

**Park South Condominium Owners Association and Nick & Jenny Flagg – Park South
Amendment
Subdivision Amendment
M24 L10 & 17**

**Town of Gorham
Planning Board Meeting
April 1, 2024**

ITEM 6 – Discussion – Subdivision Amendment – Park South Condominium Owners Association and Nicholas and Jenny Flagg. – Park South Amendment – a request to exchange a 2,185sq ft (Parcel A) for two Parcels (B and C) 438sq ft and 16,000.1sq ft within Park South. Parcel A to be dedicated to the Town of Gorham as a Public Way. Map 24, Lot 10 and 17. Zoned UREXP. The applicant is represented by Stephen M. Selleck, PLS #2270 and President of Park South Condominium Owners Association.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Subdivision Amendment Review		4/1/2024

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 should be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

Gorham Planning Board Chair

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1. OVERVIEW

Two applicants are submitting a proposal to amend lot lines in the Park South Subdivision to correct two areas where their driveways are encroaching on each other’s property lines. They are also proposing to create a designated snow removal equipment storage area on Leo Lane.

The applicants are represented by Stephen Selleck, PLS #2270 and President of the Park South Condominium Owners Association, and Nick and Jenny Flagg of 20 Leo Lane, Gorham.

1. ITEMS OF NOTE

- No construction or any alteration of land is proposed by the applicants.
- The applicants are proposing the transfer of 2,185 square feet of a Leo Lane, a private way, and that this be conveyed to the Town of Gorham as a public street. The area conveyed is proposed to be appended to the end of Kiara Lane, an existing public street. Acceptance of any private lane (or portion thereof) as a public street is under the jurisdiction of the Town Council.
- The applicants are proposing to designate an existing 2,077 square foot gravel area adjacent to the end of Leo Lane to be used for winter snow removal equipment.

2. STAFF REVIEWS

Assessing Department: No comment.

Code Department: No comment.

Fire Department: 3/27/2024

I have reviewed the Plans dated March 04, 2024

I have no comments on this Subdivision Amendment.

Planning Department: 3/26/2024

- The applicants should provide information to the Board regarding updated land area calculations found in the table on the plan sheets. The stated proposal is to convey 0.01 acres from Park South Condominiums to the Flaggs, and 0.05 acres from the Flaggs to Park South Condominiums. An additional 0.37 acres is proposed to be conveyed from Park South to the Flaggs, on the north side of Leo Lane.
- The applicants should update the net residential density calculation provided on the plan sheet to reflect the new land area included within the subdivision and show that they are not reducing the number of dwelling units allowed within the subdivision.

Police Department: No comment.

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Public Works Department: No comment.

Recreation Department: No comment.

Portland Water District: No comment.

Legal: No comment.

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**PLANNING BOARD
FINDINGS OF FACT
For
PARK SOUTH SUBDIVISION AMENDMENT
April 1, 2024**

WHEREAS, Park South Condominium Owners Association and Nick & Jenny Flagg, seek approval to exchange a 2,185sq ft (Parcel A) for two Parcels (B and C) 438sq ft and 16,000.1sq ft within Park South. Parcel A to be dedicated to the Town of Gorham as a Public Way.

Pursuant to the Application:

Subdivision Amendment review was held on April 1, 2024.

Property Description: Park South Condominiums is an established subdivision with streets, landscaping, and single-family style homes in a condominium ownership structure. It is abutted by a parcel owned by Nick and Jenny Flagg, which consists of a single-family home which is accessed by a one-lot private way extending from the end of Kiara Lane.

The lots are identified as Tax Map 24, Lot 10 & 17.

Consultants: Stephen M. Selleck, President of Park South Condominium Owners Association; Stephen M. Selleck, Surveyor, PLS #2270

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

Current Zoning: Urban Residential Expansion District (URExp)

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

Variances: None requested.

Waivers requested: None requested.

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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:

Shawn Frank, PE of Sebago Technic’s Plans consist of the following:

- Sheet 1 of 1 – Cover Sheet – Dated: 07/18/2023; Revised through: 02/16/2024; Received: 03/04/2024

- Sheet 1 of 1 – Plan of Private Way – Dated: 11/08/2000; Revised through: 02/06/2001

- Sheet 2 of 1 – Subdivision Plan – Dated: 11/08/2000; Revised through: 02/06/2001

Other documents submitted consist of the following:

- Preliminary Subdivision Application – 3/04/2024
- Plans – 3/04/2024
- Waiver Requests for High Intensity Soil Survey - NA
- Letter of Financial Capacity - NA
- Gorham Town Planner Comments – 3/26/2024
- Gorham Assessor Comments – NA
- Gorham Fire Chief Comments – 3/27/2024
- Gorham Public Works Comments – NA
- Gorham Code Enforcement Officer – NA
- Gorham Recreation – NA
- Wright Pierce - NA

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 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, 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:

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- 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 changes proposed by the applicant are consistent with the Comprehensive Plan and all relevant state and local codes. The applicant should clarify that they still meet the minimum requirements for density on the Park South Condominium parcel after the proposed transfer of property.

Finding: The Park South Condominiums subdivision amendment 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The amendment to the Park South Condominium 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment shall not affect provision of adequate water supply for present and future needs.

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

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment will not cause unreasonable soil erosion or a 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

Finding: The Park South Condominium subdivision amendment 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.

No new construction or site alterations are proposed, therefore no changes to this requirement are anticipated.

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

Finding: The Park South Condominium subdivision amendment shall respect 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.

No new construction or site alterations are proposed; therefore this requirement is not applicable.

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 is proposing a transfer of a net 0.38 acres from the Park South Condominium Association. It should demonstrate that this will not have a detrimental effect on the provision of open space.

Finding: The Park South Condominium subdivision amendment 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 should demonstrate that the plan continues to provide open space and/or recreational land or facilities within this subdivision.

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

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C. FINAL PLAN REVIEW

1) 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.

NOW THEREFORE, on April 1, 2024, the Gorham Planning Board adopts each of the foregoing Findings of Fact, and based on these Findings determines that Park South Condominium Owners Association and Nick and Jenny Flagg's request for approval of the **Amendment to the Park South Condominium Subdivision** will have no significant detrimental impact, and the Gorham Planning Board hereby votes to grant approval to Park South Condominium Owners Association and Nick and Jenny Flagg's request with the Conditions of Approval listed below.

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. Any staff and peer review comments shall be addressed prior to the Board Chair signing the plans;
3. Prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits.
4. That all prior conditions of approval remain in effect.
5. That the applicant shall provide property line information and site information in auto-CAD format to the Town Planner prior to the pre-construction meeting.
6. All waivers and variances shall be listed on the plan prior to recording.
7. The map and lot numbers shall be listed in the bottom right corner of all pages of the plan set.
8. That the Planning Board Chair is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board.

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9. That these conditions of approval must be added to the plan and the plan shall be recorded at the Cumberland County Registry of Deeds within one (1) year of the date of written notice of approval by the Planning Board or the approval becomes null and void, and a dated copy of the recorded plan shall be returned to the Town Planner prior to acceptance review of the additional right of way.

PROPOSED MOTIONS:

FOR PRELIMINARY SUBDIVISION APPROVAL:

Move to grant approval for a subdivision amendment for Park South Condominium Owners Association, Park South Subdivision, located on Map 24, Lots 10 and 17 in the Suburban Residential zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and amended by the Planning Board).

OR

TO POSTPONE SUBDIVISION AMENDMENT APPROVAL:

Move to postpone further review of Park South Condominium Owners Association request for subdivision amendment pending responses to remaining issues (and finalizing revisions to the plan).