby Avenue. The subdivision will not cause congestion or unsafe conditions with respect to the use of the highways or public roads, existing or proposed on or off the site.

- 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.
The subdivision is served by underground electric, natural gas, public water, and public sewer. No changes are proposed that will place an unreasonable burden on the ability of the Town to provide municipal services.
 - d) has sufficient water supply available for present and future needs as reasonably foreseeable.
The subdivision is currently served by public water meeting the requirements of the Portland Water District. No changes are proposed to the subdivision's water supply.
 - e) adequately provides solid waste disposal and sewage waste disposal for present and future needs as reasonably foreseeable.
The subdivision is currently served by public sewer meeting the requirements of the Portland Water District and the Town's solid waste disposal contractor. No changes are proposed to the subdivision's solid or sewage waste disposal systems.
 - f) will not result in undue pollution of air, or surficial or ground waters, either on or off the site.
The subdivision has received approval from the Maine Department of Environmental Protection, U.S. Army Corps of Engineers, as well as meeting Gorham's Land Use and Development Code requirements for stormwater on and off the site. No changes are proposed that will result in undue pollution of air or ground water both on and off the site.
 - 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.
No changes are proposed to the subdivision's grading and erosion control plan that will cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
 - 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.
Gorham Village Green clustered subdivision will not affect the shoreline of any body of water or change the ground water table so that a dangerous or unhealthy condition may result.
 - 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.
Gorham Village Green clustered subdivision meets the requirements of Clustered Residential Developments in the Gorham Land Use and Development Code. The subdivision takes into account the scenic and natural beauty of the area and does not affect any historic and rare or irreplaceable natural or manmade assets.
- 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 Recreational Facilities and Open Space Impact Fee is required to be paid prior to the issuance of a building permit for each lot.
- 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.

Gorham Village Green clustered subdivision has provided the required homeowners' association documents. The homeowners' association is required to provide for the perpetual care of the commonly owned recreation land.

CHAPTER III, Section IV – Final Plan Review

- 1) The Planning Board shall examine any changes subsequent to the Preliminary Plan for satisfactory correction.
The applicant has made the subsequent changes to the Preliminary Plan required for final approval.
- 2) 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.
The applicant received preliminary approval on February 6 2012 which is within the 12 month requirement.

Mr. Berry said that they agreed with the Conditions of Approval. In response to Mr. Hickey, Mr. Zelmanow confirmed with Mr. Poirier that Condition 6, “That the applicant shall make the final changes to subdivision plan meeting the requirements of Town Staff prior to the Planning Board signing of the final plan” will accommodate the need to show the 50-foot right-of-way on the plan.

George Fox MOVED and Andrew McCullough SECONDED a motion to grant Gorham Village Green Condominium Association and Gorham Village Green LLC’s request for final subdivision and site plan approval of a clustered residential subdivision plan consisting of ten single-family lots on 5.77 acres off Libby Avenue, located on Map 109, Lots 10.501 – 10.510, in the Office Residential zoning district based on the Findings of Fact and with the conditions identified by the Board. Motion CARRIED, 6 ayes. [7:35 p.m.]

ITEM 2 PUBLIC HEARING - Zoning Map Amendment - Town of Gorham request for approval of a Zoning Map amendment to change the zone of the parcel located at 18 Gorham Industrial Parkway from Industrial to Roadside Commercial. The property is located on Map 12 Lot 26.001.

Mr. Poirier explained that this zoning amendment was placed on the Town Council meeting agenda on March 6, 2012, to discuss the rezoning of the former Plan-It Recycling site located at 18 Industrial Parkway from Industrial to Roadside Commercial. Mr. Poirier explained that the Board makes recommendations to the Town Council for zone change amendments. He said that the parcels located immediately adjacent to this parcel are Roadside Commercial, such as the proposed Beal’s Ice Cream project to the north and a vacant lot to the west. This proposed rezoning is consistent with the Comprehensive Plan.

Mr. Theriault said that the proposal seems fairly straightforward.

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

Corey Theriault MOVED and Andrew McCullough SECONDED a motion to recommend adoption to the Town Council of the Zoning Map amendment to change the zone of the parcel located at 18 Gorham Industrial Parkway, Map 12, Lot 26.001, from Industrial to Roadside Commercial. Motion CARRIED, 6 ayes. [7:36 p.m.]

ITEM 3: PUBLIC HEARING - Site Plan Amendment - Goodwill Industries of NE request for approval of a Subdivision/Site Plan Amendment for Spiller Park, to expand the existing private non-medical care institution with a 1,709 sq. ft. 3-bedroom ranch home and associated infrastructure. The property is located at 12 Day Road on Map 24 Lot 11.002, Suburban Residential (SR) district.

Mr. Poirier explained that this application is on for both preliminary and final approval and it is the first time it has appeared before the Board. It requires a public hearing because it is an amendment to a site plan. Since there are multiple structures on the site, the driveway must be named and only one of the three names submitted, Helms Way, meets the E911 requirements. The applicant has received its Portland Water District ability to serve letter. The last review item still outstanding relates to the Fire Chief's concerns that a fire truck driving up the paved driveway will be able to access the gravel driveway when vehicles are parked in the parking spots on both sides of the driveway entrance. Mr. Poirier noted that the Fire Chief has even greater concerns during the winter with snow banks along the driveways and parking areas. Mr. Poirier said staff recommends that the applicant provide information to the Fire Chief and the Town's engineer that shows that a fire truck will have enough space to make the two left turns at the end of the cul-de-sac with vehicles parked in the parking lot. Staff notes have been submitted to the Board members for their review.

Curt Neufeld, P.E. of Sitelines, P.A., representing Goodwill, came to the podium and gave the Board an overview of the project, saying that the project will be a modular home equivalent in size to a 3-bedroom ranch building, approximately 1700 square feet and built on a crawl space foundation. The intent is to provide three new residences for developmentally disabled persons who will be under 24 hour supervision by Goodwill staff. Access will be brought from the existing driveway to the facility, it will be served by public water and have a septic system designed by Sweet and Associates. The site itself is 29 acres with an existing facility, and the new facility is located midway the existing facility and Route 114, maintaining as much of a buffer as possible. Mr. Neufeld pointed out that the site is heavily wooded and the new structure will be screened pretty well from any neighboring residences or roads.

Mr. Neufeld said he has been in contact with the Fire Chief, and using the auto-turn modeling software there is a plan showing possible movement of the emergency apparatus to satisfy the Fire Chief's concerns. The plans have been forwarded to the Fire Chief, who will have the Public Works Director look at them as well, but there have been no responses yet.

In response to Mr. Zelmanow Mr. Neufeld said that the age of the residents could be adults anywhere between 21 and 55. Mr. Poirier told Mr. Zelmanow that Planning staff has not heard from either the Fire Chief or the Public Works Director as to whether they have looked at the templates and whether they have approved the access. In reply to Ms. Shain, Mr. Neufeld said that this is the first change on the property in about 15 years and Goodwill likes the size of the parcel as it is.

PUBLIC COMMENT PERIOD OPENED: Tom Butterfield, 22 Samantha Drive, asked to see the site plan more closely; he had no comments.

PUBLIC COMMENT PERIOD ENDED.

Christopher Hickey MOVED and Melinda Shain SECONDED a motion to grant Goodwill Industries' request to waive the Subdivision Submission requirement for a high intensity soil survey based on the applicant's rationale that the original development for this parcel was allowed a waiver and the proposed development is serviced by public water and a septic system designed by Sweet Associates. Motion CARRIED, 6 ayes. [8:09 p.m.]

Mr. Poirier confirmed with Mr. Hickey that there is no gravity-fed sewer easily available. Mr. Neufeld told Mr. Hickey that the present driveway serves the current facility well, that most of the residents do not drive, and basically the parking spaces are used by staff. The Board concurred that a site walk is not required. Mr. Zelmanow and Mr. Neufeld discussed lighting for the 4 parking spaces for the new residence, which will not be pole mounted but will be similar to those used in residential uses. Mr. Zelmanow asked that the lights be motion activated to light the walkway; Mr. Poirier suggested that this be shown on the plans.

The Board agreed to review the Findings of Fact to make sure that most of them are satisfied with the exception of the information still pending from the Fire Chief and Public Works Director in Standards C and D, and that pending receipt and review of that information by staff, the item could be placed on the Consent Agenda for the Board's next meeting.

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 building and accessory infrastructure are located outside of any wetlands, steep slopes, and other unique natural features located on the site. The proposal is to limit the clearing of trees and disturbance to the site to the greatest extent practical. The proposed plans for development reflect the natural capabilities of the site to support the 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.

Additional traffic generated to the site is limited to Goodwill staff because the tenants of the building do not drive. The estimated p.m. and a.m. peak hours are anticipated to generate 1 trip. Access to the site is via Day Road, which has adequate capacity to accommodate the additional traffic generated by the development.

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

The existing facility on site is accessed through a paved driveway off Day Road. The proposed gravel driveway will extend off the western side of the existing paved driveway. The new facility's gravel driveway will be 12' wide and constructed with a compact subgrade, geotextile fabric, 12" gravel subbase (MDOT 703.06 Type D) and 3" of crushed gravel (MDOT 703.06 Type A). The design of the new gravel driveway will provide for safe and convenient access to the development.

To be corroborated with information from the Fire Chief and the Public Works Director.

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

The gravel parking space has a 50' long gravel turnaround located just south of the parking lot. The turnaround will allow passenger, service, and emergency vehicles accessing the building to turn around safely prior to exiting the site. The layout of the site will provide for the safe movement of passenger, service, and emergency vehicles.

To be corroborated with information from the Fire Chief and the Public Works Director.

- E. **Pedestrian Circulation** - The development plan will provide for a system of pedestrian circulation within and to the development.
Two paved bituminous sidewalks are proposed between the gravel parking area and the proposed building. The proposed system of pedestrian circulation within the development is adequate. No pedestrian circulation outside the development is necessary.
- 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:
Stormwater from the proposed development area will sheet flow into the surrounding woods. The proposed stormwater run-off will not have an adverse impact on abutting or downstream properties.
- 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 construction contractor will install sediment barriers on the down-gradient slopes of the work area meeting the requirements of the Maine Erosion and Sediment Control Handbook. The layout of the site fits and utilizes the existing topography and natural surroundings to the fullest extent possible.
- 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.
The new building will be served through a 1-1/2" waterline off the existing 12" watermain located in South Street (State Route 114).
- 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.
The new building will be served by an individual subsurface waste disposal system designed to handle an estimated 296 gallons per day. The applicant has submitted an HHE-200 for the design of the system, which was prepared by Richard Sweet, Licensed Site Evaluator #34.
- J. **Utilities** - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project.
The building will be served by underground telephone, cable, and phone service from South Street (State Route 114). The proposed utility service is adequate to meet the anticipated use of a three bedroom house.
- 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.
Clearing of the woodlands is limited to the amount necessary to install the building and supporting infrastructure. No wetland or water bodies will be impacted by the proposed development.
- 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.
The proposed development of the site for a three bedroom dwelling private non-medical care institution will not adversely impact either the quality or quantity of the groundwater available to abutting properties or public water supply systems.

- 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 exterior lighting for the development is proposed. The proposed development does not require the use of exterior lighting to provide for the safe use of the development in nighttime hours.
- O. **Waste Disposal** - The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.
The solid waste from the new building will be handled through the existing buildings' licensed waste hauler. No new dumpsters or other external waste enclosures are proposed. The development will provide for the adequate disposal of solid waste from the site.
- 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.
No additional landscaping for the development is proposed. The location of existing vegetation on the site is adequate to break up parking areas, soften the appearance of the development, and protect abutting properties from adverse impacts of the development.
- 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 parcel does not abut a water body and is not located within the Town's 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 project has been designed by a licensed professional engineer in the State of Maine. The applicant has stated that the proposed financing for the project will be from Goodwill Industries' capital improvements budget. The applicant is required to establish a performance guarantee in conformance with the Land Use and Development Code prior to a preconstruction meeting being held for the project. The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with the Code and the approved plan.
- 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 proposed development is located inside the parcel with substantial woodlands between the proposed building and abutting residential uses. The existing woodlands are adequate to buffer the proposed use from the abutting residential properties.
- 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 development use of the site as a three bedroom dwelling private non-medical care institution for the developmentally disabled shall comply with the noise regulations listed in Table 1- Sound Level Limits and the associated ordinances.

Christopher Hickey MOVED and George Fox SECONDED a motion that the item be continued and placed on the Consent Agenda at the Board's April 23, 2012 meeting for final approval pending discussion with the Fire Chief and the Public Works Director regarding access into the site. Motion CARRIED, 6 ayes. [8:15 p.m.]

15 Minute Break to 8:30

Christopher Hickey MOVED and George Fox SECONDED a motion not to waive the 10:00 o'clock rule and postpone Items 7 and 8 to the Board's April 23, 2012 meeting.

Discussion: Mr. Theriault asked if items on the Agenda can be taken out of order.

Motion CARRIED, 6 ayes. [8:31 p.m.]

Corey Theriault MOVED and Melinda Shain SECONDED a motion to take Item 8 out of order for immediate consideration before Item 4.

Discussion: Mr. McCullough objected to the reorganization of the Agenda, noting that the Agenda has been provided to the public and if anyone wanted to attend the meeting for Item 8, they would not be able to do so if it were moved up to be heard immediately. Mr. Zelmanow commented that the Agenda order is set according to certain rules, with continued public hearings first, then current public hearings, then other items which have been before the Board, ending with pre-applications such as Items 7 and 8 which have not been before the Board before. Ms. Shain said she believed that Item 8 could go quickly. Mr. Fox said he is not inclined to change the sequence.

Motion FAILED, 2 ayes (Shain, Theriault) and 4 nays.

Mr. Zelmanow said that because the Board has moved not to waive the 10:00 o'clock rule, Items 7 and 8 are postponed to the Board's April 23, 2012 meeting.

ITEM 4 PUBLIC HEARING – Subdivision Review - David and Jenifer McCullough's request for of Flaggy Meadow Road Subdivision, a five-lot subdivision on 2.3 acres off Flaggy Meadow Road, located on Map 105 Lot 32.002, Urban Residential (UR) district.

Mr. McCullough excused himself from participating in the discussion of this item based on his relationship to the applicants.

Mr. Fox said that while he was absent from the March meeting when the item was discussed, he has reviewed the minutes, staff notes and other materials and feels prepared to participate in its discussion this evening.

Mr. Poirier said that when the applicant was before the Board on March 5, 2012, the Board discussed at length with the applicant the following items: (1) the formula for water main extension, which the applicant had originally provided showing only 3 lots as part of the formula. However, the Town Attorney has determined that all the lots within the subdivision must be considered to be included in the analysis. The second item discussed at the March 5 meeting is the extension of sidewalks in front of the parcels along Route 25, and as the Board requested the applicant has submitted cost estimates for the Board's review. Mr. Poirier said that the applicant is requesting a waiver of the high intensity soils analysis as well as a waiver of the Board's requirement for separate meeting dates for preliminary and final subdivision approval.

Dustin Roma, Sebago Technics, appeared on behalf of the applicants and told the Board that the cost of installing a sidewalk from the nearest existing sidewalk to access the closest lot, which would be Lot 5 on Route 25, with another 750 feet of sidewalk to reach Lots 2, 3 and 4, is estimated to be \$110,000, or adding some \$25,000 per lot. This estimated cost does not include any engineering design fees or permitting or work in the right-of-way, and is a burden that a project of this size cannot bear. They also revised the water supply calculations per the determination of the Town legal counsel of using the 5 units, and if the Board

cannot grant the hardship waiver, then they will need to take the extra step to ask for the waiver from the Town Council. He said that the request to allow preliminary and final subdivision approval is not for this meeting, but for a future meeting. Mr. Roma said that inasmuch as the lots will be served by public sewer, they are requesting a waiver of the high intensity soils analysis.

Ms. Shain said she believes that if the public water cost per unit is less than private, then public water is required because that is the reason for the ordinance. Mr. Zelmanow said he agrees if the cost to provide public water is just a penny less than public water is required. The Board concurred that sidewalks, however, will not be required.

Christopher Hickey MOVED and Corey Theriault SECONDED a motion to deny the waiver request of the ordinance requirement of Chapter II, Section 10.A for the extension of public water based on the applicant's statement in its waiver request that the cost of providing public water exceeds the cost to provide private water on a per-unit basis for 3 lots although calculations were based on 5 lots. Motion CARRIED, 5 ayes (Andrew McCullough excused). [8:50 p.m.]

Christopher Hickey MOVED and Corey Theriault SECONDED a motion to grant the waiver of Chapter I, Section 5, Net Density Calculations, for a high intensity soils survey since it is not applicable in this zoning district and all lots will be served by public sewer. Motion CARRIED, 5 ayes (Andrew McCullough excused). [8:52 p.m.]

The applicant's waiver request of the Board's requirement for preliminary and final subdivision approval in separate meetings will be considered when the applicant is next before the Board and asks for the waiver. Mr. Zelmanow said he could see no reason why both preliminary and final approval cannot be granted in one meeting provided the missing submission items have been provided.

Mr. Roma replied to a query from Mr. Poirier that the applicant will move forward in asking the Council to hear the public water waiver.

Mr. McCullough returned to the dais.

ITEM 5 SUBDIVISION REVIEW - Paul Gore request for approval for Bartlett Woods Subdivision, a 5-lot subdivision on Alberta Way off Bartlett Road, Map 12 Lots 7 and 10, Rural (R) district.

Mr. Poirier explained that this item was last before the Board on January 9, 2012, with a site walk held on January 27, 2012, and noted that the applicant originally proposed bringing bring public water to the site through an easement through the property of Mr. and Mrs. Donald Mayo. Since that meeting, the applicant is no longer proposing to extend water through that easement. He said that there are comments from two abutters, the first from Molly Sinclair Bull, attorney for the Mayos, and the second from abutter Diana Libby; these are included in the Board's packet. Ms. Libby would like her comments to be read into the record. Mr. Poirier said that draft preliminary findings of fact are also included in the Board's packet should it wish to grant preliminary approval this evening.

Andy Morrell, BH2M Engineers, appeared on behalf of the applicant and said that the applicant and abutters Mr. and Mrs. Donald Mayo have been unable to come to agreement about relocating the Mayos' septic system to accommodate a water main extension for the project. The Mayos have been concerned about the overburdening of the easement by extending the public water through it. Accordingly, the applicant has

decided to go back to on-site drilled wells and subsurface wastewater disposal systems, which, as the Board is aware, would require an exemption from the requirement to provide public water supply. The applicant has completed a nitrate study and therefore the waiver granted by the Board at the last meeting for that study is no longer needed. Mr. Morrell said that calculations for providing public water have been provided for the Board's review.

Mr. Theriault confirmed with Mr. Poirier that staff has not received comments as yet from the Portland Water District. Mr. Theriault said he believed the Board should continue to pursue getting public water into the development. Mr. Morrell said he would be interested in what the District would have to say about extending public water, and the numbers to extend public water and to provide public wells are very close. Mr. Morrell said that providing public water would involve extending it down the Mayos' driveway across Lot 1, which would add some 75 to 100 linear feet to the total water main extension length, making public water more expensive than private wells. Mr. Morrell said that another factor to consider is that there are wetlands that would be impacted that could push the project into needing a DEP wetland permit for alteration in another potential direction. In response to Mr. Theriault, Mr. Morrell said that 11 test pits have been done on site; 6 of the test pits have had ledge between 18 and 22 inches below grade.

Mr. Zelmanow asked for an explanation of why a 50 foot utility easement is created. Mr. Morrell said he does not know why this one was created, but utility easements in general are created to accommodate utilities that could be extended in the future. Mr. Zelmanow said he is bothered by the fact that there is a septic system in an easement that was created to allow public water to be provided. Mr. Morrell said the easement was given over the Mayos' property to the back parcel owned by the applicant and runs with the land.

Mr. Zelmanow said that perhaps the Town Attorney should look at the easement, which appears to have been created to allow for the installation of water lines. Ms. Shain said that the issue is not whether the applicant has the right to use the easement, the question is that because the abutter has his septic system in the easement area, there is the certainty of a dispute between the respective rights of the parties. Ms. Shain said that the applicant has the right – and Mr. Zelmanow pointed out that he has not only the right but the obligation under the Code – to provide public water, and while there is likely a dispute, the role of the Board is to follow the ordinance and the potential dispute is not within the Board's purview. Mr. Zelmanow said if this easement is part of an approved plan, then it was created by the Planning Board, and the encroachment of something that does not belong in that easement becomes an enforcement issue.

Mr. Zelmanow said he would like the Town Attorney to advise the Board on what they should consider or not consider, and to advise the Board if there is something that has to be resolved between the parties or if it is an enforcement issue. Mr. Theriault suggested that the Town Attorney be asked if the Board is to take the lack of agreement between the parties into its decision making or not. Mr. Hickey said that the Town is not obligated to work out what rights are assigned to the easement; Mr. Zelmanow asked where the easement might have come from. Mr. Zelmanow confirmed to Mr. Poirier that the Town Attorney should be asked to review the issues as to the applicant being required to run public water with respect to the easement created to benefit the applicant as successor through the deed.

Mr. Morrell replied to a query from Ms. Shain that they began looking to see if there was another suitable location for the Mayos' septic system to be relocated to, but stopped those efforts when it became obvious that there wouldn't be an agreement between the parties. He commented that the standards of 1988 are much different from those in place today, but the design of that septic clearly showed that it was going within the easement, perhaps because it was the only place to put it. Mr. Theriault noted that the Board's obligation was to consider the hardship waiver, and some guidance would be helpful in what should or should not be considered in granting that waiver. Mr. Morrell said that the calculations to provide water to

all intents and purposes show that the numbers are equal using the ideal method of going through the easement./septic system; however, some costs are not accounted for because they are as yet unknown. Therefore, Mr. Morrell's argument to the Board is that using scenario 1 of extending public water over the Mayos' land using the utility easement and relocating their septic system, public water costs are higher than the cost of providing drilled wells. Mr. Morrell asked if the Board has the authority to move in that direction anyway.

Ms. Shain confirmed with Mr. Morrell that his scenario 1 involves going through the easement and relocating the Mayos' septic system but does not include any possible legal fees associated with litigation with the Mayos or costs for encountering ledge. Mr. Morrell said he assumes that 40% of the trench would be ledge but that is a conservative estimate. Mr. Morrell confirmed with Ms. Shain that neither of his two scenarios involves "snaking" the water line to the right; Mr. Morrell said that scenario 1 involves going through the Mayos' septic system in the easement, and scenario 2 involves going along New Portland Road and down Bartlett Road to Alberta Way. Mr. Morrell said that the watermain runs down the center of the driveway now and, based on an early meeting with staff and the Water District, Mr. Morrell believes that the Portland Water District would like to see a straight watermain through the easement, but as yet no comments have been received from them. Mr. Theriault and Mr. Morrell discussed the possible swap of easements to allow the water line to run across an area of property owned by the Mayos.

Mr. Fox agreed that he would like some guidance on how to consider the hardship waiver request, and that on the face of it, he is not inclined to consider the difficulties involved with the Mayos' septic system unless there is clear guidance that the Board should consider it. Mr. Zelmanow concurred that the Town Attorney should be asked to provide the Board with her opinion with what the Board should be considering in looking at with regard to the hardship waiver.

Mr. Morrell asked what direction the Board will give to the Town Attorney. Mr. Zelmanow said that in this particular case, there is an utility easement for the provision of public water with a septic system in it, so should the Board review the cost scenario of running water through that easement, or are there circumstances which would dictate going with private wells. Mr. Morrell asked if, once the Town Attorney has provided her opinion, the Planner could set up a meeting with the Mayos, the applicant, Mr. Morrell's office and staff could go over the issue. Mr. Poirier said he does not foresee any issue, once there is a determination from the Town Attorney, regarding such a meeting, and perhaps it would even be possible to get this item back on the April 23, 2012 agenda to keep the application moving forward.

Mr. Morrell said that the applicant is aware of the separation requirement between the drilled well and the subsurface waste water disposal system on Lot 1 should public water not be extended.

PUBLIC COMMENT PERIOD OPENED: Abutters Donald and Eileen Mayo told the Board that the septic system was put in before they bought the property, which their predecessor Mr. Martin, bought from Mr. Gore. Mr. Mayo pointed out a culvert on site that he feels should be extended. Mrs. Mayo was assured that any damage done to their road would be repaired by the applicant should the easement be used to extend the water.

Mr. Hickey read the following correspondence received from Diana Libby as follows:

"To Tom Poirier and Members of the Planning Board:

I will not be able to attend the Gorham Planning Board meeting scheduled for April 2, 2012. It is my request that this letter be read at the April 2 meeting and that all members of the Planning Board be given a copy prior to the meeting. As you know, I have concerns about the Paul Gore development of Bartlett

Woods. I would like to draw your attention to notes in February Planning Board minutes. My additional comments, which I would be stating in person if I were able to attend this meeting, are preceded by asterisks ***

Ms. Libby asked for confirmation that drainage is intended to be directed to the back of Alberta Way.

*** Although not specifically stated in the minutes here, it was confirmed by the Planning Board and the engineer involved in the project that drainage from the development of the 5 lots would be directed to the back of Alberta Way. Please consider my previously discussed concerns about any increase in stormwater drainage toward Bartlett Road and its impact on my property - where the present culverts running under Bartlett Road ultimately dump it.

Mr. Zelmanow replied that..... the plan would not be approved until the Board has proof of the applicant's financial capacity.

*** I am still concerned about Mr. Gore's financial capacity and whether he will complete the project as stated - specifically the adjustments to topography and the work required to be sure stormwater drainage is directed away from Bartlett Road.

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.

*** It is my understanding that the site work required for stormwater management - directing it away from Bartlett Road and to the back of Alberta way - will be done prior to any lots being sold. I would like to know the specifics of the homeowners' association maintenance agreement and how it will keep the stormwater going where it is designed to go. Specifically, what are the requirements for maintenance of the stormwater plan on Alberta Way and who will be responsible for seeing that this is done before and after the first lot is sold??

I trust that the Planning Board will keep in mind that I have resided in my home on Bartlett Road for over 40 years. I hope that my concerns will continue to be addressed and respected in my absence from the April 2, 2012 meeting. It is also my hope that Mr. Gore will be able to continue with his plans without damage to my property and with minimal impact to my continuing use and enjoyment of my home.

Respectfully submitted for your consideration,

Diana Libby
59 Bartlett Road
Gorham, ME 04038 “

Mr. Morrell said that the stormwater report submitted for this project has a maintenance plan in it that Ms. Libby can certainly review.
PUBLIC COMMENT PERIOD ENDED.

Mr. Zelmanow said that depending on information received from the Town Attorney, it might be possible to consider this application for both preliminary and final approval at the Board's April 23, 2012 meeting.

ITEM 6: Private Way Review - Nathaniel Hurteau request for approval of Tranquil Drive, a 700 foot private way, located off 439 Libby Avenue, Map 47 Lot 4 in the Suburban Residential (SR) district.

Mr. Poirier gave an overview of the application, saying that the applicant was last before the Board on February 6, 2012, and a site walk was held by the Streets and Ways subcommittee on February 16, 2012. Mr. Poirier said that while the revised private way plans have information pertaining to a clustered residential subdivision, the Board is only considering the private way at this time. Comments have been received from abutter Ryan Colpitts and responses from Mr. Hurteau to those comments; both are included in the staff notes provided to the Board.

Mr. Hickey asked if there are restrictions as to what development can happen on a private way; Mr. Zelmanow replied that it would have to meet Code requirements. Ms. Shain asked if development would be limited to a family subdivision by this approval; Mr. Poirier replied that the lots would have to meet minimum lot size and the applicant would be required to do lot splits so as not to trigger subdivision review.

Nancy St. Clair, St. Clair Associates, appeared on behalf of the applicant Nate Hurteau and explained that certain things have been addressed that were discussed at the last meeting and at the site walk. Originally they had requested a waiver of the road grade to exceed 10%; the plans now have been revised to reflect a maximum of 10%. There is an 80 foot long retaining wall at the end of Tranquil Drive which varies in height from 3 to 6 feet. Ms. St. Clair discussed the type of construction proposed for the retaining wall and the Town's engineer's requirement for a geotechnical evaluation be done of the site and a full detailed structural design of the wall be provided. In addition, there is a culvert crossing proposed in the same area of the wall. The applicant has done some cost research and it is obvious that section of the private way would be the most costly. Therefore, the applicant would like to scale back the construction of the road; Ms. St. Clair pointed out the proposed phasing line and new hammerhead to be part of phase 1 with the first phase being 433 feet long out of the original proposed 700 feet. The additional information that has been requested would be provided in the second phase of the project.

Insofar as abutters' issues are concerned, additional buffering in the form of additional plantings will be provided along the Cheung property line. Ms. St. Clair referred to the comments from Mr. Colpitts and said that Mr. Hurteau and Mr. Colpitts have met and Mr. Colpitts' concerns have been resolved.

Mr. Poirier said that a preliminary copy of the phased plan has been provided to the Town's engineer, who has some more comments and requirements for the phasing plan. Mr. Poirier said that the second phase of this private way would be an amendment to come forward in the future with the geotechnical information required. Ms. St. Clair said that the detailed wall information and the permit by rule process would need to happen as part of any approval of anything beyond the first phase.

Mr. Zelmanow asked if the outside review could be completed by the next meeting. Mr. Poirier said if the applicant can provide responses and full plan sets for the phasing by Tuesday, April 3, 2012, he believes he can turn the process around for the April 23 meeting. Ms. St. Clair said revisions have already been made to the plan set based on the comments received so the packet of information can definitely be delivered on Tuesday.

Mr. Hickey encouraged the applicant not to call this "phasing," as basically they are asking for approval of a shorter private way and there are not multiple phases on the plan. Mr. Hickey said he would have no issues with a hatched line showing "possible future addition to road length." Mr. Hickey spoke of the design of the grass lined channel and possible erosion of the channel and asked what happens at the end of the channel. Ms. St. Clair said there is a culvert proposed at the hammerhead to allow both roadside swales to continue

down. Mr. Poirier confirmed with Mr. Hickey that the review engineer is to look at the lining of the channel and what happens at the end of the channel to make sure that the best solution has been determined. Mr. Hickey also suggested signing the end of the road. Mr. Theriault ask about comments from the Public Works Director on the private way. Mr. Poirier said that typically there are no comments from the Public Works Director on private ways. Mr. Theriault suggested asking the Public Works Director for his opinion about the roadside stormwater management. Ms. St. Clair replied to a query from Ms. Shain that there is a section of the first part of the road that is 10% grade, the area where a retaining wall is required, along with the crossing, is in the second part of the road.

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

The Board concurred that the amount of information still required would keep this item from being heard at the next meeting as a consent agenda item.

ITEM 7: Pre-Application for Subdivision Review - Risbara Bros. Construction request for approval of Wagner Farms II, a 10-lot subdivision on 3.44 acres in the Development Transfer Overlay (DTO) District, located at 222 Libby Avenue on Map 30 Lot 13 in the Urban Residential (UR) district.

10:00 o'clock rule not waived, continued to April 23, 2012 meeting.

ITEM 8: Pre-Application for Subdivision Amendment Review - Travis Caruso request for approval of an amendment to Fort Hill Estates Subdivision to revise the size of Lot 1 from 4.63 acres to 1.38 acres with remaining land being joined to land owned by C & C Family, LLC (Map 43/Lot 21). The property is located at 53 Phinney Street on Map 43 Lot 1 in the Rural (R) district. The applicant's agent is Andrew Morrell, EI, of BH2M.

10:00 o'clock rule not waived, continued to April 23, 2012 meeting.

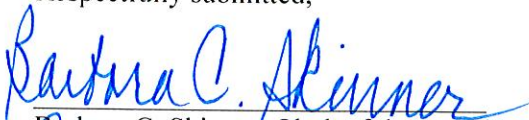
OTHER BUSINESS NONE

ANNOUNCEMENTS NONE

ADJOURNMENT

Andrew McCullough MOVED and George Fox SECONDED motion to adjourn. Motion CARRIED, 6 ayes. [10:10 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board
April 2, 2012

ITEM 1 Gorham Village Green Condo Association and Gorham Village Green, LLC

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 Town Planner 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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
4. That the applicant shall be responsible for recording the approved homeowners' association documents in the Cumberland County Registry of Deeds within 90 days of the date of approval of the subdivision by the Planning Board and shall submit a recorded copy of the homeowners' association documents to the Planning Department;
5. That all applicable conditions of approval for the original site plan and subdivision approvals shall remain in effect;
6. That the applicant shall make the final changes to subdivision plan meeting the requirements of Town Staff prior to the Planning Board signing of the final plan;
7. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
8. That these conditions of approval must be added to the subdivision plan and the subdivision plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the Planning Board's endorsement of the final plan, and a dated mylar copy of the recorded subdivision plan shall be returned to the Town Planner.