

# Town of Windham

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## MEMO

DATE: August 20, 2020

TO: Planning Board  
FROM: Jennifer Curtis, Planner  
Cc: Dustin Roma, P.E., DM Roma Consulting Engineers  
Amanda Lessard, Planning Director  
Development Review Team  
  
RE: 20-21 – Albion Road Major Subdivision, Sketch Plan  
Planning Board Meeting: August 24, 2020

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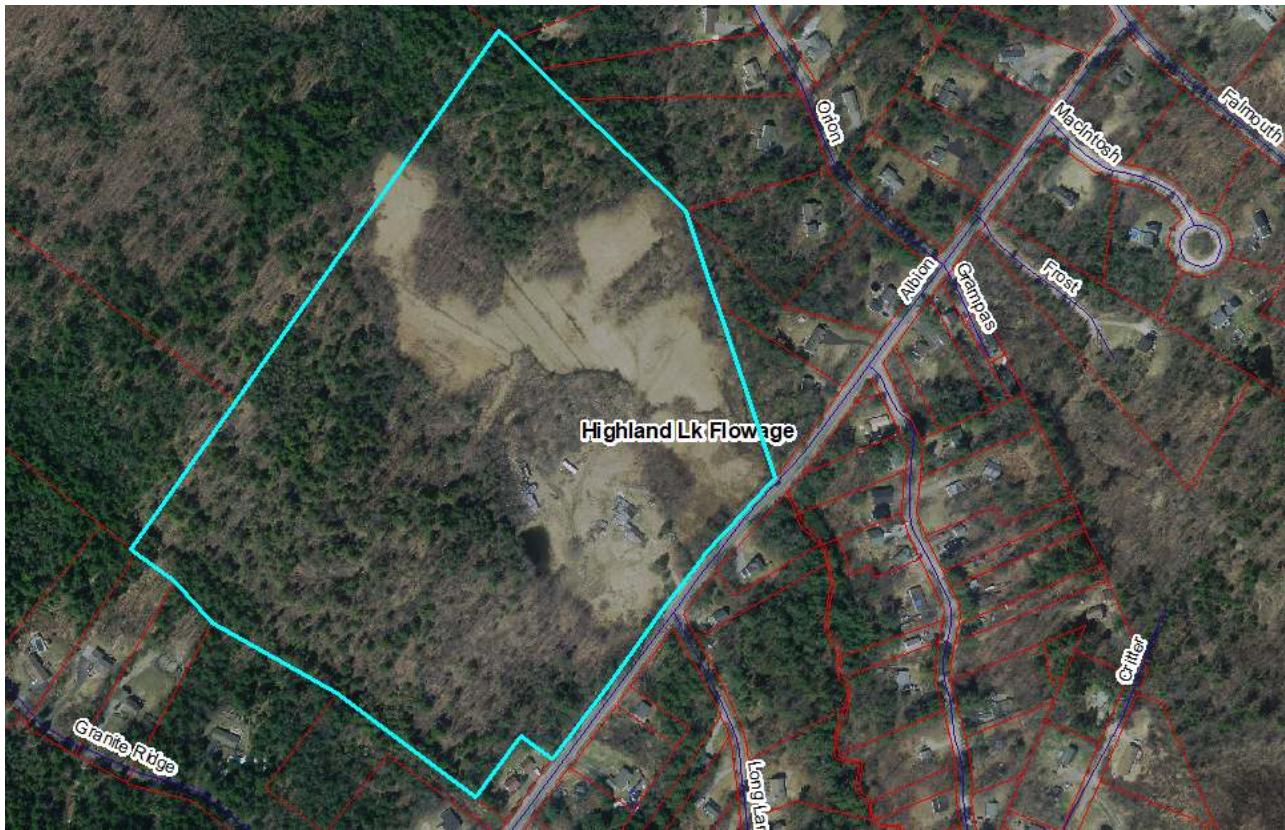
### Overview –

The applicant, Grondin Corporation, is proposing a 22 lot subdivision on a 29.8 acre property located on Albion Road.

This proposal is the first Conservation Subdivision to be proposed under the recently adopted Conservation Subdivision ordinance language. Per §907.a.3.(b), The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. Ordinance procedure requires the applicant use the design process summarized below, which is described in detail at §911.K.3.(a):

- First, the open space shall be delineated. It should include all primary conservation areas and some secondary conservation areas with the highest resource significance. The applicant has not yet delineated secondary conservation areas.
- Then, open space design considerations should include setbacks, the inclusion of the highest value natural resources, the context of the resources in relation to neighboring properties, connectivity, size, and potential boundary markings
- Then, building sites shall be tentatively located, considering all prescribed setbacks, such as 100 feet from primary and 50 feet from secondary conservation areas; 100 feet from existing streets, and 50 feet from the external property perimeter.
- Then, alignment of the streets and creation of a trail system to complement the open space and promote connectivity of the open space and building sites.
- Then, based on the tentative building locations, the lot lines shall be drawn.

Tax Map: 13; Lot 14 (portion). Zoning District: Farm Residential (FR).



Aerial View of the subject parcel relative to surrounding properties and street network.

## SUBDIVISION REVIEW

### Staff Comments:

1. Waivers Requested: *The applicant requested the following waivers of submission requirements. Per §907.A.3.(f) The Board shall act on any requests for waivers from the Preliminary Subdivision Plan submission requirements during Sketch Plan review. Per §908.B.2. The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements.*

**a) §910.C.1.C.1 – High Intensity Soil Survey.**

The applicant states that the soils on the property are all relatively poorly drained with a hydrologic soil rating of C or D and each lot will have a test pit performed by a licensed site evaluator to determine site suitability that will aid in classification of soils. A high intensity soils map would not provide significant additional information.

**b) §910.C.1.C.3 – Hydrogeologic Assessment.**

The applicant states that the proposed lots will be served by public water and there are no existing adjacent properties that they identified that would potentially have a negative impact as a result of installing a septic system on any of the proposed lots.

*Staff recommend that, at a minimum, the applicant be required to show all drinking water wells within 200' of the subject property.*

2. Complete Application: *N/A with Sketch Plan*

**MOTION:** ~~The application for project 20-21 Albion Road Subdivision is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.~~

3. Public Hearing: No public hearing has been scheduled for this project. The Board must determine whether to hold a public hearing on the Preliminary Plan.
4. Site Walk: A site walk must be scheduled for this project. *Staff propose scheduling it in the next couple weeks, so that feedback can be incorporated into the Preliminary Plan.*

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** ~~The Subdivision application for 20-21 Albion Road Subdivision on Tax Map 13, Lot 14, is to be (approved with conditions/denied) with the following findings of fact and conclusions.~~

**FINDINGS OF FACT**

A. POLLUTION

- Zone A Floodplain is mapped in the area of the subject property – northwest of Long Lane. The applicant should show the Special Flood Hazard Area in relation to the subject parcel.
- Maine DEP rules on Significant Wildlife Habitat at Chapter 335 state that: “Significant vernal pool habitat consists of a vernal pool depression and that portion of the critical terrestrial habitat within 250 feet of the spring or fall high water mark of the depression. An activity that takes place in, on, or over a significant vernal pool habitat must meet the standards of this chapter.” The applicant should show the 250’ significant vernal pool habitat setback on the Plan.
- This subdivision is not located over a significant sand and gravel aquifer.
- As the proposed subdivision is in a Direct Watershed of a Lake Most at Risk from New Development (Highland Lake), independent professional review is required. An independent third-party reviewer, a Professional Engineer at Gorrell Palmer, Inc, is performing peer-review of the application in addition to the staff review.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan when the subdivision is not served by public sewer and the subdivision has an average density of more

than one dwelling unit per 100,000 square feet. The applicant has requested a waiver from the hydrogeologic analysis submission requirement.

**B. WATER**

- All lots will be served by public water from a water main extended from the existing water main in Albion Road.
- An Ability to Serve letter from the Portland Water District approving the public water service to the subdivision must be submitted with the Final Plan.
- Deputy Fire Chief John Wescott recommended a new hydrant be placed in the subdivision near proposed lot 16, at about 800'. Existing and proposed hydrants should be shown on the plan. The final plan needs to demonstrate conformance to fire code, Chapter 95 of Windham Land Use Ordinance, specifically at 95.4.1.

**C. SOIL EROSION & SEDIMENTATION CONTROL & STORMWATER MANAGEMENT**

- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
- Chapter 142 Surface Water Protection requires that projects within the Highland Lake watershed incorporate double temporary erosion control measures at the perimeter of the project.
- §907.B.4.c.(4) The project shall be reviewed in compliance with the stormwater standards included in the Maine Department of Environmental Protection Chapter 500 including basic, general, phosphorus, flooding, and other standards
- A Maine DEP stormwater permit needs to be included with the Final Plan submission.
- An Army Corps wetlands alteration permit needs to be included with the Final Plan submission.
- The Sketch Plan notes that the wetlands delineation and vernal pool assessment was performed by Mainely Soils, LLC. The applicant should quantify the impacts that the project will have on the wetlands, and seek a NRPA permit, if necessary. If a NRPA permit is required, it must be submitted with the final plan. The plan shows a driveway crossing the wetland. No building envelopes are shown.
- At the Development Review Team meeting on August 17, 2020, Will Haskell, P.E. of Gorill Palmer, recommend that lot building envelopes be defined to exclude wetlands. Amanda Lessard, Planning Director, added that the building envelopes should exclude the 100' setback required by the Conservation Subdivision ordinance.

**D. TRAFFIC**

- The applicant is proposing a 1,300 foot long roadway with a cul-de-sac at the terminus. The road is to be built to the public standard, and offered to the Town for acceptance.
- One lot is proposed to have a driveway off of Albion Road. The location of the driveway should be shown on the plan.
- The applicant should determine if the Rangeway shown on the sketch plan is abandoned, or state the intended plan for its continuance.

- No right-of-way to the abutting property is shown on the plan.
- §911.M.3.(a) The public street or public street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Where a proposed development abuts unplatte land, or a future development phase of the same development, the Board may require the dedication of a right-of-way equal to the right-of-way width of the internal subdivision street to provide continuation of the road where future development is possible.
- Sight distances should be shown for both directions along Albion Road for both the lot accessing Albion Road directly, and the newly proposed road, on the plan. At the Development Review Team Meeting on August 17, 2020, Police Captain Bill Andrew stated that there was a topographical change and vegetation that may limit sight distances. As needed, maintenance of clearings should be addressed.
- At the Development Team meeting on August 17, 2020, pertaining to the same site, Public Works Director Doug Fortier stated that the project will need a street opening permit to connect to Albion Road, and a water main opening permit.
- Section §911.M.3.d states that streetlights may be required at intersections with existing public streets. At the Development Review Team Meeting on August 17, 2020, Police Captain Bill Andrew stated that a light would be good to have at that location, due to the increase in pedestrian and street traffic. Staff determined there are no street lights near the proposed intersection. The Planning Board should decide if it will be required.
- Town-approved street names shall be shown on the Final Plan.
- §911.K.3.(a) The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision.
- The applicant proposes a 26-foot wide paved surface with 1' gravel shoulders on either side. (10' travel lanes, and 3' paved shoulders). The Minor Local Street Standard requires 20' of paved travel way, with either both shoulders with 2' of pavement and 2' of gravel, or one shoulder that way and another shoulder that is 2' paved with curb and/or 5' minimum esplanade and 5' minimum sidewalk). The applicant should provide a proposed road profile with the Preliminary Plan Submission, and request any necessary waivers from the applicable road standards.
- The Planning Board should determine if the property is within 1,000' to uses that would generate pedestrian trips, to determine if sidewalks are needed. When sidewalks are not required for local streets, §911.M.5.b.6.ii requires that the applicant construct a sidewalk or a street with a widened shoulder.
- The road must include a hammerhead, per §911.M.5.b.(5).(i)(a) There is no maximum length limit for streets served by the Portland Water District that have fire hydrants and hammerhead turnarounds installed every 1,000 linear feet.
- A trail system shall be created within the Open Space to provide access from the subdivision homes to the open space network created by the subdivision, per 911.K.3.(4) (See FOF under H related to Conservation Subdivision Ordinance)

E. SEWERAGE

- The proposed lots will be served private septic systems.
- The Preliminary Plan submission shall include the location and results of test pits performed by a Maine Licensed Site Evaluator or Certified Soil Scientist. At least one test pit per lot.

F. SOLID WASTE

- The applicant should indicate how solid waste will be handled.

G. AESTHETICS

- The subject property is located on a vacated farm. Aerial images indicate that the area proposed to be developed is mostly vegetated with trees. The applicant should show the existing treeline.
- Harriet Thoms, Assessing Administrator, stated that records show that the property had been removed from the Tree Growth program in April, 2020.
- Street trees must be planted at least every 50-feet along the length of the new subdivision street.
- Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- The Final Plan shall include a boundary survey, certified by a Maine Licensed Professional Surveyor.
- The plan should show all parcels in common ownership within the last 5 years.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan meets the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
  - All lots must meet the minimum lot size of 20,000 sf in the FR for Conservation subdivisions connected to public water. The sketch plan incorrectly indicates minimum lot size is 10,000 sf.
  - Front, side and rear setbacks are shown on the Sketch Plan.
  - Net residential density calculations are shown on the Plan.
  - 75' of frontage is required in a conservation subdivision; 50' where entirely on a cul-de-sac
- Subdivision Ordinance
  - 911.K, Conservation Subdivisions:
    - The applicant should develop primary and secondary conservation areas in conformance with 911.K.3.(a)

- Maine DEP Chapter 335: Significant Wildlife Habitat notes that “The 250 feet of critical terrestrial habitat protected as significant vernal pool habitat is only a portion of the habitat used by adult wood frogs, ambystomatid salamanders, and rare, threatened and endangered species. Tracking studies of adult pool-breeding amphibians have shown that they can travel over a third-mile away from their breeding pool, and that the area within 750 feet of the pool is valuable for protecting viable amphibian populations. The department encourages efforts to protect more habitat adjacent to a vernal pool than this rule has authority over.”
- 911.K.3.(a)(2)e The boundaries of Open Spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the Open Space ends and private lot areas begin. These boundaries should be shown on the Preliminary Plan.
- Building envelopes should be shown on the plan that meet the requirements of 911.K.3.(a)(3) and §911.K.3.(a)4.(e).
- Road alignment and design shall meet the requirements at §911.K.3.(a)(4)
- Net residential acreage, 23.87ac (1,069,733 sf.) divided by the net residential density of 40,000 sf = 26.74 (26 lots allowable). The applicant is proposing 22 lots.
- Standard notes and the standard condition of approval must be shown on the plans.
- The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.
- Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, and stormwater infrastructure.
- Utilities shall be installed underground
- Others:
  - Refer to Chapter 221 - Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan.

#### I. FINANCIAL AND TECHNICAL CAPACITY

- Evidence of financial capacity must be provided as part of the Final Plan submission.
- Evidence of technical capacity must be provided as part of the Final Plan submission.

#### J. RIVER, STREAM OR BROOK IMPACTS

- The project is located in the Highland Lake watershed.
- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.

CONCLUSIONS (N/A)

1. The proposed subdivision ~~will/will not~~ result in undue water or air pollution.
2. The proposed subdivision ~~has/does not have~~ sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision ~~will/will not~~ cause an unreasonable burden on an existing water supply.
4. The proposed subdivision ~~will/will not~~ cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision ~~will/will not~~ cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision ~~will/will not~~ provide for adequate sewage waste disposal.
7. The proposed subdivision ~~will/will not~~ cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision ~~will/will not~~ have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision ~~conforms/does not conform~~ with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer ~~has/does not have~~ adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision ~~is/is not~~ situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed subdivision ~~will/will not~~ alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision ~~is/is not~~ situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision ~~have/have not~~ been identified on the plan.
15. Any river, stream, or brook within or abutting the subdivision ~~has/has not~~ been identified on any maps submitted as part of the application.
16. The proposed subdivision ~~will/will not~~ provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480 B, none of the lots created within the subdivision ~~have/do not have~~ a lot depth to shore frontage ratio greater than 5 to 1.
18. The long term cumulative effects of the proposed subdivision ~~will/will not~~ unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision ~~will/will not~~ cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

20. ~~Timber on the parcel being subdivided has/has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.~~

**CONDITIONS OF APPROVAL**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 3, 2020 as amended \_\_\_\_\_, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Land Use Ordinance.