

**PLANNING BOARD
FINDINGS OF FACT**

For

**JONATHAN STURGIS – LOMBARD ESTATES PHASE II SUBDIVISION
AMENDMENT**

WHEREAS, Jonathan Sturgis, applicant, 28 William Henry Drive, proposes to subdivide one lot into two lots.

Pursuant to the Application:

A Sketch Plan Review and discussion was held on February 1, 2021.
Subdivision Amendment Review were held on May 3, 2021.

Consent Agenda and approval granted to amend the project description Map-Block-Lot on June 6, 2022.

Project Description:

The applicant proposes to subdivide one lot into two lots. The original lot would be 89,991 sq. ft. and the out sale lot “A” would be 104,121 sq. ft. The lot is identified as Tax Map 20, Lot 5.049, in the Urban Residential zoning district and is located on William Henry Drive.

The units will be served by the existing overhead utilities from William Henry Drive. The property totals approximately 4.6 acres and currently contains a single family home. There is a forested wetland and a 15 ft. recreational trail easement on the property.

Waiver:

A waiver was granted to waive the submission requirement under Chapter 3 Section 3-3, B. 11 & 12 Nitrate Analysis, because the proposed lot will be served by public water.

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

BH2M plans consist of the following:

Sheet 1 – Amended Subdivision Plan #2 – 03/03/21 Sheet 2 – Erosion Control Details – 03/03/21
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Other documents submitted consist of the following:

Sketch Plan Submission – 12/18/21
Plans – 12/18/21
Gorham Town Planner Comments – 04/26/21
Gorham Assessor Comments – No comments

Gorham Fire Chief Comments – 04/06/21
Gorham Public Works Director Comments – 04/14/21
Gorham Stormwater Compliance – 04/13/21
Gorham Code Enforcement Officer – No comments
Woodard & Curran – No comments

NOW THEREFORE, based on the entire record before the Board and pursuant to the applicable standards set out in the Land Use and Development Code of the Town of Gorham, the Planning Board makes the following factual Findings:

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.

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 allowed uses in the Village Residential area should include a wide range of residential including single family homes.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 conforms to the Comprehensive Plan of the Town, 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 this section of Lombard Estates Phase II Amended Subdivision Plan #2 is via William Henry Drive, which meets the Town’s road standards.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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 additional single family dwelling unit will be served by overhead power, telephone, and cable lines as stated in the application. The Town has anticipated growth within the Comprehensive Plan and has the ability to provide additional services to this additional lot.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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 additional single family dwelling unit will be served by the water main extended from the Portland Water District's water main located in William Henry Drive right-of-way.

The applicant shall provide an ability-to-serve letter from the Portland Water District prior to receiving building permit approval.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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 single family dwelling unit will be served by private onsite septic system.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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.

Re-ditching of the frontage of the new lot "A" shall be done during the single family dwelling construction phase.

Stormwater from the site will be treated in stormwater infrastructure meeting the Maine Department of Environmental Protection's and the Town of Gorham's storm water requirements. The single family dwelling unit will be served by private onsite septic system.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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 single family dwelling unit will not impact wetlands or waterbodies. Sheet 2 describes the method of erosion control.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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.

The proposed construction of the single family dwelling unit will not impact wetlands or waterbodies.

Sheet 2 describes the stormwater infrastructure for the house site and it is designed in accordance with state, Federal, and local requirements.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 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 single family dwelling unit and driveway will not impact wetlands or waterbodies. The layout of the buildings and driveway will remove canopy trees and understory features on the site.

Finding: Lombard Estates Phase II Amended Subdivision Plan #2 will 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 intends to sell the newly created lot. Although the applicant will not be constructing the dwelling unit or driveway, he is responsible for adherence to the approved plan.

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 or new property owner will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of a building permit.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 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 current parcel provides access to the trail network. The trail easement and connection is shown on the plan, Sheet 1.

Finding: *Lombard Estates Phase II Amended Subdivision Plan #2 will have common space within the subdivision in accordance with the Planning Board requirements and the condominium association shall be required to provide for the perpetual care of commonly owned land.*

CHAPTER 3 - SUBDIVISION, SECTION 4 –FINAL PLAN REVIEW

C. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

Finding: The applicant is requesting final plan amendment approval.

- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval.

Finding: The final plan amendment was submitted in accordance with this Chapter.

NOW THEREFORE, on May 3, 2021, the Gorham Planning Board adopts each of the foregoing Findings of Fact, and based on these Findings determines that Jonathan Sturgis’ request for subdivision amendment approval will have no significant detrimental impact, and the Gorham Planning Board hereby votes to grant approval to Jonathan Sturgis with the Conditions of Approval listed below.

Vote of ___ ayes, ___ nays, ___ absent/abstain

JIM ANDERSON, PLANNING BOARD CHAIR

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 the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
3. That an ability-to-serve letter for water shall be submitted prior to a building permit being issued.
4. Re-ditching of the frontage of the new lot “A” shall be included during the single family dwelling construction phase.
5. That prior to the commencement of construction, the applicant, applicant’s engineer and earthwork contractor shall have a pre-construction meeting with the Town’s Engineer, Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief;
6. That all homes are to be sprinkled meeting all applicable section of the Town Fire Suppression Ordinance and a set of sprinkler plans shall be submitted to the Fire Department at least two weeks prior to the start of installation of the system for permitting and review;
7. That the buildings will meet all applicable sections of the NFPA 101 Life Safety Code and the NFPA Fire Prevention Code 1;
8. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;

9. That the subdivision plans shall not be released for recording at the Cumberland County Registry of Deeds until the required performance guarantee has been posted meeting the approval of Town Staff; and the subdivision plan and private way plans is required to be recorded within one year of original approval or the approval becomes null and void; and
10. 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 a pre-construction meeting being held.

SO APPROVED BY THE GORHAM PLANNING BOARD

Vote of ___ ayes, ___ nays, ___ absent/abstain

JIM ANDERSON, PLANNING BOARD CHAIR