

**Town of Gorham  
 Planning Board Meeting  
 December 4, 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 and M15 L24-203. Zoned, R-MH. The applicant is represented by Brandon J. Mazer, Esq. with Perkins Thompson.

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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
Planning Board – Public Hearing		December 4, 2023

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 should 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 the agenda for a public hearing for the applicant's proposed Contract Zone. This is the second time the contract zone language has come before the Planning Board. The Board held a workshop in November 2023 and decided to send it for this public hearing. The Board reviewed a sketch site plan in June 2023. As a reminder, the Planning Board makes recommendations to the 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 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 124 acres.

The applicant is represented by Brandon Mazer, Esq. with Perkins Thompson.

## 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

- The Contract Zone language dated 11/21/2023 has been reviewed by the Town Attorney, with comments shown in redline in Section 5 of this document.
  - The comments from the Town Attorney regarded a change to:
    - Reduce redundant language
    - Clarify distinctions between indoor and outdoor event facilities
    - Separate lists of permitted uses that do, and do not, require Town Council approval
  - The Planning Board may recommend that the Applicant make revisions to the Contract Zone draft language to address these concerns raised by the Town Attorney.
- An additional draft of the Contract Zone, dated 11/29/2023, was submitted by the Applicant.

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- This draft was submitted within several working hours of the deadline to complete staff notes, and has not been reviewed by the Town Attorney. A redline showing the difference between the 11/21/2023 draft reviewed by the Town Attorney and the 11/29/2023 version of the Contract Zone is included in Section 5 of this document.
  - The 11/29/2023 draft revisions include:
    - Update to site area from 108.35 to 124 acres
    - Removes references to specifically numbered residential lots
  - Approval of the Contract Zone does not waive the requirement for Subdivision and Site Plan reviews.

### Comprehensive Plan

- The comprehensive plan calls for the entirety of parcels M15, L25-1 and M15 L24-203 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 near future. Therefore, these areas are considered appropriate for natural resource-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 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.

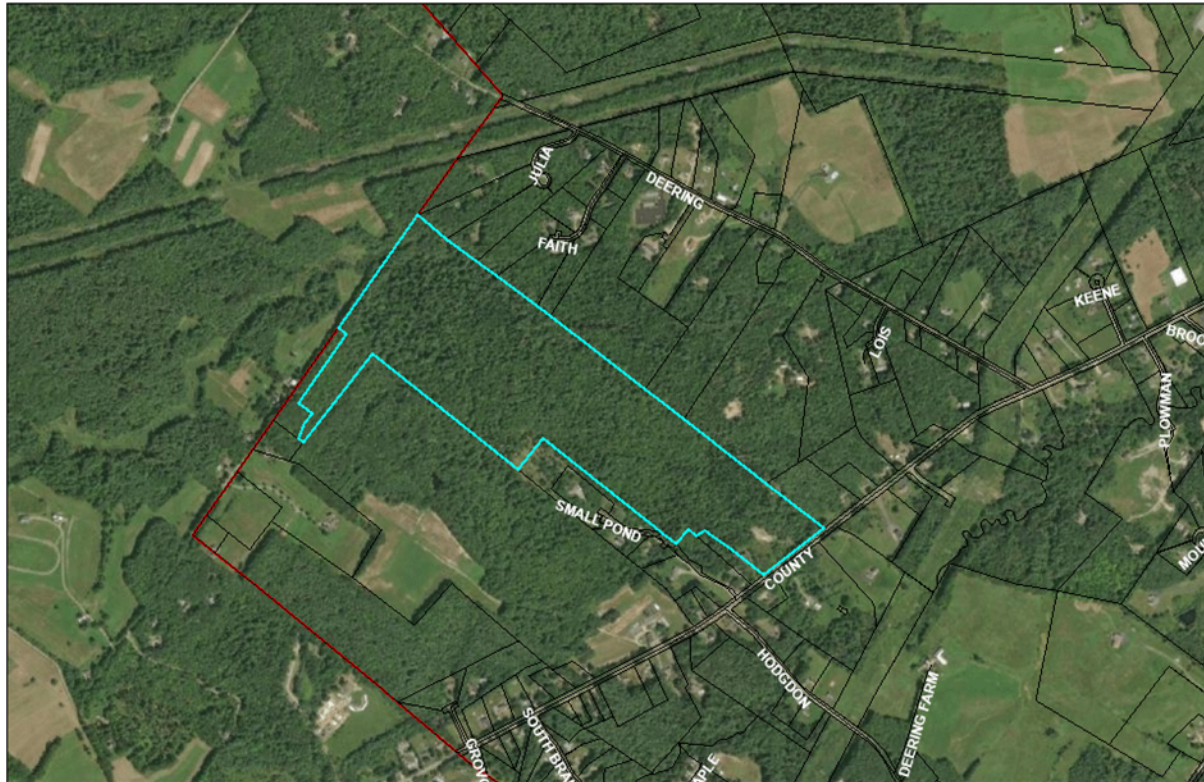
### Historic Preservation & Natural Resource Protection

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.

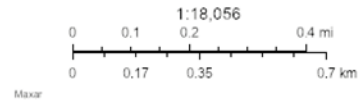
### 3. AERIAL PHOTOGRAPH

Town of Gorham Public Map Viewer



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- Roadways
- ▭ Parcels
- ▭ Gorham Town Boundary



Public User  
Town of Gorham

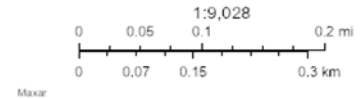


Town of Gorham Public Map Viewer



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- Roadways
- ▭ Parcels
- ▭ Parcel Labels
- ▭ Gorham Town Boundary



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 plan set with code analysis meeting all 2015 MUBEC.

Thanks  
Chris Poulin  
Town of Gorham  
Code Enforcement  
CEO, LPI

**Director of Community Development:** No comments

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

Contract Zone

M15/L25-1 & M15/L24-203

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**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 can't be 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 driveways will be allowed off the Hammer Head. Please show driveways in 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 the Police and Fire Chief as well as be properly posted.

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Contract Zone  
M15/L25-1 & M15/L24-203

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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. **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; 11/27/2023

**\*\*\*SEE LEGAL COMMENTS IN SECTION FIVE – TRACK CHANGES**

**Police Department:** No comments

**Public Works Department:** No comments

**Recreation Department:** No comments

**Abutter Comments:** 10/23/2023

Evlyn Doyle 10/23/2023

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

Contract Zone

M15/L25-1 & M15/L24-203

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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) driveway 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 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 W LEGAL REVIEW COMMENTS**

See language provided by applicant below. This is the draft provided on November 21, 2023. Legal review of the document has been incorporated by the Town Attorney and was provided on November 27, 2023.



**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, ~~their successors in interest to the Property~~ (collectively, the “Chicoines”) with a mailing address of 4 Dolphin Ave, Old Orchard Beach, Maine 04064.

**Commented [NLB1]:** This language is unnecessary since the Agreement states on the last page both that the Agreement runs with the property and what happens if either the current owners fail to comply with the terms.

**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 one of the Town of Gorham’s Rural Districts 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, 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, 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 other ancillary commercial uses not currently permitted in the Rural 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. Campground
- c. Commercial Outdoor Facilities
- d. Commercial School
- e. Conference Center or Banquet Hall
- f. Event Center: An indoor or outdoor facility where private parties may hold weddings, receptions, reunions, performances, sporting events and other special gatherings.
- g. Light Industrial Use
- h. Mobile Vending Unit

**Commented [NLB2]:** An indoor facility that allows conferences, seminars, weddings, family gatherings, parties and like or similar events is defined as a conference center or banquet hall in Sec. 1-5. I see that this may be necessary to allow outdoor events and also sporting events, but couldn't this be revised so that the uses don't overlap? Mark asked about this in his comments.

- i. Retail Store
- j. Tree House: A cabin or similar structure suspended off the ground maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes and which has no plumbing or sewage disposal hookup.
- k. Yurts: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing or sewage disposal hookup that does not exceed 850 square feet.
- l. Other Uses found by Town Staff to be accessory to existing allowed Uses.

m. Additional Uses allowed with Town Council approval

Any other uses must receive Town Council approval.

3. **Consistency.** After conducting a public hearing on [REDACTED], 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.

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 exceed 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, provided that such Mobile Vending Unit is located in defined parking areas constructed for that purpose.
- 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

**Commented [NLB3]:** The previous list is of permitted uses that do not required Town Council approval. This should be listed separately since it requires Town Council approval for uses not listed above.

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structure requiring a building permit prior to construction; provided, however, that as conditions of permitting, the Chicoines shall (i) provide structural plans for the Yurts satisfactory to the CEO; (ii) provide evidence of liability insurance sufficient to cover any third-party claims relating to the structural failure of any Yurt and (iii) equip each Yurt with a monitored fire alarm system in lieu of any sprinkler or other fire suppression system that may otherwise be required under any applicable building codes.

- f. Building permits will not be issued for any Yurt or Tree House on the Property unless the Chicoines or their successors in interest submit plans for such Yurt or Tree House, bearing the stamp of a professional engineer licensed to practice in the State of Maine, to the Code Division of the Town of Gorham's Community Development Department.
- g. Any Yurt or Tree House on the Property built or placed on the Property shall be built in such a way as to comply with any applicable provisions of the Americans with Disabilities Act (12 U.S.C. § 12101 et seq.).

**5. Dimensional Standards.** All development on the Property, except for any development on Residential Lots 1–5, 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: N/A
- 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)

Any development on Residential Lots 1–5 shall comply with the following dimensional requirements, with such calculations being performed based on the dimensions of the specific lot the development takes place on, rather than the Property as a whole.

- a. Minimum lot size: 40,000 sq. ft.
- b. Minimum lot area per dwelling unit: None.
- c. Minimum street frontage: 100 ft.
- d. Minimum front yard setback: 50 ft.
- e. Minimum side and rear setbacks: 20 ft.
- f. Maximum building height: None.

**6. 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.

7. **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~~their successors in interest to the Property.

8. **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 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]



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:

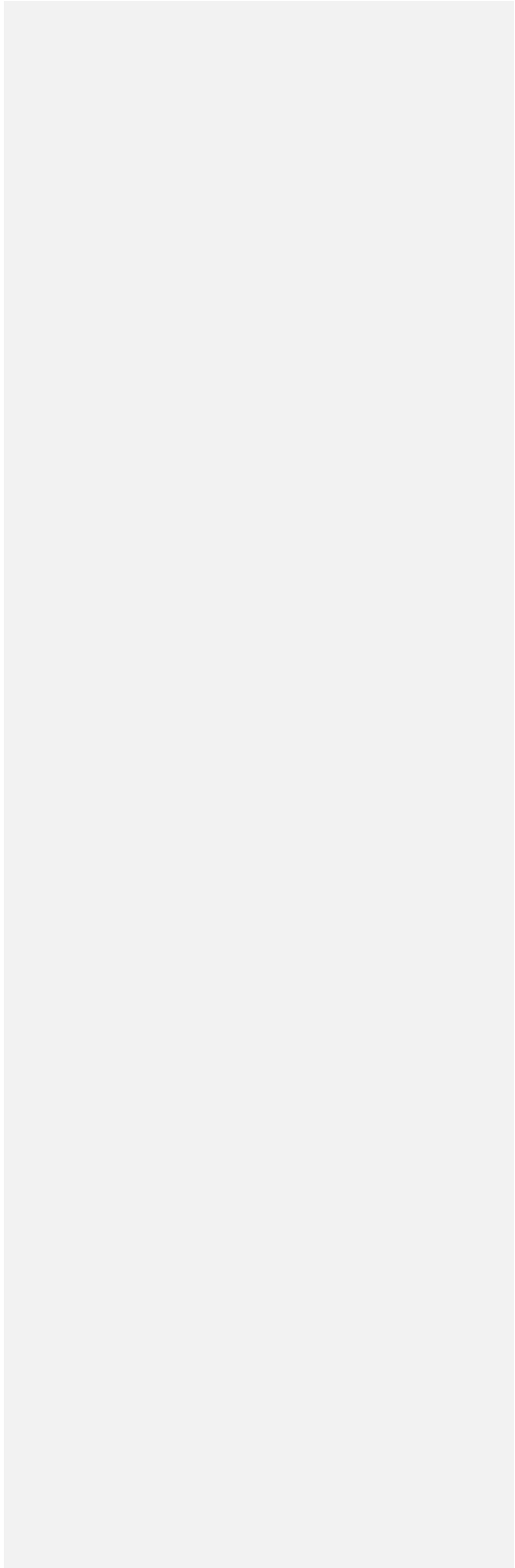
\_\_\_\_\_

\_\_\_\_\_  
Kathleen Chicoine

WITNESS:

\_\_\_\_\_

\_\_\_\_\_  
Ryan Chicoine



STATE OF MAINE  
CUMBERLAND, ss. \_\_\_\_\_, 2023

Personally appeared the above-named \_\_\_\_\_, Town Manager of the Town of Gorham, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Gorham.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss. \_\_\_\_\_, 2023

Personally appeared the above-named William Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss. \_\_\_\_\_, 2023

Personally appeared the above-named Kathleen Chicoine and acknowledged the foregoing to be her free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

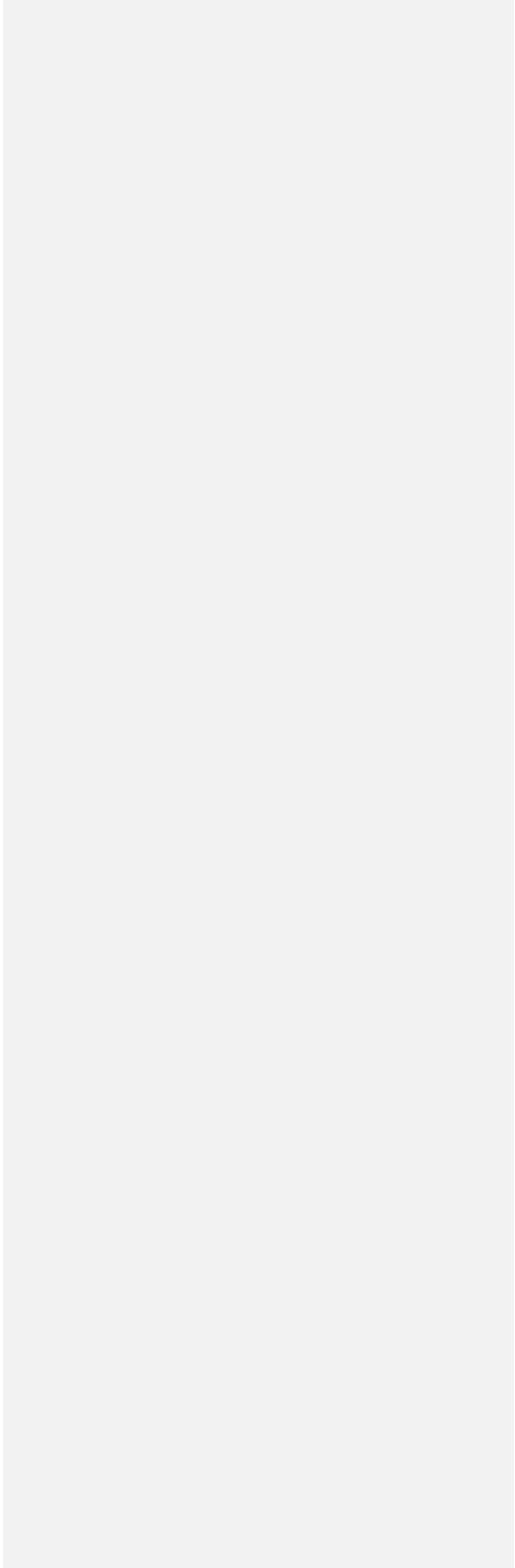
\_\_\_\_\_, 2023

Personally appeared the above-named Ryan Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**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, their successors in interest to the Property (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 one of the Town of Gorham’s Rural Districts and is approximately ~~108.35~~ 124 acres in total 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, 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, 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, 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. Campground
- c. Commercial Outdoor Facilities
- d. Commercial School
- e. Conference Center or Banquet Hall
- f. Event Center: An indoor or outdoor facility where private parties may hold weddings, receptions, reunions, performances, sporting events and other special gatherings.
- g. Light Industrial Use
- h. Mobile Vending Unit



- i. Retail Store
- j. Tree House: A cabin or similar structure suspended off the ground maintained for occupancy as temporary living quarters for recreation, education, or vacation purposes and which has no plumbing or sewage disposal hookup.
- k. Yurts: A round, domed shelter of cloth or canvas on a collapsible frame with no plumbing or sewage disposal hookup that does not exceed 850 square feet.
- l. Other Uses found by Town Staff to be accessory to existing allowed Uses
- 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 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, provided that such Mobile Vending Unit is located in defined parking areas constructed for that purpose.
- 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 (i) provide structural plans for the Yurts satisfactory to the CEO; (ii) provide evidence of liability insurance sufficient to cover any third-party claims relating to the structural failure of any Yurt and (iii) equip each Yurt with a monitored fire alarm system in lieu of any sprinkler or other fire suppression system that may otherwise be required under any applicable building codes.

- f. Building permits will not be issued for any Yurt or Tree House on the Property unless the Chicoines or their successors in interest submit plans for such Yurt or Tree House, bearing the stamp of a professional engineer licensed to practice in the State of Maine, to the Code Division of the Town of Gorham's Community Development Department.
- g. Any Yurt or Tree House on the Property built or placed on the Property shall be built in such a way as to comply with any applicable provisions of the Americans with Disabilities Act (12 U.S.C. § 12101 et seq.).

5. **Dimensional Standards.** All development on the Property, except for any residential development ~~on Residential Lots 1-5~~, 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: N/A
- 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)

Any residential development ~~on Residential Lots 1-5~~ shall comply with the following dimensional requirements, with such calculations being performed based on the dimensions of the specific lot the development takes place on, rather than the Property as a whole.

- a. Minimum lot size: 40,000 sq. ft.
- b. Minimum lot area per dwelling unit: None.
- c. Minimum street frontage: 100 ft.
- d. Minimum front yard setback: 50 ft.
- e. Minimum side and rear setbacks: 20 ft.
- f. Maximum building height: None.

6. **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.

**7. 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.

**8. 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 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]

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

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2023

Personally appeared the above-named \_\_\_\_\_, Town Manager of the Town of Gorham, and acknowledged the foregoing to be his free act and deed in his said capacity, as duly authorized, and the free act and deed of said Town of Gorham.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2023

Personally appeared the above-named William Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2023

Personally appeared the above-named Kathleen Chicoine and acknowledged the foregoing to be her free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2023

Personally appeared the above-named Ryan Chicoine and acknowledged the foregoing to be his free act and deed.

Before Me,

\_\_\_\_\_  
Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

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

**December 4, 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 Tax Map 15 Lot 24 -203, 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 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. A Public Hearing was held on December 4, 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.
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Other documents submitted consist of the following:

Contract Zone Application – 10/16/2023

Draft Contract Zoning language - 10/16/2023; Revised 11/21/202; and version revised 11/29/2023

## **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 Town Council with a recommendation for a public hearing and for adoption.