

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

ITEM 8 – Preliminary and Final Subdivision: Hastings – 73 Brackett Rd – a request for preliminary and final approval of a subdivision that splits one lot into two lots. Zoned Urban Residential (URExp) Expansion. Map 28, Lot 23-1. The owner/applicant is Lyndsay Hastings and is represented by Andrew Morrell, P.E., of BH2M.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-Application Discussion		N/A
Preliminary Subdivision Review	Postponed for further review, 6 ayes (Thomas Hughes absent)	June 6, 2022
Preliminary and Final Subdivision		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 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.

James Anderson, Chair, Gorham Planning Board

1. OVERVIEW

The applicant previously submitted this same proposed subdivision/lot split in 2021, but withdrew the application as the rezoning was not yet adopted by the town. The town adopted the recommended zoning in accordance with the Comprehensive Plan in October 2022 and has called the new zoning district, Urban Residential Expansion.

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

2. ITEMS OF NOTE

- There is a waiver request to consider. The Board should discuss the application in full and then consider the waiver toward the end as the waiver requested is to grant preliminary and final approval in one meeting.
- The Public Works Director did look at the culvert. The pipe is in good condition and if the driveway stays in the location on the current plan, then it will be adequate for the drainage.

3. WAIVERS

Granted:

1. A waiver was granted, on June 6, 2022, from Ch. 3, Section 3-3, B. 11 - to allow a Class B soils survey instead of the required Class A soil survey.
2. A waiver was granted, on June 6, 2022, from Ch. 3, Section 3-3, B. 16 – not to submit a nitrate analysis.

Requested:

1. The applicant request a waiver from Ch. 3, Section 3-3, C. 5 – to have the Preliminary Subdivision Application and Final Subdivision Application considered for approval at the same meeting.

<p>SUGGESTED MOTION: Move to approve the requested waiver from Ch. 3, Section 3-3, C. 15 - to grant Preliminary and Final Subdivision approval at the same meeting.</p>
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4. STAFF REVIEWS

Assessing Department: 05/17/2022, 10/24/2022

May 17, 2022

not sure what is happening with Map 28 Lot 23.

I show Hastings as owner of Map 23 Lot 23-1 and Glidden as owner of Map 28 Lot 23

please explain

October 24, 2022

1. Lindsay Hastings Is the split on 28-23 or 28-23-1?

Code Department: 05/18/2022

May 18, 2022

No Comments

Fire Department: 05/17/2022, 10/24/2022

May 17, 2022

MAP 28 Block Lot 23 Hastings Lot Split

I have revied the Plans dated May 1, 2022

1. 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.
2. 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.
3. 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.

October 24, 2022

I have revied the Plans dated Oct. 17, 2022

I am all set. Previous Memo listing requirements were added on the new plans submitted

Planning Department: 05/24/2022

May 24, 2022

1. A letter of financial capacity needs to be submitted as described in the ordinance.
2. Current zoning is Suburban Residential (SR)
3. Future Land Use Map recommends zoning of Village Expansion.
4. Public water is about 3,000 ft. away.
5. Planning Board Public hearing for rezoning to be held on June 6, 2022.

Police Department: No comments received.

Public Works Department: 05/18/2022, 10/31/2022

May 18, 2022

73 Brackett Road – No Issue – Driveway Permit

October 31, 2022

I did look at the culvert on Thursday and if the driveway stays in that location the pipe is in good condition and adequate for the drainage there

Recreation Department: No comments received.

Wright-Pierce: 05/25/2022, 10/25/2022

May 25, 2022

As requested, Wright-Pierce has reviewed the Preliminary Subdivision Application for the proposed 73 Brackett Road Subdivision. The Applicant, Lyndsay Hastings, is proposing to divide a 3.81-acre parcel at 73 Brackett Road (Map 28 Lot 23) to sell the newly formed lot. The proposed lot split is subject to subdivision review based on past transactions within a 5-year period. The applicant previously submitted an application in March 2021 but withdrew the application as a result of conflicts between the Town's Comprehensive Plan and Zoning Ordinance. The proposed lot would be served by a private well and septic system.

Documents Reviewed by Wright-Pierce

- Preliminary Subdivision Application Package - prepared by BH2M (March 2, 2021, Revised May 11, 2022)
- Preliminary Subdivision Plan Set - prepared by BH2M (dated February 2021, Revised March 11, 2022)

Review Comments

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

General/Completeness

1. Identify type and location of proposed boundary monuments.
2. The Applicant should provide clarification on the intention of the proposed parcel (Lot B-2). The Applicant indicates in the cover letter they would like to split off and sell a lot (Lot B-2) from their existing parcel; which implies no construction is anticipated; however, the Applicant submitted a construction schedule, erosion and sediment control plan and details, and indicated that Albert Frick Associates is currently working on the HHE-200 design for the septic system. As indicated in the letter from Albert Frick Associates regarding Preliminary Soil Test, Brackett Road (Proposed Lot 2), Gorham, a complete subsurface wastewater disposal system design (HHE-200 form) is needed for a permit to install the system once building location, building

size, and site development are conceptualized. If the Applicant is proposing construction on the proposed lot, additional information should be shown on the proposed plan to verify compliance with the subdivision requirements of Chapter 3 of the Gorham Land Use Development Code, including proposed building location, proposed driveway location and associated clearing/grading, proposed grading, proposed utility connections, and typical details associated with the items listed above.

General Standards of Performance

1. Environmental
 - a. Proposed lot is not in the floodplain or other regulated zones.
 - b. An erosion control and sediment control plan with details was submitted. Details for erosion control mix (ECM) berm, silt fence, stabilized construction entrances, loam, and house site were included. These controls are applicable to construction. If a single-family dwelling is proposed, the layout of the proposed erosion controls should be shown on the plan for review.
2. Parking, Loading, and Traffic - The Applicant has noted that 10 vehicle trips are anticipated per day, which we do not have concerns with. Parking and loading requirements are not applicable to this proposed subdivision.

Preliminary Subdivision Requirements

1. The minimum required street frontage in the Suburban Residential District (SRD) is 200-feet. The applicant has noted that the Town Council is working through zoning changes that will place the parcel within the Village Expansion Zone (VEZ) and that the minimum required street frontage in the VEZ is 150-feet. The proposed parcels have proposed frontages of 150.00-feet and 156.72-feet, respectively. The proposed frontage does not meet the current requirements of the SRD, but will be acceptable upon the establishment of the VEZ.
2. Applicant has requested a waiver for a high intensity soil survey, since the lot is so large (54,172 SF). The Applicant indicated medium intensity soils maps were submitted. High intensity soil surveys are considered Class A and Class B soil surveys. A medium intensity soil survey is considered Class C soil survey. The Applicant also references that the abutting property owner is proposing a similar lot division (subdivision) on Parcel B (69 Brackett Road). Parcel B (69 Brackett Road) is a larger parcel, and the Applicant of Parcel B (69 Brackett Road) did submit a high intensity soil survey (Class B). As such, it is recommended the Applicant submit a Class A Soil Survey as required by Chapter 3, Paragraph B (11) of the Gorham Land Use and Development Code, which may be waived to a Class B Soil Survey if certain requirements, described within the Code, are met. Show soil survey test pit locations on the plan.
3. Applicant indicates HHE-200 design for septic system is in progress and will be forwarded for review once completed.
4. Applicant indicates proof of Financial Capacity will be submitted under separate cover.
5. Applicant proposes the subdivision of one lot into two with the possibility for a future single-family dwelling, which we believe will not cause congestion, unsafe conditions, undue pollution of water resources or their shorelines, as required by Chapter 3, Paragraph C(2) of the Gorham Land Use and Development Code.

October 25, 2022

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1. The minimum required street frontage in the Suburban Residential District (SRD) is 200-feet. The applicant has noted that the Town Council is working through zoning changes that will place the parcel within the Village Expansion Zone (VEZ) and that the minimum required street frontage in the VEZ is 150-feet. The proposed parcels have proposed frontages of 150.00-feet and 156.72-feet, respectively. The proposed frontage does not meet the current requirements of the SRD, but will be acceptable upon the establishment of the VEZ.
2. Applicant has requested a waiver for a high intensity soil survey, since the lot is so large (54,172 SF). The Applicant indicated medium intensity soils maps were submitted. High intensity soil surveys are considered Class A and Class B soil surveys. A medium intensity soil survey is considered Class C soil survey. The Applicant also references that the abutting property owner is proposing a similar lot division (subdivision) on Parcel B (69 Brackett Road). Parcel B (69 Brackett Road) is a larger parcel, and the Applicant of Parcel B (69 Brackett Road) did submit a high intensity soil survey (Class B). As such, it is recommended the Applicant submit a Class A Soil Survey as required by Chapter 3, Paragraph B (11) of the Gorham Land Use and Development Code, which may be waived to a Class B Soil Survey if certain requirements, described within the Code, are met. Show soil survey test pit locations on the plan.
3. Applicant indicates HHE-200 design for septic system is in progress and will be forwarded for review once completed.
4. Applicant indicates proof of Financial Capacity will be submitted under separate cover.
5. Applicant proposes the subdivision of one lot into two with the possibility for a future single-family dwelling, which we believe will not cause congestion, unsafe conditions, undue pollution of water resources or their shorelines, as required by Chapter 3, Paragraph C(2) of the Gorham Land Use and Development Code.

**TOWN OF GORHAM PLANNING BOARD
PRELIMINARY AND FINAL SUBDIVISION REVIEW AND
FINDINGS OF FACT
For
HASTINGS, 73 BRACKETT ROAD**

November 7, 2022

Applicant/Property Owner: The property owner/applicant is Lyndsay Hastings; 73 Brackett Road, Gorham, ME 04038.

Property: The lot is identified as Tax Map 28, Lot 23-1, and is located at 73 Brackett Road.

Consultants: Andrew Morrell, P.E., with BH2M; Robert C. Libby, Surveyor; Brady Frick, LSE; Dale Brewer, Statewide Surveys, Inc.

Project Description: The applicant is proposing a lot division that results in a subdivision. The units will be served by onsite septic and wells and utilities.

Site Description: The lot is 3.810 acres in size with a wetland 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 around the outside edges.

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

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

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

Variances: None requested.

Waivers:

Granted:

1. A waiver was granted, on June 6, 2022, from Ch. 3, Section 3-3, B. 11 - to allow a Class B soils survey instead of the required Class A soil survey.
2. A waiver was granted, on June 6, 2022, from Ch. 3, Section 3-3, B. 16 – not to submit a nitrate analysis.

Requested:

1. The applicant request a waiver from Ch. 3, Section 3-3, C. 5 – to have the Preliminary Subdivision Application and Final Subdivision Application considered for approval at the same meeting.

Pursuant to the Application:

Preliminary Subdivision Review was held on June 6, 2022.

Preliminary and Final Subdivision Review was held on 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:

BH2M's Plans consist of the following:

Sheet 1: Preliminary Subdivision Plan – Dated, 02/2021; Revised through, 05/11/2022; Dated, 05/11/2022

Sheet 1: Subdivision Plan Parcel B – Dated, 02/2021; Revised through, 10/17/2022; Received, 10/17/2022

Sheet 2: Standard Boundary Survey & Existing Conditions – Dated 02/2021; Revised through, 05/11/2022; Dated, 05/11/2022

Sheet 2: Standard Boundary Survey & Existing Conditions Parcel B – Dated 02/2021; Revised through, 10/17/2022; Received, 10/17/2022

Sheet 3: Standard Details – Dated 02/2021; Revised through, 05/11/2022; Dated, 05/11/2022

Sheet 3: Standard Details Parcel B – Dated 02/2021; Revised through, 10/17/2022; Received, 10/17/2022

Other documents submitted consist of the following:

Preliminary Subdivision Application – 05/11/2022

Final Subdivision Application – 10/17/2022

Plans – 05/11/2022, 10/17/2022

Waiver Requests – 05/16/2022; Revised, 05/25/2022; Revised, 10/17/2022

Letter of Financial Capacity – 10/17/2022

HHE-200 Form – 06/02/2022

Gorham Town Planner Comments – 05/24/2022

Gorham Assessor Comments – 05/17/2022, 10/24/2022

Gorham Fire Chief Comments – 05/17/2022, 10/24/2022

Gorham Public Works Comments – 05/18/2022, 10/31/2022

Gorham Code Enforcement Officer – 05/18/2022

Gorham Recreation – No comments received

Gorham Police Department – No comments received

Wright Pierce – 05/25/2022, 10/25/2022

5. 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 Village Expansion. The plans meet the requirements of the recently adopted and current Urban Residential Expansion zoning district for density and zoning requirements.

Finding: Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 Lyndsay Hastings Parcel “B”, 73 Brackett Road subdivision is via Brackett Road. The addition of one (1) additional lot and associated vehicles should not cause congestion or an unsafe condition on Brackett Road.

Finding: Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 additional lot in this subdivision will be served by well and onsite septic, and other utilities. Waste removal will 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.

Finding: Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 additional lot created will be served by onsite well.

Finding: *Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 provide onsite septic system for the solid and sewage waste disposal. Test pit information provided by Al Frick Associates determines adequate soil for this purpose.

Finding: *Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 additional dwelling unit sewage disposal will be treated utilizing an onsite septic system.

Finding: *Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 unit will not impact wetlands or water bodies. There is a 911 sq. ft. wetland impact from construction of a driveway. The developer shall place erosion and sedimentation controls around the development site.

Finding: *Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 shall be designed in accordance with State, Federal, and local requirements prior to discharging into groundwater or into abutting wetland.

Finding: Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 unit and driveway will impact 911 sq. ft. of wetlands and no water bodies. The layout of the buildings and driveway will not impact trees and other natural features on the site.

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

Finding: Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 dated June 3, 2022 from Joshua Moreshead of Bangor Savings Bank to determine 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/property owner will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: *The applicant of Lyndsay Hastings Parcel “B”, 73 Brackett Road 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 3-4 C - FINAL PLAN

- 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.

The applicant has submitted all the general and specific requirements under this Chapter.

Finding: *All the general and specific requirements under this Chapter have been submitted.*

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 or property owner 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 Board Chair signing the plans;

5. All waivers and variances shall be listed on the plan prior to recording;
6. The map and lot numbers shall be listed in the bottom right corner of all pages of the plan set;
7. Recreational and Middle School Impact fees shall be paid prior to receiving a building permit;
8. 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;
9. 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;
10. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
11. That the subdivision 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
12. 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, and a dated copy of the recorded plan shall be returned to the Town Planner prior to the pre-construction meeting.

SUGGESTED MOTIONS:

FOR PRELIMINARY and FINAL SUBDIVISION APPROVAL:

- **Move to grant preliminary and final subdivision approval for Lyndsay Hastings, 73 Brackett Road Subdivision, located on Map 28, Lot 23-1 in the Urban Residential Expansion 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 PLACE FINAL SUBDIVISION APPROVAL ON CONSENT AGENDA OF
December 5, 2022:**

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