

Town of Windham

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MEMO

DATE: April 3, 2019

TO: Planning Board

FROM: Amanda Lessard, Planning Director *AL*

Cc: John Caprio, JCAP Properties, Inc
Development Review Team

RE: 19-06 Weeks Farm Major Subdivision – 2nd Amendment
Planning Board Meeting– April 8, 2019

Overview –

The Weeks Farm Subdivision, a seventeen (17) lot residential subdivision on a 21.88 acre lot on Overlook Road, was approved by the Planning Board on July 24, 2017. The Board approved an amendment to the plan on September 11, 2017 for a revision to stormwater forested buffer #3 on Lot 13. This application amends the plan by removing a portion of the 15 foot forested buffer along the frontage of Lot 14. This buffer is developer imposed and is not a component of the subdivision's stormwater management plan. The amendment is necessary as it was discovered that the house under construction on Lot 14 has encroached into the 15 foot forested buffer but otherwise complies with all other Town required dimensional standards.

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

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

New comments from the staff memo dated August 23, 2017, appear as underlined text below.

Tax Map: 10; Lot: 30. Zoning District: Farm Residential (FR).

SUBDIVISION REVIEW

Staff Comments:

1. Waivers:

- a) §910.C.1.c.1 – High Intensity Soils Survey, Submission requirement.
Granted June 26, 2017
- b) §911.J.6 – Stormwater Flooding. Performance standard
Granted July 24, 2017
- c) §910.C.1.c.3 – Hydrogeologic Assessment. Submission requirement.
Granted July 24, 2017

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

MOTION: ~~The final subdivision application for project 19-06 Weeks Farm 2nd Amended Subdivision is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.~~

3. Public Hearing: A public hearing was held at the Planning Board meeting on Monday June 26, 2017.

4. Site Walk: A site walk was held on Monday June 26, 2017 at 5:45pm.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: The Subdivision application for 19-06 Weeks Farm 2nd Amended Subdivision on Tax Map: 10, Lot: 30-14 is to be (approved with conditions/denied) with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- This subdivision is not located over a significant sand and gravel aquifer.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan as the subdivision is not served by public sewer and the subdivision has an average density of more than one dwelling unit per 100,000 square feet.
- In an email dated June 19, 2017, Town Engineer Jon Earle PE noted that a site plan with contour information showing the nitrate/nitrogen concentration at the property lines should be included as part of the hydrogeologic analysis.
- In a letter dated June 26, 2017 from Mark Cenci, the applicant requests a waiver from the hydrogeologic assessment submission requirement.

- The new residential lots will not result in undue air or water pollution.

B. WATER

- All lots are proposed to be served by public water for domestic use and fire protection.
- A written statement from the Portland Water District indicating that there is adequate water supply to service the subdivision must be submitted with the Preliminary Plan.
- An email dated June 15, 2017 from Robert Bartels, PE, or the Portland Water District indicates that the 12 inch water main in Albion Road is suitable to serve the proposed subdivision on Overlook.
- In an email dated June 19, 2017, Town Engineer Jon Earle PE questioned if the water main would be private or public. If proposed to be a public main, easement language for future maintenance by PWD should be provided.
- Connection to the existing water main on Albion Road will require a road moratorium restoration plan per Public Works Director Doug Fortier.
- In an email dated June 19, 2017, Town Engineer Jon Earle PE requested that detail for the cross section of the excavation and trench repair of Albion Road in accordance with Chapter 120 Streets & Sidewalks Section 210-14.B should be added to the Final Plan.
- Revised plans dated July 5, 2017 includes Note 6 that a bituminous pavement surface overlay shall be installed on the full width of Albion Road for a distance of 20 feet from the edges of the cut.
- The closest fire hydrant is located on Albion Road east of the Overlook Road intersection. Fire Chief Brent Libby requests that hydrants be spaced every 1,000' and the development as shown will likely require the installation of 2 hydrants. Hydrant locations should be shown on the plan.
- Hydrants and water main locations and details are shown as part of the Preliminary Plan on Sheets 2, 3 and 6. Proposed hydrants, located near the property boundary of Lots 4 and 6, and at Lot 17 are shown on the plan with a revision date of July 5, 2017.
- A revised road plan and profile sheets were submitted on July 19, 2017 that addresses comments from the Portland Water District to show locations of water main valving.

C. SOIL EROSION

- An Erosion and Sedimentation Control Plan prepared by Attar Engineering, Inc dated June 5, 2016 on Sheet 7 has been submitted as part of the preliminary plan set. It takes the form of printed best management practices plan rather than on-the-ground designation of erosion control measures.
- This project may require a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit. The applicant must submit a stormwater plan that meets the water quality and quantity standards as well as the flooding standard of Section 3, DEP Chapter 500.
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. This may

mean there are additional permitting requirements, and ongoing requirements for reporting of stormwater infrastructure maintenance if the area of development is greater than one (1) acre.

- Stormwater calculations are shown on Sheet 1 of the preliminary plan prepared by Attar Engineering, Inc dated June 14, 2016. Berm/Forested Buffer sizing is shown on Sheets 7 and 8. The six (6) berms/forested buffers will treat 82% of the proposed impervious and developed area. The applicant is requesting a waiver from the stormwater flooding standard.
- Sheet 8 of the revised plan set dated June 26, 2017 shows the subcatchment areas used to size the berm/forested buffers.
- In an email dated July 12, 2017, Town Engineer Jon Earle PE stated that the waiver request was reasonable and the project meets Chapter 500 water quality standards.
- A note should be added to the plan requiring permanent marking of the stormwater buffers.
- A stormwater operation and maintenance plan was submitted on June 15, 2017.
- Note 10 on the preliminary subdivision plan submitted July 6, 2017 requires temporary and permanent marking of the stormwater buffers.
- The amended subdivision plans prepared by Attar Engineering, Inc dated August 8, 2017 show a revised stormwater buffer on Lot 13. Stormwater calculations are shown on Sheet 1 and Berm/Forested Buffer sizing is shown on Sheet 8. The six (6) berms/forested buffers will treat 83.3% of the proposed impervious and developed area.
- In an email dated August 14, 2017, Town Engineer Jon Earle PE stated that he reviewed the subdivision amendment submission as it relates to Buffer #3 and has no issues with the new stormwater treatment design and calculations.

D. TRAFFIC

- The subdivision lots will have frontage on Overlook Road, which is a private road with public easement for winter maintenance. A 40 foot wide easement provides access to the subdivision from Albion Road. A 50 foot wide right-of-way will be delineated around the existing Overlook Road through the subdivision.
- The standard subdivision private road note should be shown on the plan.
- At the Development Team on March 16, 2017, Public Works Director Doug Fortier requested that driveway locations and site distances be shown on the plan.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are not required.
- At the Development Team meeting, the developer indicated that the roadway may be paved and sidewalks added to one side of the road from the intersection of Albion to the end of the project.
- The preliminary plan submission indicates that the development is expected to generate 170 trips per day. A Traffic Impact Analysis must be submitted for subdivisions projected to generate more than 140 vehicle trips per day.
- In an email dated June 19, 2017, Town Engineer Jon Earle PE requested submission of projected peak hour trips.
- A road plan and profile, prepared by Attar Engineering, Inc dated June 5, 2016 was submitted as part of the Preliminary Plan and is shown on Sheets 4 and 5 of 6. The road cross section is shown on Sheet 6 and appears to indicate the road will be constructed to a major private road standard.

- In an email dated June 19, 2017, Town Engineer Jon Earle PE stated that the construction detail should note that the road will be constructed to a major private road standard. He noted that the Town's understanding is that the construction of the roadway will involve reusing as much of existing gravel as possible. He recommended a gradation of the exiting material and areas with gravel not meeting Type D specifications should be noted on the as-built plan. He also requested that site distances at Albion Road and a construction detail for the hammerhead turnaround be added to the plan.
- A Geotechnical Investigation Report prepared by John Turner Consulting dated May 24, 2017 was submitted on June 20, 2017. Page 5 of the report indicates the existing gravel materials do not meet a Type A nor a Type D gravel specification.
- The July 5, 2017 final plan submission describes the improvements to Overlook. The developer no longer proposes to improve the road to the major private road standard. The revised plan set dated July 5, 2017 shows a road cross section detail on Sheet 6 where Overlook Road will have a 20' wide surface with 3" of pavement, with 2' gravel shoulders on each side, and the 20" aggregate subbase will consist of 10" of reclaimed gravel and 10" of Type D gravel.
- Note 14 on the final subdivision plans states that all roads will remain private roads.
- Driveway locations are shown on the subdivision plan submitted on July 6, 2017.
- In an email dated July 11, 2017, Town Engineer Jon Earle, P.E., requested sight distances at the intersection of Overlook Road and Albion Road, the number of peak hour trips, a hammerhead construction detail, and a stop sign detail.
- Sight distances are shown on the subdivision plan submitted on July 19, 2017. Sight distances looking east and west on Albion Road are in excess of 400 feet.

E. SEWERAGE

- Lots will be served by private subsurface wastewater disposal (septic) systems.
- Soil test pit logs dated March 22, 2017, prepared by Mark Cenci Geologic, Inc were provided in the June 5, 2017 submission. All lots have at least one passing test pit.
- Test pit locations are shown on the Preliminary Plan Sheet 1.

F. SOLID WASTE

- Private residences in this subdivision will participate in the Town trash bag 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 predominately wooded with some forested wetland areas shown on the 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. Street trees are required at least every fifty (50) feet.

- A 15 foot forested buffer is shown along the entire frontage of all proposed subdivision lots and does not appear to be stormwater buffer. The applicant should provide additional detail on restrictions of this buffer area and where driveways are permitted to cross.
- Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- Note 10 on the subdivision plan states that the 15' forested buffer must remain in its natural state with the exception of 20' wide openings for driveways.
- The tree line is shown on the subdivision plan and Note 13 specifies the restriction on clearing.
- The amended subdivision plan dated March 2019 removes a portion of the 15 foot forested buffer along the frontage of Lot 14. Removal of this buffer does not impact the required street trees or the subdivision's treatment of stormwater.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
 - All lots exceed the minimum lot size of 50,000 square feet for standard lots in the FR zoning district.
 - Lots meet the lot width requirement of 150 feet for the FR zoning district.
 - A piece of land 15,720 square feet is shown on the sketch plan to be transferred to the abutter, Albion Road, LLC. 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.
 - Net residential density calculations have been provided on the Preliminary Plan submission.
- Subdivision Ordinance
 - Standard notes and the standard condition of approval and waivers granted from performance standards must be shown on the Final Plan.
 - The Tax Map and Lot numbers provided by the Tax Assessor are shown on the Final Plan.
 - Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.
- Others:

I. FINANCIAL AND TECHNICAL CAPACITY

- A letter dated April 27, 2017 from Dan McCarron, Chief Operating Officer at Maine Capital Group was submitted as evidence of financial capacity.
- A cost estimate for the project must be submitted.

- 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 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 **do not have** a lot depth to shore frontage ratio greater than 5 to 1.

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 dependant upon, and limited to, the proposals and plans contained in the application dated March 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.