

**AMENDED AGENDA AND PROPOSED ORDERS
GORHAM TOWN COUNCIL
REGULAR MEETING
August 4, 2020
6:30pm
On-line Zoom Meeting**

The Town of Gorham invites you to view our upcoming Regular Town Council Meeting on August 4, 2020, starting at 6:30PM. This meeting will be held remotely, hosted as a Zoom Webinar and streamed over GoCAT and Facebook Live for anyone who wishes to view. Staff strongly recommends those who would like to make public comment regarding agenda items to email written comments by 4pm on Tuesday, August 4, 2020 to the following email address: TC_Mtg_Public_Comment@gorham.me.us.

To join the meeting, follow this link on your computer or mobile device:
<https://us02web.zoom.us/j/84903894717>, or join by phone by calling 1-929-205-6099 and entering Webinar ID: 849 0389 4717. To make a public comment during the meeting, we ask that you raise your hand using the button in Zoom, or for those joining by phone, you may type *9.

Please be advised that any comments made during the meeting on Facebook Live or GoCAT will not be reviewed and are not considered public comment for purposes of the public record.

Pledge of Allegiance to the Flag

Roll Call

Acceptance of the minutes of the July 7, 2020 Regular Town Council Meeting.

Open Public Communications

Councilor Communications

Town Manager Report

School Committee Report

**Public
Hearing #1
On Item #2020-8-01**

Public hearing to hear comments on the proposed amendments to the Land Use and Development Code and Site Plan review for Hans Hansen Contract Zone (M3, L22.502-507, 22.403)(Admin. Spon.)

**Proposed
Order #20-83**

Ordered, that the Town Council approve amendments to the contract zone of Hans C. Hansen, Inc. as follows:

THIRD AMENDMENT TO CONTRACT ZONING AGREEMENT BETWEEN HANS C. HANSEN, INC.

**AND THE TOWN OF
GORHAM**

This Amendment to Contract Zoning Agreement made this _____ day of _____ 2020, by and between the **TOWN OF GORHAM**, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter the "Town") and **HANS HANSEN, INC.**, a Maine corporation with a mailing address of P.O. Box 264, Gorham, Maine 04038 (hereinafter "Hansen").

WHEREAS, the Town entered into a Contract Zoning Agreement with Hansen, dated October 21, 2011 and recorded in the Cumberland County Registry of Deeds in Book 29646, Page 97 (hereinafter the "Contract Zoning Agreement") that established zoning regulations for a parcel of real estate located at 74 County Road, Gorham, Maine, consisting of 23.8 acres (hereinafter "the Property"); and

WHEREAS, the Property consists of Lots 22.401, 22.402, 22.403, 22.404, 22.502, 22.503, 22.504, 22.505, 22.506 and 22.507 on the Town's Tax Map 3; and

WHEREAS, the Contract Zoning Agreement established use, dimensional and performance standards for the Property; and

WHEREAS, the Town and Hansen entered into an Amendment to Contract Zoning Agreement dated October 1, 2013 and recorded in the Cumberland County Registry of Deeds in Book 31147, Page 1 and the Town entered into an Amendment to Contract Zoning Agreement with Cumberland Farms, Inc., dated October 10, 2014 and recorded in the Cumberland County Registry of Deeds in Book 31853, Page 210, both of which Amendments concerned Tax Map 3, Lot 22.404 (collectively, the

“Amendments”); and

WHEREAS, Hansen would like to develop the existing Lots 2 and 3, and Lots 6 and 7 as shown on the Subdivision Plan of Stargazer Subdivision, recorded in Plan Book 217 Page 461 of the Cumberland County Registry of Deeds as age restricted residential units and amend the requirements for the development of Unit 3 of the Condominium; and

WHEREAS, Hansen seeks to amend the use and dimensional and performance standards established by the Contract Zoning Agreement in order to facilitate the proposed development of the Property; and

WHEREAS, the Town has the authority to enter into a contract rezoning for property and to amend the contract rezoning, pursuant to 30-A M.R.S.A. § 4352(8) and Chapter I, Section 1-1, Subsection H, as amended, of the Gorham Land Use and Development Code; and

WHEREAS, after notice and hearing and due deliberation upon this rezoning proposal, the Gorham Planning Board recommended this Third Amendment to the Contract Zoning Agreement; and

WHEREAS, this Third Amendment will change only use and performance standards for the Property; and

WHEREAS, both the Planning Board and the Town Council determined that the original Contract Zoning Agreement was pursuant to and consistent with the Town's Comprehensive Plan and the Town Council has authorized the execution of this Third Amendment to Contract Zoning Agreement; NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Amendment of Contract Zoning Agreement, Section 6A.

Section 6A of the Contract Zoning Agreement is amended to add a new Subsection 3, to read as follows:

3. Additional uses and standards for Lots 2, 3, 4, 5, 6 and 7 of Stargazer Subdivision.

- a. Notwithstanding any contrary provision of the Contract Zoning Agreement or the Amendments, Lots 2 through 7 as shown on the subdivision plan may be developed with the following restrictions:
 - 1) Any current uses allowed by the contract zone are allowed on any of the lots.
 - 2) Lots 2 and 3 and lots 6 and 7 may be developed as housing for older persons intended and operated for occupancy by persons 55 years of age and older, in compliance with the requirements of the Housing for Older Persons Act of 1995. To further restrict

the development; no one under the age of 18 may live in the units for more than 60 days a year.

- 3) Lots 4 and 5 may be developed as one or more commercial uses set forth in Section 2 of the Contract Zoning Amendment or those commercial uses on the first floor, with dwelling units on the second floor. Any second- floor dwelling units on Lots 4 and 5 shall not be age-restricted housing.
- 4) All dwelling units are limited to two bedrooms and living space of not greater than 1,500 square feet, not including a garage.
- 5) The residential density for these lots will be 2 units per net residential acre, in conformance with the Comprehensive Plan.

2. **Sewer impact fees.** Sewer impact fees will be assessed as follows: Lots 2, 3, 6 and 7 will pay a sewer impact fee of \$10,000 per lot for a total of \$40,000. Lots 4 and 5 and Lot 1, Unit 3 shall pay sewer impact fees as established in Section 6.g of the Contract Zoning Agreement.

3. **Blue Ledge Road improvements.** Improvements to Blue Ledge Road shall be as follows:

Blue Ledge Road will be widened to 24 feet. In addition to the surface pavement required by the subdivision approval, Hansen shall install an additional one (1) inch of pavement from the Cumberland Farms driveway southerly to the end of Blue Ledge Road and shall install an additional two (2) inches of pavement from the Cumberland Farms driveway northerly to County Road. The specifications for the additional pavement shall be established by the Town's Public Works Director. The existing gravel depth is acceptable.

4. **Drive-through, landscaping and parking for Lot 1, Unit 3.** Lot 1, Unit 3 may have a drive through for a bank or credit union only, and parking may be located in the front setback if approved by the Planning Board. In no event shall parking be located directly in front of the building. It is to be in the general configuration as shown on the South Gorham Crossing Credit Union Concept Plan attached as Exhibit A. The installation of the drive through lane is conditioned upon the provision of landscaping

substantially as shown in Exhibit A.

5. Hansen shall install sidewalks along Blue Ledge Road, South Gorham Crossing, and across any shared open space as part of the residential phase of the development, with said sidewalks to be in the general locations shown on Exhibit B. Hansen shall also install a crosswalk and any necessary associated improvements that may be warranted. The crosswalk shall be located on Blue Ledge Road, with the final location and associated improvements to be determined by the Planning Board during site plan review. Associated improvements for the crosswalk may include, but are not limited to, rectangular rapid-flashing beacons, pedestrian controls at the signalized intersection of Blue Ledge Road and Route 22, and ADA ramps with detectable warnings.
6. As part of the residential phase of the development, Hansen shall contribute \$5,000.00 to be applied to the installation of fiber optic cable to link the County Road/Route 22 intersection and the Route 114/Route 22 intersection in Scarborough.
7. **Remaining provisions remain in full force and effect.** Except as expressly amended herein, the provisions of the Contract Zoning Agreement and the Amendments shall remain in full force and effect.

GORHAM

TOWN OF

Ephrem Paraschak
It's Town Manager
(duly authorized by vote of
the
Gorham Town Council on

2020

HANS C. HANSEN, INC.

Hans C. Hansen
It's President

STATE OF MAINE
CUMBERLAND, ss

_____, 2020

Personally appeared the above-named Ephrem Paraschak, in his capacity as Town Manager for the Town of Gorham, and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of the Town of Gorham.

Notary Public/Attorney-at-Law

Print Name

STATE OF MAINE
CUMBERLAND, ss

_____, 2020

Personally appeared the above-named Hans C. Hansen, in his capacity as president for Hans C. Hansen, Inc., and made oath that the foregoing instrument is his free act and deed in his said capacity and the free act and deed of Hans C. Hansen, Inc.

Notary Public/Attorney-at-Law

**Public
Hearing #2
On Item #2020-8-02**

Public hearing to hear comments on the proposed amendments to the Land Use and Development Code and Site Plan review for Section 1-11, Roadside Commercial District, to allow self-storage facilities.(Admin. Spon.)

**Proposed
Order # 20-84**

Ordered, that the Town Council approve amendments to the Land Use & Development Code as follows:

CHAPTER 1: ZONING REGULATIONS

SECTION 1-5 – DEFINITIONS

Self-Service Storage Facility – A structure containing separate, individual, and private storage spaces of varying sizes leased or rented to individuals for varying periods of time. Outdoor storage shall not be considered an accessory use to this permitted use.

Warehousing facilities – A building used primarily for the storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or a group of establishments in a particular industrial or economic field. Warehousing may be for long-term or short term storage.

SECTION 1-11 - ROADSIDE COMMERCIAL DISTRICT

A. PURPOSE

To provide general sales, services and business space in the Town of Gorham.

B. PERMITTED USES

- 1) Any building or use listed under Section 1-10, Subsection B and C, Urban Commercial District.
- 2) Auto-oriented businesses.
- 3) Accessory uses and buildings including a caretaker unit.
- 4) Used car lot
- 5) Gasoline station and/or repair garage.
- 6) Public utility facilities including substations, pumping stations, and sewage treatments

plants.

7) Light Industrial Uses of ten thousand (10,000) square feet or less of gross building floor area.

8) Commercial outdoor recreation facilities.

9) Bed and Breakfast Establishment

10) Bed and Breakfast Establishment with public dining as an accessory use

11) Inn

12) Mobile Vending Units

13) Self-Service Storage Facility

C. SPECIAL EXCEPTIONS

1) (Reserved)

D. SPACE STANDARDS

Minimum lot size:	None
Minimum area per dwelling unit:	*
Minimum street frontage:	None*
Minimum front yard:	<u>25 feet* minimum</u> <u>90 feet maximum</u>
Minimum side and rear yards:	30 feet except as otherwise required by the buffer provisions of this Code and except when the side and/or rear yards abut a residential district in which case a minimum of 30 feet for commercial uses and 50 for light industrial uses or 50% of the building or outdoor stored material height, whichever is greater, shall be required.
Maximum building height:	None
Maximum building coverage:	None*

*Except that space standards for residential uses shall be the same as those of the Suburban Residential District.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

E. PERFORMANCE STANDARDS

- 1) The performance standards contained in Chapter 2 of this Code shall be fully observed.
- 2) The following additional performance standards shall also apply.

a) Lot Layout –

1. Lots abutting multiple streets shall be oriented so the front of the building faces the street of lower classification unless the Planning Board grants access to the street of higher classification allowed under this section. For lots with frontage on both Main Street or Ossipee Trail and another street, the buildings, parking lots and access drives shall be located a minimum of twenty five (25) feet from Main Street or Ossipee Trail. Lots with frontage on Main Street shall meet the design standards within this section.

2. All generators, storage areas, and dumpster pads shall be landscaped and located behind buildings and structures so that they are not visible from any public street or residential properties. The Planning Board may allow generators, storage areas, and dumpster pads to be located so they are not located behind the buildings if the Board finds that the proposed locations are required to provide for a better overall design of the lots/ development and that are sufficiently buffered from public roads and residential properties.

3. Lots will be designed to have not more than one double-loaded row of parking between the building and the street or private way providing access to the lot. The access aisle to the parking space shall be only the minimum necessary to provide access to the parking spaces.

b) Utilities

1. All developments and subdivisions shall connect to public water and sewer meeting the requirements for the Portland Water District and the Town of Gorham.

- a. The Planning Board may grant a waiver for public water main extension if the lot is located greater than 200' from the nearest watermain and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2-10

The Provisions of Public Water Supply.

- b. The Planning Board may grant a waiver for public sewerage main extension if the lot is located greater than 200' and the costs to connect into the system is greater than 3 times the costs for an onsite sewerage disposal system as **identified by the Planning Board.**

2. All developments are required to have underground utilities.

c) Buffer yards and landscaping buffering shall conform to following standards:

1. There shall be at least a 25' wide landscaped buffer between any public or private road.

2. That there shall be at least a 15' landscaped buffer between any abutting properties with residential uses. That there shall be at least a 10' landscaped buffer between any other abutting developed parcels.

3. The landscape buffer shall contain an adequate mix of trees, shrubs, plants, hardscapes, berms, topography, and other landscaping features that adequately break up the proposed development.

4. The Planning Board may allow the use of native forested area in place of the required landscaped buffer if the Board finds that the existing forest buffer is a minimum of 35' wide and provides the required screening to adequately break up the view of the development. That no cutting of existing trees will be allowed in the native forested buffer area. Dead, diseased, and dying trees may be removed with the approval of the Town Planner.

5. The landscape buffer area shall require a plan to be prepared by a registered landscape architect or qualified landscaping firm. The plan shall provide all the required submission requirements outlined under Chapter 3: Subdivision and/or Chapter 4: Site Plan Review. The name of the landscape professional and firm preparing the plan along with their credentials shall be provided with the landscape plan.

d) Building Design Standards:

1. The predominant exterior building materials shall be of high quality materials, including but not limited to, wood or vinyl clapboard siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood native stone and tinted/ textured concrete masonry units and/ or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.

2. At least three different materials shall be used for the primary front façade

for the building facing the primary street the building access and/ or Main Street. The Planning Board may waive the building material to two different materials if it finds the building design has enough architectural details to sufficiently break up the massing of the building. Glass for use in windows and doors shall not be considered one of the required building materials. All facades that have frontage on a street or private way shall be considered a primary façade.

3. Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T-111. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roofs may be allowed if compatible with the overall architectural design of the building.

4. Building and other structure Colors: Exterior colors shall be on low reflectance, colors. The use of high intensity colors such as neon and fluorescent colors for the façade and/ or roof of the building are prohibited except as approved for building trim.

e) Access Management:

1. Entrances and uses in this district shall be combined to the maximum extent possible. Developments must allow for pedestrian and vehicular access into the lot's driveways, sidewalks, and/or parking lots from the abutting properties.

2. For lots with frontage on Main Street, Ossipee Trail, and another street the access drives shall be located off the street of lower classification unless the Planning Board finds that no safe alternative exists.

3. A parcel that does not have frontage on Main Street or Ossipee Trail shall not be granted vehicular access from street except in cases where:

a. Access will be provided through a combined entrance with another parcel which has frontage on the street.

4. Lots with access on Main Street or Ossipee Trail must have driveways located so that they are a minimum of 400' from another driveway on the same side of the street unless:

a. The Planning Board finds that the distance would provide for an unsafe circumstance.

b. The driveway's spacing to abutting properties' driveways cannot be spaced to meet the 400' minimum requirement. The Planning Board shall provide for a driveway spacing to the greatest extent possible.

CHAPTER 1: ZONING REGULATIONS

SECTION 2-2 – PARKING, LOADING AND TRAFFIC

C. ~~ACCESS AND PARKING LAYOUT~~

- ~~1) To limit the proliferation of access points from parking areas to public highways and the resultant strip development, traffic hazards, congestion and other manifestations of commercial sprawl, each developer in a Roadside Commercial Zone shall dedicate a 50 foot strip adjacent to and running the length of the public highway to the use of controlled public access and landscaping.~~
- ~~2) The developer shall install within this 50 feet at least a 20 foot strip which shall be curbed and landscaped. The remainder shall be improved and dedicated as marginal vehicular access to parking aisles serving the proposed development. An access roadway at least 26 feet in width shall be constructed in accordance with Section 2-5 of this chapter. It shall connect in a proper fashion with the roadways of adjoining development.~~
- ~~3) The developer shall file with the Town of Gorham a performance guarantee in an amount sufficient to defray the cost of improving the 50 foot strip for marginal vehicular access and landscaping. The conditions and amount of such performance bond shall be determine by the Manager of the Town with the advice of the various municipal departments and agencies concerned. The amount shall be at least equal to the total cost of curbing, landscaping and providing vehicular access of at least 26 feet traveled width conforming with the provisions of Section 2-5 of this chapter and shall be conditioned on the completion of such improvements within one year of the date of the performance bond.~~
- ~~4) Upon satisfactory completion, the developer shall petition the Town of Gorham for acceptance of the 50 foot strip for controlled marginal access and landscaping.~~
- ~~5) In addition to meeting the parking requirements of this Ordinance, the developer shall provide 40 square feet for each patron parking space planned. This 40 feet shall be used to provide curbed and paved divider strips at least 8'0" wide between parking aisles. The divider strips shall be to provide safe pedestrian access between rows of parked vehicles, traffic channeling, lighting and landscaping. Where feasible, such divider strips shall be oriented at right angles to the main entrance of the principle building or use in order to provide for maximum pedestrian convenience and safety.~~
- ~~6) The Town of Gorham reserves the right to select areas within the 50 foot marginal access for the grouping or placement of signs and traffic directions.~~
- ~~7) All traffic flow in parking areas shall be clearly marked with signs and/or surface directions at all times.~~

~~8) All parking spaces shall be clearly marked.~~

~~9) The Town of Gorham reserves the right to designate all ingress and egress points to the public highway from the 50 foot marginal access as may be needed to meet current and future traffic control needs.~~

Item #2020-8-03

Action to consider adopting a resolution to assist with ending systemic racism. (Councilor Wilder Cross Spon.)

Proposed

Order # 20-85

Ordered, that the Town Council adopt the following resolution:

TOWN OF GORHAM

COUNCIL RESOLVE

Resolution to end systemic racism, the oppression/misrepresentation of minority groups, and to continue to assure that law enforcement honors equal justice for all in Gorham.

WHEREAS, the murders of George Floyd, Breonna Taylor, Ahmaud Aubrey, and other victims of police brutality and misconduct have ignited universal support of the Black Lives Matter movement; and

-

WHEREAS, Gorham citizens have joined together in marches, vigils, and other forms of demonstrations to peacefully support the Black Lives Matter movement; and

WHEREAS, Gorham is a predominantly white community with a growing population representing diversity of color, culture, language, sexual preference; and

WHEREAS, Minority groups in Gorham often experience discrimination in various forms; and

WHEREAS, the Town of Gorham is committed to educating all Gorham citizens about ending discrimination in any form; and

WHEREAS, Gorham's citizens have historically maintained a close and respectable relationship with our local law enforcement; and

WHEREAS, the Gorham Police Department strives to use precautionary measures in times of distress.

Now, THEREFORE, be it Resolved that

The Gorham Town Council

1. Partners with all town departments and members of the public to assure equal justice for all, prevent any form of police misconduct, provide educational opportunities to accept and celebrate diversity and address racial discrimination; and
2. Affirms and acknowledges that Black Lives Matter; and

3. Recognizes that the Gorham Police Department has ensured the safety of local protest and been supportive of the informational sessions on the Black Lives Matter movement; and
4. Partners with the Gorham Police Department to organize and create a law enforcement atmosphere that is conducive to welcoming people of color; and
5. Commits to providing the necessary resources to ensure that all town staff receive anti-bias training and that police officers continue to receive training on de-escalation; and
6. Encourages the Gorham Police Department to continue its comprehensive training of its officers in de-escalation, use of force and comprehensive reporting to state and national standards, and;
7. Encourages Gorham PD to make available on its website information on general department policies so that they can be more accessible to the public, excluding information that is statutorily confidential; and
8. Condemns any form of hatred or bigotry in the community against any person or group; and
9. Supports opportunities for the voices and stories of people of color and other minority groups in this community to be heard; and
10. Commits to addressing any members of its organizations or departments who are affiliated with any hate groups to the extent legally possible; and
11. Affirms it will stand against racism and other forms of discriminations while doing everything in its power to make certain the Town of Gorham is welcoming to people of color and other minority groups.

Item # 2020-8-04

Action to consider selecting a vendor for a town wide revaluation.
(Admin. Spon.)

Proposed

Order #20-86

Ordered, that the Town Council selects _____ as the vendor to complete the Town’s next revaluation.

Item #2020-8-05

Action to consider approving a request for qualifications process for a joint facilities inventory study with the Gorham School Department.
(Admin. Spon.)

Proposed

Order #20-87

Ordered, that the Town Council approve the request for qualifications process for a town wide facilities inventory study as proposed by a joint session of the school and town capital improvements committees.

Item #2020-8-06

Action to consider authorizing staff to work with the Gorham School Department to remove dangerous trees between the high school parking lot and Robie Softball Field. (Admin. Spon.)

Proposed

Order # 20-88

Ordered, that the Town Council authorizes staff to work with the Gorham School Department to remove dangerous trees between the high school parking lot and Robie Softball Field as recommended by an arborist.

Item #2020-8-07 Action to consider voting on Maine Municipal Association Legislative Policy Committee Appointments. (Admin. Spon.)

**Proposed
Order # 20-89** Ordered, that the Town Council formally votes for Ephrem Paraschak, Gorham Town Manager and Jean-Marie Caterina, Scarborough Town Councilor, as continuing representatives of the MMA's Legislative Policy Committee's Senate District 30.

Item #2020-8-08 Action to consider regulating performance standards and locations for Medical Marijuana Caregivers. (Councilor Hartwell Spon.)

**Proposed
Order # 20-90** Ordered, that the Town Council forward to the Ordinance Committee, for their recommendation, regulating performance standards for Medical Marijuana Caregivers.

Item #2020-8-09 Action to consider forwarding to the Planning Board amendments to the Land Use & Development Code's standards on Clustered Residential Development. (Ordinance Committee Spon.)

**Proposed
Order #20-91** Ordered, that the Town Council forwards to the Planning Board, for public hearing and their recommendation, amendments to Clustered Residential Development standards of the Land Use & Development Code as follows:

CLUSTERED RESIDENTIAL DEVELOPMENT

A Cluster Residential Development is a form of development which allows a developer to create smaller lots than required by the applicable zoning district regulations in the Rural and Suburban Residential District in return for setting aside a portion of the tract as permanent open space owned and maintained ~~jointly by the individual lot owners~~ a land trust or other conservation organization. The net residential density of the site shall remain the same as if the site were developed as a conventional subdivision. Each dwelling unit in a cluster residential development shall be placed on a separate lot whether the dwelling unit is a single-family dwelling or part of a two-family or multi-family dwelling. The Planning Board ~~may~~ shall approve requests for cluster residential developments if it finds that the proposal conforms to the criteria listed below and is the best development form for the site.

Notwithstanding other provisions of this Code relating to space and bulk, the Planning Board in reviewing and approving proposed residential developments located in Gorham, may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship.

1. Lot Size shall not be reduced to less than:
 - a. 20,000 square feet in the Suburban Residential District
 - b. 30,000 square feet in the Rural District
2. Frontage – Each lot shall have frontage on a public street or a private way proposed by the applicant, as follows:
 - a. 75' in the Suburban Residential District
 - b. 100' in the Rural District
 - c. Up to 10% of the lots in a clustered subdivision may have frontages reduced below the frontage requirements stated in this subsection but not below 25'. Lots with frontage reduced under this provision shall not be adjacent to more than one other lot with such a reduced frontage, as determined at the front lot line.
3. Lot setbacks:
 - a. Front on private way or public street not identified as a collector, arterial, or State DOT designated route: 25'
 - b. Front on a collector, arterial road, or State DOT designated route: 50'
 - c. Rear: 10'
 - d. Side: 10'

Innovative approaches to residential layout and environmental design shall be subject to the following ~~criteria~~ performance standards:

1. The purpose and intent of this Land Use and Development Code shall be upheld
 - a. At least 40% of the total area of the tract or parcel of land being developed must be maintained as common open space and not be included in the individual building lots.
 - b. The following “high-value conservation areas” shall be considered when determining the area(s) within the subdivision to be allocated to the 40% required common open space.
 - c. Land deemed to be in excess of the 40% requirement up to 50% of the total land area may be required by the Planning Board as additional open space if the area contains land that meets the requirements of the “high-value conservation areas.” The Planning Board must review the overall intent of the chapter as well as the impact on the design of the buildable lots and infrastructure of the subdivision in determining if the additional land should be included in the common open space.
 - d. **Active Open Space shall be required for subdivisions with more than 25 lots and/ or dwelling units. Active Open space is for active recreation and shall include activities which require substantial construction and maintenance for recreation use, including playgrounds, tennis courts, ball fields, basketball courts, and similar facilities. A part or all the active open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility. The following table provides the minimum active open space reservations required in cluster subdivisions:**

<u>Average Density per Dwelling Unit</u>	<u>Active Open Space Required, % of Subdivision Open Space</u>
<u>80,000 s.f. or more</u>	<u>1.5</u>
<u>40,000 s.f. to 79,999 s.f.</u>	<u>2.5</u>
<u>20,000 s.f. to 39,999 s.f.</u>	<u>4</u>
<u>10,000 s.f. to 19,999 s.f.</u>	<u>5</u>

2. High-value Conservation areas:
 - a. Existing trails (bike, hiking, cross-country skiing, snow shoeing, horseback riding, or snowmobiling) that connect with existing trails on Town-owned land or with existing trails on abutting land protected by a conservation easement or other written agreement.
 - b. Existing healthy, native forests of at least 5 contiguous acres.
 - c. Habitats of endangered or threatened species;
 - d. Significant wildlife habitats as defined by the Maine Department of Inland Fisheries and Wildlife, or the municipality;
 - e. Significant natural features and scenic views such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads,
 - f. Archaeological Sites, historic structures, cemeteries and burial grounds,
 - g. Prime farm lands, farm land of state wide, and/or local importance of at least 1 contiguous acre; and
 - h. Land being actively farmed and which will remain active farm land of at least 1 contiguous acre.
3. There subdivision shall be in compliance with all State and local codes and ordinances. ~~Each building shall be an element of an overall plan for site development.~~
4. There shall be no approval of any proposed development which exceeds the allowable net residential densities permitted without appeal in the district in which it is located.
5. ~~Residual~~ Common open space shall be usable for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for agricultural or conservation purposes.

~~The uses of common open space may include: common open space shall be accessible to the residents of the project. At a minimum, this use may include such activities as walking, picnicking, fishing, swimming, cross country skiing, and other low intensity recreational uses unless otherwise provided for in the Planning Board approval.~~

- a) Passive recreation, such as hiking, walking, running, biking, snowshoeing, cross-country skiing, picnicking, bird-watching, hunting, fishing, and other low-impact recreational activities that do not significantly alter the natural common open space;
- b) Operation of snowmobiles or ATVs on existing snowmobile or ATV trails;
- c) Agriculture, horticulture, silviculture or pasture uses, provided that all best management practices are utilized to minimize environmental impacts;

- d) Nonstructural stormwater management, such as rain gardens and forested buffers;
- e) Easements for drainage, access, and underground utility lines; and
- f) Other conservation-oriented uses such as community garden, compatible with the purposes of this Chapter.

The following uses are prohibited uses of common open space:

- a) Roads, parking lots and impervious surfaces, except as specifically authorized in this chapter;
- b) Subsurface wastewater disposal systems and wells;
- c) Built stormwater management systems such but not limited to, ponds, underdrain ponds, catch basins, and pipes;
- d) Dumping or disposal of any type of yard waste, household waste, hazardous waste or other debris, organic or inorganic;
- e) Cutting vegetation, except for annual mowing related to agricultural uses or to prevent shrub growth from over taking protected fields, forest management of trees with an approved forest management plan written by a Maine licensed forester or dead, diseased, or dying tree as identified by a Maine licensed arborists. **Removal of invasive species as identified by the Maine Department of Agriculture, Conservation, and Forestry is exempt from this section.**
- f) Altering approved common open space.
- g) Additional structures being placed on the common open space without prior Planning Board approval; and
- h) Other activities as determined by the applicant and recorded on an instrument providing permanent protection such as deed restrictions.

Common Open Space Ownership may include any of the following (with a preference to the order below):

- a) Ownership by a conservation organization approved by the Planning Board with permanent restrictions on its future use; or
- b) Ownership by the Town with or without a conservation easement to a conservation organization approved by the Town Council and Planning Board;
- c) Ownership by a homeowners' association **conditioned on forever being maintained as common open space and there shall be no further subdivision of this land, nor buildings constructed upon it without further Planning Board review. The land may also have with a** conservation easement **on it** to the Town or a conservation organization approved by the Planning Board.

6. The first meeting with the Planning Board shall be Conceptual Design Review, and shall precede submission of a Preliminary Subdivision Review Application. The Conceptual Design Review shall include the submission of an Existing Site Resource Map, identifying both significant natural and cultural resources. It is not required that this be an engineered plan but a surveyed plan that shows wetland, shoreland areas, significant habitat corridors, rare or endangered habitat, roads and buildings within 100 feet of the property, indication of overall stormwater flow direction, species and size of existing trees, historic and cultural resources such as existing barns, trails, cellar holes, stonewalls, and other noteworthy features unique to the property. The Existing Site Resource Map shall not include proposed roads or subdivision lots. The intent of this phase of review is for there to be an opportunity to build greater Planning Board, applicant, and open space holder consensus on

critical resources and over-all design early in the review process, before the applicant proceeds into formal design of the project. The developer shall include in the over-all design team either a licensed landscape architect or a natural resource planner. The landscape architect or natural resource planner shall provide a written narrative of the existing site resource maps detailing critical areas with a recommendation about the features which should be preserved in the open space.

It is intended that the open space shall be designed first, and the built environment shall be constructed in the remaining areas. During the Conceptual Design Review process, the Board shall determine whether or not the open space layout, design and configuration is appropriate based on the size of the parcel to be developed and consistent with the goals outlined under this section and those outlined in the Town's Comprehensive Plan

The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in his proposal:

- a) Orientation: buildings and other improvements shall respect scenic vistas and natural features.
- b) Streets: access from public street, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, delivery and collection services. Streets shall be laid out and constructed consistent with local requirements.

Driveways shall be located onto interior road networks to the greatest extent practical. No more than one driveway per 500' of road frontage shall be allowed on any collector roads, arterial roads, or Maine DOT State number routes.

- c) Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.
- d) Sewage Disposal: adequate provision shall be made for sewage disposal, and shall take into consideration soil conditions and potential pollution of surface or ground waters. The plans shall show the location of 2 passing soils areas on each lot proposed. One of the test pits should be labeled as primary which will be utilized for the initial construction with the 2nd test pit being identified as reserve and utilized when the first septic system declines.
- e) Water Supply: adequate provision shall be made for both ordinary use as well as special fire needs.
- f) Utilities: all utilities shall be installed underground wherever possible. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.
- g) Recreation: facilities shall be provided consistent with the development proposal.
- h) Buffering: planting, landscaping, disposition and form of buildings and

other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development. Buffers of at least 75 feet in width shall be created around the entire perimeter of the subdivision unless the subdivision abuts another clustered residential development or the Planning Board finds the design of the subdivision matches the existing development pattern of the area. Where possible, existing trees and vegetation shall be preserved in the buffers, except that invasive vegetation may be removed. The Planning Board may require landscaping or other features as necessary to break up the proposed development from abutting properties should the 75 foot buffer not provide adequate buffering.

- i) Disposition of Buildings: shall recognize the need for natural light and ventilation.
7. For purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.
8. ~~Before the recording of final subdivision plans, or as a condition of final subdivision approval, the Planning Board shall require and accept in accordance with the standards adopted by ordinance, an improvement guarantee in accordance with Chapter 3, Subdivision, Section 3-4., Final Plan, Subsection C., Improvement Guarantee.~~
- 9 8. Common open space shall be dedicated after approval of the project. There shall be no further subdivision of this land, nor buildings constructed upon it without further planning review and which would cause the net residential density to exceed the density permitted in that district.
- 40 9. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that it:
- a) shall not be used for future building lots.
 - b) a part or all of the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreational facility.
104. ~~If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval.~~
112. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.
123. This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of local neighborhood recreational facilities within such open space(s).
134. ~~The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities.~~
145. The developer or subdivider shall maintain control of such open space(s) and be

responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer or subdivider.

Adjourn