

**PLANNING BOARD MEETING
October 3, 2016**

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

Members Present

EDWARD ZELMANOW, Chairman
JAMES ANDERSON
SCOTT FIRMIN
GEORGE FOX
LEE PRATT

Members Absent

SCOTT HERRICK

Staff Present

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

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

**APPROVAL OF THE SEPTEMBER 12, 2016 MEETING MINUTES
NOT YET AVAILABLE**

COMMITTEE REPORTS

- A. Ordinance Review Committee** – Mr. Poirier reported that the Ordinance Committee met last month to discuss the proposed contract zone for 17 Railroad Avenue, which is before the Board this evening for public hearing.
- B. Streets and Ways Committee** – Mr. Zelmanow noted that this Committee has not met since the last Board meeting.

CHAIRMAN’S REPORT – Mr. Zelmanow announced that there is now a vacancy on the Planning Board and invited anyone interested in serving to contact the Clerk’s office for more information.

ADMINISTRATIVE REVIEW REPORT – Mr. Poirier noted that staff has received one new application for administrative review, from KR Properties, 342-346 South Street, who are re-designing that site for used car sales as well as indoor storage. Also under review is an application from Roger Gagnon for a two car garage at 198 Main Street.

Mr. Zelmanow explained that there are three items on the Consent Agenda, which have been recommended for approval by staff and which will not be discussed unless a Board member or someone from the public wishes to do so, at which time the item(s) will be removed from the Consent Agenda for immediate discussion.

CONSENT AGENDA

PRIVATE WAY - Freeman and Sharlene Richardson - request for approval of a private way to service two new lots and the existing family home at 220 Burnham Road. The property is located on Map 1 Lot 1 in the Rural (R) & Manufactured Housing (MH) zoning districts.

SITE PLAN - John Woods - request for approval to construct an additional 36,500 square feet of gravel surface and two concrete block retaining walls at 21 Cyr Drive. The property is located on Map 29 Lot 2.007 in the Industrial zoning district.

SUBDIVISION AMENDMENT - John Woods – request for approval to revise the maximum allowed impervious area table for lot #7 and amending plan note #33 on the New Portland Parkway Subdivision

plan located off New Portland Road and Libby Avenue in the Industrial (I) zoning district and the Black Brook and Brackett Road Special Protection District on Map 29 Lot 2.

There being no one on the Board or from the public wishing to have any item removed, and the Conditions of Approval having been shared with the applicants,

James Anderson MOVED and Lee Pratt SECONDED a motion to approve the items on the Consent Agenda. Motion CARRIED, 5 AYES (SCOTT HERRICK ABSENT).

ITEM 1 Public Hearing – Contract Zone Request – Railroad Avenue LLC - request for a Contract Zone Agreement to develop a mixed use building with a maximum building height of 80', located on property at 17 Railroad Avenue, Map 103, Lot 81, Urban Commercial zoning district.

Mr. Poirier explained that this item came to the Planning Board from the Town Council's March 3, 2016 meeting, asking that the Board review the applicant's request for a contract zone on the property as a mixed use facility. The Board held a workshop on April 4, 2016, regarding the application, which was then forwarded to the Board's Ordinance Committee. The Ordinance Committee reviewed the proposal on July 11 and September 1, 2016, and it is now before the full Board for a public hearing. The Board's packets contain the most recent version of the Contract Zone Agreement language as modified by staff and the Town Attorney, with the Ordinance Committee's most recent changes as well. Mr. Poirier said a letter from Susan Robie has been included in the Board's packets with comments on both the contract zone and the site plan application.

PUBLIC COMMENT PERIOD OPENED: Susan Robie, 34 Robie Street, spoke about the Contract Zone language proposing that the Property Owner will have the right to regulate the usage of parking along the frontage of the building, saying that it would be unusual for the Town not to control parking on its own property. She suggested that lighting along the property lines where it can be seen by the neighbors mentioned in the Contract Zone language should match what is in the site plan, which is full cut-off lighting. She said that there is no rear setback on this property, there are two side lines because it is a corner, and suggested that the setback from the brook should be as established by DEP's Natural Resources Protection Act permit. Ms. Robie further suggested that there should be some restriction of activity and noise to 10:00 p.m. on the upper stories included in the Contract Zone language.

Owens McCullough, Sebago Technics, introduced Jon and Cindy Smith, the applicants, and Mike Richman, the architect for the project. Mr. McCullough said the on-street parking is all on private property, so all of that parking is not in the Town's right-of-way, with the exception of some 5 to 7 spaces on Elm Street. He said the option exists that, should the Board so desire, those can also be on private property. Mr. McCullough said that full cut-off lighting is proposed for the site plan. He also said that discussions have been held with the DEP, and they are not proposing to go any closer to the brook than the limit of disturbance for the parking that exists now and no closer than the building that currently exists now.

Jon Smith, applicant, came to the podium and said that he believes that the operational hours of the facility should not be restricted because the Town's noise ordinance will be a sufficiently limiting factor.

Noah Miner, 32 Green Street, said he supports the overall project as a whole, his daughters attend the Village School and he frequently walks them to school and has concerns about the "s" turn on Elm Street, which has poor sight lines and is very narrow. He asked if that turn could be straightened out to resolve safety issues. Mr. Zelmanow suggested that Mr. Miner make his comments when the Board is considering the applicant's site plan.

Peggy Marchand, 150 South Street, said she has some comments about the building itself. Mr. Zelmanow suggested that those comments would be better heard during the review of the next item. Ms. Marchand asked about the parking on Elm Street/Robie Street; Mr. Zelmanow said that would be the next item as well. PUBLIC COMMENT PERIOD ENDED.

In response to Mr. Zelmanow, Mr. McCullough said that all of the parking will be on private property, except for the 8 parking spaces which are partially on Town right-of-way property on Elm Street, which can also be pulled back on private property but which would narrow up the landscape island area on the corner. Mr. Zelmanow confirmed with Mr. McCullough if the applicant proposes to maintain the spaces which half private and half in the public right-of-way, plow them, restripe them as needed. Mr. McCullough said the intention now is not regulate use of the parking spaces with signage but the applicant would like to maintain some level of potential control should the need arise. Natalie Burns, Town Attorney, said that as the Contract Zone language is currently drafted, parking spaces located within the right-of-way would not be controlled by the developer. Mr. McCullough asked Ms. Burns if the Town could give the developer a license or an easement to be able to utilize those spaces for its facility if they maintain them. Ms. Burns replied that there could be language in the Contract Zone agreement that the applicant may seek a license from the Town Council for control of parking outside of the right-of-way. She cautioned that there is a possibility of loss of that in the future because one Town Council cannot tell a future Town Council what it may or may not do, and the license agreement can be undone at any point in time. Ms. Burns said that when the applicant goes before the Council for approval of the Contract Zone agreement, the applicant could also ask for approval of the licensing agreement for those parking spaces.

The Board then discussed the proposed Contract Zone agreement. The changes shown in ~~red, underlined and struck-through~~ are changes made by the Board's Ordinance committee; the changes shown in **black, underlined** and ~~struck-through~~ are the changes made by the Board and the Town Attorney during the meeting.

**CONTRACT ZONING AGREEMENT
BETWEEN
RAILROAD AVENUE LLC,
AND THE TOWN OF GORHAM**

THIS CONTRACT ZONING AGREEMENT, made this ____ day of _____, 2016, by and between the TOWN OF GORHAM, a body corporate and politic, located in the County of Cumberland and State of Maine, with a mailing address of 75 South Street, Suite 1, Gorham, ME 04038 (the "Town"), RAILROAD AVE, LLC, with a place of business and mailing address of 20 Mechanic Street, Gorham, ME 04038 (the "Property Owner"), **collectively "the parties."**

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, 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 as Exhibit A, 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, on the Property;** 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 ~~will construct, maintain~~ intends to construct and maintain and have the right to regulate the usage of all parking onsite and curbside parking along the frontage of the Property; and

WHEREAS, the Property Owner ~~will construct a multi-story building on the Property as generally depicted on the conceptual building elevations and floor plan that includes portions of the building that will be three, four and five stories in height.~~

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 **will 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 the 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, **and** ~~The shared parking strategies~~ 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, 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~~ (moved to first Whereas paragraph)

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

NOW, THEREFORE, in consideration of the mutual promises made by ~~each party~~ **the Town and the Property Owner** to the other, the parties covenant and agree 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 ~~square footage 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. ~~as shown on Exhibit A.~~
 - 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 ~~appropriately shielded~~ full cut-off fixtures. 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 proposed building configuration and massing for the new structure as shown in Exhibit A.
 - d. All parking located along the Property frontage on ~~Robie-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 ~~Robie-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. ~~Those parking spaces that fall within the Town's right-of-way, either in whole or in part, shall be public parking spaces. 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 ~~on public water and sewer.~~
 - 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 ~~condominium~~ **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 ~~shall not be changed without an amendment to this Agreement.~~
 - 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~~ **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.

WITNESS:

TOWN OF GORHAM

By: _____

David O. Cole
Its Town Manager

WITNESS:

RAILROAD AVENUE, LLC

By: _____

Its Member

STATE OF MAINE
CUMBERLAND, ss

_____, 2016

Personally appeared the above-named David O. Cole , in his capacity as Town Manager for the Town of Gorham, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Town of Gorham.

Before me,

Notary Public/Attorney at Law

Print Name: _____

STATE OF MAINE
CUMBERLAND, ss

_____, 2016

Personally appeared the above-named Jonathan E. Smith, in his capacity as Member of Railroad Avenue, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Railroad Avenue, LLC. Before me,

Notary Public/Attorney at Law

In reply to Mr. Anderson, Mr. Poirier explained that Exhibit A must be attached to the Contract Zone and must be a color rendering of whatever the applicant proposes as part of the building so the Council can see exactly what they are approving. Mr. Zelmanow reminded the public that the Planning Board will make a recommendation to the Council, and it is the Council who will make any changes they want, they will have their own public hearing, and they alone can approve the Agreement.

Mr. Poirier advised the Planning Board that he has not had any conversations with the Public Works Director about what “shared maintenance” in the right-of-way would look like or any language he would like to see in the Agreement. Mr. McCullough said he has met with the Public Works Director, and as long as Public Works is not involved in the snow removal and maintenance of those parking spaces, Mr. Burns has no issues. Mr. McCullough said that the developer of 17 Railroad Avenue has agreed to assume the responsibility for all the maintenance of those parking spaces, such as painting or snow removal, and the vast majority of those spaces are on private property.

Mr. Zelmanow asked the Board’s opinion on the question of limiting hours of operation to control noise. Mr. Pratt said he believes that the noise ordinance should probably take care of most of the problems, and said he feels that a wine bar probably not create a noise nuisance. In reply to Mr. Zelmanow’s question about the requirements for an outdoor event, Ms. Burns said that in addition to a liquor license, a special amusement license has to be obtained on an annual basis from the Town Council. Ms. Burns said that a complaint could be considered a breach of the peace, which can also impact the liquor license, so it is in the applicant’s best interest to control the noise upfront so that it is not an issue when re-licensing occurs. Mr. McCullough said that the outside area is only 5 feet wide. Mike Richman, architect for the project with Custom Concepts, Inc., in reply to Mr. Anderson showed a rendering of the outside deck on the left side of the plan. Mr. Richman said there is a 4-1/2 foot parapet around the deck that is 30 by 60’ and is only for the residents’ use, part of which will involve roof gardens as well.

George Fox MOVED and James Anderson SECONDED a motion to recommend adoption by the Town Council of the Contract Zone Agreement between the Town of Gorham and Railroad Avenue LLC with the changes proposed by the Planning Board. Motion CARRIED, 5 ayes (Scott Herrick absent). [8:08 a.m.]

15 Minute Recess

ITEM 2 Public Hearing – Site Plan Review – Great Falls Construction, Inc. – request for site plan approval for a 5 story, 20,000 square foot multi-use building at 17 Railroad Avenue, having a first level bowling facility with food and beverage services; first level commercial/retail space; recreation space; and studio, 1 and 2 bedroom apartments with associated parking, located at 17 Railroad Avenue, Map 103, lot 81, in the Urban Commercial zoning district.

Mr. Poirier said that this is the first time the site plan has been submitted by the applicant. In addition to the regular staff comments, TY Lin reviewed the traffic, the Public Works Director reviewed traffic, and the Town’s review engineer Woodard & Curran reviewed stormwater.

Mr. Poirier said that items that the Board may want to discuss include whether or not to hold a site walk for the proposed development, and does the Board believe any kind of noise review is necessary for the bowling alley.

Jon Smith, Great Falls Construction, Inc., came to the podium and introduced his wife, Cindy, architect Mike Richman, and his mother. Mr. Smith said they have spent a great deal of time trying to process all of the proposed uses in relation to the building and how they impact the site, and how people come and go from the site. He asked if the architect can come up and describe the building first, with the engineer, Owens McCullough, to follow that presentation.

Mike Richman, Custom Concepts Architecture, described at length the proposed building, designed to reference an old railroad station building. He spoke about the massing of the structure, broken up into different elements of a 3-story section, a 4-story section, a clock tower, and the various components such as the proposed commercial uses and bowling alley on the first floor in the front of the building, with a public lobby only accessible from Railroad Avenue. There will be a canopy on the front of the building on Railroad Avenue with lighting tucked in under it. The residents' entrance will be in the back or south side of the building. He showed renderings of the proposed floor plans for each of the floors, as well as each of the four elevations of the building. He said that the proposed bowling alley will be on the east side of the building, toward the My-Fit structure, to minimize noise transfer, and the west side will face Sebago Brewing. Proposed are studio, 1 and 2 bedroom apartments, with a roof top deck for residents' use, along with roof gardens, facing My-Fit. Mr. Richman said the HVAC units will be on the roof.

Owens McCullough returned to the podium to describe the site, pointing out street-side parking around the site on Railroad Avenue, internal to the site along the back of the building, and then undercover parking. Primary access to the site will be from Railroad Avenue and full access will be provided around the building. Pedestrian walkways will be provided of varying widths, 10 feet, 12 feet and 15 feet in different areas. A small pocket park is proposed at the intersection, a lawn area with landscaping and a tree. Surface treatment will be brick sidewalks. A cross walk will be created to bring pedestrians up to the building and across the front of the site, and the sidewalk will be continued down along the front of the My-Fit building. A 3-way stop sign is proposed at the intersection of Elm and Railroad, which is supported by the Public Works Director. That stop sign will help slow down traffic and provide for safer pedestrian movement at the intersection. The sidewalk in front of Sebago Brewing will be extended 20' and there will be a sidewalk on the west side of Elm Street. Mr. McCullough pointed out various proposed pedestrian accesses on the plan. Two 12-foot travel lanes will be maintained on Railroad Avenue with parallel parking on the north side of Railroad Avenue.

Mr. McCullough discussed proposed landscaping in the form of tree wells installed along the entire frontage of both portions of the building, and there will be some appropriate ground landscaping underneath the overhang or canopy. Angled parking on Railroad Avenue was chosen in such a way as to direct vehicles backing out of the spots are sent to Mechanic Street and then out to Main Street. Lighting will be cut-off along the garage doors, solid waste enclosed receptacle, parking island and under canopy along Railroad Avenue. Colonial style light fixtures will be installed along the sidewalk.

Mr. McCullough said they are not obligated to secure any regulatory permits because they are not creating more than one acre of revegetated surfaces and it doesn't fall under site law because it is under 3 acres. There will be a tree filter to collect stormwater from the parking lot. Much of the former parking lot area will now be roof area of the building, almost ½ acre, which is a much less intense use. Mr. McCullough showed how drainage will flow on site, where new catch basins and yard drains will be installed, and said he will follow up with the Public Works Director about watershed analyses.

Referring to staff comments about noise review, Mr. McCullough said the bowling area will be located to the more commercial side of the site, where My Fit is located, keeping the garage and residential areas as a buffer to neighboring areas. It will be an indoor facility and he believes that they have addressed any noise issues. Photometrics will be submitted, they will ask for a waiver of the high intensity soil survey or ask that the geotechnical study already done can be submitted in its place. Letters have been submitted to the Portland Water District; they will probably replace the existing 1 inch domestic service with a 4 inch service and upgrading the 6" service to meet fire protection requirements will need to be assessed. Mr. McCullough said that he believes delivery vehicles will use Railroad Avenue in front of the building.

Mr. McCullough said they submitted a traffic assessment that identifies peak hour generation of about 91 trips in the p.m. peak hour; the state threshold for meeting a traffic movement permit is 100 trips in the peak hour. That assessment has been sent to DOT for review of the methodology analysis. The Town's traffic review engineer, Tom Errico with TY Lin, has asked for a traffic impact study for the Railroad Avenue intersections with Elm and Mechanic Streets, Main Street/Elm Street and Main Street/New Portland Avenue/Mechanic Streets. Mr. McCullough said they do not believe there would be any benefit out of such a study and said their focus has been on minimizing the impact of traffic going down Robie Street through design features of the project such as the 3-way stop sign and their impact on the Route 25 traffic corridor would be small.

The Board discussed the need for a crosswalk across Railroad Avenue toward Hannaford and the most useful area for such a crosswalk. Mr. Firmin said it appears that the plan contemplates serving about 10% of the area's stormwater and recommended that the applicant review options to further manage or attenuate stormwater flows in the interest of water quality and protecting the stream. Mr. Anderson asked about the capacity of the roof top deck; Mr. McCullough said that has not as yet been determined. Mr. Fox asked what size delivery vehicles are anticipated; Mr. McCullough said it could be a tractor trailer or a FedEx truck or a Pepsi truck and they believe that the loading and unloading would most probably occur in the front of the building on Railroad Avenue, but it could be that some of the larger vehicles would have to maneuver through the site. Mr. Zelmanow suggested that one dumpster might not be enough; Mr. Smith said they may look to expand to one more and tenants will take their trash to the dumpster. Mr. Anderson asked what the uses are for the 3 large rooms on the 4th floor; Mr. Richman said that is yet to be determined, but the use will be residential. Mr. Anderson asked about the anticipated occupancy of the roof deck, saying that with a large crowd there will be noise, even if only conversation. Mr. Smith said that it is not the intent to have the entire area in a patio or deck. Mr. Zelmanow asked what the purpose of the cupola is, will it be hollow and perhaps intended to accommodate a cell tower; Mr. Richman said no, the cupola will have a finial on top in keeping with the architecture.

Mr. Anderson asked about speed tables. Mr. Poirier said that the Public Works Director wants to see how the site will function once it is improved and if there is a need for a speed table. After considerable discussion, the Board concurred that a raised speed table should be installed at the crosswalk at Sebago Brewing on Elm Street.

PUBLIC COMMENT PERIOD OPENED: Christopher Newcomb, 47 Highland, said that there are perhaps 35 cars using Route 114 to Elm Street, some 3-1/2 blocks, and this project will have many more cars than that coming from it. He suggested restricting access from Elm Street and spoke of the danger and poor visibility at the intersection of Railroad Avenue and Elm Street, especially with a tree in the landscaping. He said that regardless of the small size of the deck, there will be noise from people on it. Mr. Newcomb asked if some day the wine bar could be changed into a night club.

Mr. McCullough said that visibility at the intersection will improve when the fencing comes down; the 3-way stop will control the traffic and improve visibility. He said the tree was shown in the landscaping at the corner at the request of a Board member but they would prefer lawn; they will try to provide a crossing to

Hannaford; the wine bar will require a liquor license and the Council has the option not to renew it if there are too many complaints.

Mr. Zelmanow noted that inasmuch as it was almost 10:00 and it appears that this item will still be under discussion at 10:00, the Board would need to decide if it wishes to take up the final agenda item by waiving the 10:00 o'clock rule or postponing the item to the Board's second October meeting on October 17, 2016. The Board concurred not to waive the 10:00 o'clock rule and Item 3 will therefore be heard on October 17.

Nick Flagg, 44 Robie Street, representing some dozen residents on Robie, said that generally there is support for the project but the biggest concern is traffic flow and the danger of the curved section of Elm Street, and suggested that it might be straightened out. He said that a speed table at the crosswalk is a must, suggested a one-way entrance into the site in order to keep as much traffic as possible off Robie Street. He said that school buses have a difficult time staying in their own lane, and it is very dangerous for children walking to the Village School.

Peggy Marchand, 150 South Street, spoke about safety issues, the first priority under consideration should be the safety of children going to the Village School, and traffic has to be kept out of the residential area with a right turn and directed to Main Street. She recommended protecting the stream water quality and encouraged recycling.

Susan Robie, 34 Robie Street, spoke about the newly adopted Comprehensive Plan's priority to keep cut-through traffic out of established neighborhoods. She encouraged a no left turn out of the development to control traffic going into the residential neighborhood, directing it toward Main Street, saying that this development should not be allowed to increase cut-through traffic in this small neighborhood. She believes that speed bumps should be a contingency of this development to slow down and control the amount of traffic.

Steve Peary, 15 Lincoln Street, said he believes that traffic should be directed out of the neighborhood with speed bumps and back out onto Elm Street. He said that the 3-way stop sign is a good idea.

Pamela Tiffany, 14 O'Brien Drive, crossing guard at Village Elementary School, spoke about the problems with drivers who drive too fast and ignore the stop signs at the School. She asked when a school zone sign on Robie Street. Mr. Zelmanow said the request should be made to the Town Council. She also asked for a stop light. Mr. Zelmanow said that there is a Town Council meeting tomorrow night and recommended anyone who is concerned to go that meeting and make their concerns known.
PUBLIC COMMENT PERIOD ENDED.

Mr. Poirier advised the Board that if an applicant is going to provide parking for 50 or more vehicles, it is required by the ordinance that a traffic impact analysis be done. When that level is tripped, staff discussed with the consulting traffic engineer where that traffic analysis should take place. The Elm Street/Main Street analysis was done in connection with another application, so that information is available to the applicant from Milone & McBroom. When the traffic analysis is done, it will tell the Board where the trips of the site are going. Staff believes that both Main Street and the residential neighborhoods need to be studied so that the Board can then decide what traffic will look like, what are the numbers, where are speed tables appropriate. Mr. Poirier recommended that the review study points be what the traffic peer reviewer is looking at. Mr. Fox asked if the traffic study will produce information regarding impacts on different types of neighborhoods. Mr. Poirier said it will provide information about how many cars in a peak hour are turning left out of the site, how many are taking a right, gives more detail. Mr. Fox said that it will be up to the Board to interpret the impact of those numbers on the neighborhood. Mr. Poirier said that before the Board makes a decision about the speed table at the intersection, he recommends that the applicant's engineer talk to the Public Works Director. Mr. Zelmanow said he wants that speed table there.

Mr. McCullough said that the traffic engineer's recommendations for traffic studies at Min Street/New Portland Road/Mechanic Street involve a lot of existing traffic and he isn't sure that would be useful, especially as it is a very expensive process. Mr. Zelmanow suggested capturing Railroad/Mechanic Street and not going all the way to New Portland. Mr. Fox said the real concern is probably in the other direction. Mr. Poirier pointed out that Main Street is congested already, so if the trips are going to Main Street, what does that do to that light. Mr. Fox said that the traffic along Main Street needs to be balanced against the traffic in the neighborhoods. Mr. Anderson said that he believes that Main Street is already congested and the bigger issue in his eyes is the residential area headed away from Main Street. Mr. Zelmanow said he would like to see numbers for Elm and Main, Preble and Main, Lincoln and Robie. In response to Mr. Anderson, Mr. McCullough said that the entrance at the rear of the building is intended mainly for the residents.

The Board concurred that there are no major noise issues, especially as the patio deck will be four stories up.

Staff was directed to schedule a sitewalk for 8:00 a.m. on a school morning.

ITEM 3` Public Hearing – Subdivision/Site Plan Review – Susan Duchaine, Inc. – request for approval of Ward Hill Condominiums (originally Snowbird II), a 14-unit condominium project, located at 346 Main Street, Map 108, Lot 4 and a portion of Map 108, Lot 3, Office Residential/Urban Residential zoning districts.

CONTINUED TO OCTOBER 17, 2016 PLANNING BOARD MEETING.

OTHER BUSINESS: **None**

ANNOUNCEMENTS: **None**

ADJOURNMENT: **10:40 P.M.**

Respectfully submitted,

Barbara C. Skinner, Clerk of the Board
_____, 2016

CONSENT AGENDA

FREEMAN AND SHARLENE RICHARDSON – GATCHELL WAY

CHAPTER II, SECTION V, H., Standards for Private Ways

(This section is modified for brevity. See the current Land Use and Development Code for exact wording.)

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

The lots served by the private way are required to meet the requirements of the Rural zoning district. The lots served by the private way will be for a single-family dwelling. The maximum number of lots/dwelling units allowed to be served by the private way is 2-6 lots/dwelling units.

***Finding:** The approved private way is designed to the 2-6 lot/dwelling unit private way standard and no more than six dwelling units can be located on the lots served by the private way.*

- 2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The applicant has hired Pinkham & Greer to prepare the private way plans which have been prepared by a registered land surveyor, Delmore Maxfield, Jr., P.L.S. #1177, and sealed by a registered professional engineer, Thomas Greer, P.E. # 4206.

The Plan title block reads "Plan of a Private Way"

The Plan has an approval block that reads: "Private Way, Approved by the Town of Gorham Planning Board."

The approval block also has a line for the signatures of a legal majority of the Planning Board, and includes a line for the date of approval.

The Plan shows information sufficient to establish on the ground the exact location, direction, width and length of the private way.

The street plan and profile, and street cross sections are in accordance with Chapter II, Section V., E., 3.

The Plan has a note that reads, "The Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way."

***Finding:** The Plan of Private Way for Gatchell Way has been prepared by a registered land surveyor and sealed by a registered professional engineer meeting the requirement for private ways.*

- 3) If a private way provides access to 2 or more lots, a maintenance agreement shall be prepared for the lots accessed by any private way.

The proposal is for 2-6 lots/dwelling units and the applicants have provided a maintenance agreement prepared for the lots accessed by the private way. The private way maintenance agreement has been reviewed and approved by the Town Attorney and staff.

The private way maintenance agreement is required to be recorded within 30 days of approval by the Planning Board.

Finding: *The private way maintenance agreement identifies the rights and responsibility of each lot owner with respect to the maintenance, repair, and plowing of the private way as outlined in this section*

- 4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The existing paved apron has been constructed to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;
- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

Finding: *The right-of-way width for Gatchell Way is 50' and a paved apron has been designed to conform to the paved apron standards outlined in this section.*

- 5) Private ways shall be designed to conform to the standards presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10.

The applicant is proposing to construct the 1,013' private way to the 2-6 lot dwelling unit private way standard. The private way plan shows the required 2-6 lot/dwelling unit private way standard cross section. The private way will have the required turnaround located at station number 9+53.

Finding: *The private way meets all the criteria and design requirements presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10 of the Gorham Land Use and Development Code.*

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes.

The applicant is proposing a 2-6 lot/dwelling unit private way to serve two potential family lots.

Finding: *Gatchell Way private way will serve a maximum of 6 lots and/or dwelling units.*

- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).

The total lot area of the parcel is 68.72 acres. The right-of-way area is 1.19 acres leaving the remaining lot with 67.53 acres.

The ownership of the right-of-way for Gatchell Way will remain with lot (Map 1, Lot 1).

Finding: *The land area of the private way is not being used to satisfy the minimum lot area requirements for the existing lot or any proposed future lot.*

- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

The private way is accessed from Burnham Road, which is designed as a collector road by the Town of Gorham and is in a state to accommodate the traffic generated by the private way.

Finding: *The public road serving the proposed private way is suitable to serve the proposed private way.*

Conditions of Approval

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the private way, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner prior to the pre-construction meeting;
4. That any future extension of the private way shall be limited to less than 1,500' unless all the structures located on lots served by the private way have sprinkler systems meeting the requirements of the Town's Sprinkler System Ordinance.
5. That at least one week prior to the date of the pre-construction meeting, four complete sets of the final approved plan set will be delivered to the planning office to be distributed to: (1) Code Office, (2) Public Works Director, (3) Inspecting Engineer, and (4) Town Planner;
6. That prior to the pre-construction meeting, the applicant must provide estimated costs for the proposed improvements and must establish the performance guarantee per the Land Use and Development Code;
7. That the applicant shall provide an escrow for field inspection based on costs for improvements shown on the plan and meeting the requirements of Gorham's Land Use and Development Code;
8. That prior to commencement of construction, the applicant, applicant's engineer and earthwork contractor shall have a pre-construction meeting with the Town's Engineer, Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief;
9. That the approved private way maintenance agreement shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board and a recorded copy of the private way maintenance agreement shall be returned to the Planning Office prior to a pre-construction meeting being held;
10. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control: Best Management Practices," Department of Environmental Protection, latest edition;
11. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board; and

12. That these conditions of approval must be added to the private way plan and the private way plan shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded mylar copy of the private way plan shall be returned to the Town Planner prior to the Pre-construction Meeting.
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CONSENT AGENDA

JOHN WOODS – SITE PLAN – 21 CYR DRIVE

CHAPTER IV, SITE PLAN REVIEW, SECTION IX – Approval Criteria and Standards

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

CHAPTER IV, Section IX – Approval Criteria and Standards

- A. Utilization of the Site: The plan for the development will reflect the natural capabilities of the site to support development.**

The applicant is proposing to construct a gravel storage pad on the eastern half of the site. The applicant has provided the Planning Board with a site plan sheet set, site plan application, and accessory information showing that the lot can support the proposed lot improvements for additional parking space.

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

- B. Access to the Site: Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.**

The site is accessed from two New Portland Parkway subdivision roads: Jenna Drive and Cyr Drive. Jenna Drive can be accessed from Libby Avenue and Cyr Drive can be accessed from New Portland Road. No change to the existing road network is proposed.

Finding: Jenna and Cyr Drives have the capacity to accommodate the traffic generated by the development.

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

Access into the site is from a 24' wide paved driveway located in the southwestern corner of the lot which is the furthest distance possible from the intersection of Cyr and Jenna Drives. The existing site distance on Cyr Road exceeds the minimum requirements. No change to the existing driveway is proposed.

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

- D. Internal Vehicular Circulation: The layout of the site will provide for the safe movement of passenger, service and emergency vehicles through the site.**

The gravel storage pad is a large flat open space which will allow for the storage of materials and the maneuverability of earthwork equipment. The gravel storage pad will be accessed by a 15' gravel road located along the northern property boundary.

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

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

The site is predominately open and flat to allow pedestrian circulation throughout the site. No on-site sidewalks are proposed as part of the development. No existing off-site sidewalks are located on Jenna or Cyr Drives and none are proposed as part of the development.

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

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

The proposal is to have over 64,500 sq.ft. of impervious area. Stormwater from the new gravel pad will be directed into a vegetated underdrain soil filter.

The proposal disturbs over an acre and the lot is located within the Town's Urban Area as defined by the Maine Department of Environmental Protection. This will require the lot owner to comply with the Town's Stormwater Ordinance, Chapter 2 Post Construction Stormwater Management.

A subdivision and a Site Location of Development Permit amendment will also be required to increase the total allowed impervious area on the site.

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

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

The Site Plan, Sheet C-101, illustrates the locations for the best management practices to be installed on site. The Details Plan, Sheet C-301, identifies provisions for how erosion control devices are to be installed and identifies parameters for erosion control and winter erosion control measures to be utilized on site.

The project is required to meet the standards identified in Maine Erosion and Sediment Control BMPs, Bureau of Land and Water Quality, Maine Department of Environmental Protection. The applicant shall install all required erosion control devices before the start of construction.

Finding: *The plan utilizes existing topography and desirable natural surroundings to the fullest extent possible.*

H. Water Supply: The development will be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

Public water is currently stubbed into the property and extended to serve the existing building. Public water will not be extended to serve the gravel pad.

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

- I. Sewage Disposal: A sanitary sewer system will be installed at the expense of the developer if the project is located within a sewer service area as identified by the sewer user ordinance. The Site Plan Review Committee or Planning Board may allow individual subsurface waste disposal systems to be used where sewer service is not available.

A subsurface waste disposal field is located just east of the existing building and north of the existing gravel pad. No changes to the site's existing sewage disposal are proposed.

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

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

Current underground cable, phone, electricity, and natural gas are extended to serve the building. No changes are proposed to the existing utilities on the site.

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

- K. Natural Features: The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction.

The proposal is to keep the existing wetland and no-cut buffers undisturbed. The upland area located near the wetlands will be converted to gravel storage area.

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

- L. Groundwater Protection: The proposed site development and use will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems.

The proposed construction of the gravel storage area will not impact the groundwater located on the lot. Stormwater from the gravel pad will be treated in the vegetated underdrain soil filter.

Finding: *The proposed development will not adversely impact either the quality or quantity of the groundwater available to abutting properties or public water supply systems.*

- M. Exterior Lighting: The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

The building has four full cut-off wall park lights on the building. Two of the lights are located on the east side of the building and two lights are located on the south side of the building. The applicant is not proposing any lighting for the gravel storage pad.

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

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

The site has an existing dumpster approved to be located off the northeastern corner of the building. No changes to the site's existing waste disposal are proposed.

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

P. Landscaping: The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.

Past administrative site plan reviews have required the following landscaping to be installed: six 6' high arborvitae along the southern property line near the entrance into the site, and six other shrubs located to the front of the building. No new landscaping is proposed to be installed as part of the approval.

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

Q. Shoreland Relationship: The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of occupants of the development.

The lot is not located in the Shoreland Overlay District.

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

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

The applicant has 28 years of experience as a site work contractor and will be performing the site work. The applicant has hired a professionally licensed engineer and soil scientist/site evaluator to design the site plan.

Katahdin Trust Company has provided a letter dated May 5, 2016 identifying the applicant's financial capacity to complete the project.

Finding: *The applicant has the financial and technical capacity to complete the project in accordance with Gorham's Land Use and Development Code and the approved plan.*

S. Buffering: The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.

An existing 50' no-cut buffer is located along the front of the site. No clearing of trees is allowed in the buffer area except for dead, diseased or dying trees with the approval of the Town. The site also has "no-cut buffers" associated with the forested areas on it. No changes to any of the site's "no-cut buffers" are proposed.

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

T. Noise: The applicant has demonstrated that the development will comply with the noise regulations listed in Table 1 – *Sound Level Limits* and the associated ordinances.

The use of the site is required to meet the required noise regulations of Daytime Levels of 70 dBA and 60 dBA nighttime as outlined under this section.

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

Conditions of Approval

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Site Plan Review Committee, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits;
3. That the proposed use on the site shall meet the sound level requirements outlined under Chapter IV, Section IX, T. Noise;
4. That the applicant or any person owning, operating, leasing or having control over the site's stormwater management facilities is responsible for compliance with the Town of Gorham Stormwater Ordinance, Chapter 2 Post-Construction Stormwater Management;
5. That prior to the commencement of any site improvements, the applicant and the design engineer shall arrange a pre-construction meeting with the Town's Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Town Planner to review the proposed schedule of improvements, conditions of approval, and site construction requirements;
6. That prior to the pre-construction meeting the applicant will establish the following: a performance guarantee totaling 125% of the costs to complete the construction and pay the Site Plan Inspection Fee;
7. That all construction and site alterations shall be done in accordance with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," Cumberland County Soil and Water Conservation District, Department of Environmental Protection, latest edition;
8. That the applicant shall flag the edges of the forested "No Cut" buffers located on the eastern half of the site prior to the start of construction on the site;
9. That all relevant conditions of approval from the prior Administrative Review approval shall remain in effect;
10. That the applicant shall provide and construct an engineered retaining wall should such a wall be required under the International Building Code 2009 as determined by the Code Enforcement Officer;
11. That the Planning Board Chairman is authorized by the Planning Board to sign these Findings of Fact on behalf of the entire Committee; and
12. That these conditions of approval must be added to the site plan and the site plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of

approval by the Planning Board, and a dated mylar copy of the recorded site plan shall be returned to the Town Planner prior to the pre-construction meeting.

CONSENT AGENDA

JOHN WOODS – SUBDIVISION AMENDMENT, LOT 7 & PLAN NOTE 33, NEW PORTLAND PARKWAY SUBDIVISION

CHAPTER III - SUBDIVISION, SECTION III - PRELIMINARY PLAN

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

Because no physical changes are proposed with this amendment, most of the Standards are not applicable, as indicated below.

C. PRELIMINARY PLAN REVIEW

- 2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:
 - a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter II.

The required Maine Department of Environmental Protection amendment to the Site Location of Development Permit has been granted to Lot 7: Site Location of Development Permit Amendment (L-20887-39-A-N/ L-20887-TC-B-N).

Finding: *The amendment to New Portland Parkway subdivision conforms with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances.*

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

No changes to the subdivision are proposed that would impact the conditions of public roads on or off the site.

Finding: *Not applicable.*

- 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.

No changes are proposed to the subdivision lot utilities, waste removal, or fire protection requirements.

Finding: *Not applicable.*

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

No changes are proposed to the approved subdivision's water supply.

Finding: *Not applicable.*

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

No changes are proposed to the approved subdivision's sewage waste disposal.

Finding: *Not applicable.*

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

The proposed improvements to lot 7's stormwater treatment will meet the requirements of the Maine Department of Environmental Protection as well as the Town's Subdivision Plan Review requirements.

Finding: *The proposed New Portland Parkway Subdivision amendment 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.

The proposed improvements to the stormwater treatment for lot 7 will meet the requirements of the Maine Department of Environmental Protection as well as the Town's Subdivision Review requirements.

Finding: *The proposed New Portland Parkway Subdivision amendment 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 subdivision is not located in the Town's Shoreland Overlay District.

Finding: *Not applicable.*

- 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.

The lot does not have any known historic sites or rare or irreplaceable natural or manmade assets located on them.

Finding: *Not applicable.*

- 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 provided a letter from Katahdin Trust Company, dated May 5, 2016, detailing the applicant's financial capacity to complete the project.

Finding: *The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards for the development.*

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter VIII.

Finding: *Not applicable.*

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

Finding: *Not applicable.*

CHAPTER III - SUBDIVISION, SECTION IV –FINAL PLAN REVIEW

D. FINAL PLAN REVIEW

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

Finding: *This is an amendment to an approved plan and requires only a subdivision amendment approval.*

- 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.

Finding: *This is an amendment to an approved plan and requires only a subdivision amendment 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 all relevant conditions of approval from all subsequent approvals shall remain in effect;
4. That the applicant or any person owning, operating, leasing or having control over lot 7's stormwater management facilities is responsible for compliance with the Town of Gorham Stormwater Ordinance, Chapter 2 Post-Construction Stormwater Management;

5. 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 these conditions of approval must be added to the subdivision plan and the subdivision plan shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded mylar copy of the subdivision plan shall be returned to the Town Planner.