

June 10:

Rod and Andy:

A compensation plan might be a useful component of the Crooker rezoning request. Here are my thoughts on such a plan at the present time:

1. Homeowners within a certain high impact zone around the new batch plant would be eligible for this basic financial compensation package if they decide to move to another part of town or the region within a specified period of time after the new industrial zone is approved at Town Meeting or some other relevant start date. The length of time that compensation would be available would be limited, perhaps three years, but it could be extended if market conditions make it difficult for homeowners to sell their existing property or buy a new home.

2. The plan would pay basic transaction costs for selling an existing home and buying a new one and for the costs of physically moving to the new location. Transaction costs would include seller fees paid to real estate brokers and fees paid to banks for a new mortgage if applicable. Moving costs would include hiring a moving company to move furniture.

3. The compensation package would be a lump sum payment to the homeowner based on a percentage of the assessed value of their property at the time of the transaction. The percentage would be calculated using normal seller's fees, bank costs and moving expenses typical of this market area.

4. The compensation package would be paid for by the developer out of funds set aside and managed by the Town for this purpose. The Town would pay the homeowner out of this account.

5. The boundaries of the high impact zone would be based on objective criteria, such as the distance that the oily smell from the batch plant can be detected downwind by people with an average sense of smell, sections of roadways affected by an increase in truck traffic, noise, dust emissions and so on.

5. The compensation package would assist homeowners in the high impact zone deal with the negative impacts of the development. Most of the residents affected by this development, which might include homeowners on River Road, White House Crossing Road, Countryside Estates and Lewiston Road, are working class people. These families are generally not upwardly mobile and do not have the money or savings to sell a home and move elsewhere without serious economic loss. In comparison, the cost of the compensation program to the developers is likely to be minimal considering the profits involved in redeveloping the existing Crooker site and the consolidation of Crooker Company operations.

Gary

Gary W. Fogg
20 Coville Road
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June 8:

Rod:

Since you showed so much enthusiasm for my last two questions, I thought I would send you another one as a bonus.

How many Crooker trucks will be going up or down Lewiston Road once the new intersection is completed? The Proposal only talks about the reduction of the trucks going to and from the quarry under the new plan when discussing the impact on Lewiston Road and the residents of the area. What about all the Crooker trucks coming and going to job sites once the plant is relocated?

The trucks must travel down Lewiston Road to get anywhere, even to get to the highway.

Gary

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Rod:

I apologize for writing so soon again and with two more questions that probably cannot be answered. In this case, the question concerns the oily, hot asphalt odor that is emitted by the batch plant during operation.

1. Has Crooker submitted or have you seen any data on how far downwind the odor can be detected by people with an ordinary sense of smell?
2. How long each day on average does the batch plant emit the oily, hot asphalt odor?

If I had this information, I could estimate how often I would smell the batch plant at the location of my house at Coville Road. I have observed the wind patterns around my area of the neighborhood for years because of bird watching, walking, bicycling and so on, and so I have some relatively good data to build upon.

Thank you.

Gary

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June 5, 2020

Rod:

I have two questions about who actually owns Crooker and what their intentions are. I spoke once to John a long time ago and he didn't know the answers at the time, but perhaps the Town knows more now.

1. The Crooker website describes Tom Sturgeon as the CEO. It says he is part owner along with a number of other investors. Do we know who these other investors are and what kinds of projects they have financed in the past?

2. At the time of the sale, Ted Crooker did not disclose if he remained a part owner of the company, but I think John said that Ted retained ownership of the land at the existing Crooker batch plant across from Topsham Fair Mall. Do we know if Ted in fact continues to own the land at Crooker's existing location?

It has occurred to me that consolidating Crooker's operations at the River Road site may not be the only interest that the investors have in this project. Perhaps Ted Crooker as well as the Company's silent investors would like to make money by redeveloping the existing Crooker site. This is not illegal. It may not even be entirely relevant from the point of view of the Planning Board, but if true it does cast a new light on the urgency to accommodate the applicant's desire for rezoning.

Thank you for any information you can provide.

Gary

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June 20, 2020

Don Spann, Planning board chair, and Planning board members,

I attended the planning board meeting via Zoom that was held on June 2nd, and I have some comments regarding Crooker's report on the rezoning request.

The Crooker consultants point out that the Comprehensive Plan Update states:

"Further, this plan recognizes that rural and Land-based businesses may continue to grow, and performance standards may need to be evaluated as part of future zoning amendments to ensure protection of natural resources, and compatibility with working farms and existing residential neighborhoods." Page 134.

The definition that I find for a land based business in sources online includes farming, forestry, fishing, animal husbandry, among some others. None of them include asphalt batch plants. Although I have not found any definition in the Comprehensive plan or zoning ordinance, I don't believe that Crooker's operations were meant to be included, with the exception of the quarry. The consultants are assuming that we accept that Crooker's business falls under this category.

The Update also discusses that any zoning changes be compatible with existing neighborhoods. On page 38, the River Road, Ivanhoe, Birch Ridge, Pejepsco section of town states under zoning improvements :

"Concerns that required commercial buffers and setbacks are inadequate, Concerns with industrial land-use expansion, and Protection of residential quality of life and character."

Some neighborhoods in the surrounding area would be impacted by unpleasant odors coming from the plant. There is a proposed roundabout at the juncture of White House Crossing and Rte 196 which definitely would change the whole character of that area of town, away from the more rural residential feel that it has now. I am concerned that there may be more noise from the trucks, on the proposed road that would lead to Rte 196 and the proposed internal company road. I like the idea of buffer strips to control noise and sight disturbances. However, some buffer strips that I have seen do not seem large enough and are often poorly maintained. Under town ordinances buffer strips can be reduced or waived so I don't have much confidence in them.

I understand that Crooker is a successful business and provides good jobs and helps support Topsham's tax base. I would like you to consider that all the residents around the proposed new industrial zone also pay taxes on their property and vehicles to the town. Just the Ivanhoe neighborhood that I live in contributes a similar dollar amount to the town.

There is mention of reduced green house gas emissions due to decreased truck travel. I would like to know how the number stated in the report was derived. I realize that the trucks going back and forth between the present Crooker site near the mall and the quarry will be eliminated, but there would be truck travel within the site, and also the truck mileage from the new site to I 295, which is obviously longer than what they travel now.

The Crooker report speaks to proposed trails next to the Crooker quarry. I believe that most people are not going to be very excited to take a recreational trail past an industrial site. Speaking for myself, I don't even walk the Brunswick bicycle/pedestrian path beyond a certain point due to it's proximity to Rte 1.

I understand the desire to transform the Crooker zone if and when Crooker leaves it's present site. That is not an argument however for changing zoning to accommodate their departure. I would like to see a way forward using existing industrial zones instead of negatively impacting residential areas.

Sincerely,

Janet U Fogg
20 Coville Rd
Topsham, ME

From: [Gary W. Fogg](#)
To: [Rod Melanson](#)
Cc: [Andrew Deci](#)
Subject: Compensation Plan
Date: Thursday, June 11, 2020 11:08:28 AM

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Rod and Andy:

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Gary

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From: [Robin Brooks](#)
To: [Rod Melanson](#)
Subject: Fwd: neighbor letter re: Crooker rezoning proposal
Date: Tuesday, June 23, 2020 4:57:05 PM
Attachments: [r.brooks_Crooker rezoning letter_June 22.docx](#)

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Dear Rod,
I'm attaching my letter outlining my concerns about the Crooker company's proposal to rezone residential land near my neighborhood. This project has a significant history of citizen input and many concerns have been raised.

The Crooker consultants who presented the latest iteration of Crooker's rezoning proposal did not address any of our prior concerns. They tried to make the case that this rezoning is consistent with the community's vision for the town as outlined in the 2019 Comp. plan update. From my view, nothing could be further from the truth.

Thank you, in advance, for taking the time to read my letter. Please feel free to reach out with any questions you may have. I hope you will share my concerns with the members of the Planning Board.

Sincerely,

Robin Brooks
(pronouns, she, her, hers)

47 Ivanhoe Drive
Topsham 04086
cell 207 232-9734



www.robinbrooksart.com

<https://www.facebook.com/taichieasywithrobin/>

"Nothing in the world is as soft and yielding as water. Yet for dissolving the hard and inflexible, nothing can surpass it. The soft overcomes the hard; the gentle overcomes the rigid." ...Lao-tzu

"Ours is not the task of fixing the entire world at once, but of stretching out to mend the part of the world that is within our reach."
– Dr. Clarissa Pinkola Estés

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From: [Gary W. Fogg](#)
To: [Rod Melanson](#); [Andrew Deci](#)
Subject: Gas Plume
Date: Saturday, June 13, 2020 8:10:21 AM

WARNING: This is an external email that originated outside of our email system. DO NOT CLICK links or open attachments unless you recognize the sender and know that the content is safe!

Rod and Andy:

From Google Earth Pro, I have measured the distance from my address at 20 Coville Road to the approximate location of the hot asphalt plant as 2,900 feet. The compass direction is northwest.

The prevailing winds in our area are westerly or northwesterly in good weather. In summer, the wind often comes from this direction in the morning and then switches to a sea breeze from the southwest or south by 12:00 PM or so. In winter, most of the winds come from the west, northwest or north. Tropical storms cause easterly or southeasterly winds as they approach and then the wind becomes westerly again after they pass.

This means that the neighborhoods lying adjacent to Route 196 northwest and southwest of the current intersection of Whitehouse Crossing Road and Meadow Cross Road lie in the direct path of the fumes emitted by the batch plant during a large part of the seasonal and daily weather cycle. Whether people in these neighborhoods will smell the gas by the time it reaches them I have no idea. There is turbulence and mixing with the air outside the gas plume to consider, plus wind speed, air temperature and other factors, such as topography and tree cover. If the gas can be detected, it will probably come and go with daily and seasonal cycles in wind direction.

I am not sure how much actual information we will get on this subject as a result of the discussion between the applicant's consultants and the Planning Board. It seems to me that we need independent consultants to provide this information, not people hired by the applicant.

Gary

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To:

Message Score: 1

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June 22, 2020

Planning Board
Town of Topsham
100 Main Street
Topsham, ME 04086

Re: Crooker Construction, LLC's Rezoning Proposal

Dear Chairman Spann and Planning Board Members:

I am writing in response to Crooker Construction, LLC's recent rezoning proposal (the "Rezoning Proposal") presentation to the planning board during workshop on June 2, 2020. The agenda posted on the Planning Board's summarized the presentation as follows:

Crooker Construction, LLC is proposing to move its headquarters and manufacturing facilities from its current site across from the Topsham Fair Mall three miles north to undeveloped land near the intersection of Whitehouse Crossing Road and Lewiston Road/Route 196. This move will require a zoning change at the new site from Suburban Residential R2 to some sort of industrial zone. Such a zoning change would have to be approved by the Planning Board, the Board of Selectmen, and the Town Meeting of Topsham.

The rezoning workshop included a presentation by planning consultants Frank O'Hara and Raegan LaRochelle (representing Crooker) and titled "Why the Proposed Crooker Relocation is Consistent with the 2019 Topsham Comprehensive Plan Update". The focus on the presentation was on factors that Crooker believes justify the consistency standard with the comprehensive plan update and proposes some sort of Industrial zone as described in their report for the area proposed to be rezoned from the current Suburban Residential R2 zoning district.

Background

This is the most recent of effort by Crooker to relocate its existing facility now located on Route 196 across from the Topsham Fair Mall to another area in the Town of Topsham. However, instead of relocating to land zoned Industrial, where it owns and operates a sand pit and undeveloped abutting land with access to Route 196, Crooker is seeking to relocate their headquarters, asphalt manufacturing, and construction operation to an established residential neighborhood.

In 2018, Crooker proposed an Industrial zone amendment to the Planning Department, seeking to rezone land from Suburban Residential (R-2) to Industrial (I). The memorandum from Carolyn Eyerman to the Planning Board dated January 24, 2018 (Appendix A) highlights the inconsistency between the zoning change request and the future land use planning policy adopted in the 2005 Comprehensive Plan and the 2013 Route 196 Corridor Study. I want to highlight the Town Manager note included in that memo, which states:

- The Route 196 Corridor Plan Committee did look extensively at increasing the Industrial (I) District, through various options – River Road to the Androscoggin River, land bounded by Route 196/River Road, land on the north side of Route 196. However, there never seemed to be a sufficient impetus or interest to fully pursue any of these options, and residents along River Road at the time were not supportive.

The 2018 process included a series of workshops in the winter and spring of 2018 between the Planning Board and Crooker. The Planning Board proposed a land use regulation table amendment to permit a batch plant in the Rural Commercial Zone as a Conditional Use. This zoning amendment was not passed by Town Meeting. Following the Town meeting vote, Crooker then revised their proposal from Rural Commercial rezoning to Limited Industrial (including one property they don't own), which currently allows a batch plant as a Conditional Use under Chapter 225 Zoning (Appendix B - Land Use Regulation Table). Crooker's 2018 proposal also included rezoning two existing developed residential lots they don't own on River Road to Industrial zoning.

A series of workshops with neighbors and the Planning Board occurred in June and July of 2018 and neighbors raised concerns about the proposal. The public questioned the timing of the rezoning request given the ongoing development of the comprehensive plan update. In an article published in the Forecaster on June 22, 2018, a member of the Ivanhoe neighborhood was quoted "This is going to change the character of our whole area, and not just within 500 feet abutters....It doesn't seem proper for a business to come and ask to have residential property rezoned industrial; that's a huge leap".

At a Planning Board workshop in July 2018, Crooker presented options in an alternatives analysis to relocate in Topsham and free up 103 Lewiston Road. Two options include relocating to existing industrial zone property Crooker owns at Jack's pit with direct access to Route 196. They characterized the level of difficulty to relocate to Jack's Pit as "easier" than the rezoning option as the property is currently zoned Industrial and improves current buffers and shorten the quarry truck haul distance.

The Planning Board requested that Crooker hold additional meetings with neighbors at a workshop in July as documented in the local newspaper article story about the meeting. Crooker did not follow through with the request and appeared to have halted the zoning amendment process with the planning board by the end of August 2018.

In mid-2019, through its consultant Sevee & Maher's letter of July 30, 2019, Crooker renewed its zone change request to create a new Industrial zone near its quarry to which it would relocate its batch plant and ancillary operations. Topsham's Director of Planning issued a letter dated September 30, 2019 (Appendix C) to Sevee & Maher to follow up on the Planning Board's decision to remove that rezoning request from the September 17, 2020 workshop agenda.

- The Town letter outlined a series of informational requests of Crooker to support the Planning Department's review of a zoning amendment request.
- The Planning Director indicated that the Planning Board's role will be to review a proposed amendment by Crooker to the Town's existing Zoning Ordinance after finding consistency with the 2019 Comprehensive Plan Update.
- The takeaway from the September 30th letter and the June 2, 2020 rezoning workshop, is that the Planning Board must determine if the proposed rezoning is consistent with the Town's comprehensive plan including the 2019 comprehensive plan update.

Rezoning Proposal is not Consistent with the Comprehensive Plan

Legal Standard. The fundamental legal requirement for a zoning ordinance and for any map and text amendments to it is that they be pursuant to and consistent with the comprehensive plan. 30-A M.R.S. §4352(2) ("A zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body,...") Maine's Supreme Judicial Court has interpreted this to mean the zoning ordinance or map or text amendment must be "in basic harmony with the comprehensive plan." *Rommel v. City of Portland*, 2014 ME 114, ¶ 13, 102. A.3d 1168, 1171; *Adelman v. Town of Baldwin*, 2000 ME 91, ¶ 22, 750 A.2d 577; *LaBonta v. City of Waterville*, 528 A.2d 1262, 1265 (Me.1987)

A comprehensive plan is required by law in order to support and inform the ordinances that are adopted and amended to implement it. Under Maine's 1989 Growth Management Act (30-A M.R.S. §§4321 et seq), municipalities prepare and amend a comprehensive plan through a planning committee (here, the Comprehensive Plan Update and Implementation Committee) and the Planning Board, with public participation, followed by a legislative body (here the Town Meeting) vote. A growth management comprehensive plan has several mandatory elements, including an inventory and analysis, policy development and implementation strategy sections.

The Town of Topsham has several documents that together constitute the Town's "Comprehensive Plan." These include the 2005 Comprehensive Plan, the 2013 Route 196 Corridor Study, and the Topsham 2019 Comprehensive Plan Update. Reviewing these and comparing the Crooker's Rezoning Proposal to the Town's Comprehensive Plan, it is apparent that the Rezoning Proposal is not "in basic harmony" with that Comprehensive Plan.

2005 Comprehensive Plan

The 2005 Comprehensive Plan established preservation of existing neighborhoods as an important goal. At page 16, it states:

e. Protect our existing neighborhoods from the adverse impacts of new development. As our town grows, the potential for adverse impacts on existing neighborhoods increases. We believe that our town can accommodate new development while respecting the quality of life of existing residents by minimizing the adverse impacts from traffic, noise, lighting at night, and air quality.

While the 2005 Comprehensive Plan encourages economic growth and development, it directs that such development not interfere with existing residential development (at pages 22-23):

Objective 5. Assure that non-residential development is of a high-quality and that it mitigates its impact on existing neighborhoods, the environment, and the community as a whole.

Strategy d. Review the Land Use Ordinance to ensure that residential areas are adequately buffered from the adverse impacts of new development and new transportation connections.

As to future land use, the 2005 Comprehensive Plan provided for the Suburban Residential District as a transition between the village center and rural areas, encouraging less dense suburban residential development and open space subdivisions in that district. That plan also contemplated lower density buildout in the Industrial zone and noted that the Town would not extend utilities to the area to attract businesses. The plan recommended extending the Industrial area access to Route 196 and recommended a Route 196 Corridor study. See pages 44-47.

Rezoning existing residential neighborhoods to a new “Resource Industry District” for operation of an asphalt batch plant is not consistent with protecting existing neighborhoods from the adverse impact of new development and does not mitigate the impact of nonresidential land uses on established residential neighborhoods.

Route 196 Corridor Study

As recommended by the 2005 Comprehensive Plan, the Town undertook a Route 196 Corridor study and that report was adopted at Town Meeting in 2013. The study was funded by taxpayers of Topsham and guided by the Topsham Route 196 Committee that included citizen members representing:

- Residents in the study area
- Business property owners in the study area

The study was facilitated by the Town Planner with support from other municipal officials, including the public works director, police chief, and fire chief.

On pages 7 and 9 of the 2013 Route 196 Corridor Study is an important vision statement for the outer corridor– one that Crooker’s Rezoning Proposal is not consistent with:

- The outer corridor towards Lisbon should support low to medium density residential and industrial uses between Route 196 and the river.

This area describes the industrial location that includes Crooker’s Jacks Pit properties in the outer corridor and not the inner corridor planned for residential growth. At pages 19-20, the Corridor

Plan characterizes the Residential & Residential Growth (Inner Corridor, River Road Area) zone - the same area Crooker is proposing to rezone to some sort of Industrial Zone or Resource Industry District -- as residential growth and existing neighborhoods on the conceptual land use plan.

The study identifies the existing residents as a large stakeholder group, and states the "The general needs for the residential areas as pertaining to this corridor plan are that as growth and non-residential development comes in along the Route 196 corridor, standards must be in place to minimize the impacts of development on existing residential areas," and explicitly suggests "No change" to the current R2 zone in the residential growth area. This statement is consistent with the land use policy in the 2019 Plan update and inconsistent with Crooker's request to expand or create an industrial zone in this area.

The Planning Board should review the allowed non-residential land uses in the table on page 20, which is consistent with objectives of the Rural-Suburban Land Limited Growth Sector in the 2019 Plan Update. In addition, the study suggested that the Town should "Evaluate the need for more specific buffer requirements to protect the rural residential character", in regard to allowed nonresidential land uses in the residential and residential growth area.

The land use policy for improved access to the Industrial zone from Route 196 is outlined on Page 22.

- The envisioned industrial area remains largely unchanged from the existing zone, but the extension of the zone to Route 196 near the existing Coastal Metal Fabrication facility is suggested. ...The issue of large trucks and industrial traffic through the Pejepscot neighborhood, connecting to Route 196, should be addressed through the establishment of new access roads (private or public initiatives) and the proposed extension of the Industrial zone in one area as depicted.

A zoning amendment to expand the industrial zone as recommended was approved by Town Meeting in 2015. This zoning amendment provided the framework to improve access to the Industrial Zone for both Crooker and Grimm Industries to support future development of their properties. A private access road from Route 196 into the Industrial zone has been constructed in accordance with the study recommendations.

2019 Comprehensive Plan Update

As you know, the newly adopted 2019 Comprehensive Plan Update (Plan Update) was a significant investment for the Town and the plan development approach emphasized and facilitated public input utilizing both traditional and non-traditional avenues including charettes, public meetings, online public comments, and Town committee presentations. One of the objectives was to promote positive community engagement in the process. The effort began in

with a kickoff community weekend in October 2017, and the plan was endorsed by the Planning Board prior to adoption at Town Meeting in 2019.

The Plan Update considers the River Road neighborhood within the limited growth sector, which is consistent with the current suburban residential zoning of neighborhood and not consistent with Industrial rezoning. Inventorying “Your Topsham,” the Comprehensive Plan Update 2019 at page 38 describes the Birch Ridge, Pejepscot neighborhood as “traditional, suburban, single-family subdivisions” and notes that “River Road is mostly residential, with some commercial businesses, significant historical industrial areas, and a cemetery.” The “You said you want” column on that page, listing zoning improvements requested for each neighborhood by the public at meetings, workshops and charettes, includes:

- Concerns that required commercial buffers and setbacks are inadequate,
- Concerns with industrial land use expansion,
- Protection of residential quality of life and character.

The Conservation, Preservation, and Growth map presented in the 2019 Plan Update was developed based on layers of information evaluated by the CPUC including but not limited to environmental data inventories, existing zoning, prior planning studies, and physical windshield surveys to neighborhood areas throughout Town. This growth map was widely distributed throughout Topsham in the Citizen Guide to the Comprehensive Plan Update that was distributed as mailers, and available at Town public facilities, and local convenient stores.

- “The Conservation, Preservation, and Growth Map provides the framework for making future zoning, policy, investment decisions for the Town of Topsham. Organizing the future map based on sectors and special districts provides a framework for a fine grain regulatory system of character districts, building groups, building types and standards to accomplish conservation, preservation, and development goals” (Page 132).

Suburban-Rural Lands – Limited Growth Sector

The “Plan Your Topsham” portion of the Plan Update 2019 (pages 132-135), the Plan classifies the property Crooker seeks to rezone as a “Rural-Suburban Lands Limited Growth Sector” that “should be prioritized for lower density, rural compatible development in order to strengthen working farms, forests and rural-based business economies, and to preserve rural character.”

- Crooker’s consultants have described activities related Crooker’s operation and zoning change request on page 17 of their report as “A large resource-based manufacturing facility” and “Resource-based industrial developments” in their proposal to create a “Resource Industry District. These uses and activities proposed by Crooker are not the “lower density, rural compatible development” anticipated as part of the Suburban-Rural Land Limited Growth Sector.

On page 134, the Rural-Suburban Limited Growth Sector is described as follows:

- “In order to realize the goals of the 2010 Natural Areas Plan and this Comprehensive Plan, land in the “Limited Growth” sector should be prioritized for lower density, rural compatible development in order to strengthen working farms, forests and rural based business economies, and to preserve rural character. “Limited growth recognizes that the Town’s current zoning ordinance permits landowners rights to build residential housing on 1 and 2-acre lots. This plan suggests adopting zoning regulations to incentivize new housing to organize in an intentionally rural-compatible pattern as opposed to developing in a conventionally suburban sprawl pattern. Examples of rural compatible patterns include hamlets or crossroads building groups”, and “Further, this plan recognizes that rural and land-based business may continue to grow, and performance standards may need to be evaluated as part of future zoning amendments to ensure protection of natural resources, and compatibility with working farms and existing residential neighborhoods”

Crooker argues that its large-scale industrial operation, including large-scale asphalt manufacturing for regional paving projects, is a rural-based business, compatible, with proper performance standards, with existing residential development and consistent with the future land use objectives of the rural suburban land sector. Their basis for establishing consistency with the limited growth sector objectives is unfounded.

- Crooker’s June 2, 2020 workshop report indicates on Page 3 “There will be several buildings at the new plant site, including a batch plant and supporting buildings”, which is not consistent the future land use objectives of the limited growth area.

The Planning Board must prioritize the merits of the rezoning proposal’s consistency with the Conservation, Preservation, and Growth map and prior planning efforts in the proposed rezoning area as it relates to future development of zoning policy established by citizen committees. The current zones included in the Rural Suburban Lands Limited Growth Sector of the future land use map are:

1. Suburban residential (R-2)
2. Rural residential (R-3)
3. Rural Commercial Use (RCU) sections along the Route 196 corridor and Route 201 corridors.

Descriptions of each zone in Chapter 225 of the Zoning Ordinance are as follows:

- “Suburban Residential Zones, to be known as “R-2 Zones.” The objective for the Suburban Residential Zones is to provide for medium-density housing on public water and sewer or where public water and sewer would be provided eventually. This zone is the transition area between the Urban Residential and the Rural Residential Zones. Two-family dwelling units are permitted in this zone with a smaller lot size if served by public water and sewer”
- “Rural Residential Zones, to be known as “R-3 Zones.” The objective of the Rural Residential Zones is to provide for low-density housing with the intention of preserving

valuable open space, including agricultural and forest lands, recreation lands and viewsheds. Public water and sewer will not be expanded into this district in order to encourage low-density development. This area is geographically located next to many of the most important natural resource areas that should be protected by the town”

- “Rural Commercial Use Zones, to be known as "RCU Zones." The objective of the Rural Commercial Use Zones is to protect the rural character of these areas while allowing a range of development to create a mixed-use, farmland and forested gateway to Topsham. A range of professional and commercial uses should be encouraged in these zones, but the uses should not be dependent on high visibility or be highly illuminated. Residential development should be clustered and well screened from roads and view corridors”
- “Industrial Zones, to be known as "I Zones." The objective of the Industrial Zones is to provide areas for light and heavy manufacturing”

The planning board must consider the current permissible business land uses in these zones within the framework of the Rural Suburban Lands Limited Growth Sector when considering the future growth objectives of the rural suburban lands to establish plan consistency with Crooker’s industrial rezoning proposal.

As part of the public comment process during the Town development of the 2019 Plan Update, I provided a series of comments to the Comprehensive Plan Update Committee (CPUC) through written letters and comments on the draft report through the web-based interactive tool.

I submitted the following written comment on the draft 2019 Plan Update to the CPUC a part of a letter March 12, 2019:

“Strategy Matrix

- Deliberate about Growth, Page 154. Last row. “Allow a broad range of land uses with the intended growth areas as well as rural as part of building groups”. It’s not clear to me what this means. I think the word “intended” should be changed to “intentional” to match the Growth map. I think the intent is to allow broad range of land uses within the Intentional Growth Sector, but not the Limited Growth Sector. Is it the intent to replace our current zoning with character districts or would character districts be an overlay district on existing zoning districts? Is it the intent to apply rural character district building concepts to the rural/suburban limited growth areas on the Conservation, Preservation, and Growth Map?

The following response to my comment was received from the chairmen of the CPUC committee in a letter dated 3/29/2019, which also included responses to other comments I raised in my letter dated 3/12/2019:

“Strategy Matrix

Page 154 (Deliberate about Growth): You are correct, the intended word is “intentional” not “intended” and will be changed accordingly. This strategy, with the adjusted language, is accurate. This plan recommends a broad range of land uses - if part of a building group - in the rural area (limited growth sector). This means we will continue to allow “rural entrepreneurial activities” in the rural areas. This strategy suggests that using buildings groups as a performance standard tool helps with compatibility, ensuring rural character is not negatively impacted by rural business opportunities. The intent is to review current zoning, as part of the Comp Plan implementation process, and make adjustments where needed to achieve the goals of this plan. Building groups could be added to the existing zoning framework.”

It is obvious that the CPUC believed that rural entrepreneurial activities should be allowed to continue to grow and develop as currently allowed as a Conditional Use in the R-2 and R-3 zones, but zoning amendments including building groups and character districts be established to preserve rural character and compatibility with existing and future residential development. The envisioned rural business land uses are those that are currently allowed in the zones that include the Limited Growth Sector in the 2019 Plan Update.

Chapter 225 of the Topsham Zoning Ordinance provides the following definitions that are relevant to the establishment of consistency with the 2019 Plan Update that should be considered by the Planning Board:

- RURAL AREAS
The portion of the Town designated as “Rural” in the adopted Comprehensive Plan.
- RURAL ENTREPRENEURIAL ACTIVITY
A low-impact nonresidential activity such as, but not limited to, lab/research facilities, light manufacturing, professional offices, service businesses, wholesale businesses, and warehousing, storage, and distribution that conforms to the performance standards of § 225-60.11.

The Planning Board should review the standards of rural entrepreneurial activities in Chapter 225 of the Zoning Ordinance and consider other business land uses allowed in the suburban residential, rural residential, and rural commercial zones. It is apparent that these land uses are much smaller scale and lower intensity in contrast to Crooker’s large resource-based manufacturing and industrial operation (asphalt plant, blasting, rock crushing, aggregate processing).

For example, one standard for an allowable entrepreneurial activity as a conditional use in the suburban residual zone includes:

- “The total gross floor area for all buildings and structures used as part of the rural entrepreneurial activity, but not including any part of a basement that is used only for storage or mechanical uses, shall be not more than 2% of the area of the lot on which it

is located if it is in the R-2 District or not more than 4% of the area of the lot on which it is located in any other zoning district, or 5,000 square feet, whichever is less”

Some current local examples of rural based businesses that the 2019 Plan Update contemplates allowing to grow as rural entrepreneurial activities and currently operating in the suburban residential, rural residential, or rural commercial zones in the area of the rezoning proposal include:

1. Country Fuel
2. Cloutier’s Landscaping
3. Bowie’s firewood
4. Anchor Nutrition
5. Happy Paws Unleashed
6. Austin Powder
7. Ron Utecht General Contractor
8. Pejepscot Day School

It’s obvious that the objective of the 2019 Plan Update is to develop future character-based zoning and building groups to allow residential and rural based business development that is compatible with preserving rural character of existing zones within the Rural-Suburban Lands-Limited Growth Sector. The 2019 Plan Update anticipated rural land-based business economies to include land uses such as agriculture, forestry, animal husbandry, and rural entrepreneurial activities and not large-scale industrial manufacturing activities such as asphalt production, mineral extraction, and other industrial uses.

- Refer to strategy reference on page 93: “Update zoning code to permit rural development that responds to rural character including rural building group types.
- Refer to strategy reference on page 95: “Update the zoning code to allow rural building groups, including hamlets and farm compounds, as a way to support rural character and support rural based business.
- Page 95 first paragraph: “The community has expressed an interest in maintaining rural character at the edge of town. Existing open views, farms, forested lands, and marshes are a central part of why people love Topsham”.

Crooker’s proposed industrial rezoning would bisect the existing suburban residential R-2 zone intended for medium density residential development, creating a small isolated section of R-2 zoning in Pejepscot between two industrial zones in the northeast area of the rezoning proposal and the remaining section of the R-2 zone to the southeast including the Ivanhoe subdivision would create an entire new area of existing developed medium density residential that are much closer to a new high impact industrial activity including asphalt manufacturing. The type of housing in this area is generally classified as affordable by most standards. A change of this significant magnitude and impact to existing residential development within the limited growth

sector is not consistent with the 2019 Plan Update, and Crooker's suggestion that consistency can be achieved with the addition of new Industrial District performance standards stretches the interpretation of outcomes planned for the Rural-Suburban Lands-Limited Growth Sector.

Industrial Special District

The 2019 Plan Update does not recommend expansion of the industrial zone and includes the existing industrial zone boundary on the Conservation, Growth, and Preservation Map. The emphasis is placed upon considering future performance standards for the existing industrial zone and the negative impacts that heavy high impact industrial land uses on existing abutting non-industrial development and zones.

"This district outlines the existing industrial zone, encompassing clusters of industry and business along the Androscoggin River off Route 196. This area should be zoned and regulated as special districts to reflect the uniqueness of the land use activity, and the intent for future growth or transformation that may be desired for that specific area. Future zoning efforts should assess and, if necessary, amend performance standards to address potential impacts of industry on adjacent land or neighborhoods.

Relevant definitions in Chapter 225 applicable to Crooker's operation in the Industrial zone include:

- INDUSTRIAL
The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of minerals.
- MANUFACTURING, HEAVY
A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of or large-scale manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. The following uses are not permitted: chemical manufacturing, commercial tannery, explosive manufacturing, military installation rendering, petroleum refinery, slaughterhouse, storage of hazardous and biomedical waste and nuclear power.

There are industrial uses in the Route 196 area, which are described in the 2019 Plan Update as including "the Crooker gravel site, Pejepscot Industrial Park, and Grimmel Metal Scrapyard sites off Rt 196 near the Androscoggin River". (Page 44) In the "Plan Your Topsham" portion of the 2019 Plan Update (pages 132-135), the existing industrial zone is described as an Industrial Special District, and there is no recommendation for its expansion. The 2019 Plan Update does not set forth any policies to change any zoning district boundaries.

While there had been discussion of expansion of the Industrial zone before the 2019 Plan Update, that expansion was not proposed for the area of the River Road neighborhood. On page 224 of the 2019 Plan Update, there is a reference to the 2007 growth map (area proposed to be rezoned

is classified as village residential on this map) and to the 2013 Route 196 Corridor Study discussed earlier in this report, which resulted in expanding the industrial zone to Route 196 at Crooker's Jack's Pit properties.

Furthermore, Crooker's consultant's point out on page 5 of their report, fourth bullet:

- "However, this planning process identified a desire to see additional growth in area not served today by sewer and water, including business growth at the existing industrial sites off Route 196 in the Pejepscot Village Area."

This bullet point on page 130 highlights the inconsistency of their proposal with the industrial expansion approach. The bullet references the existing industrial zone in the area of the existing industrial park off Route 196 that includes the Downeaster business and Crooker's Jacks Pit properties, which doesn't support their rezoning proposal.

Traffic Flow and Impacts

In the June 2 workshop presentation, Crooker made the definitive assertion that the proposed project will improve dangerous intersection conditions at the Meadow Cross Road and River Road intersections with Route 196. They have not presented any studies that supports this argument other than antidotal information after discussing this proposal for the last two years with the Town. The Planning Board should understand the following, which is relevant to the proposal:

- Route 196 is a major arterial state highway that is a Priority 1 classification for mobility by the Maine Department of Transportation (MaineDOT).
- Crooker's property does not have access frontage on Whitehouse Crossing or Route 196 at the location of the proposed intersection and access road location.
 - Vehicle access to Crooker's property from Route 196 and Whitehouse Crossing restricted by the wide Central Maine Power (CMP) transmission corridor (Map R02-Lot 96) and property owned by others along Route 196 (Map R02-Lot 43)
- Extensive intersection modification at Whitehouse crossing would require approvals from CMP, MaineDOT, MaineDEP, and consider the impact to private property on either side of the intersection, current ATV trail access to the Topsham Trail Riders Group (Map R02-Lot 43), and consider natural resource impacts in the area of the intersection.
- Proposed changes to Route 196 as outlined in their proposal should also evaluate the traffic flow impacts and safety on River Road as a result of proposed intersection changes at Whitehouse Crossing and Meadow Crossing Roads that reduce mobility of the Route 196 corridor.

The 2019 Plan Update recognizes the need to prioritize mobility on Route 196 and minimize curb cuts, which is not consistent with the Crooker proposal:

- Page 64, "Most people agree that Route 196 needs to remain a street that prioritizes mobility."
- Page 64, "Strategy: Continue to manage and limit new curb cuts onto Route 196"

River Road is a MaineDOT state aid highway (collector road) and the portion of the road currently used by Crooker and the area proposed to be rezoned with frontage on the River Road is outside the Urban Compact Zone. Crooker trucks are required to abide by a 25-mph speed limit on River Road between Quarry Road and Route 196. This section of roadway between Quarry Road and Route 196 includes a paved and striped shoulder improving safety for pedestrians whereas the remaining section of River Road has no paved shoulders. The posted speed limit for all other traffic is 40 mph between Quarry Road and Pejepscot Village Main Street and 30 mph between Pejepscot Village Main Street and Route 196. The 2019 Plan Update promoted strategies for slowing traffic such as creating narrow travel lanes and lowering speed limits.

- The current 25 mph speed limit on River Road for truck traffic is consistent with the 2019 Plan Update in terms of creating pathways to slow traffic. The Planning Board should evaluate the 40 plus year history this operation and seek input from neighbors. The 25 mph Crooker truck traffic passes approximately 25 homes on River Road (public state aid highway) between Quarry Road and Route 196.

Crooker also proposes to install a large-scale privately-owned haul road tunnel under River Road as a preferred strategy to reduce truck traffic on River Road and to justify consistency with the comprehensive plan. However, this strategy fails to consider limited buffer distances between existing developed residential lots and industrial land use proposed at this location. This proposal also does not consider the MaineDOT jurisdictional role with maintenance and capital project permitting on River Road (State Aid Highway outside the Urban Compact Zone) that would include major privately-owned infrastructure (large industrial truck tunnel) as proposed by Crooker.

The location of the proposed tunnel location also directly conflicts with existing stream crossing beneath River Road sourced from a freshwater wetland on the northern side of the road and meanders toward the south under River Road and feeds a complex of streams crossing the field located at 510 River Road.

The Planning Board should complete a site visit to review this location and question this private haul road proposal on the following grounds:

- The proposed private industrial truck haul road would have limited buffers in the range of 75 – 200 feet between developed and abutting residential property lines and the proposed private haul road alignment,
- The private road would negatively impact delineated wetlands, streams, and the practicality of permitting and constructing a tunnel of the proposed scale is questionable at this location, and
- No alternatives have been presented to the Planning Board.

In addition, Crooker indicates in their June 2nd presentation that Pejepscot residents want “safer bike routes” and “automobile safety” (Page 38). The Planning Board should understand that this statement was in reference to a group of neighborhoods that include Pejepscot, Ivanhoe, Birch

Ridge, and River Road as described on Page 38 and not specific to just Pejepscot residents as implied in the presentation.

Open Space and Trail Connectivity

Crooker indicates that they will commit to implementing trail connectivity and public access to the Androscoggin River through their property and support of the rail trail objectives in the Plan Update. Page 77 of the 2019 Plan Update shows a proposed the rail trail (railroad track crossing Crooker's property) and River walk trail along the Androscoggin River in the area of Crooker's quarry. The Planning Board should consider the safety and compatibility of public trails in industrial areas:

- Practicality and safety of a rail trail coexisting with the batch plant entrance road from Route 196 with high volumes of heavy truck traffic.
- Safety concerns with a public trail adjacent to a blast quarry, rock crushing, and mineral extraction operation
- Coexisting of the proposed quarry truck haul road with the river walk trail envisioned by the plan.

In addition, the proposed entrance on Route 196 would eliminate an existing ATV trail currently permitted on private property, which is maintained and used by the Topsham Trail Riders.

The 2019 Plan Update also puts emphasis on updates to the 2010 Natural Areas Plan as a short-term priority for the Comprehensive Plan Implementation Committee (CPIC). Page 76 highlights the following strategy applicable to a project proposal of this scale:

- "Update the zoning code to require developers building projects of a certain scale with rural districts to protect high quality open space. Use the Natural Areas Plan to inform protection.

The Conservation Commission (CC) should be engaged by the Planning Board to assess the conservation potential of the field at 510 River Road as this feature is a desirable open space and only scenic view of its scale in the Suburban Residential Zone. Rezoning of this high value scenic view to allow industrial uses is not consistent with the comprehensive plan.

Natural Resources

The Topsham Inventory and Analysis portion of the 2019 Plan Update discusses policy and inventory of the Town's natural resources.

Under Zoning Protections, Page 32:

- "Streams, both perennial and intermittent, are another important resource. Topsham's shoreland zoning was expanded in 2008 to include Maine's Natural Resources Protection Act (NRPA) definition of a stream".

The Planning Board should carefully consider the inventory of natural resources associated with the rezoning proposal and how it applies to the Town's shoreland zoning ordinance.

Below is the definition of the Stream Protection District under Chapter 225 Shoreland Zoning:

- "Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland. Waterbodies that are found to meet the stream definition found in § 225-6 and do not appear on the Official Shoreland Zoning Map shall be included in the Stream Protection District"

The 2019 Plan Update continues to emphasize inventory of natural resources in Topsham and update of the Natural Areas Plan. The Topsham CC with support of the planning department is generally responsible for inventory of Town natural resources and implementation of the Natural Areas plan among other functions of the committee.

The Planning Board should consider the natural resources on the proposed property to be rezoned. Data sources for this review should include available data maintained by the Planning Department and wetlands and vernal pool mapping and reports completed by Crooker on the properties they are requesting to be rezoned for industrial use.

A brief review of the Topsham Natural Areas Plan vernal pool inventory map titled "Rural Area Results of Maine Vernal Pool SAMP Conservation Criteria and Status of Vernal Pools in Growth Area" identifies three field verified vernal pools in the conceptual development area of Crooker's property in the rezoning area presented on June 2, 2020, and one field verified vernal pool on the CMP power line near the proposed truck haul road location.

According to the Sevee & Maher letter dated July 30, 2019 the following environmental resource maps and reports of the Crooker properties proposed be rezoned has been completed:

- Wetland Delineation in accordance with US Army Corps of Engineers "Wetlands Delineation Manual with Regional Supplements" (Longview Partners LLC, July 2016)
- Vernal pool assessment of the property in accordance with the Maine Department of Environmental Protection (MEDEP) Chapter 335 Significant Wildlife Habitat Section 9, Significant Vernal Pools (Mark Hampton Associates, Inc, Spring 2017).

Crooker's natural resource delineations and reports should be made available for the public, CC, and Planning Board to review as part of the information needed to assess the appropriateness of this proposed zoning change.

A project of this scale would require permitting under Maine DEP's Site Location and Development Law (SLODA), which will require an extensive alternatives analysis for various standards including impact to natural resources. As such, the Planning Board should consider natural resource impacts of this proposal as part of the comprehensive plan consistency review in comparison to development of the project on Crooker's existing industrial zone property on Route 196.

- The CC should be engaged by the Planning Board in assessing the project impacts on natural resources and be involved in making a recommendation to the Planning Board on the rezoning proposal's consistency with the comprehensive plan.

Economic Factors

Crooker's analysis presented on June 2nd does not discuss the current value of the property tax base in the neighborhood surrounding the large rezoning area and projected loss in property value as a result of this project making the entire neighborhood less desirable from a marketability standpoint.

- Crooker states that they plan to only "help" finance intersection modifications to incorporate a new entrance off Route 196 and presumably share the cost with the taxpayers of Topsham and other sources such as MaineDOT. There are also other major infrastructure costs such as extension of the public water, sewer, and three phase power that will require private funding, local public funding, or a combination of the two.
- Crooker promotes their tax contributions to the Town of Topsham, but notably avoids discussion of the alternative site in the industrial zone off Route 196 for relocation, which they have indicated would achieve many of the same objectives. They are also don't discuss the total tax contribution of other property owners in the neighborhood surrounding the rezoning proposal.

Greenhouse Gases

Crooker's proposal focuses on the perceived benefit of reducing vehicle emissions by reducing over 150,000 miles per year for heavy trucks in Topsham. Presumably, this estimate refers to the shortening of the travel distance between the quarry and the batch plant at the proposed location. The analysis does not include the additional distance that other heavy truck traffic going to and from the batch plant may experience with the relocation of the facility.

The general expectation is that Crooker would anticipate increasing truck traffic over time if the business is to grow and to justify the investment in new equipment and infrastructure. The potential reduction in greenhouse gasses from modernization of equipment is not location specific and does not support a zoning amendment rezoning for siting an industrial project in the Suburban Residential Zone.

Conditional Use Standards

Crooker suggests that the project can be consistent with the 2019 Plan Update with adoption new performance standards for a proposed Industrial Resource District. Crooker has not discussed the application of existing conditional use standards embedded within Chapter 225 of the zoning ordinance that are designed to be used with Article VII and Chapter 175 for certain projects that require additional development standards.

As you know, a batch plant is allowed as a conditional use only in the Limited Industrial Zone in Topsham. The Planning Board should consider how the rezoning proposal fits within existing conditional use standards of the zoning ordinance when evaluating consistency with the 2019 Plan Update before considering major revisions to the Chapter 225 zoning ordinance by Crooker for the purpose of trying to establish consistency with the 2019 Plan Update.

The current conditional use standards that the Planning Board uses to evaluate new development proposals that is a conditional use includes the following:

1. Is the land use compatible with and similar to the general categories of uses of neighboring properties?
2. Is the use compatible with the Comprehensive Plan and the anticipated future development of the neighborhood?
3. The anticipated traffic for the proposed development will not cause an adverse negative impact on the neighborhood surrounding the proposed development
4. There will be no noise, dust, odor, vibration, or smoke generated by the use that will adversely affect neighboring properties or the Town in general
5. The physical characteristics of the site, including location, slope, soils, drainage, and vegetative cover are suitable for the proposed use
6. The use will not constitute a public or private nuisance
7. Any other requirements and applicable provisions of the Code, as deemed necessary, are met.

The TDI, CPIC, and Conservation Commission committees recently opposed the Aroma Joes development proposal at the corner of Route 196 and Main Street on the grounds that the project conflicted with the newly adopted 2019 Plan Update and it was determined that the project didn't meet Town Code conditional use standards (Board of Selectmen Minutes May 7, 2020).

Zoning Amendment Process

Under Section 225-79 of the Town's Zoning Ordinance, there are three ways that amendment of zone boundaries or zoning text may be initiated -- by the municipal officers (the Board of Selectmen), by the Planning Board, or by petition of 5% of the Town's registered voters. The Rezoning Proposal was not initiated in any of these three ways at this time.

The Planning Board should clarify the process for initiating this request under our ordinance on behalf of the property owner. It is unclear that the process underway follows our ordinance and if the process for initiating an amendment should be clarified. As what point does the process formally become initiated? Is it by a majority vote of the planning board? Would another appropriate avenue be to require the property owner to submit a petition to initiate the process?

Property Encumbrances

The Planning Board should be aware that a portion of Crooker's property they propose to rezone includes a license agreement granted by Crooker to some existing property abutters that provides certain lifetime personal rights to use the property for hunting and other purposes by parties named in the agreement. Crooker's proposal fundamentally violates the intent of the license agreement, which many people would find troubling.

Conclusion

Crooker has proposed a "Resource Industry District" rezoning of a residential neighborhood area that the Town's comprehensive plans have designated for future land use as residential since 2005. It is avoiding a practical alternative that would allow relocation of its operation to land it already owns and operates for mineral extraction and aggregate stockpiles – land that already is zoned Industrial, and that the Town has permitted to expand to Route 196 for access.

- This proposal will change the character of the area and significantly increases the presence of industrial land uses in a rural area of Town with established medium density residential development in abutting neighborhoods.

The primary function of comprehensive planning is to establish future land use zoning policy and state long-term planning objectives, which the CPUC documented throughout the plan, including the rural-suburban areas. The suggestion that the 2019 comprehensive planning update effort steered clear of offering any insight into the current rezoning request, doesn't seem proper given the public comments received by the CPUC regarding the rezoning proposal and the Plan Update clearly establishes zoning and land use policy that is deliberate about growth and maintains rural character objectives in the rural-suburban sector. Furthermore, the 2019 Plan Update:

- Continues the existing zoning of the Industrial zone boundaries and does in no way support a large industrial zone expansion that bisects the existing suburban residential zone with a well-established medium density residential neighborhood, and;
- Has targeted recommendations for performance standards that do not apply to Crooker's rezoning proposal and focuses on regulating the existing industrial zone as a special district, and development of performance standards for building groups and character-based zoning to protect the rural character of the Rural-Suburban Lands-Limited Growth Sector.

The Planning Board should not consider this proposal if Crooker has not demonstrated title, right, and interest to plan a new private access road at the intersection of Route 196 and Whitehouse Crossing Road. Crooker's proposal also includes two additional private road crossings of CMP property for the proposed industrial truck haul road. The Planning Board should also consider external stakeholders impacted by this proposal including:

- CMP – Route 196 access and multiple power line crossings including the intersection at Route 196
- MaineDOT– Route 196 and River Road intersections, traffic impacts, and railroad crossing.
- Topsham Trail Riders – proposal would eliminate access to an existing ATV trail on privately owned property along Route 196 (Map R-02, Lot 43).

The Planning Board should carefully review the comprehensive plan, the appropriateness of the entire range of current permitted land uses in the existing R2 zone compared to the existing Industrial zone (which is consistent with rezoning case law), evaluate physical land (natural resource inventory, slopes, topography), access constraints, and other factors discussed in this report (Appendix B - Chapter 225 Zoning Land Use Table).

Crooker's assertion on Page 6 of their May 8, 2020 report that the proposed zone change is consistent with, and in fact is anticipated by, the 2019 Plan Update with ordinance provisions is not supported by the intended priorities of the Rural-Suburban Lands Limited Growth Sector.

- Crooker's Rezoning Proposal is not in basic harmony with the 2005 Comprehensive Plan, the Route 196 Corridor Study, and the newly adopted 2019 Comprehensive Plan Update, and so I ask the Planning Board to so find.

Thank you for your attention to and consideration of the concerns and issues raised in this letter.

Sincerely,



Daniel J. Flaig, Jr
Topsham Resident

cc: Andrew Deci, Topsham Assistant Town Planner

APPENDIX A – JANUARY 2018 MEMO TO PLANNING BOARD

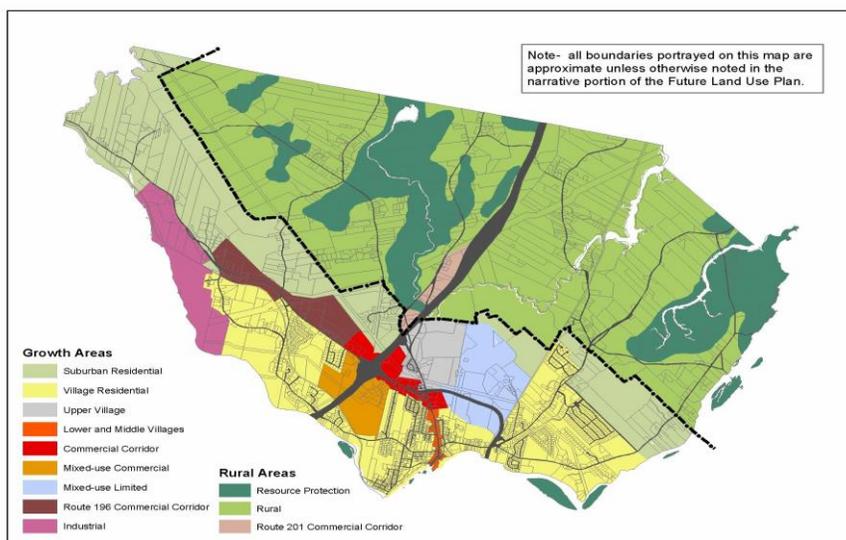
MEMORANDUM**To:** Planning Board**From:** Carolyn Eyerman, AICP/Assistant Planner**Date:** January 24, 2018**Re:** Industrial Zone Amendment requestBackground

Crooker Construction is requesting a zoning amendment that would change the zoning of the area near their rock quarry between Route 196, River Road, and the Androscoggin River to the east of Quarry Road. They would like to change the zoning from Suburban Residential (R-2) to Industrial (I).

Below is a review of the 2005 Comprehensive Plan and the Route 196 Corridor Plan. Both these plan describe what the town would like for land uses in this area of the town. Generally speaking, zoning should be consistent with the Comprehensive Plan and any Master Plans that accompany them.

Ordinance provision

According to Article XII of the Zoning Ordinance Chapter 225, an amendment may be proposed by the municipal officers, Planning Board, or by petition. The procedures are described within Section 225-79. The Board should decide how they would like to proceed in this case.

2005 Comprehensive Plan review

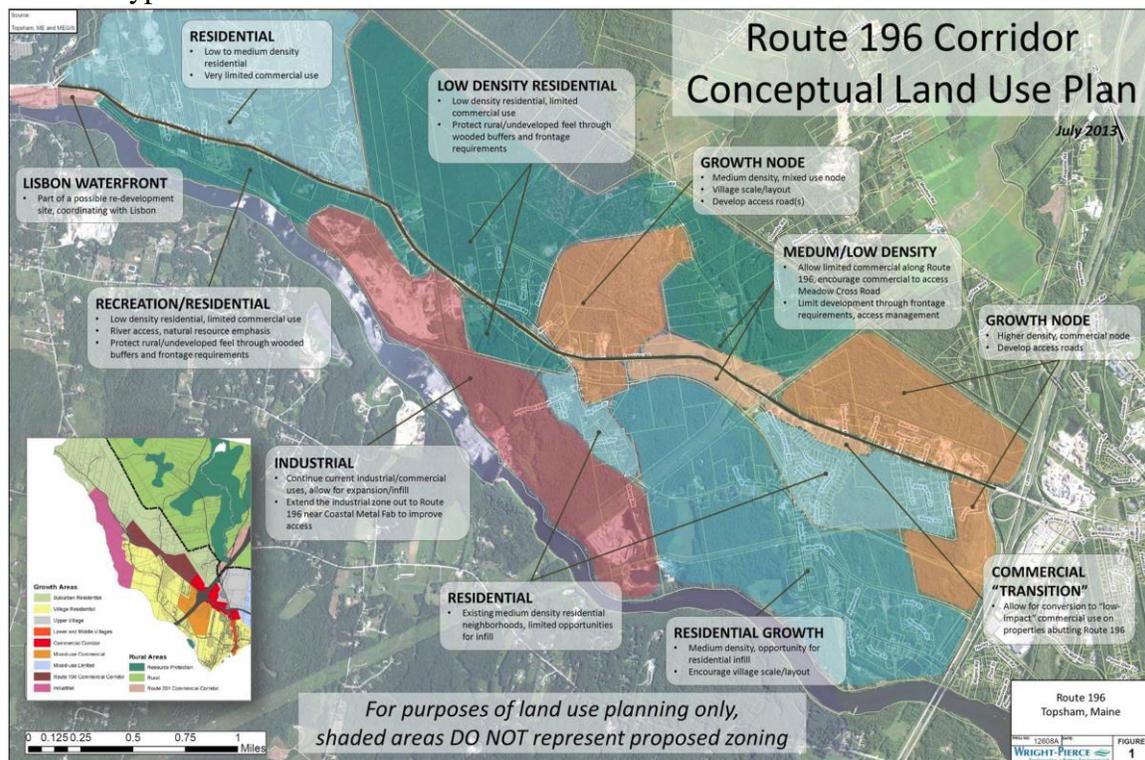
100 Main Street
Topsham, Maine 04086

Planning Office: (207) 725-1724
Codes Office: (207)725-1723

The [2005 Comprehensive Plan](#) shows on the Future Land Use Plan this area to be Village Residential (shown above and found on page 45). The description of Village Residential is “includes all of the more compact residential neighborhoods between the Androscoggin River and Route 196 to the west of Main Street...” The Industrial area description and zone “is given to lands that are currently within the Industrial Zone (south of Route 196 and west of River Road). In the Special Issues to Address section, it states “the current Industrial Zone should be moved up to Route 196. Access to this area should be controlled to maintain traffic flow in the Route 196 corridor... except in the Pejepscot Village area, the zone’s boundary should be moved away from the Androscoggin River...” This section also calls for the creation of an Industrial Use Plan that identifies where industrial activities should occur in town. The Plan also recommends the creation of a Route 196 Corridor Plan.

2013 Route 196 Corridor plan review

The [Route 196 Corridor Plan](#) also has a Land Use Plan, which summarizes the general land use types for the area.



The Industrial area (shown in red on the Land Use Plan) envisions this area largely unchanged from the existing zone, but extending it to Route 196. This zoning change and map amendment was already approved in 2015 by Town Meeting. The area that is proposed for a change near the Crooker quarry area is designated as a residential growth area in this Plan. This is shown in light and medium blue above.

Town of Topsham

100 Main Street
Topsham, Maine 04086

Planning & Codes Office

Planning Office: (207) 725-1724
Codes Office: (207)725-1723

Town Manager Note/Background:

The Rt. 196 Corridor Plan Committee did look extensively at increasing the Industrial (I) District, through various options – River Road to the Androscoggin River, land bounded by Rt. 196/River Road, Land on north side of Rt. 196. However, there never seemed to be a sufficient impetus or interest to fully pursue any of these options, and residents along River Road at the time were not supportive.

APPENDIX B – TOWN OF TOPSHAM TABLE OF LAND USE
REGULATIONS, CHAPTER 225 ZONING

ZONING

225 Attachment 1

Town of Topsham

Table of Use Regulations

[Amended 11-17-1992 STM, Art. 2; 5-18-1994 STM, Art. 19; 5-15-1996 STM, Art. 31; 1-30-1997 STM, Art. 8; 5-21-1997 STM, Art. 31; 11-18-1997 STM, Art. 6; 11-18-1997 STM, Art. 8A; 5-19-1999 STM, Art. 13; 5-17-2000 STM, Art. 15; 5-20-2004 STM, Art. 17; 5-24-2006 STM, Art. 11; 5-24-2006 STM, Art. 14; 5-24-2006 STM, Art. 15; 12-13-2006 STM, Art. 9; 5-24-2007 STM, Art. 15; 1-23-2008 STM, Art. 3; 11-13-2008 STM, Art. 6; 11-13-2008 STM, Art. 8; 5-20-2009 STM, Art. 13; 5-20-2009 STM, Art. 15; 5-19-2010 STM, Art. 13; 11-2-2010 ATM, Art. 3;¹ 2-16-2011 STM, Art. 3; 2-16-2011 STM, Art. 5; 5-15-2013 STM, Art. 14; 9-25-2013 STM, Art. 5; 5-14-2014 STM, Art. 10; 5-20-2015 STM, Art. 12; 5-18-2016 STM, Art. 12; 5-15-2019 STM, Arts. 10, 17, 21, 22]

Land uses permitted in each zone, in conformance with the general performance standards in Article VII and, where appropriate, the specific performance standards of Article VIII, are shown in the following table:

P = Permitted use (may require site plan review)
 C = Conditional use (may require site plan review)
 X = Not permitted

Use	District																	
	R-1	R-2	R-3	CC	RCU	MUL	MUC	MUC-1	BP	CC 196	I	BP2	R4	LI	VC	MV	LV	R2B
Accessory use ⁴	P	P	P	P	P	P	P	C	P	P	P	P	P	P	P	P	P	P
Addiction treatment facility	X	X	X	X	X	X	C	X	C	X	X	X	X	X	X	X	X	X
Adult entertainment establishment	X	X	X	C	X	X	C	X	X	X	X	X	X	X	X	X	X	X
Agriculture	X	P	P	P	P	C	P	C	C	C	C	X	X	C	X	X	X	P
Amusement facility	X	X	X	C	C	C	C	C ¹¹	X	X	X	C	X	C	X	X	C	X
Amusement park												X	X	X	X	X	X	X
Animal husbandry	X	C	P	X	X	C	X	X	X	X	X	X	X	C	X	X	X	C
Aquaculture	X	X	X	X	X	X	X	X	X	X	P	X	X	C	X	X	X	X
Auto sales	X	X	X	P	C	X	C	C ^{11,13}	X	C	C	X	X	C	C	X	X	X
Auto salvage	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Batch plant												X	X	C	X	X	X	X
Bed-and-breakfast	C	C	C	C	P	X	P	C ¹¹	X	C	X	X	C	P	C	C	P	C
Boardinghouse	C	C	C	C	P	P	P	C ¹¹	X	X	X	X	C	P	C	C	P	C
Boathouse	P	P	P	C	P	P	P	X	X	X	P	X	X	X	X	X	C	P
Bulk fuel storage	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Campground	X	X	P	X	X	C	X	X	X	X	X	X	X	X	X	X	X	X
Cemetery	P	P	P	X	X	P	X	X	X	X	X	X	X	X	X	X	X	P

¹ Editor's Note: This article also provides for a retroactive effective date of 4-1-2010 and states that any permit application pending before or issued by the Planning Board on or after date that does not conform to the amendments made by said Art. 3 shall be null and void.

TOPSHAM CODE

Use	District																	
	R-1	R-2	R-3	CC	RCU	MUL	MUC	MUC-1	BP	CC 196	I	BP2	R4	LI	VC	MV	LV	R2B
Church	P	P	P	P	P	P	P	C ¹¹	P	P	X	P ²¹	P					
Club	C	C	X	C	C	C	C	C ¹¹	X	X	X	C	X	P	C	X	C	C
Cogeneration of power as accessory use	X	X	X	X	X	X	X	X	X	X	P	X	X	C	X	X	X	X
Commercial composting	X	X	X	X	X	X	X	X	X	X	P	X	X	C	X	X	X	X
Commercial recreational facility	X	X	C	C	C	C	C	C ¹¹	C	C	X	C	X	C	C	X	C	X
Commercial recycling, to include paper, plastic glass, metal, wood tires	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Concrete product manufacturing												X	X	P	X	X	X	X
Day care/preschool	C	C	P	P	P	P	P	C ¹¹	P	P	C	P	C	P	P	C ⁷	P	C
Dwelling, single-family	P	P	P	P ¹	P ⁶	P ⁵	X	C ^{1,11}	X	P	X	X	P	P ²²	X ²²	P	P ²²	P
Dwelling, two-family	P	P	P	P ¹	P ⁶	P	X	C ^{1,11}	X	P	X	X	P	P ²²	P ²²	P	P ²²	P
Dwelling, multifamily	P	P	P ²	P ¹	P ⁶	P	P	C ^{1,11}	X	X	X	X	P	P ²²	P ²²	P	P ²²	P
Electrical power generation	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Elderly housing	P	P	P	P	P	P	P	C ¹¹	X	C	X	X	P	P	P	P	P	P
Extractive industry	X	X	C	X	X	C	X	X	X	X	P	X	X	X	X	X	X	X
Fairground	C	X	P	X	X	C	X	X	X	X	X	X	X	X	X	X	X	X
Food Processing	X	X	X	C	C	C	C	C	P	P	P	C	X	P	X	X	X	
Forest management	P	P	P	P	P	P	P	C	P	P	C	X	X	P	P	P	P	P
Gasoline sale	X	X	X	P	P	X	C ¹⁰	X ^{11,15}	X	C	P	X	X	P	X	X	X	X
Golf Course	X	X	P	X	X	P	X	X	X	X	X	X	X	X	X	X	X	X
Heavy equipment repair	X	X	X	X	X	X	X	X	X	X	P	X	X	C	X	X	X	X
Home occupation	P	P	P	P	P	P	P	P	X	P	P	X	P	P	P	P	P	P
Home occupation, major	X	C	C	P	P	P	X	X	X	C	P	X	X	P	X	X	C	C
Hospital/nursing home/congregate care	C	C	C	X	C	C	X	X ¹¹	X	X	P	C	X	P	X	X	C	C
Hotel/motel	X	X	X	C	C	C	C	C ¹¹	C	C	X	C	X	C	C	C	C	X
Inn	C	C	C	C	P	C	C	C ¹¹	X	C	X	P	X	C	C	C	C	C
Junkyard/automobile graveyard	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Kennel	X	X	P	X	P	C	X	X	X	X	X	X	X	X	X	X	X	X
Lab/research facility	X	X	X	C	C	C	C	C ¹¹	P	P	P	P	X	P	P	X	C	X
Manufacturing, heavy	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Manufacturing, light	X	X	X	C	C	C	C	C ¹¹	P	P	P	C ²⁴	X	P	X	X	C	X
Marijuana cultivation facility	X	X	X	P	P	X	P	X	P	P	P	X	X	X	X	X	X	X
Marijuana product manufacturing	X	X	X	P	P	X	P	X	P	P	P	X	X	X	X	X	X	X
Marijuana testing facility	X	X	X	P	P	X	P	X	P	P	P	X	X	X	X	X	X	X

ZONING

Use	District																	
	R-1	R-2	R-3	CC	RCU	MUL	MUC	MUC-1	BP	CC 196	I	BP2	R4	LI	VC	MV	LV	R2B
Marina	X	X	C	P	P	X	P	X	X	X	P	X	X	X	X	X	P	X
Medical clinic	X	X	X	P	P	C	P	C ¹¹	P	P	X	P	X	P	P	C ⁷	P	X
Mixed-use building	p ²⁶	p ²⁶	p ²⁶	p ²⁶	p ²⁶	p ²⁶	p ^{22, 26}	p ^{22, 26}	p ²⁶	p ^{22, 26}	p ²⁶							
Mobile food service	X	X	X	P	P	P	P	P	P	P	P	P	X	P	P	X	P	C
Museum	C	C	C	P	P	P	P	X	X	X	P	P	X	P	P	C	P	C
Motor vehicle services/repair	X	X	X	P	C	X	C	C ¹¹	X	C	P	X	X	C	C ¹⁹	X	X	X
Natural resource related business	X	C ⁸	C ⁸	C	P	X	P	X	X	C	P	P	X	P	C	X	X	C ⁸
Neighborhood grocery store	C	C	C	P	P	C	P	C ¹¹	X	X	P	p ²³	X	P	p ²³	X	p ²³	C
Office buildings as accessory uses	X	X	X	X	X	X	X	C ¹¹	P	P	P	P	X	P	P	X	P	X
Paper de-inking	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Piers, docks, wharves and uses projecting into waterbodies	P	P	P	X	X	P	X	X	X	X	P	X	X	X	X	X	P	P
Planned commercial development	X	X	X	P	P	P	P	X	P	X	P	P	X	C	P	X	P	X
Planned mixed use development	X	X	X	X	X	X	X	P	X	X	X	X	X	C	C ²²	X	X	X
Planned residential development	X	X	X	X	X	P	P	X	X	X	X	X	P	C	X	X	X	X
Printing	X	X	P	P	P	X	P	C ¹¹	C	C	P	P	X	P	P	C ⁷	P	X
Professional office	C	C	C	P	P	C	P	C ¹¹	P	P	X	P	C ⁷	P	P	C ⁷	P	C
Public facility	C	C	C	P	P	P	P	C ¹¹	P	P	P	P	P	P	P	C	P	C
Public utility facility	C	C	C	C	C	C	C	C ¹¹	C	C	C	P	P	P	P	C	C	C
Public water utility facilities	X	P	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Registered caregiver retail store	X	X	X	P	p ²⁷	X	P	X	X	P	X	X	X	X	X	X	X	X
Restaurant	X	X	X	P	P	P	P	C ¹¹	C	C	X	P	X	P	P	X	P	X
Restaurant, fast-food	X	X	X	C	X	X	C	X ¹¹	X	X	X	X	X	C	C	X	X	X
Retail business	X	X	X	P	C	C ³	P	C ^{11, 12}	X ¹⁶	C ¹⁸	P	C	X	p ²⁰	P	C ⁷	P	C ²⁵
Reuse of an existing agricultural building for non-res. use	C	C	C	C	C	C	X	X	X	X	P	X	X	C	X	X	X	C
Rural entrepreneurial use	X	C	C	X	X	X	X	X	X	C	P	X	X	C	X	X	X	C
Sawmill	X	X	C	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X
Schools	P	P	C	P	P	C	P	C ¹¹	C	C	X	P	P	P	C	C ⁷	P	P
Seasonal retail sales	P	P	P	P	P	P	X	X	X	X	X	P	P	P	P	P	P	C
Service business	X	X	X	P	C	C	P	C ¹¹	P	P	P	P	X	P ⁷	P	C ⁷	P	C ²⁵

TOPSHAM CODE

Use	District																		
	R-1	R-2	R-3	CC	RCU	MUL	MUC	MUC-1	BP	CC 196	I	BP2	R4	LI	VC	MV	LV	R2B	
Small wind energy conversion systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Stable	X	X	P	X	X	C	X	X	X	X	X	X	X	C	X	X	X	X	X
Transmission tower ⁹	X	C	C	C	P	C	C	X	C	C	P	X	X	X	X	X	X	X	C
Trash-to-energy incinerator	X	X	X	X	X	X	X	X	X	X	P	X	X	X	X	X	X	X	X
Veterinary hospital	X	X	P	P	P	P	P	X	P	P	X	C	X	C	C	X	C	C	X
Wholesale business	X	X	X	P	C	X	P	C ^{11, 14}	P ¹⁷	P ³	P	X	X	P	X	X	P	X	X
Warehousing; storage, distribution	X	X	X	C ⁸	C	X	C	C ^{11, 14}	C ¹⁷	C ³	P	C	X	C	X	X	X	X	X
Yard sale	P	P	P	P	P	P	P	X	X	P	X	X	P	C	P	P	P	P	P

P = Permitted use (may require site plan review)

C = Conditional use (may require site plan review)

X = Not permitted

NOTES:

¹ Permitted only on second story or above unless the use is part of a planned mixed-use development approved in accordance with § 225-60.7.

² Use permitted only in conformance with cluster development provisions of § 225-43 of this chapter.

³ Maximum of 10,000 square feet of gross floor area per building.

⁴ An accessory use to a site plan review use shall also require a site plan review. An accessory use to a conditional use shall also require a conditional use permit.

⁵ Only as part of a planned residential development.

⁶ If developed in accordance with the cluster provisions of § 225-43 of this chapter, lots not fronting on Lewiston Road or Augusta Road shall be allowed with 100 feet of frontage and a front setback of 25 feet, side setback of 25 feet and a rear setback of 25 feet. Cluster development in RCU Zones shall maintain and protect the existing vegetation in all setbacks, except as otherwise provided for in this Code.

⁷ Maximum 1,250 square feet of commercial space within existing and new structures and no exterior storage and must have a facade of the scale to the majority of the residential buildings in the neighborhood. In the Middle Village and the Residential 4 Zones, shall be an accessory use to a residential use.

⁸ Maximum 5,000 square feet.

⁹ If the proposal is for collocating a tower, only CEO approval is necessary. No new towers are allowed in the R-1, BP2, R4, LI, VC, MV and LV Zones. Collocation on existing towers or structures is allowed. The transmission towers listed in § 225-60.3B are exempt from this prohibition.

¹⁰ Allowed as conditional use when accessory to retail facility of at least 50,000 square feet and subject to the performance standards in § 225-44.

¹¹ Notwithstanding its designation in the table, this use is a permitted use if it is part of an approved planned mixed-use development.

¹² Retail businesses in the MUC-1 Zone are subject to the additional standards found in 225-60.8.

¹³ On lots of three (3) acres or more unless the use is part of a planned mixed-use development approved in accordance with 225-60.7.

¹⁴ Any individual use is limited to a maximum of 100,000 square feet of floor area.

¹⁵ Not more than two facilities involving the sale of gasoline may be permitted in the MUC-1 Zone.

¹⁶ Retail sales that are accessory to an allowed use are permitted provided that the floor area devoted to retail use including storage for the retail activity does not exceed more than ten (10) percent of the gross floor area of the building and all sales activity occurs entirely within the building.

¹⁷ Any individual use is limited to a maximum of 350,000 square feet of floor area.

¹⁸ Maximum of 6,500 square feet per use.

¹⁹ Permitted as an accessory use to auto sales.

²⁰ Limited to 15,000 square feet per lot.

²¹ When feasible, parking must be a shared arrangement with nearby parking lots or utilize on-street parking where allowed.

²² Residential uses are not allowed on the first floor of buildings fronting Rt. 201 in the Lower Village, Village Center and Limited Industrial Zones. Freestanding single-family dwellings are not

ZONING

allowed in the Village Center Zone.

²³ Gasoline sales are not allowed as an accessory use.

²⁴ No outdoor storage of any raw materials, work product or finished products.

²⁵ Limited to 3,000 square feet of total floor area.

²⁶ Uses within a mixed use building are permitted when permitted in the underlying zoning district or conditional when conditional in the underlying zoning district.

²⁷ Only permitted in the RCU Zone along the Route 196 Corridor, not an allowed use in the RCU Zone along the Route 201 Corridor.

APPENDIX C – PLANNING DEPARTMENT LETTER TO CCLLC

September 30, 2019

Daniel Diffin
SME Seavey & Maher Engineers
4 Blanchard Road PO Box 85A
Cumberland, ME 04021

RE: Crooker Construction Zone change Request

Dear Dan:

Prior to your request to attend the Planning Board workshop of September 17, the item was removed from the agenda. In a follow up conversation with you about this, I had stated that I would respond to you with some clear direction in regards to what should be submitted to the Planning Board to have a workshop discussion about the proposed zone change request.

As Crooker Construction LLC transitioned from Mike Abbott being the point person on this request to SME, we had an initial meeting (January 10, 2019) to review where Mike had left off, and what information may be suitable for a future submission. Planning staff suggested answering some basic zone amendment criteria that were compiled by staff. Following this meeting a request was submitted with the intention to be heard in March 2019. Soon after the submission was removed as the Planning Board was prepping for Town Meeting. A follow up meeting occurred in June 2019 with SME to discuss the newly adopted comprehensive plan, and the need for your request to address the new plan. A follow up submission with the addition of addressing the 2019 comprehensive plan was received on July 30th, 2019. The item was reviewed and placed upon the September 17th Planning Board agenda. A review memo (attached to this letter) was drafted and sent to the Planning Board members. The intent of providing the general criteria for zoning amendments were to assist the applicant in making a proposed finding on how their proposal is consistent with the adopted comprehensive plan. This is a finding that the Planning Board should make prior to an extensive review of proposed zoning code amendments.

As the Planning Board had a long separation from discussing this proposal, I had assumed that your submission would be an introduction to the Board with SME, and follow with a more detailed path forward in regards to the anticipated process.

In further discussions with the Planning Board members, they would rather start where Mike Abbott had left off. This was requested due to the fact that they had reviewed much of the previous planning justifications for your proposal, the update on the neighborhood meetings that were conducted, the alternatives analysis that CCLLC had conducted to focus their proposal, and the proposed benefits to the community. So, this all being said, the applicant should prepare a finding of comprehensive plan consistency to be reviewed by the Planning Board, and then prepare for a detailed zoning amendment proposal.

In this regard a proposal for a zoning amendment should include the following from you.

1. A map of all of the property under your control/ ownership
2. A map of the current zoning
3. A map of all of the proposed zoning map amendments

4. Article II Word Usage and Definitions
 - a. Identify any proposed language amendments particularly in 225-6
5. Article IV Establishment of Zones
 - a. Proposed amendments to any sections within this article
6. Article VI Zone regulations
 - a. Proposal for 225-16 use table amendments
 - b. Proposal for 225-17 dimensional requirements
7. Article VIII Specific Performance standards proposed language amendments
 - a. Currently batch plant use do not have performance standards
 - b. Identify further use standards for “industrial” proposed uses
 - i. Landscaping
 - ii. Noise
 - iii. Vibration
 - iv. Wastes
 - v. Air emissions
 - vi. Lighting
 - vii. Hours of operation
 - viii. Traffic
 - ix. Architecture
 - x. Stormwater (see section 225-34)
 1. Groundwater impact?
 - xi. Outside storage
 - xii. Visibility/ buffering
 - xiii. Erosion control (see stormwater?)
 - xiv. Natural resources/ historic sites/ habitat
 - xv. Signage/ advertising
 - xvi. Emergency access
 1. Fire and building safety
8. Article XIV Zone Description proposed language amendments
 - a. If a new zone is proposed new language should be submitted
 - b. If amending an existing zone description ne language should be submitted
9. Other items that may be addressed by the Planning Board as they review a proposal:
 - a. Public notice requirements for permitting activities (see chapter 85)
 - b. Inspection and monitoring of activity
 - i. Records
 - ii. Reporting

After a finding of consistency with our 2019 comprehensive plan, the Planning Board role will be to review a proposed amendment to our existing code. They will step through each section that is addressed by the applicant, receive input, and offer specific feedback. In order to accomplish this, it is recommended that a thorough proposal be submitted. While the list above is not exhaustive, it may serve as a starting place for the Board to have a discussion of what, if any, additional information is needed as this requests proceeds.

Town of Topsham

100 Main Street
Topsham, Maine 04086

Planning & Codes Office

Planning Office: (207) 725-1724
Codes Office: (207)725-1723

Please feel free to contact me if you have further questions.

Rod Melanson
Director-Planning, Development & Codes
Town of Topsham
100 Main Street
Topsham, ME 04086
(207) 725-1724
rmelanson@topshammaine.com

From: [Gary W. Fogg](#)
To: [Rod Melanson](#); [Andrew Deci](#)
Subject: Minor Correction to Gas Plumes
Date: Saturday, June 13, 2020 9:16:35 AM

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Rod and Andy:

When speaking about the neighborhoods that are likely to be most affected by the gas plume from the batch plant, I meant to say that they are the neighborhoods northwest and SOUTHEAST from the intersection of Meadow Cross Road and White House Crossing Road. In the epistle, I said southwest.

In my old age, it is difficult to keep what I say and write properly aligned with what I am thinking about. A lot of ideas and images in mind are constantly swirling around and they keep getting mixed up.

Gary

Gary W. Fogg
20 Coville Road
Topsham, ME 04086
Email: gfogg@gmail.com
Phone: (207) 837-5546

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June 22, 2020

Dear Mr. Melanson and Town Planning Board Members,

I am writing to express my strong objection to the Crooker Company's proposal to rezone residential land and relocate their batch plant and headquarters to land they have acquired near my neighborhood. I object to the assertion by the Crooker consultants that the rezoning is consistent with our 2019 comprehensive plan update.

One of the biggest take-aways from that update for town officials is to protect and enhance the quality-of-life for residents in existing neighborhoods. In addition, residents want town officials to enhance pedestrian and bicycle safety, environmental protections, and natural area access. Here are some of my concerns about the rezoning that clarify why this proposal is inconsistent with our Comprehensive Plan:

- Concerns about noise, air, and light pollution from a heavy industrial facility relocating near two existing residential neighborhoods.
- Concerns about the addition of constant heavy truck traffic at the intersection of Meadow Cross and Rt.196 increasing the hazards of travel along the Rt.196 corridor and side roads such as River Road in Topsham.

- Concerns about wetlands, wildlife, and natural areas impacted by increased blasting, crushing, dust, and debris from the plant.
- Concerns about the stability of the water table and negative impacts to our water quality from the encroachment of the blasting pit toward the field across from the old Flaig farmhouse.

During our Comprehensive planning process in 2018, I attended several charettes, discussions, and meetings with members of the Comprehensive plan committee. During one of those meetings, two neighbors and I received verbal assurances from the Chair and others in attendance that the "Crooker Zone" was just a possibility and not a commitment of the town. Moreover, they emphasized that the protection and enhancement of existing neighborhoods is paramount, going forward. Otherwise, we would have pushed for the language "Crooker Zone" to be excised from the document.

I object to the consultants conclusion that the 2019 Comp. Plan revision supports this rezoning effort. You have already heard from a cross-section of citizens, over 300 of whom signed on to petition against the rezoning.

An additional point I'd like to make is that the housing surrounding the current Crooker facility was built up around plant, not the other way around.

My husband and I purchased our home in a planned neighborhood precisely to avoid things like heavy industry, gravel pits, truck traffic, large power lines, and other environmental hazards.

Please protect our quality of life in the Ivanhoe and Pjepscot neighborhoods and do not allow this rezoning proposal to advance.

Sincerely,

Robin Brooks

47 Ivanhoe Drive

Topsham, Maine 04086

207 232-9734 cell

From: [Gary W. Fogg](#)
To: [Rod Melanson](#)
Subject: Traffic Question
Date: Tuesday, June 9, 2020 12:54:22 PM

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Rod:

Since you showed so much enthusiasm for my last two questions, I thought I would send you another one as a bonus.

How many Crooker trucks will be going up or down Lewiston Road once the new intersection is completed? The Proposal only talks about the reduction of the trucks going to and from the quarry under the new plan when discussing the impact on Lewiston Road and the residents of the area. What about all the Crooker trucks coming and going to job sites once the plant is relocated?

The trucks must travel down Lewiston Road to get anywhere, even to get to the highway.

Gary

Gary W. Fogg
20 Coville Road
Topsham, ME 04086
Email: gfogg@gmail.com
Phone: (207) 837-5546

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From: [Gary W. Fogg](#)
To: [Rod Melanson](#)
Subject: Two More Questions about Crooker Project
Date: Tuesday, June 9, 2020 11:47:51 AM

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Rod:

I apologize for writing so soon again and with two more questions that probably cannot be answered. In this case, the question concerns the oily, hot asphalt odor that is emitted by the batch plant during operation.

1. Has Crooker submitted or have you seen any data on how far downwind the odor can be detected by people with an ordinary sense of smell?
2. How long each day on average does the batch plant emit the oily, hot asphalt odor?

If I had this information, I could estimate how often I would smell the batch plant at the location of my house at Coville Road. I have observed the wind patterns around my area of the neighborhood for years because of bird watching, walking, bicycling and so on, and so I have some relatively good data to build upon.

Thank you.

Gary

Gary W. Fogg
20 Coville Road
Topsham, ME 04086
Email: gfogg@gmail.com
Phone: (207) 837-5546

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From: [Gary W. Fogg](#)
To: [Rod Melanson](#)
Subject: Two Questions
Date: Friday, June 5, 2020 9:45:02 AM

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Rod:

I have two questions about who actually owns Crooker and what their intentions are. I spoke once to John a long time ago and he didn't know the answers at the time, but perhaps the Town knows more now.

1. The Crooker website describes Tom Sturgeon as the CEO. It says he is part owner along with a number of other investors. Do we know who these other investors are and what kinds of projects they have financed in the past?
2. At the time of the sale, Ted Crooker did not disclose if he remained a part owner of the company, but I think John said that Ted retained ownership of the land at the existing Crooker batch plant across from Topsham Fair Mall. Do we know if Ted in fact continues to own the land at Crooker's existing location?

It has occurred to me that consolidating Crooker's operations at the River Road site may not be the only interest that the investors have in this project. Perhaps Ted Crooker as well as the Company's silent investors would like to make money by redeveloping the existing Crooker site. This is not illegal. It may not even be entirely relevant from the point of view of the Planning Board, but if true it does cast a new light on the urgency to accommodate the applicant's desire for rezoning.

Thank you for any information you can provide.

Gary

Gary W. Fogg
20 Coville Road
Topsham, ME 04086
Email: gfogg@gmail.com
Phone: (207) 837-5546

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From: [Andrew Deci](#)
To: [lori howard](#)
Cc: [Planning](#)
Subject: RE: june 2nd planning board meeting/crooker proposal
Date: Tuesday, June 16, 2020 12:36:52 PM

Hi Ms. Howard:

Thank you for your comments. They will be provided to the applicant and the Planning Board for consideration. They will also be posted to the project's webpage (<http://www.topshammaine.com/crooker>).

FYI--we do not expect the Crooker Rezoning project to come back to the Planning Board until July 21st.

Best,

ahd

Andrew H. Deci
Assistant Town Planner

Planning, Development & Codes
Town of Topsham
100 Main Street
Topsham, ME 04086
(207) 725-1724

Per 1 MRSA § 402(3), correspondence to/from municipal offices/officials (with limited exceptions) is a public record and available for review by any interested party. This means if anyone asks to see it, we are required to provide it. There are very few exceptions. We welcome citizen comments and want to hear from our constituents, but please keep in mind that what you write in an email is not private and will be made available to any interested party.

From: lori howard <lorihwrd@yahoo.com>
Sent: Tuesday, June 16, 2020 11:34 AM
To: Planning <planning@topshammaine.com>
Subject: june 2nd planning board meeting/crooker proposal

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Attached is my rebuttal about the Crooker proposal.

Lori Howard

To the Topsham Planning Board

My name is Lori Howard and I live at 23 Whitehouse Crossing Rd. I watched your Meeting Tuesday June 2nd and I do not feel that the Crooker proposal is consistent. First of all the consultants, who don't seem to even know the area, were hired by Crooker Construction so they would obviously work toward their benefit.

To me rural means country and suburban means residential. This is not the Place for an industrial plant.

Traffic flow will not improve at the Mall as whatever they put in there will Just add to more cars entering there and all the trucking business will just move To the intersection of 196 and Whitehouse Crossing Rd. This is a four way intersection now. Adding a fifth road would be a disaster. It may reduce emissions for them Because their own trucks won't have as far to travel but all their customers Trucks will bring even more emissions to our neighborhood.

The environment will be ruined, the wild life scared off, the streams and Pools polluted so what would be the sense to open trails.

We all pay taxes according to the rates. And we have jobs. I work nights. How much sleep do you think I will get with 150-200 trucks entering and leaving 5-6 hundred feet from my home all day? I will continue to fight this.

Please do not put a corporation ahead of your friends, neighbors, and town.

Lori Howard