

**Town of Gorham  
Planning Board Meeting  
May 4, 2020**

**ITEM 2** – Preliminary Subdivision: McCormack - Deerfield Drive – a request for preliminary approval of a 6 lot subdivision that would extend the current Maplewood Drive subdivision onto Deerfield Drive. Deerfield Drive is a previously approved private way. Zoned Urban Residential (UR), Map 104, Lot 10-3, 23 and 10-30. The applicant is represented by Andrew Morrell, P.E., of BH2M.

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**PROJECT TRACKING**

DESCRIPTION	COMMENTS	STATUS
Pre-application Discussion		September 12, 2016
Preliminary Subdivision Review		May 4, 2020

The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and are not necessarily inclusive of all project requirements. Staff notes contain review comments and recommendations from Town Staff and may include comments from any of the Town’s peer review consultants, regarding applicability to the Gorham Land Use and Development Code and standard engineering practices.

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.

*George H. Fox, Chairman, Gorham Planning Board*

**PLACE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.**

## **McCormack - Deerfield Drive SD Preliminary Subdivision Review**

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### **1. OVERVIEW**

The applicant had a pre-application meeting with the Planning Board on September 12, 2016. Minutes from that meeting are included on pages 10-11. This is the first time the item has come before the Planning Board with a submission for preliminary subdivision review and approval.

The applicant is represented by Andrew Morrell, P.E. with BH2M.

### **1. ITEMS OF NOTE**

- A. The project is marketed for 55+ homes.
- B. Lots 1 and 2 are sized to accommodate duplex units, if desired by the lot owners.
- C. Sidewalks -
  - a. The applicant received approval on July 20, 2015 for a 2-6 lot private way. The private way has not been constructed. The applicant is now coming forward with lots off the private way. Subdivisions in the Urban Residential district are required to have a sidewalk along the road. The closest sidewalk is located on South Street roughly 950 feet from the edge of the subdivision parcel. The sidewalk connection is required to be made and is not waivable by the Planning Board.
  - b. The applicant states in the October 30, 2019 submission that a check will be submitted to the Town prior to the issuance of occupancy permits to cover the cost of the sidewalk extension.
- D. The property does contain wetlands. The applicant should calculate the net acreage and net density to determine appropriate siting and lot sizes for this development. In addition, the Board may want to discuss possible protection mechanisms that would prohibit disturbance of the wetlands now and in the future. Possible solutions might be:
  - a. a no disturbance area shown on the subdivision plan;
  - b. remove the wetlands from the lot entirely;
  - c. utilize the cluster residential development provisions to design the development around the wetlands
- E. The layout of the buildings and road will impact trees and other natural features on the site. The ordinance requires that these things will be “respected.” The Board may want to discuss the layout and design with the applicant, since there has been no landscape plan submitted showing details of what will be protected and added.
- F. Public sanitary sewer -
  - a. The Urban Residential district requires lots with private septic systems to meet the following requirements: minimum lot size of 20,000 square feet with minimum area per dwelling unit of 20,000 square feet. Lots with public sewer are required to have a minimum lot size of 15,000 square feet with a minimum square feet of 10,000.
  - b. There are significant wetlands that may limit or hinder the ability to install subsurface water systems.

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- c. Conversations among staff are as follows: Sewer is located roughly 750 feet away from the parcel. Per the Town’s Wastewater Ordinance, the applicant will need to make the connection to public sanitary sewer unless the applicant can prove that he has an undue hardship to make the connection. The Planning Board determines whether the connection of sewer would constitute an undue hardship.
- d. The applicant states in the October 30, 2019 submission that public sewer cannot be extended.

**4. STAFF REVIEWS**

**Assessing Department: March 30, 2020**

What is the remaining acreage for Map 104 lot 10-3?  
Attached preliminary map and lots

Map	Lot	2020 Dev Lot	St# Address
104	3-1	1	Deerfield Drive
104	3-2	2	Deerfield Drive
104	3-3	3	Deerfield Drive
104	3-4	4	Deerfield Drive
104	3-5	5	Deerfield Drive
104	3-6	6	Deerfield Drive

March 30, 2020

I had omitted the block number

Map	Lot	Dev Lot	St# Address
104	10-301	1	Deerfield Drive
104	10-302	2	Deerfield Drive
104	10-303	3	Deerfield Drive
104	10-304	4	Deerfield Drive
104	10-305	5	Deerfield Drive
104	10-306	6	Deerfield Drive

**Code Department: No comments received.**

**Fire Department: March 20, 2020**

I have reviewed the submitted plan for the 6 lot subdivision private way off Deerfield Drive a private way for Greg McCormack and have the following requirements:

- 1. The private way shall be properly signed and named with a Town approved street sign; the name of the road shall be approved by the Police and Fire Chiefs. The street sign shall be put in place as soon as the road is constructed.
- 2. Houses shall be properly numbered with the numbers being visible from the street year round.

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3. The private way shall be maintained to allow access for emergency vehicles year around.
4. A public hydrant shall be placed at the end of Maplewood Drive where it meets the new private way.
5. Sprinkler test papers will be required to be submitted at the time the CO is issued.
6. **Past history has repeatedly shown that private ways are very poorly maintained, and wintertime poses a very serious issue of emergency vehicle access, with very little enforcement available to the Town. I would state for the record and make notice that the Fire Department cannot and will not be held responsible for incidents where we cannot gain access to buildings or incidents on those private ways that are not properly maintained.**

**Planning Department: April 29, 2000**

**Police Department**

**Public Works Department: April 15, 2020**

Due to the forested wetlands present on Lot's 1-6; and the wet nature of the site in general, a detailed drainage and BMP plan needs to be developed and shown on the final site plan for Maplewood SD. There are also concerns regarding the placement and necessity of septic tanks for each lot and whether municipal sewer could be used instead. The concern is that septic tanks built on these lots may be more vulnerable to leaching into the protective natural resources located nearby, and an extension of the municipal sewer system could avoid this issue. Special BMP's, such as a double erosion berm, will likely be needed along the eastern perimeter of the disturbed building areas due to the proximity of the wetlands. Drainage for stormwater should be constructed in accordance with federal and state regulations to avoid significant erosion on the site.

Matthew LaCroix

**Recreation Department: No comments received.**

**Portland Water District: No comments received.**

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Preliminary Subdivision Review**

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**PLANNING BOARD  
PRELIMINARY SUBDIVISION REVIEW REPORT  
AND FINDINGS OF FACT  
For  
MCCORMACK - DEERFIELD DRIVE**

**May 4, 2020**

Applicant/ Property Owner: The applicants/property owners are Greg and Sue McCormack, 24 Strawberry Lane, Gorham, ME 04038.

Property: The lot is identified as Tax Map 104, Lots 10-3, 23 and 10-30, and is located in Maplewood Subdivision off South Street.

Consultants: Andrew Morrell, P.E., with BH2M.

Project Description: The applicant is proposing a 6 lot subdivision located on an approved private way.

The units will be served by public water, septic systems, and underground utilities.

Site Description: The lot is 221,092 square feet in size with a forested wetland located on the east side of the parcel. The vegetation on the lot is a mix of canopy and understory trees as well as shrub type brush.

Applicability: Subdivision Plan regulations identify the Planning Board as having review and approval authority.

Zoning: Urban Residential District, B. Permitted Uses, 1) One or two-family dwellings

Variances: None required.

Waivers:

1. A waiver is requested from the submission requirement to submit a high intensity soil survey. A medium intensity soil survey with test pits is in the October 30, 2019 submission.
2. A waiver is requested for a nitrate analysis since the project will be served by public water.

**SUGGESTED MOTIONS:**

**FOR WAIVER APPROVAL:**

**Move to grant Greg McCormack's request for waivers for submission of a high intensity soil survey and a nitrate analysis.**

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Pursuant to the Application:

A Pre-application discussion was held on September 12, 2016.  
A Preliminary Subdivision Review was held on May 4, 2020.

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's Plans consist of the following:

Sheet 1 – Preliminary Subdivision Plan – 03/17/20
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Other documents submitted consist of the following:

- Preliminary Subdivision Application – 10/30/19; 3/17/20
- Plans - 8/01/16; 10/30/19
- Waiver Requests for High Intensity Soil Survey and Nitrate Analysis – 03/17/20
- Andrew Dorr, Vice President, Machias Savings Bank - Letter of Financial Capacity - submitted 3/17/20
- Gorham Town Planner Comments – 04/29/20
- Gorham Assessor Comments – 03/30/20
- Gorham Fire Chief Comments – 03/20/20
- Gorham Public Works Comments – 04/15/20
- Gorham Code Enforcement Officer – No comments
- Gorham Recreation - No comments
- Woodard & Curran – No comments

**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 – D. 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.

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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 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, underground electric and private subsurface wastewater systems/public sewer ? as shown on Plan Sheet \_\_\_\_\_.

\*\*\*This is an outstanding question for the Board to discuss and give direction to the applicant.

*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 ability-to-serve letter from Robert Bartels, P.E., Portland Water District.

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*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 subsurface wastewater systems. The town would like the applicant to continue the sewer system to this subdivision. The Planning Board may want to discuss this with the applicant.

*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 in a manner acceptable by the town.

*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.

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*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 respect fully 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 has 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:

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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.*

**Proposed Conditions of Approval for final approval stage**

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;
1. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
2. That the applicant shall submit the required fees for the sidewalk extension prior to a pre-construction meeting;
3. Public sewer shall be installed for the subdivision;
4. A landscape plan shall be submitted showing locations of existing and proposed canopy and understory trees that will remain or be added.
5. 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;
6. 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;
7. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
8. That the subdivision plan are required to be recorded within one (1) year of original approval or the approval becomes null and void;

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9. 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.

**SUGGESTED MOTIONS:**

**FOR SUBDIVISION PRELIMINARY PLAN APPROVAL:  
Move to grant Greg McCormack’s request for preliminary subdivision plan approval for a 6 lot subdivision located on Map 104, Lot 10-3, 23 and 10-30, Urban Residential (UR) zoning district, based on Findings of Fact as written by the Town Planner (and amended by the Planning Board).**

**TOWN OF GORHAM  
Planning Board Minutes**

**For Review Purposes  
September 12, 2016**

**ITEM 7      PRE-APPLICATION DISCUSSION – Subdivision Review – Gregory McCormack** – request for Planning Board comments on Maplewood Drive Subdivision, a 6-lot subdivision with a previously approved private way (Deerfield Drive) on 5.08 acres, located at the end of Maplewood Drive, Map 104 Lots 10.003, 3 and 30, Urban Residential zoning district. E

Mr. Poirier said this item is on for a pre-application discussion, and the plans have not yet been submitted to staff for review. He reminded the Board that the applicant recently received approval for Deerfield Drive, a 2-6 lot private way, and is now looking to follow that up with a subdivision approval. He said the lot is located in the Urban Residential zoning district; subdivisions in this district are required to have a sidewalk to connect to an existing sidewalk network. Maplewood Drive does not have a sidewalk, and the closest sidewalk is located on South Street, approximately 950’ from the edge of the subdivision parcel. The sidewalk connected is required to be made and is not waivable by the Planning Board. In addition, the applicant will need to make a connection to a public sanitary sewer unless he can prove that it is an undue hardship to do so; public sewer is located about 780’ away from the parcel.

Andrew Morrell, BH2M Engineers, introduced the applicant, Greg McCormack. Mr. Morrell said that Deerfield Drive was approved in 2015 as a 2-6 lot private way. Mr. Morrell said it would seem to be a financial hardship to both extend a sidewalk and install a public sewer extension.

Mr. Zelmanow confirmed with Mr. Poirier that the applicant would need to install sidewalks down both Deerfield Drive and Maplewood Drive, approximately 950 feet. Greg McCormack came to the podium and questioned the sidewalk requirement in the Land Use Code, saying he believes that private ways do not require sidewalks and in this development there wouldn’t be that much foot

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traffic to warrant sidewalks. Mr. McCormack said he would prefer donating funds to the Town for a common open space rather than installing sidewalks. Mr. Zelmanow noted that the Town Attorney has opined that the Board cannot waive the sidewalk requirement in the Urban Residential zone.

A lengthy discussion followed among Mr. McCormack, Mr. Morrell and Board members about the sidewalk requirement and some of the physical problems that could arise with sidewalk installation due to going from open to close drainage ditching. Ultimately it was decided that the applicant's engineer should meet with staff and the Public Works Director for guidance on a possible at-grade sidewalk and other options.

Mr. McCormack asked if there is an appeals process on the issue. Mr. Poirier replied that there is a zoning amendment process to the Land Use Code in order to give the Board the flexibility to determine whether a waiver of the requirement for sidewalk installations could be granted. However, Mr. Poirier cautioned that this is a process that must start with the Town Council and could be time consuming.

A brief discussion ensued about connecting to public sewer. Mr. Poirier said that he does not believe this subdivision would need a pump station built to the Public Works standard; if anything, he would see it as being low pressure sewer being pumped up the road, similar to the systems on Bramblewood. Mr. Poirier said this would be the cost figure vs. connecting to public sewer that the applicant would submit to determine undue hardship. Mr. Poirier advised Mr. Morrell that the Portland Water District would take ownership in the Town right-of-way and everything else would be private. In reply to Mr. Zelmanow, Mr. Poirier said he will get the exact ordinance undue hardship language about sewer for the Board's next meeting. Mr. Morrell advised Mr. Zelmanow that utilities will be underground.

The Board concurred that no site walk would be required.