

## PLANNING BOARD MEETING

March 4, 2019

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

### Members Present

**GEORGE FOX, ACTING CHAIRMAN**  
**MOLLY BUTLER-BAILEY**  
**SCOTT FIRMIN**  
**VINCENT GRASSI**  
**BRIAN PLOWMAN**  
**MICHAEL RICHMAN**

### Staff Present

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

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

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**RECOGNITION OF OUTGOING BOARD MEMBERS:** Mr. Fox commended former Board members Scott Herrick and Lee Pratt for their services to the Town of Gorham, and Mr. Poirier presented plaques to them in recognition of their services.

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### **APPROVAL OF THE FEBRUARY 4, 2019 MEETING MINUTES**

**Scott Firmin MOVED and Michael Richman SECONDED a motion to approve the February 4, 2019 meeting minutes. Motion CARRIED, 5 ayes (Molly Butler-Bailey abstaining as not having been present at the meeting).**

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### **REORGANIZATION OF THE BOARD**

- A. ORDINANCE REVIEW COMMITTEE:** Scott Firmin, Brian Plowman, Michael Richman
- B. COMPREHENSIVE PLAN IMPLEMENTATION COMMITTEE:** Molly Butler-Bailey, Vincent Grassi

Mr. Fox noted that when each of the committees meets for the first time, a chairman will need to be selected from among the membership of the committee.

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**ADMINISTRATIVE REVIEW REPORT** – Mr. Poirier said there is no update.

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**ITEM 1 Public Hearing – Zoning Amendment – Pheasant Knoll Contract Zone** – a proposal to amend Pheasant Knoll Contract Zoning Agreement between Kasprzak Landholdings, Inc., and the Town of Gorham.

Mr. Poirier explained that this item was last before the Board on February 4, 2019, at which time the Board forwarded the item for public hearing this evening. Since the February 4, 2019 meeting and this evening, there is one change by the Town Attorney to the proposed language regarding the trail easement and access to the two trail parking spaces located in the condominium development. That change is reflected in a new Section 4.d.

Bob Georgitis, Kasprzak Homes, Inc., came to the podium and told the Board that they are in agreement with the change involving the trail easement, the details will be worked out and the easement will be added to the plans.

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

**Scott Firmin MOVED and Vincent Grassi SECONDED a motion to recommend adoption by the Town Council of the contract zone amendment. Motion CARRIED, 6 ayes. [7:14 p.m.]**

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**ITEM 2   Public Hearing – Zoning Amendment – Personal Services and Clinics** – a proposed amendment to Chapter 1, Section 1-14, Office Residential District, to allow personal services and professional out-patient clinics in the Office Residential District.

Mr. Poirier said the proposed language will add personal services with a gross floor area under 2,000 square feet as a permitted use in the Office Residential zoning district. He said that the Comprehensive Plan shows that should be a permitted use in that district and allowing personal services is consistent with the Comprehensive Plan. Capping the gross floor area of personal services at 2,000 square feet will limit the size of what would be permitted, so that larger gyms would not be allowed in the district.

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

In reply to Mr. Firmin, Mr. Fox said that typically this kind of proposed amendment would be forwarded to the Board's Ordinance Committee for review and recommendation, but this appears to be a straight forward amendment. Mr. Poirier confirmed to Ms. Butler-Bailey that the added language in 2, Permitted Uses, clarifies these uses as permitted.

**Scott Firmin MOVED and Brian Plowman SECONDED a motion to recommend adoption by the Town Council of the proposed zoning amendment to the Land Use and Development Code to add personal services with 2,000 square feet of gross floor area as a permitted use to the Office Residential zoning district. Motion CARRIED, 6 ayes. [7:18 p.m.]**

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**ITEM 3   Nonconforming Sign – Nouria Energy Little Falls LLC** – a request for approval of a nonconforming sign at the Lil' Mart at 688 Gray Road, UR zoning district, Map 110, Lot 17.

Mr. Poirier reminded the Board that this item was on the Board's February agenda but was tabled to this evening at the applicant's request. The applicant has submitted revised sign plans and proposed lighting of the sign. Mr. Poirier advised the Board that the sign ordinance gives the Board the authority to grant a one-time replacement of a nonconforming sign with a nonconforming sign. The approval requires that the size and height be half the size between a nonconforming and a conforming sign; all other aspects of the sign must conform as to type and illumination.

John Bannon, Esquire, of Murray, Plumb & Murray, came to the podium on behalf of the applicant and presented the Board with an illustration of the proposed side lighting on the sign and said he believes the sign will be less intrusive on the neighborhood.

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

Mr. Poirier said the Board could grant conditional approval or review the applicant's proposed lighting and make a decision this evening that it is adequate. Mr. Bannon explained that putting lighting on the top of the sign is not possible because of the location of certain hinges on the top of the cabinet, so they are proposing a side-lighting system with a bank of LEDs along each side of the sign, but preventing the LEDs themselves from being visible on the street. Mr. Fox asked if the proposed system changes the dimensions of the sign; Mr. Bannon said it does not. Mr. Bannon said that the brackets will block the LEDs themselves so that only the light is visible. Mr. Plowman said he is comfortable with the design. Mr. Richman said he has seen this arrangement before, it is a modest way to light something up and he is comfortable with it. Mr. Grassi said the only concern he has is making sure the lighting isn't visible to drivers. Mr. Richman asked if any of the square footage has changed since the first time; Mr. Poirier replied he believes the size has gone down somewhat.

**Scott Firmin MOVED and Brian Plowman SECONDED a motion to grant Nouria Energy Little Falls, LLC's request for approval of a less nonconforming sign of 14 feet in height and 32 square feet of sign area, located on Map 110, Lot 17, in the Urban Residential zoning district based on Findings of Fact and Conditions of Approval as written by the Town Planner.**

Discussion: Mr. Bannon said the size is 30 square feet.

**Motion CARRIED, 6 ayes. [7:30 p.m.]**

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**ITEM 4 Preliminary Subdivision/Site Plan Review** – Plowman Development Group, LLC, Grady Farm Subdivision – a request for approval of 16-unit condominium development located at 136 South Street, Urban Residential zoning district, Map 103, Lot 78

Mr. Plowman asked to be recused as he is the developer on the project.

**Scott Firmin MOVED and Vincent Grassi SECONDED a motion to recuse Mr. Plowman from participation in the discussion of the item. Motion CARRIED, 5 ayes (Brian Plowman abstaining).**

Mr. Grassi asked to be recused from participating in the discussion on the item as the application has already received substantive review by the Board.

**Molly Butler-Bailey MOVED and Michael Richman SECONDED a motion to recuse Mr. Grassi from participation in the discussion of the item. Motion CARRIED, 4 ayes (Vincent Grassi abstaining, Brian Plowman recused).**

Mr. Poirier reminded the Board that the item was last before it on January 7, 2019, during which the Board asked for additional information from the applicant regarding groundwater and the potential impact of the development on groundwater on and around the site. The applicant has provided correspondence from David Rocque, Maine State Soil Scientist, discussing his views on the seasonal groundwater table and the subdivision's potential impact on it. The Board also asked for additional landscape renderings to the Board could identify what the development would like to the surrounding abutters; the applicant has provided three renderings.

Steve Blake, BH2M, Engineers, came to the podium and said they have addressed all outstanding staff comments. He said they have filed an application with the DEP for a stormwater permit. Mr. Blake said that Mr. Rocque's assessment is that because they are capturing and detaining and slowing releasing stormwater from the site, they should expect to see a slight improvement in the groundwater condition on site. Mr. Blake said that three landscape renderings have been provided: one is an overall plan, there is a view from the south looking toward the backs of units 14 through 16, there is a view from the north from Spruce Lane, and two separate views of looking up the new road from South Street and one looking toward South Street along the new road. Mr. Blake said they are not looking for any waivers.

**PUBLIC COMMENT OPENED:** James Vollkommer, 6 Spruce Lane, north side of the street, said that a hydrologic survey should be done of this site because of the groundwater problem and high water issues. He said the development will cause problems to the neighbors and neighborhood.

Gina Marianacci, 144 South Street, said the bird eye's views provided by the applicant's renderings are not accurate and the "existing" tree growth shown is inaccurate because the trees are limbed from 60 feet down. She is also concerned about snow storage. She said the development is out of character with the neighborhood.

Ms. Butler-Bailey asked that the renderings provided to the Board be put up on screen for the abutters to see.

Mr. Plowman discussed the grade changes proposed, saying that they will change more in the back where stormwater is to be captured and to gravity sewer. Mr. Plowman described the soils surveys which have been done, and the presence of bedrock on the site which will divert water; that water will be captured and brought back to the retention pond. Mr. Plowman said there are 14 houses on Spruce Lane's 3.9 acres; this lot has 3.2 acres, and 16 dwelling units are proposed and isn't that much different. He believes that what happens with the stormwater on this site will help the issues faced by the abutters. He said the project is in line with the Comprehensive Plan and with current ordinances, and meets density requirements and setbacks.

Steve Pomelow, 10 Spruce Lane, reminded the Board that he had asked at the last meeting for 3-dimensional models, what has been provided are 2-dimensional renderings. He said he knows there is technology available to provide a 3-D model, especially a view from Spruce Lane looking south on to the buildings. He spoke about future issues involving the impact of settling on sewer and water pipes and the maintenance of this infrastructure which will be required by the homeowners.

James Vollkommer, 6 Spruce Lane, returned to the podium to stress the need for a hydrologic survey and said that soils surveys are not adequate. He said that if the Grady house also had a sump pump, they have water problems on the site.

Caroline Dahms, 17 Spruce Lane, said none of the renderings show a view of what she would have from her house. She is concerned about what the pressure of the buildings would be the land and water. She said too many people will be adversely impacted by the development, and is disappointed that she can't see the elevation between the berm, the fence, the trees, the height of the elevation from her house and disappointed that there wasn't any groundwater testing, just soils testing.

Brian Plowman said the A and B soil surveys look at the coloring of the soil to determine groundwater height, looking at how the soils are that dictate where the water level is. He said that all the water that hits the 3.8 acre site is going through to the bedrock and moving. With the stormwater system in place, none of that groundwater will be going through and leaching into foundations, it is going to be captured. This isn't an assumption, this is science.

Gina Marianacci, 144 South Street, returned to the podium and asked when they expect the renderings would actually look as depicted. She said what is proposed to be planted will be too small to provide any buffering for quite a while.

Steve Pomelow, 10 Spruce Lane, said the renderings were lovely, but said he believes the Board really needs to see a 3-D rendering of what is going to look like standing on Spruce Lane looking south over their houses at the house-o-miniums behind them. He also questioned the impact of the sun angle for the people who live on the south side of Spruce Lane. Mr. Pomelow asked if there might be vernal pools at the back of the site.

Mr. Blake said that the renderings were based on 3-dimensional models, and have a 3-dimensional component to them in the elevation of the site and of the buildings. He said that what was provided were the 3 key views discussed at the last meeting. He said the berm along the north side is small, about 1 foot high, designed to capture drainage before it goes beyond the project. Mr. Blake said that in going through the stormwater process, they have to do a hydrology model to show that what is proposed for storm drainage is adequate to capture all the runoff coming from the property, and that the pond is sized appropriately to capture and slowly release the runoff.

Mr. Fox confirmed that the applicant is obligated to meet a requirement for stormwater and create an engineered system for dealing with the stormwater, which is peer reviewed as part of the application process, and the applicant's burden is that there cannot be more stormwater leaving the site post-development as compared to pre-development. Mr. Fox said that the applicant's obligation is to control surface water and control it within the site, but not to solve groundwater problems outside of the site. Mr. Blake referred to the review done by David Roque, saying that the method of capturing stormwater might actually be less of a burden on the groundwater conditions. In reply to Mr. Firmin, Mr. Blake said they hope to get their stormwater permit within the next couple of weeks, adding that the DEP will focus on the water quality component of the water, but not the water quantity component, which has already been reviewed at the Town level.

#### PUBLIC COMMENT PERIOD ENDED

In reply to Mr. Firmin, Mr. Poirier said he will check with the peer review engineer about whether adding fill would impact groundwater. Mr. Firmin said his major concern is the runoff, will the site generate more runoff, and what impact will the stormwater detention pond have on that. Mr. Poirier asked whether Mr. Firmin's concern is stormwater runoff or groundwater runoff. Mr. Firmin said the stormwater that would otherwise sit on the site. Mr. Poirier said that the Town of Gorham has its own stormwater requirements under site plan; under site plan the Town's ordinance speaks more to how much stormwater is held on site and how much is discharged over the course of a storm, the pre and the post. Mr. Poirier said that in developing a site, the current stormwater is assessed, and once it is developed, that amount of stormwater cannot be exceeded in a 2, 10 or 25 year 24-hour storm. He said that DEP used to have a similar standard, but now they are looking at treatment, and both the Town's requirements and the DEP's requirements have to be met. They can hold the stormwater and release it per the Town's requirements, but it also has to be treated per DEP's standards. The Town's engineer reviews the Town's standards, and the DEP reviews its standards. Mr. Poirier said that in the Town's engineer review, they look at the peak pre and the post to make sure that is done, they do some review of the proposed treatment, but most of it basically pre and post and general engineering standards. Mr. Poirier said that based on the Town's review, the applicant has met all the Town's requirements.

Mr. Blake told Mr. Fox that for snow storage, there is a fairly large area at the end of the hammerhead, before the pond and on either side, where the bulk of snow would be plowed, and along the back side of the sidewalk as well. Mr. Blake replied to a question from Mr. Fox that the roof height, excluding elevations, is about 26 feet. Mr. Richman confirmed that there would be basements. Mr. Blake told Mr. Richman that the elevation on site is to allow gravity sewer feed to South Street and, because of stormwater requirements, to raise the grade to capture all the runoff at the back of the property. Mr. Blake explained how the retention pond is constructed, drained to a fixed lower elevation, working back the elevation from the rear of the property to the front of property, with the storm drain system lower than the pond. In reply to Mr. Fox, Mr. Blake said that settling of the gravity lines is not a concern as everything will be inspected.

Mr. Poirier said that it is recognized that the groundwater level is high in this part of South Street and asked what would a hydrogeologic survey provide that the Board doesn't already have. Mr. Poirier asked if the Board's concern is whether adding fill to the site would displace groundwater. In reply to Mr. Firmin, Mr. Poirier said that the rate of stormwater runoff cannot be exceeded from the current rate. Replying to Mr. Richman, Mr. Poirier said that a development with similar problems with groundwater was the Bramblewood

Subdivision. He said that part of South Street has high groundwater, and the applicant filled the site by putting a ditch along the property line with a pond that drained to the back of the property. Mr. Poirier said that subdivision was approved and developed, and he has not heard of any complaints from the abutters. Mr. Poirier said that the applicant doesn't have to fix the groundwater problem, but he can't make it worse.

The Board discussed briefly options for the developer such as lowering the number of units and allowing more space among the units. Mr. Plowman said that the size of this development on the amount of acreage is not uncommon in Gorham, citing the Ward Hill development on Main Street as an example. Mr. Plowman said that the proposed elevation in front is pretty much the same as what it already there, with the major change being 50% of the development to the back, a gradual 4 to 5 feet. Mr. Fox and Mr. Blake discussed the amount of fill at unit 8, with some of the elevation occurring naturally. Mr. Blake said that even lowering the number of units to 10 would not change the amount of fill, based on what has to be addressed for stormwater requirements. Mr. Blake said if they could just release stormwater and not treat it or detain it, that would change what would be necessary in grading the project, and then a pump station for sewer would be a viable option.

Mr. Fox said that the application has to be reviewed under the approval standards and criteria, and if the applicant has met those standards and criteria, then the Board has an obligation to approve the application. The Board cannot withhold approval simply because it doesn't like it. Mr. Fox said one of his concerns is whether the applicant has met the standards under approval criteria A, Utilization of the Site, "The plan for the development will reflect the natural capabilities of the site to support development;" and 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." Mr. Fox said the Board needs to identify what standards and criteria it feels the application does not meet and provide the applicant with some feedback on what it hasn't met in the approval criteria and what the applicant needs to do differently. Mr. Plowman said they believe they have provided with Board with everything that has been asked of them. Mr. Fox said he believes there are a significant number of questions still needing to be addressed.

Mr. Firmin said his concern is Standard F, "The site has adequate provisions for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage and maintenance plan which does not have adverse impacts on abutting or downstream properties." Mr. Fox said that the applicant's engineer and Woodard & Curran, Town's engineers, believe that the stormwater design that has been developed meets the requirements of that Standard. If the Board doesn't agree that it meets the standard, some guidance needs to be given as to where it falls short and what additional information the Board needs. Mr. Firmin said that the only piece of information that has not been answered is the question of fill and what impact that will have. Mr. Plowman asked if that review by the Town Engineer could be a condition of approval. Mr. Poirier said it could be done as part of final subdivision and site plan application approval.

Ms. Butler-Bailey said her concern is what impact this development will have on the neighbors and what effect the elevation change will have on the character of the neighborhood. She also said that she believes the Board should consider a hydrology study. Part of her concern lies with Standard 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," with particular emphasis on topography. In addition she has concern about Section 9, site plan review, P. Landscaping, "The development will...protect abutting properties from adverse impacts of the development." Mr. Fox he does not feel that Standard I, reaches the level in this case of "historic sites and rare or irreplaceable natural or manmade assets." Ms. Butler-Bailey said her concern runs more to the view of the project coming down South Street when passing that area once it is built up, and if that view is consistent with the existing topography of South Street. She said the two-dimensional renderings do not provide the information she wants to see, and she is still anxious to see three dimensional renderings of that view.

Mr. Fox said there are some things that can be dealt with as conditions of approval at final such as the impact of the fill on groundwater and the applicant's proposal to install larger, more mature plantings, especially on the north side of the property. After discussion with the applicant, the Board asked for revisions to the renderings that have been provided, particularly the one looking south from Spruce Lane. Mr. Plowman asked if the renderings can be a condition of approval; he agreed as well to remove the limbed trees along the Marianacci property line and plant some larger trees on the buffer at their cost. Mr. Richman commended the two dimensional renderings, and suggested adding scale to the renderings with some people in the foreground and back up the sketch to show an existing eave of an existing house, which would be helpful in providing perspective. Mr. Firmin said he also has a concern whether or not there is adequate buffering and screening, given that the limbs shown in the rendering may or may not be there. Mr. Fox said the applicant needs to determine if the renderings are adequate and accurate and figure out what has to be done.

Mr. Fox noted that the applicant is asking for preliminary approval tonight, but it sounds as though there is some skepticism that all of the standards have been met; However, he asked if the Board is comfortable granting preliminary approval with the additional conditions identified this evening. Mr. Firmin asked what would happen if the renderings presented at final are not adequate. Mr. Poirier suggested that the Board could grant preliminary approval pending submission of what the Board wants to insure that performance standards are met as part of final approval: pending submission of the Town's engineer's response regarding impacts of fill to groundwater; pending submission of a revised three dimensional rendering looking north from the southwest corner of the property; and pending additional landscaping of 8-10 foot pine and spruce trees in order to buffer Spruce Lane adequately.

**Scott Firmin MOVED and Michael Richman SECONDED a motion to grant Plowman Development Group LLC's request for preliminary subdivision approval for Grady Farm Condominiums Subdivision with 16 house-o-minium units located off South Street, Map 103, Lot 78, Urban Residential zoning district, with Findings of Fact and conditions of approval as previously mentioned by the Planning Board this evening. Motion CARRIED, 3 ayes (1 nay – Molly Butler-Bailey; 2 recused – Brian Plowman and Vincent Grassi). [9:25 p.m.]**

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Break to 9:30 p.m.

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Mr. Fox announced that the Board would observe the 10:00 o'clock rule, and therefore Items 7, 8 and 9 will be continued to the Board's second meeting of the month on March 18, 2019.

Mr. Plowman and Mr. Grassi returned to the dais.

**ITEM 5 Preliminary Subdivision/Site Plan Review – Kasprzak Landholdings, Inc., - Pheasant Knoll Condominiums Subdivision Phases 4-6 – Stonefield, Windswept and Winding Ridge Condominiums at Pheasant Knoll – a request for approval for 60 condominium units, zoned Contract Zone, Urban Residential and Shoreland Overlay, Map 46, Lot 11.004.**

Mr. Poirier said that the application is being reviewed under subdivision and site plan, with the applicant last before the Board on December 3, 2018 and a site walk having been held on December 20, 2018. The applicant has submitted revised plans for the Board's review.

Bob Georgitis, Kasprzak Homes, Inc. and Kasprzak Landholdings, came to the podium and told the Board that the project has gone from 122 to 120 units, with one duplex being taken out because of neighbor concerns, and one duplex being moved. They have met with the Water District last week and are in the process of making changes to the utility plans for the sewer and stormwater and water lines per their comments. Mr. Georgitis described the 3 basic building styles, which will be added to the plans. He said

this is phase 1 of a 3-phase project, and described the proposed stormwater treatment and the three stormwater ponds proposed. The project will have public sewer, public water, underground utilities, natural gas. Mr. Georgitis said they are willing to give the Town an easement next to the brook for a trail to connect to the trails on the Town's property, and also provide two parking spaces at the trail head.

PUBLIC COMMENT PERIOD OPENED: Fritz Meslow, 7 Summerfield Court, said his primary concern is the number of units and the primary exit, and asked if it is customary to have this many units exiting through such a narrow gap.

PUBLIC COMMENT PERIOD ENDED.

Mr. Fox noted that the Water District's ability-to-serve letter is still outstanding. Mr. Georgitis said they received an email which he does not believe adequately serves the Town's requirements, and said that the Water District will provide a new letter or email stating that they have the capacity to serve but still reserve the rights to approve all the utility plans.

Owens McCullough, Sebago Technics, came to the podium and advised the Board that they have received an email stating that the Water District has the capacity to service this project but reserves the right to finish the review of all the water design and infrastructure. Mr. Poirier said that typically what the Board will see is an ability-to-serve at preliminary approval with final approval by the Water District needed before final approval by the Board.

Mr. Firmin noted that he works for the Portland Water District, but he has not been nor does he expect to be involved with the project, and he is not asking to be recused.

In reply to a question from Mr. Fox about landscaping along Rockwood Lane, Mr. McCullough said that when one building was eliminated and another was shifted, the landscaping was shifted as well. He said there was a row of pines which will be salvaged where possible and supplemented where needed; this information will be added to the plans before final.

Mr. Firmin asked about the letter of financial capacity and a cost estimate mentioned in staff notes. Mr. Georgitis said the information is in process and will be provided for final plan review.

Mr. Fox referred to the question raised by the abutter during public comment about whether the primary access road is adequate for this number of units. Mr. Georgitis said that there are two entrances coming in from Fort Hill Road; the main road coming in, Falcon Crest, is designed to the urban subcollector standard to serve 222 units, and now they have taken out 20 units less than was approved.

Mr. Georgitis and Mr. Fox discussed the wetland impacts on the total site of some 8,500 square feet, which is still under Tier I. Mr. Georgitis advised that the site location of development permit numbers are on the plan.

**Scott Firmin MOVED and Brian Plowman SECONDED a motion to grant Kasprzak Landholdings, Inc.'s request for preliminary subdivision plan approval for 60 duplex condominium units for Stonefield, Windswept and Winding Ridge Condominiums at Pheasant Knoll, located on Map 46, Lot 11.004, in the Contract Zone, Urban Residential and Shoreland Overlay zoning districts, based on Findings of Fact as written by the Town Planner. Motion CARRIED, 6 ayes. [9:50 p.m.]**

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Mr. Grassi asked to be recused from participating in the discussion on the item as the application has already received substantive review by the Board.



**Molly Butler-Bailey MOVED and Michael Richman SECONDED a motion to recuse Mr. Grassi from participation in the discussion of the item. Motion CARRIED, 5 ayes (Vincent Grassi abstaining).**

**ITEM 6 FINAL SUBDIVISION REVIEW – S.B. Enterprises – Tannery Brook Subdivision** – a request for approval of Phase 2 of the Subdivision by extending Tannery Brook Road to access 14 new single family lots, served by municipal water and individual subsurface sewage disposal systems, in the Suburban Residential zoning district, Map 47, Lot 6.

Mr. Poirier advised the Board that the applicant was last before it on January 7, 2019, at which time the Board granted preliminary subdivision approval. One remaining item is whether the Board would like to see the circle at the end of Tannery Brook Road as one-way or for two-way traffic. He indicated that the Public Works Director has said it could serve as either one-way or two-way. Should the circle be changed to one-way, the plans will need to show all required signage meeting the requirements and approval of the Public Works Director or his designee.

Owens McCullough, Sebago Technics, indicated that the applicant will document via video the existing conditions of Queen Street, Libby Avenue and Tannery Brook. He said the applicant is more than happy to pay for and purchase a one-way to install on Tannery Brook at the circle if that is what the Town wants.

**PUBLIC COMMENT PERIOD OPENED:** Bruce Overman, 27 Tannery Brook Road, asked that trail access to the brook be preserved and maintained.

Joyce Swan, 27 Tannery Brook Road, asked that the cul-de-sac be made one-way for safety purposes.  
**PUBLIC COMMENT PERIOD ENDED**

Mr. McCullough said that the applicant has left two rights-of-way for trail access. Mr. Poirier said that the snow mobile trail has been relocated to another property owned by S.B. Enterprises, so the only use of the trail would be walking and biking by the Gorham Conservation Commission. Tom Biegel, Shaw Brothers, came to the podium and said that the snowmobile trail was to be relocated out of the back of the property, which is fine with the applicant.

Mr. Firmin said he believes the cul-de-sac should be marked one-day; Ms. Butler-Bailey agrees.

Mr. Poirier said there are some Public Works conditions of approval which should to be added. A new condition 10 will read “That the applicant shall video the existing condition of portions of Queen Street, Libby Avenue and Tannery Brook, and S.B. Enterprises shall be responsible for pothole road damage repair during this project, meeting the approval of the Public Works Director;” a new condition 11 which will read “That the applicant shall overlay Queen Street, Libby Avenue and Tannery Brook should the Public Works Director finds damage to the road has occurred due to construction of the subdivision;” and a new condition 12 “That the applicant shall provide plans showing one-way signage of Tannery Brook Road prior to the Planning Board’s endorsement of the final plan.” Mr. Poirier suggested that Mr. McCullough talk to the Public Works Director to find out where he wants those one-way signs placed.

Mr. McCullough said the applicant has no concerns with the additional conditions of approval.

**Scott Firmin MOVED and Brian Plowman SECONDED a motion to grant S.B. Enterprises’ request for final subdivision approval for Tannery Brook Subdivision, Phase 2, off Tannery Brook Road, located on Map 47, Lot 26, in the Suburban Residential zoning district, with Findings of Fact and Conditions of Approval as written by the Town Planner and as previously discussed by the Planning Board. Motion CARRIED, 4 ayes (1 nay – Molly Butler-Bailey; 1 abstain – Vincent Grassi). [10:12 p.m.]**

**ITEM 7 Pre-Application Discussion – Simona Shores Properties, LLC** – a request for approval to add one additional duplex and a 35-foot extension to Simona Shores Drive, on property zoned Urban Residential/Manufactured Housing, Map 110, Lots 301-312.

*Continued to March 18, 2019 Planning Board meeting due to observance of the 10:00 o'clock rule.*

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**ITEM 8 Discussion – Zoning Amendment – Personal Adult-Use Marijuana** – proposed amendment to regulate the growing of personal adult-use marijuana.

*Continued to March 18, 2019 Planning Board meeting due to observance of the 10:00 o'clock rule.*

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**ITEM 9 Discussion – Zoning Amendment – Standards for Private Ways** – proposed amendment to clarify the number of lots and dwellings allowed on a private way.

*Continued to March 18, 2019 Planning Board meeting due to observance of the 10:00 o'clock rule.*

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**OTHER BUSINESS**                      **None**

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**ANNOUNCEMENTS**                      **The Board will hold a second meeting on March 18, 2019 to hear Items 7, 8, and 9, continued from this evening's agenda.**

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**ADJOURNMENT**

**Scott Firmin MOVED and Molly Butler-Bailey SECONDED a motion to adjourn. Motion CARRIED, 6 ayes. [10:15 p.m.]**

Respectfully Submitted,

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Barbara C. Skinner, Clerk of the Board  
\_\_\_\_\_, 2019

### ITEM 3 NOURIA ENERGY, LITTLE FALLS, LLC – NONCONFORMING SIGN

**Chapter 2, Section 3 – Signs, K. Continuation and Termination of Nonconforming Signs, 3)- Approval Criteria and Standards** – The Planning Board shall approve the replacement of a nonconforming sign with a less nonconforming sign. This replacement is available only one time for each nonconforming sign. In all other respects including sign type, illumination, sign placement, and other characteristic not specifically addressed in a, b, or c below, the replacement sign must meet the requirements for a conforming sign for the sign environment in which the nonconforming sign is located. In all instances, the burden of proof shall be on the Applicant and such burden of proof shall include the production of evidence sufficient to warrant a finding that all applicable criteria have been met. The definition of less nonconforming is as follows:

- a) The replacement sign may be greater in area and height than the maximum allowed for a conforming sign by up to fifty percent (50%) of the difference between the existing nonconforming sign and a conforming sign;

*The Residential Sign Environment allows free standing signs to be 8' in height. The current sign located on the site is 21' in height.*

*The Village Sign Environment allows free standing signs to have 24 square feet of sign area. The current sign located on the site has 42 square feet.*

*The allowed replacement non-conforming sign height is 14' with the allowed sign area being 33.50 square feet. The proposed replacement sign is 14' in height with 30.33 square feet of sign area. The proposed replacement of a non-conforming sign with a less non-conforming sign meets the fifty percent criteria.*

*The proposal is to replace a pole mounted sign with a ground mounted sign with the required 2 poles, identified as Figure 3.*

*The signs will be exterior illuminated with full cut-off fixtures.*

*The approval of a less non-conforming sign is the only one-time exemption allowed for the freestanding sign located within the landscaped island on the western edge of the parcel. Any future replacements to the sign will need to conform to the requirements of a sign ordinance.*

- b) If a readerboard exists in the nonconforming sign that is not integrated into the sign, a replacement readerboard must be integrated into the new sign but may not be more than 75% of the area of the replacement sign;

*The readerboard gas prices of the sign are not more than 75% of the sign area of the replacement sign and have been integrated into the new sign design.*

- c) If the nonconforming sign is a wall sign and the area of all signs is greater than the maximum conforming area allowed, the replacement wall sign must reduce the nonconformance of the total wall sign area by at least half of the difference between the existing nonconforming total area and the maximum conforming area for the wall signs.

*Not applicable.*

#### **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 replacement of the non-conforming sign, the applicant is responsible for obtaining a sign permit from the Code Enforcement Office;
  3. That this approval for a less conforming sign is the only one-time exemption allowed for the free standing sign located in the landscaped island on the western most edge of the parcel, and any future replacements to the sign will need to conform to the sign ordinance;
  4. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and
  5. That the conditions of approval shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board and a dated copy of the recorded Decision Document shall be returned to the Town Planner prior to the issuance of the sign permit or commencement of any improvements on the site.
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## **ITEM 6        S.B. ENTERPRISES – TANNERY BROOK SUBDIVISION**

### **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.

Freedom Drive meets the E911 naming requirements.

The foundation for lot 8 shall be located and pinned by a professional engineer or a licensed surveyor prior to backfilling to ensure that the foundation is not located in the setbacks for the lot;

*Finding: Tannery Brook Subdivision: Phase 2 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 the subdivision lots will be located on Freedom Drive designed to the Town's rural access road standard. All driveways will meet the Town's minimum sight distance requirements.

*Finding: Tannery Brook Subdivision: Phase 2 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.

*Finding: Tannery Brook Subdivision: Phase 2 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 8" water main located in the Freedom Drive 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.

The Portland Water District has provided an ability-to-serve letter dated January 9, 2019, from Robert A. Bartels, P.E., Senior Project Engineer with the Portland Water District, addressed to Parker Brown, Asst. Controller, with Shaw Brothers Construction, Inc. The Portland Water District also submitted an email to Tom Poirier, Town Planner, on February 13, 2019 identifying that they have no further comments for the proposed subdivision.

*Finding: Tannery Brook Subdivision: Phase 2 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's Subsurface Wastewater Disposal Rules.

*Finding: Tannery Brook Subdivision: Phase 2 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, catch basins, culverts, and pipes to be directed into a stormwater pond located on lot 14.

The proposed development will disturb over an acre and is located within the Urbanized Area as defined in the Town's Storm Water Ordinance, Chapter 2, Post-Construction Storm Water Management. The

stormwater facilities are required to meet the maintenance and inspections standards outlined under the Town's Post- Construction Storm Water Management section of the Ordinance.

*Finding: Tannery Brook Subdivision: Phase 2 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 Tannery Brook: Phase 2 Subdivision homeowners' association shall be required to maintain the storm water drainage infrastructure.

*Finding: Tannery Brook Subdivision: Phase 2 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 5, 6, 7, and 8.

Wetlands are located on both the southern and northern portions of the site with a majority of the wetland being located along the western property boundary. A stream is also located on the northwestern corner of the lot.

*Finding: Tannery Brook Subdivision: Phase 2 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: Tannery Brook Subdivision: Phase 2 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 Daniel E. Church, CEO, with The Rowley Agency, dated November 5, 2018, identifying that the applicant has a bonding ability for the project of \$40 million to \$100 million.

*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 builder of each lot will be required to pay the Recreational Facilities and Open Space Impact Fee prior to the issuance of building permits for the thirteen (13) lots within the subdivision.

*Finding: Tannery Brook Subdivision: Phase 2 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. The homeowners' association shall be responsible for maintenance of stormwater infrastructure within the development. Each lot owner within the development is required to be a member in the homeowners' association. Stormwater maintenance and reporting shall be completed per the Town's Storm Water Ordinance, Chapter 2, Post-Construction Storm Water Management.

Should the Town accept Freedom Drive as a Town road, the maintenance of stormwater infrastructure not located within the road right-of-way shall remain the responsibility of the homeowners' association.

*Finding: Tannery Brook Subdivision: Phase 2 is not proposing to create open space and recreational land and facilities within the subdivision and all stormwater infrastructure shall be the responsibility of the homeowners' association.*

### **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 January 7, 2019.

*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 January 7, 2019.

*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 the foundation for lot 8 shall be located and pinned by a professional engineer or a licensed surveyor prior to backfilling;
5. That all houses shall be properly numbered with the numbers being visible from the street year around;
6. 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;
7. That the name of the road shall be approved by the Police and Fire Chiefs;
8. 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;
9. 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 preconstruction meeting being held.
10. That the applicant shall video the existing condition of portions of Queen Street, Libby Avenue and Tannery Brook, and S.B. Enterprises shall be responsible for pothole road damage repair during this project, meeting the approval of the Public Works Director;
11. That the applicant shall overlay Queen Street, Libby Avenue and Tannery Brook should the Public Works Director finds damage to the road has occurred due to construction of the subdivision;
12. That the applicant shall provide plans showing one-way signage of Tannery Brook Road prior to the Planning Board's endorsement of the final plan.
13. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
14. 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
15. 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 preconstruction meeting being held.