

# Town of Windham

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## MEMO

DATE: September 19, 2018

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

RE: 18-18 River Road Condos – Minor Subdivision, Final Plan  
Planning Board Meeting: September 24, 2018

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### Overview –

The applicant is proposing a 4 unit/2 duplex condominium development on a 5.98 acre undeveloped property on River Road. The property is located in South Windham, between Route 202 and Gambo Road. The front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR. The development is proposed within the RM zone and utilizing Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.

This project last appeared as a final plan at the Board meeting on August 13, 2018. Since that meeting the applicant has submitted draft condominium declaration, and a title opinion following questions about access easements on the property.

New comments from the staff memo dated August 8, 2018 appear as underlined text below.

Tax Map 5; Lot 1-1, Zone: Medium Density Residential (RM) and Farm Residential (FR).

### SUBDIVISION REVIEW

#### Staff Comments:

1. Waivers: None
2. Complete Application: *Regarding the application checklist, Staff notes the following outstanding items: A proposed street name must be shown on the plan.*

**MOTION:** The Minor Subdivision final plan application for project 18-18 River Road Condos 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 August 13, 2018 Planning Board meeting.
4. Site Walk: At the July 9, 2018 meeting the Board determined that a site walk was not necessary for this project

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** The Minor Subdivision application for 18-18 River Road Condos on Tax Map: 5, Lot: 1-1 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.

B. WATER

- All dwelling units will be served by public water from an existing main in River Road.
- The closed existing fire hydrant is located on River Road just to the north of the proposed subdivision across from the intersection with Jones Hill Road. Existing hydrant locations are less than 1,000 feet from the development.
- An Ability to Serve letter dated September 7, 2018 from Robert Bartels, PE, of the Portland Water District approves a new 2-inch service from the water main in River Road.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated July 23, 2018, has been submitted as part of the Final Plan. Notes and details are shown on Drawing D-1.
- 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 July 23, 2018 Final Plan submission. The proposed development will create approximately 15,950 square feet (0.37 acres) of new impervious area and 44,320 square feet (1.02 acres) of proposed lawn and landscaped area. The project proposes to treat the 60,270 square feet (1.38 acres) of new developed area with two (2) underdrained filter basins and a meadow buffer. The plan notes a small increase in peak flow rates at Study Point 2 during the 2-year storm but does not anticipate any increase in flooding or downstream erosion as a result of the 0.05 cfs increase. The applicant will be responsible for the maintenance of the stormwater facilities until a homeowners' association is created. Note 12 on the plan states that the meadow stormwater buffer must not be mowed more than twice a year.
- This project requires Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit by Rule. A note should be added to the plan that a Maine DEP Stormwater Permit by Rule is required prior to the start of construction.
- In an email dated July 30, 2018, Town Engineer Jon Earle P.E., noted that minor subdivisions do not require water quality calculations and a waiver for the increased peak flow is not necessary as the impact does not have a significant impact on the abutter or for erosion at this location.

D. TRAFFIC

- Per Section 911.M.5.a.6 (pg 9-58) access drive standards for condominium subdivisions shall meet the major private road standard (right-of-way width is not applicable).
- The sketch plan application states that driveway access will be built to the Minor Local Street Standard and is requesting a waiver from the requirement to build a cul-de-sac. A waiver is not required as this is an access drive, not a road, and is not subject to Section 550.C, which states that no new private road shall be permitted to directly access a public street.
- The site is accessed off of River Road, a paved public street. Sight distance for the new subdivision street should be shown for both directions along River Road on the Final Plan.
- In an email dated June 29, 2018, Town Engineer Jon Earle, PE stated that the proposed entrance is located inside of the urban compact line and the Town will issue an entrance permit. He also noted that that this section of River Road was paved in 2014 so the 5-yr moratorium on road openings will expire in 2019.
- The July 23, 2018 final plan submission states that the based on the ITE Trip Generation Manual the proposed 4 residential dwelling units are expected to generate 3 peak hour trip-ends and 25 daily vehicle trips.
- The July 23, 2018 final plan submission states that the sight distance at the proposed roadway intersection looking right is generally unrestricted to the signalized intersection with Gray Road, and looking left is approximately 620 feet to the top of a roadway crest just beyond the crosswalk for the funeral home.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated July 23, 2018, shown on Sheet GU-1, was submitted as part of the Preliminary Plan. The road cross section is shown on Sheet D-1.
- In an email dated July 30, 2018, Town Engineer Jon Earle, PE questioned how thick the base gravel will be below the proposed loam & seed top surface for the secondary shoulder,

and requested that sight distance described in the narrative should be shown on the plan and that a River Road pavement restoration detail meeting the Town's standards as River Road is under moratorium until 2019.

- In an email dated September 13, 2018, Town Engineer Jon Earle, PE stated that the September 4, 2018 submission did not address his previous comments.

E. SEWERAGE

- The development will be served by one common private subsurface wastewater disposal systems.
- A subsurface wastewater disposal system design prepared by Alexander A. Finamore, LSE dated July 1, 2018 show that a private septic system can be supported on site. The test pit location is shown on Sheet GU-1 of the final plan set.

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 approximately 6 acre property is a field and the majority is relatively flat, sloping towards the abutting Central Maine Power transmission lines.
- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- Street trees are required at least every fifty (50) feet (§ 911.E.1.b). No street trees are shown on the final plan dated July 23, 2018. 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 existing tree line is shown on the final plan dated September 4, 2018. No street trees are shown on the plan.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinance:
  - The front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR. The development is proposed within the RM zone and utilizing Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the

- regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.
- The lot meeting the dimensional standards of the Medium Density Residential (RM) District (minimum 20,000 square feet on public water and 100 feet of road frontage).
  - Net residential density calculations are shown on the plan.
  - Subdivision Ordinance
    - Standard notes and the standard condition of approval must be shown on the plans.
    - Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.
    - Draft condominium association documents were provided with the Final Plan submission and must specify the rights and responsibilities of each owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space and stormwater infrastructure.
    - Existing easements should be shown on the plan. The July 23, 2018 final plan submission states that there are no known existing easements on the property. There is an access easement described in the deed for Map 5 Lot 1A (Book 31647 Page 89), the vacated Powder House Subdivision, that was granted to provide access over the roadway shown on the vacated Alexander Estates Subdivision.
    - Attorney Michael Lane of Preti Flaherty states in a letter dated September 4, 2018 that after research in the Registry and reviewing the relevant deeds and plans, he concludes that there are no such easement or rights of way on the property.
  - Others:
    - Street Naming and Addressing: A proposed road for the subdivision road approved by the Assessing Department must be shown on the Final Plan.
    - Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. An Inspection, Maintenance & Housekeeping Plan was included with the Stormwater Management Plan.

#### I. FINANCIAL AND TECHNICAL CAPACITY

- In accordance with Section 914, the applicant must provide a performance guarantee for an amount adequate to cover the total construction costs of all required improvements.
- 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 property is located in the Presumpscot River watershed.
- 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** 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 June 18, 2018, as amended September 4, 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