

TOWN OF GORHAM  
Minutes  
Town of Gorham Planning Board  
January 22, 2024

**Present:** Chairman Harvey                      Mr. Perry  
                 Mr. Kestler                                Mrs. Rasmussen  
                 Mr. Farmer

**Absent:** Mrs. Harris                                Mr. Hoover

**Guest:**

**Virtual Attendance:**

**Call to order and Approval of Minutes:**

Chairperson Harvey called the meeting to order at 7:35 PM and explained the process. Mrs. Rasmussen made a motion to approve the November 27, 2023 minutes as presented. Mr. Kestler seconded the motion, which was carried unanimously.

**Public Hearings:** NONE

**Application:** 23-2021 cont., Scenic Ridge Rise Preliminary Subdivision Application

**A. Consideration of the findings pursuant to the environmental review under the NYS Environmental Quality Review Act**

**Chairperson Harvey** -To complete the environmental review, process the board accepted the environmental impact statement final at its Nov 27, 2023 meeting, we had published it in the environmental notice bulletin that it was accepted and accept any comments that were submitted by Friday January 19, 2024. Have we gotten any comments? **Jim Morse** reported there have been no comments submitted. These steps needed to be completed before we could take the next steps which is adopt the findings based on public hearing, environmental impact statement, application as made, town's comprehensive plan, zoning and subdivision regulations, etc., and then consider the preliminary subdivision application. The public hearing was held in June which accounts for both the public hearing required for the draft Environmental Impact Statement and the required public hearing for the preliminary subdivision application. A draft resolution to adopt the findings was handed out to board members to review, the second document is the specific findings. I have taken the body of the environmental impact and the scoping effort we went through to identify the issues that had to be reviewed in the environmental impact statement and talked about each of them and proposed some findings. I will ask the board to read through them and we can discuss them one at a time or as you see fit.

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Is there anything that the board wants to consider changing from the first document which is the adoption of findings and resolution? No response from board. If not, we will start talking about the findings.

Findings discussion:

1. Ground water – do diligence was done not a lot of ground water problems were found, they did find some depth and bedrock problems. Anyone not happy with the ground water statement? **Mrs. Rasmussen** responded that statement is fine.
2. Stormwater – In summary your facilities are designed for a 100-year storm as we asked you to designed the grading for the plan so that if the facilities capacity is exceeded the excess water is not running into someone’s house on the don hill, it would go down the road through other drainage structures etc. That is a positive thing. The really short storm that is discussed and is so minor I did not put it in the findings, the stormwater flow rates are shown to be lower after construction than pre-existing conditions should say in the erosion control measures comply with the NYS stormwater regulations. The town highway superintendent is adamant about not having grass swales next to the road, so that will be a condition that the swales have to be replaced with concrete swales along the road. **Mrs. Rasmussen** – concrete swales are doing nothing to control the water and the majority of the housing goes straight down the hill and the excess water will hit the bottom. **Chairperson Harvey** – No, what they will need to do is put in inlets along the way so the swales do not get overburdened, which is a pretty standard design practice. **Mrs. Rasmussen** – I am a little concerned about that. **Chairperson Harvey** – There were two other significant changes; the pedestrian trail between homes on the northside of the entry road we will talk later why that has been removed, we agreed with the design to have the swale in that area deeper and the homeowners association is going to be required to mow 10 feet annually (the amount and how often is open for discussion) to persevered access and to make sure that trees and other stuff are not growing and effecting their performance rate. We talked about the water that comes from the agriculture property up hill and goes into the woods and intercepting that but doing that in a manner that does not destroy the forested area at the top of the hill. Our standard practice is: you are going to put in these stormwater management facilities as required by NYS DEC they are going to be put in first and stabilized before you open up the rest of the site. The size of the largest stormwater management facility appears to impound sufficient water an involve earthwork of sufficient height to require a dam permit. So that will be a condition of any approval of the subdivision. With the board permission we will add that to the Findings stormwater

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under number 2. Add also the Homeowners Association to have some liability insurance to cover for failure of the dam do to the size and amount of earthwork and water held. Any changes requested be board? We will address Mrs. Rasmussen concern with concrete swale along roads to include inlets so not to over burden. No, other changes requested by board.

3. Aesthetics and community character – Nothing on or near the sight that would be included in the State or National registry of historic places. We have a design that will preserve the aesthetics of the forest on the uphill eastern portion of the property. The board has maintained all along the forest is important to keep the houses from appearing from ridgeline as development from near lakeshore areas which is consistent with the towns design guidelines. Proposal shows a number of street trees, I believe we are going to want to see the landscape plans to review compliance with the towns design guidelines. You can do it in mass or individually. We also discussed reviewing and having approval over the proposed Homeowners association bylaws we want to make sure the controls are listed in the bylaws are what was listed in the Environmental Impact Statement and that long term you are going to continue to insure continued compliance with the towns design guidelines. We also did not forget about the landscape buffer that will need to be added to the plans for the lot that you have indicated you will probably build your own home on that fronts on State Route 364 but has no access, and to the residential property to the north. Mrs. Rasmussen – can we put in the buffer should be natural native species.

**Chairperson Harvey** – Sure. Any other additional changes members would like added? No, other changes requested by board.

4. Transportation – It is clear from NYS DOT that no turning lanes are required at the entry drive intersection with State Route 364 and the project will not adversely impact the performance of any intersections on St RT 364. The applicant has proposed a series of islands to make sure there was not a violation of the towns 500-foot cul-de-sac single entry limit; however, I believe there are requirements of the building codes that have to be addressed. As determined what the limits are, that is up to the town Code Enforcement officer as to what they are, if there is a variance required that will be a condition of the approval and the responsibility of the applicant. You have shown the right of way to the future property to the north in compliance with the towns access management plan. The intent being to get a connection at some point in the future up to Turner Rd, you do not own the all property so all we can require you is to get part way there. We do not want that built at this time as we want it to remain forest while the plantings in your

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development mature. The town has design guidelines and design standards. The maximum slope in the towns adopted design standards follows the NYS DOT is [**Jim Morse reported that the Town's standard is 8%**] and the current plans exceed that, so that will need to be fixed. Proposed sidewalk and the crosswalk on 364 and across 364 to access it will come off the final subdivision unless you get an approval from the NYS DOT, that will be a condition. Is there anything I missed or anything the board wants modified or taken away? Hearing nothing, we will continue.

5. Public Water – The engineering calculations shows that you have sufficient pressure and fire flow, even at the most uphill parts of it, even though it is close, the board is concerned how that could be remedied, the remedies were taken to the Gorham Town Board and it was decided that it was not worth the cost at this point the only time there is an issue is when there is a fire or a water main brake. I am proposing that there is a decent size main design to the end of the property along the entry road from where the pips are in your development that is a surety you will post with the town, at the time the own want to do that it should be your burden not the rest of the districts, the rest of it will be the neighboring property. Any changes anyone wants to make for public water? Hearing nothing, we will continue.
6. Agriculture – We talked about having to move the lots and the roadways to the north because of shallow bedrock, to me it just creates more of a buffer to the adjent agriculture land and also have the woods between your development and the agriculture property to the north. What should be added is we gave notice to the counties Agriculture Enhancement Board which is Ontario counties version of a farmland protection board as it is within 500 ft of an agriculture operation and in a county's agriculture district, there does not seem to be any impacts on tiles, drainage and such. Mrs. Rasmussen – the sentence diversion of stormwater entering the property from agricultural land to the east has been factored into the design, but in number 2 we are saying it has not been. **Chairperson Harvey** – Yes, that will need to be changed. **Mrs. Rasmussen** – Probably all of those last sentences will need to be checked. **Chairperson Harvey** –The sentence now reads, diversion of stormwater entering the property from agricultural land to the east will be intercepted on the property per condition of approval to be mandated in any subdivision approval granted by the planning board, so, no changes will be required in agriculture practices on the property to the east. Similarly, the project has been found not to have any significant negative impact on groundwater impacting adjent agricultural operations and

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land. Any changes anyone wants to make for public water? Hearing nothing, we will continue.

7. Energy Use and Climate change – Note New York State Climate Leadership and Community Protection act passed in 2019 and the policy there are and will be more goals and actions requirements from the State of NY make it clear that renewable energy must be incorporated into projects wherever practical as such any subdivision approval made by the planning board shall include the structures for the homes have to be sufficient for roof mounted solar pull tag collection systems. This was also discussed you have some open space obviously and some not so open, how much of each will be dedicated to some kind of community solar? I put in 20% to start the discussion. Does anyone want a different number? **Applicant** – I do not know for sure 20% would wipe out a lot of the vegetation between the development and the farm to the south. **CH**- All depends on where you put it. **Applicant** 20% is a lot of land **CH** – I would think if I was you, we can talk about how that would work and site plan, I would you put around some of the stormwater facilities and other things. **Applicant** – Yes, I would do that, but still that is a lot of land. **Mrs. Rasmussen** – You could put it on pedestals through the stormwater. **CH** – Yep. We will add a sentence there that says Such community solar shall require site plan approval from the Planning Board to insure buffers and planned open space are preserved. **Applicant** – Is there some recommendation from the state besides the statute, I know the statute, but are there like planning recommendations for localities? **CH** – They have adopted the scoping plan, of how to implement it and there are a lot of recommendations in it.
8. Housing needs – This was not a particular topic in the Environmental Impact Statements, but obviously it was discussed a little bit and the shortage of all type of housing in the county is pretty well documented in the housing assessment that the county did. We are going to require that 5% of the units be sold to individuals with income below the county median household income level. There is a lot of need there that has been identified county wide as well as in the town, again you have a clustered subdivision so you have 80 units proposed with still preserving a significant amount of amenities and open space.
9. No action alternative – I think we will find that the need for housing, minimization of impacts from the proposed development will be imposed by conditions and mitigation measures you have included in your design outweigh the negative impacts that will result from the proposed project.

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10. Miscellaneous – There does not appear to be any addition important impacts that have not been adequately addressed. Board member – If no more than 20% is a lot some would say 1% is no more than 20% wouldn't you want something such as no less than or a range or no more than. **CH** – Yes, it states you have the ability to use no more than 20% flexibility to use no more than. Anything we missed? **Mrs. Rasmussen** – no, not that I saw.

The way this would work is we will need to go back and adopt the findings resolution, with the attached amended list of findings.

**Mrs. Rasmussen made a motion to adopt the findings resolution, seconded by Mr. Perry 5 AYE, 2 Nay (absences), 0 abstained, Resolution was adopted.**

### **B. Consideration of Preliminary Subdivision**

The next action is the finding have been adopted is consideration of whether the board wants to deny approve as submitted or approve with modifications the preliminary subdivision application. The third document is the draft resolution for approval with modifications. The first few whereas' state some of the history of the project and steps taken, comments made from interested agencies and public. Based on the history of the project, comments made, pertinent information provided require the following modifications/ conditions.

1. No more than 80 single family residences, that is what you applied for and it is a conservation subdivision, you have sighted that and that is how you have applied.
2. Layout of the subdivision shall be modified to avoid residential and road development on areas of shallow bedrock.
3. Grass swales to the north of the main entry road are to be eliminated and replaced by road side concrete swales and we will add similar language that we did in the findings statement. We will have to revise the stormwater. The applicant will have to revise the stormwater inlet piping design to insure the concrete swales are not overburdened during the designed storm events. Prior to final subdivision application.
4. The pedestrian trail proposed along the boundary with east lake view estates development to the north shall be eliminated and replaced with sidewalk along the main entry road to the Scenic Rise subdivision.
5. The swale adjacent to the East Lake View Estates Property line shall be deepened by at least 1 foot and the Homeowners Association shall be responsible for annual mowing of at least 10 ft in width centered on said swale.

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6. Stormwater shall be intercepted from uphill agriculture land to the east in a manner approved by the Planning Board minimizing to the extent practical the impact on the forest area on site. Such diversion, and all stormwater management measures, shall be installed and stabilized to the satisfaction of the engineer, I am going to change that to, town prior to other site development, because we may use engineer or the soil and water conservation district, we will leave that to the town to decide.
7. Landscape plans shall be developed and submitted for approval by the Planning Board for each lot as part of final subdivision approval for each phase or prior to the issuance of the building permit.
8. A vegetative buffer as deemed acceptable to the town, lets change that to; a vegetative buffer using native species as deemed acceptable the Planning Board shall be shown on the plans between the residential lot with frontage on state route 364 and the adjacent residential property to the north the building permit for said lot with frontage on state route 364 will not be issued until such landscape buffer as approval is by the planning board is installed or a surety in the amount and form approved by the town has been delivered to the town by the applicant.
9. Prior to any final approval the proposal the proposed by laws of the homeowner's association shall be submitted for review and approval of the Planning Board said bylaws should comply with what was proposed by the applicant in the DEIS and the FEIS and shall include other provisions in compliance with this resolution and to ensure long-term compliance with the design guidelines of the town of Gorham.
10. The proposed emergency vehicle access shall include a crash gate and an open man gate to allow pedestrians to access the trail unimpeded but only allow emergency vehicle access in other words not emergency vehicle access shall be restricted by the crash gate.
11. Access to the residential lot having frontage on state route 364 shall be via the entry road to the Scenic Ridge Rise subdivision and shall be restricted by deed covenant and grant of rights to the town from having any access onto state 364 except the emergency vehicle crash gate access.
12. The number of building permits issued by the town code enforcement officer shall not exceed the maximum number allowed pursuant to the New York State uniform fire and prevention and building code as determined by the code enforcement officer until such time as a variance is issued by the New York State Department of State or a road is constructed connecting the roads and the Scenic Ridge Rise subdivision to Turner Rd. the design of which is approved by the Planning Board.

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13. The grading of proposed Rd. as we have stated before shall be revised to be in compliance with the maximum slope allowed as designated in the town's design guidelines, it should say standards so we will add that.
14. Recites the whole same thing about the crosswalk and sidewalk on state route 364 you can't do it unless approved by the New York State Department of Transportation if it is approved it will be the cost of applicant. The homeowner's association has to take responsibility for the maintenance.
15. A right of way of 15 feet shall be granted to the town for a water line connection to the property to the north or part of that entry road to provide a future interconnection through Mr. Laviano's (SP) property connecting over to Turner rd. The applicant will provide a surety in some form so the town can go back when it is time to construct that.
16. All buildings within the development shall be structurally sufficient to support rooftop solar units.
17. High energy efficiency residences residences expected to have no net energy use from the power grid shall be offered as one of the building types allowed by the homeowner's association bylaws and a option for buyers to construct.
18. This is the 5% of units be sold to people with an income below the county's median household income level. I am further proposing that you will provide documentation of that by the time the first 40 residences are sold or you will pay the town a significant amount of money that they will put in a affordable housing fund.
19. The homeowner's association bylaws shall be a maximum of 20% again for the solar but the association documents will be a right granted to 10 or more homeowners.
20. The applicant shall develop a phasing plan for the project acceptable to the planning board and show that the preliminary subdivision plat to be filed with the Jim.

We have to add:

21. Prior to any final subdivision approval of the applicant shall obtain any requisite permits from other jurisdictions including but not limited to a dam permit from the New York State Department of Environmental conservation a state pollution discharge elimination system or SPDES permit for stormwater discharges during construction from the NYS DEC approval of the water system designed from New York State Department of Health and the town of Gorham approval of the sanitary sewer design from the Canandaigua Lake County sewer district and New York State DEC.



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That is my list and that Jim is authorized and directed to send copies to all interested and involved agencies.

Questions **Applicant** – Back in number 5, 2ft wide at bottom and 3 – 31/2ft side swale so that it is basically 16 ft swale and has capacity in excess of a 100-year storm, I have a concern with depending it as I would have to increase the side swales so I would have room to put the vegetation buffer. I would rather leave it as a high capacity the way it is now. **CH** – I am going to keep this language and if you want to deviate from it you can come back and make your case. **Board** – it is at 1 ft **Applicant**- Oh, I thought it was 3, OK I am all set. **Applicant #12**- The variance **CH**- That is between you and Jim COE if he agrees with your analysis then you are all set. **Applicant** – Residential sprinklers – **Jim COE** – If you are building more than 30, for example if you are doing 80 you have to put them in all 80. It is only if you do up to 30, then 30 and above is all 80 homes will need sprinklers. **Applicant** – bottom line is we will not get a variance for that. **Jim COE** – new building code that is coming out is going to make residential sprinklers required anywhere in NYS. **CH** – So you either get a variance or you follow the code and have no problem. **Applicant** – Number 15 it is am in or thing we have a 60 foot right of way down to the property line **CH** – Which is fine but remember you are granting the town an access or road right of way, we run into this, so what this says you will give us a 15 ft easement for the utilities **Applicant** – You mean within the 60 ft? **CH** – correct **Applicant** - ok applicant – number 21 the dam permit I can possibly change it so I do not need a DAM permit, I could make it wider and longer? **CH** – I am going to say what I said before, what I see needs one, if you can show a way come back with your reasons and the board will consider.

Anything the board wants to add or modify? If not we need to motion the resolution to move for adaption

Chairman Harvey **made a motion to adopt the resolution to approve the Preliminary Subdivision Application with conditions, seconded by Mr. Farmer 5 AYE, 2 Nay (absences), 0 abstained, Resolution was adopted.**

**Miscellaneous:** Nothing on the agenda **CH** -What is coming next month? – special use permit renewal and sight plan modification for Lincoln hill farms and barn on 364 a personal use barn on the former par 3 golf property just south of Thendara, development restriction has been removed, property has been purchased and there is no longer a conservation easement on it. **Mrs. Rathmussen** asked, “What about Wager’s across from the transfer station”? **Jim** stated we are working on that and fire marshal is involved. **Mrs. Rathmussen** asked, “What about Eldred’s project?” **CH** – Whenever he comes back

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with amended drawings it is up to him to come back, **Jim CEO** – he will have to come back with final within a year, I think it will be a little bit, and I will probably not bring it back until we have a replacement for Sue Yarger because it is too much burden on our department without the additional staff. **CH** – because he will have to comply with all the conditions we addressed.

**Adjournment:**

**Motion made to adjourn the meeting at 08:38PM by Mr. Kestler and seconded by Mr. Perry which was carried 5 AYE, 2 Nay (absences), 0 Abstained**

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Thomas Harvey, Chairperson

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