

Town of Windham

Planning Department
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Windham, ME 04062

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October 31, 2018

Shoreland Development, LLC
c/o Bruce Brown
2320 Congress Street
Portland, ME 04102

Dear Mr. Brown:

I am writing to confirm the Planning Board's approval of the application 17-11 Majestic Woods Subdivision Phase 3 for a twenty-two (22) lot cluster subdivision. The property is located at Swett Road and identified on Tax Map: 6, Lot: 63-13 Zone: Farm (F) and Stream Protection (SP).

For your records, the Planning Board voted 4 to 2 to approve the final application at the meeting on October 22, 2018. The motion was made by Andrew Mayo and seconded by Kaitlyn Tuttle.

Enclosed, please find the findings of fact and conclusions and conditions of approval.

Be advised that in accordance with Sections 917.A of the Land Use Ordinance an appeal of any order, relief or denial made by the Board may be taken by any aggrieved party to the Superior Court within thirty (30) days pursuant to Maine Rules of Civil Procedure 80-B.

Section 912.G of the Land Use Ordinance states that no subdivision plan shall be released for recording at the Registry of Deeds until the required performance guarantee has been posted. If an approved plan is not recorded in the Registry of Deeds within three (3) years of the original approval, it shall become null and void. Additionally, Section 914.B.5 specifies that construction of improvements covered by any subdivision plan approval shall be completed within two (2) years of the date upon which the performance guarantee is accepted by the Town Manager.

Sincerely,



Amanda Lessard, Planner

Enclosure: Findings of Fact and Conclusions

Cc: Dustin Roma, P.E., DM Roma Consulting Engineers
Planning File

17-11 Majestic Woods Major Subdivision – Phase III
Findings of Fact & Conclusions

FINDINGS OF FACT

A. POLLUTION

- A portion of this subdivision is within the mapped 100 year floodplain. No disturbance or new buildings are proposed within the 100 year floodplain.
- This subdivision is not located over a significant sand and gravel aquifer.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan as 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.
- A nitrate analysis plan was submitted on March 2, 2018.
- A Nitrate Impact Analysis prepared by Donald McFadden, C.G. of St. Germain Collins was submitted on March 9, 2018. The report concludes that the proposed subsurface wastewater disposal systems will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater outside the subject site boundaries.
- The new residential lots will not result in undue air or water pollution.

B. WATER

- All lots are proposed to be served by private wells for domestic use.
- The closest fire hydrant is located on at the intersection of Pope and Chute Roads. This is about 5,000 feet from the new subdivision street's intersection with Swett Road.
- A condition of approval from the original subdivision approval states that all homes in the subdivision must have sprinkler systems installed that meet NFPA standards. This condition has been included below.
- Well exclusion areas are shown on the preliminary subdivision plan dated February 20, 2018.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated December 18, 2017, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- This project will require a Site Location of Development permit from Maine Department of Environmental Protection (DEP). The permit must be submitted with the Final Plan submission.
- A portion of this project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. This may mean there are additional permitting requirements, and ongoing requirements for reporting of stormwater infrastructure maintenance if the developed area is greater than 1 acre.
- A stormwater management plan, has been submitted as part of the December 18, 2017 Preliminary Plan submission. The project proposes to treat the 2.60 acres of new impervious area with four underdrained filter basins, a bioretention cell, a forested buffer and a roof drip edge on each house.
- The stormwater treatment table is shown on Sheet SWP-2 of the preliminary subdivision plan set. A note should be added to the recording plan that describes the assumed impervious and

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developed area for each lot and the requirement for all new buildings to install a roofline drip edge.

- A note should be added to the plan that stormwater buffers will be permanently marked prior to the start of construction.
- The plan also includes an inspection, maintenance and housekeeping plan. The owners are responsible for the maintenance of all stormwater management structures and related site components until such time that a homeowner's association is created.
- In an email dated January 4, 2018, Town Engineer Jon Earle P.E., agrees that the project meets the MDEP basic and general standard for erosion control and stormwater treatment. Stormwater quantity calculations must be submitted to determine compliance with the Chapter 500 flooding standard. He also noted that the project is outside of the MS4 urbanized area and does not need to comply with the Town's Chapter 140 Post-Construction Stormwater Ordinance for annual inspections, but will require 5 year recertification for stormwater BMPs as part of the Site Location permit.
- The preliminary plan submission dated January 22, 2018 includes a high intensity soils map from Longview Partners, LLC. An updated stormwater management report that reflects the high intensity soil survey mapping was also submitted. Notes were added to the subdivision plan requiring buildings to have roofline drip edge installed, and stormwater buffers be permanently marked.
- In an email dated March 1, 2018, Town Engineer Jon Earle P.E., agrees that the project meets the MDEP basic and general standard for erosion control and stormwater treatment. Stormwater quantity calculations must be submitted to determine compliance with the Chapter 500 flooding standard.
- The applicant responded to peer review comments on March 2, 2018 that stormwater quantity calculations for each of the study points was submitted in the January 22 Response to Comments on page 19 of the document (Page 3 of the stormwater report).
- A Site Location of Development Act Permit #L-27866-L3-A-N was issued by the Maine Department of Environmental Protection on October 19, 2018.

D. TRAFFIC

- The subdivision lots will have frontage on a new 1,930 foot long subdivision street which intersects with Swett Road, which is a gravel surfaced public road. Improvements to Swett Road from the intersection with Chute Road to the vicinity of where the new street is proposed as part of the requirements for the Phase 2 approval of the subdivision.
- The new road will be built to a Minor Local Street standard, as is required in cluster subdivisions.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are not required on the subdivision street.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated December 18, 2017, shown on Sheet 4, 5 and 6, was submitted as part of the Preliminary Plan. The roadway cross section is shown on Sheet 9.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. An existing utility pole is shown on Sheet 3 of the preliminary plan to be relocated at the intersection of the proposed street and Swett Road. The applicant should verify if there is an existing streetlight on this pole, and if not, if one is proposed.

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- In the standards for Sidewalks or Shoulders, Major Local Streets and Minor Local Streets (page 9-61) state that sidewalks are not required if the subdivision is more than 1,000 feet from a “public building.” If the applicant chooses not to build sidewalks on the subdivision street, additional 1 foot paved shoulders are required. Note that if the Planning Board finds that “vehicular trips from the generated by the subdivision will create unsafe pedestrian conditions, sidewalks can be required. A waiver has been requested from this standard.
- Street design standards for dead end streets in Section 911.K.4.g requires a hammerhead turnarounds every 1,000 feet. The preliminary plan dated December 18, 2017 is proposing a dead end street of approximately 1,930 feet to the start of the cul-de-sac without any hammerheads. A written waiver request that address the waiver criteria of Section 908 should be submitted.
- The preliminary plan submission states that the proposed 22 residential lots will generate 22 peak hour trip-ends.
- A traffic impact analysis must be submitted with the Preliminary Plan submission as the subdivision is projected to generate more than 140 vehicle trips per day. The applicant has requested a waiver from this submission requirement.
- There are two large properties which abut the proposed subdivision (Map 6 Lot 60 and Map 6 Lot 63A). Section 911.M.3.a (page 9-51) and Section 911.M.5.b.5.iii (page 9-60) allows the Board to require the dedication of a right-of-way to provide continuation of the road where future development is possible. The Preliminary Plan dated December 18, 2017 shows a right-of-way to the abutting property Lot 63A but it is labeled as private, to be retained by owner. This future right-of-way should also be offered to the Town when the road right-of-way is offered for public acceptance.
- In an email dated January 4, 2018, Town Engineer Jon Earle P.E., states that the waiver from the wider paved shoulder is reasonable and requested that sight distance at the proposed road intersection with Swett Road be shown on the plan.
- The preliminary plan submission dated January 22, 2018 states that the existing utility pole to be relocated does not currently have a street light and one is not proposed due to neighborhood concerns. The only streetlight along Swett Road is located at the intersection with Chute Road. The preliminary plan also shows an intermediate hammerhead at approximate roadway station 9+50.
- The preliminary subdivision plan dated January 22, 2018 shows two (2) trail head public parking spaces and a park mulch area with picnic tables and information kiosk as well as some stormwater infrastructure located within the right-of-way to the abutting property Lot 63A. These elements would need to be redesigned and relocated if a future road was proposed.
- In the February 20, 2018 preliminary plan submission an easement was added around the intermediate hammerhead and the park mulch picnic area and trail-head kiosk were relocated outside of the right-of-way and a note added to the plan that if the roadway is extended within the right of way, the parking spaces will be relocated in front of the recreation area within a widened shoulder on the side of the new roadway.
- In an email dated March 1, 2018, Town Engineer Jon Earle P.E., stated that sight distances at the intersection of the proposed road with Swett Road should be shown on the plan and that the waiver request for a traffic impact analysis seems reasonable based on the amount of traffic anticipated to be generated by the project.

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- At the meeting on March 12, 2018 the Planning Board required that the applicant pave Swett Road from the subdivision road to the Chute Road. A detail for Swett Road paving is not included in the final plan submission.
- In an email dated October 18, 2018 Town Engineer Jon Earle, PE, stated that he met with the applicant's representative and the Public Works Director on site and observed that the reconstruction of Swett Road required as part of the Phase 2 approval is in good condition with some minor rutting and potholes. He recommends that an amount be included with the performance guarantee to cover restoration/repairs to Swett Road during construction.

E. SEWERAGE

- Lots will be served by private subsurface wastewater disposal (septic) systems.
- Soil test pit analysis prepared by Longview Partners, LLC dated January 9, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan.
- A class A high-intensity soil survey prepared by Longview Partners, LLC plan dated January 5, 2018 was included with the January 22, 2018 preliminary plan submission.
- In a letter from Dustin Roma, PE dated February 19, 2018 he comments that the septic system test pits were conducted prior to establishing proposed clearing limits for each individual lot, so the specific location of each test pit does not fall within the proposed development area for some lots. For each of the lots where the test pit locations are within the tree save areas or in the filter basin, there are similar soils throughout the lot where a leach field could be located based on the Class A High Intensity Soil Survey.
- The Nitrate Analysis Plan dated March 2, 2018 shows the location of the proposed disposal field on each lot.

F. SOLID WASTE

- Private residences in this subdivision will participate in the Town trash bag program.
- Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste

G. AESTHETICS

- The site is predominately wooded with some forested wetland areas shown on the plan.
- Vernal pool survey information should be included in the Preliminary Plan submission. The large wetland in the center of Lot 13 was identified from aerial images as a Potential Vernal Pool by Stantec in 2008. The Town does not have regulations pertaining to vernal pools, but any vernal pools that are deemed "significant" are regulated as significant wildlife habitat by the Department of Environmental Protection.
- The mapped vernal pools are shown on the January 22, 2018 preliminary plan. The submission states that during the vernal pool investigation, all of the pools indicated within the development were classified as "non-significant" by the consultant, and forms have been sent to the Maine Department of Inland Fisheries and Wildlife for concurrence. This documentation should be submitted with the final plan.

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- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- A landscape plan is required for the preliminary plan submission. Street trees are required at least every fifty (50) feet.
- The preliminary plan shows a tree line on the plan.
- The January 2, 2018 includes Note 11 that restricts clearing for five years after planning board approval beyond the tree line shown and Note 10 that streets trees shall be planted or preserved at an interval no less than one tree every 50 feet.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
 - All lots fall within the minimum and maximum lot sizes of 30,000-50,000 square feet (one lot 60,000 sf max) for cluster lots in the F zoning district.
 - Lots must meet the lot frontage requirements for the F zoning district, which for cluster subdivision lots is 100 feet, or 50 feet when on a cul-de-sac.
 - Net residential density calculations are shown on the January 22, 2018 Preliminary Plan and show the net density of both the net density of the original subdivision (40 lots) as well as for Lot 13. In the submission dated February 19, 2018 the applicant notes that the net residential density shown on the original 2004 approved plan used the incorrect net residential density factor (80,000 square feet instead of the correct 60,000 square feet).
- Subdivision Ordinance
 - 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.
 - No more than 30% of the lots have direct vehicular access onto an existing public road.
 - The open space reserved does not provide 50% of the land suitable for development. The applicant proposed 42.7% of the land suitable for development is located in the open space and has submitted a waiver request. Public parking, a picnic area and trail-head informational kiosk are proposed as amenities for the public use of the open space.
 - This phase of the subdivision is utilizing the 20% density bonus to gain four (4) additional lots. In order to be eligible, the open space must be open for general public use, not just homeowners within the subdivision. Access easement for the open space must be recorded in the registry prior to the issuance of building permits. See suggested condition of approval #3. In the submission dated February 19, 2018 the application notes that when the 14 lots previously approved are combined with the proposed 22 lots it total 36 lots, which is less than what is permitted on the total parcel.
 - A Draft Declaration of Restrictions was included with the Final Plan submission and specifies the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space and stormwater infrastructure.

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- Others:
 - Chapter 221 Street Naming and Addressing: The Assessing Department has approved the street name, Revolution Drive. The name must be shown on the Final Plan

I. FINANCIAL AND TECHNICAL CAPACITY

- An estimate of the project construction costs was included in the December 18, 2017 preliminary plan submission.
- A letter dated February 14, 2018 from Aaron Cannan, Senior Vice President at Katahdin Trust Company was submitted as evidence of financial capacity.
- The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity

J. RIVER, STREAM OR BROOK IMPACTS

- Colley Wright Brook and its associated Stream Protection District are shown on the plan and are entirely located within the proposed open space.
- This project will not adversely impact any river, stream, or brook.

CONCLUSIONS

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **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 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** provide for adequate sewage waste disposal.
7. The proposed subdivision **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision **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** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **is** 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 not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision **is** situated entirely or partially within a floodplain.

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14. All freshwater wetlands within the proposed subdivision **have** been identified on the plan.
15. Any river, stream, or brook within or abutting the subdivision **has** been identified on any maps submitted as part of the application.
16. The proposed subdivision **will** 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** a lot depth to shore frontage ratio greater than 5 to 1. (N/A)~~
18. The long-term cumulative effects of the proposed subdivision **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. (N/A)~~
20. Timber on the parcel being subdivided **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 April 3, 2017, as amended October 19, 2018, 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 Subdivision Ordinance.
2. All new homes in the subdivision shall have residential sprinkler systems that meet NFPA standards.
3. An access easement for public use of the open space must be recorded in the Cumberland County Registry of Deeds prior to the issuance of building permits.
4. No building permits shall be issued for lots in Phase III until the Majestic Woods Phase II improvements have been completed.