

February 22, 2021

John Scarinza
Building Inspector
Town of Gorham
20 Park Street
Gorham, NH 03581

Re: Polaris Adventures at Northeast Snowmobile & ATV Rentals (d/b/a Winter Fun, Inc.); Request for Zoning Decision

Dear Mr. Scarinza:

I am requesting that you make an administrative decision that the Gorham Zoning Ordinance (amended March 10, 2020) does not permit the use proposed by Polaris Adventures at Northeast Snowmobile & ATV Rentals (d/b/a Winter Fun, Inc.) (“Northeast”) in its recent site plan submitted to the Gorham Planning Board. See Attachment 1. I represent The Neighborhood of Union Street/Country Lane, which includes abutters and near neighbors of Northeast’s proposed business location.

The site plan states that the parking area can accommodate “approximately 175 four seat UTVs” and that “100 units will be stored on site.” See Attachment 1 at note 19. The proposed location is in the Commercial A district. In the Commercial A district, some uses are permitted as of right and others are allowed by special exception. Article IV of the Zoning Ordinance clearly states how the lists of uses should be applied, stating as follows: “It is the intent of this Ordinance that no other uses be allowed. Uses not listed are neither Permitted nor allowed by Special Exception or Conditional Use Permit.” The rental of ATVs is not a listed permitted use or a use allowed by special exception and therefore requires a variance in the Commercial A district.

“Retail establishments” are a permitted use in the Commercial A district. However, not *all* retail establishments are permitted. For example, “automobile, truck, RV or mobile home sales” are only permitted in the Commercial B district. Note 18 of the Revised Plan states that “[t]he northerly end of the building will utilize approximate 1500 s.f. for retail operations” but does not specify what goods will be for sale. If gear, clothing, accessories, etc., will be for sale, that would clearly be permitted retail. However, if ATVs will be for sale, that would be akin to vehicle sales that are permitted in Commercial B but not in Commercial A.

If the retail portion of this Northeast’s proposed use is a type of retail that is permitted in Commercial A, Northeast’s proposed *non-retail* uses that are *not* listed in Article 4.3.B are not permitted and require a variance. The site plan includes a “rental and training area,” and, per note 19, the “shaded ATV/UTV parking area can accommodate

approximately 175 four seat UTVs.” An applicant cannot propose a permitted retail component that will bring in other non-permitted uses on its coattails. If a retail gun shop is permitted, for example, it does not follow that a shooting range out back is part of the permitted use.

Although an incidental secondary use may be allowed with a permitted use, Northeast’s rental business is clearly the primary business. Although Northeast might argue otherwise by pointing to Note 19 and comparing the 1,500 s.f. for retail and the 1,200 s.f. for rental operations, that would be missing the forest for the trees. Note that Northeast has represented that “[w]e are not expanding our operations, we are just moving to a new location which better fits our growth from last summer.” See Attachment 2. Note, too, that Northeast’s website does not show any retail (<https://northeastsnowmobile.com/>). The proposed use is an ATV rental business.

One significant reason that an ATV rental business is not a permitted use or allowed by special exception by the Zoning Ordinance is noise. Even the most well-managed ATV rental business is disruptively noisy for many surrounding uses and especially here where Northeast’s proposed location is abutted by the Residential A district on two sides. This underscores the reason why certain uses are permitted in the Commercial A district and why some are not. Judge Macleod recognized in the Stearns v. Town of Gorham case that ATV use is appropriate in certain areas and not appropriate in others, stating that “OHRV use is neither a ubiquitous nor even a common feature of our modern environment” and their use “is reserved exclusively for recreation in designated areas.” See Attachment 3 at p. 6. A major purpose of the Zoning Ordinance’s districts and varying permitted uses is to make abutting uses at least somewhat compatible. Here, an ATV rental business that is not even expressly permitted by the Zoning Ordinance is not compatible with abutting and nearby residences, many nearby businesses, and the Master Plan’s emphasis on having a walkable downtown Gorham. See Attachment 4. As for noise, it would not make sense for a special exception to be required to keep even one chicken at a single-family home in the Commercial A district but treat an ATV rental business as a permitted “retail” use. See Article 4.3.C.3. “Retail” cannot reasonably or fairly be interpreted to be a catchall that includes an ATV rental business.

Finally, with ATV use in Gorham being a newsworthy and controversial topic over the past few years, if such a use was actually intended to be permitted in the Commercial A district, the Article 4.3.B list would include it. It would at least list rentals of some kind as a permitted use, but it does not. Article IV’s instruction that “[i]t is the intent of this Ordinance that no other uses be allowed” must be given effect. Northeast is free to seek a variance from the Zoning Board; people seek variances all the time. It is under the variance criteria of RSA 674:33 that Northeast’s proposed business would undergo the appropriate scrutiny to determine whether this business is appropriately sited. It is the variance criteria that ask the questions most relevant to whether this use should be allowed in this location in the Commercial A district. Applying the plain language of



the Zoning Ordinance as requiring a variance makes more sense than to interpret “retail” to include an ATV rental and training business.

We request that you issue a decision on whether Northeast’s existing and proposed uses are permitted in the Commercial A district under Article 4.3.B or any other provision.

Please do not hesitate to contact me with any questions.

Sincerely,

Jason Reimers

Cc: Gorham Planning Board

ATTACHMENT 1

ATTACHMENT 2



Northeast Snowmobile & ATV Rentals

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Hello Facebook friends,

I was wondering if you could write a letter of support for Northeast Snowmobile and ATV Rentals for our upcoming site plan review hearing. We have purchased the old Burger King and are proposing moving from 177 Main Street to this new location. We are not expanding our operations, we are just moving to a location which better fits our growth from this past summer. If you would like, you can tune into the hearing scheduled for February 25th at 6:30 pm.

Due to a letter in the Berlin Sun filled with false information, several letters have been written opposing our plan.

The letter should go to Michelle Lutz (mlutz@gorhamnh.org) or Town of Gorham 20 Park Street, Gorham NH 03581 attention: Michelle Lutz

This should be the link to find the zoom meeting information, Zoom.com ID: 831 1541 4908 and Password: 769883

I greatly appreciate your help.

Sincerely,

Terry MacGillivray

ATTACHMENT 3



ATTACHMENT 4

STATE OF NEW HAMPSHIRE
SUPERIOR COURT

COOS, SS.

Docket No. 214-2018-CV-030

Lois Stearns, et al.

v.

Town of Gorham, et al.

ORDER

The plaintiffs are thirteen individual property owners who live in Gorham, New Hampshire, who brought claims for mandamus (Count I), nuisance (Count II), and inverse condemnation (Count III) against the Town of Gorham (“Town”) and the State of New Hampshire, acting through the Department of Transportation (“DOT”) and the Department of Natural and Cultural resources (“DNCR”) (together, the “State”), for damages arising out of the placement of an off-highway recreational vehicle (“OHRV”) trail through the Town, adjacent to the plaintiffs’ properties. By order dated October 15, 2018, the court ruled that Count I was moot and dismissed Count II as it pertained to the State; the court also dismissed Count I as it pertained to the Town. Presently before the court is the State’s motion for summary judgment as to Count III, which the Town has joined. The plaintiffs object. The court conducted a hearing on this matter on February 24, 2020. Based on the parties’ pleadings and arguments, the undisputed material facts, and the applicable law, the court finds and rules as follows.

The following facts are undisputed. In October 2011, DNCR’s Bureau of Trails formally designated the Presidential Rail Trail (“PRT”), a State-owned rail bed in Gorham, as open to public OHRV use. (Gamache Aff. ¶¶ 1, 3, 9.) At the same time, the Bureau of Trails opened a parking lot, located adjacent to U.S. Route 2, to serve as the PRT trailhead.

(*Id.* ¶ 9.) Thereafter, in July 2013, DOT and the Department of Safety (“DOS”) approved the on-highway use of OHRVs along a 2.7-mile segment of Route 2 in Gorham, enabling OHRVs to travel between the PRT trailhead and Gorham businesses. (*Id.* ¶¶ 7, 11.) OHRV use on the PRT and Route 2 in Gorham is allowed only seasonally, from about May 23rd to November 1st each year. (*See id.* ¶¶ 9, 11.)

The plaintiffs each own property that is located in Gorham next to, or near, the PRT, Route 2, or both. (*See id.* ¶ 4, Ex. A-1; *see also* Def.’s Ex. A.) Each of the plaintiffs asserts that public use of OHRVs in Gorham since the PRT was opened in 2011 has deprived them of the use and enjoyment of their respective properties, at least to some degree. (*See, e.g.*, Lois Stearns Dep. at 16:6–17:7; Sandy Lemire Dep. at 65:14–66:2; Diane Holmes Dep. at 45:13–46:6; Michael Pelchat Dep. at 28:2–10; Nancy Neil Dep. at 16:12–17; Bruce Neil Dep. at 19:10–13; Mark Malia Dep. at 25:15–26:4; Heather Malia Dep. at 17:20–19:18.) The plaintiffs assert that their loss of use and enjoyment of their properties has been caused by the invasion on said properties of dust, exhaust fumes, and/or dust generated by heavy OHRV use along the PRT and Route 2. (*See, e.g.*, Lois Stearns Dep. at 10:20–11:3, 13:21–14:2, 16:6–17:7; Sandy Lemire Dep. at 16:9–17:12, 23:20–24:2; Diane Holmes Dep. at 24:19–25:10; Michael Pelchat Dep. at 17:21–18:17; Nancy Neil Dep. at 16:23–17:15; Bruce Neil Dep. at 18:20–19:2; Mark Malia Dep. at 12:14–19, 13:2–3; Heather Malia Dep. at 17:20–19:18; Audrey Albert Dep. at 32:9–21.) The plaintiffs also complain of unlawful, discourteous, and/or intimidating behavior by OHRV users. (*See, e.g.*, Lois Stearns Dep. at 10:21–13:15; Sandy Lemire Dep. at 23:20–24:19; Diane Holmes Dep. at 25:20–27:20; Michael Pelchat Dep. at 19:21–20:18; Bruce Neil Dep. at 20:7–12.)

The use of OHRVs on the PRT and Route 2 has affected a number of similarly-situated properties in Gorham, and in October 2016, approximately 39 Gorham landowners,

including the plaintiffs, signed a petition asserting that they had lost the enjoyment and use of their properties as a result of nearby OHRV use, and requesting that DNCR terminate OHRV use in Gorham. (*See* State’s Mot. Summ. J., Ex. F.) The Bureau of Trails has received more complaints about OHRV use on the PRT and the Route 2 parking area in Gorham than in any other location in New Hampshire. (Gamache Dep. at 61:18–20, 62:5–12.) In response, the Bureau of Trails has investigated ways in which to mitigate the impact OHRV use has on Gorham residents, however, to date, the PRT and Route 2 in Gorham remain open to public OHRV use. (*See* Gamache Dep. at 63:5–69:12.)

The plaintiffs brought this action seeking to recover inverse condemnation damages arising from the defendants’ actions in allowing OHRV use on the PRT and Route 2 in Gorham. The defendants now move for summary judgment on the plaintiffs’ inverse condemnation claim, arguing that the plaintiffs’ injuries are not sufficiently direct, sufficiently peculiar, or of sufficient magnitude to amount to inverse condemnation. (*See* Mem. Law Supp. State’s Mot. Summ. J. §§ A–B.) Moreover, they argue that the injuries asserted by the plaintiffs were not the direct, natural, or probable result of the defendants’ actions and, as such, do not support a claim for inverse condemnation. (*See id.* § C.) The plaintiffs object, arguing that genuine issues of material fact preclude summary judgment at this stage of the proceedings. (*See generally* Pls.’ Obj. to State’s Mot. Summ. J.)

Summary judgment is proper “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits filed, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” RSA 491:8-a, III. “An issue of fact is ‘material’ for purposes of summary judgment if it affects the outcome of the litigation under the applicable substantive law.” *VanDeMark v. McDonald’s Corp.*, 153 N.H. 753, 756 (2006) (citation

omitted). The moving party bears the burden of proving its entitlement to summary judgment. *Concord Grp. Ins. Cos. v. Sleeper*, 135 N.H. 67, 69 (1991). In evaluating a motion for summary judgment, the court considers “the evidence in the light most favorable to the party opposing the motion, giving that party the benefit of all favorable inferences that may be reasonably drawn from the evidence.” *Id.*

“Inverse condemnation occurs when a governmental body takes property in fact but does not formally exercise the power of eminent domain.” *Sundell v. Town of New London*, 119 N.H. 839, 845 (1978). In this context, “property” can refer to the right to “use and enjoy a thing, and is not limited to the thing itself.” *Id.* “Governmental action which substantially interferes with, or deprives a person of, the use of his property in whole or in part, may therefore constitute a taking, even if the land itself is not taken.” *Id.* To rise to the level of a taking, however, government interference “must be more than mere inconvenience or annoyance and must be sufficiently direct, sufficiently peculiar, and of sufficient magnitude to cause us to conclude that fairness and justice, as between the State and the citizen, requires that the burden imposed . . . be borne by the public and not by the individual alone.” *Id.* (quotation omitted). In New Hampshire, “[courts] look to the individual circumstances of each case to determine whether there is an unconstitutional taking.” *Pennichuck Corp. v. City of Nashua*, 152 N.H. 729, 733 (2005).

The defendants first argue that their actions did not result in a taking because the injuries alleged by the plaintiffs are not sufficiently peculiar to the plaintiffs’ properties. (Mem. Law Supp. State’s Mot. Summ. J. § A.) The defendants contend that in order to meet the peculiarity requirement of an inverse condemnation claim, the plaintiffs are required to show that their injuries are unique to their properties as compared to other similarly-situated properties near the PRT and Route 2 in Gorham. (*Id.* at 8.) Because a large number

of properties in Gorham are subject to excess noise, dust, and exhaust fumes generated by OHRV use, the defendants argue that the plaintiffs' injuries do not constitute a taking as a matter of law. (*See id.*)

The legal standard that the defendants advocate is derived from precedents addressing what the United States Supreme Court has described as "legalized nuisances." *See United States v. Causby*, 328 U.S. 256, 262 (1946); *Richards v. Washington Terminal Co.*, 233 U.S. 546, 554 (1914); *see also Spiek v. Michigan Dep't of Transp.*, 572 N.W.2d 201, 208 (Mich. 1998). Such legalized nuisances typically include the "persistent passing of trains on a railroad, or planes in the air, or vehicles on the road." *Spiek*, 572 N.W.2d at 208. Generally, "[a]ny diminution of the value of property not directly invaded nor peculiarly affected, but sharing in the common burden of incidental damages arising from the legalized nuisance, is held not to be a 'taking' within the constitutional [sense]." *Richards*, 233 U.S. at 554. Such "immunity," however, extends only to "damages [that] naturally and unavoidably result from the proper conduct of the road and are shared generally by property owners whose lands lie within range of the inconveniences necessarily incident to proximity to" the road. *Id.* This principle is "founded upon necessity," as to hold otherwise could, for example, "bring the operation of railroads to a standstill," *id.* at 555, or "wreak havoc on the state's ability to provide and maintain public highways." *Spiek*, 572 N.W.2d at 210. To constitute a taking, therefore, injuries arising from a "legalized nuisance" must ordinarily be peculiar in kind, not just severity, when compared to other similarly-situated properties. *See id.* at 205.

The court finds the application of these standards to the facts of the instant case problematic, however, because OHRVs differ fundamentally from other legalized nuisances in both their use and application. Whereas automobiles, trains, and airplanes are ubiquitous to everyday life, OHRVs are not. By definition, OHRVs are only used "for pleasure or

recreational purposes.” RSA 215-A:1, VI. Although OHRV use is statutorily permitted on several public highways, *see* RSA 215-A:10, IV(c), it is generally unlawful to operate such vehicles on a majority of state-owned roads, *see* RSA 236:5, and the Bureau of Trails is only authorized to designate state-owned highways as open to OHRV use in Grafton and Coos Counties. RSA 215-A:10, IV(a). Moreover, proposed OHRV trails must meet an extensive list of criteria, including being “reasonably compatible with existing uses.” RSA 215-A:43, II(g). As a result of these regulations, among numerous others, OHRV use is neither a ubiquitous nor even a common feature of our modern environment, unlike the legalized nuisances discussed above. It is reserved exclusively for recreation in designated areas.

The court therefore finds that the legal standard advanced by the defendants, requiring the plaintiffs to prove their injuries differ in *kind* from other properties located in close proximity to the PRT and Route 2 in Gorham, is fundamentally unfair. It would effectively allow the State to foist the burdens of a highly regulated and potentially disruptive recreational activity upon a handful of private landowners without obtaining their consent or compensating them for their losses. The court therefore rules that where, as here, an alleged taking results from government regulation of a purely recreational activity, fairness and justice demand that the injured party may satisfy the peculiarity requirement of an inverse condemnation claim by showing that the alleged injury is peculiar in kind *or* severity when compared to similarly-situated properties. “The right to recover for inverse condemnation . . . cannot be made to depend upon the means by which the property is taken.” *Sundell*, 119 N.H. at 846. Because the defendants argue only that the plaintiffs’ alleged injuries are not peculiar in kind when compared to similarly-situated properties, the court finds that the defendants have not met their burden of proving their entitlement to judgement as a matter of law.

The defendants next argue that the interference alleged by the plaintiffs is not substantial or frequent enough to rise to the level of a taking. (Mem. Law Supp. State’s Mot. Summ. J. § B.) They contend that the plaintiffs’ “claim cannot survive summary judgment solely on the strength of their common assertion that OHRV use is disruptive and has limited the outdoor use of their properties in that they no longer enjoy hosting friends or family at their homes for outdoor gatherings.” (*Id.* at 14.) Upon reviewing the plaintiffs’ depositions and other exhibits, the court disagrees with the defendants’ characterization of the plaintiffs’ alleged injuries as mere annoyances. The court views the excessive noise, dust, and exhaust fumes complained of by the plaintiffs no less invasive than the algae blooms, foul gasses, and odors that resulted in inverse condemnation in *Sundell*. 119 N.H. at 846. As one of the plaintiffs observed at deposition, “I have lost enjoyment of my home, both inside and outside. I live in stress. I live in misery. I leave my home to find peace and when I drive back into my driveway, I don’t even like where I’m going.” (Nancy Neil Dep. at 16:13–17.) It is well-settled in this state that “‘property’ refers to the right to ‘use and enjoy’ a thing, and is not limited to the thing itself.” *Morrissey v. Town of Lyme*, 162 N.H. 777, 783 (2001) (quoting *Sundell*, 119 N.H. at 845); see also *Eaton v. B.C. & M.R.R.*, 51 N.H. 504, 511 (1872) (“Property is the right of any person to possess, use, enjoy, and dispose of a thing.”) (quotation omitted).

The defendants also argue that because OHRV use only occurs for about five months every year, it is too infrequent to rise to the level of a taking. (*Id.* at 14–15.) The court disagrees. The frequency of the interference alleged by the plaintiffs in this case is, again, comparable to the algae blooms at issue in *Sundell*. 119 N.H. 843–44. The court finds that an interference that persists throughout the entire summer, depriving the plaintiffs of the enjoyment of their own homes and backyards from the end of May through the beginning of

November every year, is of sufficient magnitude to constitute a taking.


Finally, the defendants argue that harm alleged by the plaintiffs is not a compensable taking because it was not the direct, natural, or probable result of the defendants' actions. (Mem. Law Supp. State's Mot. Summ. J. § C.) The court addressed the same argument in its October 15, 2018 Order on the defendants' motions to dismiss and repeats what it said there:

While true that th[e] alleged interference is not specifically caused by government actors, these circumstances arose as a direct result of the defendants' specific actions to authorize operation of the OHRV trail in . . . locations adjacent to the plaintiffs' properties. *See Allianz Global Risks U.S. Ins. Co.*, 161 N.H. at 124 (inverse condemnation claims apply in circumstances where "the asserted invasion is the direct, natural, or probable result of an authorized activity and not the incidental or consequential injury inflicted by the action"). In this context, the plaintiffs' allegations are sufficient to demonstrate that the alleged interference with their property rights was the direct, natural, or probable result of defendants' decisions to authorize OHRV activity in their neighborhood.

(Oct. 15, 2018 Order at 12–13.) At this stage of the proceedings, it is undisputed that the defendants opened the PRT and Route 2 in Gorham to OHRV use. The court rules that the defendants have failed to meet their burden of proving their entitlement to judgment as a matter of law.

For the foregoing reasons, the defendants' motion for summary judgment is DENIED.

SO ORDERED, this 9th day of June 2020.


Lawrence A. MacLeod, Jr.
Presiding Justice

CLERK'S NOTICE DATE

10/17/20

CC: *Alyssa Cunningham; Edelman; Wilson; Edwards; Greenstein; Guerin*

ATTACHMENT 5

**Gorham, New Hampshire, Where Trails Begin
2020 Master Plan**

Adopted January 15, 2020

Developed by the Gorham Planning Board

With the assistance of
Community Planning Consultant Tara Bamford

Chapter 1

Introduction

Purpose of the Master Plan

The master plan is a guidance document developed and updated periodically by the Gorham Planning Board. It contains the Planning Board's recommendations on how the town can best balance and achieve the goals of residents for the future of the community. The master plan provides the foundation for land use controls such as the zoning ordinance and subdivision regulations, as well as for other town programs and expenditures.

Process Used to Develop the Plan

Since the master plan is based on residents' goals and desires, public participation is an essential element in the process. The Planning Board began the process with a public workshop to talk in general terms about the town and what people valued the most about life here in Gorham. The features identified by attendees reflected the wide range of benefits Gorham offers due to its vibrant downtown area surrounded by forests and mountains. The characteristics identified most by participants were:

- A walkable downtown with everything you need right here
- Small-town feel, safe, tourist-friendly
- Beauty and opportunities offered by mountains and forests
- Recreation opportunities, including trails for a wide variety of activities
- Centrally located to northeast cities on major US highway

The Planning Board next hired Community Planning Consultant Tara Bamford to conduct a survey to gather input from residents and other landowners on such things as future types of and locations for development, and their opinions on the various tools available to communities to protect natural resources. The survey questions are provided in the Appendix, and the complete results can be found on the town's website at <https://www.gorhamnh.org/planning-board>. When asked "What do you like best about living in Gorham?" responses were very similar to those at the public meeting. The most common themes were as follows:

- Small-town feel/atmosphere/living
 - Quiet, peaceful
 - Safe, low crime rate
 - Friendly people
 - Clean
- Outdoor recreation
 - Beauty, scenic
 - Nature
 - Mountains
- Town services and staff, esp. police, schools, roads, trash/recycling
 - Walkable to amenities/shops
 - Restaurants
 - The Common, events

Responses to more specific questions were consistent with these values. The majority of respondents (80%) favored more development in Gorham. Support for more business development downtown and on the Berlin-Gorham Road was nearly unanimous (97% and 96% respectively). There was a strong focus on the historic and cultural buildings around the Common. Respondents indicated support for town involvement in finding businesses for the vacant downtown buildings, and for more pedestrian facilities. Recognizing the importance of the surrounding landscape, the majority also supported managing the impacts or the location of development to protect the town's water resources and scenic ridgelines and hilltops. Lowering the tax rate by increasing the tax base was a high priority for many respondents.

After receiving and considering the survey results, the Planning Board hired Bamford to assist in developing a master plan for Gorham that strives to maintain the small town atmosphere while increasing the vitality of the downtown, to protect water quality, to maintain the contrast between forested rural areas and neighborhoods, and to strengthen the trails and other outdoor recreation opportunities as an economic driver.

The Planning Board next reviewed local and regional demographic, economic and housing data to better understand and quantify observed needs and trends (*Chapter 2, Community Profile*). The physical limitations of the landscape relative to development and important natural resources were also examined (*Chapter 3, Natural Resources*). A special emphasis was put on strengthening the town's economy. An economic roundtable was held with residents, business owners, and regional and state economic experts to brainstorm on some steps the town could take to build on its assets, and to learn about the many resources available to assist the town. The Planning Board used the information obtained through that workshop and other sources to outline a strategy to grow a strong and diverse economy that capitalizes on the community's strengths (*Chapter 4, Economic*

Development). The Board then spent several meetings thoughtfully examining current land use patterns and considering any changes that might be made to local regulations to ensure that future development provides the desired benefits without undesired impacts (*Chapter 5, Land Use*). The transportation system needed to serve current and future users was also examined (*Chapter 6, Transportation*). Lastly, specific action items and policies were identified along with responsibility for the lead on each (*Chapter 7, Implementation*).

The final step will be implementation by town officials, voters and volunteers. An annual review of the policies and recommendations at a joint meeting of the Selectboard and Planning Board will help ensure that municipal activities and spending priorities remain consistent with the community's vision for the future, within the framework of fiscal responsibility.

Vision for the Future

Downtown

- Has a vibrant, walkable downtown with a variety of year-round small businesses that serve many of the day-to-day needs of residents and visitors.
- Some day-to-day grocery needs can be met without leaving the downtown.
- The downtown has a visible arts, culture and activity element to it.
- A system of sidewalks, bike paths, walking paths and trails connect key destinations, trailheads and parking.
- Amenities such as pedestrian safety features, planters, visible sources of information, benches, and lighting provide a welcoming, positive feel.
- The vicinity of the Town Common and Exchange Street stands out as the town center. New development in and around this focal point has been designed to complement features of the historic structures. Key historic buildings have been restored and well maintained.

Development Patterns

- Business growth has focused on the downtown and on the Berlin-Gorham Road.
- Prospective businesses, whether industry or entrepreneurs, experience Gorham as a business-friendly community starting with their first point of contact.
- Development in the rural areas of Gorham has been compatible with the maintenance of forested areas for recreation, wildlife habitat, watershed protection and scenic beauty. These areas and the town forest provide a transition between the busy downtown and the mountains and forests of the White Mountain National Forest.
- Appropriate safeguards have been put in place to ensure that new development is consistent with protection of water resources.
- A trend toward dark sky compatible lighting has ensured that visitors from cities continue to note with delight the starry night skies.

Community

- Everyone who wants to can easily find a way to experience the feeling of being part of the community, that small-town feel.
- Local seniors find adequate housing, transportation and continued opportunities for engagement in the community.
- Most people still describe Gorham as a very safe place to live, work and play.

Infrastructure and Services

- The US Route 2 upgrade through New Hampshire has been completed.
- US Route 2 and NH Route 16 are both well maintained.
- The local tax rate has been stable through the use of long-term planning and capital reserve funds; no reduction in services has been needed.
- The tax rate has been brought down to the state average by increasing the community's valuation.
- Town leaders cooperate with neighboring communities whenever appropriate for increased efficiency and mutual benefit.
- Emphasis on hazard mitigation has increased to ensure that the increasing frequency of extreme weather events does not dampen the community's economic growth.

Trails

- Every type of trail user has easy access to a quality experience.
- Both motorized and nonmotorized trails continue to be an important part of the town's recreation offerings.
- Trails and related services can be accessed safely, and in a manner compatible with nearby land uses and recreational activities.
- Conflicts between user groups are rare; trail groups work together to mitigate impacts and share resources.

Trail which also passes through Gorham and links to both the Northern Forest Canoe Trail and the Connecticut River Paddlers Trail.

Gorham is one of only two towns in New Hampshire to be recognized in the Appalachian Trail Conservancy's Appalachian Trail Community Program. This has provided an opportunity to capitalize on this recognition and add value to the increased visibility.

A Small Town in the Mountains with a Real Downtown

One of the special things about Gorham is the downtown that is walkable and offers shops and restaurants and activities on the Common and at the Medallion Opera House, but still feels in many ways like a small town. The town's friendliness and other elements of small-town living jumped out as a strength in the master plan survey results. This atmosphere, combined with the strong support for additional development, provides a unique opportunity for those seeking to start a small business or start a family and telecommute or conduct their business remotely.

Lack of Sprawl

Neighborhoods adjoin the downtown and primary transportation corridors. Beyond these neighborhoods are vast areas of forest and mountain. This land use pattern, with a clear contrast between the developed areas and surrounding resource lands, is becoming harder and harder to find in the northeastern U.S. In many communities the dominant land use pattern is single-family homes on large lots, with no clear differences between the various parts of town. Gorham is a great example of the "smart growth" that planners advocate. Young people increasingly seek the benefits of a downtown with close neighborhoods and easy access to outdoor recreation opportunities.

Infrastructure

Gorham's business districts are on state highways with power, broadband, water and sewer. Several vacant downtown buildings provide readily available business sites.

Recommendations

- Build and maintain a local economic action team to actively partner with municipal government, the business community, and regional and state economic development organizations to spearhead and implement projects that will enhance Gorham's economic development.

While working in unison with municipal government is essential, an economic development group that is not an official town committee or board can sometimes have benefits such as the ability to move more quickly and work more closely with local businesses. Participation should include municipal government, of course, as well as banks and other businesses, and

Resilience/climate change

Future development should be located and designed in a manner which will withstand the natural hazards of today and tomorrow. This includes avoiding areas at risk for flooding and riverbank erosion, and ensuring that new development does not increase these risks by creating additional stormwater runoff.

Resilience/economic change

Recent decades have taught us that, especially in today's global economy, over-reliance on one economic engine makes the community vulnerable to economic changes outside of our control. Land use planning should strive to stimulate a diverse local and regional economy.

A vibrant, walkable village center

A vibrant, walkable village center is one of the qualities most valued by residents and provides an asset to improve and build upon to attract new residents and businesses. One key to this is providing incentives to redevelop and develop sites in the village area and surrounding neighborhoods, and disincentives to develop in the large areas of unfragmented forest. This land use pattern is also associated with a lower cost to the town to provide services and facilities.

Working forest

The large tracts of undeveloped forestland that provide economic, natural, scenic and recreational resources are equally important to the quality of life in Gorham for residents and visitors. Land use planning should continue to recognize the importance of these unfragmented forestlands.

Continue to resist sprawl

One of the most unique factors of Gorham from a land use perspective is the lack of sprawl. Many residents value the opportunity to live in a "real neighborhood" with easy access to uncrowded forests and mountains to hike, hunt, or just enjoy the quiet natural surroundings. Land use planning should strive to continue to maintain clear distinctions between village, neighborhoods and forest areas.

Diverse land uses

One of Gorham's strengths is its wide variety of land uses. Land use planning should continue to enable and encourage this diversity, while ensuring that areas are appropriate for the uses allowed, including consideration of existing neighboring uses, development suitability, and town services and infrastructure.

Balance the needs of residents and visitors

Although visitors benefit from the small-town feel and residents benefit from the tourism economy and the opportunities it supports for dining, entertainment and recreation, careful planning is essential to ensure that conflicts are not created when the needs and desires of residents and visitors are not in sync. The neighborhood concerns about the impacts of the increased use of the state's ATV parking area on Lancaster Road is a good example of these unintended consequences.

Steward outdoor recreation

Gorham's wide variety of high-quality outdoor recreation opportunities depend on cooperation among public, private and nonprofit landowners, user groups, and business owners. These recreation opportunities add to the quality of life for existing and future residents and attract visitors to support local businesses. Land use planning should continue to be done with opportunities to steward and strengthen these opportunities in mind.

Diverse housing supply

One of Gorham's strengths is its diverse housing supply. Land use planning should ensure that opportunities continue to be available for people of all ages, abilities and income levels. This should include creative approaches such as senior cottages and mixed use development.

Be agile

A critical element for attracting new residents and businesses is the ability to attract emerging business and housing types. Today a hot topic in business models is "the gig economy," and for housing, it's tiny homes. Tomorrow it will be something else. It is important that Gorham's land use planning tools can respond to change and new demands quickly.

Zoning Districts Today and Tomorrow

In general, the zoning districts as currently mapped present an accurate view of the desired future land use pattern of the community. The districts are described below along with several changes recommended for consideration:

Commercial A – Village Area

In the village area, Commercial A zoning is mixed in with Residential A zoning, both allowing 10,000 sq. ft. lots. On lots zoned Commercial A, a wide variety of business types are allowed, as well as all of the residential uses allowed in Residential A. The commercial development should continue to be of a nature and scale that is consistent with the village environment. On both in-fill and redevelopment sites in the village core, new commercial development should be consistent with a walkable village center environment; new businesses should reinforce its role as the heart of the community for a

Residential B

Similar to Residential A, Residential B is focused on maintaining existing neighborhoods and providing opportunities for additional residential development, on 1-acre lots (minimum size). Residential B lands are scattered around town outside of the village area.

Rezoning portions of land currently zoned Timber and Agriculture along Gorham Hill Road to Residential B, consistent with adjacent lands, would provide additional opportunities for home development in Gorham. Additional land similarly zoned north of town west of Route 16 North may provide similar opportunities. This area would require further study to determine the suitability of soils.

Commercial B

Lands along Route 16 north of Route 2 are zoned Commercial B. Allowed uses are very similar to Commercial A, including residential uses. The main difference is that the minimum lot size is one acre. This area is most suitable for and has seen larger-scale highway commercial development. The highway corridor also has the benefit of views and access to the scenic river and hillsides. Development along the west side of Route 16 is envisioned as being somewhat limited to the immediate highway corridor itself, and not spreading further west. Development on the land zoned Commercial B on the west side of the rail corridor is dependent on a safe, approved rail crossing. Development along the east side of Route 16 in this area needs to be of a slightly smaller scale due to its location along the river.

The Commercial B district is the least well-defined in terms of its mix of allowed uses and a relatively small lot size. With the decline of “big box stores” nationwide, as well as the importance of this transportation corridor, Gorham would benefit from a corridor study that would enable a closer look at the desired land uses and desired land use pattern, and access management tools that would enable continued development that would add to Gorham’s tax base without decreasing the safety of the highway or causing congestion.

Industry

Several areas of town are zoned for more intensive industrial land uses that are not compatible with village activities or residential neighborhoods. These areas should remain designated for industrial uses.

Timber and Agriculture

Significant blocks of undeveloped land are zoned Timber and Agriculture to protect the community’s natural resource base and minimize interference with the forest industry from unrelated land uses. Although the community is fortunate to have a high percentage of protected land within the White Mountain National Forest, Moose Brook State Park, and Town Forest, there are other areas that are