

AGENDA AND PROPOSED ORDERS  
GORHAM TOWN COUNCIL  
REGULAR MEETING  
December 6, 2016  
6:30pm  
Burleigh H Loveitt Council Chambers

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the November 22, 2016 Regular Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

Public Hearing #1

On Order # 9160      Public Hearing on a proposal to amend the Land Use & Development Code by adopting a Contract Zone for property on Railroad Avenue. (Admin. Spon.)

Proposed

Order # 9160      Ordered, that the Town Council amend the Land Use & Development Code by approving the following contract zone between the Town of Gorham and Railroad Avenue, LLC:

WHEREAS, the Town has the authority to enter into a contract rezoning for property, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section I, Subsection H, as amended, of the Gorham Land Use and Development Code (the “Code”); and

WHEREAS, the Property Owner owns land and buildings at 17 Railroad Avenue, identified in the Town Tax Maps as Map 103, Lot 81, pursuant to a deed recorded in the Cumberland County Registry of Deeds in Book 24784, Page 263 (the “Property”); and

WHEREAS, the Property Owner intends to develop and construct a new multi-story building on the Property as generally depicted on the conceptual building elevations and floor plan, attached hereto and incorporated herein by reference, together with

associated site improvements that include portions of the buildings that will be three, four and five stories in height, and

WHEREAS, the Property Owner intends to lease and/or rent the interior space for commercial uses on the Property to include but not limited to a bowling facility, and other commercial and office uses allowed in the underlying Urban Commercial zoning district and up to 40 rental apartments units, together with outdoor recreational space, which may be converted to condominium units for sale; and

WHEREAS, the Property Owner intends to construct and maintain all parking onsite and curbside parking along the frontage of the Property; and

WHEREAS, the Property is located in Gorham's Urban Commercial Zone and is in close proximity to the downtown Village area of Gorham; and

WHEREAS, the Code permits and encourages the redevelopment of parcels in the Urban Commercial Zone for general sales, services, commercial and business space in the Town of Gorham and is consistent with the intended uses of this Contract Zone Agreement; and

WHEREAS, the redevelopment of the Property promotes a diversity of uses consistent with the village character and creates new business and housing opportunities while promoting a livable and walkable community; and

WHEREAS, the Town desires to encourage the majority of new development in the Village Centers Areas and the Village Commercial area to include a higher density residential component; and;

WHEREAS, the Property Owner intends to provide both onsite and curbside parking along the property frontage and has completed a parking demand analysis based upon a shared parking strategy with a total parking requirement of 153 spaces. The shared parking strategy accounts for land uses with different parking demand patterns and recognizes that the same parking spaces and areas will be utilized by different users throughout the day. The shared parking strategy results in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommending the rezoning of the Property; and

NOW THEREFORE in consideration of the mutual promises made by the Town and the Property Owner to the other, it is hereby agreed as follows:

1. Amendment of Zoning Map. The Town will amend the Zoning Map of the Town of Gorham, as amended, a copy of which is on file at the Gorham Municipal Offices and which is incorporated by reference in the Land Use and Development Code, Chapter I, Section I, Subsection C, by adopting the map change amendment shown on attachment 1.
2. Permitted Uses. The Property Owner is authorized to (i) lease and/or rent the interior space of the buildings to be constructed on the Property for commercial uses to include but not limited to a bowling facility, bars of up to 3,000 square feet of public area, and all commercial uses allowed in the underlying Urban Commercial zoning district, and for residential uses including but not limited to up to 40 apartment units for short and/or long term lease, all of which may be converted to a condominium for sale, (ii) develop, improve, remodel, repair, alter, and maintain the exterior and interior of the existing 10,228 sq. ft. building on the property without further approval from the Town of Gorham Town Council; provided that any such alteration does not increase the existing footprint of the building, but subject in all cases to zoning and dimensional standards applicable to the property, as such standards have been amended by this agreement and (iii) any other use consistent with the underlying zone, as amended by this Agreement.
3. Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapter II of the Code, except as follows:
  - a. The development shall provide 153 parking spaces.
  - b. The development proposal shall include plans for all proposed exterior lighting. The style of the light and light standard shall be consistent with the architectural style of the principal buildings. Where lights along the property lines shall be visible to adjacent residents, the lights shall be full cut-off. Parking and lighting shall be shielded and located and maintained so as not to create or constitute a hazard or nuisance to the traveling public or neighbors.
  - c. Building construction shall be as generally shown on the provided building elevation and floor plans appended to this document. Modifications to the building facade, exterior architectural treatments, windows, balconies, door plans and other related features may be made as part of the Planning Board review process without requiring a modification to this agreement, as long as such modifications do not result in a substantial change to the building configuration and massing as shown in Exhibit A.

- d. All parking located along the Property frontage on Elm Street and Railroad Avenue shall be subject to general Town regulations concerning snow emergencies, including parking bans. However, the Property Owner shall be responsible for winter maintenance, including plowing, removal of snow and sanding and salting the spaces in these areas, including those spaces that extend into the right-of-way of Elm Street. Maintenance of any parking spaces located in part in the Town right-of-way shall be maintained to the satisfaction of the Town's Public Works Director.
  - e. The Property Owner shall control those parking spaces located entirely on the Property. The Property Owner may seek a license agreement from the Town Council for the use and control of parking spaces located partially in the right-of-way of Elm Street.
4. Dimensional Requirements. All development on the Property shall comply with the following dimensional requirements, which shall apply to the Property as a whole (as if the Property were a single lot) and not to individual buildings, except for maximum building height:
- a. Minimum lot size: None.
  - b. Minimum lot area per dwelling unit: None.
  - c. Minimum street frontage: None.
  - d. Minimum side and rear setbacks: 10 feet. The setback from the brook shall be as established by the Maine Department of Environmental Protection Natural Resources Protection Act permit.
  - e. Minimum front setback from adjoining properties not part of the property: 15 feet.
  - f. Maximum building height for the new structure: 80 feet, as measured from the post-development grade to the highest point of the structure. The height of the existing structure may be increased as long as the increase conforms to the maximum height allowed in the Urban Commercial Zoning District.
  - g. Minimum open space: None.
5. Other Requirements. All development on the Property shall comply with the following requirements:
- a. There shall be no material amendment of the Declaration or the Plat without Planning Board Approval.
  - b. Except as otherwise established by this Agreement, the Property shall be subject to the requirements of the underlying Urban Commercial zoning district or any successor zoning district.

6. Because the Town desires to encourage the majority of new development in the Village Centers Areas and the Village Commercial area to include a higher density residential component, the development will not be required to purchase bonus dwelling units for those dwelling units that exceed the underlying zone's residential density.
7. Agreement to be Recorded. The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Gorham Code Enforcement Officer and the Town Planner before any site work is undertaken or any building permits are issued.
8. Amendments to Agreement. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the Town of Gorham and the Property Owner and its successors in interest to the Property.
9. Site and Plan Subdivision Review. Approval of this Agreement will not serve as a waiver of site plan or subdivision review if otherwise required under the Code.
10. Property Taxes or Payment in Lieu of Property Taxes. The owner of the Property subject to this Agreement shall pay normally assessed property taxes or, if the property is otherwise exempt from property taxes, shall make a payment in lieu of property taxes that is equal to 100% of the amount that would have been paid if the Property was not exempt from property taxes.

The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Property Owner, any entity affiliated with it that takes title to the Property, its successors and assigns, and any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town, by and through its duly authorized representatives. The provisions of this Agreement are intended to replace the corresponding uses and dimensional requirements of the existing Urban Commercial Zone, but any provision of that underlying zoning district or any other provision of the Code not expressly modified by this Agreement shall remain in full force and effect. If any of the restrictions, provisions, conditions or portions of this Agreement are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Code. This Contract Zoning

Agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and the Code. Following any final determination of a material and continuing zoning violation, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its contract rezoning of the site.

In the event that the Property Owner fails to develop the Property in accordance with this Agreement, or in the event of any other breach of any condition set forth in this Agreement, the Town Council shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to develop or operate. The resolution may include a termination of this Agreement by the Town Council and a rezoning of the Property to the prior or any successor zoning districts. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law; provided however, that no such enforcement action shall result in a disallowance of the current uses of the Property prior to the date of this Agreement.

Public Hearing #2

On Order # 9161

Public Hearing on a proposal to amend the Land Use & Development Code by replacing the Roman numerical numbers system with a more conventional numbering and letter system.(Admin. Spon.)

Proposed

Order #9161

Whereas, the Town has a Land Use and Development code that uses a Roman numerical numbering system and,  
Whereas, a Roman numerical numbering system can be confusing and the Town wishes to make the Land Use and Development Code user friendly,  
Now Therefore Be It Ordered, that the Town Council approves amending the Land Use & Development Code by replacing the Roman numerical numbering system with a more conventional numbering and letter system.

Public Hearing #3

On Order # 9162

Public Hearing on a proposal to amend the Town's Streets and Sidewalk Ordinance to allow traffic from Route 25 (State Street) to enter Pine Street for the initial 160 feet for the purpose of accessing parking lots that support the businesses near the entrance.. (Councilor Benner Spon.)

Proposed

Order # 9162

Whereas, Section 9 of the Town's Streets and Sidewalks Ordinance currently prohibits vehicles from entering Pine Street from State Street, and  
Whereas, the town has received a petition from citizens who live on Pine Street and Green Street asking that traffic be allowed to enter Pine Street to access parking lots serving 76 and 88 State but asking the Town to keep the "Do not enter" sign at the entrance of Pine Street, and

Whereas businesses at 76 and 88 State Street are currently impacted by the current prohibition on entering Pine Street,  
Now Therefore Be It Ordered, that the Town Council approve an amendment to the Streets and Sidewalks Ordinance to allow traffic to enter Pine Street via Route 25 (State Street) for the initial 160 feet for the purpose of serving businesses parking lots at 76 and 88 State Street, and  
Be it Further Ordered that a “Do Not Enter” sign continue at the entrance of Pine Street from Route 25 (State Street).

Item # 9163                      Action to consider authorizing a referendum for the election on June 13, 2017 to ask the voters to authorize the Town to borrow and spend the funds for the Town’s local share of a road maintenance project on South Street (Rt. 114) (Admin. Spon.)

Proposed  
Order # 9163                      Ordered, that the Town Council authorize a referendum for the election on June 13, 2017 asking the voters to approve having the Town borrow and expend up to \$500,000 for the Town’s share of a road project on South Street, with the estimated total cost of the project at 1.65 million, and  
Be It Further Ordered, that the Town Council schedules a Public Hearing on the referendum question for May 2, 2017.

Item # 9164                      Action to consider transferring enforcement of the NFPA 101 Life Safety Code violations at Pine Crest Bed and Breakfast from the Gorham Fire Department to the State Fire Marshall’s Office. (Councilor Hartwell Spon.)

Proposed  
Order # 9164                      Ordered, that the Town Council ask the State Fire Marshall’s Office to take over enforcement of the violations of the NFPA 101 Life Safety Code at the Pine Crest Bed and Breakfast from the Gorham Fire Department.

Item # 9165                      Action to consider having the application of Pine Crest Bed and Breakfast, for a Victualer’s license, transferred from the Town Clerk’s Office and sent directly to the Town Council. (Councilor Hartwell Spon.)

Proposed  
Order # 9165                      Ordered, that the Town Council schedule a Public Hearing for January 3, 2017, on an application from Pine Crest Bed & Breakfast, for a Victualer’s license and that the application be placed on the January 3, 2017 Town Council agenda for a vote of the Town Council.

Item # 9166                      Action to consider amending the Town's Consumer Fireworks Ordinance to allow for an annual permit to use Fireworks in Gorham. (Councilor Hartwell Spon.)

Proposed  
Order # 9166                      Ordered that the Town Council have Staff draft an amendment to the Town's Consumer Fireworks Ordinance to allow for an annual permit to use Fireworks in Gorham, for the Town Council to consider.

Item # 9167                      Action to consider having Staff provide a notice to new registered voters welcoming them to Gorham and providing information regarding their legal responsibilities to register their vehicles in Gorham. (Councilor Hartwell Spon.)

Proposed  
Order # 9167                      Ordered that the Town Council ask Staff to provide a notice to new registered voters in Gorham, welcoming them to Gorham and providing information regarding their legal responsibilities to register their vehicles in Gorham.

Item # 9168                      Action to consider approving an update of the Cumberland County Hazard Mitigation Plan. (Admin. Spon.)

Proposed  
Order #9168                      Whereas, natural and man-made disasters may occur at any time and we recognize that to lessen the impacts of these disasters, we will save resources, property, and lives in Cumberland County, and  
Whereas the creation of a multi-jurisdictional Hazard Mitigation Plan is necessary for the development of a risk assessment and effective mitigation strategy, and  
Whereas, this multi-jurisdictional county of 3 cities and 25 towns is committed to the mitigation goals and measures as presented in this plan.  
Therefore, the Gorham Town Council hereby adopts the Cumberland County Hazard Mitigation Plan -0 2-17 Update.

Item # 9169                      Action to consider abating taxes for properties at Tax Map 87, Lot 28 because of a clerical error causing the home owner to not receive their Homestead Exemption. (Admin. Spon)



Proposed  
Order # 9169

Ordered, that the Town Council abate taxes in the amount of \$244.50 for the 2015/16 fiscal year, for property located at 91 Wescott Road (Tax Map 87, Lot 28) because of a clerical error caused the home owner to not receive their Homestead Exemption.

Item # 9170

Action to go into Executive Session pursuant to Title 1, MRSA Section 405 (6) (C) to discuss the potential acquisition of property. (Councilor Hartwell Spon.)

Proposed  
Order # 9170

Ordered, that the Town Council go into Executive Session , pursuant to Title 1 MRSA Section 405 (6) (C) to discuss the potential acquisition of property.

Adjourn