

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

## MEMO

DATE: May 23, 2019

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

RE: 19-05 Woodside Condos Retirement Community – Amended Subdivision –  
Preliminary Plan  
Planning Board Meeting: May 29, 2019

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### Overview –

The Woodside Condominium Retirement Community, a fourteen (14) unit/seven (7) duplex major subdivision on an 11 acre property located on Gray Road and Swett Road, was approved by the Planning Board on March 11, 2019. This application amends the plan with an additional thirty-six (36) residential dwelling units in eighteen (18) duplexes, for a total of 50 dwelling units. The property is located across the street from the Windham Community Park/Community Garden/Public Safety Building in the Windham Center Growth Area. The project will construct an additional 1,000 feet of roadway that will include a second connection to Gray Road. The scope of the Planning Board's review of the elements of the Phase 1 approved plan should be limited to the criteria impacted by the proposed amendment. The applicant should more clearly show on the plans what aspects of the Phase 1 approval are to be amended by this application.

This project appeared as a Preliminary Plan at the Board meeting on May 13, 2019. At that meeting the Board held a public hearing and heard concerns about the development's potential impacts on abutting wells, stream vegetated buffers, water quality in the Pleasant River, traffic, blasting, the loss of rural land, and that requirements for a retirement community wouldn't prevent families with children from living there. The Board discussed the proposed engineered septic system, wetland impacts, waivers, and the need for additional soil test pit analysis and baseline testing of the abutting wells. The applicant has submitted a response to peer review comments and written waiver requests for the Board's consideration.

Underlined text in the memo below shows new information included with the submission and new staff comments from the memo dated May 9, 2019.

Tax Map: 9, Lots: 27K and 27E (portion), Zone: Farm Residential (FR) 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.  
*Septic systems have been designed for three specific areas and test pit analysis at those locations has been provided. Six additional test pits across the site were also evaluated. Staff has no technical concerns with the waiver request.*
- 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. This development proposes to generate 172 trips during a typical weekday and is not expected to require any off-site improvements. Staff has no technical concerns with the waiver request.*
- c) §911.H.1B – Groundwater quality, Performance standard.  
*The applicant submitted a nitrate analysis that shows an increase of the nitrate-nitrogen above 10 mg/L in groundwater at the property boundary for septic systems F and G. The request states that public water is available and no known drinking water wells are within the vicinity of the plume. Staff recommends that the applicant obtain acknowledgement from the abutter that the nitrate plume will extend across their property or redesign the wastewater disposal system to eliminate the encumbrance.*
- d) §911.M.5.A.6.1 – Access Drives. Major Private Road Performance standard.  
*Access drives for condominium subdivisions shall meet the major private road standard (20 ft travel lane, 2 ft paved shoulder, 2 ft gravel shoulder without curb). The applicant proposes 2-10' travel lanes, 1' paved shoulders on each side, a 5' paved sidewalk on one side, and a 2' grassed shoulder on the non-sidewalk side of the drive. This is the same cross section for Phase 1 that was approved by the Planning Board. The applicant also proposes a reduction in the tangent length between reverse curves to be less than 100 feet. Staff has no technical concerns with the waiver request.*

- 2. Complete Application: *Staff notes that the application is not complete until evidence of financial capacity is submitted.*

**MOTION:** The Preliminary Plan application for project 19-05 Woodside Condominium 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 May 13, 2019 Planning Board meeting.

4. Site Walk: A site walk for Phase 1 was held on Monday August 27, 2018. A site walk for Phase 2 was hold on Monday May 13, 2019 at 5:30 PM.

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** The Preliminary Subdivision application for 19-05 Woodside Condominium Retirement Community on Tax Map: 9, Lots: 27K and 27E 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.
- A hydrogeologic assessment was submitted for Phase 1 due to the abutters drinking water wells near the property line.
- The April 22, 2019 submission includes a nitrate-nitrogen assessment dated April 22, 2019 prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services that concludes that the proposed subsurface wastewater disposal systems E will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary. The proposed subsurface wastewater disposal systems F and G will result in an increase of nitrate-nitrogen at the property boundary. The 10mg/L nitrate-nitrogen plume is shown on Plan of Wastewater Disposal Systems F&G. He proposes that the applicant request a waiver from the groundwater quality standard given that the properties on Gray Road are served with public water and there is no known water supply wells near the plumes.
- In the May 13, 2019 submission, the applicant has requested a waiver from the groundwater quality standard.
- In an email dated May 1, 2019, Will Haskell P.E. of Gorrill-Palmer, recommends that the applicant obtain acknowledgement from the abutter that the nitrate plume will extend across their property or redesign the wastewater disposal system to eliminate the encumbrance.

**B. WATER**

- The development will be served by public water for domestic use.
- The Portland Water District confirmed as part of the Phase I approval that there is public water in proximity to the subdivision.
- 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.
- The Phase 1 approved plans showed a proposed hydrant located across from Units 11/12 near the proposed hammerhead.
- At the Development Team Meeting on March 26, 2019 Fire Chief Brent Libby stated that the proposed location may be adequate to serve Phase 2 as the end of the proposed street extension is within 1,000 feet. Proposed hydrants should be shown on the plan.
- The proposed hydrant is shown on the Preliminary Plan Grading and Utility Plan, Drawing GU-1, across from Units 13&14.

#### C. SOIL EROSION & STORMWATER MANAGEMENT

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated April 22, 2019, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- At the April 8, 2019 the Planning Board requested that a blasting plan be submitted as part of the application.
- 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.
- A component of the Phase 1 stormwater management plan, Filter Basin 2, will be revised and incorporated into the Phase 2 plan.
- The cumulative impervious area of Phases 1 and 2 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. Two areas of wetland impact are shown on the Preliminary Plan, totaling 2,817 square feet.
- A stormwater management plan has been submitted as part of the April 22, 2019 Preliminary Plan submission. The plan addresses the full buildout of the property, including the area that was approved in Phase 1. The project proposes to treat the 8.02 acres of new developed area (2.85 acres impervious area) with four (4) underdrained filter basins, one (1) bio-retention cell, two (2) Filterra units, a forested buffer and roof drip edges on each building. The applicant will be responsible for the maintenance of the stormwater facilities until a homeowners' association is created.
- In an email dated May 2, 2019 Will Haskell, P.E. of Gorrill-Palmer had numerous comments on the erosion control and stormwater management plans.
- The applicant submitted a response to review comments on May 13, 2019 that included a revised plan set and a revised stormwater management plan that eliminates the use of Filterra units.
- In an email dated May 2, 2019 Will Haskell, P.E. of Gorrill-Palmer requested that the stream offset from the stream behind units 7, 8, 9, and 10 be shown on the plan, and revisions to the spillway analysis to eliminate flow in the primary outlet of ponds 2 and 3, and from the tertiary outlet of pond 4, and revisions to the length of the spillway on the biocell.

D. TRAFFIC

- Phase 1 of the development has access from Gray Road with the new 750 foot subdivision street. Phase 2 of the development will construct an additional 1,000 feet of roadway with a second connection to Gray Road. The hammerhead proposed as part of Phase 1 will be removed.
- 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.
- 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. The Planning Board should discuss which of the proposed road intersections should have a streetlight. The closest streetlight is at Gray Road at the entrance to the Public Safety Building and the next closest is at Gray Road at Swett Road. No proposed streetlight is shown on the April 22, 2019 preliminary plan or the May 10, 2019 preliminary plan.
- As part of the Phase 1 approval, the Planning Board approved a waiver from the major private road standard to a road with 2-10' travel lanes, 1' paved shoulders on each side, a 5' sidewalk and a 2' gravel should on the non-sidewalk side of the drive.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are required.
- The Phase 2 sketch plan does not show a sidewalk on the second connection to Gray Road. The sidewalk or paved shoulder on Gray Road connecting the two access drives should be proposed.
- At the Development Team Meeting on March 26, 2019 Public Works Director Doug Fortier supported a paved shoulder as creating closed drainage for a sidewalk would be difficult.
- 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.
- At the Development Team Meeting on March 26, 2019 Will Haskell, PE of Gorrill-Palmer asked if additional visitor parking would be provided within the development.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated April 22, 2019, shown on Sheet P-1, P-2, PP-1, and PP-2, was submitted as part of the Preliminary Plan.
- The typical roadway section shown on Sheet D-1 dated April 22, 2019 propose constructing the road with 2-10' travel lanes, 1' paved shoulders on each side, a 5' paved sidewalk, and a 2' gravel should on the non-sidewalk side of the drive. This section does not comply with the Major Private Road section. A written waiver request should be submitted.
- The preliminary subdivision plan proposed to pave the existing gravel shoulder on Route 202 and notes that the contractor is to coordinate with the Department of Public Works prior to construction.

- The April 22, 2019 preliminary plan submission states that the vehicle sight distance at the two proposed driveway intersections looking right and left is over 700 feet. Sight distances are not shown on the preliminary plan.
- The April 22, 2019 preliminary plan submission states that based on the ITE Trip Generation Manual the proposed 50 senior housing units are expected to generate a total of 172 trips during a typical weekday, 10 trips in the weekday morning peak hour, 13 trips in the evening peak hour, and 16 trips in the Saturday peak hour.
- A traffic impact analysis was not included in the preliminary plan submission and the applicant indicates that a waiver is requested. The applicant should submit reasons for which the waiver from submission requirements is sought.
- In an email dated May 2, 2019 Will Haskell, P.E. of Gorrill-Palmer asked for different stationing numbers for each road for clarity, that the roadway standards are not met specifically the requirement of a maximum grade of 2% within 60 ft of an intersection, and the minimum tangent length between reverse curves, requested a barrier at the end of the southerly entrance drive, show stop signs, provide hammerhead turnaround dimensions on the plan and call out locations of ADA curb ramps/detectable warnings on plan. He also questioned if provisions for visitor parking were considered.
- The applicant submitted a response to review comments on May 13, 2019 that included a revised road plan and profile that address the road grade at the intersection.
- In the May 13, 2019 submission, the applicant has requested a waiver from the major private road cross section as well as a reduction in the tangent length between reverse curves to be less than 100 feet.
- In an email dated May 15, 2019 Will Haskell, P.E. of Gorrill-Palmer requested a detectable warning at the crosswalk at the northerly entrance road sidewalk. He also noted they agree that the sight distance should be more than adequate, but that applicant should confirm how the sight distance was measured and the sight distance requirement for 40 mph. He requested that the plans show the other driveways in the area and that the applicant obtain MaineDOT crash data for Route 202 along the site frontage.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis prepared by Alexander A. Finamore, LSE of Mainely Soils LLC dated March 25, 2019 states that the proposed development has suitable soils for a First Time System according to the Maine Subsurface Wastewater Disposal Code. The six test pits are shown on the preliminary plan.
- Soil test pit analysis was included in the preliminary septic system investigation included in the April 22, 2019 prepared by Stephen Marcotte, CG, LSE of Summit Geoengineering Services dated April 22, 2019. The four test pits are shown on the preliminary plan. There is not a test pit associated with the proposed disposal field E.
- Septic system locations are shown on the plan. Disposal Field E, a septic system to serve Units 15 thru 44 is located at the dead end of the subdivision street. A septic system F to serve Units 45/46 is located behind those units, and septic system G to serve Units 47/48 & 49/50 is located behind those units.

- State of Maine DHHS approval of engineered septic system E must be included with the Final Plan submission.
- The preliminary septic system investigation notes that there is one known water supply well located approximately 175 feet southwest of the proposed disposal field E and it will be abandoned and replaced with a well at least 300 feet from the proposed disposal field. There is also a minor water course (stream) located approximately 150 feet west of the proposed disposal field E on an adjoining property and additional location data needs to be obtained to verify the setback distances to determine if a variance is necessary.
- In an email dated May 2, 2019 Will Haskell, P.E. of Gorrill-Palmer requested information on abandonment and relocation of the offsite well as noted in the septic system siting investigation and ensure that the proposed subsurface systems comply with all applicable setbacks as the proposed engineered system is in close proximity to the detention basin and culvert outlet.
- At the May 13, 2019 Planning Board meeting the applicant stated that additional soils investigation in the area of the engineered septic system was scheduled. That test pit analysis has not yet been submitted.
- In an email dated May 15, 2019 Will Haskell, P.E. of Gorrill-Palmer recommends that the resolution of the offsite well location/setback be a condition of final approval. Additional information should be provided with the final plan submission.

F. SOLID WASTE

- The April 22, 2019 preliminary plan submission states that residents of the two family dwellings will participate in the Town's pay-per-bag garbage program.
- Where the road is proposed to be private, the Town's contracted trash hauler typically picks up trash at the public street. The applicant should provide additional information about a collection area at Gray Road.
- In an email dated May 15, 2019 Will Haskell, P.E. of Gorrill-Palmer also noted that consideration should be given to a suitable location for residents to drop trash and recycling containers that will not impede traffic entering the project roads, or traffic traveling along Route 202.
- 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 required at least every fifty (50) feet (§ 911.E.1.b). Street trees are shown on the Plan and Profile Sheets PP-1, PP-2, GU-1, GU-2, and GU-3 of the preliminary plan set.
- Limits of tree clearing are shown on the preliminary plan. Note 12 on the 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. 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 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 were included in the April 22, 2019 submission.
    - Retirement Community dwellings shall be limited to 3 or fewer bedrooms per dwelling unit.
    - The preliminary septic system investigation included in the April 22, 2019 submission states that septic systems are designed 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.
  - In an email dated May 15, 2019 Will Haskell, P.E. of Gorrill-Palmer noted that a boundary pin/monument is required behind units 39/40.
  - 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 name shown on the plan, Conifer Drive, has been approved by the Town. A street name for the second access drive connection to Gray Road approved by the Town Addressing Officer shall be shown on the Final Plan.

## I. FINANCIAL AND TECHNICAL CAPACITY

- Evidence of financial capacity must be provided as part of the Preliminary Plan submission.
- The expected construction costs to complete the required site improvements was included in the April 22, 2019 preliminary plan submission.
- 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. Projects in the Pleasant River watershed require additional erosion control inspections during construction.
- As part of the Phase 1 approval, the Maine DEP made a field determination dated December 18, 2018 that describes wetlands and a stream on the property. The 60' stream segment is shown on the plan. The required 75' setback should be shown on the plan.
- The preliminary septic system investigation included in the April 22, 2019 notes that a minor water course (stream) is located approximately 150 feet west of the proposed disposal field E on an adjoining property and additional location data needs to be obtained to verify the setback distances.
- 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 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/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 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/has not** 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 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.
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 18, 2019, as amended May 13, 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.