

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

**ITEM 3 - Subdivision and Private Way - Jordan, Megan and Gary – Old Orchard Road** – request for approval of a 5-lot residential subdivision and 670 foot private way off Old Orchard Road. Zoned R, M57/L19. The applicant is represented by Austin Fagan, P.E., with BH2M.

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**PROJECT TRACKING**

<b>DESCRIPTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
Pre-Application/Sketch (optional)	Moved to Table – 5 Ayes (S. Durst and M. Butler Bailey Absent)	July 12, 2021
	Discussed	July 11, 2022
Site Walk		
Planning Board Review		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 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 previous meetings were held on July 12, 2021 and July 11, 2022.

The applicant is represented by Austin Fagan, P.E., with BH2M.

## 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.**

1. Financial capacity has not been submitted.

### Comprehensive Plan

- The rural zoning is proposed to remain in this area.
- The allowed uses in the Rural Area should be similar to the current Rural zone. This includes farming and forestry as well as a range of residential uses (single-family, two-family, and multi-family), accessory apartments, municipal and community uses, institutional uses, rural entrepreneurial uses, and inns and bed and breakfast establishments. In addition it should accommodate traditional rural and agricultural uses including the reuse of agricultural buildings, sawmills, mineral extraction, and agriculturally related businesses including the processing and sales of agricultural products.
- The Future Land Use Plan states “The development standards in the Rural Area should allow for the conduct of working rural activities including farming, forestry and mineral extraction and should not impose unreasonable standards on these uses. Low-density residential development with somewhat higher densities for residential developments that utilize conservation or open space subdivision design principles should be accommodated. The base density for residential developments should be set at 1 unit per 1.5 net acres. Conservation or open space subdivisions that preserve a substantial portion of the site as permanent open space should be allowed at the same base density. The base minimum lot size requirements should be 60,000 SF but individual lots in a conventional subdivision can be as small as 40,000 SF as long as the overall maximum density is met for the entire subdivision. Lots in a conservation or open space subdivision may be as small 20,000 SF as long as the density requirement is met. The base minimum lot frontage requirement should be 200 feet for lots that front on a state numbered highway or an identified major collector road (New Portland Road, Libby Ave/Brackett Road, Huston Road, and North Gorham Road) and 150 feet for lots that front on other streets. In conservation subdivisions, the minimum frontage on local streets should be reduced to 100 feet.”

### Zoning and Subdivision

- The zoning is currently Rural (R), which allows for single family residential.

- Clustered residential development is allowed in this zoning district and shall follow the standards in Chapter 2 Section 2-4 General Performance Standards.
- Conventional subdivision is allowed in this zoning district.

### Historic Preservation

There are no known historic, archaeological, or significant sites on this property as identified in the Historic Preservation Ordinance or Comprehensive Plan.

### **3. WAIVERS**

Requested:

- The applicant requests a waiver from Ch. 3, Section 3-3, 3-4 – to waive the requirement and grant preliminary and final approval in the same meeting.

**SUGGESTED MOTION:** Move to approve the requested waiver from Ch. 3, Section 3-3, 3-4 – to waive the requirement and grant preliminary and final approval in the same meeting.

- The applicant requests a waiver from Ch. 2, Section 2-5, G.4 (k) H.4 – to waive the requirement for a paved apron for the roadway and driveways.

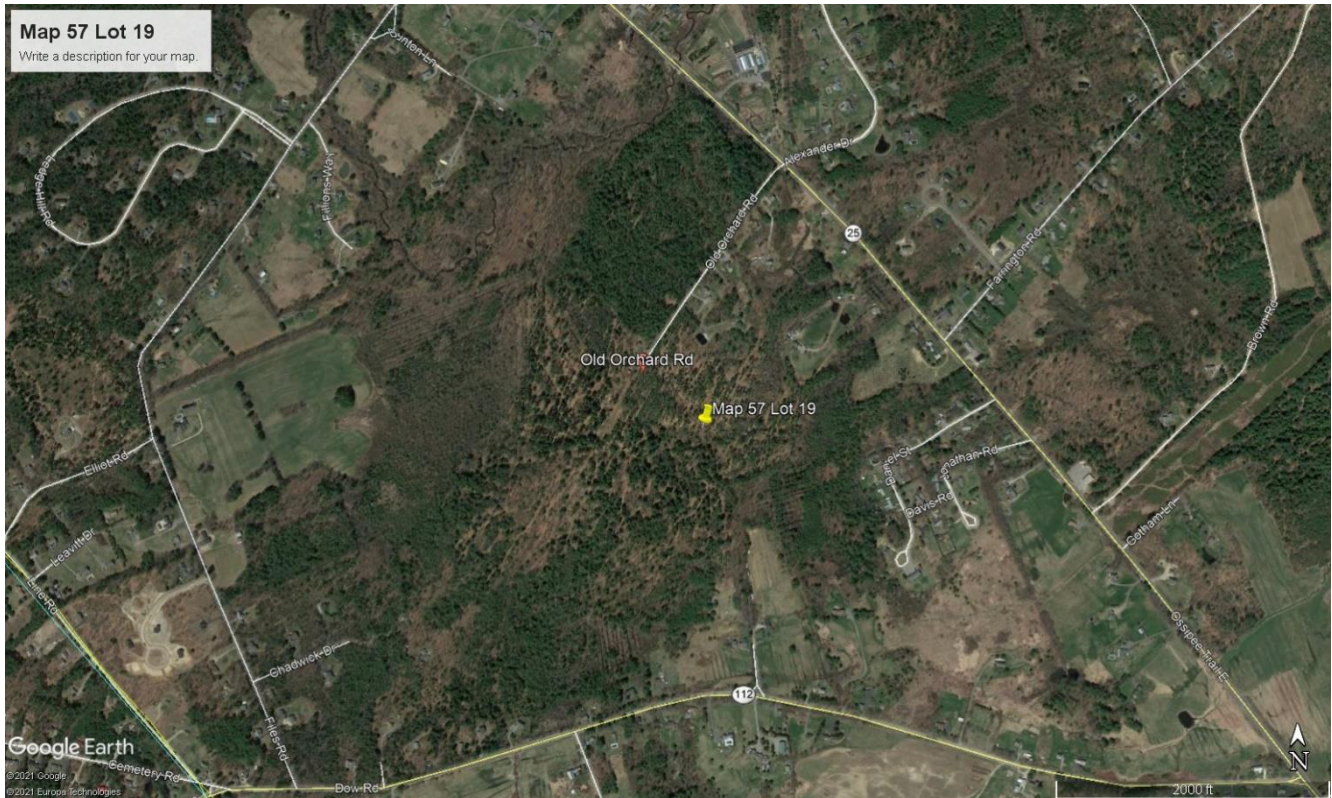
**SUGGESTED MOTION:** Move to approve the requested waiver from Ch. 2, Section 2-5, G.4 (k) H.4 – to waive the requirement for a paved apron for the roadway and driveways.

- The applicant requests a waiver from Ch. 3, Section 3-3, 12 – to waive the requirement to provide a nitrate study.

**SUGGESTED MOTION:** Move to approve the requested waiver from Ch. 3, Section 3-3, 12 – to waive the requirement to provide a nitrate study.

### **4. AERIAL PHOTOGRAPH**

Google earth image taken in May, 2018.



## 5. STAFF COMMENTS

**Planning Division:** 07/06/2021, 07/07/2022, 08/31/2022

### July 6, 2021

- Zoning - R; no public water or sewer
- Vernal pools locations should be determined
- Possible trail connections or proposed should be shown on the plan
- The constructed road way could be much less than shown.
- Hammer heads' road width needs to be 20' and 50' long
- A "No Parking - Tow Away Zone" or "No Parking - Fire Lane" sign should be added to the hammer head.

### July 7, 2022

- Wetlands and vernal pools found on site – see letters dated 4-1-22 and 5-18-22 from A. Finamore, CWS, LSE
- Ordinances (and specific sections) to review for applicability:
  - Chapter 1 - Zoning regulations
  - Chapter 2 - General Standards of Performance
  - Chapter 3 - Floodplain Management (if applicable)

- Chapter 7 - Impact Fees Recreational and Open Space, Middle School will apply.
- Historic Preservation Ordinance (if applicable)
- Sidewalk Construction (if applicable)
- Solid Waste Flow Control
- Stormwater
- Wastewater
  
- 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.
  
- 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:

- Step 1. 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  $MPWCU = ((\$5,500 \times 2) + \$5,000) \times 1.1) \times CCIF$  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 31, 2022**

- 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.

**Assessing Department:** 06/11/2021, 06/16/2022

**June 11, 2021**

Tree growth withdrawal penalty was supplemented September 17, 2020. Check to see if payment has been made. Penalty withdrawal supplement attached.

**June 16, 2022**

Is the project a 3 or 5 lot subdivision?  
Would like sketch plan without topo and wetlands.

**Code Department:** No comments received.

**Fire Department:** 06/17/2022, 08/25/2022



**June 17, 2022**

**MAP 57 Block Lot 19 5 Lot Subdivision w/ Private Way**

I have reviewed the Plans dated June 8, 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 when 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.

**August 25, 2022**

**MAP 57 Block Lot 19 5 Lot Subdivision w/ Private Way**

I have reviewed the Plans dated Aug. 22, 2022

1. Their shall be "No Parking – Tow Away Zone" or "No Parking – Fire Lane" signs added to the hammer head. Please show on the Plans.

No other requirements at this time.

**Police Department:** No comments received

**Public Works Department:** No comments received

**Wright-Pierce Comments** – 09/02/2022

**September 2, 2022**

As requested, Wright-Pierce has reviewed the Preliminary Subdivision Application for the proposed Old Orchard Road Subdivision project. The Applicants, Gary and Megan Jordan, are proposing to divide a 24.65-acre parcel for the purpose of creating a 5-lot single family residential subdivision off Old Orchard Road. The proposed project would involve the construction of a 724-foot private gravel roadway, associated stormwater infrastructure, and underground electric and communication utilities.

**Documents Reviewed by Wright-Pierce**

- Preliminary Old Orchard Road Subdivision Application – Prepared by Berry Huff McDonald Milligan, Inc. (August 2022)
- Old Orchard Road Subdivision Plan Set – Prepared by BH2M (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. The name of preparer of plans with professional information and seal was not included on the plans, and should be included for the final plan submission.
2. Title Block is missing parcel's tax map indication (map-lot).
3. Please note designated snow storage areas on plans.
4. Project is not within an MS4 urbanized area and is under an acre; therefore, there are no MS4 requirements.
5. Please submit Financial Capacity information during final plan submission.
6. The Applicant has requested three waivers:
  - a. They requested a waiver to combine Preliminary and Final approval due to the length of the planning process and the rapidly changing economy. Their application includes all information required for both the Preliminary and Final applications, except those noted above.
  - b. They requested a waiver from a Nitrate study because their proposed lots are three times larger than the minimum size requirement for a lot with both a drilled well and a septic system. We request the Applicant clarify what section of the Land Use and Development Code this waiver is applicable to. We could not find reference to a Nitrate Study in the Land Use and Development Code.
  - c. They requested a waiver for constructing paved aprons of roads and driveways because Old Orchard Road is a gravel road. We agree that it would not make sense to install an asphalt apron between two gravel roads, and recommend granting this waiver.

**General Standards of Performance**

1. Environmental

- a. The project is not within the Shoreland Overlay District or a FEMA floodplain.
  - b. The grading of the proposed stormwater pond is very close to the limit of wetlands. Consider adjusting grading or design of the stormwater pond to provide more space between the limit of work and the limit of wetlands. Also, given the proximity to wetlands, it is recommended that all proposed perimeter erosion controls adjacent to wetlands be a double row of silt fence or a row of silt fence and a row of erosion control mix berm.
2. Traffic
- a. The Applicant states that approximately 4 AM peak hour trips and 5 PM 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. Because two or more lots are served by the proposed private way, a maintenance agreement is required. A draft maintenance agreement has been provided. The maintenance agreement shall be finalized and recorded in the Cumberland County Registry of Deeds within 30 days of Planning Board Approval.
2. The proposed private way meets the standards of Tables 2 and 3 for gravel private ways serving 2-6 lots; however, the Town standards require a cross slope of ½ inch per foot, and a cross slope of ¼ inch per foot is proposed. Revise the cross slope accordingly or request a waiver for the variance from the Town standard.
3. The typical cross section for a gravel private way serving 2-6 lots shows a ditch on either side. The Applicant should clarify why they are not proposing a ditch on both sides of the private way per the typical section.
4. The following should be added to the Notes:
  - a. All construction and site alterations shall be done in accordance with the erosion prevention provisions outlined in the “Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices,” Cumberland County Soil and Water Conservation District, Department of Environmental Protection, latest revision.
  - b. The private way shall be designed and constructed to conform to the standards for private ways as presented in the Town of Gorham Land Use and Development Code, Chapter 2, Section 2-5, Subsection H, latest revision.

### **Subdivision Requirements**

1. All monuments on a right-of-way should be 5-inch granite or concrete squares. See the Gorham Land Use and Development Code for more information.

### **Stormwater Management**

1. The Stormwater Management plan and associated HydroCAD model was reviewed. There are no comments on Stormwater Management.

**Abutters Comments:** Lynda McDonald, 07/07/2021, 09/07/2022

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

**For  
MEGAN & GARY JORDAN – OLD ORCHARD ROAD**

**September 12, 2022**

Applicants and Property Owners: Gary & Megan Jordan; 33 Quincy Drive; Gorham, Maine 04038.

Property: The lot is identified as Tax Map 57, Lot 19, and is located on Old Orchard Road.

Consultants: Austin G. Fagan, P.E., #16523, with BH2M; Robert C. Libby, Jr., PLS, #2190, with BH2M; William C. Shippen, PLS, #2118, with Survey Inc.

Project Description: The applicant is proposing a 5-lot subdivision with a 670 foot private way off Old Orchard Road.

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

Zoning: Rural (R)

Variances: None requested.

Waivers Requested:

- The applicant requests a waiver from Ch. 3, Section 3-3, 3-4 – to waive the requirement and grant preliminary and final approval in the same meeting.
- The applicant requests a waiver from Ch. 2, Section 2-5, G.4 (k) H.4 – to waive the requirement for a paved apron for the roadway and driveways.
- The applicant requests a waiver from Ch. 3, Section 3-3, 12 – to waive the requirement to provide a nitrate study.

Pursuant to the Application:

A sketch/pre-application review was held on July 12, 2021 and July 11, 2022  
Subdivision and Private Way review was held 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 – Sketch Plan: Dated, 05/2022; Revised through, 06/08/2022; Received, 06/08/2022  
Sheet 1 – Subdivision Plan: Dated, 08/2022; Revised through, 08/22/2022; Received, 08/22/2022  
Sheet 2 – Existing Conditions: Dated, 08/2022; Revised through, 08/22/2022; Received, 08/22/2022  
Sheet 3 – Plan of Private Way: Dated, 08/2022; Revised through, 08/22/2022; Received, 08/22/2022  
Sheet 4 – Erosion Control Details: Dated, 08/2022; Revised through, 06/17/2022; Received, 08/22/2022  
Sheet 5 – Standard Details: Dated, 08/2022; Revised through, 08/22/2022; Received, 08/22/2022  
Sheet A – Pre Development Watershed: Dated, 07/2022; Revised through, 08/22/2022; Received, 08/22/2022  
Sheet B – Post Development Watershed: Dated, 07/2022; Revised through, 08/22/2022, Received, 08/22/2022

Other documents submitted consist of the following:

Pre-Application – 05/21/2022, 06/08/2022  
Subdivision Application – 08/22/2022  
Private Way Application – 08/22/2022  
Street and Driveway Name Approval Form – 08/22/2022  
Stormwater Management Report – 08/22/2022  
Plans – Received 06/08/2022, 08/22/2022  
Waiver Request – 08/22/2022  
**Letter of Financial Capacity –**  
Gorham Town Planner Comments – 07/06/2021, 07/07/2022, 08/31/2022  
Gorham Assessor Comments – 06/11/2021, 06/16/2022  
Gorham Fire Chief Comments – 06/17/2022, 08/25/2022  
Gorham Public Works Comments – No comments received.  
Gorham Code Enforcement Officer – No comments received.  
Gorham Recreation – No comments received  
Wright Pierce – 09/02/2022  
Abutters Comments – L. McDonald, 07/07/2021, 09/07/2022

## **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 Rural. The plans meet the requirements of the current Rural zoning district for density.

*Finding: Jordan 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 Jordan subdivision is via Old Orchard Road. The addition of five (5) residential units should not cause congestion or an unsafe condition on Old Orchard Road.

The estimated weekday trips average is 48 and the peak hour trips total of 5 trips will be anticipated.

*Finding: Jordan 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 lots in this subdivision will be served by well and onsite septic, and 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. Fire and police protection will be provided and budgeted for.

*Finding: Jordan 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 shown in Attachment 12, public water supply cost estimates are \$483,270 and onsite wells to be \$27, 435.

*Finding: Jordan 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 single family dwelling units will be served by a private onsite septic systems. The cost estimate for public sewer vs. private septic is found in Attachment 13.

*Finding: Jordan 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 dwelling units' sewage disposal will be treated utilizing an onsite septic system.

*Finding: Jordan 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 units and driveways will not impact wetlands or waterbodies. The wetlands and vernal pools will be protected from development.

*Finding: Jordan 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.

No shoreline of any body of water will be affected.

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

*Finding: Jordan 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 other 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: Jordan 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.

*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 and 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 and property owners of Jordan 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.

**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 Rural zoning district. The maximum number of lots/dwelling units allowed to be served by the private way is up to 6 lots or dwelling units.

Three 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 2-6 lots/dwelling unit private way standard and no more than six 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., 3.

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 is sealed by Robert Libby, PLS and \_\_\_\_\_, P.E.

*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 extend a 2 – 6 lot gravel private way. Sheet 3 shows the required 2-6 lot/dwelling unit gravel 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 may serve up to six (6) lots/units. The applicant proposes to serve five (5) residential units.

*Finding: The private way is proposing to serve five (5) 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 Rural 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 Old Orchard Road which is suitable to serve the proposed private way.

*Finding: The proposed private way will be off of Old Orchard Road 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;
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 Chairman 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 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 PRELIMINARY SUBDIVISION APPROVAL:**

**Move to grant preliminary subdivision and private way approval for Jordan Subdivision, located on Map 57, Lot 19 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).**

**FOR CONSENT AGENDA:**

**Move to place the subdivision and private way approval on the October 3, 2022 Consent Agenda.**