

# Town of Windham

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## MEMO

DATE: July 20, 2017

TO: Windham Planning Board  
FROM: Amanda Lessard, Planner *AL*  
Cc: Ben Smith, Planning Director  
Dustin Roma, PE, DM Roma Consulting Engineers  
Development Review Team  
  
RE: 17-08 Moose Landing North Recreation Vehicle Lot – Major Site Plan and Major  
Subdivision, Sketch Plan  
Planning Board Meeting: July 24, 2017

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### Overview –

The applicant is proposing to divide a 10 acre property located on Roosevelt Trail into four (4) commercial lots. Access to the proposed lots will be provided by a proposed extension to Danielle Drive, a public street. This undeveloped property is located behind Tractor Supply. The Tractor Supply property is shown on the plan as it was split from the original parcel on September 11, 2013.

The applicant submitted this subdivision application in addition to the application material for the site plan application to expand the existing recreation vehicle and trailer sales and service operation at Lee's Family Trailer to Lot 5 that is identified on the subdivision plan. This use, "Retail Sales, Automobile Sales," is not an allowed use in the Commercial 3 Zoning District. As a result, this application will require a separate approval through the Zoning Board of Appeals (expansion of a non-conforming use) in addition to Site Plan approval through the Planning Board.

The trailer sales and service use on the existing Lee's Family Trailer lot was approved by the ZBA in 1984 as a special exception in the Commercial Zone. Planning Board approval was granted in 1993 for the 50 foot by 80 foot building, and the Code file also includes building permits in 1999 for a 50 foot by 93 foot building and in 2001 for a 50 foot by 20 foot lean-to addition to an existing building.

The Planning Board reviewed the sketch site plan application at a meeting on March 27, 2017. Except for the stormwater management plan, no additional information related to the site plan application has been submitted. Since that meeting the applicant has obtained ZBA approval to

expand the non-conforming use. A copy of the ZBA findings must be submitted as part of the site plan application. As the expansion of the non-conforming use must occur on the same parcel as the existing use, the land area shown as Lot 5 on the subdivision plan must be combined with Tax Map 15 Lot 1A. This transfer to the abutter would exempt the lot from subdivision review.

For now, this application will be reviewed under the Town's Subdivision Review and Site Plan Review ordinances. Each section will be listed separately below, though references from the Site Plan review section to the Subdivision Review section will be made for overlapping review criteria. A future submission may necessitate separating the review of the site plan and subdivision applications.

New comments related to the subdivision application have been added to the site plan review comments from the staff memo dated March 23, 2017

Tax Map: 15; Lots: 1A and 2. Zone: Commercial 3 (C-3).

### SITE PLAN REVIEW

#### Staff Comments:

1. Waivers: The Planning Board cannot act on waivers or potential waiver requests at the Sketch review phase. It is appropriate to discuss potential waiver requests to give the applicant guidance.
  - a) §910.C.1.c.1 – High Intensity Soils Survey, Submission requirement.  
*Based on the information shown on the medium intensity soils map and the preliminary septic system investigations, this submission requirement could reasonably be waived.*
  - b) §911.C.1.c.2 – Landscape Plan. Submission requirement  
*The submission requirement is for a plan that shows the location and list of plant species and their size at maturity. Street trees are required every 50 feet by Section 911.*
  - c) §910.C.1.c.3 – Hydrogeologic Assessment. Submission requirement.  
*The hydrogeologic assessment is to determine if the nitrate plume at the property line generated from the project's wastewater will exceed the drinking water standard. No septic systems are proposed at this time.*
2. Complete Application: *Not applicable at Sketch Plan review stage.*

~~**MOTION:** The application for project 17-08 Moose Landing North Recreation Vehicle Lot and Commercial 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. A public hearing has not been scheduled for this project. At the meeting on March 27, 2017 the Board voted to schedule a hearing when a final site plan was submitted.

4. Site Walk: A site walk has been scheduled for Monday July 24, 2017 at 6:00pm.

Findings of Fact and conclusions for the

**Windham Planning Board,**

~~The Subdivision and Site Plan application for 17-08 Moose Landing North Recreation Vehicle Lot and Commercial Subdivisions on Tax Map: 15, Lots: 1A and 2 is to be (approved with conditions/denied) with the following findings of fact and conclusions:~~

SUBDIVISION REVIEW  
FINDINGS OF FACT

A. POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- This subdivision is not located over a significant sand and gravel aquifer.
- The new lots will not result in undue air or water pollution.

B. WATER

- A 12-inch water main runs past this subdivision along Anglers Road.
- All lots are proposed to be served by public water. An 8-inch main is proposed to be extended down the proposed subdivision road.
- A written statement from the Portland Water District indicating that there is adequate water supply and pressure for the subdivision must be submitted with the Final Plan.
- The closest fire hydrant is located on Anglers Road. The hydrant location should be shown on the plan.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated July 3, 2017, has been submitted. Notes and details are shown on Drawing D-1.
- A stormwater management plan was submitted with the July 3, 2017 submission.
- A DEP Stormwater permit is required for this project, a copy of which must accompany the Final Plan submission.
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance. See Condition of Approval 2.

D. TRAFFIC

- All lots will have frontage on the proposed extension of Danielle Drive.
- The extension of Danielle Drive must meet the Industrial/Commercial Street standard.
- The subdivision plans shows a right-of-way extending to the abutting undeveloped property.
- The July 3, 2017 submission estimates that four industrial uses would generate approximately 136 average daily trips consisting of 14 AM peak our trips and 14 PM peak hour trips.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated July 3, 2017, is shown on Sheet 6.
- A five (5) foot wide sidewalk is proposed on one side of the subdivision road.

E. SEWERAGE

- The proposed lots will be served private septic systems.
- Soil test pit analysis prepared by Scott McLaren of Sustainable Soils dated June 19, 2017 show that the property has adequate soils to support private septic systems. Test pit locations are shown on the subdivision plan.

F. SOLID WASTE

- Commercial Uses are responsible for the private collection and disposal of solid waste. Further review of solid waste disposal will occur with the individual lot development's site plan review.

G. AESTHETICS

- The site is mostly undeveloped and relatively open with scrubby and brushy cover. The property generally slopes up away from Route 302 to a high point at the back of the property.
- Environmental Screening Reports were included as Attachment F of the July 3, 2017 submission.
- There are no documented rare botanical features for significant wildlife habitat documented on the site.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
  - 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.
- Digital transfer of the subdivision plan data must be submitted with the Final Plan submission for inclusion with the Town's GIS.
- Each of the lots exceeds the 20,000 square foot minimum lot size for a non-residential use in the C-3 District. The lots also meet or exceed the minimum lot width of 100 feet.
- The net residential density should be shown on the plan.
- The lots do not meet the minimum lot size for residential dwellings or mixed use, so those uses would not be allowed on these lots.

- Subdivision Ordinance
  - None.

- Others:

#### I. FINANCIAL AND TECHNICAL CAPACITY

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

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

- This 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 July 3, 2017, 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 Subdivision Ordinance.

2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.

## SITE PLAN REVIEW

### FINDINGS OF FACT

#### **Utilization of the Site**

- The site is mostly undeveloped and relatively open with scrubby and brushy cover. The property generally slopes up away from Route 302 to a high point at the back of the property.
- This property is U-shaped with two areas of frontage on Route 302, wrapping around the Tractor Supply retail store. The entrance for Tractor Supply is located on one of these areas.

#### **Vehicular and Pedestrian Traffic**

- The applicant is proposing vehicular connections to the existing Lee's Family Trailer lot and a 30-foot wide gated access connecting to the existing Danielle Drive cul-de-sac that abuts the property's western boundary.
- Jon Earle, PE, Town Engineer, provided comments in an email dated March 13, 2017. Mr. Earle suggests that consideration be given to the idea that the 30-foot wide connection to Danielle Drive be widened to a 50-foot right-of-way for future street network connectivity. Danielle Drive is a public street.
- Staff suggests a connection from the Danielle Drive cul-de-sac area to the Tractor Supply entrance as part of this project. This entrance was built to the public street standard within an easement area that extends to Danielle Drive.
- The Final Plan submission should designate sales areas, drive aisles and any new customer or staff parking areas to demonstrate internal vehicular circulation patterns.

#### **Sewage Disposal and Groundwater Impacts**

- No new subsurface wastewater disposal systems are proposed as part of this application.

#### **Stormwater Management**

- A stormwater management plan is required as part of the Final Site Plan submission.

- This project will require Maine DEP permitting.
- Mr. Earle states in his email comments from March 13, that this project is inside Windham's MS4 urbanized area and will need to meet Chapter 144 – Post Construction Stormwater Ordinance requirements for construction phase inspections.

### **Erosion Control**

- A soil erosion and sediment control plan must be submitted as part of the Final Plan submission. This plan may take the form of a printed best management practices plan rather than on-the-ground designation of erosion control measures.

### **Utilities**

- No utility extensions are proposed as part of this amendment.

### **Financial Capacity**

- As part of the Final Plan submission, the applicant must estimate the total project costs and submit proof of financial capacity to complete the project as presented.

### **Landscape Plan**

- A landscaping plan must be submitted as part of the Final Plan submission.

### **Conformity with Local Plans and Ordinances**

1. Land Use
  - This project meets the setback requirements of the C-3 zoning district.
  - This project meets the minimum lot size requirements and minimum lot frontage requirements (minimum 100 feet) of the C-3 zoning district.
  - This project meets curb cut requirements of the C-3 zoning district (one per lot).
2. Comprehensive Plan
  - This project meets the goals and objectives of the 2003 Comprehensive Plan.
3. Others:
  - Design Standards, Section 813. The Final Plan submission must include a narrative on how this project addresses the design standards of the C-3 zoning district. As no structures are proposed as part of this project, many of these standards will not be applicable.

### **Impacts to Adjacent/Neighboring Properties**



- Any parking lot or security lighting must be shown on the Final Plan. The Planning Board may request a photometric plan for lighting that may impact abutting properties over the standard of 0.5 footcandles at the property line, as indicated in Section 812. R.

## CONCLUSIONS

1. ~~The plan for development reflects/does not reflect the natural capacities of the site to support development.~~
2. ~~Buildings, lots, and support facilities will/will not be clustered in those portions of the site that have the most suitable conditions for development.~~
3. ~~Environmentally sensitive areas, including but not limited to, wetlands; steep slopes; flood plains; significant wildlife habitats, fisheries, and scenic areas; habitat for rare and endangered plants and animals; unique natural communities and natural areas; and, sand and gravel aquifers will/will not be maintained and protected to the maximum extent.~~
4. ~~The proposed site plan has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.~~
5. ~~The proposed site plan 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.~~
6. ~~The proposed use and layout will/will not be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.~~
7. ~~The proposed site plan will/will not provide for adequate sewage waste disposal.~~
8. ~~The proposed site plan conforms/does not conform to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.~~
9. ~~The developer has/does not have adequate financial capacity to meet the standards of this section.~~
10. ~~The proposed site plan will/will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.~~
11. ~~The proposed site plan will/will not provide for adequate storm water management.~~
12. ~~The proposed location and height of buildings or structure walls and fences, parking, loading and landscaping shall be such that it will/will not interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.~~
13. ~~On-site landscaping does/does not provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate~~

## CONDITIONS OF APPROVAL

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated March 6, 2017, as amended\_\_\_\_, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Staff Review Committee, 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 814.G. of the Land Use Ordinance.