

Land Use and Development Code Amendment: Phasing of Subdivision

**Town of Gorham
Planning Board Meeting
January 3, 2022**

ITEM 1 - Land Use and Development Code – Public Hearing: – Phasing of Subdivisions – Proposed amendment to the Land Use & Development Code to require phase build outs of subdivisions.

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AMENDMENT TRACKING

DESCRIPTION	COMMENTS	STATUS
Town Council Meeting	The Town Council forwards the item to the Planning Board for a public hearing and recommendations. (7 ayes)	August 3, 2021
Planning Board - Meeting Discussion	The Item was forward to the PLBD Ordinance Committee for review and recommendations.	September 13, 2021
PLBD Ordinance Committee	The committee requested information on larger subdivisions and proposed phasing sizes and wanted to allow a waiver for an additional 5 lots in any given phase.	October 4, 2021
PLBD Ordinance Committee	The committee amended the waiver requirements to allow for 10 additional lots.	November 1, 2021
Planning Board - Meeting Public Hearing	The Planning Board tabled and requested staff to edit the language to allow the start of construction of road and utilities in the next phase but not release building permits / certificates of occupancy until 90% of the lots in the prior phase have received certificated of occupancy.	December 6, 2021
Planning Board - Meeting Public Hearing		January 3, 2022

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Memo completed by Thomas Poirier, Director of Community Development.

Land Use and Development Code Amendment: Phasing of Subdivision

1. Overview

The Planning Board requested staff provide language that gives flexibility to allow the start of construction for road, storm water, and utility infrastructure in the next phase of the subdivision prior to 90% of the occupancy permits being issued but limit issuance of permits in the next phase until the 90% threshold has been reached. Town staff and the Town Attorney reviewed the Planning Board's request and are proposing the edit's shown in red, underlined, bold, and struck through:

Phasing of Development: The Planning Board may approve plans to develop a subdivision in separate and distinct phases. If the subdivision has fifty (50) lots or more, subdivision phases shall be limited so that no more than twenty-five (25) lots are allowed in an individual phase. The Planning Board may allow up to ten (10) additional lots in any single one phase if the applicant developer can prove to provide sufficient evidence for the Planning Board satisfaction to determine that doing so the additional lots will provides for a better form of overall design and development in the overall design of the subdivision. Only one (1) phase is allowed to will have building permits issued at a time until at least ninety percent (90%) of the certificates of occupancy have been issued in the prior for that phase and all required improvements for that phase have been completed, other than except for finish paving of streets. In no event shall more than two (2) phases of the subdivision be under construction at the same time. No subdivision is allowed to have more than 2 phases under construction at one time. The phases must be designed so that they can be recorded at the registry of deeds as separate and distinct plans. No phased plans will be released for recording in the registry of deeds until the performance guarantee for that phase has been established as required under this section.

Due to the amount of edits above staff has also included a cleaned up version of the proposed edits below. Staff feels this allows for a better review of the draft language.

Phasing of Development: The Planning Board may approve plans to develop a subdivision in separate and distinct phases. If the subdivision has fifty (50) lots or more, subdivision phases shall be limited so that no more than twenty-five (25) lots are allowed in an individual phase. The Planning Board may allow up to ten (10) additional lots in a single phase if the applicant provides sufficient evidence for the Planning Board to determine that the additional lots will provide for a better overall design and development of the subdivision. Only one (1) phase will have building permits issued at a time until at least ninety percent (90%) of the certificates of occupancy have been issued for that phase and all required improvements for that phase have been completed, except for finish paving of streets. In no event shall more than two (2) phases of the subdivision be under construction at the same time. The phases must be designed so that they can be recorded at the registry of deeds as separate and distinct plans. No phased plans will be released for recording in the registry of deeds until the performance guarantee for that phase has been established as required under this section.

The Planning Board will need to re-open the public hearing to hear comments on the draft currently being reviewed by the Planning Board.

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The Town Council has forwarded the drafted ordinance amendment identified below with proposed changes shown as underlined. The Town Attorney has reviewed and provided edits to the proposed ordinance which have been incorporated. The Planning Board Ordinance committee change is identified in **black, underlined, and bolded**.

2. Proposed Amendment:

CHAPTER 3: SUBDIVISION SECTION 3-5 - POST APPROVAL ACTIVITIES

A. Performance Guarantee:

- 7) Phasing of Development: The Planning Board may approve plans to develop a subdivision in separate and distinct phases. If the subdivision has 50 lots or more, subdivision phases shall be limited so no more than 25 lots are allowed in an individual phase. Only 1 phase is allowed to **have building permits issued be under construction** at a time until at least 90% of the occupancy permits have been issued in the prior phase and all required improvements have been completed other than finish paving of streets. No subdivision is allowed to have more than 2 phases under construction at one time. **The Planning Board may allow up to 10 additional lots in any one phase if the developer can prove to the Planning Board's satisfaction that doing so provides for a better form of development in the overall design of the subdivision.** The phases must be designed so that they can be recorded at the Registry of Deeds as separate and distinct plans. No phased plans will be released for recording in the Registry of Deeds until the performance guarantee for that phase has been established as required under this section.

PROPOSED MOTIONS:

Move to recommended adoption of the Ordinance Amendment for Phasing of Subdivisions under Chapter 3: Subdivision (as amended by the Planning Board).