



**Town of Gorham
November 5, 2012
PLANNING BOARD MINUTES**

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

Members Present:

**EDWARD ZELMANOW, Chairman
GEORGE FOX
THOMAS HUGHES
MELINDA SHAIN
COREY THERIAULT
JIM ANDERSON**

Staff Present:

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

Members Absent

CHRISTOPHER HICKEY

Edward Zelmanow, Chairman, called the meeting to order at 7:00 p.m. The Clerk called the roll, noting that Christopher Hickey was absent.

APPROVAL OF THE OCTOBER 1, 2012 MINUTES

Melinda Shain MOVED and Corey Theriault SECONDED a motion to approve the minutes of October 1, 2012, as written and distributed. Motion CARRIED, 3 ayes (Christopher Hickey absent; George Fox, Thomas Hughes and Jim Anderson abstaining as not having been present at the meeting). [7:05 p.m.]

COMMITTEE REPORTS – Neither the Ordinance Review Committee nor the Streets and Ways Subcommittee has met since the last Planning Board meeting.

CHAIRMAN’S REPORT – Mr. Zelmanow welcomed Jim Anderson to the Planning Board.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier noted that input is being solicited about parking in the Village and encouraged people to fill out the survey on the Town’s website, www.gorham-me.org.

Mr. Poirier said that the Site Review Committee met and approved the application of 6 Oxford Street, LLC, for pre-owned car sales at 669 Main Street, the small building in front of Crockett Brothers furniture store. There will be a pre-construction meeting for this project on November 6, 2012.

In response to Mr. Hughes, Mr. Poirier said that Shaw Earthworks is proposing to expand its site plan, but first will need to get DEP approval to exceed the amount of impervious surface permitted for its lot. Mr. Zelmanow asked about the status of the Beal’s Ice Cream application; Mr. Poirier replied that staff plans to meet with Jim Malia of Beal’s within the near future.

ITEM 1 SUBDIVISION AMENDMENT PLAN – Risbara Brothers Construction’s request for approval of an amendment to Wagner Farm Subdivision for Wagner Farm, Phase II, a 10-lot subdivision designed under the Development Transfer Overlay District standards on 3.44 acres with an internal ± 510 foot roadway, located at 222 Libby Avenue, Map 30/L13, Urban Residential zoning district.

Mr. Anderson asked to be recused from participation in the discussion of this item as it had already received substantial review and preliminary approval before he became a member of the Planning Board.

Mr. Poirier noted that the item is on the agenda for final approval. He said that the Board gave preliminary approval to the project on September 10, 2012. Since that time, the applicant has addressed staff's comments, and the Findings of Fact and Conditions of Approval have been revised for the Board's approval.

Nancy St. Clair, St. Clair Associates, introduced Bill and Rocco Risbara, and her husband David St. Clair. Ms. St. Clair said that since receiving Board preliminary approval in September, the applicant has received its DEP Stormwater Permit, with the only substantive change being one recommended by the DEP in the media in the filter system for the grassed underdrained soil filters. In response to Board and abutters' comments at the September 10, 2012 meeting, 8 new evergreen trees have been added to supplement the existing buffer along the shared eastern property line with existing homes in Wagner Farm, Phase I. Mailbox positioning has been flipped from what was shown on previous plans, with a primary criterion being the safety of the mail carriers as the boxes are being filled.

Mr. Zelmanow noted that permission has been granted from the Town Manager for the opening of Libby Avenue after November 1, 2012, subject to the approval of the Public Works Director.

In response to Mr. Hughes, Ms. St. Clair said that Wagner Farm, Phase II, has its own homeowners' association which will be responsible for the maintenance of the underdrained soil filters. Ms. St. Clair told Ms. Shain that the footprints of the homes shown on the plans for Wagner Farm, Phase II, are similar to those in Wagner Farm. Ms. St. Clair said that there will be sufficient room on the lots for the construction of garages.

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

Mr. Zelmanow suggested that condition of approval #19 be revised to read: "That the applicant shall replace any said relocated trees that die within one year of relocation with a tree of like type, size, and height along the shared property line with Wagner Farm, Phase 1" In addition, Mr. Zelmanow suggested a new condition of approval #16 to read as follows: "That prior to the issuance of the final certificate of occupancy permit, the pile of gravel located within the open space of Wagner Farm on Libby Avenue be removed and the area restored to its natural setting." The insertion of a new condition #16 changes the existing condition #16 to #17, #17 to #18, #18 to #19, #19 to #20, #20 to # 21, and #21 to #22. The Board and the applicant concurred with the changes.

Melinda Shain MOVED and Thomas Hughes SECONDED a motion to grant Risbara Brothers' request for final approval of a subdivision plan consisting of ten single-family residential lots on 3.44 acres off Libby Avenue, located on Map 30, Lot 13, in the Urban Residential district based on the Findings of Fact and conditions of approval as written by the Town Planner and amended by the Planning Board tonight. Motion CARRIED, 5 ayes (Christopher Hickey absent, Jim Anderson recused). [7:25 p.m.]

OTHER BUSINESS NONE

ANNOUNCEMENTS NONE

ADJOURNMENT

Thomas Hughes MOVED and Melinda Shain SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Christopher Hickey absent). [7:30 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2012

ITEM 1 SUBDIVISION AMENDMENT – Wagner Farm, Phase II – Risbara Brothers Construction

Whereas, Risbara Brothers Construction Company, Inc., Applicant, proposes to construct a 10-lot subdivision of single family homes under the Development Transfer Overlay district standards, Map 30 Lot 1, 222 Libby Avenue, Gorham, in the Urban Residential zoning district.

Pursuant to the Application:

A Pre-application was held on April 23, 2012

A Preliminary Subdivision review was held on August 6, 2012

A Site walk was held on August 21, 2012

A Waiver for the reduction in the separation distance between intersections requirement was granted on August 6, 2012

A Waiver for a high intensity soil survey was granted on August 6, 2012

A Preliminary Subdivision review was held and approval was granted on September 10, 2012

Applicant/Property Owner: The applicant is Risbara Bros. Construction Co., Inc., 197 U.S. Route One, P.O. Box 485, Scarborough Maine, 04070. The current owners of the site are Colleen and William Plummer, 222 Libby Avenue, Gorham, Maine 04038.

Project Description

Risbara Brothers is proposing to construct a 10-lot subdivision with single-family homes designed under the Development Transfer Overlay standards. The lot sizes range in size from 9,688 sq. ft. to 18,890 sq. ft. with road frontages from 75' to 270'. Lots will be served by public water and sewer, natural gas, underground utilities, and a clustered mailbox. Pedestrian and vehicle access to the subdivision lots will be by a road named Lacey's Way, and a sidewalk designed to the Town's Urban Access Road Standard with a length of 440'.

Stormwater will be directed to two grassed underdrained soil filters located in the western corner of the lot. The two underdrained soil filters will be maintained by the homeowners' association.

Offsite improvements include an 8" sewer line, a 12" water line, and a 5' sidewalk extending 210' northerly on Libby Avenue to serve the site.

Site Description: The site is 3.44 acres in size and has three structures currently on site: an existing residence, a garage, and a barn. The majority of the site is field with a few trees interspersed around the site. A small section of woods and wetland is located in the northern corner of the lot.

Applicability: The applicant's proposal requires subdivision review because it involves the subdivision of three or more lots.

Zoning: Urban Residential (UR) District, where the proposed use of single family homes is a permitted use per Chapter I, Section VI, Subsection B. 1) of the Code. The lot is located within the Town's Development Transfer Overlay District.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

St. Clair Associates' Plans (the plans) for Wagner Farm- Phase II, prepared by David St. Clair, P.L.S, and Nancy St. Clair, P.E., consist of the following:

Site Plan – St. Clair Associates

- Sheet 1: Cover Sheet - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 2: Subdivision Plan - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 3: Plan & Profile Sheet 0+00 – 4+26 - 07/03/12; 08/10/12; 8/17/12; 10/02/12; 10/24/12
- Sheet 4: Grading Plan - 07/3/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 5: Details - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 6: Details - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 7: Details - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 8: Details - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 9: Details - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 10: Pre-Development Watershed Map - 07/0/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12
- Sheet 11: Post-Development Watershed Map - 07/03/12; 08/10/12; 08/17/12; 10/02/12; 10/24/12

Other documents submitted consist of the following:

- Sketch Plan and Pre-Application – 03/06/12
- Site Plan Application - 07/03/12; 08/10/12; 08/17/12
- Final Subdivision Application – 10/02/12
- Purchase and Sale Agreement – 10/02/12
- Erosion and Sediment Control Plan – 10/02/12
- Homeowners Association Documents – 10/02/12; 10/30/12
- Deeds, Easements, Letter of Cession – 10/02/12
- Gorham Town Planner – 04/23/12; 08/06/12; 09/10/12; 10/30/12
- Gorham Assessor Comments - 07/20/12; 08/15/12
- Gorham Fire Chief Comments - 07/06/12; 08/21/12; 10/08/12
- Gorham Code Enforcement Officer - 08/08/12
- Woodard & Curran - 07/18/12; 8/17/12; 10/12/12
- Portland Water District – 07/03/12; 08/17/12; -9/28/12
- Traffic Assessment; William Bray, PE; Traffic Solutions - 06/29/12
- Stormwater Management Evaluation – 07/03/12; 10/01/12
- DEP Permit #L-23974-NJ-E-N, 10/22/12

CHAPTER III - SUBDIVISION, SECTION III - PRELIMINARY PLAN

FINDINGS OF FACT

The Planning Board, following review of the Subdivision Application Amendment, makes these findings based on the Subdivision Review criteria found in Chapter III, Section III – C. Preliminary Plan Review.

C. PRELIMINARY PLAN REVIEW

2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:

- 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.

Wagner Farm Subdivision, Phase II, is proposed to be 10 single-family house lots designed under the Development Transfer Overlay standards. Subdivision lot sizes range from 9,688 sq. ft. to 18,980 sq. ft. with road frontages from 75' to 270'. All the proposed subdivision lots meet the requirements of the Development Transfer Overlay District standards.

The Planning Board has determined the number of bonus units is 4, based on the criteria outlined under the Development Transfer Overlay District's development transfer fee and calculations. The development transfer fee for the 4 bonus units will be distributed among the nine single-family houses to be built and is required to be paid at the time of issuance of the building permits.

The applicant has provided a letter from Cynthia E. Convery, Vice President, Biddeford Savings Bank, dated August 8, 2012, identifying that the applicant has the financial capacity to complete the subdivision improvements.

Finding: Wagner Farm Subdivision, Phase II, conforms with the Comprehensive Plan. The proposed subdivision is in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.

- 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.

Wagner Farm Subdivision, Phase II, is estimated to generate 96 daily trips, 8 trips during a typical week day AM peak hour and 10 trips in the PM peak hour. The subdivision lot is located off Libby Avenue north of Wagner Farm Road. Access to each building lot will be provided with the construction of Lacey Way designed to the Town's Urban Access street standard.

The applicant has provided a Traffic Assessment dated June 29, 2012 from William J. Bray, P.E., with Traffic Solutions, documenting the peak hour trip generation of the proposed project and providing an assignment of those trips to the existing streets; examining current roadway safety requirements on Libby Avenue between Main Street (State Route 25) and Gray Road (State Route 202); and reviewing sight distance requirements.

Finding: Wagner Farm Subdivision, Phase II, will not cause congestion or unsafe conditions with respect to use of 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 availability 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.

Wagner Farm Subdivision, Phase II, lots will be served by a clustered mail box located at the hammerhead of Laceys Way. The subdivision lots will also be served by underground power, cable, natural gas, and phone lines from Laceys Way. Subdivision lots' household trash and recyclables removal will be through the Town's contracted residential waste hauler.

Finding: Wagner Farm Subdivision, Phase II, will not place an unreasonable burden on the ability of the Town to provide municipal services to the ten single-family residential lots.

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

The applicant has provided a letter dated July 3, 2012 from Glissen Havu, E.I., with the Portland Water District, confirming that the Portland Water District has the ability to serve the Wagner Farm Subdivision, Phase II.

The applicant has also provided a letter dated September 28, 2012 from Rico Spugnardi, P.E., Business Development Engineer with the PWD, approving the design of the watermain extension as shown on the proposed plan sheets.

The 12" watermain located within Libby Avenue will be extended roughly 230' within Libby Avenue right-of-way to serve the site. An 8" watermain roughly 377' in length will serve the 10 single family dwelling units. Wagner Farm Subdivision Phase II has sufficient water supply available for present and future needs.

Finding: Wagner Farm Subdivision, Phase II, has sufficient water supply available for the present and future needs of the subdivision lots and the applicant will present a letter from the Portland Water District approving the final design prior to final subdivision approval.

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The 8" gravity sewer located within Libby Avenue will be extended roughly 270' within Libby Avenue right-of-way to serve the site. An 8" sewer main roughly 410' in length will serve the 10 single family dwelling units.

Finding: Wagner Farm Subdivision, Phase II, has adequate provisions for sewage disposal available for the present and future needs of the subdivision lots and the applicant will present a letter from the Portland Water District approving the final design prior to final subdivision approval.

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

Wagner Farm Subdivision, Phase II, stormwater infrastructure will collect the proposed stormwater from the site into two grassed underdrained soil filters located within lots 3, 4, and 5 in the eastern corner of the subdivision. "Laceys Way at Wagner Farm Association" homeowners association is responsible for maintenance of the two grassed underdrained soil filters and associated stormwater infrastructure. The stormwater system has been designed to meet Maine DEP Chapter 500 standards to address erosion and sediment control, inspection, maintenance, and housing, and the

standards to provide water quality enhancements and flooding standard to address the pre- and post-development peak rates of discharge.

The parcel is located within the Town's MS4 area and subject to the Town of Gorham's Stormwater Ordinance, Chapter II Post Construction Stormwater Management. "Laceys Way at Wagner Farm Association" homeowners' association will be responsible for compliance under the Chapter II Post Construction Stormwater Management.

Finding: Wagner Farm Subdivision, Phase II, will not result in undue pollution of air, surficial or ground waters, either on or 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.

The stormwater system has been designed to meet Maine DEP Chapter 500 standards to address erosion and sediment control, inspection, maintenance, and housing, and the standards to provide water quality enhancements and flooding standard to address the pre- and post-development peak rates of discharge.

The applicant has received approval from the Maine Department of Environmental Protection for a permit under the Stormwater Management Law. The subdivision is subject to the terms and conditions outlined in the Maine DEP order # L-23974-NJ-E-N.

Finding: Wagner Farm Subdivision, Phase II, will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition will 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.

Wagner Farm Subdivision, Phase II, is not located in the Town's Shoreland Overlay District. No impacts are proposed to the emergent/scrub shrub wetland located in the northern corner of the Wagner Farm Subdivision, Phase II, lot. Stormwater from the site will be filtered through two grassed underdrained soil filters prior to infiltrating into the ground water.

Finding: Wagner Farm Subdivision, Phase II, 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.

- 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.

Wagner Farm Subdivision, Phase II, is located on a lot compromised of mostly old farm fields with the topography being a slight slope running from a high point located on the western boundary of the site to a low point on the eastern boundary. The lot does not have any known historic sites or rare or irreplaceable natural or manmade assets located on it.

Finding: Wagner Farm Subdivision, Phase II, will not affect any scenic or natural beauty of the area, scenic vistas, historic sites 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.

Finding: Wagner Farm Subdivision, Phase II, lots are required to pay the Recreational Facilities and Open Space Impact Fee as part of each lot's building permit fees.

- 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.

Finding: Wagner Farm Subdivision, Phase II, will not create any open space or recreational land and facilities.

CHAPTER III – SUBDIVISION, SECTION IV – FINAL PLAN REVIEW

D. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

The applicant has included an additional buffer of 8 evergreen trees to be planted along the shared property line with Wagner Farm, Phase I. The applicant is also proposing to temporarily relocate some of the existing trees along the shared property line with Wagner Farm, Phase I. Once construction of the underdrained filters has been completed, the trees will be replanted.

Finding: The Planning Board finds that the subsequent changes have been satisfactorily corrected the Preliminary Subdivision Plan set.

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

The Planning Board granted Preliminary Subdivision approval on September 10, 2012.

Finding: The Planning Board finds that final subdivision plans and accessory documentation have been submitted within 12 months of Preliminary Approval.

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 of the subdivision, the applicant is responsible for obtaining all required local, state and federal permits;

3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That at least one week prior to the date of the pre-construction meeting, four complete sets of the final approved plan set will be delivered to the Planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Town Planner;
5. That prior to the pre-construction meeting, the applicant must provide estimated costs for the proposed improvements and must establish the performance guarantee per the Land Use and Development Code, including an escrow for field inspection based on costs for improvements shown on the plan;
6. That prior to commencement of construction, the applicant, applicant's engineer and earthwork contractor shall have a pre-construction meeting with the Town's Engineer, Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief;
7. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control: Best Management Practices," Department of Environmental Protection, latest edition;
8. That the applicant shall obtain a street opening permit from the Gorham Public Works Department prior to the start of construction within the Libby Avenue right-of-way;
9. That the streets shall be properly named and signed with Town- approved street signs as soon as the streets are constructed and the street names shall be approved by the Police and Fire Chiefs;
10. That all houses shall be properly numbered with the numbers being visible from the street year round;
11. That per NFPA Fire Prevention Code 1, the water main and hydrants shall be installed and in service before the issuance of building permits;
12. That the fire hydrants shall be placed in locations approved by the Gorham Fire Chief;
13. That the Code Enforcement Office shall inspect all primary electrical cable or conduit before burial;
14. That this plan is approved in accordance with the most current provisions of the Development Transfer Overlay District (DTO), and all future development of the original parcel or lots created as part of the approved plan must be done in accordance with the provisions of the DTO;
15. That prior to the issuance of a building permit, the development transfer fee for each dwelling unit in the development must be paid to the Town;
16. That prior to the issuance of the final certificate of occupancy permit, the pile of gravel located within the open space of Wagner Farm, Phase I, shall be removed and the area returned to its natural setting;
17. 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;

18. That the applicant shall relocate any trees along the shared property line with Wagner Farm, Phase I, prior to the start of construction and replant the trees once construction of the underdrained soil filters has been completed;
19. That the applicant shall flag and protect any trees not being relocated prior to the start of construction;
20. That the applicant shall replace any said relocated trees that die within one year of relocation with a tree of like type, size, and height along the shared property line with Wagner Farm, Phase I;
21. That the applicant shall replace any trees that die with a tree of like type, size, and height along the shared property line with Wagner Farm, Phase I;
22. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
23. That these conditions of approval must be added to the subdivision plan and shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded mylar copy of the subdivision plan shall be returned to the Town Planner prior to the Pre-construction Meeting.