

**PLANNING BOARD MEETING
September 10, 2018**

Municipal Center, Burleigh H. Loveitt Council Chambers
75 South Street, Gorham, Maine

Members Present

**EDWARD L. ZELMANOW
MOLLY BUTLER-BAILEY
SCOTT FIRMIN
GORGE FOX
LEE PRATT
MICHAEL RICHMAN**

Staff Present

**THOMAS M. POIRIER, Town Planner
NATALIE BURNS, ESQUIRE, Town Attorney
BARBARA C. SKINNER, Clerk of the Board**

Members Absent

SCOTT HERRICK

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

APPROVAL OF THE AUGUST 6, 2018 MINUTES.

George Fox MOVED and Lee Pratt SECONDED a motion to approve the August 6, 2018 meeting minutes as distributed. Motion CARRIED, 6 ayes (Scott Herrick absent, Michael Richman abstaining as not having been present at the meeting).

COMMITTEE REPORTS – Mr. Pratt reported that the Ordinance Subcommittee has not met since the last meeting.

Mr. Fox reported that the Comprehensive Plan Implementation Committee has met since the last Board meeting, there is a proposed draft to be considered by the Board this evening, and the Committee would appreciate feedback on the work done.

CHAIRMAN'S REPORT – Mr. Zelmanow reported that Scott Herrick, the Board's vice chairman, has moved out of Gorham and has tendered his resignation from the Board, so the Board will be short one member until the Town Council appoints the seventh member. Mr. Zelmanow encouraged anyone who might be interested in serving on the Board to contact the Clerk's office to obtain an application.

Mr. Zelmanow thanked Mr. Herrick for his hard work and contributions to the work of the Board.

With Mr. Herrick's resignation, the position of Vice Chairman is now open; Mr. Zelmanow asked for nominations.

Lee Pratt NOMINATED and Molly Butler-Bailey SECONDED George Fox for the position of Vice Chairman.

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There being no further nominations, Mr. Zelmanow called for a vote of George Fox for the position of Vice Chairman. There were 5 ayes and 1 nay (George Fox). Mr. Zelmanow called for a vote of Lee Pratt for the position of Vice Chairman. There was 1 aye (George Fox) and 5 nays. George Fox is now the Vice Chairman of the Planning Board.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier reported that there is no tracking sheet provided for the Board this evening, since Carol White, the Planning Department assistant, has retired. Once a new Planning assistant has been hired, the tracking sheet will again be provided. Mr. Poirier said there are no new Administrative Review applications to report.

Mr. Zelmanow asked that the Board's thanks and good wishes be given to Ms. White.

ITEM 1 Public Hearing – Site Plan Amendment – Ben Lamarche and Cory Murray dba Standish MODBL Real Estate LLC – request for approval to convert 77 South Street to a dental office with additional parking on parking located on Map 106, Lot 47.001, Urban Residential zoning district.

Mr. Poirier explained that the applicants were last before the Board on July 16, 2018, at which time the Board granted a waiver for 7 parking spaces. There were two items still outstanding, one being stormwater management and the second being the location and maintenance of the fence between the applicant's property and that of the Town.. The applicants have provided a stormwater management plan. There is a letter from the Town Manager giving the applicants approval to maintain the fence on Town property.

Cory Murray came to the podium and said that the landscape plan has been incorporated into the plans. Mr. Zelmanow asked if any Board member had a question about the landscape plan; no one did.

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

Mr. Zelmanow confirmed that the Conditions of Approval have been shared with the applicants, who are in accord with them.

George Fox MOVED and Lee Pratt SECONDED a motion to grant Ben Lamarche and Cory Murray dba Standish MODBL Real Estate LLC's request for site plan amendment approval to convert 77 South Street into a dental office on Map 106, Lot 47.001, in the Urban Residential zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 ayes. (7:15 p.m.)

ITEM 2 Public Hearing – Land Use and Development Code – Amendment to Chapter 1, Zoning Regulations, to amendment Section 1-16 – Narragansett Development District – by creating the Narragansett Mixed Use Development District

Mr. Poirier noted that the Town Council forwarded the item to the Board for review and public hearing on September 5, 2017. The Board's Comprehensive Plan Implementation Committee has worked on the proposed ordinance a number of times with suggested changes shown in the proposed ordinance before the Board this evening.

Mr. Zelmanow said that this was the first item that the Comprehensive Plan Implementation Committee was to consider. He asked Mr. Fox as chairman of the Implementation Committee to present a report of the Committee's efforts in its review of the proposed language. Mr. Fox said that the Committee met six times and tried to understand the essence of the request that was made by the Town Council to the Board, making changes to the language that the Council's Ordinance Committee had forwarded to the Board. Mr. Fox said it was a balancing act in trying to establish zoning that allows for growth for the Town, but growth in a way that would not compete with the Village Center but where light commercial and light industrial and limited retail growth could be encouraged, while also providing for some amount of residential occupation. The Committee received thoughtful input from residents at several of the meetings, which was helpful in trying to craft the language, and he believes that the end result does meet what the Town Council asked of the Board in a way that meets the objectives of the Comprehensive Plan. Mr. Fox asked for input from other Board members and the public on the proposed ordinance language.

Mr. Pratt suggested adding manufacturing added under "Permitted Uses" Mr. Fox asked what would distinguish between manufacturing and production, if there is a clear difference between them. Mr. Pratt said there are two types of manufacturing, a job shop would run one to two pieces and where production could be anywhere from 5 to 500,000. Mr. Zelmanow confirmed that interpretation of the various terms is done by the Code Enforcement office when looking at permitted uses. Ms. Burns referred the Board to the definition of "Light Industrial Use" in the Ordinance which discusses "The fully enclosed assembly or fabrication of materials, but excluding basic processes such as smelting, refining, distilling, forging, brewing and similar processes involving converting raw materials to a finished or semi-finished product." Ms. Burns confirmed with Mr. Pratt that incorporating "light industrial" would be appropriate. Mr. Poirier said that "light industrial use" should be deleted from the introduction of Permitted Uses and should be added as separate item "s" under the listing of uses.

PUBLIC COMMENT PERIOD OPENED: Susan Duchaine commented that the Board's committee worked hard on the proposed ordinance but she has issues with nothing fitting into a zone and asked why nothing has ever been developed in the zone in the last 20 years. She said the zone should be opened up more, maybe going into Roadside Commercial where something could be done.

Mr. Zelmanow said that the Board has to implement the vision of the Town Council in its review of the proposed ordinance.

PUBLIC COMMENT PERIOD ENDED.

Lee Pratt MOVED and George Fox SECONDED a motion to recommend adoption by the Town Council of the proposed zoning amendment to the Land Use and Development Code regarding converting the Narragansett District into a mixed-use district with performance standards as amended by the Planning Board and with the zoning boundaries shown on the proposed zooming map. Motion CARRIED, 6 ayes.

ITEM 3 Preliminary Subdivision Review – Design Dwellings – request for preliminary approval of Douglas Woods Subdivision, a 14-lot subdivision located on South Street, Map 22, Lot 17, Suburban Residential zoning district.

Mr. Poirier reminded the Board that this item was last before it on July 16, 2018, at which time a legal opinion was provided to the Board by the Town Attorney about reviewing the project for consistency with the Town's Comprehensive Plan. The applicant also provided a response letter from her attorney, John Bannon, with Murray, Plumb & Murray, dated July 12, 2018. The Town Attorney was asked to reply to Mr. Bannon's letter; staff was also instructed to have the Town Attorney attend a Board meeting to advise the Board on the matter. The Town Attorney is present this evening.

Mr. Poirier said that the applicant's engineer has provided water man calculations which staff has reviewed and provided comments about for the Board's review.

Mr. Zelmanow commented that the threshold issue the two other times this has come before the Board is whether this type of application and use is permitted in this very restricted zoning area when considering the Land Use and Development Code and the Comprehensive Plan. Mr. Zelmanow thanked Natalie Burns, the Town Attorney, for being present at tonight's meeting, and asked about the use of the word "should," as in the sentence "... the allowed residential uses in this designation should be limited to multi-family residential uses..." and that "Single-family and two—family dwellings should not be allowed..." Mr. Zelmanow asked if that term mandates or if it gives the Board some discretion as to whether the Board can or cannot allow this type of use.

Natalie Burns, Town Attorney, said that under state law, there is a provision that talks about "should" and "shall," that "should" is not mandatory, but "shall" and "must" are mandatory. She said that there are two separate issues related to that, and under the case law discussed in her letter, the use of the word "should" in applying the Comprehensive Plan was in a situation where someone was arguing that something wasn't consistent with the Comprehensive Plan and the Court found that it actually didn't matter that it was consistent with the Comprehensive Plan provision at issue because that provision said "should." She said that here, there is also another issue of whether the Board is looking at the overall Comprehensive Plan for consistency, whether it is looking at specific provisions of the Comprehensive Plan for consistency, and the fact that it says "should" may not be the end of the Board's inquiry.

Mr. Zelmanow said that it is not preventing this use going forward, the Comprehensive Plan is just conveying upon the Planning Board that it should take a look at it to see if the proposed use fits within the area and within the general Comprehensive Plan goal for the area itself. Ms. Burns said yes, the Board should determine whether the use is consistent with the goals of the Comprehensive Plan. Ms. Burns said she did not intend to tell the Board that it has to approve it or that it can't approve it, that is the Board's decision to make, that the Board does have to apply the standard, but it is up to the Board how that is applied.

Mr. Zelmanow said that he believes that the Board can move forward with the application, but keeping in mind that it has to not only meet the requirements of the Code but also the ultimate goal of the Comprehensive Plan for development in that particular area.

Andrew Morrell, BH2M Engineers, appeared at the podium on behalf of the applicant and introduced the applicant's attorney, John Bannon, of Murray Plumb & Murray. Mr. Bannon asked for confirmation that an interpretation of what was ruled is that the Comprehensive Plan does not prohibit this project and therefore it can be reviewed but the Board needs to keep the Comprehensive Plan in mind somehow. Mr. Zelmanow said that with every application that comes before it, the Board has to look at the Land Use Code to make it sure it makes all of its criteria and while reviewing it, keeping in mind that there is a Comprehensive Plan that the Board needs to look at and apply to every application that comes before the Board, and do the goals of the Comprehensive Plan allow the Board to approve it or not.

Mr. Bannon said that while there is some common ground with Ms. Burns' opinion in her letter of August 23, 2018, he spent some time citing various cases in which he believes there is disagreement. Mr. Bannon commented that the Comprehensive Plan is not a reality, it is not incorporated and not enforceable until it is translated into the ordinances of the Land Use and Development Code, which the Town Council has not done. He agreed with Ms. Burns that the Board cannot require greater density than is allowed under the existing Ordinance. He also agreed with Ms. Burns' statement that "If a provision of unclear, or if there are different provisions that could lead to different results, the Board is responsible for reviewing the Comprehensive Plan and making a determination as to whether the application is generally consistent with the provisions of the Comprehensive Plan." Mr. Bannon distributed a document entitled "Provisions of the 2016 Comprehensive Plan With Which the Douglas Subdivision Plan Is Consistent," which he believes

justifies that this application is consistent with the Comprehensive Plan. Ms. Butler-Bailey asked for confirmation that the case of *Nestle Waters North American, Inc. v. Town of Fryeburg* held that a comprehensive plan is enacted and it is just the Town's job to make ordinances that conform with that comprehensive plan, and that outside of that, the Board is not supposed to consider it. She said that now it appears Mr. Bannon is saying that it does need to conform but only to the Comprehensive Plan as a whole. Mr. Bannon said he forgot to add that assuming that one does not agree with what he said previously, even if the Board does consider consistency with the Comprehensive Plan, that is the standard that is followed. Mr. Bannon referred to Ms. Burns' statement in her letter that "The Board might determine that these statements are not the only ones in the (Comprehensive) Plan that are relevant to the proposed development or that these are not mandatory."

Mr. Zelmanow said he believes that the Comprehensive Plan is not a dormant document that will come to life when the Town Council adopts a new Land Use Code, but that its vision, objectives and goals are to help shape how the Planning Board should interpret and use its discretion in many areas granted to within the Comprehensive Plan and the Code itself. He gave samples of some things that the Board will indicate it would like to see such as street trees or esplanades, things that the Land Use Code does not tell it to do, but the Board looks to the visions and goals of the Comprehensive Plan and what it sees for the Town of Gorham in the future. Mr. Zelmanow said that if there is a part of the Code which is silent on an issue but is discussed in the Comprehensive Plan, is that something that the Board can base a denial on, or what if there are inconsistencies between the Land Use Code and the Comprehensive Plan. He asked for Ms. Burns to comment.

Ms. Burns said she does not want to get into a complete response to all of Mr. Bannon's comments because there are some things in which they are in agreement and some things in which they are not in agreement. The one thing she said she wanted to talk about is his concept that the above-mentioned standard is unconstitutional, noting that this Board does not have the authority to determine that any of the provisions of the Ordinance are unconstitutional. That provision cannot be written out because the Board may find that it is consistent with the Comprehensive Plan but must apply all the standards in the Ordinance and that is a standard in the Ordinance. It comes from the state subdivision law and is not one that the Town of Gorham adopted on its own.

Mr. Zelmanow said his first question is if the Code is silent on an issue but the Comprehensive Plan directly addresses it is the Board able to deny an application finding that it is inconsistent with the Comprehensive Plan. He said his other question was what if they are inconsistent with each other, the Code and the Comprehensive Plan. Ms. Burns replied that they are inconsistent with each other in certain respects but perhaps not in all respects. She said that one of the things that has been discussed is that there are provisions in the Comprehensive Plan that do allow greater density than is allowed under the existing zoning ordinance, and of course the Board understands that it cannot override the zoning ordinance as to what is allowed for density. Therefore she does not believe the Board can deny an application because it meets the zoning ordinance for density but not the Comprehensive Plan requirements. She said the Board can look at what the general character of what the Comprehensive Plan calls for and determine a) whether the Plan is mandatory, or b) whether the Plan is something aspirational. She said that in addition, the Board does get to look, as Mr. Bannon has said, at other aspects of the Comprehensive Plan to determine if it is consistent with something in the Comprehensive Plan. She said that the Board can require with conditions of approval certain changes if the Board feels that those changes would make something more consistent with the Comprehensive Plan.

Mr. Zelmanow asked if the Board has the ability to give greater weight to certain areas within the Comprehensive Plan than others or are all supposed to be handled the same. For example, if the application meets 5 of the standards within the Comprehensive Plan but doesn't meet two of them, someone might say that those two are more important than the 5 that it does meet, can the Board still deny it or say it does meet 5 but not 2 that's good enough. Ms. Burns said that all rezoning has to be consistent with the Comprehensive Plan so those cases are persuasive authority although they are not binding precedent, but they do say that if

there are different provisions that say different things, the legislative body gets to look at those provisions and determine that if it is consistent with some of them, then it is generally consistent with the Plan and therefore the amendments can be passed. The same test would most likely be applied in the applicable of this standard, that if the Board looks at the Comprehensive Plan and determines that it isn't consistent with what the Comprehensive Plan specifically calls for but there are other provisions that it is consistent with. Furthermore the fact that it may be inconsistent with the zoning district is somewhat regulated by the fact that the zoning hasn't been amended. Again, the Board can also impose conditions if they believe they help it better reach the goals of the Comprehensive Plan. The Board determines which things it is consistent with and whether that is enough to determine that it is generally consistent with the Comprehensive Plan.

Ms. Butler-Bailey, going back to the fundamental disagreement in terms of whether or not the Board even takes the Comprehensive Plan into account, asked Ms. Burns to respond to Mr. Bannon's argument, especially the *Nestle Waters* case. Ms. Burns said that the *Nestle Waters* case is distinguishable because in that case there was not a standard in an ordinance that said it had to be consistent with the comprehensive plan. She said that she and Mr. Bannon disagree about what the implication of that case is, but she believes that there is language in there that certainly would lead one to believe that if there is an affirmative statement in an ordinance, one does have to determine consistency with the Comprehensive Plan. She said that the subdivision law and the Town's ordinance do have that standard in it so it has to be applied but it is up to the Board to decide how to do that.

Mr. Fox confirmed that both attorneys are in agreement that the Board does not need to follow the Comprehensive Plan in total, the Board needs to be aware of the Comprehensive Plan when making decisions, but it sounds as though the decision can be either to move forward with the application as it exists or it can be reworked in a way that more significantly meets the direction of the Comprehensive Plan. Ms. Burns said she isn't sure that Mr. Bannon agrees with her that the Board can require that certain changes can be made to make it consistent, but yes, Mr. Fox's statement is a fair statement of what she said, and the first part of the statement is what she and Mr. Bannon agree on. Ms. Butler-Bailey confirmed that there is no case on point about something being flat-out denied because it did not meet the comprehensive plan. Ms. Burns said there was a case that determined that a subdivision was consistent with the comprehensive plan, and the Law Court upheld the determination of the Board even though opponents of the project argued that it was not. Ms. Butler-Bailey confirmed that it is not the Board's obligation to apply the constitution in any way. She asked, however, if the Board is able to make independent interpretations of the law based on what is being said, or is the Board under the obligation to take the advice of the Town Attorney. Ms. Burns said that the Board is allowed to make its own decisions, and the statute says that the Board has the authority to interpret the Comprehensive Plan when making the determination of whether it is consistent. Mr. Zelmanow said that the Board cannot ignore the Comprehensive Plan outright. Ms. Burns said that the Board cannot read a standard out of the ordinance, that if there are standards under which a project is to be reviewed, it must be reviewed under all of the standards and the Board must apply all of them.

Mr. Zelmanow said that the Board will move forward in its review of the application, keeping in mind both the Land Use Code and the Comprehensive Plan and try to manage the review accordingly.

Ten Minute Break

Andrew Morrell, BH2M Engineers, told the Board about some changes that have happened since the project was last before the Board: the applicant has closed on the purchase of the property, the plans have been updated to show the applicant's ownership; a letter has been provided from Mark Hampton indicating that there are no vernal pools on site; and Sevee & Maher Engineers did a nitrate study that has been submitted to the Town. Mr. Morrell said they had reached out to DOT, sending the plans to Anthony Fontaine for his review. Mr. Fontaine stated that typically the DOT only requires improvements on an arterial highway,

technically South Street is considered a collector road, he did not anticipate any improvements required on South Street, but he was going to complete a site inspection to confirm that. Net residential density calculations have been provided on the front Rural zone portion of the project; one item to note on those calculations is a very large deduction for what is considered a 100-year flood zone, with a stream that runs through the parcel, based on FEMA standards dating back to 1982, which he believes are inaccurate and which the applicant will need to work with FEMA on to provide revised density calculations. Mr. Morrell said water calculations were provided back in July which they would like to discuss with the Board. He said that the Ordinance requires water calculations if they are within 3,000 feet of an existing watermain; this project is now. However, the Board can ask that the water calculations be done if it feels it is in the best interest of the Town to extend water. The calculations have been provided based on a cluster subdivision and a conventional subdivision, not only for this project, but also the abutting proposed Dana Lampron subdivision, basing the calculations on 29 lots between the two projects. Based on their calculations, the costs are far greater to extend public water.

Mr. Zelmanow said that the water extension numbers provided by staff and those provided by the applicant are not the same, and asked staff to explain how the calculations are done and how staff's numbers come to differ from those of the applicant. Mr. Poirier said that staff utilized the numbers provided by BH2M, using the road length as well as the \$100,000 off-site extra costs, and the only difference is that staff added provisions for bonus units for the suburban residential portion of the lot. Mr. Poirier said that a majority of the lots are located in the Suburban Residential District which allows a density bonus for lots supplied with public water. The bonus allows that subdivisions with public water may add an additional dwelling unit for each 3 acres of net acreage of the site. These bonus units can be considered as part of the water main analysis calculation. Mr. Poirier said that the applicant has not yet provided the net acreage plan for review, so staff completed conservative assumptions regarding net acreage to assist the Planning Board.

Mr. Poirier explained that If the Board considers that only 25 % of the lot is usable land under the net acreage calculation, then the developments are entitled to 5 bonus units. If one uses the six bonus units in the clustered subdivision calculation numbers proposed by BH2M engineers, the costs per unit for public water drops below the private water costs: public water costs \$26,862 and maximum private water costs \$27,435.

If the Board considers that only 50% of the lot is usable land under the net acreage calculation, then the developments are entitled to 13 bonus units. If one uses the thirteen bonus units in the conventional subdivision calculation numbers proposed by BH2M engineers, the costs per unit for public water drops below the private water costs: public water costs \$24,292, maximum private water costs \$27,435. It appears that 8 bonus units, which equates to only 30% of the lot being usable land, are needed to make the public water costs lower than the maximum private water costs for a conventional subdivision.

Mr. Zelmanow said that the analysis shows the cost of providing public water would be cheaper than private water, which under the Code would require that public water be extended.

Susan Duchaine, applicant, came to the podium and said she does not believe that net residential needs to be calculated in this zone. She disputed the well cost and said no calculations have been used for ledge and said her project is not within 3,000 feet of public water. Mr. Morrell said he has never been asked to do water calculations greater than the 3,000 linear feet. He confirmed that a density bonus is allowed if public water is at the parcel, so if there is no public water this is a 29 lot subdivision. But if there is public water, they are allowed a density bonus for the extension of public water, so in determining whether public water needs to be extended or not, why are density bonuses are being considered only if there is public water.

Mr. Poirier said an ordinance was adopted to require the extension of public water. There are hard and fast numbers that are used to do the calculations, they are not current costs but there is an escalator included to provide a higher cost for private wells for future homeowner upkeep. The Board has the discretion to require as though this lot has public water to determine what the maximum density is allowed on it with public

water. The Board can also consider the costs if they are reduced based on a clustered subdivision; the applicant does not have to build a clustered subdivision but the number needs to be calculated.

Mr. Morrell asked for clarification that if they are doing the calculations, the well costs would be based on 29 lots. Mr. Poirier said they are both done on the same number of lots. At Ms. Duchaine's request, Mr. Poirier read the following excerpt from the Land Use and Development Code:

“Provision for the Orderly Extension of the Public Water System:

The Planning Board may require that a subdivision or a building subject to site plan review but not covered by A or B, above, extend and/or utilize public water supply provided by the Portland Water District if the Board determines the provision of public water to this project is necessary for the orderly extension of the public water system or for the development of the area in accordance with the Town's adopted Comprehensive Plan, and that such extension will not be financially unreasonable based upon the methodology set for in subsection E.”

Mr. Poirier said that the Board can ask the applicant to provide more information regarding costs for extending public water, such as ledge; the Board would need to see the net acreage plan for the portion of the land in the SR district and, a plan showing a conventional vs. a clustered subdivision to determine if shrinking the road length might lessen the cost of extending water. Mr. Firmin noted that while he is Director of Waste Water Services for the Public Water District, he does not believe he has a conflict on this issue. Mr. Firmin asked if the applicant is interested in bonus units; Mr. Zelmanow replied that even if the applicant did not want the bonus units, the statute says that the calculations have to be based upon full buildout with all bonus provisions provided. Mr. Fox noted that the Town has a preference for public water, as demonstrated by the calculation methodology, and recommended that the cost projections the applicant brings back are credible because it is incumbent on the applicant to provide credible numbers to show that it is not financially viable to extend public water in this application. Mr. Zelmanow said the applicant's engineer knows what numbers are needed to plug into the estimator form, the numbers will be provided to the Board, and the Board will run the calculations again to see what comes up.

Mr. Poirier said that the lot layouts in that subdivision are based on single family homes. He asked if the Board feels that is consistent with the Comprehensive Plan. However, if the Board is concerned that it does not meet the requirements of the Comprehensive Plan, the Board should let the applicant know what it thinks would be consistent to make that subdivision consistent with the Comprehensive Plan. Mr. Zelmanow, Mr. Fox and Mr. Pratt all felt that it is consistent enough to allow the applicant to move forward with the current plan. Mr. Richman said that he disagrees, even though he doesn't dislike the layout in the context of what is already built in the area, he sees that the Board's role as supporting what the people of Gorham want as expressed in the Comprehensive Plan. He said that the goals of the Plan are clear for that area, and this development is in the middle of that area, quoting from the Plan that “The development standards in the Crossroads area are intended to require a high-intensity pattern of development. * * * “...require a minimum overall density of not less than five units per net acre...” Mr. Richman said that what is before the Board is 29 residences on 42-43 acres, so that it is not even close. Mr. Morrell said that the total of the two parcels which would support the 29 lots would just under 83 acres; Mr. Richman said that was even more to this point and the project is very different from the Comprehensive Plan and not within his comfort zone to support. Ms. Butler-Bailey said she needs more time to review the legal issues and review the Comprehensive Plan more as a whole and does not believe she can advise the applicant at this time as to whether she can or cannot support the project. Ms. Burns said that all of the Board members will be provided with the cases cited in the Town Attorney's letters and the letter from John Bannon, and any questions should go through the Town Planner, who will make sure that will be available to the entire Board, to the applicant and to the public at the next meeting. Mr. Firmin said as he reads that the development standards, they are intended to require the development of something different than this.

Mr. Poirier confirmed that the Board is split on the layout of the subdivision with more research needing to be done. Mr. Morrell asked how to move the project forward under this current design if it isn't the way they are headed. Mr. Fox said that the Board needs to comply with the existing ordinance with any decision it makes, the existing ordinance does indicate that single family homes are desirable alternatives but not consistent with the density in the Comprehensive Plan, he believes the Board needs to follow the ordinance requirements concerning density, and the ordinance requirement will trump the Comprehensive Plan on density for this development. Mr. Poirier said if the Comprehensive Plan allows more density than anticipated in the subdivision, the Board could find the subdivision consistent. A project could be less dense and still be consistent, although it is not ideal. Mr. Fox confirmed that a project would probably not be supported if a project's density was more in line with the Comprehensive Plan and in conflict with the ordinance. Mr. Pratt said he would like to see single family, big lot houses rather than multi-unit development.

Ms. Duchaine discussed with the Board the options that she sees for the parcel of land, based on potential Turnpike Authority interest in it. Mr. Fox confirmed with Ms. Duchaine that she will develop the land if the Turnpike Authority doesn't move forward. Mr. Pratt asked why she does not go forward with a contract zone application. Ms. Duchaine said she would like to go forward with some kind of industrial development. Mr. Firmin confirmed that what she would like to do could be consistent with the Comprehensive Plan but not necessarily with the Code requirements.

Mr. Morrell asked if the Board felt that a workshop could be helpful in trying to move the application forward. The Board concurred, and staff was directed to schedule the item during the week of September 17, 2018, for a workshop discussion.

George Fox MOVED and Scott Firmin SECONDED a motion to table the item to a future Board meeting. Motion CARRIED, 6 ayes. [9:45 p.m.]

ITEM 4 Final Subdivision Review – Robert Hamblen – request for final approval of Harrison Lane, a 6-lot residential subdivision on 10.10 acres on property located off Libby Avenue, Map 47, Lot 23, Suburban Residential-Manufactured Housing zoning district.

Mr. Poirier explained that this item was granted preliminary subdivision approval on August 6, 2018, with one item outstanding being that of a waiver request for the nitrate plume analysis. The Board questioned whether the existing single-family house at 332 Libby Avenue is on public water or a private supply well. The Portland Water District has confirmed on August 8, 2018 that 322 Libby Avenue does have public water available. Mr. Poirier advised that a letter of financial capacity has been received, and the road has been changed to Urban Access standards as requested by the Planning Board.

Scott Firmin MOVED and George Fox SECONDED a motion to waive the requirement for a nitrate plume analysis. Motion CARRIED, 6 ayes.

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

Mr. Hamblen confirmed that the Conditions of Approval are satisfactory.

George Fox MOVE and Lee Pratt SECONDED a motion to grant Robert Hamblen's request for final subdivision approval for Harrison Lane Subdivision off Libby Avenue, located on Map 47, lot 23, Suburban Residential-Manufactured Housing zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner. Motion CARRIED, 6 ayes. [9:59 p.m.]

OTHER BUSINESS

NONE

ANNOUNCEMENTS

Mr. Zelmanow reminded the public to contact the Clerk's office for an application if anyone is interested in serving on the Planning board, and noted that the next meeting of the Board will be on October 1, 2018.

ADJOURNMENT

Lee Pratt MOVED and George Fox SECONDED a motion to adjourn. Motion CARRIED, 6 ayes.

[10:02 p.m.]

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2018

ITEM 1 BEN LAMARCHE AND CORY MURRAY, DBA STANDISH MODBL REAL ESTATE LLC – CONVERSION OF 77 SOUTH STREET – MAP 106, LOT 47.001

CHAPTER 4, SITE PLAN REVIEW, SECTION 4-9 – Approval Criteria and Standards

The Planning Board, following review of the Site Plan Application, makes these findings based on the Site Plan Review criteria found in Chapter 4, Section 4-9 – Approval Criteria and Standards, of the Town of Gorham Land Use and Development Code.

CHAPTER 4, Section 9 – 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 proposed use and size of the building conform to the requirements of the Land Use and Development Code.

Finding: The plan for the development reflects the natural capabilities of the site to support the development and the natural features and drainage ways are preserved to the greatest extent practical.

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.

Access to the site is via South Street, State Route 114, which is classified as a Major Urban Collector road by the Maine Department of Transportation. The proposal is to pave and widen the existing driveway on the site.

The proposed use of the site will generate 11 daily trips.

Finding: South Street, State Route 114 has adequate capacity to accommodate the traffic generated by the development.

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

Access into the site will be from a 12 to 18' wide driveway located along the southern lot line. The driveway is wide enough for 1 way traffic to access the rear parking lot.

Finding: The plans provide for safe and convenient vehicular access into the development.

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 parking lot is located to the rear of the building. The applicant is proposing to locate a driveway along the southern property line. The drive aisles that provide access into the site and the parking lot are proposed to be between 12- 18' in width.

The Planning Board approved the reduction to the required on-site parking spaces by 7 spaces because publicly supplied on-street parking is located within two hundred (200) feet of a non-residential use. The Board finds the parking is safe, convenient, and available to meet some of the parking demand.

Finding: The layout of the site provides for the safe movement of passenger, service, and emergency vehicles through the site.

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

No pedestrian improvements are proposed on the site. An existing walkway is located between South Street and the front of the building with a handicapped ramp and steps also being located to the rear of the building.

Sidewalks are located on both sides of South Street in front of 77 South Street.

Finding: *The plans provide a system of pedestrian circulation within the development.*

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

The stormwater treatment proposed for the site shall be maintained per the stormwater maintenance plan submitted. The stormwater shall be treated prior to discharging into the Town's stormwater infrastructure.

The lot is located within the Town of Gorham's Urbanized Area as identified in the Town of Gorham's Post-Construction Stormwater Management Ordinance. The site disturbance is under the 43,560 square feet required for yearly inspections and reporting of the stormwater facilities to the Town.

Finding: *The stormwater run-off will not have adverse impacts on abutting or downstream properties and the biological and chemical properties of the receiving waters downstream will not be degraded.*

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

The applicant will also comply with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Maine Department of Environmental Practices.

Finding: *The plan utilizes existing topography and desirable 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 site is to be served by an existing 3/4" water main stub into the building from a 6" water main located in South Street.

The Portland Water District provided an ability-to-serve letter on July 24, 2018.

Finding: *The development provides a system of water supply that provides for an adequate supply of water meeting the standards of the State of Maine for drinking water.*

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 applicant is proposing an existing gravity sewer stub to serve the building. The sewer stub would be connected into the 8" sewer main located in South Street.

Finding: *The development provides for sewage disposal for the anticipated use of the site.*

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

The lot will be served by (underground/overhead) power, utilities, and natural gas from utilities located in South Street.

Finding: *The development will provide for adequate electrical and phone service to meet the anticipated use of the project.*

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.

The parcel has been previously developed for residential use with a yard area. Some trees and lawn are existing but no other natural features are located on the lot.

Finding: *The development of the site will preserve the existing vegetation to the greatest extent practical during construction.*

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 building will be connected to the Portland Water District public water and sewer lines located in the South Street right-of-way.

Finding: *The proposed development 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.

The proposal is to locate 3 wall lights on the building, 2 lights for the building, and 2 wall sign lights. The wall pack lights are required to be more specific of an historic New England style meeting the requirements of the Town Planner. The building and wall lights for the building shall be shielded so as not to impact abutting properties.

Finding: *The proposed development provides for adequate exterior lighting to provide for the safe use of the development during nighttime hours.*

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

The applicant is not proposing any dumpster on the site. All medical and general waste will be stored inside the building until disposed of by a third party contractor paid for by the owner of the lot or occupant of the building.

Finding: *The proposed development provides for adequate disposal of solid wastes and hazardous wastes.*

- 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.

The site has an existing 16" maple tree, which is proposed to be saved, located near the front of the lot.

The proposal will be to install a detailed landscaping plan per the concept landscape plan dated May 2018. The landscaping will provide for multiple types and species of plants along the front and northern side setback.

A fence will break up the proposed development along the rear and southern property line.

The landscaping will be maintained in a neat and sanitary condition.

Finding: *The proposed plan will provide landscaping to soften the appearance 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.

No wetlands are located on the site and the site is not located in any of the Town's Shoreland Overlay Districts.

Finding: *The development will not adversely affect the water quality or shoreline of any adjacent body of water.*

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

The applicant has provided bank statements from Bangor Savings Bank and Gorham Savings Bank identifying that it has the funds to complete the project.

Finding: *The applicant has the financial and technical capacity to complete the project in accordance with Gorham's Land Use and Development 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 applicant is proposing to buffer the parking area from the abutting property with a 4' high wooden fence. The applicant has an email from the Town Manager dated September 5, 2018 that identifies that the applicant is able to maintain the fence along the shared boundary with the Town with any damage to the Town property required to be repaired by the applicant to the satisfaction of the Town.

The applicant is proposing to buffer the proposed development from South Street and the Town of Gorham property along the front and northern side property boundary through an extensive landscaping plan.

Finding: *The development provides buffering to screen service and storage areas.*

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 uses at the site are required to meet the A-weighted hourly equivalent sound level limits of 60 dBA daytime (7am-7pm) and 50 dBA nighttime (7pm-7am).

Finding: *The development will comply with the A-weighted hourly equivalent sound level limits of 70 dBA daytime (7am-7pm) and 60 dBA nighttime (7pm-7am).*

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 or Site Plan Review Committee, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the site plan, the applicant is responsible for obtaining all required local, state and federal permits;
3. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
4. That the stormwater infrastructure and impervious areas shall be maintained as outlined in the Operations & Maintenance Plan for 77 South Street, Gorham, Maine;
5. That the applicant shall be responsible for compliance with the Town Manager's September 5, 2018 conditions for use of Town property to maintain the fence and landscaping along the shared property line with the Town;
6. That any proposed use on the site shall meet the sound level requirements outlined under Chapter 4, Section 9, T. Noise;
7. That prior to the pre-construction meeting, the applicant will establish the following: a performance guarantee totaling 125% of the costs to complete the construction and an escrow for field inspection meeting the approvals of Town Staff and the Town's Attorney;
8. That prior to the commencement of any site improvements, the applicant, its earthwork contractor, and the design engineer shall arrange a pre-construction meeting with the Town's Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Town Planner to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
9. That the waste shall be stored indoors until properly removed from the site by a licensed waste hauler;
10. That the stormwater infrastructure improvements shown on the Town of Gorham property shall meet the requirements and approvals of the Gorham Public Works Director;
11. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and

12. That these conditions of approval must be added to the administrative site plan and the administrative site plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board, and a dated mylar copy of the recorded site plan shall be returned to the Town Planner.
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ITEM 4 ROBERT HAMBLÉN, HARRISON LANE SUBDIVISION PLANNING BOARD

Applicant/ Property Owner: The applicant is Robert Hamblén, 347 Ferry Road, Saco, Maine 04072 and the owner is Charles Hamblén, 26 Hamblén Drive, Gorham, Maine 04038.

Property: The lot is identified as Tax Map 47, Lot 23, and is located off Libby Avenue.

Consultant: Thomas Milligan, Jr., P.E. #13285, and John Perry, Jr., P.L.S. #2127.

Project Description: The applicant is proposing to construct a 6-lot subdivision served by an approximate 650 foot Urban Access road. The lots will be served by underground utilities, public water supply, individual on-site subsurface disposal systems, and residential home sprinkler systems.

Site Description: The parcel is 10.10 acres in size and has legal road frontage along Libby Avenue. The parcel is currently undeveloped. Vegetation on the lot is woodlands with the topography sloping from west to east. Forested wetlands are located on the site.

Applicability: Subdivision regulations identify the Planning Board as having review and approval authority.

Zoning: Suburban Residential (SR) District where a single-family home is a permitted use per Chapter 1, Section 1- 7, B. 1) of the Code.

Variances: None required.

Waivers: The applicant has requested a waiver from the requirement for a nitrate plume analysis.

Pursuant to the Application:

A Pre-application Discussion was held on June 5, 2017.

A Preliminary Subdivision Review was held on May 7, 2018.

A Site Walk was held on May 22, 2018.

A Preliminary Subdivision Review was held on July 16, 2018.

A Preliminary Subdivision Review was held and approval was granted on August 6, 2018.

A Waiver Request of the submission requirement for a nitrate plume analysis was granted on September 10, 2018.

A Final Subdivision Review was held and approval was granted on September 10, 2018.

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:

John E. Perry, Jr. and Thomas Milligan, Jr., Plans:

Subdivision Plans

Boundary Plan – 08/15/18 (Perry)
Sheet 1 – Final Subdivision Plan – 08/15/18 (Perry)
Sheet 2 – Plan and Profile – 08/15/18 (Milligan)
Sheet 3 – Drainage Plan – 08/15/18 (Milligan)
Sheet 4 – Erosion and Sediment Control – 08/15//18 (Milligan)
Sheet 5 – Erosion Control & Sedimentation Control Plan – 08/15/18 (Milligan)
Sheet 6 – Details – 08/15/18 (Milligan)
Sheet 7 – Details and Notes – 08/15/18 (Milligan)
Sheet 8 – Notes – 08/15/18 (Milligan)

Other documents submitted consist of the following:

Pre-application Sketch Plan – 05/22/17
Plans – 04/05/18; 06/05/18; 06/29/18
Sketch Plan Cluster Subdivision Plan – 05/22/17
Sketch Plan Conventional Subdivision Plan – 05/22/17
Preliminary Subdivision Plan Application – 04/05/18
Soils Test Pits, Soils Map, HHE200 - Thomas Milligan – 04/24/18
Wetlands Delineation – Thomas Milligan – 04/05/18
Portland Water District – 05/22/18; 08/28/18
Gorham Town Planner – 04/23/18; 07/11/18; 09/05/18
Gorham Assessor – 04/19/18
Gorham Code Enforcement Officer – No comments
Gorham Fire Chief – 04/18/18
Gorham Public Works Director – No comments
Gorham Police Chief – No comments
Gorham Zoning Administrator – No comments
Philip D. Fearon, Senior Vice President, Saco & Biddeford Savings – Letter of Financial Capacity -
08/31/18
Woodard & Curran – 06//20/18
Town Attorney – 08/28/18

CHAPTER 3 - SUBDIVISION, SECTION 3 - PRELIMINARY PLAN

The Planning Board, following review of the Preliminary Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter 3, Subdivision, Section 3-3 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 2.

The applicant is required to obtain all required local, state, and federal permits for the proposed development.

The Comprehensive Plan identifies this area as Village Expansion. The plans meet the requirements of the Village Expansion zoning district for residential density.

Finding: Harrison Lane Subdivision conforms 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.

Access to lot 1 will be via a shared driveway off Libby Avenue, which is designated as a collector road by the Town of Gorham.

Access to lots 2 through 6 will be via Harrison Lane, which is designed as an urban access road.

Finding: Harrison Lane Subdivision 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.

- 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.

The single-family homes located in the subdivision will be served by underground power, electric and telephone lines, and the Town's contracted waste disposal contractor.

A clustered mailbox will be located along Harrison Lane at station number 0+75.

Finding: Harrison Lane Subdivision 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.

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

The subdivision lots will be served by public water supply from the 12" water main located in Libby Avenue. The applicant is proposing to serve lots 2-6 in the subdivision with an 8" water main extension in the Harrison Lane right-of-way meeting the Portland Water District requirements. Each lot will be served with a 1" residential service from the 8" water main extension.

Lot 1 will be served with a 1" residential service from the 12" watermain located in the Libby Avenue right-of-way.

Finding: Harrison Lane Subdivision provides for adequate water supply for present and future needs.

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

The lots will have on-site subsurface disposal systems designed by a Maine Licensed Site Evaluator. All private septic systems are required to meet the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

Each lot has a passing soil test pit meeting the State of Maine' Subsurface Wastewater Disposal Rules.

Finding: Harrison Lane Subdivision provides for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

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

Storm water from a portion of the road will be collected into ditches and directed into 2 wetlands on either side of the road.

Finding: Harrison Lane Subdivision will not result in undue pollution of air, or 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.

All the residential house lots will be loamed and seeded to prevent soil erosion. The majority of the storm water from the subdivision will be directed into grassed ditches.

The Harrison Lane Subdivision homeowners' association shall be required to maintain the storm water drainage infrastructure.

Finding: Harrison Lane Subdivision 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.

- 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.

The plan set includes sheets showing the locations for erosion control devices as well as providing erosion control details and requirements. The information is shown on Sheets 3, 4, 5, and 6.

Wetlands are located on both the southern and northern portions of the site. No wetland impacts are proposed for the development.

Finding: Harrison Lane Subdivision 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.

No scenic vistas, historic sites or irreplaceable natural or manmade assets have been identified on the site.

Finding: Harrison Lane Subdivision will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

- j) Financial Capacity to meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.

The applicant has submitted a letter from Philip D. Fearon, Senior Vice President, Saco & Biddeford Savings Institution, dated August 31, 2018, identifying financial capacity.

The applicant has provided a schedule of values for the proposed improvements as well as an estimated construction schedule.

Finding: The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations.

- 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 8.

The applicant will be required to pay the Recreational Facilities and Open Space Impact Fee prior to the issuance of building permits for the six (6) lots within the subdivision.

Finding: Harrison Lane Subdivision is responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:

a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.

b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The applicant is not proposing any formal open space as part of the development of the site.

Finding: Harrison Lane Subdivision is not proposing to create open space and recreational land and facilities within the subdivision. .

CHAPTER 3 - SUBDIVISION, SECTION 3-4 C. –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 project received preliminary subdivision approval on August 6, 2018.

Finding: The final plans have been submitted to the Planning Board.

- 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 project received preliminary subdivision approval on August 6, 2018.

Finding: The final plan has been submitted within 12 months of issuance of the 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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
3. That the underground electric lines shall be inspected by the Code Enforcement Office prior to backfill;
4. That all houses shall be properly numbered with the numbers being visible from the street year around;
5. That the road shall be properly signed and named with a Town approved street sign with the street sign installed as soon as the road is constructed;

6. That the name of the road shall be approved by the Police and Fire Chiefs;
7. That the applicant is responsible for recording the approved Homeowners' Association documents within 90 days of the date of approval of the subdivision by the Planning Board and a recorded copy of the Homeowners' Association documents shall be returned to the Planning Department prior to a preconstruction meeting being held;
8. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
9. That the subdivision plans shall not be released for recording at the Cumberland County Registry of Deeds until the required performance guarantee has been posted meeting the approval of Town Staff; and the subdivision plan is required to be recorded within one year of original approval or the approval becomes null and void; and
10. That once the subdivision plans have been recorded at the Cumberland County Registry of Deeds, a dated mylar copy of the recorded subdivision plans shall be returned to the Town Planner prior to a pre-construction meeting being held.