

**Town of Gorham  
Planning Board Meeting  
November 1, 2021**

**ITEM 2** –Subdivision Amendment: Deering Drive Subdivision – a request for approval of a subdivision amendment off Deering Drive. Zoned R-MH, Map 14, Lot 4-2. The applicant is represented by Shawn Frank, P.E., of Sebago Technics, Inc.

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**PROJECT TRACKING**

<b>DESCRIPTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Original Plan Approval		August 19, 1996
Amendment Public Hearing		November 1, 2021

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.

*Molly Butler Bailey, Chair, Gorham Planning Board*

**PLACE MAP AND LOT NUMBER IN 1/4" HIGH LETTERS AT LOWER RIGHT BORDER OF ALL PLAN SHEETS.**

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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### **1. OVERVIEW**

The original plan was approved in August 1996. The Gorham and Buxton Planning Board’s provided a joint meeting to review and approve that plan.

This is the first time the item has come before the Planning Board with a submission for an amendment to this subdivision. Buxton will hold a public hearing for review and comment on November 8, 2021.

The applicant is represented by Shawn Frank, P.E. with Sebago Technics, Inc.

### **1. ITEMS OF NOTE**

A. The Gorham town attorney has reviewed the following question “is it required that we hold a combined Planning Board meeting with Buxton.” The response is “The subdivision statute requires a joint hearing by both Boards unless they agree in writing to waive the requirement for a joint meeting or hearing. 30-A M.R.S. Sec. 4403(1-A). This is required for an amendment as well as for the original subdivision approval.

In the past, there has been at least one joint meeting that I attended and I think there have been one or two waivers of the joint meeting by the Boards.”

The Board should vote as to whether you would like to have a combined public hearing with Buxton. Possible meeting dates are November 15 or 22.

B. **Waivers requested:** The applicant requests a waiver of the high intensity soil survey requirement stating that he does not have right, title or interest in the other property and that 2 passing test pits for septic have been located on each of the 2 lots. The Board should determine if the site has any unusual features that would require a high intensity survey. The Town of Gorham’s peer review engineer has stated that they believe that a high intensity soil survey is not necessary for this amendment.

<p><b><u>Suggested motions:</u></b></p> <p><b>I move to grant a waiver from the high intensity soil survey.</b></p> <p><b>I move to table the waiver request pending additional information and/or a joint public hearing with Buxton.</b></p>
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C. Staff has included an aerial photograph for the Planning Board’s review of the project. The aerial photograph is from Google Earth and was taken in May of 2018.

## Deering Drive Subdivision Amendment – Map 14 Lot 2-4



### 4. STAFF REVIEWS

#### **Assessing Department: 10-07-2021**

no comment

bruce

#### **Code Department: No comments**

#### **Fire Department: 10-06-2021**

#### **MAP 025 Map 14 Lot 002-004 Deering Drive Subdivision Dated 9-28-2021**

1. The 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 Department for review and placed in Emergency Reporting Program.
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.

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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### **Planning Department: 10-25-2021**

1. May need approval from Buxton PB; may need combined public hearing
2. Future Land Use Plan suggests Rural zoning
3. Current zoning is Rural – MH.
4. Minimum street frontage in Gorham is 200 feet. The lots are not 200 feet at the street. The applicant should check the required street frontage in Buxton.
5. The applicant should submit a letter addressing financial capacity or request a waiver.
6. The plan should be recorded in both Cumberland and York Counties.
7. Depending on the approval process, both Boards may want to sign the plan.
8. A note should be added to the plan stating if and when a joint Board meeting was held.

**Police Department:** No comments received.

**Public Works Department:** No comments received.

### **Town Attorney: 10-20-2021**

Carol,

The subdivision statute requires a joint hearing by both Boards unless they agree in writing to waive the requirement for a joint meeting or hearing. 30-A M.R.S. Sec. 4403(1-A). This is required for an amendment as well as for the original subdivision approval.

In the past, there has been at least one joint meeting that I attended and I think there have been one or two waivers of the joint meeting by the Boards.

You said this was partially in Buxton, but I don't see the Town line with Buxton on the attached plans. I did see the Scarborough Town line, although I couldn't tell what part of the subdivision wasn't in Gorham. It may be that this is just a portion of the actual approved subdivision and so that's why I'm not seeing this information.

**Natalie L. Burns, Esq.**

Attorney

### **Wright Pierce: 10-25-2021**

As requested, Wright-Pierce has reviewed the Subdivision Amendment Application for the proposed Deering Drive Property Subdivision project. Our understanding is that the subdivision was originally approved by the Planning Board on August 19, 1996 and was referred to as the Stephanie Cook Property. The previously approved subdivision divided the 25-acre lot, originally Lot 2 on Tax Map 14, into three lots. 13.94 acres of Lot 3 has been conveyed to Daniel and Destiny Cook, which they have constructed a single-family home on. The other 7.41 acres was conveyed to Matthew Cook, who is now proposing to amend the plan to divide his property into two lots (Lots 4 and 5), to convey a portion of his property to the abutting owners of Lot 1, and to update the originally approved plan from 1996 to show all land divisions to date.

**Documents Reviewed by Wright-Pierce**

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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- Subdivision Amendment Application Package - prepared by Sebago Technics (September 28, 2021)
- Amended Subdivision Plan - prepared by Sebago Technics (August 13, 2021)
- Subdivision Plan of Stephanie Cook Property - prepared by Sebago Technics (June 21, 1996)

### **Review Comments**

#### **General/Completeness**

1. 24"x36" plans submitted.
2. Scale is 1"=100' but should be 1"=50' for subdivisions greater than 10 acres. We believe the plans are clear and legible at this scale but refer to the Town for confirmation this is acceptable.
3. Plans contain a title block with the following required information:
  - a. Applicant's name and address
  - b. Name of preparer of plans with professional information and professional seal
  - c. Parcel's tax map identification (map-lot). General Note 2 should be updated with the correct Lot number.
  - d. Date of plan preparation
4. Copies of most recent deed submitted.
5. Plans show how the approved plan will be amended.
6. Signature blocks for amended approval provided.
7. Revisions signed and sealed by a surveyor licensed in Maine.
8. Revisions to the proposed plan signed and sealed by a professional engineer licensed in Maine.
9. Agent authorization provided.
10. Wetlands will need to be crossed to access the rear of the proposed lots, which may require permitting through the Maine Department of Environmental Protection (Maine DEP). Applicant should provide comment on how they anticipate accessing the site for future site developments, and if impacting wetlands or other jurisdictional natural resources how they will meet Maine DEP requirements.
11. Aerial imagery shows a pond on the property near Deering Drive which is not located on the survey.
12. Net residential density calculations:
  - a. Total parcel area of 24.96 acres was used in calculations, which matches the originally approved plan
  - b. 3.83 acres of scantic soils were used in calculations, which matches the originally approved plan. It is reasonable to assume that the soil characteristics of site have not changed.
  - b. A total net residential area of 17.39 acres was calculated.
  - c. Since 60,000 SF is the minimum lot size, 12 lots are permitted as shown in the net residential area calculations shown on the proposed amended plan.
13. Since two passing test pits on each proposed lot have been performed and locations of which are shown on the plan, we believe a high intensity soil survey is not necessary for the subdivision amendment.
14. The street frontage of Lot 4 does not appear to meet the minimum street requirement of 200', unless you include a portion of the radius of the 50' wide easement/right-of-way. It should be confirmed that this is acceptable. The lot width at the front setback line appears to be greater than the minimum street frontage required.

**Subdivision Requirements**

1. The property is located within the Rural - Manufactured Housing District. The proposed use of the lots should be stated on the amended plan in order to confirm compliance with the zoning ordinance.
2. Planning Board should provide direction on whether a traffic study is required to determine whether the proposed amendment would cause congestion or unsafe conditions.
3. Undue pollution of surficial or ground waters is not anticipated if the proposed lots are developed according to the Town zoning ordinance.
4. The proposed lots are not within a floodplain, as confirmed on FEMA FIRM 2300470025B. No undue effects to floodplains are anticipated.
5. Provided Maine DEP approved erosion and sedimentation control best management practices are utilized when the lots are developed, unreasonable soil erosion or reduction in the capacity of the land to hold water is not expected.
6. The shoreline of the Stroud water River is approximately 700 feet away from the frontage of the subdivision at its closest point. Erosion and flooding are not expected to negatively impact this shoreline provided, Maine DEP approved erosion and sedimentation control best management practices are utilized when the lots are developed.
7. Topography is not shown on the proposed amended plan. However, 3D Google Earth aerial imagery shows each proposed lot site looks relatively accessible. It is not anticipated that developing the lots according to the requirements of the zoning ordinance would result in a significant change to topography.

**Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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**PLANNING BOARD**

**FINAL SUBDIVISION, PRIVATE WAY AND SITE PLAN REVIEW REPORT  
AND FINDINGS OF FACT**

**For**

**MATTHEW COOK - DEERING DRIVE SUBDIVISION AMENDMENT**

**November 1, 2021**

Applicant/Property Owner: The applicant and property owner is Matthew Cook, 272 Flaggy Meadow Drive, Gorham, Maine 04038.

Property: The lot is identified as Tax Map 14, Lot 2-4, and is located off Deering Drive.

Consultants: Shawn Frank, P.E., # 6396, with Sebago Technics, Inc.

Project Description: The applicant is proposing an amendment to an existing subdivision.

Site Description: The lot is 7.41 acres in size with a narrow wetland located parallel to Deering Drive approximately 80 feet from the edge of right of way of Deering Drive. The vegetation on the lot is grassland and farm field.

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

Zoning: Rural -MH District, B. Permitted Uses, 1) One or two-family dwellings, and Manufactured Housing District.

Variances: None requested.

Waivers requested: The applicant requests a waiver of the high intensity soil survey requirement.

Pursuant to the Application:

Subdivision Amendment review was held on November 1, 2021.

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 Technic's Plans consist of the following:

Sheet 1 of 1 –Amended Subdivision Plan – as revised through 09/28/2021; submitted 09/28/2021
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Other documents submitted consist of the following:

Subdivision Amendment Application – 09/28/2021  
Plans - submitted 09/28/2021

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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Waiver Request for High Intensity Soil Survey – submitted 09/28/2021

Soil Profile/Classification Information - submitted 09/28/2021

Letter of Financial Capacity -

Gorham Town Planner Comments – 10/25/2021

Gorham Fire Chief Comments -10/06/2021

Gorham Public Works Director Comments – No comments

Gorham Code Enforcement Officer – No comments

Wright Pierce – 10/25/2021

Town Attorney – 10/20/2021

Assessing – 10/07/2021



## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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### **CHAPTER 3 - SUBDIVISION, SECTION 3 - PRELIMINARY PLAN**

The Planning Board, following review of the Subdivision Application, makes these findings based on the Subdivision Review criteria found in Chapter 3, Subdivision, Section 3 – C. Preliminary Plan Review, and Section 4 – D. Final Plan Review.

#### **Section 3 – 3 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 Rural zoning district.

*Finding: Deering Drive subdivision amendment conforms to the Comprehensive Plan of the Town, 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 Deering Drive subdivision is via Deering Drive. Deering Drive is owned and maintained by Buxton.

*Finding: Deering Drive 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 Deering Drive subdivision amendment will be served by combination of overhead and underground power, telephone, and cable lines.

*Finding: Deering Drive 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.

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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The Deering Drive subdivision amendment will be served by onsite wells.

Finding: *Deering Drive subdivision 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 Deering Drive subdivision amendment will be served by onsite septic systems. Test pits have found adequate soils.

Finding: *Deering Drive subdivision amendment provides 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.

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

Finding: *Deering Drive 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.

Any erosion or sedimentation will be addressed during construction of the dwelling units. Maine DEP approved erosion and sedimentation control best management practices shall be utilized when the lots are developed, unreasonable soil erosion or reduction in the capacity of the land to hold water is not expected.

Finding: *Deering Drive 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.

A wetland is located within the parcel and it is parallel to Deering Drive.

Any stormwater protection and maintenance shall be designed in accordance with state, Federal, and local requirements prior to discharging into groundwater or into abutting wetland.

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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Finding: *Deering Drive 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.

Any proposed construction of dwelling units and driveways will limit impact to the wetland. The layout of the dwelling units and driveways will not impact any other natural features on the site. 3D Google Earth aerial imagery shows each proposed lot site looks relatively accessible. It is not anticipated that developing the lots according to the requirements of the zoning ordinance would result in a significant change to topography.

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

Finding: *Deering Drive subdivision amendment will respect fully 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 has not submitted a letter showing financial capacity.**

Finding: *The applicant has adequate financial resources to construct the proposed improvements and meet the criteria standards for the development.*

- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to meet the additional demand created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter 8.

The applicant will be required to pay the Recreational Facilities and Open Space Impact Fee prior to issuance of the building permits.

Finding: *Deering Drive subdivision will be responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.*

- 4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:
- a) **Land Improvements:** The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
- b) **Owners Association:** A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

## **Deering Drive Subdivision Amendment – Map 14 Lot 2-4**

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The applicant is not proposing to create open space or recreational land. The applicant shall pay the recreational impact fee.

*Finding: Deering Drive subdivision amendment will not have common space within the subdivision. The recreational impact fee shall be paid.*

### **Section 3-4 Final Plan**

#### **C. FINAL PLAN REVIEW**

1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall verify the provision of all information as required under the above subsections, and the provision of any additional information requested during the Preliminary Review. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.

#### **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. That the applicant shall provide property line information and site information in auto-cad format to the Town Planner;
3. The recreational impact fee shall be paid prior to issuance of a building permit.
4. 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;
5. That the Planning Board Chairman is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board;
6. That the subdivision plans shall not be released for recording at the Cumberland County Registry of Deeds until any required performance guarantee has been posted meeting the approval of Town Staff;
7. That the subdivision plan is required to be recorded within one year of original approval or the approval becomes null and void; and
8. That once the subdivision plans have been recorded at the Cumberland County Registry of Deeds, a dated copy of the recorded subdivision plan shall be returned to the Town Planner prior to a pre-construction meeting being held.

### **SUGGESTED MOTIONS:**

**TO POSTPONE APPROVAL:**

**Move to postpone further review of Matthew Cook’s request for subdivision amendment approval pending responses to remaining issues (and revisions to the plans) and public hearing with Buxton.**

**TO CONSENT AGENDA APPROVAL:**

**Move to place further review of Matthew Cook’s request for subdivision amendment approval on the next consent agenda pending responses to remaining issues (and revisions to the plans) and public hearing with Buxton.**