

**Town of Gorham
 Planning Board Meeting
 September 12, 2022**

CONSENT AGENDA, A – Subdivision Amendment – Colpitts, Julie –a request for approval to amend the approved Blueberry Ridge Subdivision, to reduce the number of lots from 29 to 5. Zoned R, Map 54, Lots 4-8 through 4-29. The applicant is represented by Andrew Morrell, PE, with BH2M.

INDEX OF PACKET ENCLOSURES	
DESCRIPTION	PAGE NUMBER
1. Overview	2
2. Items of Note	2
3. Staff Review	2-4
4. Findings of Fact	5-9
5. Conditions of Approval and Motions	9-10

PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-application Discussion		NA
Subdivision Amendment Review	Discussed and moved to place on future consent agenda.	July 11, 2022
Town Council	Voted, 6 yeas, that the Town Council vacates Deacon’s Field Road and Spiritwood Circle in order for the Gorham Planning Board to review an amended subdivision plan. (Order #22-93)	August 2, 2022
Consent Agenda		September 12, 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

This is the second time this amendment has been in front of the Planning Board for review.

The applicant would like to amend an existing subdivision approved in 2010, to reduce the number of lots from 29 to what appears to be 5. Originally, there were 22 lots in Gorham and 7 lots in Buxton approved.

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

2. ITEMS OF NOTE

- a. The subdivision may not be revoked since there were lots sold within it. Therefore, the applicant has submitted an amendment.
- b. The subdivision is shared with Buxton in that several lots are in Buxton.
- c. There are two approved roads. One off Finn Parker Road in Gorham and one off Webster Road in Buxton. The town attorney has stated that the roads will need to be vacated by the Town Council, as appropriate. It was recommended by staff that the applicant utilize an attorney to assist with this process.
 - a. The applicant went to the Gorham Town Council for approval to vacate the roads within the subdivision. They have received that approval from Gorham Town Council.

3. STAFF REVIEWS

Assessing Department: No comments received

Code Division: No comments received

Fire Department: 06/22/2022, 08/18/2022

June 22, 2022

Map 54 Lot's 4-8 through 4-29

I have reviewed the Plans dated June 17, 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.
4. We may have more requirements as this progresses through the planning process.

August 18, 2022

Map 54 Lot's 4-8 through 4-29

I have revived the Plans dated 8-15-2022 Revision

I have no other requirements

Planning Division: No additional comments

Police Department: No comments received

Public Works Department: 06/23/2022, 08/18/2022

June 23, 2022

DPW comments:

Does lot 2 have site distance for a driveway?

What are the intentions of remaining land? Site distance for an entrance may be an issue for that parcel also.

August 18, 2022

We have no issues with what they want to do.

Recreation Department: No comments received.

Town Attorney: 06/24/2022

June 24, 2022

Carol,

Andy says that I gave an opinion that this can be done as a subdivision amendment. That's true as to the changes to the lots, but State law requires that streets on a proposed subdivision plan go through a vacation process involving action by the Town Council once any lots have been sold. As best I can tell, that hasn't happened. In looking at the original approved subdivision plan, it appears that there were two proposed subdivision streets, Deacon's Field Road and Spiritwood Circle, which are not shown on the proposed amended plan. The lot owners acquired certain rights in those streets by virtue of their deeds. I understand that they may all prefer that the streets not be created, but the statute doesn't provide for an alternative process

once lots have been sold. This process requires a petition to the Town Council. The Town then has to give notice to all lot owners in the subdivision and their mortgagees; it also has to determine if it is going to award damages. The Council then has to file an order with the Town Clerk that specifies the location of the vacated ways, the name of the lot owners and the amount of damages. If any damages are to be paid, they must be covered by the people requesting the vacation. Then an order has to be recorded in the Registry (in this case, most likely in both York and Cumberland Counties, due to the town boundaries), with an alphabetical listing of the property owners and their mortgagees.

If the Council vacates the streets, owners within the subdivision have one year to file a claim in the Registry of Deeds and then must file an action to pursue their claim within 180 days after they file the claim. Again, if everyone is in favor, this shouldn't be a problem.

The Town Council can only vacate those portions of the paper streets in Gorham. The portion(s) in Buxton would need to be done by the Select Board.

Julie Colpitts – Blueberry Ridge Subdivision
Subdivision Amendment
M54/L4.008 through 4.029

**PLANNING BOARD
FINDINGS OF FACT
For
SUBDIVISION AMENDMENT REVIEW
COLPITTS, BLUBERRY RIDGE SUBDIVISION**

September 12, 2022

Applicant: Julie Colpitts, 217 Ridge Road, Bath, ME 04530

Property Owner: Blueberry Fields III LLC, 217 Ridge Road, Bath, ME 04530

Property: The lot is identified as Tax Map 54, Lot(s) 4-8 through 4-29, and is located in Blueberry Subdivision off Finn Parker Road in Gorham and Webster Road in Buxton.

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

Project Description: The applicant is proposing a 5 lot subdivision amendment.

Site Description: The lot total is 76 acres in size with wetlands located on the east side and center of the parcel. The vegetation on the lot is a mix of canopy and understory trees as well as shrub type brush.

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

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

Variances: None requested.

Waivers: None requested

Pursuant to the Application:

Subdivision Amendment Review was held on July 11, 2022.

Item was placed on the Planning Board Consent Agenda on September 12, 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: Second Amended Subdivision Plan – Dated, March 2022; Revised through 08/15/2022/2022; Received, 08/15/2022

Other documents submitted consist of the following:

Subdivision Amendment Application – 06/17/2022
Revisions – 08/15/2022
Letter from Applicant – 08/12/2022
Plans – Received 06/17/2022, 08/15/2022
Draft Declaration of Covenants and Restrictions – 06/17/2022
Gorham Town Planner Comments – No additional comments
Gorham Assessor Comments – No comments received
Gorham Fire Chief Comments – 06/22/2022, 08/18/2022
Gorham Public Works Comments – 06/23/2022, 08/18/2022
Gorham Code Enforcement Officer – No comments received
Gorham Recreation – No comments received
Town Attorney Comments – 06/24/2022

4. 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 Rural. The plans meet the requirements of the current and proposed zoning for density.

Finding: Blueberry Ridge 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.

There is no changes or improvements planned to either Webster Road or Finn Parker Road.

Finding: Blueberry Ridge subdivision amendment 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 reduction in the number of lots from 29 to 4 in this subdivision should reduce the burden on municipal services needed. The lots will be served by well and onsite septic, underground 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: Blueberry Ridge 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.

The subdivision will be served by onsite well.

Finding: Blueberry Ridge Subdivision amendment 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 onsite septic system for the solid and sewage waste disposal. This was reviewed during the original approval.

Finding: Blueberry Ridge 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.

Stormwater from the site will be treated in stormwater infrastructure meeting the Maine Department of Environmental Protection's and the Town of Gorham's stormwater requirements. The dwellings units' sewage disposal will be treated utilizing an onsite septic system.

Finding: Blueberry Ridge 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.

The construction of any residential unit will not impact wetlands or water bodies. Future development shall place erosion and sedimentation controls around the development site.

Finding: Blueberry Ridge Subdivision amendment 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: Blueberry Ridge 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.

The construction of future residential units and driveways not impact wetlands or 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: Blueberry Ridge Subdivision amendment 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 is not proposing to construct any improvements. Therefore, this section does not apply.

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.

Any future development will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: The applicant of Blueberry Ridge 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 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.

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, Board 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. 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 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 SUBDIVISION AMENDMENT APPROVAL:

Move to grant subdivision amendment approval for Blueberry Ridge Subdivision Amendment, located on Map 54, Lots 4-8 through 4-29 in the Rural zoning district, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and amended by the Planning Board).