

**Town of Gorham
Planning Board Meeting
November 2, 2020**

ITEM 5 – 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, Lots 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
Preliminary Subdivision Review		November 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

1. OVERVIEW

The applicant had a pre-application meeting with the Planning Board on September 12, 2016 and a preliminary plan meeting on May 4, 2020. Minutes from those meetings are included on pages 11 through 16. This is the second 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. Does this affect the estimated cost for the septic systems?
- 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 as well as the September 3, 2020 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.
 - c. There is no provision in Section 2-5 for a fee-in-lieu or contribution towards the construction of sidewalks. Staff therefore recommends that the applicant design, plan for and construct the sidewalks.
- D. The property does contain wetlands. The applicant has chosen to flag areas of wetlands as a “no disturbance area” shown on the subdivision plan. This rarely works because property owners do not review the subdivision plans.
- 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 water -
 - a. The applicant states on page 3 of the revised cover letter that public water is proposed. If that is the case, then the Planning Board may want to consider a **waiver** from providing a nitrate analysis.
 - b. An ability to serve letter is pending from the Portland Water District.
- G. Public sanitary sewer -
 - a. The applicant is requesting not to install a connection to the public sanitary sewer system; the applicant states in the October 30, 2019 submission that public sewer cannot be extended.

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- b. As the Planning Board is aware from review of Grady Farm, Bramblewood, and Bramblewood Estates Condos, there is a high water table and poor soil conditions on the east side of South Street.
- c. The Wastewater Ordinance Article IX - Sewer Extensions Section 1 - New Subdivisions states “Any person who subdivides land within the Town, of which any part either is located within 500 feet of a public sanitary sewer, or is located that it can be connected to such a public sanitary sewer without due hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this Ordinance...”
- d. There are significant wetlands that may limit or hinder the ability to install subsurface water systems.
- e. 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. There are no criteria in the ordinance by which the Planning Board uses to make this determination. However, Article XII Section 2 Jurisdiction (B) states “to grant variance from the terms of the Ordinance where there is no substantial departure from the intent of Ordinance and/or where necessary, to avoid undue hardship. A projected expenditure of an amount exceeding 15 percent of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.”
- f. The applicant has provided calculations of providing public sewer vs. private septic systems. According to the applicant, septic systems would cost approximately \$7,500 each for a total of \$45,000 and the public sewer system would cost approximately \$118,000. The Code Enforcement Officer has spoken with Jim Logan a Licensed Site evaluator with Longview Partners, LLC and he estimates the septic systems to costs between \$10,000 and \$15,000 each.
- g. If we are to assume that the applicant could construct and build houses that are at least \$250,000 each, the total would be \$1,500,000. IF the Board were to use the variance criteria of 15%, then \$225,000 would be the benchmark to go by in assessing whether or not to allow the applicant to install private septic systems. If the Board were to use this benchmark, then hardship could not be found in this case.
- h. 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.

4. STAFF REVIEWS

Assessing Department: March 30, 2020

What is the remaining acreage for Map 104 lot 10-3?

Attached preliminary map and lots

				2020
Map	Lot	Dev Lot	St#	Address
104	3-1	1		Deerfield Drive

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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: September 22 2020

Will need to do inspection on all underground power before backfilled.

October 21 2020

Revised 10/21/20 I would suggest that the developer get a few estimates on installing septic systems. And have the site evaluator to give the board a time on how long a eljen system would last. I have been told that a 3-4 bedroom elgen system would be \$10-\$15k

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.
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**

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incidents where we cannot gain access to buildings or incidents on those private ways that are not properly maintained.

Planning Department: April 29, 2020

October 15, 2020

- Cost analysis done for incorrect pump system for public sewer connection
- Public or private water - waiver requested.

Police Department - No comments received.

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**

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

November 2, 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 and sewer 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: 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 a waiver for submission of a nitrate analysis.**

Pursuant to the Application:

A Pre-application discussion was held on September 12, 2016.
Preliminary Subdivision Reviews were held on May 4, 2020 and November 4, 2020.

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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 – August 2019 as revised through September 1 2020 and submitted September 3, 2020

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
- Waiver request for Nitrate Analysis - 09/03/2020
- Andrew Dorr, Vice President, Machias Savings Bank - Letter of Financial Capacity - submitted 3/17/20
- Gorham Town Planner Comments – 04/29/20; 10/27/2020
- Gorham Assessor Comments – 03/30/20
- Gorham Fire Chief Comments – 03/20/20
- Gorham Public Works Comments – 04/15/20
- Gorham Code Enforcement Officer – 09/22/20; 10/21/20
- 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.

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.

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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 public sewer.

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.

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.

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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.

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.

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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 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:
- 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

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Preliminary Subdivision Review**

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. Ability to serve letters shall be submitted prior to a pre-construction meeting.
4. 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;
5. 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;
6. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
7. That the subdivision plan are required to be recorded within one (1) year of original approval or the approval becomes null and void;
8. 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 PRELIMINARY SUBDIVISION 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).

OR

Move to table 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 to allow time for additional materials and discussion.

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**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.

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 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,

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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.

**TOWN OF GORHAM
Planning Board Minutes**

**For Review Purposes
May 4, 2020**

ITEM 2 Preliminary Subdivision Review – Gregory McCormack – Maplewood Drive Subdivision and Deerfield Drive Private Way – a request for approval to subdivide 6 lots from 3 existing lots, on 5.08 acres off 71 Maplewood Drive, zoned UR, Map 104, Lots 10-3, 23 and 30.

Ms. Eyerman explained the proposal and said the project is proposed to be marketed to the 55 and over demographic. Lots 1 and 2 are sized large enough to be for duplexes if the developer chooses to go that route. The Board should discuss the questions of sidewalks and sanitary sewer with the applicant. She said there are wetlands on the property, and the Board should ask the applicant about the impact of the development on trees and other natural features on the site since no landscape plan has been submitted.

Andrew Morrell, BH2M Engineers, told the Board that the location for the project is at the end of Maplewood Drive off South Street. This was approved as a 2 to 6 lot private way back in 2016. The applicant's intent at that time was to develop a lot every 5 years, therefore subdivision was not required. Since that time, the applicant has changed his mind and would like to move forward with a subdivision and sell off all 6 lots. The applicant does not intend to amend the previously approved private way known as Deerfield Drive. Mr. Morrell said the applicant is requesting a waiver for the requirement of a high intensity soils survey and the other on nitrate analysis. Some changes have been made to plans since the original submission, based on comments from the Portland Water District for the extension of the water main from Maplewood. He said he hopes to have an ability-to-serve letter from the Water District later this week.

Mr. Morrell referred to staff comments dealing with sidewalks, saying that if the applicant can prove that the extension of the sidewalk is greater than \$5,000 per lot, the applicant is required to extend the sidewalk 100 linear feet per lot. Ultimately for the 6 lots in this proposed subdivision, that would be an extension of 600 feet. Estimates of the costs to extend sidewalks along Maplewood Avenue from South Street were provided to the Public Works Director, who reviewed them and recommended to Planning that he found the estimates to be acceptable. The cost to extend the sidewalk would be significantly higher than \$5,000 per lot. Therefore the applicant is required to extend the sidewalk 600 feet along Maplewood Drive from South Street. The applicant is intending to do that as part of this project, but would prefer to pay a fee to the Town for that sidewalk instead of constructing it as part of this project.

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Mr. Morrell then discussed staff comments about the wetlands on the site as delineated by Mark Hampton Associates. As part of the Deerfield Drive private way approval, no wetlands were impacted, and they are not expecting to impact any wetlands as part of this subdivision. The applicant does intend to sell the lots and not necessarily develop them once the project is approved. Mr. Morrell said that the layouts shown on the plans are conceptual and show that these lots can in fact be developed without impacting the wetlands. Serious erosion control techniques have been shown on the private way plan originally approved in 2016, this can be added to the subdivision plan if the Board wants that done. The applicant is not seeking a density bonus for public sewer and water.

Mr. Morrell continued with a discussion about staff's comments for a landscape plan, saying that 2 street trees are proposed per lot, as required in the ordinance. The applicant intends to save as many existing trees as possible, all of the trees in the wetlands will be preserved and as many trees between the houses as possible will be preserved.

Mr. Morrell referred to staff comments about public sewer, saying that he and the applicant have met on several occasions with the Portland Water District to talk about sewer. He said that sewer to this project is difficult in that the existing gravity sewer in Maplewood Drive going out to South Street is approximately 750 feet from this proposed project. That system has very limited cover and was never extended further down Maplewood Drive because it was too shallow. That system cannot be extended further via gravity. The Water District and Mr. Morrell's office have reviewed the situation and it was agreed that a gravity extension of that line is not possible. That leaves two options for sewer for this project: one is a pump station, which is obviously not an economical solution for this lot. The other option is a pressure sewer system which is not necessarily allowed by the Water District. The applicant's preferred approach is subsurface waste water disposal systems. Mr. Morrell said the test pits shown on the plans are 20 by 40 in size, but technically by Hampton Associates' designs it could be 20 by 20, which is how they will be shown going forward. Based on his understanding of the ordinance, Mr. Morrell said that as the existing sewer is greater than 500 feet from the project, he does not believe that the extension of public sewer is required. Mr. Morrell said that the Board can decide whether undue hardship conditions exist to make the connection impossible, and said that subsurface waste water disposal is the only feasible solution for this project.

Mr. Morrell commented that Deerfield Drive was approved with vegetated ditches collecting storm water on both sides of the road, directing the runoff down to another ditch on the south side of lot 5, and then to a level spreader into the wetlands.

Mr. Poirier provided the Board with background on the sewer question, saying the same developer for the Bramblewood Subdivision, used gravity sewer as far as he could and then he was permitted to use low pressure sewer for the 4 units as in-fill development. Mr. Poirier said that planning staff has had discussions with the Water District and because this is limited development and it is understood that a pump station would not be economically viable for it, the District would consider allowing this developer to do what he did with Bramblewood and to install low pressure sewer system. Mr. Poirier said a comparison to establish hardship should be between a low pressure sewer system and a septic system. He said that the low pressure sewer system would have to meet the requirements of the Water District, similar to Bramblewood Lane's system. In reply to Mr.

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Morrell, Mr. Poirier said the sewer in the private way would be private, and the line up Maplewood would probably be similar to Bramblewood, with 2 low pressure lines in the actual road right-of-way that was public, with the Water District maintaining that.

Mr. Fox asked how hardship is determined. Ms. Eyerman said it can either be financial or some sort of obstruction. Mr. Poirier said that other than cost, if the Water District says it doesn't meet with standards and they would not approve it that would probably trip hardship. Mr. Fox said the Board then would ask the applicant's engineer to provide it with a financial comparison between a low pressure sewer system and septic system.

Greg McCormack, applicant, told the Board that his plan is to preserve the open space with this small-scale development. He said he does not like pump stations, they are prone to failure, and he prefers septic systems because they do not require the maintenance that a pump station does. He believes that public sewer would be both a financial and a maintenance hardship. He said he will provide a stub for the Portland Water District.

Mr. Fox confirmed with Ms. Eyerman that the Board will make the hardship determination based on the comparison data provided by the applicant for low pressure sewer and septic systems.

Mr. Firmin advised the Board that while he does work for the Portland Water District, he has not had nor will he have any involvement with this project and feels that he can participate in the discussions on the application and does not see a need to recuse himself.

James Anderson MOVED and Vincent Grassi SECONDED a motion to allow Mr. Firmin to participate in the review of the application. Motion CARRIED, 6 ayes, 1 nay (Mr. Firmin)

Mr. Fox confirmed that the applicant is prepared to make a payment for 600 feet of sidewalk instead of the 950 feet which would be required to go all the way to South Street. Mr. Fox asked if the applicant can reduce the required amount of sidewalk. Mr. Poirier replied, saying that in the Urban Residential district there used to be a requirement to make a connection to existing sidewalk network. However, a waiver provision was added which Mr. Morrell discussed with the Public Works Director that if the applicant can prove that the extension of the sidewalk is greater than \$5,000 per lot, the applicant is required to extend the sidewalk 100 linear feet per lot. Mr. Poirier said he will discuss with the Public Works Director whether the Town would be interested in collecting funds for the sidewalk, as well as closing the drainage in. Mr. Poirier reminded Mr. Morrell that there is a requirement for sidewalks to be on the private way, so even though there is a waiver for the whole length, in the development there will have to be a small section of sidewalk on the private way.

Mr. Fox asked Mr. Morrell what will be done to guarantee that the wetlands are not disturbed if the applicant is not proposing to develop the lots. Mr. Morrell said if the Board's concern is the future filling of the wetlands by the home owners, some metal pins as required by the DEP can be placed along the edge of the wetlands with caps that read "no disturb buffer" or "wetlands" or similar language to call out the wetland area. Mr. Morrell said the area of concern on this site is the eastern end of the site, the back of lots 1 through 5. Mr. Fox said that identifying the wetlands on the ground and on the plans is the best approach to inform future land owners.

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Mr. Anderson asked if current home owners need to provide rights-of-ways for the sidewalk or is that included in the width of the Town road. Mr. Poirier replied that Mr. Morrell will have to provide a plan showing the sidewalk location of 600 feet on the plans, as well as any drainage improvements. Then the discussion can be had about who is going to build the sidewalks, whether it is Public Works or the applicant. Mr. Poirier said the sidewalks will be within the street right-of-way.

Mr. McCormack said he does intend to build homes on the lots, that he is opposed to sidewalks and does not believe that they are necessary.

Ms. Durst confirmed with M. Morrell that lots 1 and 2, large enough to accommodate duplexes, would fit within the non-wetland building envelope, along with septic systems required.

In reply to Mr. Anderson, Mr. Morrell said that the septic systems designs for lots 1 through 5 have been pushed to the front of the lots. Mr. Morrell said the soils are deep enough he would not expect them to be mounded systems. Mr. Morrell told Mr. Anderson that the stormwater analysis is based on soils conditions which have not changed since 2015 when the private way was approved, but that may have to be modified with the addition of the 6 lots being proposed.

Mr. Hughes asked if the funds from not building the sidewalk could be applied to the cost of the sewer. Mr. Poirier said that the Board does not have the authority to waive that requirement, while the Council granted a waiver, it did not grant the removal of the 100 foot sidewalk minimum per lot.

PUBLIC COMMENT PERIOD OPENED: Karen Duncan, 58 Maplewood Drive, asked if the neighborhood would be safer with sidewalks, and asked if they can tap into a public sewer system.
PUBLIC COMMENT PERIOD ENDED.

Mr. Morrell said he believes that if a public sewer system were to be extended into this project, other residents along Maplewood Drive could tie into as well provided the existing system has capacity.

The Board discussed the applicant's desire for a waiver for the requirement of a high intensity soils survey and for a nitrate analysis. A consensus was reached that a vote on the waiver requests will be postponed until a decision has been reached about septic systems or low pressure sewer systems.

A poll of the Board indicated that preliminary approval is not warranted this evening, based on the remaining issues to be resolved.

James Anderson MOVED and Molly Butler –Bailey SECONDED a motion to postpone further review of Greg McCormack's Maplewood Drive Subdivision and Deerfield Drive private way pending responses to remaining issues. Motion CARRIED, 7 ayes.