

**PLANNING BOARD ZOOM MEETING
MINUTES
June 7, 2021**

MEMBERS PRESENT

**MOLLY BUTLER-BAILEY, CHAIRWOMAN
SCOTT FIRMIN, VICE CHAIRMAN
GEORGE FOX
THOMAS HUGHES
VINCENT GRASSI**

MEMBERS ABSENT

**JAMES ANDERSON
SUSAN DURST**

STAFF PRESENT

**THOMAS POIRIER, DIRECTOR
OF COMMUNITY DEVELOPMENT
CAROL EYERMAN, TOWN PLANNER
BARBARA SKINNER, CLERK OF THE
BOARD**

Molly Butler-Bailey, Chairwoman, opened the meeting at 7:00 a.m. The Clerk of the Board called the roll, noting that James Anderson and Susan Durst were absent.

APPROVAL OF THE MAY 3, 2021 MEETING MINUTES

George Fox MOVED and Vincent Grassi SECONDED a motion to approve the May 3, 2021 meeting minutes. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent).

CHAIRWOMAN'S REPORT

Ms. Butler-Bailey said there is no report this evening.

COMMITTEE REPORTS

- A. ORDINANCE REVIEW COMMITTEE** – Mr. Grassi said this committee has not met since the Board's last meeting and there is no report.
 - B. Comprehensive Plan Implementation Committee** – Ms. Butler-Bailey reported that this committee met earlier this evening in a zoom workshop to discuss the proposed amendments to the Mosher's Corner Mixed-Use Development zone. She said there will be another workshop to which abutters and other members of the public will be invited. Also discussed were the proposed amendments regarding the Village Expansion District.
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ADMINISTRATIVE REVIEW REPORT

Ms. Eyerman reported that Peter Wentworth's request for a duplex at 25 Lincoln Street is scheduled for a final review by the Administrative Review committee this week.

CONSENT AGENDA - Avesta, Hillside at Village Square – Condominium Documents Amendment – a proposed amendment to the condominium documents. Zoned UR/CZ, Map 101, Lot 18 and 19. Applicant is self-represented.

Ms. Butler-Bailey explained that an item on the Consent Agenda is an application which has been before the Board but has minor outstanding issues that staff feels have been satisfactorily addressed and the item is ready for Board approval. Such items are approved without discussion, unless either a member of the Board or a member of the public wishes to take the item off the Consent Agenda.

Ms. Eyerman told the Board this proposal is to amend the condominium documents to include the demolition of Unit 3 building.

There being no one from the Board or the public wishing to remove the item off the Consent Agenda,

George Fox MOVED and Vincent Grassi SECONDED a motion to approve the item on the Consent Agenda. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent).

ITEM 1 Public Hearing – Proposed Amendment to the Land Use and Development Code – a proposed amendment regarding the permitting of certain private driveways.

Mr. Poirier explained that the proposed ordinance would require driveway permits only for driveways located on a private way or a public road and not for driveways located off condominium drives.

PUBLIC COMMENT PERIOD OPENED: None offered
PUBLIC COMMENT PERIOD ENDED

Mr. Grassi said that the Board's Ordinance Committee saw no issue with the proposed ordinance change.

Vincent Grassi MOVED and George Fox SECONDED a motion to recommend adoption by the Town Council of the proposed amendments to the Land Use Code, Chapter 1, Section 1-3 to require driveway permits for only private ways and public roads. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent).

Ms. Butler- Bailey asked to be recused from participating in the discussion on Item 2 as it involves a daycare facility one of her children attends.

George Fox MOVED and Vincent Grassi SECONDED a motion to allow Ms. Butler-Bailey to be recused from participating in the discussions on this item. Motion CARRIED, 4 ayes (James Anderson and Susan Durst absent, Molly Butler-Bailey abstaining).

Mr. Firmin as Planning Board Vice Chairman assumed the chair and opened the discussion on Item 2.

ITEM 2 Public Hearing – Gorham Savings Bank – Contract Zone Amendment – a proposed amendment to the Gorham Savings Bank Contract Zone to allow daycare use/centers. Zoned UR/CZ, Map 46, Lot 9. The applicant is self-represented.

Ms. Eyerman explained that this application is to amend Gorham Savings Bank's Contract Zone Agreement to allow daycare as an allowed use at 10 Wentworth Drive, the Bank's property. Ms. Eyerman said that the Town Council has approved the request for a Contract Zone amendment. There will also be a proposal coming forward regarding the applicant's outside play area, but that will probably be dealt with as an administrative review and will not require Planning Board review.

Amy Valentine, on behalf of the Gorham Arts Alliance, told the Board that this year capacity at their current site at 34 School Street in the Village has been pushed significantly. When Gorham Savings Bank approached them about having some space available due to several of the Bank's employees working remotely, they were eager to expand their school-aged program of K to 6th grade to that site, along with special needs art classes and theater program. She said their current building in the Village will continue to be used for pre-school and transitional kindergarten.

PUBLIC COMMENT PERIOD OPENED: None offered.
PUBLIC COMMENT PERIOD ENDED.

Mr. Fox and Ms. Valentine discussed the potential number of children who would use the Savings Bank site, with Ms. Valentine explaining that there would be approximately 35 school aged children and 26 pre-school age children present. Also discussed was the number of busses involved in transporting children and the impact of those busses on traffic. Mr. Firmin asked about the nature of the pending legal review; Ms. Eyerman replied that it involves changing the Contract Zone documents to add daycare as an allowable use in the Contract Zone.

George Fox MOVED and Vincent Grassi SECONDED a motion to recommend adoption by the Town Council of the Contract Zone amendment. Motion CARRIED, 4 ayes (James Anderson and Susan Durst absent; Molly Butler-Bailey recused).

Ms. Butler-Bailey assumed the chair.

ITEM 3 Public Hearing – Preliminary and Final Subdivision/Site Plan - Earle Enterprises, LLC – a request for preliminary and final subdivision and site plan approval for 8 College Avenue, to convert an existing single family residence into an 8-unit apartment building. Zoned UR, Map 102, Lot 5.

Ms. Eyerman explained that the applicant is requesting a waiver for stormwater to be over zero, inasmuch as the contour of the site has stormwater flowing toward College Avenue and some of

it flowing to the rear of the site. The engineer's calculations shown that stormwater flowing toward College Avenue is as minimal as possible, but is still over zero; stormwater going to the rear of the property is shown at zero, with neither an increase nor a decrease in stormwater flow. Ms. Eyerman said the Town's review engineer has asked for more detail on contour labels and spot grades, as well as a HydroCAD model of all pre- and post-development of the entire site. If the Board chooses to grant the applicant's waiver request, it should be clear as to which directional flow the waiver is being granted.

Charlie Burnham, Atlantic Resource Consultants, entered the zoom meeting. He asked if Ms. Butler-Bailey wanted to recuse herself in discussing this item because she had recused herself on the last item, as the Gorham Arts Alliance is an abutter to this project. Ms. Butler-Bailey said she did not believe it was necessary in this case because the last application involved a school one of her children attends.

Mr. Burnham advised the Board of the ledge in the property and its impact on stormwater, saying they propose infiltration trenches around the parking lot at the back of the site which will contain a 25 year storm and there will be no additional runoff to the abutter in the south. He said the waiver request deals with the front of the property, toward College Avenue, which the Public Works Director has characterized as OK and should not cause additional issues within the road. Mr. Burnham acknowledged that the Town's Review Engineer has not yet reviewed the updated HydroCAD model.

PUBLIC COMMENT PERIOD OPENED: Leonora Trussell, 27 State Street, abutting 8 College Avenue in the back, said she has had a number of drainage issues coming on to her property and asked for an explanation of where the water will go. She commented on the poor condition of some of the existing trees, asked how many trees will be cut down at the property line and who will replace them. She said she believes that trees would be helpful in slowing down water coming down the hill from 8 College Avenue.

PUBLIC COMMENT PERIOD ENDED

Mr. Burnham said he would be willing to plant three or four trees along the property line at the back that would suck up some of the stormwater. He said he would add that detail to the plans. The Board and Mr. Burnham discussed in detail what species of tree would be best suited to control water flow, with Ms. Eyerman suggesting that a condition of approval be created about "water loving vegetation to be installed," but without a specific number.

Ms. Butler-Bailey confirmed with Ms. Eyerman that the calculations show that the water flow going away from College Avenue will not increase and could possibly decrease, but the flow going toward College Avenue needs to remain at zero, per the Town's ordinance. The waiver request, therefore, is to allow an increase toward College Avenue. Ms. Eyerman said that the Town's peer reviewer needs to review the latest submission, which was made only today.

Mr. Burnham and Mr. Fox discussed the Code Enforcement Officer's comment about needing to apply for after-the-fact permits. Mr. Hughes confirmed the comments of the Public Works Director that the increased flow to College Avenue should not cause additional issues within the road. Mr. Firmin asked about granting a waiver pending peer review, Ms. Eyerman replied that a waiver can specify pending approval by the peer review.

Scott Firmin MOVED and George Fox SECONDED a motion to grant the applicant's waiver request from Section 4.9.F.1 for stormwater runoff to College Avenue only, provided the assertions of the applicant are confirmed by the peer review. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent).

Scott Firmin MOVED and George Fox SECONDED a motion to place the item on a future Consent Agenda. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent).

ITEM 4 Final Subdivision – McCormack, Gregory – Maplewood Drive Subdivision and Deerfield Drive PW – request for approval to subdivide 6 lots from 3 existing lots, 5.08 acres of 71 Maplewood Drive. Zoned UR, Map 104, Lot 10-3, 23 and 30.

Ms. Eyerman noted that the Board granted preliminary approval on April 14, 2021, and all that remains is an approval letter pending from the Portland Water District, the wetlands on lots 2 and 3 will be affected by the construction of the sidewalk, and the Fire Department has requested no parking signage for the hammerhead.

Andrew Morrell, BH2M Engineers, entered the zoom meeting on behalf of the applicant. Mr. Morrell told the Board that homeowners' documents are finalized, certain changes regarding the sewer force mains as requested by the Portland Water District have been done, and the hydrant has been moved to avoid an existing storm drain. Mr. Morrell noted that Condition of Approval #5 has been crafted to deal with the Portland Water District's approval letter.

PUBLIC COMMENT PERIOD OPENED: Patricia Godard, 71 Maplewood Drive, asked if they will have to connect to sewer and change what they have.

PUBLIC COMMENT PERIOD ENDED

Mr. Morrell replied that the sewer system will be a private system, maintained by the homeowners, and there will be no requirement for existing properties to connect.

Mr. Firmin advised the Board that he works for the Portland Water District but has had no involvement with this project and therefore is confident he can remain impartial in considering this application.

After discussion about the location of the sidewalk, Ms. Eyerman suggested adding a condition of approval "That the sidewalk shall be placed in a location such that it is not within a wetland."

George Fox MOVED and Thomas Hughes SECONDED a motion to grant Greg McCormack's request for final subdivision plan approval for a 6-lot subdivision located on Map 104, Lot 10-3, 23 and 10-30, Urban Residential zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner and modified this evening. Motion CARRIED, 5 ayes.

ITEM 5 Pre-Application – Shirley Newton, LLC – Shirley Lane Subdivision - a request for approval of 12 residential lots and an extension of Shirley Lane on 38 acres at the end of Shirley Lane. Zoned R, Map 8, Lot 10. .

Ms. Eyerman described the project as a subdivision pre-application with the intent of constructing 13-lots off of Shirley Lane, which is located off of Brackett Road. The parcel has been cleared with an existing dirt road between Shirley Lane and Newton Drive. The Zoning is recommended to be changed to the South Gorham Crossroads, but is currently Suburban Residential. The Conservation Commission will work with the applicant to either connect existing trails or create new trails, if possible. One item she would like explained, would be the ownership of the property. One document states the owner is Shirley Newton, LLC and another states PTG Investment Trust. Ms. Eyerman also stated that the public works department noted this location is outside of the MS4 area.

Charlie Burnham/Shirley Newton LLC, entered the zoom meeting. Mr. Burnham discussed the 12-lots located at the end of Shirley Lane. Those single family lots would be considered during the initial approval process. The duplexes off of Newton Drive would be a secondary, phase 2. Mr. Burnham noted that staff suggested connecting Newton Road to Shirley Lane. He stated it may be possible to connect to existing trail networks on the powerlines. Mr. Burnham noted, staff had made suggestion to make connections to allow for future development. He also stated abutting property owners have requested right of ways. The applicant has concerns regarding adding right of ways. Their fear is the amount of right of ways will cannibalize space and wonders how to best navigate that. The lots will not be served by public sewer or water. To clarify the ownership question, Mr. Burnham stated, PTG Investment Trust currently owns the property and the Owner is transferring the property to Shirley Newton, LLC.

PUBLIC COMMENT PERIOD OPENED: Thomas Pitman, 26 Shirley Lane, stated there is a stream running through lots 3, 4, 10, 11 and 12. He noted that Mr. Burnham stated they would be doing wetland and vernal pool research and he hoped the stream would be observed at that time. He stated there is also a vernal pool that shoulders the road. If the road is widened to the left, it would be in the vernal pool.

PUBLIC COMMENT PERIOD ENDED

Ms. Butler-Bailey asked Ms. Eyerman to explain the current zoning compared to the proposed zoning in the Comprehensive Plan. As well as, provide clarification to the Board as to how much they should be looking to the comprehensive plan as opposed to the current ordinances. Ms. Eyerman explained, that in terms of the lot sizes, we would follow the zoning ordinance. In terms of performance standards, we should reference the comprehensive plan for direction as to where the Town is headed. In this instance, the requirements are not in the zoning ordinance yet and cannot be required. Mr. Fox asked even though the comprehensive plan does not allow for the construction of single family or two family homes in this area, we are to proceed with the assumption that single family and two family are allowed. Ms. Eyerman confirmed. Ms. Butler-Bailey requested we receive legal opinion on this matter. Mr. Burnham asked what is allowed in the comprehensive plan for that area. Ms. Butler-Bailey stated that information is included in the staff notes provided by Ms. Eyerman.

Mr. Burnham asked if the connector road can be a lower standard to maintain separation between the

single family homes and the duplexes. He would like to make that connection but have it not be a traveled way. Mr. Burnham suggested a sign that says “authorized vehicles only” and reducing the width to a 12-14 feet road, stating it would help create the separation they’re looking for. Ms. Butler-Bailey asked Ms. Eyerman if there are standards regarding the area and where to encourage the connection of roads. Ms. Eyerman stated, because this is a growth area we would encourage the connection of roads to each other and to abutting parcels. She suggests having further discussion with the applicant to figure out nuance road solutions.

Mr. Burnham asked what the Board would like to see in the open space. Ms. Butler-Bailey suggested designing the open space in a way that would attract people to use the space. Mr. Fox stated this open space is an opportunity for the applicant to distinguish the property as attractive and that the owners and public could use for items such as trail access.


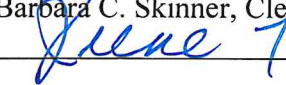
OTHER BUSINESS The Board discussed the possibility of holding future Board meetings in person. Ms. Eyerman said she would check with the Town Attorney about the feasibility of hybrid meetings.

ANNOUNCEMENTS

ADJOURNMENT

George Fox MOVED and Vincent Grassi SECONDED a motion to adjourn. Motion CARRIED, 5 ayes (James Anderson and Susan Durst absent). [9:25 p.m.]

Respectfully submitted,


Barbara C. Skinner, Clerk of the Board
 June 7, 2021

ITEM 4 GREGORY MCCORMACK – MAPLEWOOD DRIVE SUBDIVISION

CHAPTER 3 - SUBDIVISION, SECTION 3 - PRELIMINARY PLAN

The Planning Board, following review of the Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter 3, Subdivision, Section 3 – C. Preliminary Plan Review, and Section 4 – C. Final Plan Review.

C. PRELIMINARY PLAN REVIEW

- 2) The Planning Board shall include in its review the following general and specific requirements that the development has proposed for approval:

- a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter 2.

The applicant is required to obtain all local, state, and federal permits needed for the proposed development.

The Comprehensive Plan identifies this area as Village Residential. The plans meet the requirements of the current Urban Residential zoning district for density.

Finding: Deerfield Drive subdivision conforms to the Comprehensive Plan and with all pertinent State and local codes and ordinances.

- b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

Access to Deerfield Drive subdivision is via Maplewood Drive off South Street. Deerfield Drive was previously approved and will be constructed to the Town's 2-6 lot private way standard. The addition of 6 additional lots should not cause congestion or an unsafe condition on South Street.

Finding: Deerfield Drive 6 lot subdivision will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.

- c) Will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

The Deerfield Drive 6 lot subdivision will be served by public water and public sewer, as well as underground electric.

Finding: Deerfield Drive 6 lot subdivision will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services

including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.

The 6 lot subdivision will be served by a water main extended from the Portland Water District's water main located in the right-of-way. The water main design and installation must meet the requirements of the Portland Water District.

The applicant is waiting to receive an approval letter from Robert Bartels, P.E., Portland Water District.

Finding: *Deerfield Subdivision shall provide for adequate water supply for present and future needs.*

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The applicant proposes to connect to the public sanitary system utilizing a 1.5 inch pressure sewer force main along Deerfield Drive and Maplewood Drive. Grinder pumps will be utilized in each house. The applicant is waiting to receive an ability-to-serve letter from Robert Bartels, P.E., Portland Water District.

Finding: *Deerfield Subdivision shall provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.*

- f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

Stormwater from the site will be treated in stormwater infrastructure meeting the Maine Department of Environmental Protection's and the Town of Gorham's stormwater requirements. The dwellings units' sewage disposal will be treated utilizing the public sewer system.

Finding: *Deerfield Drive subdivision will not result in undue pollution of air, or surficial or ground waters, either on or off the site.*

- g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

The proposed construction of the residential units and road will not impact wetlands or water bodies. The wetlands on the eastern edge of the site will be located in the individual lots and protected from development. The applicant shall place erosion and sedimentation controls around the development site.

Finding: *Deerfield Drive subdivision will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.*

- h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

There are no water bodies, as defined in the Zoning Ordinance, on this property.

Stormwater maintenance has been designed in accordance with state, Federal, and local requirements prior to discharging into groundwater or into abutting wetland.

Finding: Deerfield Drive subdivision will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

- i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

The proposed construction of the residential units and road will not impact wetlands or water bodies. The layout of the buildings and road will impact trees and other natural features on the site.

No historic site, rare or irreplaceable natural or manmade assets are located on the site.

Finding: Deerfield drive subdivision shall respectfully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.

- j) Financial Capacity to meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.

The applicant has submitted a letter from Machias Savings Bank from Andrew Dorr, Vice President, dated December 26, 2019, which identifies Greg McCormack as having financial capacity to construct the proposed improvements.

Finding: The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards for the development.

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to meet the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter 8.

The applicant will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: The applicant of Deerfield Drive subdivision will be responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of

the subdivision.

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:

a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.

b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The applicant is not providing open space and/or recreational land nor facilities within this subdivision.

Finding: *No additional recreational facilities or open space will be provided.*

CHAPTER 3 - SUBDIVISION, SECTION 3-4 C - FINAL PLAN

The Planning Board shall review the Final Plan of the proposed development as submitted. It shall verify the provision of all information as required under the above subsections, and the provision of any additional information requested during the Preliminary Review. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

Conditions of Approval

1. That this approval is dependent upon, and limited to, the proposals and plans contained in this application and supporting documents submitted and affirmed by the applicants and that any variation from the plans, proposals and supporting documents is subject to review and approval by the Planning Board, except for minor changes which the Town Planner may approve;
2. That prior to the commencement of construction of the site plan, the applicant is responsible for obtaining all required local, state and federal permits;
3. That all relevant conditions of approval from past Private Way approvals shall remain in effect;
4. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
5. Portland Water District approval letter shall be submitted prior to a pre-construction meeting
6. That prior to the pre-construction meeting, the applicant will establish an escrow for field inspection meeting the approvals of Town Staff;
7. That prior to the commencement of any site improvements, the applicant, its earthwork contractor, and the design engineer shall arrange a pre-construction meeting with the Town's Review Engineer, Public Works Director, Fire Chief, Code Enforcement Officer and the Town

Planner to review the proposed schedule of improvements, conditions of approval, and site construction requirements;

8. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
9. That the applicant shall make any required changes to the plan and provide the additional legal documents and homeowners' association documents prior to the Planning Board's signature of the final plan meeting Town Staff and Town Attorney's approvals;
10. That the applicant is responsible for recording the approved homeowners' association documents within ninety (90) days of the date of approval of the subdivision by the Planning Board and a recorded copy of the homeowners' association documents shall be returned to the Planning Department prior to the applicant applying for a pre-construction meeting;
11. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
12. That the sidewalk shall be placed in a location such that it is not within a wetland.
13. That the subdivision plan are required to be recorded within one (1) year of original approval or the approval becomes null and void; and
14. That once the subdivision plans have been recorded at the Cumberland County Registry of Deeds, a dated copy of the recorded subdivision plan shall be returned to the Town Planner prior to the pre-construction meeting.