

**Town of Gorham
 Planning Board Meeting
 May 6, 2024**

ITEM 5 - Discussion – Preliminary Subdivision – Ali Omur & Carmen Schneider – 79 Day Road Subdivision – a request for approval to divide a parcel split by previous landowner with outsale lots 1 and 2. The current proposal is to create two additional lots for single-family homes. Map 23, Lot 7. Zoned UREXP. The applicant is represented by Andrew Morrell, P.E., with BH2M.

INDEX OF PACKET ENCLOSURES	
DESCRIPTION	PAGE NUMBER
1. Overview	2
2. Items of Note	2-3
3. Aerial Photograph	3
4. Staff Review	4-6
5. Findings of Fact	7-12
6. Conditions of Approval, Motions	12-13

PROJECT TRACKING

DESCRIPTION	COMMENTS	STATUS
Pre-application/Sketch		September 11, 2023
Preliminary Subdivision Review		May 6, 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.

James Hager, Chair, Gorham Planning Board

1. OVERVIEW

This is the second time this application has come before the Planning Board. It was first before the Board for sketch plan review on September 11, 2023. The applicant proposes to subdivide two additional lots from parcel 23-7. Subdivision review is triggered because two other lots have been subdivided from parcel 23-7 in the last five years. The parcel is approximately 14 acres.

The applicant is represented by Andrew Morrell, 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.

Outstanding Items

- Proof of financial capacity needs to be provided.
- The water supply calculation worksheet needs to be provided

Zoning and Subdivision

- The zoning is currently Urban Residential Expansion (UREXP) which is consistent with the future land use provisions in the Comprehensive Plan.
- The zoning allows for single family residential development.
- Conventional subdivision is allowed in this zoning district.

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

- Sidewalks are required
 - As specified in Section 2-5, F, 11: Sidewalks shall be provided...with connection to the existing sidewalk network...
 - The applicant may provide fee in lieu of off-site sidewalk construction
- Section 2-10, Provision of Public Water and Sewer
 - This information needs to be provided

Waivers Requested

- The applicant is requesting a waiver from the requirement to provide a high intensity (Class A) soil survey, Land Use Development Code Chapter 3, Section 3-3, B-11.
 - The ordinance section states “The requirement for a Class A survey may be waived to a Class B survey by the Planning Board for subdivisions and subdivision amendments not required to provide the net acreage calculation required under Chapter 1.
 - The subdivision is located in a zoning district (Urban Residential Expansion) which requires a net density calculation. Therefore, this waiver may not be granted by the Planning Board.

- The applicant is requesting a waiver from the requirement to provide a nitrate plume analysis, Land Use Development Code Chapter 3, Section 3-3, B-16

○ Waiver Language (if necessary): Move to grant a waiver to Ali Omur & Carmen Schneider from the requirement to complete a nitrate plume analysis for the proposed subdivision at Map 23 Lot 7.

Natural Resources/Conservation

- A tributary of Indian Camp Brook passes through the rear of the proposed Lot 3.
- The area adjacent to the stream tributary is mapped as a FEMA flood plain.
- The Maine Beginning with Habitat Map Viewer does not show the presence of any rare wildlife or plant communities within the subdivision area.

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

Town of Gorham Public Map Viewer



8/24/2023, 2:45:39 PM

Parcels	Gorham Town Boundary	Natural Resources - National Wetlands Inventory
Roadways	Natural Resources - Stream Tributaries	Freshwater Forested/Shrub Wetland
Parcel Labels	Freshwater Pond	

0 0.03 0.06 0.11 mi
0 0.04 0.09 0.17 km

Maxar

Public User
Town of Gorham

4. STAFF REVIEWS

Assessing Department: No comment.

Code Department: No comment.

Fire Department: 08/22/2023, 04/09/2024

08/22/2023:

MAP 23 Block Lot 7

I have reviewed the Plans.

1. The building will meet all applicable sections of NFPA 1 Fire Code and NFPA 101 Life Safety Code.

2. The building 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.

04/09/2024:

I have reviewed the Plans dated April 9, 2024

All my requirements are notes on the plans.

Nothing to add.

Planning Division: 4/28/2024,

April 28, 2024

- The proposed lot 1 and 2 appear to be sufficiently sized for single family home development. The applicant should be aware that the road frontage requirement is 150 feet, while 200 feet are proposed.
- The applicant is proposing that the two new lots to be subdivided will be served by a shared driveway. The Site Plan and written materials show that this driveway is in the ideal location given other sight distance constraints along the front of the parcel on Day Road.

Police Department: No comment.

Public Works Department: 08/21/2023,

August 21, 2023

The driveway location on lot three will need to be shown as there could be a site distance issue.

Stormwater Compliance: No comment.

Town Engineer: No comment.

Recreation Department: No comment.

Conservation Commission: No comment.

Town Attorney: No comment.

Barton & Loguidice: No comment.

Wright-Pierce: 4/29/2024

Date: 4/29/2024
Project No.: 21691G
To: Carol Eyerman, AICP, Town Planner
Laura Rust, Administrative Assistant
From: Christine Rinehart, PE
Nate Edwards, PE
Subject: [Subject]

As requested, Wright-Pierce has reviewed the Preliminary Subdivision Application for the proposed Day Road Subdivision project. Ali Omur and Carmen Schneider are proposing to divide parcel Map 23, Lot 7 at 79 Day Road into two lots. Since the parcel was previously split, the current lot split classifies as a subdivision because it creates the third and fourth lot cut out within the last 5 years. The lot is 16 acres and in the Urban Residential Expansion (UREXP) zone.

Documents Reviewed by Wright-Pierce

- 79 Day Road Preliminary Subdivision Application Package – Prepared by BH2M (April 8, 2024)
- 79 Day Road Subdivision, Preliminary Subdivision Plan– Prepared by BH2M (Revised April 5, 2024)

Review Comments

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

1. Will the proposed lots be sold undeveloped or held by the owner to be built on?
2. A waiver of a nitrate analysis has been requested. The waiver references Section 3-3, B.16 of the Land Use Development Code (LUDC); however, this section does not mention a nitrate analysis. We cannot locate a requirement for a nitrate analysis in the LUDC.
3. The applicant has requested a waiver of a high intensity soil survey. The LUDC allows the Class A soil survey to be waived to a Class B soil survey for subdivisions that do not require net acreage calculations. The proposed lots are in the Urban Residential Expansion District, which requires a net acreage calculation to calculate the net residential density; therefore, the requirement for a Class A soil survey cannot be waived, unless public water supply is provided.
4. An HHE 200 Report for the septic systems should be submitted.
5. Submit information showing there is sufficient water supply available.
6. The Preliminary Subdivision Plan should include the parcel id (tax map, block, and/or lot number) for the remaining 13.75-acre lot and the two adjacent lots sold to Gilbert Homes on 12/5/22.
7. Monuments along Day Road right-of-way should be 5-inch granite squares.

**PLANNING BOARD
FINDINGS OF FACT
For
79 DAY ROAD SUBDIVISION**

May 6, 2024

WHEREAS Ali Omur and Carmen Schneider are proposing to divide the existing lot into three lots. The proposed lots are called Lot 1 & Lot 2 on subdivision plan.

Pursuant to the Application:

A sketch plan review was held on September 11, 2023.

Property Description: The applicant is proposing a subdivision of an existing 16.09-acre lot to create two additional buildable single family house lots on Day Rd. The parcel area includes a mixture of forestland, fields, and wetlands.

The lot is identified as Tax Map 23, Lot 7 and is located off Day Road.

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

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

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

Variances: None requested.

Waivers requested: Two requested: 1) From requirement to conduct Class A soil survey, 2) From requirement to conduct nitrate plume analysis.

Pursuant to the Application:

Sketch plan review was held on September 11, 2023.

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 – Preliminary Subdivision Plan; Dated, 05/10/2023; Revised through, 04/05/2024; Received, 04/09/2024.

Other documents submitted consist of the following:

- Preliminary Subdivision Application – 04/09/2024
- Plans – 04/09/2024
- Waiver Requests for High Intensity Soil Survey –
- Letter of Financial Capacity –
- Gorham Town Planner Comments – 4/28/2024
- Gorham Assessor Comments – No comment.
- Gorham Fire Chief Comments – 08/22/2023
- Gorham Public Works Comments – 08/21/2023
- Gorham Town Engineer – No comment.
- Gorham Stormwater Comments – No comment.
- Gorham Code Enforcement Officer – No comment.
- Gorham Recreation – No comment.
- Wright Pierce – 4/29/2024
- Barton & Loguidice – No comment.
- Conservation Commission – No comment.

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: 79 Day Road 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 79 Day Road subdivision is via Day Road, which has the capacity for the additional traffic created by this subdivision.

Finding: 79 Day Road 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: 79 Day Road subdivision will not place an unreasonable burden by either direct cause or subsequent effect on the availability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

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

This information needs to be provided by the Applicant.

Finding:

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

This information needs to be provided by the applicant.

Finding:

- f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site.

As shown on the Site Plan and described in the written materials, additional stormwater from the two additional single-family homes on the site will be minimal and will be managed without provision of additional infrastructure.

Finding: *79 Day Road 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 the Site Plan and described in the written materials, additional stormwater from the two additional single-family homes on the site will be minimal and will be managed without provision of additional infrastructure.

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

The applicant will need to conduct a Class A soil survey on the site.

Finding:

- h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.

A tributary of Indian Camp Brook passes through the area shown as “Lot 3” on the Subdivision Plans. No development is proposed adjacent to the stream tributary.

Stormwater maintenance shall be designed in accordance with State, Federal, and local requirements prior to discharging into groundwater or into abutting wetland.

Finding: *79 Day Road 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 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: *79 Day Road 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.

Finding:

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 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 79 Day Road subdivision will be responsible for providing open space and recreational land and facilities to meet the additional demand created by residents of the subdivision.

4) If an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee, the following applies:

a) Land Improvements: The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.

b) Owners Association: A homeowners' association shall be formed to provide for the perpetual care of commonly owned recreation land.

The applicant should provide additional information about how they will meet this requirement or state if or why they are not choosing to.

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

NOW THEREFORE, on May 6, 2024, the Gorham Planning Board adopts each of the foregoing Findings of Fact, and based on these Findings determines that Ali Omur & Carmen Schneider's request

for approval of **79 Day Road Subdivision** will have no significant detrimental impact, and the Gorham Planning Board hereby votes to grant preliminary plan approval to Ali Omur & Carmen Schneider 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. 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. A Growth Permit is required for each dwelling unit in a residential subdivision.
11. 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.

FOR PRELIMINARY SUBDIVISION APPROVAL:

Move to grant preliminary subdivision approval for 79 Day Road Subdivision, located on M23/L7 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).

OR

TO TABLE PENDING FURTHER REVIEW:

Move to table review of the 79 Day Road Subdivision preliminary plan to a future Planning Board meeting.