



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Planning Board

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Monday, December 10, 2018

7:00 PM

Council Chambers

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1 Call To Order

2 Roll Call and Declaration of Quorum

*The meeting was called to order by Vice Chair, Keith Elder. Other members present were: Bill Walker, Griffin Bourassa, Kaitlyn Tuttle, and Michael Devold.*

*Planner, Amanda Lessard was also present.*

3 [PB 18-115](#) Approval of Minutes: November 14, 2018

**Attachments:** [Minutes 11-14-18 - draft.pdf](#)

*Bill Walker made a motion to accept the minutes of the November 14, 2018 meeting.*

*Seconded by Griffin Bourassa.*

*Vote: Three in favor. No one opposed. Kaitlyn Tuttle and Griffin Bourassa abstained.*

4 [PB 18-116](#) Approval of Minutes: November 26, 2018

**Attachments:** [Minutes 11-26-18 - draft.pdf](#)

*Bill Walker made a motion to accept the minutes of the November 26, 2018 meeting.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

### **Public Hearings**

*Bill Walker made a motion to take the agenda items out of order.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

5 18-36 Basin Road Subdivision. Minor subdivision final plan review. Colin & Payson Swan to request review of a 4 lot subdivision. The property in question is located at 46 Basin Road and identified on Tax Map: 18A, Lot: 48-4 and 48-1 (portion), Zone: Farm Residential (FR).

*Dustin Roma was present, representing the applicants. He explained:*

- *They proposed a four-lot subdivision on six acres which would be accessed via Basin*

Road.

- The lots would have individual wells.
- They believed the road was adequate to serve the needs of four lots in addition to the existing traffic.
  - o The Fire Chief had viewed the road with them and said that he could get emergency vehicles down it.
  - o The town provided winter maintenance, yet would not do so on roads that didn't meet a certain standard.
  - o It seemed unreasonable to require improvement of the road all the way back to the public street for three new lots.
  - o The new homeowners would contribute toward ongoing maintenance needs along with other property owners.

Amanda Lessard explained:

- The town attorney's opinion was the ordinance specifically required that for any subdivision proposed on an existing private road there must be improvements to the existing private road back to the closest public street so that it met the applicable road standard.
- The town's engineer had:
  - o Requested evidence that drainage from the lot development wouldn't cause off-site run-off concerns.
  - o Felt he couldn't offer an opinion regarding the request for a waiver of the road standards unless he knew what the road's specifications were.

Public Comment:

Douglas Boyce, Basin Road – He was with the road association and expressed concern with the condition of the road. It needed to be upgraded. The width was generally 12 feet, less so in the winter depending on plowing and passing some trees and physical barriers, like poles, which should be moved back several feet. He had no problem with the creation of the lots and thought it would be an enhancement to the general area, but the road needed some improvement.

There was no more public comment. The public hearing was closed.

6 18-31 Cook Road Retirement Community. Major subdivision and site plan preliminary plan review. Jim Cummings to request review of a 46 unit residential subdivision in eighteen (18) duplexes, one (1) six-unit building and one (1) four-unit buildings. The property in question is located at Cook Road and 306 Gray Road and identified on Tax Map: 9, Lot: 5, Zone: Farm (F) and Retirement Community and Care Facility Overlay District (RCCFO).

Larry Bastian, of Terradyne Consultants, was present representing the applicant. He explained:

- They proposed a 46-unit senior housing development on approximately 13 acres in a Farm zone with a Retirement Community and Care Facility Overlay District.
- Net residential density would allow 88 units.
- Changes to the plan had eliminated one dead-end street which reduced impervious surfaces.
- The access road would connect with both Cook and Gray Roads. It would be built to the major private road standard with 24 feet of pavement and two-foot gravel shoulders on each side.
- In addition to the duplexes one, six unit and one, four-unit building were also proposed. The four unit and six-unit buildings would have sprinklers.
- 11 on site septic systems were proposed and would have advance treatment systems.

- The development would be served by public water.
- A nitrate assessment had been done.
- Most of the site drained internally toward the wetlands.
- Stormwater would be a flat, slow flow gradient toward the wetland. Treatment would be via two gravel wetlands and underdrain soil filters. Development would not increase water leaving the site.
- A DEP Stormwater Permit would be required.
- Around 160 trips per day would be generated. There would be two exits, so each should have less than the ordinance limit of 140 trips.
- Sit distance exceeded the standard.
- They didn't feel there would be any benefit to a high intensity soil survey. They had detailed test pit information and had used the medium intensity soil survey for the stormwater analysis.

*Public Comment:*

*Donna Chapman, Batchelder Road – She was speaking for Nancy and Melanie Gleason, residents of Cook Road whose well was close to the property line. There were wetlands on the corner of Melanie's lot. Where would the water drain? The Pleasant River wasn't too far away. They had concern with the wells and would it flood the property when they filled the wetlands?*

*Ms. Chapman stated that she had an issue with the lot size and number of units.*

*James Schreffler, Gray Road – He had some concern that Windham was becoming a hot spot for retirement communities. It seemed they were cramming quite a few units into a very small area in a rural farmland zone. Protection seemed thin. He had a general opposition to the plan.*

*There was no more public comment. The public hearing was closed.*

## **Continuing Business**

- 7      [PB 18-117](#)      18-21 Gray Road Retirement Community. Major subdivision preliminary plan review. Weld, LLC to request review of a 14 unit residential subdivision in seven (7) duplexes. The property in question is located at Gray Road and Swett Road and identified on Tax Map: 9, Lots: 27K and 27E, Zone: Farm Residential (FR) and Retirement Community and Care Facility Overlay District (RCCFO).

**Attachments:**    [18-21 Gray Road Retirement Community Prelim 12-05-2018.pdf](#)  
[Peer Review Gray Rd Retirement 12-03-2018.pdf](#)  
[17070-Compiled-Resubmission for Preliminary Subdivision Review \(11-19-18\).pdf](#)  
[Gray Road Retirement Community Plan Set 2018\\_11\\_19.pdf](#)  
[Sparky Hurgin Retirement Community 10-3-2018.pdf](#)  
[Sparky Hurgin Pictures of stream vegetation 09-24-2018 .pdf](#)  
[Steve Quinlan Swett Road Retirement Community 09-24-2018.pdf](#)

*Meeting went into Recess*

*Meeting Reconvened*

*Dustin Roma was present, representing the applicants. He explained:*

- *They had made changes to the plan in order to address concerns regarding development close to wetland areas and the impact of nitrates to the wetlands and abutter wells.*
- *Four separate leach fields were now proposed. Two of those would use advanced treatment.*
- *They would provide the hydrogeology with nitrate plumes for all the systems.*
- *The buildings were now proposed to be about 75 feet from the drainage at the back.*
- *They'd had a second wetland scientist examine the area of the possible stream. Both of the wetland scientists were confident it did not exhibit stream characteristics.*
- *Stormwater facilities had changed due to the road alignment.*
- *In regard to waivers:*
  - o *They would no longer need a waiver for the flooding standard.*
  - o *The would request a waiver of the high intensity soil survey submission requirement.*
  - o *The would request a waiver for the groundwater quality performance standard for the leach field which drained under Route 202.*

*Amanda Lessard commented:*

- *Staff was satisfied with the determination of two soil scientist. The applicant should continue to pursue it with DEP.*
- *Traffic generation numbers should be updated to reflect the addition of two units.*

*Consensus of the Board was to accept public comment.*

*Sparky Hurgin, Swett Road – He was an abutter to the property. He appreciated that abutter concerns had been considered and thought the new plan was much better.*

*There was no more public comment.*

*Bill Walker made a motion to waive the high intensity soil survey submission requirement.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

*Bill Walker made a motion that the Preliminary Subdivision application for 18-21 Gray Road Retirement Community on Tax Map: 9, Lots: 27K and 27E was to be approved with the added condition that DEP would determine if there was a stream with the following conditions, 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 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 or where the site considerations of development design indicate greater potential of adverse impacts.*
- *The applicant agreed to provide a hydrogeologic assessment after receiving comments from abutters at the sketch plan meeting on July 23, 2018 that they had dug drinking water wells near the property line.*
- *A hydrogeologic assessment was not included in the July 23, 2018 or September 4,*

2018 preliminary plan submissions.

- The November 19, 2018 submission includes a nitrate-nitrogen assessment dated November 16, 2018 prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services that concludes that the proposed subsurface wastewater disposal systems B, C, D will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary. The proposed subsurface wastewater disposal system B will result in an increase of nitrate-nitrogen at the property boundary along Gray Road. The 10mg/L nitrate-nitrogen plume is shown on Plan of Wastewater Disposal Systems A&B. Given that public water is available to future development in the area of the plume from disposal field B and there is no known water supply wells near the plume, a waiver from this standard is requested.
- In an email dated December 3, 2018, Town Engineer Jon Earle P.E., stated that the drinking water standard could reasonably be waived based on the narrative as part of the conclusion to the nitrate study report.

#### B. WATER

- The development will be served by public water for domestic use.
- A written statement from the Portland Water District verifying that there is public water in proximity to the subdivision must be submitted with the Preliminary Plan.
- 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.
- Existing fire hydrants are located on Gray Road at the intersection of Pope Road and to the north in front of the Public Safety Building.
- At the Development Team Meeting on July 10, 2018 Fire Chief Brent Libby requested a new hydrant on the proposed street approximately 1,000 feet from the existing hydrants. Proposed hydrants should be shown on the plan.
- A new proposed fire hydrant is shown on Plan Sheet PP-2 of the September 4, 2018 preliminary plan set.

#### C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated September 4, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- 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 must be submitted as part of the Preliminary Plan. If this project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, it must be submitted with the Final Plan.
- Freshwater wetlands have been identified on the plan. No wetland impacts are proposed.
- A stormwater management plan has been submitted as part of the July 23, 2018 Preliminary Plan submission. The project proposes to treat the 122,356 square feet (2.81 acres) of new developed area with two (2) underdrained filter basins 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. A DEP Stormwater Permit by Rule is required as the project will generate more than one (1) acre of land disturbance.
- Note 14 on the September 4, 2018 plan states that all buildings will require the installation of a roofline drip edge
- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., noted a minor

(0.03 cfs) increase in peak flow for the 2-year storm at Study Point #1 and the applicant should submit a written waiver request. He also requested ground topographic survey within the footprints of Filter Basins 1 & 2 prior to final approval.

- A revised stormwater management plan has been submitted as part of the November 19, 2018 Preliminary Plan submission. The project proposes to treat the 106,014 square feet (2.43 acres) of new developed area (43,494 square feet (0.99 acres) impervious area) with two (2) underdrained filter basins, one (1) bio-retention cell and roof drip edges on each building.
- In an email dated December 3, 2018, Town Engineer Jon Earle P.E., noted that the project meets the Chapter 500 Basic, General, and Flooding Standards. He notes that the impervious area is just slightly below the threshold for a stormwater permit (66 SF) so Code Enforcement should ensure that the building permits plans are identical to footprints on the subdivision plan.

#### D. TRAFFIC

- The development will have access from the new 750 foot subdivision street.
- 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).
- Sight distance in each direction for the proposed street on the existing public street should be shown on the Preliminary Plan.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. The Town of Windham Streetlight Policy, adopted June 25, 2013, states that streetlights should be at intersection with private roads that serve more than 10 lots.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are required.
- A traffic impact analysis is required for subdivisions projected to generate more than 140 vehicle trips per day and should be submitted with the Preliminary Plan.
- The July 23, 2018 preliminary plan submission states that the based on the ITE Trip Generation Manual the proposed 12 residential lots are expected to generate 12 peak hour trip-ends and generate 120 daily vehicle trips.
- The July 23, 2018 preliminary plan submission states vehicle sight distance at the proposed driveway intersection with Route 202 looking right and left is over 700 feet.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated July 23, 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 July 23, 2018 propose constructing the road with 2-10' travel lanes, 2' paved shoulders on each side, and a 2' gravel should on the non-sidewalk side of the drive.
- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., asked for clarification on the roadway cross section on Sheet D-1 and the detail shown on Sheet D-2, that the sight distance be shown on the plan and that the trip generation number are conservative and for single family home and could be reduced referencing the trip generation from senior housing or condo/townhouses.
- A revised roadway section shown on Sheet D-1 of the September 4, 2018 plan set meets the Major Private Road standard for travel lane and shoulder widths and materials. Note 13 on the plan states that the road shall remain private.
- A revised road plan and profile, prepared by DM Roma Consulting Engineers, dated November 19, 2018, shown on Sheet PP-1, was submitted as part of the Preliminary Plan.
- In an email dated December 3, 2018, Town Engineer Jon Earle P.E., asked for updated trip generation based on the two additional proposed dwelling units. He noted that total will remain below the Town's threshold for a traffic impact study. He also

*requested a stop sign location and detail.*

#### **E. SEWERAGE**

- *The development will be served by individual private subsurface wastewater disposal systems.*
- *Soil test pit analysis included in subsurface wastewater disposal system applications (HHE-200) prepared by Mark J. Hampton, LSE CSS of Mark Hampton Associates, Inc dated August 18, 2018 show that the property has adequate soils to support a private septic system .*
- *Test pit/septic system locations are shown on the plan. A septic system to serve Units 1 and 2 is located off Route 202. A septic system to serve Units 3-12 is located behind Units 9/10 & 11/12.*
- *Soil test pit analysis was included in subsurface wastewater disposal system applications (HHE-200) prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services dated November 12, 2018.*
- *Septic locations are shown on the plan. Septic system A to serve Units 1-4 is located off Route 202 and has advanced treatment. Septic system B to serve Units 5 and 6 is located near Route 202 across from the subdivision street from Units 3&4. Septic System C to serve Units 4-10 is located behind Units 9/10 & 11/12 and has advanced treatment. Septic System D to serve Units 11-14 is located at end of the street behind Units 13&14.*

#### **F. SOLID WASTE**

- *Residents of the two 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 site is currently undeveloped and wooded.*
- *There are no documented rare botanical features or significant wildlife habitat documented on the site.*
- *Street trees are shown on the Plan and Profile Sheets PP-1 and PP-2 of the preliminary plan set.*
- *Limits of tree clearing are shown on the preliminary plan. Note 12 on the plan states that clearing of tress 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. The property is located the Windham Center growth area.*
- *Land Use Ordinance:*
- *All lots meet the minimum lot size (50,000 square feet) and frontage (150 feet) for lots in the FR zoning district.*
- *Net residential density calculations are shown on the Plan.*
- *The proposal meets the net residential density requirements and the setback requirements of the RCCFO district.*
- *District Standards, Section 407.E. The project meets the standards of the RCCFO*

zoning district.

- *Buildings shall be designed that do not turn their back on the existing road.*
- *Building elevations were included in the submission dated September 4, 2018.*
- *Retirement Community dwellings shall be limited to 3 or fewer bedrooms per dwelling unit.*
- *Submitted septic designs are for 2-bedroom units.*

- *Subdivision Ordinance*
- *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.*
- *Condominium association documents should be 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.*

- *Others:*
- *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*

- *The expected construction costs to complete the required site improvements was included in the July 23, 2018 preliminary plan submission. A letter dated August 22, 2018 from Bruce J Cort, EA of Cort & Small LLC, 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*

- *This project is divided between the Pleasant River, the Town's priority watershed, and Black Brook watersheds.*
- *At the Planning Board meeting on September 24, 2018 the Board requested that the application obtain a field determination from Maine DEP related to questions about a stream located in the mapped wetland area.*
- *The revised plan dated November 19, 2018 relocates the road to show a forested buffer adjacent to the wetlands.*
- *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 July 7, 2018, as amended November 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.*

#### 8 [PB 18-118](#)

18-36 Basin Road Subdivision. Minor subdivision final plan review. Colin & Payson Swan to request review of a 4 lot subdivision. The property in question is located at 46 Basin Road and identified on Tax Map: 18A, Lot: 48-4 and 48-1 (portion), Zone: Farm Residential (FR).

**Attachments:** [18-36 Basin Road Final 12-06-18.pdf](#)  
[2018 12 6 Basin Road Response.pdf](#)  
[Swan Basin Road Subdivision Application Final 2018 11 19.pdf](#)  
[Swan Basin Road Subdivision Final Plans.pdf](#)  
[Jim Goode Re Basin Rd Subdivion 2018-11-13.pdf](#)

*The Board commented:*

- *Four houses would cause a jump in traffic on that section of the road.*
- *Sprinklers were a necessity.*
- *A 12-foot road was too narrow for two cars.*
- *The ordinance required the road to be upgraded, even if they didn't like the requirement.*
- *The cost of upgrades would not allow the project to work and the land would be unusable.*
- *There was a problem with right, title, or interest. Did they have the ability to upgrade the road?*
- *The Board should urge the Town Council to reconsider the upgrade requirement and understand what it would do to people.*

*Mr. Roma replied:*

- *They couldn't ascertain the width of the right-of-way on the opposite side of the road and didn't know if a road would fit in there.*
- *Improving the road would involve moving utility poles, ditching, putting water on people's property when it wasn't there now.*
- *He understood the positives, but there were negatives too: cost, ability to do it, increased speed on the road.*

*The Board considered the waiver requests:*

- *The waiver request for road standards should be specific to the standard they requested be waived.*

*Bill Walker made a motion to waive the hydrogeologic assessment submission requirement because of satisfactory test pits and the good soils.*

*Seconded by Griffin Bourassa.*

*Four in favor. Michael Devoid abstained.*

*Mr. Roma requested to be postponed so they could see what could be done.*

- 9**      [PB 18-119](#)      18-31 Cook Road Retirement Community. Major subdivision and site plan preliminary plan review. Jim Cummings to request review of a 46 unit residential subdivision in eighteen (18) duplexes, one (1) six-unit building and one (1) four-unit buildings. The property in question is located at Cook Road and 306 Gray Road and identified on Tax Map: 9, Lot: 5, Zone: Farm (F) and Retirement Community and Care Facility Overlay District (RCCFO).

**Attachments:** [18-31 Cook Road Retirement Community Prelim 12-05-2018.pdf](#)  
[Peer Review Cook Rd Retirement 11-30-2018.pdf](#)  
[Cook Road Retirement Community - Full Plan Set.pdf](#)  
[Cook Road Retirement Community Stormwater Plan.pdf](#)  
[Cook Road Retirement Community Submission Materials.pdf](#)

*Mr. Bastian responded to the concerns:*

- *The property was in the Pleasant River watershed.*
- *Wetland fill would be used for the road crossing and would require a NRPA permit. Oversized culverts would be installed so there was no back-up. There were almost three acres of wetland fill so this was a relatively small area.*
- *Water would flow out of the property to the south, then to Route 202.*
- *Ms. Gleason's well was noted in the septic system report and would be shown on the plans. The septic systems in that area would drain in the opposite direction of her well and to the wetland.*

*Amanda Lessard said:*

- *There was a 200 foot well setback located on the plan. The closest septic to her property was by the access road.*
- *The overlay district had been adopted by the Town Council. Only one other had been approved. Age restricted housing had to comply with federal requirements.*

*The Board commented:*

- *The waiver request for the high intensity soil survey caused some concern because the project was in the Pleasant River Watershed.*
- *It would be good to light the intersections.*
- *More information should be submitted regarding the septic systems.*
- *Would having two exits really split the traffic count?*
- *There should be some buffering to the streets.*
- *Condo documents should be submitted.*
- *Where would trash collection be located?*

*Mr. Bastian commented:*

- *The units would be owner occupied.*
- *Septic flowed toward the wetland.*
- *The duplexes would not be sprinkled, only the four-unit and six-unit buildings.*
- *They would plant some trees to break up openings.*
- *They could install some site lighting.*

*Bill Walker made a motion to grant a waiver of the submission requirement for a high intensity soil survey.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

## **New Business**

- 10**      [PB 18-120](#)      18-39 Ruby Meadows Amendment. Ruby Meadows, LLC to request an amendment to an approved subdivision for change in ownership of the subdivision. The property in question is located at Albion Road and Pope Road and identified on Tax Map: 10, Lot: 78, Zone: Farm (F).

**Attachments:** [18-39 Ruby Meadows Amendment 12-05-2018.pdf](#)

[DEP Ruby Meadows, LLC 11-30-2018.pdf](#)

[Ruby Meadows Amendment Application.pdf](#)

[Ruby Meadows Amended Plan.PDF](#)

[Ruby Meadows 08-2018.PDF](#)

Paul Hollis was present. Ruby Meadows subdivision had recently been approved by the Planning Board. Ownership of the subdivision had changed after the approval. As a result, the Planning Board had to review ownership before Town acceptance of a performance guarantee.

Amanda Lessard explained:

- DEP did not need to amend the permits.
- The Secretary of State had said that the corporation having ownership was acceptable.

Bill Walker made a motion that the Subdivision application for 18-39 Ruby Meadows Amended Subdivision on Tax Map: 10, Lot: 78 was to be approved with conditions with the following findings of fact and conclusions.

#### FINDINGS OF FACT

- 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 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 Planning Board granted a waiver from this submission requirement.

#### B. WATER

- The three (3) lots on Albion Road and the ten (10) lots on the proposed road will be served by public water for domestic use.
- An email dated June 12, 2018 from Robert Bartels, PE, of the Portland Water District includes a map noting the location, type, and size of the public water mains near the sites and states that it is possible to make a connection into a public main only after proper review and approval by PWD.
- An Ability to Serve letter dated July 6, 2018 from Robert Bartels, PE, of the Portland Water District approves the water system as designed.
- Two (2) lots on Pope Road will be served by private wells. The ordinance requires that the subdivision must be served by public water if the closest water main is within a distance equal to 100 feet multiplied by the number of lots in the subdivision. The existing public water main terminates at the intersection of Albion Road and Pope Road. The Planning Board granted a waiver from this standard.
- Existing fire hydrants are located on Albion Road near the Lot 13 and Lot 14 lot line, and at Pope Road at the intersection of Albion Road.
- At the Development Team Meeting on May 1, 2018 Fire Chief Brent Libby requested a new hydrant on the proposed street approximately 1,000 feet from the existing hydrants. Proposed hydrants should be shown on the plan.
- In an email dated June 29, 2018, Town Engineer Jon Earle P.E., requested a moratorium restoration detail for the water main and water service connection that conform with Chapter 210 Streets and Sidewalks.

- An Albion Road trench repair detail is shown on Sheet D-2 of the revised preliminary plan dated July 6, 2018.
- A letter dated August 11, 2018 from Kenneth P. Brown of the Portland Pipeline Corporation was submitted with the final plan submission, anticipates that the project will be able to meet PPCL's construction guidelines of a 50 foot setback from the nearest pipeline.
- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., encouraged incorporating the location of the PPCL pipelines onto the subdivision plan and road plan/profile sheets.

#### C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated June 18, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- 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 must be submitted as part of the Preliminary Plan. If this project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, it must be submitted with the Final Plan.
- Freshwater wetlands have been identified on the plan. This project requires a Maine Department of Environmental Protection (DEP) Natural Resources Protection Act (NRPA) Tier-1 permit for wetland alterations. The permit must be submitted with the Final Plan. Five areas of wetland impacts are shown on Sheets PP-1 and LD-1.
- Note 16 on the July 6, 2018 revised subdivision plan states the total amount of wetland impact associated with the proposed development.
- The DEP NRPA Permit #L-23150-TC-C-N approved on August 22, 2018 was included with the final plan submission.
- The DEP Stormwater Permit by Rule approved on July 3, 2018 was included with 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 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 June 18, 2018 Preliminary Plan submission. The project proposes to treat the 9.33 acres of total developed area with one (1) underdrained filter basin, four (4) bioretention cells, forested buffers and roofline drip edges around each house.
- The forested buffer should be shown on the subdivision plan.
- Notes should be added to the subdivision plan that all buildings will require the installation of a roof drip edge filter for stormwater treatment and that the forested buffer should be permanently marked prior to the start of construction.
- The stormwater management plan also includes an inspection, maintenance and housekeeping plan. The owner is 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 June 29, 2018, Town Engineer Jon Earle P.E., notes that there appears to be a typo in Table 1 peak runoff SP-1 25-yr storm. Chapter 500 water quality standard have been met but he requested that the lot by lot summary of impervious and developed areas be shown on the subdivision plan. He also requested additional ground topography for the footprints for each of the filter basin and bioretention cells rather than relying on the LIDAR aerial survey, and proposed grading for bioretention cells 3 and 4.
- The applicant responded to review comments on July 6, 2018 and submitted a

revised stormwater management plan and a revised plan set. The revised subdivision plan shows a lot development table, the forested buffer is shown on Lot 14. Note 12 requires permanent marking of the buffer prior to the start of construction. Note 8 specifies that houses require a roofline drip edge.

- In an email dated July 9, 2018, Town Engineer Jon Earle P.E., had no further comment and acknowledged that ground topography of the stormwater filter basins and rain gardens would be provided with a final plan submission.
- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., asked if ground survey had been completed in the footprints of the constructed stormwater BMPs and requested updated stormwater treatment calculations that account for the additional disturbed areas created by a 30' cleared area along Lots 12, 13, and 14 at Albion Road.
- In an email dated November 30, 2018 Jennifer Harris of the Maine DEP stated that if the Secretary of State confirms that Ruby Meadows LLC has been revived and reformed to its original state, then the DEP does not require any permit transfers for this project.

#### D. TRAFFIC

- Most of the subdivision lots will have access from the new 975 foot subdivision street, a paved public street. Section 550.C states that no new private road shall be permitted to directly access a public street.
- The proposed street right-of-way abuts the property line to provide access to future development on the abutting parcel. The purchase and sale agreement states that an easement will be provided to the seller's remaining land. This easement should be noted on the plan.
- Three of the lots will have access on Albion Road, and two lots will have access on Pope Road. Lots 13 and 14 will share driveway entrance on Albion Road. Sight distance in each direction for the proposed street and the driveways on the existing public streets should be shown on the Preliminary Plan.
- The preliminary plan submission dated June 18, 2018 states that the site distance at the proposed roadway is 535 feet looking right and 465 feet looking left which meets the Town standards for the posted speed limit of 35 mph on Albion Road.
- Lots 3 and 12 must have driveway access from the proposed subdivision street. This requirement should be noted on the plan.
- At the Development Team meeting on May 1, 2018, it was stated that Albion Road was recently paved and would need to comply with the moratorium road restoration standards for the proposed street openings.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. The Town of Windham Streetlight Policy, adopted June 25, 2013, states that streetlights should be at intersection with private roads that serve more than 10 lots.
- 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 Planning Board granted a waiver from this standard.
- A traffic impact analysis is required for subdivisions projected to generate more than 140 vehicle trips per day and should be submitted with the Preliminary Plan. The Planning Board granted a waiver from this submission requirement.
- The preliminary plan submission dated June 18, 2018 states that the proposed 15 residential lots are expected to generate 15 peak hour trip ends.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated June 18, 2018, shown on Sheet PP-1. The roadway cross section for a minor local street is shown on Sheet D-2.

- In an email dated June 29, 2018, Town Engineer Jon Earle P.E., noted that the sight distance is noted in the narrative but should also be shown on the plan.
- The applicant responded to review comments on July 6, 2018 and submitted a revised plan set that show sight distances and estimated traffic to be generated by the subdivision as 150 daily trips. The revised subdivision plan notes a proposed access, utility and stormwater easement over lot 13 for the benefit of Lot 14. Note 15 on the plan provide an access, utility and maintenance easement to the remaining land of the seller.
- The final plan submission shows a 30' cleared area along Albion Road on Lots 12, 13, and 14. Note 17 states that all trees shall be removed and no trees planted in the 30' cleared area.
- In an email dated July 9, 2018, Town Engineer Jon Earle P.E., stated that language should be included in the draft declaration for the maintenance responsibility for the additional vegetation proposed to be cleared.

#### E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis prepared by Mark Cenci, LSE of Mark Cenci Geologic, Inc dated May 8, 2018 and June 15, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan. There is no test pit shown on the Lot 11. TP 19 thru 22 included with Mark Cenci's June 15, 2018 additional wastewater disposal investigation aren't shown on the plan. Plan Sheet PP-1 shows TP 23 on Lot 11 and TP 24 on Lot 12, but those soil profiles were not included in the preliminary plan submission.
- The applicant responded to review comments on July 6, 2018 and submitted a revised plan set that shows a test pit on each lot.

#### 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 site is currently undeveloped. It is wooded and includes wetland area dispersed across the parcel.
- The property abuts a Portland Pipeline Company Easement. Windham Drifters maintains a snowmobile trail in the easement.
- 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) and are shown on Sheet PP-1.
- Limits of tree clearing are shown on the preliminary plan. Note 14 on the final 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 meet the minimum lot size (80,000 square feet) and frontage (200 feet) for lots in the F zoning district.*
- *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.*
- *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 was submitted as part of the Final Plan submission.*
- *A Draft Declaration 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.*
- *Note 1 on the amended plan reference the current landowner.*
- *The amended plan submission includes documentation from the Secretary of State's Office confirming that the applicant's LLC is not cancelled and remains in good standing.*
  
- *Others:*
- *Chapter 221 Street Naming and Addressing: Viola Lane, the name approved by the Town Addressing Officer, is shown the Final Plan.*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area.*

#### **I. FINANCIAL AND TECHNICAL CAPACITY**

- *A letter dated April 19, 2018 from Michael Lyden, Loan Officer at Maine Capital Group 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**

- *This project is located within the Colley Wright Brook 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 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 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 November 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.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

11 [PB 18-121](#)

18-40 293 Falmouth Road Subdivision. Minor subdivision sketch plan review. William Desmond to request review of a four (4) lot cluster subdivision. The property in question is located at 293 Falmouth Road and identified on Tax Map: 16B, Lots 18 and 18B, Zone: Farm (F).

**Attachments:** [18-40 293 Falmouth Road Sketch 12-05-2018.pdf](#)  
[Peer Review 293 Falmouth Rd 11-29-2018.pdf](#)  
[293 Falmouth Road Subdivision Sketch Plan 2018 11 19.pdf](#)  
[Desmond Subdivision Sketch Plan Application 2018 11 19.pdf](#)

*Dustin Roma was present, representing the applicants. He explained:*

- *They proposed a four-lot cluster subdivision.*
- *The property consisted of two lots. One was the applicant's homestead lot, the other was abutting land with an existing house on it, which would remain on one of the subdivision lots. The applicant would convey about one acre of land from the homestead property to the other lot to provide enough gross area for the subdivision.*
- *They would request a waiver of the requirement for a cul-de-sac.*
- *Some wetlands were near the road. The remainder of the lot was dry. It drained toward Falmouth Road.*
- *Lots would have private wells.*
- *Houses would probably be sprinkled.*

*Bill Walker made a motion to schedule a public hearing.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

*Bill Walker made a motion to schedule a site walk.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

- 12**      [PB 18-122](#)      18-41 Anglers Road Common. Major subdivision and major site plan sketch plan review. Tim Clinton to request review of a mixed-use development consisting of forty (40) apartments and 11,500 square feet of commercial space for office, retail, or service business. The property in question is identified on Tax Map: 80, Lot: 66, Zone: Commercial 1 (C-1) and Aquifer Protection Overlay District B (APB).

**Attachments:** [18-41 Anglers Road Common Sketch 12-5-2018.pdf](#)  
[Anglers Road Commons Sketch Plan 2018 11 19.pdf](#)  
[Anglers Road Commons Sketch Plan Application 2018 11 19.pdf](#)  
[RTI Letter-18-41 Anglers Road Commons.pdf](#)

*Dustin Roma was present, representing the applicants. He explained:*

- *They proposed a four-lot cluster subdivision.*
- *The property consisted of two lots. One was the applicant's homestead lot, the other was abutting land with an existing house on it, which would remain on one of the subdivision lots. The applicant would convey about one acre of land from the homestead property to the other lot to provide enough gross area for the subdivision.*
- *They would request a waiver of the requirement for a cul-de-sac.*
- *Some wetlands were near the road. The remainder of the lot was dry. It drained toward Falmouth Road.*
- *Lots would have private wells.*

- Houses would probably be sprinkled.

*Bill Walker made a motion to schedule a public hearing.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

*Bill Walker made a motion to schedule a site walk.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

#### *Anglers Road*

*Dustin Roma was present, representing the applicants. He explained:*

- The subject property was owned by Windham Economic Development Corporation (WEDC).
  - o A portion of the land had been deeded to the Town for the Anglers Road intersection realignment.
  - o Another part had been conveyed out.
  - o They intended to develop what remained as two lots, one 1.5 acre parcel and one 6.5 acre parcel. This application was for development of the 6.5 acre parcel.
- The lot would abut Donna Beth Lippman Park. Chaffin Pond was about 1,000 feet from the rear property line. The land was in the Chaffin Pond watershed.
- The applicant proposed a 40 unit apartment and commercial space mixed use development.
- They proposed two drives onto Anglers Road. One part of the ordinance limited curb cuts to one in the zone but another part required two points of access for 30 or more dwelling units. They would ask for a waiver of the limit to one curb cut.
- The site would have public water.
- Underground gas utilities were available to the site.
- A DEP stormwater permit would be required.
- Currently there was a school bus stop at the site. They were working to accommodate that.

*Amanda Lessard explained:*

- The public portion of Anglers Road ended in the middle of the frontage. At the Development Team meeting it had been suggested that the applicant upgrade the private portion to their entrance.
- Impervious surface would be an issue because of the Aquifer B Overlay Zone.
- Perpendicular parking was not currently allowed.

*The Board commented:*

- How would septic be managed?
- The appearance of the project was affected by having to meet the C-1 district standards.
- Sidewalks should extend to the second entrance.
- The commercial use seemed out of place. What commercial uses would be compatible with the residential uses in back?
- The project would be good for the area.
- The distance from the rear property line to the pond should be confirmed.
- What could be done to break up the appearance of the parking lot, so it looked more

*residential?*

*Mr. Roma responded:*

- *It would need either a large engineered septic system or multiple smaller engineered systems.*
- *They intended to construct all the infrastructure at one time.*
- *Electricity would be underground.*
- *Stormwater would be captured and infiltrated.*

*Bill Walker made a motion to schedule a site walk when the plan was more developed.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*

## **Other Business**

### 13 Adjournment

*Bill Walker made a motion to adjourn.*

*Seconded by Griffin Bourassa.*

*Vote: All in favor.*