

Town of Windham

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MEMO

DATE: June 7, 2018

TO: Windham Planning Board
FROM: Amanda Lessard, Planner *AL*
Cc: Dustin Roma, P.E., DM Roma Consulting Engineers
Development Review Team

RE: 18-14– Sabatus Lane Subdivision– Amended Subdivision Plan
Planning Board Meeting: June 11, 2018

Overview –

The Sabatus Lane Subdivision, a 17-lot cluster subdivision on a 28 acre property located on Sabatus Lane and River Road, was approved by the Planning Board on March 12, 2018.

This application amends the plan by revising the tree clearing limits on Lots 3, 9, 12, 13, and 14. The new location allows for larger building envelopes while continuing treatment of stormwater through the use of buffers of more than 75% of the impervious and developed areas (as required by the waiver previously granted). To accommodate the expanded lot clearing limits Stormwater Buffer and Level Spreader 2 will be lengthened and an additional level spreader is proposed. The amended plan also show a clearing of 105,330 square feet in the Open Space where a recreational field will be built.

This project was last before the Board on May 30, 2018 where the application was proposing revising the clearing limits to Lots 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14 and 15. Robie Contracting Inc is the owner of Lots 1, 4, 5, 8, 10, 11, and 15 and has submitted a separate amendment application. At the meeting the Board had questions about access to the recreational field for maintenance and emergency response and questioned the amount of material that had been excavated and if any additional DEP permits are required for the increased developed areas and wetland crossing. Since that meeting the applicant has revised the plan to represent an 8 foot wide access trail that would connect the Open Space field to Dundee Park and narrative that quantifies that the additional disturbed area does not require any additional State permits and that no excavated materials are transported offsite.

The subdivision ordinance states that revisions to approved subdivision plans that do not involve the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed (§913.B.2, page 9-78).

As with all applications for amendments, the Planning Board should limit the scope of the review to the criteria impacted by the proposed amendment.

New comments from the staff memo dated May 29, 2018, appear as underlined text below.

Tax Map: 11, Lot: 12, Zone: Farm (F).

SUBDIVISION REVIEW

Staff Comments:

1. Waivers:

- a) §910.C.1.c.1 – High Intensity Soils Survey, Submission requirement.
Approved February 12, 2018
- b) §910.C.1.c.3 – Hydrogeologic Assessment, Submission requirement.
Approved February 12, 2018
- c) §910.C.1.c.5 – Traffic Impact Analysis, Submission requirement.
Approved February 12, 2018
- d) §911.K.4.b.2 – Cluster subdivision, open space requirement performance standard.
Approved February 12, 2018
- e) §911.J.6 – Stormwater Flooding. Performance standard
Approved February 12, 2018

2. Complete Application: *N/A for Amended Subdivision. Section 913 requires that the application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of Section 900 and the criteria of the State statute.*

~~MOTION:~~ ~~The Final Plan application for project 18-14 — Sabatus Lane Amended 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: A public hearing was held at the Planning Board meeting on February 12, 2018.
- 4. Site Walk: A site walk was held on Saturday February 10, 2018 at 7:30am. A site walk is scheduled for Monday June 11, 2018 at 6:00 pm.
- 5. Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: The Subdivision final plan application for 18-14 Sabatus Lane Amended Subdivision on Tax Map: 11, Lot: 12 is to be (**approved with conditions/denied**) with the following findings of fact and conclusions.

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.
- 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. The applicant has requested a waiver from this submission requirement.

B. WATER

- The fifteen (15) lots on Sabatus Lane will be served by public water for domestic use.
- A written statement from the Portland Water District indicating that there is adequate water supply to service the subdivision must be submitted with the Preliminary Plan. An Ability to Serve letter from the Portland Water District must be submitted with Final Plan.
- An email dated February 2, 2018 from Robert Bartels, PE, of the Portland Water District states that it is possible to connect to the existing 8 inch water main in Sabatus Lane to serve the proposed subdivision.
- An Ability to Serve letter from the Portland Water District dated February 22, 2018 was submitted with Final Plan.
- Two (2) lots on River Road will be served by private wells. In accordance with cluster subdivision standards in Section 911.K3.b the applicant must demonstrate on the plan that it is possible to locate a subsurface wastewater disposal field and a well on each lot. When determined that it is necessary for specific lots, by the Planning Board, as a Condition of Approval, the location of these elements shall be elements of the subdivision plan, and any future changes to the location of these elements will require an amended subdivision review.
- Well exclusion areas for Lots 16 and 17 are shown on the subdivision plan revised February 1, 2017. Note 16 states that the private wells shall be located no more than 90 feet from the River Road right-of-way boundary.
- Existing fire hydrants are located on Cedar Lane east of Reba Lane and on River Road at the intersection of Presumpscot Road. Proposed hydrants should be shown on the plan. A new hydrant is proposed on the extension of Sabatus Lane at the lot line between Lot 3 and Lot 4 and is shown on Sheet PP-1 of the preliminary plan set.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated January 25, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- This project may require a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit. The applicant must submit a stormwater management plan that meets the water quality and quantity standards as well as the flooding standard of Section 3 DEP Chapter 500 Stormwater Management.
- 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 if the area of development is greater than one (1) acre. See Condition of Approval #2.
- A stormwater management plan has been submitted as part of the January 25, 2018 Preliminary Plan submission. The project proposes to treat the 220,550 square feet (6.09 acres) of new developed area with two stone berm level spreaders discharging to a forested buffer, a buffer on Lot 6 and roof drip edges on each building.
- The stormwater management plan states that a DEP permit is not required as the applicant will construct the roadway without developing the lots and the roadway will generate less than 1 acre of new impervious surface and less than 5 acres of total development.
- Note 12 on the plan states that all buildings will require the installation of a roofline drip edge and Note 13 states that stormwater buffers must be temporary marked prior to site disturbance and permanently marked after the lot is developed.
- In an email dated February 2, 2018, Town Engineer Jon Earle P.E., confirmed that the project meets the Chapter 500 standards for water quality and noted that the applicant is requesting a waiver from the stormwater flooding standard, as more than 75% of the impervious and developed areas are treated through the use of wooded buffers, but a calculation showing the percentage of treatment by buffers was not provided.
- The applicant responded to peer review comments on February 9, 2018 and provided stormwater buffer calculations.
- In an email dated February 12, 2018, Town Engineer Jon Earle P.E., stated that his comment was addressed.
- A copy of the DEP Stormwater Permit by Rule submitted on February 19, 2018 was included with the final plan submission.
- In an email dated March 1, 2018, Town Engineer Jon Earle P.E., commented that the DEP permit is approved in 14 days following submission if the Department has no comments on the application.
- The amended subdivision plans prepared by DM Roma Consulting Engineers dated May 21, 2018 show revised tree lines on Lots 1, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14 and 15. A revised stormwater treatment table is shown on Sheet STP-1. Expanded Level Spreaders are shown on Sheets PP-1 and PP-2.
- In an email dated May 23, 2018, Town Engineer Jon Earle PE requested clarification on the soils mapping, accounting for treatment of the additional impervious area from the gravel roadway access to the recreational field, and the slight decrease in the total impervious area.

- In an email dated May 29, 2018 Dustin Roma, PE responded the soils are consistent with the medium intensity soil survey, the access to the recreational field will be allowed to revegetate and a trail will ultimately provide access to Dundee Park, the assumptions for impervious surface on each lot were reduced based on repositioning buildings to make room for each leach field.
- In an email dated May 29, 2018 Town Engineer Jon Earle, PE recommends a note on the plan stating that gravel material used as the road based will be removed prior to the completion of the project.
- In an email dated May 30, 2018 Dustin Roma, PE agreed to a Condition of Approval that the temporary construction road that connects the open space to Sabatus Lane through Lot 3 shall have the gravel surface removed and shall be replanted with native vegetation.
- The amended subdivision plans prepared by DM Roma Consulting Engineers dated June 6, 2018 show revised tree lines on Lots 3, 9, 12, 13, and 14 and an 8 foot wide gravel trail from Dundee Park to the Open Space field area.
- The response to comments dated June 6, 2018 from Dustin Roma, PE states that the additional developed area including the recreation field and trail access creates a total developed area of 4.3 acres, which is below the 5 acres that would require a Maine DEP Stormwater Permit. The wetland impacts associated with the temporary haul road and permanent trail construction are shown on the plans to be approximately 3,170 square feet, which is below the 4,300 square foot threshold that would require a Tier-1 Natural Resources Protection Act Permit.

D. TRAFFIC

- Most of the subdivision lots will have access from the new 800 foot subdivision street, an extension of Sabatus Lane, a paved public street. Section 911.K.3.f requires cluster subdivision roads to be built to the Minor Local Street standard.
- Two of the lots will have access on River Road, a paved public street. A shared driveway is proposed. Sight distance for the shared driveway should be shown for both directions along River Road on the Preliminary Plan.
- At the Development Team meeting on December 28, 2017, Public Works Director Doug Fortier stated that the proposed entrance on River Road is located within the urban compact area and will require an entrance permit from MaineDOT. The MDOT Entrance Permit issued February 27, 2018 was submitted with the final plan.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are not required. When sidewalks are not required for local streets, Section 911.M.5.b.6.ii requires that the applicant construct a sidewalk or a street with a widened shoulder. One (1) additional foot of paved shoulder, on each side of the street, shall be added to the required minimum shoulder width.
- The January 25, 2018 preliminary plan submission states that the based on the ITE Trip Generation Manual the proposed 17 residential lots are expected to generate 17 peak hour trip-ends. The February 1, 2018 submission states that the project will generate 170 daily vehicle trips (150 daily trips on Sabatus Lane and 20 daily trips on River Road).
- A traffic impact analysis is required for subdivisions projected to generate more than 140 vehicle trips per day. The applicant has requested a waiver from the submission

requirement based on the opinion that there would be no off-site improvements required as a result of a study.

- A road plan and profile, prepared by DM Roma Consulting Engineers, dated January 25, 2018, shown on Sheet PP-1, was submitted as part of the Preliminary Plan.
- The road plan and profile (Sheet PP-1) and details (Sheet D-1) dated January 25, 2018 propose constructing the road with an 18 foot wide paved (2" surface pavement) travel way with 2 foot gravel shoulders. One additional foot of paved should is required. The applicant should revise the cross section detail or submit a waiver request.
- In an email dated February 2, 2018, Town Engineer Jon Earle P.E., commented that the waiver request from the submission of a traffic impact analysis is reasonable.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis prepared by Mark J. Hampton, LSE CSS of Mark Hampton Associates, Inc dated January 3, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan.

F. SOLID WASTE

- Residents of the single family dwellings will participate in the Town's pay-per-bag garbage 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 portion of the lot with frontage on River Road is a field while the remainder of the side is wooded.
- The property abuts the Town's Dundee Park.
- There are no documented rare botanical features or significant wildlife habitat documented on the site. The final plan submission includes an activity authorization letter from Maine Department of Inland Fisheries and Wildlife regarding proposed impacts to a mapped Deer Wintering Area.
- Street trees are shown on the Plan and Profile Sheets PP-1 and PP-2 of the preliminary plan set and Note 14 on the plan states that street trees shall be planted or preserved at an interval no less than one tree every 50 feet of roadway, and in accordance with Section 911.E.1.b of the Land Use Ordinance.
- Limits of tree clearing are shown on the preliminary plan. Note 15 on the plan states 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.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinance:
 - 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.
 - Net residential density calculations are shown on the Plan.
 - No more than 30% of the lots have direct vehicular access onto an existing public road.
 - The total area of reserved open space equals or exceeds 50% of the gross land area of the property to be subdivided.
 - At least 50% of the land suitable for development shall be included in the common open space. The sketch plan shows ~39.75% of the net area provided in the common open space. The applicant is requesting a waiver from this standard. In a memo dated February 6, 2018, Parks & Recreation Director Linda Brooks commented that the amount of non-wetland areas in the open space would still allow for passive recreational activities as well as possible trail development.
- Subdivision Ordinance
 - A landscaping plan must be submitted with the Preliminary Plan.
 - Standard notes and the standard condition of approval are shown on the plans.
 - The subdivision is utilizing the 20% density bonus to gain an additional lot. 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. The final plan should note which portion of the open space may be dedicated for acceptance by the Town and a written offer of cessation must be submitted with the Final Plan. The final plan submission included an offer of cessation dated March 8, 2018. See Condition of Approval #3.
 - The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan dated March 8, 2018.
 - Subdivision plan data compatible with the Town GIS were submitted as part of the Final Plan submission.
 - Draft homeowner association documents were included 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, open space and stormwater infrastructure.
- Others:
 - Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.
 - On April 24, 2018 the Town adopted a Moratorium Ordinance on Mineral Extraction. At a meeting with Planning and Code Enforcement staff on June 4, 2018 the applicant demonstrated that the existing material excavated and stockpiled on site would be used for the construction of the roadway, septic systems and the recreation field. No material is proposed to be taken off site.

I. FINANCIAL AND TECHNICAL CAPACITY

- A letter dated January 22, 2018 from Roger C. Levesque, Executive Vice President at Gorham Savings Bank 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

- The 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/does not conform** 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 not** situated entirely or partially within a floodplain.
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 December 18, 2017, as amended June 6, 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. 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.
3. A deed transferring ownership of the open space to the Town of Windham or 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. The temporary construction road that connects the open space to Sabatus Lane through Lot 3 shall have the gravel surface removed and shall be replanted with native tree species.