

**Town of Gorham
 Planning Board Meeting
 March 4, 2024**

ITEM 9 - Discussion – Preliminary Subdivision – Gary & Megan Jordan – Guardian Estates – A request for approval to construct 12 single family house lots with two additional lots that will support up to four units each on Waterhouse Road. Map 18, Lot 5.001. Zoned UREXP. The applicant is represented by Austin G. Fagan, P.E., with BH2M.

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PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-application Discussion		October 2, 2023
Preliminary Subdivision Review		March 4, 2024

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.

Vincent Grassi, Chair, Gorham Planning Board

1. OVERVIEW

The applicant is proposing to create 12 single family house lots and 2 lots supporting future multifamily development of up to 4 units each on 36 acres off Waterhouse Road. The development is proposed to include onsite wells and subsurface septic systems.

This is the second time this item has come before the Planning Board. The project was on for Sketch Plan Review in October, 2023. The Planning Board completed a Site Walk of the parcel in November, 2023.

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.

Outstanding Items

- Proof of financial capacity needs to be provided. The applicant has stated that this will be provided after the Town has reviewed the design.
- The following state and federal permits are required: Department of Environmental Protection Stormwater Permit, Army Corps of Engineers Maine General Permit.
- A nitrate plume analysis will be completed prior to final subdivision approval
- Additional plan revisions are needed as per comments from peer reviewers.

Zoning and Subdivision

- The zoning is currently Urban Residential Expansion (UREXP), which allows for single and two family residential as well as multi-family housing. This is consistent with the Comprehensive Plan.
- Conventional subdivision is allowed in this zoning district.
- The parcel is located within the Development Transfer Overlay District.
- There are specific performance standards in Chapter 1 Section 1-24 subsection E for street layout, underground utilities, and architecture.
- At this time the applicant is only proposing the creation of lots to support single family homes. The applicant plans to obtain Site Plan approval for the two lots envisioned for 4 units each of multifamily development when that development proceeds.
- A 150' wide buffer strip has been conveyed to Steven and Jackielyn Matthews, the abutters on the south side of Waterhouse Rd. from the development site.

Density Calculation Review

- The applicant has provided the net residential density calculation used to determine the number of allowed units. The net residential density identified under Section 1-5, Definitions, has been used to calculate the maximum number of dwelling units that can be placed on a parcel. Each lot in a subdivision shall have the minimum area per dwelling unit for the number of dwelling units proposed to be on a given lot.
- The minimum area per dwelling unit, unsewered, is 40,000 square feet (20,000 square feet if sewer)

Performance standard review (Land Use and Development Code Chapter 2)

- Sidewalks would be required whether the street is public or private.
 - As specified in Section 2-5, F, 11: Sidewalks shall be provided...with connection to the existing sidewalk network...
 - See Figure 5 urban access or Figure 10a 25 lots urban paved private way
 - The applicant will plan to provide fee in lieu of off-site sidewalk construction
- Section 2-5, C – Access to adjoining land is to be provided, with a 50 foot ROW to be dedicated. The applicant proposes one (1) connection to adjacent parcels.
- Section 2-10, Provision of Public Water and Sewer
 - The applicant provided water supply cost calculations for public vs. private provision of water. The calculation is based on the highest number of lots allowed by ordinance, which is listed as 40.
 - The calculations provided show that the provision of public water for the maximum build out of the site is only marginally more expensive than provision of private water, at \$34,102 vs. \$33,562 respectively. Water and (potentially) sewer could be provided directly overland via Caitlyn Drive due to the reduced linear feet to the project. If the applicant intends to request a waiver, the waiver form is on the town planning webpage under applications.
 - The applicant should work with Portland Water District regarding provision of public water.

Other Items of note:

- Wastewater Ordinance provisions
 - Calculations should be included, using formula in the sewer ordinance - located within 500 ft. of existing sewer or can be connected without undue hardship as determined by the planning board. See Wastewater Ordinance Article IX, Section 1
 - Community Development staff recommend the water and sewer be provided via Caitlyn Drive, if possible, due to the reduced linear feet to the project.
 - The applicant has completed a Class A High Intensity Soil Survey and preliminary septic test pits and found that each lot has upland soils that qualify to receive discharge from a septic system.

Natural Resources/Conservation

- There are multiple pockets of wetlands on the site, which were found to be “nonsignificant” by the applicant’s consultant. 3,875 sf of wetland is anticipated to be impacted by the project. The applicant is installing road culverts to maintain natural drainage connections on site and elevating the road 5’ on the northern portion of the site to ensure the grading provides appropriate drainage.
- Two vernal pools are located on site. One is classified as an Army Corps of Engineers (ACOE) “non-significant” vernal pool, and the other a small man-made pool created as a livestock pond which is considered a “non-jurisdictional” feature.
- The applicant is proposing to create easements to access drainage structures on the southwest portion of the site between Lots 13 and 14, and also a 15’ wide easement to connect from the drainage easement north along the right of way for the Gorham Bypass on the western portion of the site. The Conservation Commission has requested clarification regarding the ownership of the Trail access easement, and has suggested that it be extended to the south along the full length of the boundary between the development site and the Gorham Bypass. The Town Attorney has also flagged the need for clarification about a referenced “Deed of Conservation Easement” in section 6.1 of the declaration of protective covenants, conditions, restrictions and common easements.
- The Applicant has logged the area subsequent to the Planning Board’s Site Walk in November, 2023. The Applicant has stated that they only removed trees along the planned roadway areas. They have also stated that they will provide imagery showing the logged area. Town staff have communicated to the applicant that, now that a Preliminary Subdivision Application has been submitted, no further clearing of vegetation is allowed until such time as the project is approved (or withdrawn) and all permitting completed appropriately.

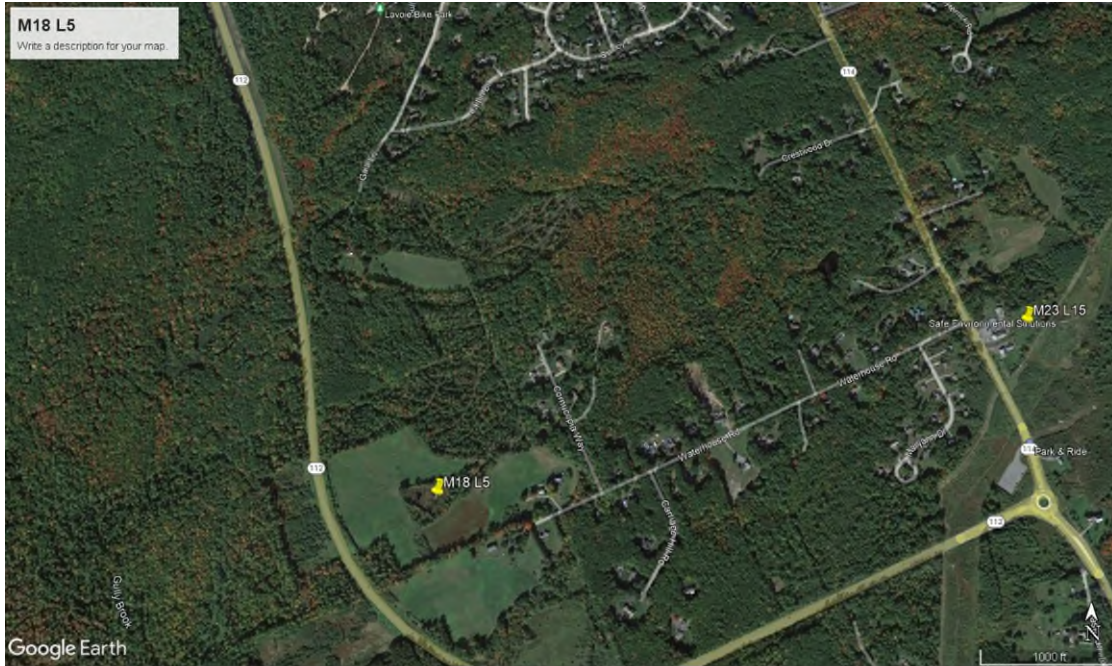
Stormwater

- All culverts should be a minimum of 15” per town requirements.
- Stormwater is proposed to be treated with conventional stormwater infrastructure including closed drainages on the roadways with conveyances to an underdrained soil filter and wet pond.

Historic Preservation

The known archaeological sites map and historic resources inventory in the Comprehensive Plan does not show or list any of this property as a historic, archaeological, or significant site.

3. AERIAL PHOTOGRAPH



4. STAFF REVIEWS

Assessing Department: No comments received

Code Department: No comments received

Fire Department: 09/14/2023, 02/21/2024

09/14/2023

MAP 18 Block Lot 5

I have reviewed the Plans dated Sept. 7, 2023

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 Department 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 can't be seen from the street shall require additional numbers at the street.
4. Propane / Natural Gas. Protection of tanks and or Piping
5. Plowing in the winter – This may be a concern – Needs addressing on the approval. Depending if Public vs Private Road.
6. Fire Department may have more or less requirements as this progresses through the Planning Process.

02/21/2024

MAP 18 Block Lot 5

I have revived the Plans dated 2-12-2024 **NOTE: New Requests are in RED.**

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 Department 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 can't be seen from the street shall require additional numbers at the street.
4. Propane / Natural Gas. Protection of tanks and or Piping
5. **Plowing in the winter** – This may be a concern – Needs addressing on the approval. Depending if Public vs Private Road.
6. **There is a hammer head shown on the plans. Their will be no driveways off the hammer head.**
7. **No parking signs x 2 at the hammer head.**
8. **Hammer head needs to be 20' wide and 50' deep. Please show on the plans**

Planning Division: 9/26/23; 2/25/2024

1. Roadways

- a. The street and road name form needs to include 3 separate proposed names for each proposed road.
 - b. The proposed roadways are to be constructed to the Town's Urban Access standards. The applicant understands that these roads may be offered to the Town for public acceptance but that they are unlikely to be accepted until such time as they provide through access to future development north of the development site.
 - c. A turn-around has been proposed at the end of the main access drive between lots 5 and 6, with the road right of way extending all the way to the property line to provide for a future connection.
 - d. Pedestrian crossings of the roadways via sidewalks need to be appropriately marked and graded.
 - e. The applicant will need to provide a performance guarantee to repair any damage to Waterhouse road resulting from construction activities.
2. The applicant has stated that blasting is expected to be required in order to remove ledge that has been found within 4' of the ground surface in several locations. The applicant should provide an appropriate plan to minimize blasting impacts on abutters, due to sound, dust, vibration, and potential drinking water contamination due to arsenic or other pollutants.
 3. The applicant has stated that construction would begin as soon as possible after approval is granted. They have also stated that the build out may be completed in multiple phases, with the loop road being completed at a later date. Phasing information will be provided by the time of Final Subdivision Review.
 4. The applicant should be aware that this development will be subject to the Town's Growth Ordinance.
 5. The applicant should be aware that any accessory dwelling units built on the development lots would count towards the number of dwelling units for the purpose of road capacity calculations.
 6. Any multifamily dwelling construction on Lots 13 and 14 would be subject to performance standards in Chapter 2 as well as Site Plan Review, found in Chapter 4.

Police Department: No comments received

Public Works Department: 02/16/2024, 02/21/2024

02/16/2024

Would like to see all storm drains be 15 inch

Will main rd be public? If so a hammerhead turn around shall be constructed at the end

02/21/2024

Can I also add \$2500 per lot fee to offset impact to pavement conditions on Waterhouse rd, to be used for future paving of Waterhouse

Stormwater Compliance: 09/19/2023

My one comment for this project:

“While not a requirement, the Town would like the applicant to consider utilizing Low Impact Development techniques. If the applicant chooses not to implement LID practices, please show why this is not feasible for this project.”

Thank you very much,

Ethan Moskowitz
Stormwater Compliance Officer/ GIS Technician

Town Engineer: 02/22/2024

I have the following comments for this project:

- 1) Sheet 6: Lot 5 mislabeled as lot '57'
- 2) Sheets 4 & 6: Should add sidewalk ADA ramp at the intersection of main road and loop road.

Thanks,

Chuck

Recreation Department: No comments received

Conservation Commission: 09/25/2023

Dear Carol and Planning Board Members,

The Conservation Commission has been asked to review the sketch plans for Waterhouse Road Subdivision sketch plan forwarded to us on September 13, 2023. Here are our initial comments and questions:

1. Care should be taken to protect existing wetlands and vernal pools during the development.
2. Could existing stands of trees be left intact as much as possible so that no lot is completely clear cut?
3. Will there be any significant difference in road construction and stormwater management depending upon whether the road is public or private?
4. Could a public trail easement be created either around the parcel as a multi-use loop or along the western edge of the parcel between the bypass and the duplex units?
 - a. Trail easement would be for a 15 foot wide corridor with a trail tread no wider than 5 feet.
 - b. This could allow for a potential connection to an existing trail network on an abutting parcel or to a future trail development.

- c. Access points could be at the western terminus of Waterhouse, between duplex units 19/20 and 17/18, between lots 11 and 6 and/or between lots 1 and 2.
- d. Exact placement of easement and access points to be determined in cooperation with landowner and developer.

We realize that this is just a sketch plan which will be subject to revisions and we look forward to addressing any questions or comments you may have for us. Thank you for the opportunity to comment on this project.

On Behalf of the Commission,
Bill Moreno
Chair, Gorham Conservation Commission

Town Attorney: 2/22/2024

Carol,

I've reviewed Attachment 4 for the Guardian Estates Subdivision. The following is a list of comments and questions:

1. The general format of the Declaration is fine. There will need to be a reference to this document in each of the lot deeds.
2. There are several typos in the first two paragraphs on the first page. Quincy Drive is misspelled in the first paragraph. In the second paragraph the word "dated" should come after the name Walter Hansen in the first line of the second paragraph. The reference to the recording of the subdivision plan should say "in" and not "under" in the third to last line of the second paragraph.
3. In Article II, Section 1, the reference in the last line should be "Land Use and Development Code."
4. In Section 8 of the same article, the last sentence establishes signage limitations for home occupations. The following sentence should be added after the last sentence: "Any signage must comply with the requirements of the Town of Gorham Land Use and Development Code."
5. Section 4.4.6 discusses in very general terms the responsibility for maintenance of common properties. Somewhere in the document, perhaps here, there should be a more detailed discussion of the requirements for stormwater maintenance. The project application states that it requires a stormwater permit from DEP, so if there are any maintenance and reporting requirements from that approval they should be attached and incorporated as part of the Declaration so that lot owners have a clear understanding of the Association's responsibilities. There is a general reference to upkeep of the drainage and erosion control systems in Article IX, Section 2, but that Article is part of the road maintenance provisions and so does not clearly apply to any other drainage facilities on the property.

6. The caption of Article IV should be revised to “Mortgages of Lots; Rights of Mortgagees.”

7. According to Section 6.1, there is a Deed of Conservation Easement. I could not tell from the provided plans where that was, although it seemed likely to be the area including the vernal pool. Is this to be owned in fee by the owner of lot 14? Sec. 4.4.6 referred to common properties, but other than the roads, it is not clear what those are.

8. Article IX states that the individual lot owners have an easement over the road system and that the road system will be maintained by the Association. However, I didn’t see anything in the documents that discussed the actual ownership of the road system, which I would assume would be deeded to the Association. The introductory language to Article IX refers to the “interior access roads known as Name & Name.” Article IX, Section 1 also refers to an easement over “Name and Name the road shown of the plan...” The name of the road should be inserted here when that is finalized. I saw “Mustang Way” on the plans, but it was not clear whether that applied to the entire road system.

9. The “In Witness Whereof” paragraph on the last page only lists two of the three named declarants and states that they own all of the lots at the property. This needs to be revised to add the third name. There is a signature line for the third owner and he is listed as a Declarant at the beginning of the document. The notary oath only lists two of the Declarants. All three Declarants should be listed.

At some point, the developers will need to submit a complete set of HOA documents, including bylaws and Articles of Incorporation, since that is required by the LUDC. But that can occur as part of final approval.

Barton & Loguidice: 02/27/2024

We have reviewed the Applicant’s submission dated 2/12/24, from BH2M and offer the following comments:

- 1) **Trip Generation Calculation** – Trip generation calculations was provided using the 9th Edition of the Institute of Transportation Engineers (ITE), Trip Generation Manual, using Land Use Code 210 - Single Family Housing for all twenty of the residential units. Although it doesn’t change the resulting calculation significantly, the trip generation calculations should be performed with the latest edition of the ITE Trip Generation Manual, 11th, and the proposed residential units should be broken out as; 12 Single Family Residential Lots - LUC 210, and 8 Multi-Family Units - LUC 220. The revised trip generation calculations are presented below.

TRIP GENERATION CALCULATIONS, LUC 210 - SINGLE FAMILY HOMES, & LUC 220 - MULTI-FAMILY UNITS							
Number	Land Use	Weekday (Daily)		AM Peak Hour		PM Peak Hour	
		Rate Trips/Unit	Subtotal	Rate Trips/Unit	Subtotal	Rate Trips/Unit	Subtotal
		12	#210, Single Family Residential Lots	9.43	113.16	0.70	8.40
8	#220, Multi-Family Units	6.74	53.92	0.47	3.76	0.57	4.56
		Total	167	Total	12	Total	16

The results indicate that the trip generation will be 12 trips in the AM peak hour, and 16 trips during the PM peak hour, with 167 daily trips. The peak hour trip generation is significantly lower than the minimum MDOT threshold of 100, and therefore a MDOT Traffic Movement Permit is not required.

- 2) **Crash Data** – There was no crash data submitted or reviewed as part of the traffic information submitted, however, we requested and reviewed crash data from Maine DOT, for the latest three-year period (2020 – 2022) for Waterhouse Road from its beginning at the intersection with South Street (Route 114) to its terminus approximately 3,700 ft southwesterly of South Street. The review of this crash data revealed there was only one crash reported on Waterhouse Road in May of 2020 which involved a vehicle hitting a deer which caused only property damage to the vehicle with no injuries.

- 3) **Intersection Sight Distances** – We have reviewed expected intersection sight distances (ISD) in the field from the approximate location of the proposed site entrance on Waterhouse Road and the ISD appears to be more than satisfactory based on the assumed posted speed of 25mph on Waterhouse (note: there was no speed limit sign posted on this road but the Maine DOT Map Viewer was checked and a 25 mph speed limit was confirmed). The Applicant should confirm that tree stumps observed in the field will be removed during construction. See photos of sight distance below:

Looking Left from Approximate Sight Entrance



Looking Right from Approximate Sight Entrance



- 4) **Waterhouse Road-** Waterhouse Road was measured and observed in the vicinity of the proposed site entrance and photographed in the field. The roadway measured approximately 18 ft wide and the pavement appeared to be in good condition. See photo below.

Looking Northeasterly on Waterhouse Road



- 5) The project proposes 5 ft bituminous sidewalks within the subdivision. The Applicant should confirm with the Town if additional sidewalk is required on Waterhouse Road.
- 6) Based on the relatively low expected trip generation and no concerns with existing crashes or crash patterns, it is our opinion that no further traffic study is required.

Wright-Pierce: 02/27/2024

As requested, Wright-Pierce has reviewed the Preliminary Subdivision Application for the proposed Guardian Estates Subdivision project. Gary and Megan Jordan & Donald Grant are proposing to construct a 14-lot residential subdivision known as Guardian Estates Subdivision. The project is proposed to occupy approximately 29.52 acres on a parcel located off Waterman Road known as Tax Map 18, Lot 5-1 in the Urban Residential Expansion zone. This project is required to obtain an Individual Stormwater Management Permit from the Maine DEP.

Documents Reviewed by Wright-Pierce

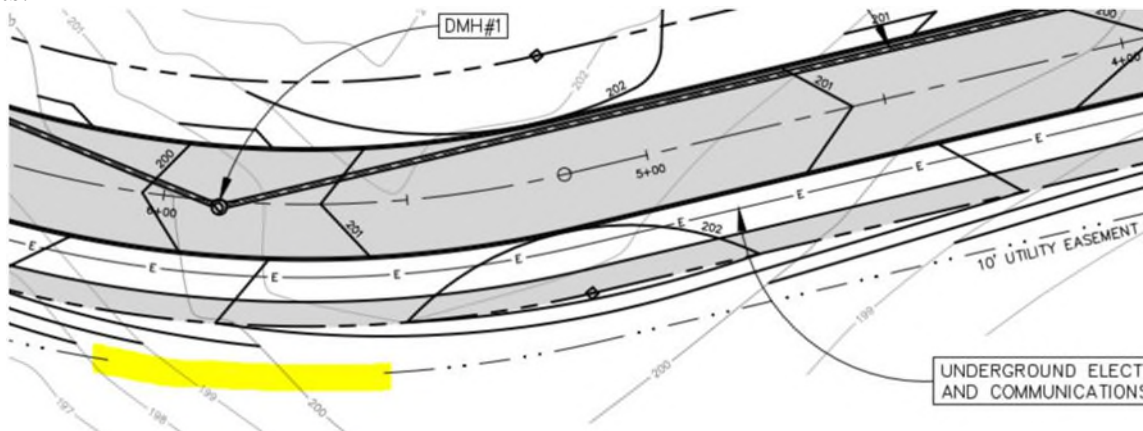
- Preliminary Guardian Estates Subdivision Application Package – Prepared by BH2M (February 12, 2024)
- Guardian Estates 20 Unit Residential Subdivision Plan Set – Prepared by BH2M (Revision No. 1 Submitted to Town for Preliminary Review, February 12, 2024)

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 plans are not sealed by the engineer and surveyor.
2. Submit Financial Capacity information during final plan submission.
3. Submit a nitrate study as indicated in submission cover letter.
4. Provide Maine Department of Environmental Protection (DEP) Stormwater Management Law and Army Corps of Engineers approval/permits to the Town when received.
5. There appear to be breaks in the utility easement. Is that intentional? Please clarify the extents of easements.



General Standards of Performance

1. Environmental
 - a. The project is not within the Shoreland Overlay District, FEMA floodplain, MS4 Urbanized Area, or other known regulated area.
 - b. There are labels for Silt Fence/ECM but it does not appear that silt fence or ECM berm are shown.
 - c. We recommend a double row of silt fence or other perimeter erosion control be proposed in areas within 75 feet of wetlands.
 - d. A stabilized construction entrance/exit should be shown.
 - e. Erosion and sedimentation controls will be required for any construction on the individual lots but are not necessary to be shown for subdivision approval.
2. Parking, Loading, and Traffic – The Applicant indicated an average of 191 weekday vehicle trips with a peak hour total of 20 trips in the PM peak hour are estimated for the project, and a formal traffic study is not warranted.
3. Minimum Standards for the Design and Construction of Streets and Ways
 - a. The road is intended to meet the requirements of an urban access roadway, as stated in the project narrative. The proposed roadway section matches the Town’s Urban Access section other than proposing curb on both sides of the street. It appears that the intent of the Town code is met.

- b. The 50' right of way width should be shown on the proposed roadway section.
- c. Section 2-5.F.10 of the Town's Land Use Development Code (LUDC) requires utility easements, in general, to be not less than 20 feet in width. The project proposes a utility easement of 10 feet. Although this is less than the general 20-foot requirement, there is no public sewer or water proposed, so a 10-foot easement appears reasonable. The Applicant should clarify what the utility easement will be for.
- d. Is enough room provided to get a driveway in for Lot 5 without conflicting with Mustang Way or the end of Guardian Estates?
- e. An "Access Easement to Town" is shown along the wetpond access road and extending adjacent to the Gorham Bypass right-of-way (ROW). Please provide clarification on the purpose and need for this access easement.

Subdivision Requirements

1. All monuments on a ROW should be 5-inch granite or concrete squares. See the Gorham LUDC for more information. All other lot corners should be marked with iron pipe or rod not less than $\frac{3}{4}$ -inch diameter and 36-inch-long set flush to finish grade. There are some monuments on the ROW that are not granite, and the size of the proposed granite monuments are not specified. The legend refers to the iron rod monuments as $\frac{5}{8}$ " but the code requires $\frac{3}{4}$ ".

Stormwater Management

1. A wet pond and soil filter are proposed for stormwater treatment and peak flow attenuation.
2. It appears that the entire project has been considered as a linear project. Our understanding is that the linear project standards would only apply to the roadway, not the entire subdivision including houses and their newly developed lawns. This is ultimately under the Maine DEP's jurisdiction. It is important it be verified that the Maine DEP approves this approach because additional stormwater treatment will be required if the project is required to meet the normal treatment standards instead of the linear treatment standards. If the entire project is considered linear, it appears that adequate treatment is provided by the proposed wet pond and soil filter.
3. Peak runoff rates from the site are shown to be reduced in the post-development condition, as required.
4. Soil Filter
 - a. The Grassed Underdrain Soil Filter detail on Sheet 9 shows a 2" valve on a 4" underdrain. It appears the valve should also be 4". There should also be notes describing how the ball valve should be adjusted by the contractor to achieve the desired drawdown time.
 - b. There should be a detail for the spillway of the soil filter.
5. Wet Pond
 - a. The Outlet Control Structure detail on Sheet 7 notes the rim elevation of the beehive grate is 182.50' but the calculations in the Wet Pond Grate Sizing sheet in Appendix E were based on an elevation of 181'. HydroCAD output shows it was modeled at 182.50'. Revise so all documents match.
 - b. The Outlet Control Structure detail on Sheet 7 notes a 3" orifice in the weir wall at elevation 176.10' in one section view and 2" in another section view showing the weir wall head on. It appears that this is intended to be a 2" orifice since that is what was modeled in HydroCAD. Revise to be consistent.

- c. A 30 mm liner is proposed. Typically, liners would be measured in mil and be approximately 30 mil thick. Please double check this is what was intended.
- d. The Wetpond Access Road Section should be updated to clarify a portion of the access road is superelevated and a portion is crowned.
- e. There are improvements proposed within the ROW of Waterhouse Road (swale), which will receive discharges from a couple catch basin on the proposed roadway as well as from the grassed underdrain soil filter. The project is showing a reduction in the peak flows offsite; therefore, negative effects on the Town's ROW are not anticipated.
- f. Please clarify why a drainage easement is shown for the wetpond, but not for the grassed underdrain soil filter.
- g. The project is not located within the MS4 Urbanized Area; therefore, the project is not subject to the Post-Construction Stormwater Management Ordinance. An Erosion and Sedimentation Control Inspection and Maintenance Plan was submitted as part of the application materials.
 - i. Section 1.0 and 1.1 of this Plan should be updated to reflect the subject project accordingly.
 - ii. The reference to "Department" in Section 1.6.3 should be clarified as the "Department of Environmental Protection", so as not to confuse it with a Town department.
 - iii. It does not appear the note included in Section 1.7.3 is applicable, and can be removed.
 - iv. Since the project is not subject to the Post-Construction Stormwater Management Ordinance, the "Post-Const. Certification Requirement" in Section 1.8, Table 1 can be updated to reflect the required 5-year certification.
 - v. It is assumed the intention of the "MS4 (YES/NO)" column in Section 1.8, Table 1 is to indicate whether there are discharges to the Town's regulated MS4. The soil filter and two of the catch basins discharge to the offsite swale, which is a part of the Town's MS4; however, this portion of their MS4 is not within the MS4 urbanized area (regulated MS4). To avoid confusion and since this project is not located within the MS4 urbanized area, consider clarifying the "MS4" column or removing this column from the table.

**PLANNING BOARD
FINDINGS OF FACT
For
GUARDIAN ESTATES SUBDIVISION**

March 4, 2024

WHEREAS Gary & Megan Jordan and Donald Grant seek approval of a 14-lot subdivision with associated infrastructure and open space.

Pursuant to the Application:

A preliminary plan review was held on March 4, 2024.

Property Description: The applicant is proposing a 14-lot subdivision with associated infrastructure. The units will be served by on-site water and sewer and underground utilities. The parcel area is 29.52 acres and includes a mixture of forestland, fields, and wetlands.

The lot is identified as Tax Map 18, Lot 5 and is located off of Waterhouse Road.

Consultants: Austin Fagan, P.E. with BH2M.

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

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

Variances: None requested.

Waivers requested: None Requested.

Pursuant to the Application:

Preliminary Subdivision review was held on March 4, 2024.

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 Plans consist of the following:

Sheet 1 of 9 – Preliminary Plan: Dated, 08/2022; Revised through, 02/12/2024; Received, 02/12/2024.

Sheet 2 of 9 – Existing Conditions; Dated, 08/2022; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 3 of 9 – Guardian Heights - STA. 0+00 to STA. 6+50; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 4 of 9 – Guardian Heights - STA. 6+50 to STA. 13+00; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 5 of 9 – Mustang Way - STA. 0+00 to STA. 6+50; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 6 of 9 – Mustang Way - STA. 6+50 to STA. 13+00; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 7 of 9 – Pond Details; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 8 of 9 – Details A; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.
Sheet 9 of 9 – Details B; Dated, 08/2023; Revised through, 02/12/2024; Received, 02/12/2024.

Other documents submitted consist of the following:

Preliminary Subdivision Application – 02/12/2024
Plans – 02/12/2024

Waiver Requests for High Intensity Soil Survey –
Letter of Financial Capacity –

Gorham Town Planner Comments – 09/06/2023; 11/28/2023; 12/18/2023, 01/29/2024, 02/26/2024

Gorham Assessor Comments – No comment

Gorham Fire Chief Comments – 09/14/2023, 02/21/2024

Gorham Public Works Comments – 02/16/2024, 02/21/2024

Gorham Town Engineer – 02/22/2024

Gorham Stormwater Comments – 09/19/2023

Gorham Code Enforcement Officer – No comment

Gorham Recreation – No comment

Wright Pierce – 02/27/2024

Barton & Loguidice – 02/27/2024

Conservation Commission – 09/25/2023

NOW THEREFORE, based on the entire record before the Board and pursuant to the applicable standards set out in the Land Use and Development Code of the Town of Gorham, the Board makes the following factual findings:

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.

Finding: Guardian Estates subdivision shall be in conformity with the Comprehensive Plan of the Town and 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.

At this time, access to the Guardian Estates subdivision is via Waterhouse Road.

Finding: Guardian Estates subdivision shall 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 lots within this subdivision will be private on-site water and sewer, as well as other 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: Guardian Estates subdivision will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.

Finding: *Guardian Estates subdivision shall provide for adequate water supply for present and future needs.*

- e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.

The subdivision will be served by private on-site sewer systems.

Finding: *Guardian Estates subdivision shall provide 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.

As shown on Sheet 7, 9, and 12 of 12 and described in the written materials, 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.

Finding: *Guardian Estates subdivision shall not result in undue pollution of air, or surficial or ground water, 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.

As shown on Sheets 8 of 12 and described in the written materials, erosion and sedimentation controls will be utilized meeting the Maine Department of Environmental Protection's and the Town of Gorham's requirements.

The proposed construction of the residential units within this phase will not impact wetlands or water bodies. There are some wetland impacts from construction. The developer shall place erosion and sedimentation controls around the development site.

Finding: *Guardian Estate subdivision shall not cause unreasonable soil erosion or a 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: *Guardian Estates subdivision shall 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 streets for the residential units will impact a portion of the wetlands and no water bodies.

The applicant will retain vegetated space as part of the project and as required within Town ordinances.

According to the Comprehensive Plan, there are no known historic sites, rare or irreplaceable natural or manmade assets located on the site.

Finding: *Guardian Estates subdivision shall respect 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 not provided proof of financial capacity. It has stated that it intends to do so after the Town has reviewed the design.

Finding: *The applicant has adequate financial capacity to construct the proposed improvements.*

- 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 shall provide the required amount of active and passive area required for open space based on the total project acreage. The required amount of total acreage is approximately 13. The required amount of active space is approximately 1.8 acres.

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

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

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

The applicant should provide additional information about how they will meet this requirement.

The applicant is proposing to create a 15' wide recreational trail easement on the western side of the parcel.

Finding: *The applicant shall provide open space as part of the total project, in addition to the impact fee.*

NOW THEREFORE, on March 4, 2024, the Gorham Planning Board adopts each of the foregoing Findings of Fact, and based on these Findings determines that Gary and Megan Jordan and Donald Grant's request for approval of **Guardian Estates Subdivision** will have no significant detrimental impact, and the Gorham Planning Board hereby votes to grant preliminary plan approval to Gary and Megan Jordan and Donald Grant with the Conditions of Approval listed below.

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 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 underground electric lines shall be inspected by the Code Enforcement Office prior to backfill.
6. All waivers and variances shall be listed on the plan prior to recording.
7. That the new street names shall be approved by the Town Planner, Police and Fire Chiefs.
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. All other additional impact or growth permit fees shall be paid prior to receiving a building permit.
11. 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.
12. That all site construction shall be carried out in conformance with the Town of Gorham Stormwater Ordinance, 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.
13. That the Planning Board Chair is authorized by the Planning Board to sign the Findings of Fact on behalf of the entire Board.
14. 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.
15. 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 or the plan becomes null and void, and a dated copy of the recorded plan shall be returned to the Town Planner prior to the pre-construction meeting.
16. If a plan has received phased approval, the first phase shall be recorded within one (1) year of the original approval and subsequent phases shall be recorded within five (5) years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.
17. A Growth Permit is required for each dwelling unit in a residential subdivision.

FOR PRELIMINARY SUBDIVISION APPROVAL:

Move to grant preliminary subdivision approval for Guardian Estates Subdivision, located on M18/L5 in the Urban Residential Expansion zoning districts, based on Findings of Fact and Conditions of Approval as written by the Town Planner (and amended by the Planning Board).

TO TABLE PENDING FURTHER REVIEW:

Move to table review of the Guardian Estates Subdivision preliminary plan to a future Planning Board meeting.