

Town of Windham

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MEMO

DATE: February 21, 2019

TO: Windham Planning Board
FROM: Amanda Lessard, Planner *AL*
Cc: Jim Seymour, P.E., Sebago Technics
Development Review Team

RE: 18-24 Land of Nod Road Subdivision– Sketch Subdivision Plan
Planning Board Meeting & Public Hearing: February 25, 2019

Overview –

The applicant is proposing a 30-lot cluster subdivision on a 65.67 acre property located on Land of Nod Road. Two of the lots will include the two existing single family dwellings on the property. A new 1,800 foot dead-end road and a 400 foot road terminating at the property line of the abutting Highland Woods Subdivision is proposed to serve the development.

This project appeared as a Sketch Plan at the Board meeting on November 26, 2018 as a 34 lot cluster subdivision. At that meeting the applicant was proposed a land swap with the abutter and a second access connecting to the adjacent proposed Highland Woods Subdivision that is also under subdivision review. At that meeting the Board discussed a preference for sprinkler systems over cisterns, and the need for connectivity of both the road and the trails in the open space with the abutting development. Since that meeting the abutting subdivision proposal has been scaled back and a land swap to connect the developments is no longer proposed. Additionally, the Land Use Ordinance has been amended to remove density bonuses in the Farm Zone. Consequently, the applicant's preliminary plan submission reflects a reduced number of lots and no longer proposes public access to the open space.

New comments from the staff memo dated November 21, 2018 appear as underlined text below

Tax Map: 7, Lots: 29 and 36, Zone: Farm (F).

SUBDIVISION REVIEW

Staff Comments:

1. Waivers:

- a) §911.A.3.a.1 – Street Line Monumentation. Performance standard

All street line monuments shall be granite. The applicant is proposing one side of the roadways to be granite and one side to be capped rebar. The applicant must submit a waiver request form that addresses the waiver criteria in Section 908.

2. Complete Application: *Evidence of financial capacity must be submitted*

MOTION: The preliminary subdivision application for project 18-24 Land of Nod Road Subdivision is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.

3. Public Hearing: A public hearing is scheduled for the February 25, 2019 Planning Board meeting.

4. Site Walk: A site walk was held on December 8, 2018 at 8:00 am.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: The Preliminary Subdivision application for 18-24 Land of Nod Road Subdivision on Tax Map: 7, Lot: 29 is to be (**approved with conditions/denied**) with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- The applicant should verify if any part of this subdivision is within the mapped 100 year floodplain. A tributary to Colley Wright Brook is located at northern corner of the property at Land of Nod Road and has a mapped floodplain.
- This subdivision is not located over a significant sand and gravel aquifer.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan as the subdivision is not served by public sewer and the subdivision has an average density of more than one dwelling unit per 100,000 square feet.
- A groundwater impact study was included in the February 4, 2019 preliminary plan submission. The study concludes that the wastewater disposal systems will not result in an increase of NO3-N concentration above 10 mg/L in groundwater at the subdivision perimeter property line.
- The groundwater impact study does not address groundwater quantity. A proposed subdivision shall not result in any water table drawdowns beyond the subdivision boundaries, due to withdrawals by the proposed subdivision, and shall not adversely impact groundwater supply availability to existing wells.

B. WATER

- All lots will be served by individual wells.
- The closest fire hydrants are located on Pope Road at Albion Road, at Roosevelt Trail at Pope Road, and at Roosevelt Trail at Land of Nod Road, over a mile from the subdivision.
- Section 911.M.5.b.5.b of the subdivision ordinance requires that all dwellings on dead end streets over 1,000 linear feet in length have an NFPA 13D monitored sprinkler system.
- At the Development Team meeting on August 22, 2018, Fire Chief Brent Libby stated that additional fire protection was recommended as the development was more than 1,000 from a fire hydrant served by the Portland Water District. Deputy Fire Chief John Wescott recommended two 15,000 gallon cisterns, one located near the intersection with Land of Nod Road and another 1,000 feet along the road. The final total volume will depend on fire flow demands based on the sizes of the proposed homes in the subdivision. Cistern details that meet NFPA Standards that have been approved by the Fire Chief should be submitted as part of the preliminary plan submission. An easement shall be granted to the Town for maintenance.
- Note 14 on the preliminary subdivision plan dated February 4, 2019 says that all dwellings within the subdivision shall include fire prevention measures in the form of sprinkler systems meeting NFPA standards.
- In accordance with cluster subdivision standards in Section 911.K3.b the applicant must demonstrate on the plan that it is possible to locate a subsurface wastewater disposal field and a well on each lot. When determined that it is necessary for specific lots, by the Planning Board, as a Condition of Approval, the location of these elements shall be elements of the subdivision plan, and any future changes to the location of these elements will require an amended subdivision review.
- Well locations are shown on the groundwater impact study map included in the preliminary plan submission.
- In an email dated February 13, 2019, Will Haskell, P.E. of Gorrill-Palmer asked for well and subsurface disposal fields or applicable exclusion zones on plans.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by Sebago Technics, dated February 4, 2019, has been submitted as part of the Preliminary Plan. Details are shown on Sheets 8 and 9 of 11.
- 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 will require a Maine Department of Environmental Protection (DEP) Site Law Permit. A copy of that permit must be submitted with the Final Plan.
- Wetlands were delineated by Gary M. Fullerton, CSS of Sebago Technics in June and July of 2017. Freshwater wetlands are shown on the plan.
- The project will alter 2,200 square feet of wetland near the connection of the proposed road at Land of Nod Road. This area should be identified and noted on the subdivision plan.
- A stormwater management plan prepared by Sebago Technics has been submitted as part of the February 4, 2019 Preliminary Plan submission. The project proposes to treat the 2.75

acres of impervious area and 1.96 acres of pervious area, or 4.71 acres of new developed area with a meadow buffer, a wooded buffer, and two (2) underdrained filter basins.

- In an email dated February 13, 2019, Will Haskell, P.E. of Gorrill-Palmer had many comments related the stormwater management plan including the length of the meadow buffer and calculation for the underdrained soil filters. Field surveys of stormwater management facility areas should be included with the final plan submission.

D. TRAFFIC

- The subdivision lots will have frontage on a new 1,800 foot long subdivision street which intersects with Land of Nod Road, a paved public road.
- Section 550.C states that no new private road will be permitted to directly access a public street.
- A road connection to the abutting property (Lot 36 on Tax Map 7) and the proposed Highland Woods Subdivision, a 22 lot cluster subdivision off of Highland Cliff Road currently under review, is shown on the sketch plan. The Planning Board approved a waiver request for the Highland Woods Subdivision to modify the minor local street standard shoulder requirements.
- ~~The revised sketch plan includes a land swap with the abutting property and road connection to Maysens Way, the proposed subdivision street in the Highland Woods Subdivision.~~
- ~~Section 911.M.7 requires a minimum of two connections to an existing public street for a residential subdivision street serving 31 or more units. The revised sketch plan still does not meet this requirement as Maysens Way is a proposed public street, not an existing public street.~~
- Street design standards for dead end streets in Section 911.K.4.g requires a hammerhead turnarounds every 1,000 feet. The sketch plan shows a street intersection at approximately 900 feet.
- Two existing single family homes will become lots in the subdivision. The existing driveway will be removed and new driveway access will be provided to the subdivision street.
- Sight distance at the subdivision road for both directions along Land of Road should be on the Preliminary Plan.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. A streetlight on Land of Nod Road at the intersection of the subdivision road would comply with the Town of Windham Streetlight Policy, adopted June 25, 2013.
- 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.
- A traffic impact analysis must be submitted with the Preliminary Plan submission as the subdivision is projected to generate more than 140 vehicle trips per day.
- There is a large property which abuts the proposed subdivision (Map 7 Lot 27B). Section 911.M.3.a (page 9-51) and Section 911.M.5.b.5.iii (page 9-60) allows the Board to require

the dedication of a right-of-way to provide continuation of the road where future development is possible. One of the new subdivision roads ends at the property line.

- The Preliminary Plan subdivision roadway cross section is not consistent with the Minor Local Street standard typical cross section. The plan shows 3 foot paved shoulders and 1 foot secondary gravel shoulders. The standard calls for 2 foot paved shoulders and 2 foot gravel shoulders. The cross section should be revised or a written waiver request submitted.
- A traffic impact study dated October 22, 2018 was included in the February 4, 2019 preliminary plan submission. The traffic study is for a proposed 32 new single family homes in addition to two existing homes for a total of 34 single family homes. The project is expected to generate 30 AM peak hour trips and 39 PM peak hour trips and a total of 385 daily trips. Sight distances at the proposed intersection is in excess of 500 feet in both directions. The study concludes that the surrounding area roadways are able to accommodate the expected increase in traffic.
- In an email dated February 13, 2019, Will Haskell, P.E. of Gorrill-Palmer requested stop signs, show roadway centerline curve data on plans, radii at cul-de-sac, revisions to the typical roadway section, drainage ditches, removal of and new driveway locations for existing houses, show sight distance on the plan, provide ditch sizing calculations and lining requirements, providing easements where ditch grading and riprap extend beyond the road right-of-way. Gorrill-Palmer had no comments on the traffic study.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- A high intensity soil survey was included in the preliminary plan set.
- Soil test pit analysis was included with the Preliminary Plan submission as a Class B High Intensity Soil Survey Report prepared by Gary Fullerton, CSS. All lots have at least one passing test pit. Test pit locations are shown on the Preliminary Plan.

F. SOLID WASTE

- Residents of the single family dwellings will participate in the Town's pay-per-bag garbage program.
- Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste.

G. AESTHETICS

- The site is mostly undeveloped; containing two vacated residential single family homes located near the parcel's frontage on Land of Nod Road. The remainder of the site is combination of open field meadows, and woods with defined wood line. The lot was once subject to gravel pit operations and remnants of those excavated areas are noted on the peripheries of the site.

- A vernal pool survey conforming with MaineDEP standards was performed during May of 2017 by Gary Fullerton of Sebago Technics. Vernal pools are shown on the sketch plan.
- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- A landscape plan is required for the preliminary plan submission. The February 4, 2019 preliminary plan submission states that proposed landscaping limited to areas near the entrance of the proposed road near Land of Nod Road. It will be placed on upland areas, out of the wetland limits, so that it will screen those homes to be located in the meadow from Land of Nod Road view.
- Street trees are required at least every fifty (50) feet (§ 911.E.1.b). Street trees are not shown on the February 4, 2019 preliminary plan.
- Limits of tree clearing are shown on the preliminary 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.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinance:
 - All lots fall within the minimum and maximum lot sizes of 30,000-50,000 square feet (one lot 60,000 sf max) and frontage (100 feet or 50 feet on cul-de-sac) for cluster lots in the F zoning district.
 - Net residential density calculations are shown on the Plan.
 - No more than 30% of the lots have direct vehicular access onto an existing public road.
 - The total area of reserved open space equals or exceeds 50% of the gross land area of the property to be subdivided and is contiguous.
 - The open space reserved includes 50% of the land suitable for development.
- Subdivision Ordinance
 - Standard notes and the standard condition of approval must be shown on the plans.
 - ~~• The subdivision is utilizing the 20% density bonus to gain an additional lot. In order to be eligible, the open space must be open for general public use, not just homeowners within the subdivision. Access easement for the open space must be recorded in the registry prior to the issuance of building permits. The final plan should note which portion of the open space may be dedicated for acceptance by the Town and a written offer of cessation must be submitted with the Final Plan. See Condition of Approval #2.~~
 - 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.
 - Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the

maintenance, repair, and plowing of the subdivision streets, open space and stormwater infrastructure.

- Two pieces of land, 0.86 acres and 2.26 acres, are shown on the sketch plan to be transferred to abutters. These transfers to the abutters should be completed prior to the final plan submission. If this real estate is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot subject to subdivision review.
- Others:
 - Chapter 221 Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan. The street name shown on the preliminary plan, Sanborn Lane, has not been approved by the Town.
 - On April 24, 2018 the Town adopted a Moratorium Ordinance on Mineral Extraction. At the Development Team meeting on August 22, 2018 the applicant indicated that there would be no excess material leaving the site.

I. FINANCIAL AND TECHNICAL CAPACITY

- A cost estimate for the project was included as part of the preliminary plan submission. Evidence of financial capacity must be provided.
- 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.
- There is 75 foot Stream Protection District for the tributary to Colley Wright Brook that is located on the northern corner of the property at Land of Nod Road. The district boundary should be shown on the plan.
- The applicant should demonstrate that 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/will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal.

7. The proposed subdivision **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms/does not conform** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has/does not have** 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/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision **is/is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision **have** 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/will not** provide for adequate storm water management.
17. ~~If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have 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 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 dependant upon, and limited to, the proposals and plans contained in the application dated August 6, 2018, as amended February 4, 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.