

**Town of Gorham
 Planning Board Meeting
 November 7, 2022**

ITEM 7 - Subdivision and Private Way - JDP, LLC – Buck Street - a request for approval of a 13 lot residential subdivision and private way off Buck Street. Zoned SR, Map 76, Lot 42. The applicant is represented by Owens McCullough, P.E., with Sebago Technics, Inc.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application/Sketch (optional)	Discussed	June 13, 2022
Site Walk		
Planning Board Review	Preliminary Plan approval granted	September 12, 2022,
Planning Board Review	Final Plan review	November 7, 2022

The following staff notes are written to assist the Applicant with compliance to the Town of Gorham Land Use Development Code and may not be all inclusive of project requirements. Staff notes are review comments and recommendations prepared by the Town Planner and, if applicable, the Town’s peer review consultant, regarding applicability to The Gorham Land Use 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 non-committal and all final decisions are those of the Planning Board and not Town Staff.

Jim Anderson, Chair, Gorham Planning Board

1. OVERVIEW

This is the third time this application has come before the Planning Board.

The applicant is represented by Owens McCullough, P.E. with Sebago Technics, Inc.

2. ITEMS OF NOTE

Below are topics the Planning Board may want to discuss with the applicant. The discussion topics are written as a guide for the Planning Board. It should be noted that the discussion topics are noncommittal and all decisions on relevant discussion topics are those of the Planning Board.

- a. During the preliminary plan review and approval, the applicant stated that financial capacity will be shown at final plan review. Now, the applicant is requesting that financial capacity be postponed until construction of the private way as each lot gets developed or provide a bank letter to the town planner before the construction of the private way.
- b. The private way plan needs to be prepared by a land surveyor.
- c. The private way plan shall show information sufficient to establish on the ground the exact location, direction, width and length of the private way.
- d. Homeowner's Association documents are required to be submitted.
- e. Paved apron detail needs to be provided to check compliance with Chapter 2, Section 2-5 H 4).

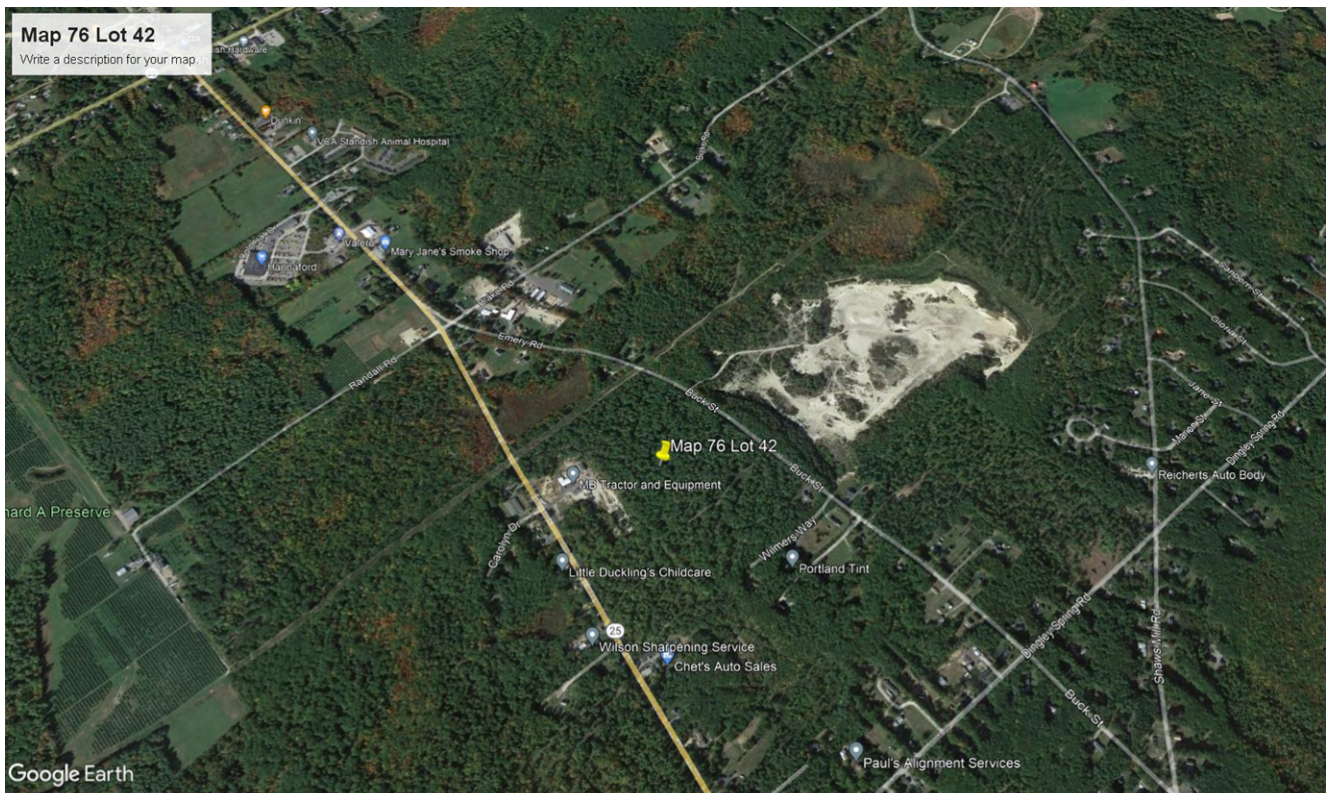
2. WAIVERS GRANTED

- The applicant requests a waiver was granted from Ch. 3, Section 3-3, B.11 – to waive the requirement of a Class A soil survey to a Class B survey.
- A waiver was granted from Ch. 3, Section 2-10 - to waive the provision of public water supply.

3. AERIAL PHOTOGRAPH

Google earth images.

JDP, LLC – Final Subdivision and Private Way Review
Buck Street
M76/L42



5. STAFF COMMENTS

Assessing Department: 04/25/2022

April 25, 2022

Request a non topo plan

Code Division: No comments received

Director of Community Development: No comments received

Economic Development Division: No comments received

Fire Department: 04/26/2022, 10/25/2022

April 26, 2022

I have revived the Plans dated April 20, 2022

1. The hammer head width needs to be 20' wide and 50' deep. No drive ways will be allowed off the Hammer Head. Please show driveway's on future plans if Changes are made.
2. Their shall be "No Parking - Tow Away Zone" or "No Parking - Fire Lane" signs added to the hammer head. Please show on the Plans
3. Street name need to be approved by Police and Fire Chief as well as be properly posted. Please provide 3 Names.
4. All buildings will meet all applicable sections of NFPA 1 *Fire Code* and NFPA 101 *Life Safety Code*. Building plans shall be submitted to the Fire Inspector for review.
5. The buildings shall be protected under the Fire Suppression Systems Ordinance as applicable. The sprinkler plans shall be submitted to the Fire Department and the State Fire Marshal's Office for review and permitting. The plans submitted to the Fire Department shall be submitted at least two weeks prior to the start of the installation of the system. Sprinkler test papers will be required to be submitted to the Fire Department at the time a CO is issued.
6. The buildings shall be properly numbered in accordance with E911 standards including height, color and location. Numbers that cant been seen from the street shall require additional numbers at the street.

7. Past history has repeatedly shown that private ways/drives 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 these private ways/drives that are not properly maintained.

8. We may have more requirements as this progresses through the planning process.

October 25, 2022

I have revived the Plans dated Oct. 17, 2022

I am all set, all my requests are listed on the Plans.

Legal Review: 09/01/2022, 10/24/2022

September 1, 2022

Because this is a subdivision, it requires the establishment of a HOA. This was acknowledged in the documents provided, but instead of the Declaration of Covenants and Easements and Bylaws for the Association, the developer included a Declaration of Private Way. That document is not to be used for a subdivision, only for a private way that is not part of a subdivision. The Declaration of Covenants and Easements will be the document that establishes the private way and the responsibilities of the lot owners for its maintenance.

I did not see any easements on the subdivision plan other than the drainage easement adjacent to the proposed private way, which will be for the benefit of the lot owners.

Once the HOA documents have been provided, please send them along.

October 24, 2022

In my last review I said that we needed a full set of HOA documents. The LUDC requires in Section 2-5(E)(5) that a homeowners association be provided for any subdivision application that includes the creation of one or more streets. This application includes a proposed private road. The document that is provided in the binder starting at page 29 is still a Declaration of Roadway Maintenance. While the caption has been changed to add “and Homeowners Association Documents,” this document does not meet the requirements of the LUDC because it does not establish a HOA. Notwithstanding the statement in Section 1 of the Declaration that there “are no restrictions and HOA requirements other than Town of Gorham Code Requirements,” the LUDC requirements for a HOA have to be met. A Declaration of Private Way is never acceptable for a subdivision. I suggest that the applicant consult with an attorney to prepare the proper HOA documents. Since this is it be a private road, it is especially important that there be a clear organizational structure that provides for the maintenance of the road, periodic assessments to collect amounts appropriate for the ongoing maintenance of the road, including repairs and reconstruction when necessary, and legal authority to collect such assessments. The Town will notify the HOA if there are maintenance issues that impair the provision of emergency services to the residents of the subdivision.

Planning Division: 06/07/2022, 08/30/2022, 11/03/2022

June 7, 2022

- Chapter 2 Section 2-5 C. ACCESS TO ADJOINING LAND 1. The Planning Board shall provide for road continuation, to limit unnecessary curb cuts and/or to provide for street access to adjoining properties by dedication on a subdivision plan, of a fifty-foot wide right-of-way to the boundary of adjacent properties, unless the Planning Board determines it is not in the public interest to require access to adjoining land, the topography is not suitable for access to adjoining land, or the project is surrounded by wetlands and no suitable land is available for continuation. Access to adjacent developed land shall be provided by the dedication on a subdivision plan of a 50-foot right-of-way connecting to previously dedicated rights-of-way.
 - The proposed right of way should be adjusted so that it meets the property line in a location that has the possibility of extending through to the abutting parcel. The current location meets the property line where a wetland/pond is located. The intent of this ordinance requirement is to allow for through roads and connections.

- Chapter 7 Impact Fees - Recreational and Open Space, Middle School will apply.

- SECTION 2-10 – THE PROVISION OF PUBLIC WATER SUPPLY
 - Conditional Provision of Public Water Supply Unless exempted by the Planning Board in accordance with D. below, any new principal building for nonresidential or residential use (or group of buildings that is part of the same project) for which a building permit is issued after November 10, 2004, that has a design sewage flow based upon the Maine State Plumbing Code of more than two thousand (2000) gallons per day or that is required to be provided with a fire protection sprinkler system in accordance with fire protection codes or town ordinances, or any subdivision approved after November 10, 2004 and that had not had substantive Planning Board review as of November 10, 2004, that will allow for the construction of six (6) or more dwelling units or one or more principal buildings requiring site plan review, shall be connected to, and shall utilize, the public water system, if the parcel upon which the development is located is within three thousand (3000) feet of a Portland Water District water main as measured along existing or proposed public rights-of-way from the existing main to the nearest corner of the parcel, and the parcel is located, in whole or in part, in any of the following zoning districts: 1. The Suburban Residential District 2. The Roadside Commercial District 3. The Commercial-Office District 4. The Industrial District 5. The Rural District
 - D. Exemption from Public Water Supply Requirements The Planning Board shall, by formal vote, exempt a development from the requirement to extend and/or use public water supply if it finds that any one of the following conditions is met:
 - 1. That the Portland Water District has certified, in writing, that the District’s water system cannot provide adequate service for the project including provisions for fire protection sprinkler systems without a major investment in the District’s facilities that the District is not prepared to make in a timely fashion, or
 - 2. That the cost of providing public water service for the project is unreasonable given the anticipated benefit. The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the methodology set forth in subsection E. The cost

for providing public water service for a non-residential use or subdivision shall be deemed to be unreasonable if the estimated cost is more than twice the cost of an equivalent private water supply system including provisions for fire protection water supplies based upon the methodology set forth in subsection E, or

- 3. That the special provisions for utilizing private ground water supply in the Black Brook and Brackett Road Special Protection District will be met.

- E. Determination of Unreasonable Cost

- If a property owner or developer requests an exemption from the requirement to provide public water supply based upon the cost of providing public water supply, he/she shall submit an analysis of the estimated cost of providing public water service versus the cost of providing private water supplies. The analysis shall be based upon the proposed development scenario as if the entire lot or parcel will be developed/subdivided and there is no potential for future additional development. The Planning Board may require that the analysis be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. If only a portion of the lot or parcel is being proposed to be developed/subdivided, the analysis shall be based upon a full build-out scenario for the parcel that assumes that the entire parcel will be developed and that the area not currently proposed for development will be developed based upon the allowed zoning density with public water and cluster development, if appropriate, taking into consideration site constraints and town regulations. The development scenario shall be submitted to the Town Planner and shall be subject to the Planner's and Planning Board's approval as a reasonable development scenario for the parcel.

- 1. Residential Developments -- The cost of providing public water service for a residential use or subdivision shall be deemed to be unreasonable if the Public Water Cost Per Unit (PWCU) exceeds the Maximum Private Water Cost Per Unit (MPWCU) based upon the following methodology:

- Step1. Determine the PUBLIC WATER COST PER UNIT (PWCU) based upon the following formula: $PWCU = (((((SL \times \$75) + (NL \times \$40))/UN) + \$1,425) \times CCIF) + ((LDG) \times CCIF) + EX)/UN$ Where: SL = the lineal feet of new water main in an existing street, NL = the lineal feet of new water main in a proposed street or right-of way, UN = the number of units in the development to be served, CCIF = Construction Cost Inflation Factor LDG = the estimated current cost for ledge trench at \$20 per lineal foot times the estimated number of feet of ledge trench or other estimate of ledge removal cost approved by the Planning Board based upon field knowledge/documentation provided by the applicant EX = the estimated current cost for any extraordinary costs for the water service such as bridge crossings

and \$75 is the typical cost per foot for a water main in an existing street, \$40 is the typical cost per foot for a water main in a new street or right-of-way, and \$1,425 is the typical average cost for a house service, and CCIF = ENR CCI Current/ENR CCI 5-04 where ENR CCI Current is the ENR Construction Cost Index for the month in which the calculation is made as published in ENR (Engineering News-Record) magazine and ENR CCI 5-04 is the ENR Construction Cost Index for May 2004

- Step 2. Determine the MAXIMUM PRIVATE WATER COST PER UNIT (MPWCU) based upon the following formula
$$\text{MPWCU} = ((\$5,500 \times 2) + \$5,000) \times 1.1 \times \text{CCIF}$$
Where: CCIF = Construction Cost Inflation Factor, and \$5,500 is the typical developer cost for a well and \$5000 is the typical cost for residential sprinkler system.
- Step 3. Compare the calculated PWCU to the calculated MPWCU to determine if providing public water supply is reasonable.
- The entire Calculation sheet for public water needs to be submitted for review to determine waiver necessity. It is found here...<https://www.gorham-me.org/planning-division/pages/estimator-water-supply-costs>.
- Sanitary Sewers: Sanitary sewers shall be required per the Town of Gorham Wastewater Ordinance and be designed and constructed to the requirements of the Superintendent of Sewers and the Portland Water District.
- ARTICLE IX - SEWER EXTENSIONS
 - SECTION 1 - NEW SUBDIVISIONS
 - 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 undue hardship, as determined by the Planning Board, shall, if such subdivision has not been finally approved before the effective date of this Ordinance, and assuming capacity exists in the sewer system as determined by the Town Council, will, at his own expense, construct for dedication to the Town a sanitary sewer extension to serve all structures within such subdivision which will require the disposal of wastewater. Such sanitary sewer shall be designed by a registered engineer, its design shall be approved by the Town and its design, construction and acceptance shall be in accordance with the provisions of Article IX, Section 3, 4 and 5.
- Chapter 2 SECTION 2-5 - MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS
 - H. STANDARDS FOR PRIVATE WAYS The Planning Board may approve the use of private ways to provide access to individual lots of land provided that the following conditions are met:
 - 1) An approved private way may serve a combination of dwelling units/lots identified below:
 - 1 lot gravel private way – 1 lot with a single family house
 - 2-6 gravel private way – up to 6 lots, with no more that 6 total dwelling units served by the private way
 - 7-10 paved private way – up to 10 lots, with no more than 10 total dwelling units served by the private way
 - 25 dwelling unit paved private way – up to 25 lots, with no more than 25 total dwelling units served by the private way

August 30, 2022

- Information showing adequate potable water needs to be provided.
- Check the lot frontage widths of each lot for accurate length.
- Chapter 2 Section H - Homeowner's Association required - If a private way provides access to 2 or more lots, a maintenance agreement, or in the case of a subdivision, a homeowners' association declaration and bylaws, shall be prepared for the lots accessed by any private way. This agreement or homeowners' association declaration and bylaws shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. This agreement or homeowners' association declaration and bylaws shall also specify that the Town of Gorham shall not be responsible for the maintenance, plowing or repair of the private way. This agreement or homeowners' association declaration and bylaws, upon approval by the Planning Board, shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board.
- The corner lots (#'s 3&4) will need to have their driveways off the private way.

November 3, 2022

- Sheet 3 of 8 does not show the length of the Lots 10, 11, and 12 in the tables.
- Please provide location of snow storage.
- Financial capacity has not been provided.
- The Plan title block needs to read "Plan of a Private Way."
- The private way typical section on Sheet 6 does not match the ordinance Figure 10.

Police Department: No comments received

Public Works Department: 08/25/2022, 08/31/2022

August 25, 2022

Would like \$2500 per lot for future roadway improvements on Buck st.
Is this a private way?

August 31, 2022

I agree no paved apron as it comes off a gravel road

Recreation Department: No comments received

Wright-Pierce Comments: 09/02/2022, 10/26/2022

September 2, 2022

As requested by the Town of Gorham, Wright-Pierce has reviewed the Subdivision Application submission for the proposed 13-lot residential subdivision located off Buck Street adjacent to the Standish Town Line.

Documents Reviewed by Wright-Pierce

- Subdivision Application and Attachments - prepared by Sebago Technics (August 22, 2022)
- JDP Estates Plan Set, Sheets 1-8 - prepared by Sebago Technics (Town Submission, August 12, 2022) and Boundary Plan by Others (January 30, 2022) and High Intensity Soil Survey Map (July 29, 2022)
- Stormwater Management Report - prepared by Sebago Technics (August 2022)

Review Comments

Applicant should provide written responses to the review comments recommending clarification or further information to be provided by the Applicant.

General/Completeness

1. Street and Driveway Name Approval Form is not complete.
2. A Private Way Application was not included.
3. Although the grading of the ditches is shown on the plans, please clearly label, in plan view, which areas correspond with the Grassed Infiltration Ditch Detail on Sheet 6 of the plans.

General Standards of Performance

1. Environmental
 - a. Erosion controls for the construction of the private way are not shown. At a minimum, perimeter controls and a stabilized construction entrance/exit should be shown.
 - b. The subdivision is not proposed in a floodplain, shoreland zone, MS4 urbanized area or other known sensitive resource area.
2. Traffic – The Applicant states that approximately 13 peak hour trips are anticipated to be generated by the proposed subdivision. We do not believe that the anticipated traffic will have an adverse effect on the area.

Private Way Requirements

1. Submit a signed Declaration of Maintenance of Private Way agreement.
2. Since the Applicant also proposes a private way, all Standard Private Way Plan Notes should be included on the plans.
3. Town standards for gravel private ways serving 2-6 lots require a cross slope of 1/2” per foot and a cross slope of 2% is proposed (approximately 1/4” per foot). Revise the cross slope accordingly or request a waiver for the variance from the Town standard.
4. Town standards for gravel private ways serving 2-6 lots require 15” of Type D subbase gravel and the proposed subbase gravel is Type B. Revise the material accordingly or request a waiver for the variance from the Town standard.
5. Existing topography is only shown on the watershed plans. Show existing topography on the site plans as well.

Subdivision Requirements

1. Please confirm that each lot will be for single family housing and that only lots 8-13 will be served by the proposed private way.
2. The Applicant has requested the Planning Board vote to exempt the development from the requirement to extend the public water supply to the subdivision. The Applicant states that the Public Water Cost Per Unit (PWCPU) exceeds the Maximum Private Water Cost Per Unit. Based on calculations submitted in the pre-application, this appears to be an accurate statement. The calculation of PWCPU appears to be conservative as it assumes ledge excavation is not required, which could make the construction even more costly.
3. A typical erosion control plan detail for a residential lot should be included on the plans to ensure their construction will not cause unreasonable soil erosion.
4. A waiver of Chapter 3, Section 3-3, Paragraph B.11, which requires a Class A soil survey has been requested since the Gorham Land Use and Development Code allows Class B soil surveys for subdivision that do not require net acreage calculations and/or where public water supply is available to serve the lots. It appears this waiver appears reasonable.
5. Monuments on the Town line and Buck Street right-of-way should be 5-inch granite or concrete squares. Iron pipes/rods are proposed as all monumentation, which should not be used in these instances. See the Gorham Land Use and Development Code for more information.

Stormwater Management

1. The Stormwater Management Report and associated HydroCAD model were reviewed. There are no comments on Stormwater Management.

September 2, 2022

I meant to include a note in my previous email for Buck Street Subdivision that they are requesting a waiver from a Class A to Class B soils survey, which appears reasonable as it looks like net acreage calculations are not required for subdivisions in the SR zone; however, the Applicant did provide net residential density calculations on the Subdivision Plan.

October 26, 2022

As requested by the Town of Gorham, Wright-Pierce has reviewed the Subdivision Application resubmission for the proposed 13-lot residential subdivision located off Buck Street adjacent to the Standish Town Line.

Documents Reviewed by Wright-Pierce

- Comment Response Letter – prepared by Sebago Technics (October 17, 2022)
- Subdivision Application and Attachments – prepared by Sebago Technics (October 17, 2022)

- JDP Estates Plan Set, Sheets 1-8 – prepared by Sebago Technics (Town Submission for Final, October 17, 2022) and Boundary Plan by Others (January 30, 2022) and High Intensity Soil Survey Map (July 29, 2022)
- Stormwater Management Report – prepared by Sebago Technics (October 2022)

Review Comments

Wright-Pierce’s original comments are in standard text, followed by the applicant’s response in italics, and our follow up responses in bold. Comments from the original review letter that did not require a response or clarification or that were addressed are not listed. Applicant should provide written responses to the review comments recommending clarification or further information to be provided by the Applicant.

General/Completeness

1. WP Original Comment 1: Street and Driveway Name Approval Form is not complete.
Applicant Response: The Street and Driveway Name Approval Form has been completed.
WP Follow-Up Response: The form is still not complete. The type of approval is not checked, three name options have not been provided, and street/driveway access location is not provided.

General Standards of Performance

1. Environmental
 - a. WP Original Comment 1a: Erosion controls for the construction of the private way are not shown. At a minimum, perimeter controls and a stabilized construction entrance/exit should be shown.
Applicant Response: The plan set has been revised to show erosion control and construction entrance.
WP Follow-Up Response: There are limited existing contour labels making it difficult to tell if the proposed filter barrier on the southeasterly side of the road is adequate. Please confirm that all disturbed areas will drain to the southeasterly side of the road towards the proposed filter barrier.

Private Way Requirements

1. WP Original Comment 1: Submit a signed Declaration of Maintenance of Private Way agreement.
Applicant Response: A HOA document has been submitted outlining maintenance responsibilities for the private way.
WP Follow-Up Response: Upon approval by Planning Board, the Declaration of Roadway Maintenance and Homeowners Association Documents shall be recorded in the Cumberland County Registry of Deeds within 30 days of approval by the Planning Board.
2. WP Original Comment 2: Since the Applicant also proposes a private way, all Standard Private Way Plan Notes should be included on the plans.
Applicant Response: The plan set has been revised to include Standard Private Way Notes.

WP Follow-Up Response: The standard private way notes on Sheet 4 do not exactly match the Town’s standard private way notes. Refer to the notes in the private way application. For example, the first note does not specify that the plan will be recorded within 30 days of Planning Board approval.

3. WP Additional Comment: The Private Way has been revised to be a paved private way serving 7-10 lots. The Town’s standard is to have the shoulders paved; however, the proposed private way typical section on Sheet 6 shows a 2-foot gravel shoulder. The typical section should be revised to show paved shoulders per the Town’s standard for a 7-10 lot, paved private way. Pavement hatching on Sheet 4 should be revised as well.

Subdivision Requirements

1. WP Original Comment 5: Monuments on the Town line and Buck Street right-of-way should be 5-inch granite or concrete squares. Iron pipes/rods are proposed as all monumentation, which should not be used in these instances. See the Gorham Land Use and Development Code for more information.

Applicant Response: Acknowledged. The Subdivision Plan has been revised to show monuments along the Town line and Buck Street right-of-way.

WP Follow-Up Response: The plans do not indicate the material or size of the monuments on the right-of-way. They are simply labeled “monument”. Please specify this information so it is clear they meet the Town requirements.

Stormwater Management

No further comment.

Abutter Comments: No comments received

**PLANNING BOARD
SUBDIVISION AND PRIVATE WAY REVIEW
FINDINGS OF FACT**

**For
JDP, LLC – BUCK STREET**

November 7, 2022

Applicant: JDP, LLC; C/O Michael Phinney; 519 Fort Hill Road; Gorham, Maine 04038

Property Owner: John D. Phinney; C/O Michael Phinney; 519 Fort Hill Road; Gorham, Maine 04038

Property: The lot is identified as Tax Map 76, Lot 42, and is located on Buck Street.

Consultants: Owens A. McCullough, P.E., #7122; Stephen J. Martin, P.L.S., #1262; Anna K. Biddle, Licensed Soil Scientist, #639

Project Description: The applicant is proposing a 13-lot residential subdivision, JDP Estates, with a private way off Buck Street.

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

Zoning: Suburban Residential (SR)

Variances: None requested.

Waivers Granted:

- A waiver was granted from Ch. 3, Section 3-3, B.11 – to waive the requirement of a Class A soil survey to a Class B survey.
- A waiver was granted from Ch. 3, Section 2-10 - to waive the provision of public water supply.

Pursuant to the Application:

A sketch/pre-application review was held on June 13, 2022.

Preliminary Subdivision approval was granted on September 12, 2022.

Final Subdivision and Private Way review was held November 7, 2022.

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:

Sebago Technics, Inc. Plans consist of the following:

Sheet 1 of 1 – Subdivision Sketch: Dated, 04/07/2022; Revised through, 04/19/2022; Received, 04/20/2022
Sheet 1 of 8 – Cover Sheet: Dated, 06/01/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 2 of 8 – Notes & Legend: Dated, 06/01/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 3 of 8 – Subdivision Plan: Dated, 04/07/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 4 of 8 – Plan & Profile: Dated, 06/01/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 5 of 8 – Erosion Control Notes: Dated, 06/01/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 6 of 8 – Details: Dated, 06/01/2022; Revised through, 10/17/2022; Received, 10/17/2022
Sheet 7 of 8 – Existing Conditions and Watershed Plan: Revised through, 10/17/2022; Received, 10/17/2022
Sheet 8 of 8 – Proposed Conditions and Watershed Plan: Revised through, 10/17/2022, Received, 10/17/2022
(Boundary Plan) Plan of Property (by OTHERS)– Received, 10/17/2022
Sheet 1 of 1 – Class ‘B’ High Intensity Soil Map: Dated, 07/29/2022; Revised through, 07/29/2022; Received, 10/17/2022

Other documents submitted consist of the following:

Pre-Application – 04/20/2022
Subdivision Application – 08/22/2022, 10/17/2022
Private Way Application – 10/17/2022
Street and Driveway Name Approval Form – 08/22/2022
Stormwater Management Report – 08/22/2022 (received electronically), Revised 10/17/2022
Plans – Received 04/20/2022, 08/22/2022
Waiver Request – 08/22/2022
HOA Documentation - 10/17/2022
Technical and Financial Capacity - 10/17/2022
Declaration of Maintenance of a Private Way – 08/22/2022
Gorham Town Planner Comments – 06/07/2022, 08/30/2022, 11/3/2022
Gorham Assessor Comments – 04/25/2022, 10/24/2022
Gorham Fire Department Comments – 04/26/2022, 10/25/2022
Gorham Public Works Comments – 08/25/2022, 08/31/2022
Gorham Code Enforcement Comments – No comments received.
Gorham Recreation – No comments received
Town Attorney – 09/01/2022, 10/24/2022
Wright Pierce – 09/02/2022, 10/26/2022

6. FINDINGS OF FACT

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:

- 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 Suburban Residential (SR). The plans meet the requirements of the current Suburban Residential zoning district for density.

Finding: JDP Estates 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 JDP Estates subdivision is via Buck Street. The addition of thirteen (13) residential units will not cause congestion or an unsafe condition on Buck Street.

The estimated peak hour trips increase is thirteen (13).

Finding: JDP Estates 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 residential units in this subdivision will be served by well and onsite septic, as stated by Drumlin Environmental, LLC's written report dated October 14, 2022. Sheet 4 of 8 show the location of above ground and underground utilities. Waste removal may be provided by the town of Gorham. Recreation and school impact fees are required that offset the additional school and recreational needs created by a residential subdivision. Fire and police protection will be provided and budgeted for.

Finding: *JDP Estates 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 subdivision will be served by private on site wells as described in the report by Drumlin Environmental, LLC dated October 14, 2022.

Finding: *JDP Estates 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 residential units will be served by a private onsite septic systems. Test pit locations are shown on Sheet 3 of 8 and as described in the report by Drumlin Environmental, LLC dated October 14, 2022.

Finding: *JDP Estates 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 as shown on Sheet 4 of 8 and Stormwater Management Report, Water and Wastewater responses and calculations and study. The dwelling units' sewage disposal will be treated utilizing an onsite septic system as described and designed in exhibit 8.

Finding: *JDP Estates 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.

Erosion and sedimentation control provisions include berms, silt fence, mix, hay bales is shown on Sheets 5 and 6.

Finding: *JDP Estates 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.

The proposed construction of the street, residential units and driveways will not impact wetlands or waterbodies. There is a small wetland on Lot 8; no construction will be proposed within it.

Stormwater facilities shall be designed in accordance with state, Federal, and local requirements prior to discharging into groundwater or into abutting wetland and stream.

Sheets 6, 7, and 8 show details of stormwater facilities and the water shed before and after construction.

Finding: JDP Estates 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 street, residential units and driveways will not impact wetlands or waterbodies. The layout of the residential units and driveways will not impact any historic, manmade, rare or irreplaceable natural features on the site.

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

Finding: JDP Estates 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 states that financial capacity will be shown at final plan review.

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 developer/property owners will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: *The applicant/developer of JDP Estates 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.*

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.

The applicant has **not** submitted all the general and specific requirements under this Chapter.

Finding: *All the general and specific requirements under this Chapter have **not** been submitted.*

CHAPTER 2, SECTION 2-5, H. Standards for Private Ways

(This section is modified for brevity. See the current Land Use and Development Code for exact wording.)

- 1) Each lot having access from an approved private way may be improved with no more than two dwelling units and related accessory buildings and uses.

The lots served by the private way are required to meet the requirements of the Suburban Residential (SR) zoning district. The number of lots/dwelling units allowed to be served by the private way is up between 7 and 10.

Three (3) proposed private way names shall be submitted for review by the Town Planner Police Chief and Fire Chief.

Finding: *The private way is designed to the 7-10 lots/dwelling unit private way standard and no more than ten (10) dwelling units can be served by the private way.*

2) A plan showing the private way shall be prepared by a registered land surveyor. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the registered professional engineer preparing the plan.

The private way plan was prepared by _____.

The Plan title block reads "Plan of a Private Way."

The Plan has an approval block that reads: "Private Way, Approved by the Town of Gorham Planning Board."

The approval block also has a line for the signatures of a legal majority of the Planning Board, and includes a line for the date of approval.

The Plans shows information sufficient to establish the exact location on the ground, direction, width and length of the private way right-of-way.

The street plan and profile, and street cross sections are in accordance with Chapter 2, Section 2-5., E., 3a through e.

The Plan has a note that reads, "The Town of Gorham shall not be responsible for the maintenance, repair, plowing, or similar services for the private way shown on this plan, and if the private way has not been built to public way standards, the Town Council will not accept it as a public way."

The plan was sealed by Owens McCollough, P.E. #7122.

Finding: The Plan of Private Way has been sealed by a registered land surveyor and by a registered professional engineer meeting the requirement for private ways and meets the requirements of this section.

3) If a private way provides access to 2 or more lots, a maintenance agreement or in the case of a subdivision, a homeowners' association declaration and bylaws, shall be prepared for the lots accessed by any private way.

Finding: The private way maintenance agreement or in the case of a subdivision, a homeowners' association declaration and bylaws, identifies the rights and responsibility of each lot owner with respect to the maintenance, repair, and plowing of the private way as outlined in this section.

4) Private ways shall have a minimum right-of-way width of 50 feet and a paved apron 20 feet in length commencing at the existing edge of pavement where it intersects with the private way.

The proposed private way paved apron will be built to the following standards:

- a) 9" of MDOT Spec. 703.06 Type E;
- b) 12" of base gravel MDOT Spec. 703.06 Type D;
- c) 3" of 1 ½" crushed gravel, Type A or reclaimed;

- d) a minimum of 4" of paved surface, or greater as specified by the Town Engineer;
- e) a negative 2.0% grade from the existing edge of pavement to an appropriate drainage way, but in no case less than 5 feet from the travel surface of the public way it intersects;
- f) approach radius shall be specified by the Town Engineer.

Finding: The right-of-way width and a paved apron have been designed to conform to the paved apron standards outlined in this section.

- 5) Private ways shall be designed to conform to the standards presented in Tables 1 and 2 and the typical cross sections depicted in Figures 9 and 10.

The applicant is proposing to construct a 7 to 10 lot private way. Sheets 4 and 6 show the required 7-10 lot/dwelling unit paved private way standard cross section.

Finding: The private way meets all the criteria and design requirements presented in Table 1 and 2 and the typical cross sections depicted in Figures 9 of the Gorham Land Use and Development Code.

- 8) Notwithstanding other provisions of the Code to the contrary, no gravel surfaced private way shall provide access to or serve in any way to provide compliance with the requirements of the Code for more than the greater of six lots or six dwelling units; provided; however, nothing in this paragraph 8) shall serve to limit the use of such private way for occasional use by and for agricultural purposes.

The proposed private way is paved and therefore may serve up to the proposed eight (8) lots/units.

Finding: The paved private way is proposing to serve eight (8) residential dwelling units.

- 9) The land area of the private way may not be used to satisfy the minimum lot area requirements for any lot (whether the lot(s) to be served or any front lot over which the private way runs).

Each of the lots will need to retain enough area to meet the lot sizes in the Suburban Residential Zoning District.

Finding: The land area of the private way is not being used to satisfy the minimum lot area requirements for the existing lot or any proposed future lot.

- 10) The Planning Board shall have the ability to require improvements to both public roads and private ways serving any proposed private way to ensure off-site access is suitable to serve the proposed private way.

The proposed private way will be off Buck Street which is suitable to serve the proposed private way.

Finding: The proposed private way will be off of Buck Street which is suitable to serve the proposed private way.

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. That prior to the commencement of construction, the applicant is responsible for obtaining all required local, state and federal permits;
4. 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;
5. That the approved Homeowner's Association documents shall be recorded in the Cumberland County Registry of Deeds prior to a certificate of occupancy being given to any proposed new lot with a recorded copy of the Homeowner's Association documents to be returned to the Planning Office;
6. That the underground electric lines shall be inspected by the Code Enforcement Office prior to backfill;
7. All waivers and variances shall be listed on the plan prior to recording;
8. The map and lot numbers shall be listed in the bottom right corner of all pages of the plan set prior to the Board signing the plan;
9. Recreational and Middle School Impact fees shall be paid prior to receiving a building permit;
10. 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;
11. That all site construction shall be carried out in conformance with the Maine Erosion and Sediment Control Best Management Practices, Maine Department of Environmental Protection, latest edition and in accordance with the erosion and sedimentation control information contained in the application;
12. That the Planning Board Chair is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
13. That the subdivision and private way 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 is required to be recorded within one (1) year of original approval or the approval becomes null and void; and

14. That these conditions of approval must be added to the subdivision 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, and a dated copy of the recorded plan shall be returned to the Town Planner prior to the pre-construction meeting.
15. That these conditions of approval must be added to the private way plan and the private way plan shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days of endorsement of the plan by the Planning Board, and that a recorded copy of the private way plan shall be returned to the Town Planner prior to the Pre-construction Meeting.

SUGGESTED MOTIONS:

FOR FINAL SUBDIVISION APPROVAL:

- **Move to grant final subdivision approval for JDP Estates, located on Map 76, Lot 42 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).**

FOR PRIVATE WAY APPROVAL

- **Move to grant private way approval for JDP Estates, located on Map 76, Lot 42 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).**

TO PLACE FINAL SUBDIVISION AND PRIVATE WAY APPROVAL ON CONSENT AGENDA:

- **Move to place final subdivision and private way approval on the December 5, 2022 meeting consent agenda.**