

# Town of Windham

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## MEMO

DATE: February 21, 2019

TO: Windham Planning Board  
FROM: Amanda Lessard, Planner *ALZ*  
Cc: Larry Bastian, P.E., Terradyn Consultants, LLC  
Development Review Team

RE: 18-31 Cook Road Retirement Community – Preliminary Subdivision & Site Plan  
Planning Board Meeting: January 14, 2019

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### Overview –

The applicant is proposing a 46 unit (55+) residential subdivision in eighteen (18) duplexes, one (1) six-unit building and one (1) four-unit buildings on a 12.88 acre property located on Gray Road and Cook Road. The development will also feature a centrally located 1,040 square foot club house and recreation area. A new internal road network connecting Cook Road and Gray Road is proposed to serve the development. An existing single-family dwelling and driveway located on the property will be removed.

This project last appeared as a preliminary plan at the Planning Board meeting on January 14, 2019. At that meeting the Board commented on the vegetation buffering Route 202 and the need for pedestrian scale lighting within the development to be shown on the final plan. The Board did not approve the applicant's request to waive the requirement to submit a traffic impact analysis. The applicant has submitted a traffic impact study for the proposed development and is requesting preliminary subdivision approval.

As this project involves the construction residential buildings containing three (3) or more dwelling units, this application will be reviewed under the Town's Subdivision Review and Site Plan Review ordinances. Each section will be listed separately below, though references from the Site Plan review section to the Subdivision Review section will be made for overlapping review criteria.

New comments from the staff memo dated January 9, 2019 appear as underlined text below.

Tax Map: 9, Lot: 5 Zone: Farm (F) and Retirement Community and Care Facility Overlay (RCCFO).

### SUBDIVISION REVIEW

Staff Comments:

1. Waivers:

- a) §910.C.1.c.1 – High Intensity Soils Survey, Submission requirement.

*Approved December 10, 2018*

- ~~b) §910.C.1.c.5 – Traffic Impact Analysis, Submission requirement.~~

~~*A traffic impact analysis is required for subdivisions projected to generate more than 140 vehicle trips per day. Based on the fact that the development has two entrances with more than adequate sight distance, and offsite improvements will not be necessary to be accommodated the 158 trips per day generated by the development, this submission requirement could reasonably be waived.*~~

*Waiver withdrawn - Traffic Impact Study has been submitted.*

2. Complete Application: *Staff has found the preliminary plan submission complete.*

**MOTION:** The preliminary subdivision application for project 18-31 Cook Road Retirement Community 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 December 10, 2018.

4. Site Walk: A site walk was held on Saturday November 10, 2018 at 7:30am.

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** The Preliminary Subdivision application for 18-31 Cook Road Retirement Community on Tax Map: 9, Lot: 5 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 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 November 19, 2018 submission includes a nitrate-nitrogen assessment dated November 17, 2018 prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services that concludes that the proposed subsurface wastewater disposal systems serving

the proposed Cook Road Retirement Community will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary.

- In an email dated December 3, 2018, Town Engineer Jon Earle P.E., asked if a plan showing the nitrate plumes at each disposal field location would be provided.
- A nitrate plume plan was included in the December 17, 2018/January 2, 2019 submission. It also identifies that all disposal fields are located in the Black Brook watershed and private drinking water wells on abutting properties are more than 200 feet from the proposed disposal fields.
- In an email dated December 21, 2018, Town Engineer Jon Earle P.E., notes that the nitrate plumes leaving each of disposal fields do not exceed 10 mg/L at the property line.

#### 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.
- The November 19, 2018 submission states that plans have been sent to the Portland Water District for review.
- The January 2, 2019 submission states the Portland Water District reviewed the plans and provided comments, which have been included in the Utility 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 southern corner of the intersection of Webb Road and to the north in front of 313 Gray Road.
- At the Development Team Meeting on October 1, 2018 Deputy Fire Chief John Wescott stated that new hydrant locations would depend on where a new water main was proposed but in general they request they are located approximately 1,000 feet from the existing hydrants. Proposed hydrants should be shown on the plan. Fire Chief Brent Libby also commented that the 4-unit buildings would require sprinkler systems, per the state building code.
- The Utility Plan shown on Sheet C-3.0 of the Preliminary Plan set dated November 18, 2018 shows a proposed hydrant located north of the intersection of the proposed subdivision streets, approximately 250 feet from Gray Road.

#### C. SOIL EROSION

- An erosion and sedimentation plan, prepared by Terradyn Consultants, LLC dated November 18, 2018, has been submitted as part of the Preliminary Plan on Sheet C-2.0. Notes and details are shown on Sheet C-5.2.
- 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.
- This project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, which must be submitted with the Final Plan.

- Freshwater wetlands have been identified on the plan. The preliminary plan identifies one area of wetland alteration of 4,660 square feet.
- 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.
- A stormwater management plan has been submitted as part of the November 19, 2018 Preliminary Plan submission. The project proposes to treat the 5.93 acres of developed area and 2.77 acres of total proposed impervious area with three (3) underdrained filter basins, two (2) gravel wetlands and selectively placed roof drain filter strips. A treatment table is shown on the Post Development Watershed Map on Sheet C-6.1.
- The subdivision plan should note which buildings require roof drain filter strips.
- The maintenance plan of stormwater management facilities identifies the Cook Road Retirement Community Owners Association has the party responsible for maintenance of all stormwater management structures.
- In an email dated November 30, 2018, Town Engineer Jon Earle P.E., noted that the project meets the Chapter 500 Basic and General standards but in regard to the Flooding Standard he requested the HydroCAD calculation for the predevelopment conditional to verify the table in the stormwater report narrative.
- The December 17, 2018/January 2, 2019 submission notes on Sheet C-2.0 that roof drain filter strips are to be installed at Units 1-10, 31-36, 23-30, and the club house. HydroCAD output was also submitted.
- The roof drain filter strip note must be shown on the subdivision plan prepared for recording and submitted with the Final Plan.
- In an email dated December 21, 2018, Town Engineer Jon Earle P.E., notes that the HydroCAD output concur with peak flows listed in the stormwater management report.
- The road cross section changed in the December 17 submission from the November 19 submission, but the December 31 revised plan returns to the road cross section/stormwater management report from November 19 so the project still meets the DEP Chapter 500 standards.
- In an email dated December 21, 2018 Town Engineer Jon Earle P.E., asked if LIDAR data was used as the basis for the existing conditions topography. If so, the final plan submission should include field survey/verification of the constructed stormwater BMPs.
- The January 2, 2019 submission suggests that the requirement for ground topographic survey at gravel wetland #1, gravel wetland #2 and filter basin #1 be made a condition of preliminary plan approval.
- In an email dated February 13, 2019 Will Haskell, P.E of Gorrill-Palmer asked if a note had been added to the plan to require a field survey at the stormwater BMP's to verify the Lidar topography.
- In a response to comments dated February 14, 2019, the applicant state that the survey date file was re-checked and found that the 1-foot contours are based on ground survey, not LiDAR, so no additional ground survey is needed at the stormwater BMP locations.

D. TRAFFIC

- The development will have access from the new internal network of subdivision streets. These streets will connect Gray Road and Cook Road, public paved roads.
- 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 streets 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 units.
- The preliminary plan dated November 19, 2018 shows streetlight at the intersections of Cook Road and Gray Road and at the dead ends of the proposed subdivision streets. Section 911.M.3.d states that additional streetlights beyond at the intersections with public streets shall be discouraged to avoid excessive light pollution.
- The revised preliminary plan dated December 31, 2018 shows streetlights at the intersections of Cook Road and Gray Road.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are not required.
- The sketch plan shows the roads with a 4 foot wide paved shoulder for pedestrian access as well as a 4 foot wide bituminous sidewalk in front of Units 1-20. At the Development Team Meeting on October 1, 2018 Project Engineer Larry Bastian stated that the sidewalk would be removed from the plan to reduce the amount of impervious area on the site.
- The preliminary plan shows seven (7) 9'x18' parking spaces for the 1,040 square foot club house. The ordinance does not have a minimum number of spaces required but the applicant shall demonstrate that the number of spaces provided onsite will meet the needs of the proposed use. The ordinance requires that 30% of the spaces are 10'x20'.
- The December 31, 2018 revised plan shows three (3) 10'x20' parking spaces at the clubhouse in addition to six (6) 9'x18' parking spaces. Any additional parking for clubhouse activities could be accommodated with on-street parking.
- 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 applicant requested a waiver from this submission requirement in the submission dated January 2, 2019.
- The November 19, 2018 preliminary plan submission states that the based on the ITE Trip Generation Manual this development will result in approximately 3 trips during the AM peak hour and approximately 5 trips during the PM peak hour. The total number daily trips should be provided.
- The January 2, 2019 preliminary plan submission states that the development will generate 158 total daily trips, 18 AM trips, and 16 PM trips.
- Road profiles, shown on Sheets C-4.0 and C-4.1, and typical road sections at wetland crossings and outside wetland crossings, shown on Sheet C-5.0, prepared by Terradyn Consultants LLC, dated November 19, 2018, was submitted as part of the Preliminary Plan.
- The road cross sections propose a 12' travel lane with a 3' gravel shoulder and a 10' travel lane with a 4' paved shoulder on the curbed side.

- The proposed cross section exceeds the required Major Private Road standard of 10' travel lanes, 2' paved shoulders, and 2' secondary gravel shoulder without curb. The standard private road note should be added to the plan.
- In an email dated November 30, 2018, Town Engineer Jon Earle P.E., stated that the provided peak hour trip generation seems low and asked for clarification that the project does not required a traffic impact analysis. He also asked that sight distances at the intersection on Cook Road and Gray Road be provided.
- The road cross section changed in the December 17 submission from the November 19 submission, but the December 31 revised plan returns to the road cross section from November 19. Sight distances are shown on the revised plan dated December 31, 2018.
- In an email dated December 21, 2018 Town Engineer Jon Earle P.E., stated that the request to waive the traffic impact study is reasonable as a study would not add any apparent value and offsite improvements are not necessary for this level of development.
- A Traffic Impact Study dated February 2019 prepared by William Bray, P.E. It notes that 46 senior condo units can be expected to generate 158 daily trips; 9 trips in the morning peak hour, 12 trips during the afternoon peak hour, and 14 trips during a typical Saturday peak hour. The proposed site access driveway on Gray Road and on Cook Road, and the Gray Road/Cook Road intersections are expected to operate at the best level of service in post-development travel conditions. No left-turn lanes are warranted.
- In an email dated February 13, 2019 Will Haskell, P.E of Gorrill-Palmer had no comments on the traffic impact study.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis included in preliminary septic system investigation report prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services dated November 17, 2018 show that the property has adequate soils to support private septic systems.
- Ten (10) septic system locations are shown on the preliminary subdivision plan. Test pit locations are shown on Sheet C-2.0 of the December 31, 2018 preliminary plan set.

F. SOLID WASTE

- As part of the final plan submission the applicant should specify if the residents of the dwellings will participate in the Town's pay-per-bag garbage program or if a private on-site dumpster will be provided. A dumpster location should be shown on the plan and screening detail provided.

G. AESTHETICS

- The site is mostly wooded and containing a single family dwelling with a detached garage. The existing buildings will be demolished to accommodate the proposed development.
- 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). Streets trees are shown on the December 31, 2018 preliminary plan.
- Limits of tree clearing are shown on the preliminary plan. Note 8 on the December 31, 2018 preliminary 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 (250 feet) for lots in the Farm zoning district.
  - Net residential density calculations must be shown on the plan. They are shown on the December 31, 2018 Preliminary Plan.
  - The proposal meets the net residential density requirements and the setback requirements of the F and RCCFO districts.
  - District Standards, Section 407.E. The project must meet the standards of the RCCFO zoning district.
    - Buildings shall be designed that do not turn their back on the existing road.
      - Building elevations must be included with the Final Plan submission.
    - Multifamily dwellings: The minimum setback from the external perimeter of the overall site shall vary depending on the height of the building. Building height 0-35 feet minimum setback 100 feet, building height 31-35 feet, minimum setback 150 feet.
    - Retirement Community dwellings shall be limited to 3 or fewer bedrooms per dwelling unit.
      - Submitted septic designs are for 2-bedroom units.
  - Retirement Community Performance Standards, Section 544.
    - The retirement community shall meet the standards established in 42 U.S.C.A §4607 for housing for older persons: The property owner shall notify the Department of Code Enforcement when compliance reports have been submitted to the U.S. Department of Housing and Urban Development (HUD).
    - If not part of the association documents, draft deed restrictions should be provided with the Final Plan that demonstrate that dwellings are intended and operated for occupancy by persons 55 years of age or older.
  - 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: The street names shown on the November 19, 2018 and December 31, 2018 preliminary plan have not been approved by the Town. Street names approved by the Town Addressing Officer shall be shown on the Final Plan.

#### I. FINANCIAL AND TECHNICAL CAPACITY

- A letter dated January 10, 2019 from Brian C. Desjardins, Vice President Commercial Lending at Bath Savings Bank was included in the preliminary plan submission 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 in both the Black Brook watershed and the Pleasant River watershed, the Town's priority watershed. The January 2, 2019 preliminary plan submission includes a plan with the watershed divide and states that the project site is located primarily in the Black Brook watershed and a small area (0.8 ac) drains to the Pleasant River.
- 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 September 13, 2018, as amended February 14, 2019, 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.

#### SITE PLAN REVIEW

## **FINDINGS OF FACT**

### **Utilization of the Site**

- See Subdivision Review.

### **Vehicular and Pedestrian Traffic**

- See Subdivision Review.

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

- See Subdivision Review.

### **Stormwater Management**

- See Subdivision Review.

### **Erosion Control**

- See Subdivision Review.

### **Utilities**

- The Utility Plan included with the Preliminary Plan on Sheet C-3.0 notes the size of the existing water mains in Gray Road and show connections through the development to the proposed buildings.
- The applicant must secure a written statement from the Portland Water District that the development will not result in an undue burden on the system and the water lines will be installed in a manner adequate to provide needed domestic flows.
- Electrical, telephone, and cable service to the development shall be provided by underground service.

### **Financial Capacity**

- See Subdivision Review.

### **Landscape Plan**

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

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

1. Land Use

- See Subdivision Review.
2. Comprehensive Plan
    - This project meets the goals and objectives of the 2017 Comprehensive Plan.
  3. Others:

### Impacts to Adjacent/Neighboring Properties

- Site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.
- The December 31, 2018 revised preliminary plan shows a pedestrian scale light pole near the Club House at the intersection of the proposed subdivision streets. Details of the fixtures should be included in the Final Plan submission.

### CONCLUSIONS

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

13. ~~On site landscaping **does/does not** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.~~

#### CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated September 13, 2018 as amended February 14, 2019, 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 814.G. of the Land Use Ordinance.