

**Town of Gorham
 Planning Board Meeting
 November 6, 2023**

ITEM 2 - Discussion – Contract Zone - Chicoine, Ryan – 239 County Road – a request for approval of a contract zone to allow for a recreational, agricultural, educational and social gatherings facility. M15 L25-1. Zoned, R-MH. The applicant is represented by Brandon J. Mazer, Esq.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	The Town Council forwarded the item to the Planning Board for discussion.	?
Pre-Application/Sketch (optional)		June 5, 2023
PB Discussion		November 6, 2023
Site Walk	TBD	
PLBD Ordinance Committee	TBD	
Planning Board – Public Hearing	TBD	

The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and may not be all inclusive of project requirements. Staff notes are review comments and recommendations prepared by the Town Planner and, if applicable, the Town’s peer review consultant, regarding applicability to The Gorham Land Use Development Code and standard engineering practices.

The Planning Board refers to staff notes during the review process; however it shall be noted that staff recommendations are non-committal and all final decisions are those of the Planning Board and not Town Staff.

Vincent Grassi, Chair, Gorham Planning Board

1. OVERVIEW

This item is on for a discussion for the applicant’s proposed Contract Zone. This is the first time the contract zone language has come before the Planning Board. The Board reviewed a sketch plan in June 2023. As a reminder, the Planning Board makes recommendations to Town Council on proposed adoption of a contract zone.

The applicant is proposing agricultural uses including apples, Christmas trees, pumpkins, hops, blueberries, raspberries, strawberries, cranberries, honey, maple syrup, and flowers as well as recreational uses including disc golf, trails, cross country skiing, curling, and pickleball, the keeping of farm animals; and educational uses including, but not limited to, beekeeping, tree cultivation, and wreath making.

The project will include ancillary recreational uses and structures including in an outdoor recreational facilities such as curling rinks, pickle ball courts, disc golf course, and a trail system for walking, snowshoeing, and cross country skiing.

In addition, the project would include ancillary commercial uses including the construction of a conference center/banquet hall for community, social and charitable events, such as corn hole tournaments, craft fairs, dances, and weddings; a retail store in the form of a restaurant; a facility for brewing in the form of a microbrewery/tasting room; a performing arts center/amphitheater; and a campground comprised of yurts and a tree house.

The parcel is approximately 108 acres.

The applicant is represented by Brandon Mazer, Esq.

2. ITEMS OF NOTE

Below are topics the Planning Board may want to discuss with the applicant. The discussion topics are written as a guide for the Planning Board. It should be noted that the discussion topics are noncommittal and all decisions on relevant discussion topics are those of the Planning Board.

Contract Zone, Subdivision, and Site Plan Reviews

- Community Development staff recommends that the applicant start the contract zone process first through the Planning Board. When the contract zone process is about 80% through the process then the applicant might want to consider submitting for site plan/ subdivision review. This is due to the uses and spaces standards for the development outlined in the contract zone will affect the form and function of the subdivision/site plans.
- To help facilitate the review of the contract zone process the Planning Board might want to forward the contract zone application to a full Planning Board workshop.

Comprehensive Plan

- The comprehensive plan calls for the entirety of parcels M15, L25-1 to be included in the “Rural” zone.

- The uses allowed are proposed to include different housing options including single family.
- The Future Land Use Plan states “– These are areas that are predominantly undeveloped, have large contiguous areas of open land with some commercial agriculture and forestry activity, and are not serviced or likely to be serviced by public water and/ or sewage in the foreseeable future. Therefore, these areas are considered appropriate for natural resourced-based activities including farming and forestry which accommodating small-scale, very low-density development that is compatible with the rural landscape”. The Comprehensive Plan also states: “Promote a working rural landscape including a wide range of agricultural and forester activities in the designated growth areas while discouraging significant development to preserve the rural nature of these parts of the community....”
- Community Goals & Policies: The Comprehensive Plan identifies the following local objectives for K. Agricultural and Forestry Resources.
 - To safeguard lands identified as prime farmland or capable of supporting commercial fishery.
 - To support farming and forestry and encourage their economic viability.

Zoning, Site Plan, and Subdivision

- The site plan and subdivision ordinances will apply to this proposal.
- The northern portion of Map 15 Lot 25-1 is located in the Stream Protection Overlay district.
- The use of the site will be in line with the permitted use of Agritourism Activity. Some of the standards under Agritourism Activity might be relevant for the proposed use of the site and others might not be required due to the size and isolation of the parcel from abutting residential properties. Agritourism Activity Performance standards under the Rural District, Section 1-8, G, are listed below:

G. PERFORMANCE STANDARDS FOR AGRITOURISM ACTIVITY

- 1) The farm must be an existing and operating working farm.
- 2) Agritourism activity must be incidental to the agricultural use of the property.
 - a) Events that have under 100 (100) attendees or less at any one time are required to have ten (10) acres under continuous ownership or leased farmland uses for the location where the agritourism activity will occur.
 - b) Events that have one hundred (100) to two hundred and fifty (250) attendees at any one time are required to have twenty (20) acres or more under continuous ownership or leased farmland areas for the location where the agritourism activity will occur.
- 3) Permits: Events under this section are exempt from site plan review. Events with more than one hundred (100) attendees at any one time are required to get an Agritourism Event Permit from the Code Office for each event. The applicant will identify how the event will comply with standards outlined in this section.

- 4) Applicants, vendors, and owners are required to obtain all required local, state and federal permits for each agritourism activity.
- 5) The attendance at any such event shall be limited to two hundred and fifty (250) attendees at any one time. The number of events with over one hundred (100) attendees at any one time shall be limited to 10 events in a calendar year with no more than 3 events occurring in a calendar month. Events that occur over multiple days shall constitute a separate event for each day the event occurs.
- 6) The use of any structure for agritourism activities is required to meet all local state and/or federal codes including but not limited to building and fire codes.
- 7) Adequate bathroom facilities, either portable or permanent, shall be provided to accommodate all attendees.
- 8) Any service, sale or consumption of alcoholic beverages shall be in compliance with state law.
- 9) Such events may include the provision of goods and services by third-party vendors, including but not limited to catered food preparation and serving and musical performances or other entertainment. Third-party vendors are required to obtain all required local, state and federal permits for the events they are participating in.
- 10). Agritourism activities are required to meet the Town's noise standards under Chapter 2, Performance Standards Section 2-1 Environmental, H. Noise Abatement.
- 11) Signage may be used as prescribed by Chapter 2, Section 2-3.
- 12) Hours of event operations are limited to:
 - a) Sunday through Thursday, 8:00 a.m. to 8:00 p.m.
 - b) Friday through Saturday, 8:00 a.m. to 10:00 p.m.
 - c) Setup and take down for an event is considered to be separate from the hours of operation of the event and shall not be considered part of the event itself. Setup or take down shall not occur between the hours of 11:00 p.m. and 7:00 a.m.
- 13) Events that do not conform to the standards above may be considered under Contract Zoning, Chapter 1, Section 1-1.
- 14) Vehicular access into the agritourism activity will provide for sale and convenient access.

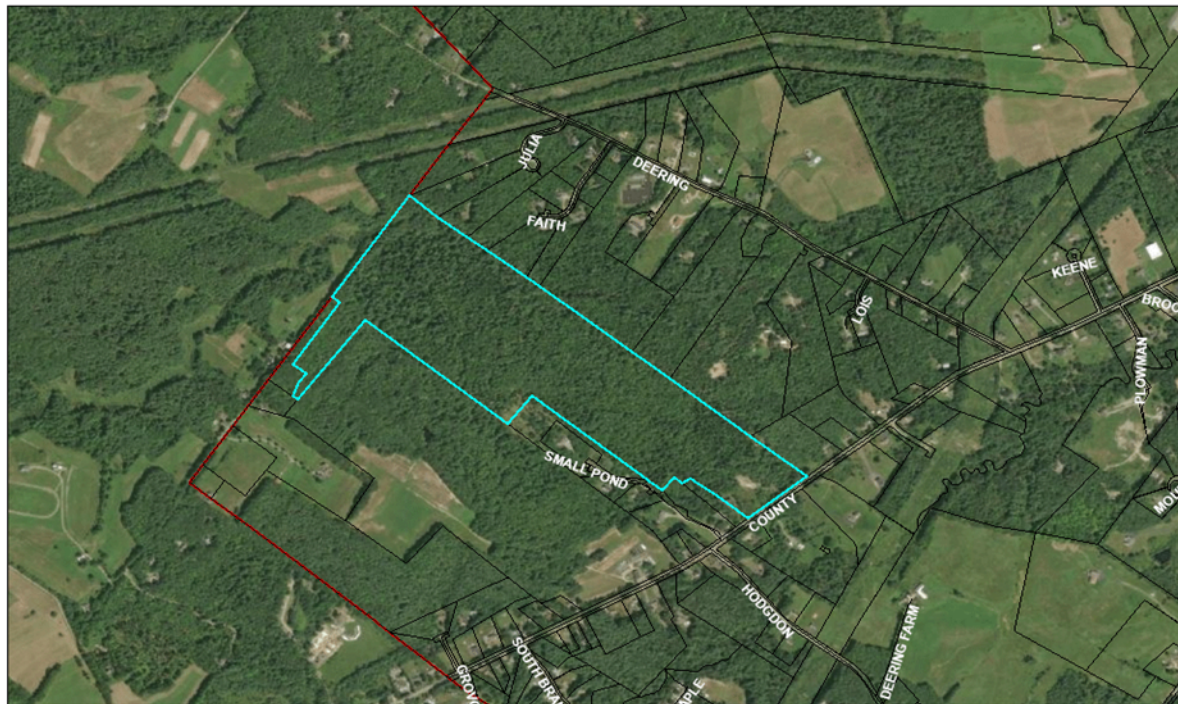
- 15) None of the agritourism activity shall be located in any required, side, rear or front setbacks.
- 16) Maine State sponsored events shall be exempt from obtaining a permit.

Historic Preservation & Natural Resource Protection

Town of Gorham’s GIS data and the State Beginning with Habitat maps both show the presence of sensitive natural resources on the parcel. The Stroudwater River flows through the northern portion of the parcel, and an unnamed tributary of the South Branch of the Stroudwater River flows through the southern portion of the parcel. Wetlands are indicated on the parcel in several locations in the public data inventory as well as in the site plans provided by the applicant. The southern portion of the site is located on a mapped 10-50 gallon per minute sand and gravel aquifer. The Beginning with Habitat inventory shows that the site contains an area of “endangered, threatened, and special concern species occurrences and habitat buffers” due to the presence of Great Blue Heron habitat.

3. AERIAL PHOTOGRAPH

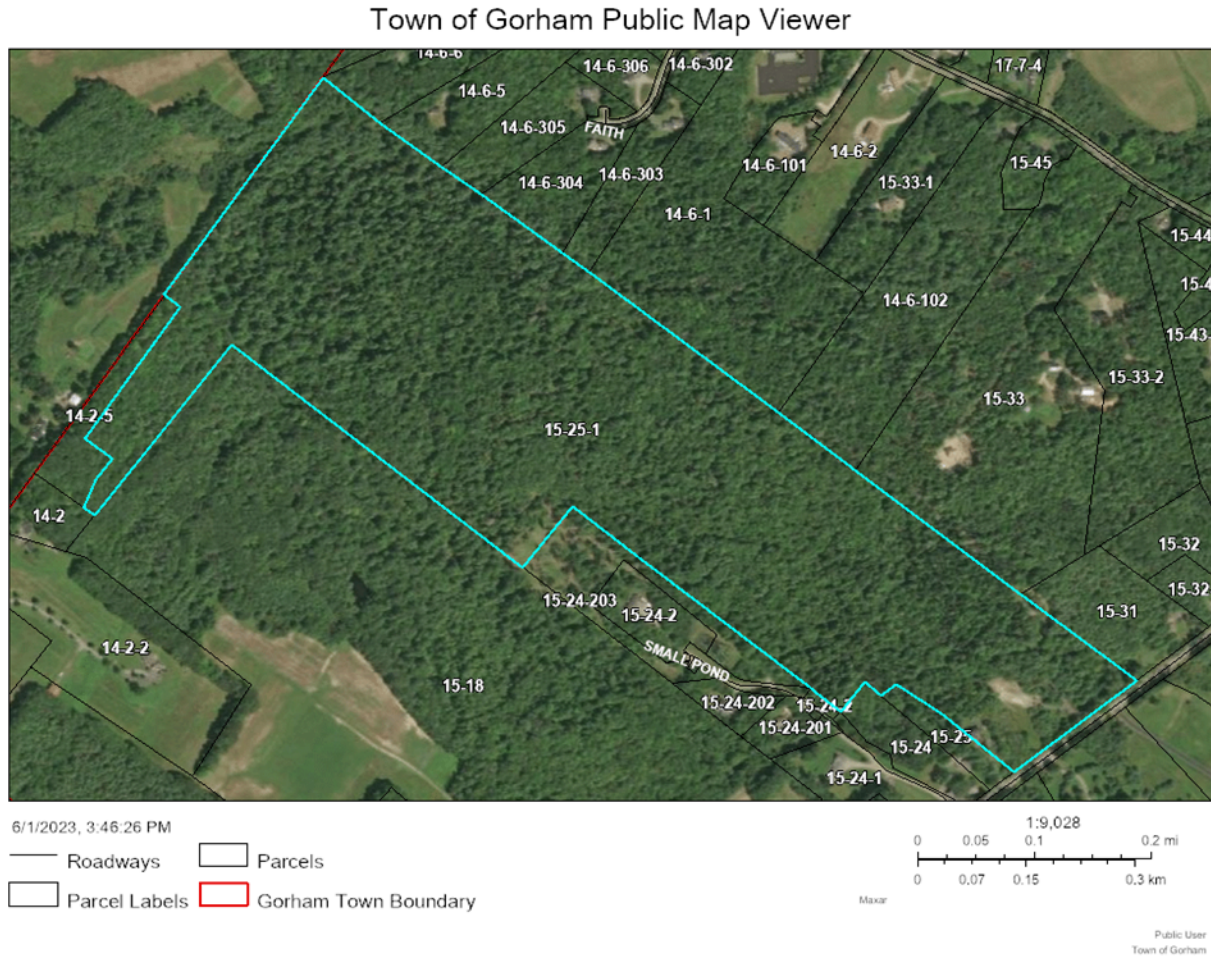
Town of Gorham Public Map Viewer



6/1/2023, 3:47:08 PM
Roadways Gorham Town Boundary
 Parcels

1:18,056
0 0.1 0.2 0.4 mi
0 0.17 0.35 0.7 km
Maxar

Public User
Town of Gorham



4. STAFF COMMENTS

Assessing Department: No comments

Code Division: 10/23/2023

1: All commercial structures requiring Use and Occupancy need a Maine structural engineered planset with code analysis meeting all 2015 MUBEC.

Thanks
Chris Poulin
Town of Gorham
Code Enforcement
CEO, LPI

Director of Community Development: No comments

Economic Development Division: No comments

Stormwater: 10/23/2023

Stormwater comments for this project are as follows:

1. While not a requirement, the Town would like the applicant to consider utilizing Low Impact Development techniques. If the applicant chooses not to implement LID practices, please show why this is not feasible for this project.
2. A reminder that the Winter Construction season has begun, starting on **October 15th and runs through May 1st**. Winter Construction erosion and sedimentation controls / BMP's have a different set of standards than the rest of the year. Please refer to the Maine DEP's Erosion and Sediment Control Practices Field Guide for Contractors for specific requirements during winter construction.

Thank you,

Ethan Moskowitz
Stormwater Compliance Officer/ GIS Technician

Fire Department: 05/19/2023, 10/23/2023

05/19/2023

239 County Road Private way Ryan Chicoine

I have reviewed the plans (May 15, 2023) and have the list of comments below

1. The buildings will meet all applicable sections of NFPA 1 *Fire Code* and NFPA 101 *Life Safety Code*. Building plans shall be submitted to the Fire Inspector for review.
2. The buildings shall be protected under the Fire Suppression Systems Ordinance as applicable. The sprinkler plans shall be submitted to the Fire Department and the State Fire Marshal's Office for review and permitting. The plans submitted to the Fire Department shall be submitted at least two weeks prior to the start of the installation of the system. Sprinkler test papers will be required to be submitted to the Fire Department at the time a CO is issued.
3. The buildings shall be properly numbered in accordance with E911 standards including height, color and location. Numbers that cant been seen from the street shall require additional numbers at the street.
4. The hammer head width needs to be 20' wide and 50' deep. Please show measurements on the plans. No drive ways will be allowed off the Hammer Head. Please show driveway's on future plans.
5. A "No Parking - Tow Away Zone" or "No Parking - Fire Lane" sign should be added to the hammer head.
6. Street names need to be approved by Police and Fire Chief as well as be properly posted.

Chicoine, Ryan, William, and Kathleen – 239 County Road
Contract Zone
M15/L25-1

7. Event Center – Have no comments yet. AS I will need more information on that part.

8. Road work throughout the Complex – Need more information.

9. **Past history has repeatedly shown that private ways/drives are very poorly maintained, and wintertime poses a very serious issue of emergency vehicle access, with very little enforcement available to the Town. I would state for the record and make notice that the Fire Department cannot and will not be held responsible for incidents where we cannot gain access to buildings or incidents on these private ways/drives that are not properly maintained.**

As this goes through the process I may have more requirements.

10/23/2023

MAP 15 Block 25-1

I have reviewed the Plans dated Oct. 16, 2023 for 239 County Road Contract Zone.

I have no Comments at the time.

Planning Division: 06/01/2023

Small Pond Road and the new private way will need to be designed to handle the anticipated traffic of the residential development.

The driveway will need to be designed to handle the anticipated traffic of the forestry, farming, and agricultural uses.

Town Attorney: 10/27/2023

*****SEE LEGAL COMMENTS AT END OF DOCUMENT**

Police Department: No comments

Public Works Department: No comments

Recreation Department: No comments

Abutter Comments:

Evlyn Doyle 10/23/2023

Chicoine, Ryan, William, and Kathleen – 239 County Road

Contract Zone

M15/L25-1

Statement of concern for the Planning Board and other Committees and Boards going forward regarding proposed planned development at 239 County Road, Gorham, Maine.

I am an abutter living at 255 County Road. My property abuts Small Pond Road which figures significantly in their proposed plan. I have lived here since 1996 and my concerns are twofold:

First, any increased activity on Small Pond Road would affect my peaceful living existence here. There are four houses presently on Small Pond Road. One house can be seen from my house and three cannot. Some people who are traveling west on County Road and wanting to enter Small Pond Road (from County Road), cut across my driveway (a large parking lot affair). Several times while out in my driveway, I have almost gotten hit by cars doing so. Also, some people who don't properly turn down Small Pond Road (those who cut across) drive way too close to my two story building that sits apart from my residence and closer to Small Pond Road. Usually the folks who live on Small Pond Road know to turn onto that road and not cut across. But, visitors, tradesmen, some delivery people and the like are not as considerate. I have had to tell numerous people (when I can "catch" them) to refrain from cutting across my parking lot. With a subdivision proposed to be built behind my property down Small Pond Road, it would be a certainty that I would have many of these same issues. I don't want to even think about what increased construction activity would bring here in terms of noise and lifestyle disruption, etc. Further development of their property for agri tourism could also bring loads of people exiting or entering Small Pond Road.

Second, and more important, my dug well, which is only twelve feet deep, sits only twelve feet from the edge of Small Pond Road. If improvements to the road are made, such as widening and/or paving, my water table/levels could be affected along with my water quality.

For both of the issues stated above, I do not have the means or the inclination to make any changes to my property to accommodate the proposed plans. (Such as a new well placement, barriers at my parking lot driveway, etc.)

Please take into consideration these concerns as a longtime resident (total 41 years) who values peace and quality of life here in Gorham.

Thank you for your attention in this matter.

Evlyn T. Doyle (Lyn)

255 County Road

October 23, 2023

5. CONTRACT ZONE LANGUAGE

See language provided by applicant below.

**CONTRACT ZONING AGREEMENT
BETWEEN
WILLIAM CHICOINE, KATHLEEN CHICOINE, RYAN CHICOINE,
AND TOWN OF GORHAM**

THIS CONTRACT ZONING AGREEMENT, (the "Agreement"), made this ___ day of _____ 2023, 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 William Chicoine, Kathleen Chicoine, and Ryan Chicoine (collectively, the "Chicoines") with a mailing address of 4 Dolphin Ave, Old Orchard Beach, Maine 04064.

WHEREAS, the Chicoines are the owners of property located at 239 County Road, Gorham, Maine 04038 as recorded in the Cumberland County Registry of Deeds at Book 37902 and Page 155 (hereinafter "the Property"); and

WHEREAS, the Property is shown on the Town of Gorham Tax Map 15, Lot 25-1 and 24-203; and

WHEREAS, the Property is currently located in a portion of a Rural District encompassed by a Manufactured Housing Park Overlay District and is approximately 108.35 acres in area; and

WHEREAS, the Chicoines' intended development of the Property ("the Project") would include a great number of agricultural uses permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the production and on-site sale of apples, strawberries, blueberries, raspberries, cranberries, pumpkins, hops, honey, maple syrup, flowers, and Christmas trees; the keeping of farm animals; and provision to the public of educational opportunities on topics including, but not limited to, tree cultivation, beekeeping, and wreath making; and

WHEREAS, the Project would include certain ancillary recreational uses not currently permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the construction and operation of commercial outdoor recreational facilities such as curling rinks, pickle ball courts, a disc golf course, and a trail system for walking, snowshoeing, and cross-country skiing; and

WHEREAS, the Project would include certain ancillary commercial uses not currently permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the construction and operation of a conference center/banquet hall for community, social, and charitable events, such as cornhole tournaments, craft fairs, dances, and weddings; a retail store in the form of a restaurant; a facility for brewing in the form of a microbrewery/tasting room; a performing arts center/amphitheater; and a campground comprised of yurts and a tree house; 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 Section 1-1(H), of the Gorham Land Use and Development Code (the "Code"); and

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

WHEREAS, the Project is consistent with the Rural District's purpose of securing for the Town's residents the "economic, recreational, and scenic benefit[s]" of continued agricultural use; and

WHEREAS, the rezoning will be consistent with the goals of the Gorham Comprehensive Plan Update of 2016, as amended in 2021, by "protecting the State's rural character," "continu[ing] to diversify the business base to build a stronger community," "promot[ing] and protect[ing] the availability of outdoor recreation opportunities," and "[p]romot[ing] a working rural landscape including a wide range of agricultural . . . activities in the designated rural and resource areas"; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town's Comprehensive Plan and has authorized the execution of this Agreement on _____, 2023;

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 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 into Code Section 1-1(C), by adopting the map change amendment shown on Attachment 1.

2. Definitions and Permitted Uses. The Chicoines are authorized to conduct any of the following uses on the Property without additional Town Council authorization. Except where specifically defined herein, all Permitted Uses shall be defined pursuant to Chapter 1 of the Code.

- a. All Permitted Uses and Special Exceptions allowed in the Rural District
- b. All Permitted Uses allowed in the Manufactured Housing Park Overlay District
- c. Campground
- d. Commercial Outdoor Facilities
- e. Commercial School
- f. Conference Center or Banquet Hall
- g. Event Center An indoor or outdoor facility where private parties may hold weddings, receptions, reunions, performances, sporting events and other special gatherings.

h. Light Industrial Use

i. Mobile Vending Unit

j. Retail Store

k. Tree House A cabin or similar structure suspended off the ground maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes.

l. Yurts A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing or sewage disposal hookup.

m. Additional Uses Allowed with Town Council Approval

3. Consistency. After conducting a public hearing on _____, 2023, with public notice as required by 30-A M.R.S. § 4352(8), the Planning Board has determined that the contract rezoning hereunder is consistent with the Comprehensive Plan, which is a "growth management" plan, and establishes a rezoned area consistent with existing and permitted uses with the original Rural-Manufactured Housing District.

4. Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapters 1 and 2 of the Code, except as follows:

- a. The development shall provide a minimum of 250 total parking spaces.
- b. Building locations shall be as generally shown on the provided concept plan appended to this document. Modifications to the locations of any buildings may be made as part of the Planning Board review process without requiring a modification of this Agreement, as long as such modifications do not result in a substantial change to the building massing as shown on Exhibit A.
- c. An Event Center event may not exceed a capacity of 500 attendees. Notwithstanding the foregoing, an Event Center may hold up to 6 events per calendar year that exceeds such capacity. When calculating capacity staff, including any third party caterers, shall not count towards the capacity cap.
- d. A Mobile Vending Unit shall not be required to be removed from the Property every day and may remain on the Property for up to seven (7) consecutive days.
- e. There shall be no more than 10 Yurts located on the Property. A Yurt shall not be considered a Dwelling Unit for building code purposes.

5. Dimensional Standards. All development on the Property shall comply with the following dimensional requirements, which shall apply to the Property as a whole (as if the Property were a single lot) and not to individual buildings, except for maximum building height:

- | | |
|----------------------------------------|-----------------------------------|
| a. Minimum lot size: | None |
| b. Minimum lot area per dwelling unit: | None |
| c. Minimum street frontage: | 200 ft. |
| d. Minimum front yard setback: | 70 ft. |
| e. Minimum side and rear setbacks: | 50 ft. |
| f. Maximum building height: | 65 ft. (excluding the Tree House) |

6. Other Requirements. All development on the Property shall comply with the following requirements related to the physical development and operation of the Property: [ANY?]

7. Agreement to Be Recorded. The Chicoines shall record this 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 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 Chicoines or its successors in interest to the Property.

9. Site Plan Review. Approval of this Agreement will not serve as a waiver of site plan review if otherwise required by the Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Chicoines, any entity affiliated with the Chicoines, 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 officials and employees. The provisions of this Agreement, including the permitted uses listed in Section 2, the performance standards described in Section 4, and the dimensional requirements listed in Section 5, are intended to replace the uses and dimensional restrictions of the Rural District standards set forth in Section 1-8 of the Code. The above restrictions, provisions and conditions are an essential part this Agreement, shall run with the Property, shall bind the Chicoines, their successors in interest and any assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham. If any of the restriction, provisions, conditions, or portions of this Agreement is for any reasons 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 and any applicable amendments thereto or replacement thereof

This 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 determination of a zoning violation by the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Chicoines or their successors or assigns fail to develop and operate the Property in accordance with this Agreement, or in the event that any other breach of any conditions 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 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.

WITNESS:

TOWN OF GORHAM

By: Ephrem Paraschak, Its Town
Manager (Duly authorized by vote of the
Gorham
Town Council on _____, 2023)

WITNESS:

William Chicoine

WITNESS:

Kathleen Chicoine

WITNESS:

Ryan Chicoine

**PLANNING BOARD
CONTRACT ZONE
For
239 COUNTY ROAD**

November 6, 2023

Applicant/ Property Owner: The applicant/property owners are William, Ryan and Kathleen Chicoine.

Property: The lot is identified as Tax Map 15, Lot 25.001, and is located at 239 County Road.

Consultants: Brandon J. Mazer, Esq. with Perkins Thompson, P.A.

Project Description: The applicant is proposing a facility for a recreational, agricultural, educational and social gatherings.

Site Description: The lot is approximately 108 acres in size with canopy trees, understory trees and shrubs, as well as a stream.

Applicability: Contract Zone regulations identify the Planning Board as having review and public hearing authority.

Zoning: Rural with Manufactured Housing Overlay

Variances: None requested.

Waivers: None requested.

Pursuant to the Application:

Contract Zone discussion was held on November 6, 2023.

The projects and plans and other documents considered to be a part of the approval by the Planning Board in this ruling consist of the following:

Andrew Morrill, PE of BH2M Plans consist of the following:

Sheet 1 – Contract Zone Plan; Dated 11/2022; Revised through 10/16/2023; Received 10/16/2023

Other documents submitted consist of the following:

Contract Zone Application – 10/16/2023

Draft Contract Zoning language - 10/16/2023

CHAPTER 1, ZONING, SECTION 1-1 GENERAL

H. CONTRACT ZONING (l) Pursuant to 30-A M.R.S.A., Section 4352(8), conditional or contract zoning is hereby authorized for: a) non-residential development where, for reasons such as the unusual nature or unique location of the development proposed, the Town Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned, or...

All rezoning under this section shall establish rezoned areas which are compatible with the existing and permitted uses within the original zones. Contract or conditional zoning involving residential uses shall be allowed only when those residential uses are allowed by the original zoning. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan...

(4) Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example: (a) Limitations on the number and types of uses permitted; (b) Restrictions on the scale and density of development; (c) Specifications for the design and layout of building and other improvements; (d) Schedules for commencement and completion of constructions; (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects; (f) Preservation of open space and buffers, and protection of natural areas and historic sites; (g) Contributions toward the provision of municipal services required by the development; and (h) Provisions for enforcement and remedies for breach of any condition restriction.

PROPOSED MOTIONS:

Move to send the proposed Contract Zone Agreement to the full Board for workshop review and recommendations.

OR

Move to send the proposed Contract Zone Agreement to the Ordinance Committee for workshop review and recommendations.

OR

Move to send the proposed Contract Zone Agreement to the next available Planning Board meeting for a public hearing.

**CONTRACT ZONING AGREEMENT
BETWEEN
WILLIAM CHICOINE, KATHLEEN CHICOINE, RYAN CHICOINE,
AND TOWN OF GORHAM**

THIS CONTRACT ZONING AGREEMENT, (the "Agreement"), made this day of 2023, 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 William Chicoine, Kathleen Chicoine, and Ryan Chicoine (collectively, the "Chicoines") with a mailing address of 4 Dolphin Ave, Old Orchard Beach, Maine 04064.

WHEREAS, the Chicoines are the owners of property located at 239 County Road, Gorham, Maine 04038 as recorded in the Cumberland County Registry of Deeds at Book 37902 and Page 155 (hereinafter "the Property"); and

WHEREAS, the Property is shown on the Town of Gorham Tax Map 15, Lot 25-1 and 24-203; and

WHEREAS, the Property is currently located in a portion of a Rural District encompassed by a Manufactured Housing Park Overlay District and is approximately 108.35 acres in area; and

WHEREAS, the Chicoines' intended development of the Property ("the Project") would include a great number of agricultural uses permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the production and on-site sale of apples, strawberries, blueberries, raspberries, cranberries, pumpkins, hops, honey, maple syrup, flowers, and Christmas trees; the keeping of farm animals; and provision to the public of educational opportunities on topics including, but not limited to, tree cultivation, beekeeping, and wreath making; and

WHEREAS, the Project would include certain ancillary recreational uses not currently permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the construction and operation of commercial outdoor recreational facilities such as curling rinks, pickle ball courts, a disc golf course, and a trail system for walking, snowshoeing, and cross-country skiing; and

WHEREAS, the Project would include certain ancillary commercial uses not currently permitted in the Rural District as modified by the Manufactured Housing Park Overlay District, including the construction and operation of a conference center/banquet hall for community, social, and charitable events, such as cornhole tournaments, craft fairs, dances, and weddings; a retail store in the form of a restaurant; a facility for brewing in the form of a microbrewery/tasting room; a performing arts center/amphitheater; and a campground comprised of yurts and a tree house; 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 Section 1-1(H), of the Gorham Land Use and Development Code (the "Code"); and

Commented [MAB1]: GIS does not indicate that this is in the overlay district. If it is, would taking this out of the overlay leave sufficient area in the MHPOD such that manufactured housing remains a viable use in the Town?

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

WHEREAS, the Project is consistent with the Rural District's purpose of securing for the Town's residents the "economic, recreational, and scenic benefit[s]" of continued agricultural use; and

WHEREAS, the rezoning will be consistent with the goals of the Gorham Comprehensive Plan Update of 2016, as amended in 2021, by "protecting the State's rural character," "continu[ing] to diversify the business base to build a stronger community," "promot[ing] and protect[ing] the availability of outdoor recreation opportunities," and "[p]romot[ing] a working rural landscape including a wide range of agricultural . . . activities in the designated rural and resource areas"; and

WHEREAS, the Town, by and through its Town Council, has determined that said rezoning will be pursuant to and consistent with the Town's Comprehensive Plan and has authorized the execution of this Agreement on <>, 2023;

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 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 into Code Section 1-1(C), by adopting the map change amendment shown on Attachment 1.
2. Definitions and Permitted Uses. The Chicoines are authorized to conduct any of the following uses on the Property without additional Town Council authorization. Except where specifically defined herein, all Permitted Uses shall be defined pursuant to Chapter 1 of the Code.
 - a. All Permitted Uses and Special Exceptions allowed in the Rural District
 - b. All Permitted Uses allowed in the Manufactured Housing Park Overlay District
 - c. Campground
 - d. Commercial Outdoor Facilities
 - e. Commercial School
 - f. Conference Center or Banquet Hall
 - g. Event Center An indoor or outdoor facility where private parties may hold weddings, receptions, reunions, performances, sporting events and other special gatherings.
 - h. Light Industrial Use

Commented [MAB2]: This seems to largely overlap with the ordinance definition of Conference Center, so not sure if it's needed?

- i. Mobile Vending Unit
- j. Retail Store
- k. Tree House: A cabin or similar structure suspended off the ground and maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes.
- l. Yurts: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing or sewage disposal hookup.
- m. Additional Uses ~~Allowed~~ allowed with Town Council ~~a~~ Approval.

3. Consistency. After conducting a public hearing on _____, 2023, with public notice as required by 30-A M.R.S. § 4352(8), the Planning Board has determined that the contract rezoning hereunder is consistent with the Comprehensive Plan, which is a "growth management" plan, and establishes a rezoned area consistent with existing and permitted uses with the original Rural District and - Manufactured Housing Park Overlay District.

4. Performance Standards. All development and uses shall be subject to all applicable performance standards set forth in Chapters 1 and 2 of the Code, except as follows:

- a. The development shall provide a minimum of 250 total parking spaces.
- b. Building locations shall be as generally shown on the provided concept plan appended to this document. Modifications to the locations of any buildings may be made as part of the Planning Board review process without requiring a modification of this Agreement, as long as such modifications do not result in a substantial change to the building massing as shown on Exhibit A.
- c. An Event Center event may not exceed a capacity of 500 attendees. Notwithstanding the foregoing, an Event Center may hold up to 6 events per calendar year that exceeds such capacity. When calculating capacity, event staff, (including any third party caterers), shall not count towards the capacity cap.
- d. A Mobile Vending Unit shall not be required to be removed from the Property every day and may remain on the Property for up to seven (7) consecutive days.
- e. There shall be no more than ten (10) Yurts located on the Property. A Yurt shall not be considered a Dwelling Unit for building code purposes but shall be considered a structure requiring a building permit prior to construction; provided, however, that as conditions of permitting, the Chicoines shall provide structural plans for the Yurts satisfactory to the CEO, and the Chicoines shall provide evidence of liability insurance sufficient to cover any third-party claims relating to the structural failure of any Yurt.

Commented [MAB3]: Note that this is double what is allowed as an agritourism use.

5. Dimensional Standards. All development on the Property shall comply with the following dimensional requirements, which shall apply to the Property as a whole (as if the Property were a single lot) and not to individual buildings, except for maximum building height:

- a. Minimum lot size: None
- b. Minimum lot area per dwelling unit: None
- c. Minimum street frontage: 200 ft.
- d. Minimum front yard setback: 70 ft.
- e. Minimum side and rear setbacks: 50 ft.
- f. Maximum building height: 65 ft. (excluding the Tree House)

Commented [MAB4]: Why no minimum lot size? The plan seems to indicate the sale of at least 5 outparcels. Should it just be the underlying rural district requirement? Or similar to agritourism's 10/20 acre requirement?

Commented [MAB5]: Not applicable because there won't be any dwelling units?

Commented [MAB6]: What does this mean? That a tree house can be higher than 65 feet? Note that there is no max building height in the rural district.

6. Other Requirements. All development on the Property shall comply with the following requirements related to the physical development and operation of the Property: [ANY?]

- [Noise restrictions Chapter 2, Performance Standards Section 2-1 Environmental, H. Noise Abatement, which are required for agritourism?](#)
- [Event permit requirement per agritourism performance standards?](#)
- [Hours of operation?](#)

7. Agreement to Be Recorded. The Chicoines shall record this 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 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 Chicoines or its successors in interest to the Property.

9. Site Plan Review. Approval of this Agreement will not serve as a waiver of site plan review if otherwise required by the Code.

The above stated restrictions, provisions, and conditions, are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Chicoines, any entity affiliated with the Chicoines, 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 officials and employees. The provisions of this Agreement, including the permitted uses listed in Section 2, the performance standards described in Section 4, and the dimensional requirements listed in Section 5, are intended to replace the uses and dimensional restrictions of the Rural District standards set forth in Section 1-8 of the Code. The above restrictions, provisions and conditions are an essential part this

Commented [MAB7]: And MHPD?

Agreement, shall run with the Property, shall bind the Chicoines, their successors in interest and any assigns of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Gorham. If any of the restrictions, provisions, conditions, or portions of this Agreement is 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 and any applicable amendments thereto or replacement thereof.

This 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 determination of a zoning violation by the Code Enforcement Officer, the Town Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

In the event that the Chicoines or their successors or assigns fail to develop and operate the Property in accordance with this Agreement, or in the event that any other breach of any conditions 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 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.

[SIGNATURES ON THE FOLLOWING PAGE]