

**PLANNING BOARD MEETING MINUTES  
JUNE 6, 2022**

**MEMBERS PRESENT**

**JAMES ANDERSON, CHAIRMAN  
VINCENT GRASSI, VICE-CHAIRMAN  
DAVID BURROWS  
SUSAN DURST  
RUSSELL FRANK  
SEVEN SIEGEL**

**STAFF PRESENT**

**CAROL EYERMAN, TOWN PLANNER**

**MEMBERS ABSENT**

**THOMAS HUGHES**

Chairman James Anderson called the meeting to order at 7:00 p.m. The roll was called, with Thomas Hughes absent.

**APPROVAL OF THE MAY 2, 2022 MEETING MINUTES**

**Susan Durst MOVED and David Burrows SECONDED a motion to approve the May 2, 2022 meeting minutes as written and distributed. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

**CHAIRMAN'S REPORT:** Mr. Anderson said there is no Chairman's Report.

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**COMMITTEE REPORTS**

**A. Ordinance Review Committee**

Seven Siegel was present and Susan Durst and Thomas Hughes were absent for the May 16, 2022 workshop. Mr. Siegel reported that discussed was the proposed Code amendment for outdoor dining to continue what had been allowed during COVID, with a recommendation to increase the amount of parking area from 25% to 33% that can be used for outdoor dining. Also discussed was the Code amendment for mobile vending units in the Little Falls area.

**B. Comprehensive Plan Implementation Committee**

Russell Frank was elected as Chairman at the CPIC workshop on May 16, 2022. The workshop discussion centered around adopting the South Gorham Crossroads District.

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**ADMINISTRATIVE REVIEW REPORT**

Ms. Eyerman reported that there are three new Administrative Review projects. One is for the Town of Gorham to construct a gravel parking lot for the Pump Track and trails, a 500 square foot shed, bathroom and signage located on Weeks Road, zoned SR, Map 20, Lot 4. The second new project is a request from FFJ, LLC, for after-the-fact approval for site clearing of over one acre at 36 Middle Jam Road, zoned SR, Map 97, Lot 37.

Also going through the process is the third request from Rustic Holdings, LLC for approval to rehabilitate a residence located at 184 Brackett Road, construct a barn for 1<sup>st</sup> floor commercial kitchen space and 2<sup>nd</sup> floor residential use, as well as construction of a greenhouse. The property is located at 184 Brackett Road, zoned R, Map 7, Lot 29.

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Ms. Eyerman explained that both items on the Consent Agenda have been approved, but in each instance revisions need to be made that need Board approval. In the Chick property skatepark, a new Condition of Approval #13 is being added for a stormwater requirement of a minimum 2 foot cover over drainage pipes, which will be added as a note to the plan.

## CONSENT AGENDA

- A. Gorham, Town – Chick Property Skatepark** – a request to amend the Conditions of Approval for the approved 10,00 square foot community skatepark located on the existing Chick property to add Condition of Approval 13.

There being no one from the Board or the public wishing to take the item off the Consent Agenda,

**Vincent Grassi MOVED and David Burrows SECONDED a motion to approve Consent Agenda item A. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

Ms. Eyerman explained that the second Consent Item is to correct the map-block-number as it appears in the Conditions of Approval in the “Pursuant to the Application” section.

- B. Sturgis, Jonathan – Subdivision** – a request to amend the Conditions of Approval for the approved Lombard Estates Phase II Subdivision to split off one single family residential house lot at 28 William Henry Drive to revise the map-lot-block number.

There being no one from the Board or the public wishing to take the item off the Consent Agenda,

**Susan Durst MOVED and Vincent Grassi SECONDED a motion to approve Consent Agenda item B. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

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**ITEM 1 Public Hearing – Zoning Map Amendment** – a proposed Zoning Map amendment to change the area in the vicinity of South Street to Brackett Road from Rural and Suburban Residential District to the Urban Expansion District and to change the area in the vicinity of New Portland Road and Lowell Road from the Rural District to the Suburban Residential District.

Ms. Eyerman said that this item has been through the Town Council’s ordinance amendment committee and is to implement a section of the Comprehensive Plan that is an ongoing implementation in four parts. The review is broken down into four parts due to the large number of parcels involved, with this section being between South Street to Brackett Road being changed from Rural and Suburban Residential to Urban Expansion District, and New Portland Road to Lowell Road being changed from Rural to Suburban Residential.

PUBLIC COMMENT PERIOD OPENED: Christopher Jacques, 32 Elkins Road, in the area being proposed to change from Rural to Suburban, spoke about possible development impact in the New Portland Road area on the wildlife and wetlands. He said there are at least two farms in that area still operating as it is rural with semi-agricultural services whose futures could be disrupted by switching the zoning.

Abutter asked if zoning changes, would setbacks also change. Mr. Anderson confirmed that a different zone could have different setbacks.

Abutter off Day Road expressed concern about possible future development on wildlife, and impact on the school system.

Roger Brown, 52 Day Road, asked what is the driving force prompting this change. Ms. Eyerman said the Town's Comprehensive Plan was updated in 2016, and these changes are designed to implement what the Town envisioned over the next ten years for the areas under discussion. These changes are to implement the Comprehensive Plan adopted by the Town Council in 2016 and the changes are not part of a project or a development. Mr. Brown asked if there is a need for these changes. Ms. Eyerman said the purpose of the 2016 Comprehensive Plan update is to bring the Town's vision into conformance with today's needs in our community and the southern Maine region and this is an area in need of redevelopment opportunities.

Mr. Brown commented about the Transfer Development Overlay zone passed in 2006 that also affected this area, asking if there has been a lot of demand for growth under that zone for this area. Ms. Eyerman replied that in her 2-1/2 years' experience as Town Planner, there have been five developers with projects utilizing the Development Transfer option adjacent to the Village.

Mr. Brown asked about the Narragansett Game Sanctuary between South Street and Brackett Road, with Ms. Eyerman saying that everything except hunting is allowed in the Sanctuary. Mr. Brown commented that it appears that the boundaries of the Game Sanctuary coincide with the areas proposed for development. Mr. Brown commented that development in the Sanctuary will destroy feeding grounds and travel routes, so even though something is allowed it isn't always a good idea to do it.

Mr. Anderson reminded everyone that the Planning Board does not write the language, all the Board does is to ensure that what the Town Council gives as requirements are met by applicants. The Board makes recommendations to the Council but those recommendations are not always accepted. The Board's role is to determine if the changes fall within the scope of the Comprehensive Plan. He suggested that the best option for those with issues to be heard is to go in front of the Town Council.

Mr. Brown recommended leaving everything the way it is now and tabling the item indefinitely until there is some need to rezone the area.

Christopher Jacques, 32 Elkins Road, came back to the podium to ask who specifically wrote the Comprehensive Plan in 2016. Ms. Eyerman said the Town Council did not write the Comprehensive Plan, rather the Council hired a consultant to assist the Town to create its own Plan. Mr. Jacques suggested that no one on the Council today was involved in writing the Comprehensive Plan. Mr. Anderson confirmed that comment would be possible at the Council meeting tomorrow night. Mr. Jacques asked why notices had been sent out to residents for public comment if the

Board does not intend to consider those comments in its recommendations to the Council.

Mr. Siegel commented that as a judicial body, the Board is judging if something passes the ordinances or if it is legally on the up and up. If the Board does not like something, but it passes the ordinances the Board cannot say no, and the Town is legally required to put into place the Comprehensive Plan. Public comment is very important and valuable in the past and the notice sent out to residents is also part of the rules the Board must follow.

Mr. Jacques asked that DEP be involved in these proposed zoning changes. Mr. Anderson replied that DEP becomes involved with individual development applications. Ms. Durst said that changing the zoning doesn't change protected wetlands. In reply to Mr. Jacques, Ms. Eyerman said that certain businesses would qualify as legally nonconforming, or grandfathered.

Richard Foley, 14 Newton Drive, asked who the Board represents more, developers or existing citizenry. Mr. Anderson replied that the Board's job is to make sure that the rules on the books are applied properly. Mr. Foley commented about the impact of future development on the existing aquifers and lack of public water in the Town. He said the Board should let the Council know that the Comprehensive Plan has problems and should recommend that the Council should revisit some of the Plan aspects.

Paul Erskine, 190 New Portland Road, suggested that the Board recommends to the Council that a 16 foot private right-of-way now only services up to 6 houses, 600 feet on each side to accommodate 3 houses per side. However, with the shrinkage of frontage with the zoning change from 200 to 150, it would be possible to have 4 houses on each side, or 8 houses on a 16 foot private right-of way.

Roger Brown, 52 Day Road, said he was on the Comprehensive Plan committee before this one, in the 1980s. Mr. Brown said that elements of the Plan could be tabled regarding the needs for housing, and other considerations, and this could be put on the back burner indefinitely; and still be in total compliance with the law. It doesn't have to be passed the way it is.

END OF PUBLIC COMMENT PERIOD

Mr. Anderson suggested that those in attendance tonight on this issue also go before the Town Council tomorrow night to express their concerns. He confirmed with Ms. Eyerman what the process is in what the Council has asked the Board to do. Ms. Eyerman said that the Council selects a portion of the Plan they would like to implement, starting the process with the Council's ordinance amendment committee, with a referral then to this Board, who reviewed the proposed changes and made a recommendation back to the Council, which then held a public hearing and vote. This particular section of the Comprehensive Plan has been at the Council's ordinance amendment committee level for 6 months, and it has come to the Board in the current ordinance and map version for the Board's review, where it has been workshopped for two months at the Board's Comprehensive Plan Implementation Committee level. The next phase in the process is for the Board to decide on a course of action, and then move the item to the Council with a recommendation. The Council will then hold a public hearing, at which time comments will be taken, and then the Council will vote.

Ms. Eyerman explained the process for the future reviews of the other portions of the zoning map amendments and implementation is put into effect. She recommends that interested parties follow

the Town Council's Ordinance Amendment Committee because everything starts at that level, months and months ahead of time.

Mr. Burrows said that he is not a long time resident of Gorham and many of the areas under discussion are not familiar to him, so he feels he needs more information in order to make a decision; therefore, he could not comfortably vote on this tonight. Mr. Frank agreed with Mr. Burrows, saying the Board needs to learn more. Mr. Siegel said he believes that the future land use map is very clear and is not vaguely written, it is very specific, and he believes the Board's perspective is black and white on what the zone should be. However, Mr. Siegel said if the Board is following the Comprehensive Plan, page 33, Natural Resources, Local Objectives, states that "To protect significant wildlife and fisheries habitat and critical and unique areas." Because of the Narragansett Game Sanctuary in the area, Mr. Siegel believes the Board should recommend to the Council that it create an overlay district over the Game Sanctuary area specifically protecting it, thereby following all parts of the Comprehensive Plan, probably limiting development in an area that the Board wants to protect.

Mr. Anderson said that he was not involved in the Board's Comprehensive Plan Implementation Committee and with the information that has been provided tonight, he agrees with Mr. Burrows and Mr. Frank and would like to study it more before making a recommendation to the Council.

Mr. Anderson suggested again that everyone who attended tonight's public hearing also go to the Council's public hearing and make their comments there as well.

**David Burrows MOVED and Russell Frank SECONDED a motion to table the item for a full Board workshop. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

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**ITEM 2**      **Public Hearing – Land Use and Development Code Amendment** – a proposed Land Use and Development Code amendment to allow Office of Contractor or Tradesman as a permitted use to the following sections: 1-9, Village Centers Districts; 1-10 Urban Commercial District; 1-11 Roadside Commercial District; 1-2 Industrial District; 1-13 Mosher Corner Mixed Use District; 1-14 Office Residential District; 1-18 Narragansett Mixed Use; 1-21 Olde Canal Industrial District; and 1-22 Agricultural/Industrial District,

Ms. Eyerman explained that the office of contractor or tradesman was initially added to the Code as an allowed use in relationship to home occupations, with a definition added in the ordinance, but was not added in any other zoning district as an allowed use. The zoning districts listed are those in which this use makes the most sense

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

Mr. Burrows asked if this is permitted in all zoning districts. Ms. Eyerman replied that the use is not permitted in the Rural zoning district in order to protect the natural resources of that zone by limiting the kind of businesses allowed there.

**Vincent Grassi MOVED and Russell Frank SECONDED a motion to recommend**

**adoption by the Town Council of the Zoning Amendment to allow for office of a contractor or tradesman to Zoning Districts 1-9 through 14, 16, 18, 21, and 22 as written by Town staff. Motion CARRIED 6 ayes (Thomas Hughes absent).**

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**ITEM 3      Public Hearing – Site Plan – Nouria Energy Corp.** – a request for approval to redevelop an existing convenience store to consist of a 6,000 square foot store and Amato’s Restaurant, drive through, eight (8) gas pumps and two (2) diesel pumps located at 435 Ossipee Trail, zoned RC, Map 77, Lot 18.003.

Ms. Eyerman explained that this application involves an already developed site, with an existing convenience store and gas pumps, which the applicant would like to redevelop. Two waivers are being requested, one from the requirement to connect to public water and the other from the requirement connect to public sewer. Ms. Eyerman said there is a traffic movement permit being reviewed by the Maine DOT, with more review needed by the Town’s peer review engineer. More information is needed about the landscaping and landscaping buffer and financial capacity needs to be provided.

Norm Chamberlain, Walsh Engineering, appeared on behalf on the applicant and introduced the applicant and John Selle, Phase Zero Designs, architect. Mr. Chamberlain said the property is 2.1 acres with a 3,300 square foot convenience store and gas station on site, 4 gas pumps, and with 290 feet of frontage on Ossipee Trail in the Roadside Commercial zoning district. Surrounding the development are mostly commercial enterprises, with one single family house just behind this site. The proposal is for a 6,000 square foot convenience store, with an Amato’s Restaurant with a drive through, 8 gas pumps with 16 spaces for cars and diesel pumps for two trucks at the same time. Truck movements can occur in and out of the site and will not need to go in to the opposing lane on Ossipee Trail. Currently a left turn lane is anticipated from Maine DOT. Several underground filtration systems are proposed to filter stormwater before it goes into the groundwater; a stormwater permit from DEP will be required.

John Selle, Phase Zero Designs, presented renderings showing the proposed redeveloped convenience store, existing sign relocated, pumps, logo and signage over the main entry, and signature Nouria green canopy across the front of the store. Materials of the building include cementitious panel, simulated wood and simulated sandstone block.

**PUBLIC COMMENT PERIOD OPENED:** Dana Lampron, abutter, commented about the requirement for the Maine DEP Chapter 500, stormwater system, saying the site is on a sand and gravel aquifer, this use is grandfathered and would never be allowed today under the DEP regulations. He said that the regulations require that the filtration systems need to be 300 feet away from a private well if it wasn’t on an aquifer. Being on an aquifer, two of those systems cannot be there, one of them next to a well he has, and the other is within 300 feet of the well in the back, which is a duplex he has, not a single family home. He said this current plan moves the diesel island from the east side of the west side, right close to his well, probably 100 feet away. Mr. Chamberlain showed Mr. Lampron where the well and septic are proposed to be located. Mr. Lampron said he believes the DEP will require detention ponds with bio filters. Mr. Lampron provided the Board with a copy of DEP’s Chapter 500 for the record.

Mr. Lampron also questioned the position of the curb cuts proposed.

PUBLIC COMMENT PERIOD ENDED.

Mr. Burrows asked Mr. Chamberlain if the sanitary and septic were required, how would that impact the future of the project. Mr. Chamberlain replied that the economics of the project would have to be revisited, and told Mr. Burrows that it would make the project less viable if the waivers were denied. Mr. Chamberlain said that the estimate, based on the Town's calculation sheet, was about \$750,000 to bring just the water to the site.

In reply to a question from a Board member about limiting the eastern-most entrance to the site in only and the western-most an out only, Mr. Chamberlain replied that truck traffic will definitely be in the south and out the north, but car traffic will probably leave closest to their travel direction.

Mr. Siegel asked if the home behind the property is currently being lived in. Mr. Chamberlain replied he is not sure; Mr. Siegel said he believes it would be good to know if it is occupied, by how many, and what will happen to the occupants if the house is going to be demolished.

Mr. Anderson asked Mr. Chamberlain if test pit information is available yet. Mr. Chamberlain said they are in the process of selecting someone to do some borings. Mr. Anderson commented about the DEP requirements for fueling stations and hydrocarbons.

Mr. Anderson asked about pedestrian circulation from the proposed parking spaces to get to the store across drive-through lanes. Mr. Chamberlain said the spaces mentioned by Mr. Anderson would primarily be for employees, and the 16 spaces under the canopy will be for employees.

Mr. Anderson commented about landscaping; Mr. Chamberlain said they will have to beef up their landscaping in the 25 foot and 15 foot buffers. Ms. Eyerman told Mr. Anderson that they can pave into the setbacks.

Commenting on the flatness of the site, Mr. Anderson said that any stormwater design will capture any thing spilled on the site. Mr. Chamberlain confirmed with Mr. Anderson that the test pits to ensure that the septic system can be placed in the location proposed, with an HHE 200 developed for that location.

Mr. Siegel confirmed with Mr. Chamberlain that he is aware of the Town's sign ordinance and percentage of LED lights and color. Mr. Siegel asked how necessary is the diesel portion of the site, commenting about the size it will take up. Mr. Chamberlain said these stores cater mostly to passers-by, and it is not a destination, and the calculations they go to DOT with show that something like 60% are pass-by trips. Mr. Chamberlain replied to a question from Mr. Siegel that no study has been done about any diesel smell impacting abutters.

Mr. Burrows confirmed that there is some destination traffic for the site, probably more passenger cars to use the Amato's drive through. Mr. Chamberlain said they are going through the traffic movement permit process with the State, and the Town's peer reviewer will be looking at it as well.

The Board addressed the applicant's waiver requests, with Ms. Eyerman saying that the applicant fills out a form calculating what the costs are to extend public water and sewer. The Board and Mr. Chamberlain discussed the proposed well usage of 1400 gallons per day and any legal water requirements relating to fire safety.

Regarding the applicant's first waiver, Mr. Anderson said in his opinion, it is exceedingly burdensome for the applicant to spend \$750,000 for a well to bring water to the site. After discussion, the Board concurred and

**Susan Durst MOVED and Russell Frank SECONDED a motion to approve the requested waiver from Section 1-11, E B.1, Utilities, from connecting to the public water main. Motion CARRIED 6 ayes (Thomas Hughes absent).**

Mr. Chamberlain told the Board that the sewer is quite a distance from the site, more so than the water main, so the cost of connecting to public sewer would be more than that to connect to public water. He agreed to provide the financial numbers to the Board to justify the waiver request the next time the application is before the Board.

Mr. Chamberlain asked the Board for its input about sidewalks, noting that there are no sidewalks out in this area or in the gas station/convenience store development. In reply to Mr. Anderson, Ms. Eyerman replied that the zoning ordinance for Roadside Commercial specifically wants sidewalks in one location, on Main Street. She said the ordinance does ask for pedestrian walkways and connections between the developed areas in the Roadside Commercial zone, and on Main Street the Board has allowed a sidewalk easement in the event in the event sidewalks would ever be placed. She agreed with Mr. Chamberlain that there are no sidewalks in this area, but suggested perhaps utilizing the easement idea along the frontage of the applicant's site to allow for pedestrian connections. Mr. Chamberlain said there is some 14 feet of right-of-way between the edge of the road and the property line, so there is adequate room for a sidewalk.

Mr. Anderson said he believes it would make sense for an easement along Route 25 for future sidewalks in that area. In reply to Ms. Durst, Ms. Eyerman said there is room within the right-of-way for an easement for allow for a sidewalk to connect to abutting properties. The Board concurred in asking Mr. Chamberlain to show something along the front of the site for a future sidewalk.

Mr. Siegel said the Board also needs information about distances to neighboring wells.

**Vincent Grassi MOVED and Seven Siegel SECONDED a motion to postpone further review of Nouria Energy Corporation's request for site plan approval pending responses to remaining issues and finalizing revisions to the plans. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

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**Stretch Break – 9:10 to 9:15**

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**ITEM 4      Public Hearing – Leaf Labs, LLC – Site Plan** - a request for approval of a 40,900 square foot marijuana grow and warehouse facility with associated parking, located at 65 Olde Canal Way, Olde Canal Industrial zoning district, Map 34, Lot 3-3.

Ms. Eyerman advised the Board that this is a request for site plan approval for one of the lots in the Olde Canal Industrial park. There are comments from the peer review engineer dealing with

stormwater, as well as comments from the fire department and the planning department.

Craig Burgess, Sebago Technics, advised the Board the project is for a 40,900 square foot pre-engineered metal building which will serve as a cannabis cultivation production facility, near the end of Olde Canal Way in the business park. The project will have a 43 space parking lot in the front, between Olde Canal Way and the pre-engineered building, and a drive aisle extending to the rear of the building will serve two loading areas. One loading area will be for box trucks, and the other loading area will have two loading bays for tractor trailer deliveries. The drive aisle extends away from the building, creating space for a tractor trailer to get into the loading bay and get by a tractor trailer at the other loading bay. The project will be served by underground utilities extending from Olde Canal Way, including sanitary, water, gas and electricity. Stormwater infrastructure isn't immediately proposed for this project because as part of the business park approval in 2015, provisions were included for handling for stormwater, which is a wet pond located across the street. All the stormwater from the site will be directed to a wetland and then across Olde Canal Way via a culvert to the wet pond for stormwater treatment. The original permit for this site included maximum limits for impervious and developed areas, and this project falls below those limits, so no DEP permitting is necessary. Mr. Burgess called the Board's attention to correspondence included in their packets with DEP indicating that it is not necessary to submit a stormwater permit by rule as part of the application. The Army Corps of Engineers sent a re-authorization of the wetland impact of some 4,600 square feet of wetland impact permitted at the time the business park was approved, but the actual wetland impact proposed by this project is around 2,600 square feet, well below the originally permitted impact amount.

Mr. Burgess noted that he believes staff comments are minor in nature and will be easily addressed. He said they do have to add a utility room specific to the water meters so that the Fire Department has direct access to that, and it is proposed that room will be added by the loading dock area. A drainage plan has been prepared to show how the culverts have been sized.

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

Mr. Anderson said he understands that some banks are reluctant to provide a letter of credit involving marijuana grow facilities, and asked Ms. Eyerman what the Town generally looks for in a letter of financial capacity, Ms. Eyerman said that usually the applicant presents a letter from a financial institution saying that the applicant or their client has banked with them in the past, they feel comfortable with the applicant's amount of resources and generally speaking the applicant is a customer in good stead.

Speaking about Mr. Anderson's comment, Ms. Durst said that most banks will not allow the use of marijuana money, and just being a customer in good standing might be enough in this case, so it might be a good idea that the bank specifically knows what the applicant is doing with the money.

Mr. Anderson suggested that Mr. Burgess get more information on the letter of financial capacity. Mr. Burgess said that the original letter of credit has been updated.

Mr. Anderson and Mr. Burgess discussed the grading for the area around the loading docks, with Mr. Anderson asking if a retaining wall is proposed. Mr. Burgess said the grade change can be accommodated through the proposed landscaped area.

Mr. Anderson asked if the applicant is proposing security fencing and controlled access. Mr. Burgess said as far as he knows the applicant is only proposing cameras, but he will gather more information for the Board. Mr. Siegel asked if grow facilities are more susceptible to theft; Mr. Burrows responded that they are more susceptible to theft. Mr. Burgess replied to a Board member's question that he does not believe there would be a requirement for someone to be on site at all times, but said he would check with the applicant and get more information about on-site security.

David Burrows asked about proposed gallons of water usage. Mr. Burgess replied that there will be a recycling system to recycle a majority of the water, so the actual water usage draw from the public system is fairly minimal. Mr. Burgess and Mr. Burrows discussed how stormwater will be directed into a culvert and then into the wet pond.

Mr. Grassi asked about HVAC and if there will be a flat roof. Mr. Burgess replied the roof will be slightly pitched and their plans will reflect that. Mr. Anderson said that the ordinance will require screening of such equipment and the Board will need to see what is proposed for it. Mr. Burgess said he will get that information and show it on the plans.

Mr. Burgess advised Mr. Siegel that there is no intention of retail at this time, it would be just for cultivation and distribution. Mr. Burgess told Mr. Siegel that he believes there will be 30 employees but he will confirm that. Mr. Siegel asked if all necessary licenses and permits be obtained before building the facility. Mr. Burgess replied that they must be obtained prior to occupancy but he will check to see if they are needed before the building permit. Mr. Siegel said it would be good to know how much it would delay the project if the Board were to require the licensing before building happens.

Mr. Eyerman said the applicant can apply for the licensing concurrently while going through the Planning Board process.

Mr. Burgess told Mr. Siegel that Leaf Labs, LLC, has a facility in Sanford and is composed of a group of investors mainly based out of Vermont.

Mr. Anderson asked if some of the items discussed this evening can be reviewed by staff or would it be more of a Consent Agenda item. Ms. Eyerman said that as the Board has asked for specific information about the HVAC location, the information can be presented for a Consent Agenda, and if the Board is not satisfied with what has been provided, the item can be taken off the Consent Agenda for discussion. Mr. Anderson suggested that the applicant provide information for landscaping or screening if the units are to be on the ground or located at the rear of the building. Ms. Eyerman said staff can then review everything else and also take a look at what has been designed for the HVAC units.

Mr. Burgess replied to Mr. Anderson that the Conditions of Approval seem to be appropriate.

**Seven Siegel MOVED and Vincent Grassi SECONDED a motion to place further site plan review approval on the July 11, 2022 Planning Board meeting Consent Agenda. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

**David Burrows MOVED and Russell Frank SECONDED a motion to waive the 10:00 o'clock rule. Motion CARRIED, 4 ayes, 1 nay (Susan Durst), and 1 abstain (Seven Siegel).**

**ITEM 5      Subdivision – Hastings, Lyndsay – 73 Brackett Road** – a request for approval to split a lot at 73 Brackett Road, zoned SR, Map 28, Lot 23.

Ms. Eyerman told the Board that the applicant was before it in 2021 and has been waiting for the Village Expansion zoning to take effect. There are peer review engineer comments and comments based on whether the zoning gets changed. The applicant is requesting two waivers, one to allow a Class B soils survey instead of the required Class A, and the second waiver from the requirement to submit a nitrate analysis.

Andrew Morrell, BH2M, appeared on behalf of the applicant, and told the Board that the applicant resides at the parcel, 73 Brackett Road, a 3.8 acre parcel zoned SR. The applicant would like to split off a lot along Brackett Road, shown as Lot B2 on the plan before the Board. He said this is a subdivision because there were two parcels split back in 2019, parcel A to the north of this parcel and the subject parcel, parcel B. Transaction of these lots within a five year period trigger subdivision review. There will be another application forthcoming before the Board for parcel A for Jack Riley for something similar.

Mr. Morrell said the applicant is aware that final subdivision approval cannot move forward until the Village Expansion requirements take full effect, and the intent tonight is to move the application forward as best possible. He said two waivers have been submitted, one to allow a Class B soils survey instead of the required Class A soil survey, and the other from the requirement to submit a nitrate analysis. Mr. Morrell said the applicant has submitted a letter of financial capacity, and an HHE200 design by Albert Frick Associates was also submitted for lot B2.

Seven Siegel asked for the reasons for the two waivers. Mr. Morrell replied that for both waivers is because this is a larger lot, they have tried to place the septic system away from any abutting lots and do not believe either the Class A soil survey or the nitrate analysis is necessary.

Mr. Anderson and Mr. Morrell discussed the well exclusion zone and the effect of the new septic on the existing well, with Mr. Morrell saying that a 100 foot setback is being proposed from the new septic system so that a well cannot be proposed within that area, and none of the abutting wells can be in that setback.

Mr. Anderson commented that the peer review recommends a Class A soils survey, based on there being private sewer and a private well. Mr. Morrell said that the different type of soils survey is based on the number of test pits done within an acre, so they don't feel that the Class A survey is warranted for a single house lot on a lot this size. Mr. Grassi said in this case he doesn't believe the Class A survey is necessary. Mr. Burrows said he believes they have met their requirements by submitting the preliminary soils test from Frick Associates. Mr. Anderson concurred.

**Susan Durst MOVED and Seven Siegel SECONDED a motion to approve the requested waiver from Chapter 3, Section 3-3, B-11, to allow submission of a Class B soils survey instead of the required Class A soils survey. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

Replying to a request from Mr. Anderson regarding a nitrate analysis, Mr. Morrell explained that a hydrogeologist would take a look at the soils on site to consider the capacity of the septic system to determine how far the nitrate would flow through the existing soils and whether it would impact any

abutting lots or any natural resources. Mr. Anderson confirmed the well exclusion zone with the septic field outside of that and said he believes it seems logical to allow the waiver.

**Vincent Grassi MOVED and Russell Frank SECONDED a motion to approve the requested waiver from the requirement of Chapter 3, Section 3-3, B-16 to submit a nitrate analysis. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

Ms. Eyerman advised Mr. Anderson that the Board will have to postpone further review of this application until the rezoning has been adopted by the Town for the Village Expansion zoning district. Mr. Morrell asked if the Board would consider granting both preliminary and final subdivision approval in one meeting after the zone has been adopted. Mr. Anderson explained that normally the Board does not grant both approvals in one meeting, but as this is the second time the application has been before the Board the Board can consider doing so when the applicant returns after the zoning has been adopted.

**Susan Durst MOVED and David Burrows SECONDED a motion to postpone further review of Lyndsay Hastings' 73 Brackett Road Subdivision request for preliminary subdivision approval pending responses to remaining issues, adoption of the ordinance amendments, and finalizing revisions to the plan. Motion CARRIED, 6 ayes (Thomas Hughes absent).**

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**ITEM 6 Discussion – Subdivision – Ricky Jones, 36 Middle Jam Road** – a request for approval of a 4-lot conventional residential subdivision at 36 Middle Jam Road, zoned SR and Shoreland, Map 97, Lot 37.

Ms. Eyerman told the Board that this application was originally proposed as a clustered subdivision, but has chosen to switch to a conventional subdivision, based on comments from the Board about the clustered subdivision and from abutters at the sitewalk.

Jason Haskell, DM Roma Consulting Engineers, told the Board that the application was originally for a clustered subdivision, but because they did not realize there would be such a drive for priority common open space areas to be set, they decided to go with a conventional layout instead. Mr. Haskell said the existing house would be on lot 1, with 2 additional single family lots, and the 4<sup>th</sup> lot on Kayla Way for a single family home or a duplex. Due to sight distance constraints, they are proposing that lots 2 and 3 come off the same shared driveway, located at the high spot of the road.

Mr. Haskell said they would like to have direction from the Board as to which layout it prefers. He said there are no vernal pools on the property. The closest water main is at the intersection of River Road and Windham Center Road, about 4700 feet, but because the property is in the Suburban Residential zoning district and public water is over 3,000 feet away, the calculation does not need to be done. Ms. Eyerman suggested Mr. Haskell check with the Portland Water District to make sure about the location of public water. Mr. Haskell referred to the Fire Department's preference not to name the shared drive, but as shared drives have been named in the past, he would like the Board's input on this question. Mr. Anderson said that is more of an emergency response issue, not the Board.

Mr. Haskell asked the Board if it would be willing to approve that 50% of the open space has the

prime farmland required under the clustered layout. Mr. Anderson said that question cannot be answered at this time, that the process of reviewing a clustered subdivision is new for the Board, as well as for the applicant, and believes that the review process could be much longer for the clustered versus the conventional layout.

**PUBLIC COMMENT PERIOD OPENED:** Jeanne Disciullo, 25 Middle Jam Road, abutter directly across the street from the existing house on the site, said her concern is water quality no matter what is built. She said her water supply is North Gorham Pond and she is concerned about impact from runoff from any development. She believes the parcel of land is too small to accommodate the septic systems and wells for the five lots proposed. Mr. Haskell advised that there would be the existing house, 2 single family houses, and then a 4<sup>th</sup> lot that could be either a single family house or a duplex, so if it were a duplex it would be 5 dwelling units.  
**PUBLIC COMMENT PERIOD ENDED**

In reply to Ms. Disciullo's concerns, Mr. Anderson said that part of the applicant's responsibility in the review process will be to dig test pits to locate areas that will accept septic systems, and the well exclusion zone required by the ordinance limits locating wells within that zone.

Mr. Anderson asked the Board to advise Mr. Haskell about their views on the clustered and the conventional subdivision, saying that in his opinion the clustered layout is incongruent with the neighborhood, which is mostly larger lots, but the current zoning does allow for the 60,000 square foot lot sizes that are shown.

Mr. Frank commented that Mr. Haskell referred to both a "two family" and a "duplex," and asked if there is a distinction between the two. Mr. Haskell said he has seen the terms used interchangeably, but it would be a two family connected structure.

Mr. Siegel asked if the applicant is pulling the clustered subdivision layout idea or is this more of a discussion about which one to move forward with. Mr. Haskell said it is more of a discussion about which one to move forward with. Mr. Haskell said there are 5 individual lots in the clustered and 4 in the conventional layout with a potential for 5 dwellings but with a different value in sales. Mr. Siegel said he believes that the clustered layout provides more open space for the use of the residents, while the conventional makes no provision for open space; he believes that the clustered is the better form of development.

Ms. Durst commented that the proposed clustered layout is the opposite of what is required by the ordinance, and having the housing so far away from the road would be more expensive because a road would have to be put in. Mr. Haskell said if they do not have to preserve most of the road frontage as prime farmland as required by the clustered ordinance, the applicant could pursue his clustered layout without the cost of having to put in a road. Mr. Haskell said further that if they have to preserve the prime farmland as required, they could only get 4 lots.

Mr. Haskell told Mr. Anderson that the lot sizes with the clustered layout is 20,000 square feet. Mr. Anderson said his concern about a clustered subdivision without public sewer and water is being able to locate soils that pass a perc test and locating a 100 foot exclusion zone for wells. Mr. Haskell said it would have the septic systems and wells would have to be deed restricted to make the lots work.

Mr. Grassi said he believes the conventional layout will be an easier development with allowing more flexibility.

Mr. Siegel commented about the loss of open space for the existing residents under the conventional layout.

Ms. Eyerman said that at the end of the subdivision standards in the ordinance has an option where a developer can provide open space or recreation land, and recommends a meeting to discuss that section of the ordinance. In reply to Mr. Anderson, Mr. Haskell replied that the 3 lots proposed are a little over 60,000 square feet with the two family lot probably at 80,000 square feet. He said the applicant may not agree to setting aside open space without getting the extra lot of the clustered layout. Ms. Eyerman told Mr. Siegel with under that option, the lot sizes would be 60,000 square feet.

Mr. Burrows said he believes there is a compromise to make the conventional layout work but push the houses back to the west close together and that the east side appears as open space and is more accessible and visible. He suggested following up on the option mentioned by Ms. Eyerman.

Ms. Eyerman said in order to get the smaller lot sizes, the applicant needs to follow the ordinance requirements for the clustered layout. Mr. Haskell said that in their previous clustered application, about 40% of the lot was open space and 40% of that was prime farmland, not quite the percentage requirement that it be all of it.

After further discussion and a show of hands, Mr. Anderson advised Mr. Haskell that the Board is leaning toward the conventional layout as the best possible form of development for the site.

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**OTHER BUSINESS:** Ms. Eyerman said the Board will receive notice about setting a sitewalk for the Mountain Trail Meadows subdivision within the next 3 weeks.

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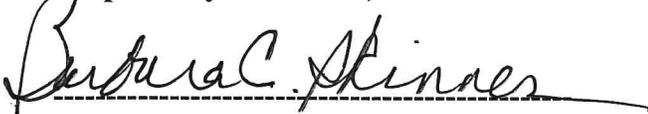
**ANNOUNCEMENTS:** None

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#### **ADJOURNMENT**

**Susan Durst MOVED and David Burroughs SECONDED a motion to adjourn. Motion CARRIED, 6 ayes (Thomas Hughes absent). 10:35 p.m.**

Respectfully submitted,



Barbara C. Skinner, Clerk of the Board  
June 6, 2022