



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Planning Board

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Wednesday, May 29, 2019

7:00 PM

Council Chambers

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#### Special Meeting

#### 1 Call To Order

#### 2 Roll Call and Declaration of Quorum

*The meeting was called to order by Chair, David Douglass. Other members present were: Keith Elder, Nick Kalogerakis, and Colin Swan.*

*Planning Director, Amanda Lessard, and Planner, Jenn Curtis, were also present.*

#### 3 [PB 19-051](#) Approval of Minutes: May 13, 2019

**Attachments:** [Minutes 5-13-19 - draft.pdf](#)

*Keith Elder made a motion to approve the minutes from the May 13, 2019 meeting.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

#### **Continuing Business**

#### 4 [PB 19-052](#) 18-12 Highland Woods. Major subdivision final plan review. MTR Development, LLC to request review of an 11 lot residential cluster subdivision. The property in question is located at Highland Cliff Road and identified on Tax Map: 7, Lot: 36, Zone: Farm (F) and Stream Protection (SP).

**Attachments:** [18-12 Highland Woods Final 5-24-2019](#)  
[18-12 Peer Review Highland Woods 05-16-2019](#)  
[Highland Woods Final Subdivision Application 2019 5 8](#)  
[Highland Woods Subdivision Plan Set 2019 5 6](#)  
[MTR Development LLC L28126ANBN](#)  
[Response to Comments - Highland Woods Subdivision 2019 5 24](#)  
[Revised Plans - Highland Woods 2019 5 24](#)

*Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained:*

- DEP had approved the stormwater plans and permit order for Stormwater Management and NRPA for wetland alteration. The Army Corp of Engineers had also permitted the wetland alterations.
- The traffic memo had been updated to reflect peak hour trips.
- Monumentation had been added at the property corners.
- Assessing data had been added to the plan.
- It was reasonable for them to maintain a buffer to the wetlands across lots 6 and 7 but that area would not be deed restricted.

Amanda Lessard explained:

- The road right-of-way extended to the property line.
- An abutter had expressed concerns with buffering to her property.
- The wetlands couldn't be altered from what had been approved. Developed area could not be created in excess of the developed and impervious area as noted on the plan.

Mr. Roma stated they could provide a ten foot buffer to the wetlands in a straight line across lots 6 and 7 and would add a note on the subdivision plan regarding the site law approval.

David Douglass made a motion that the application for 18-12 – Highland Woods Subdivision, was found complete in regard to the submission requirements based on the application checklist but the Planning Board retained the right to request more information where review criteria were not fully addressed.

Seconded by Keith Elder.

Vote: All in favor.

Nick Kalogerakis made a motion that the Final Subdivision application for 18-12 Highland Woods Subdivision on Tax Map: 7, Lot: 36 is to be approved with conditions with the following findings of fact and conclusions and in addition the agreed upon buffer that extended ten feet into the lot at the wetland line on lot 6 be included in that and the semi-converging setback line for lot 7 buffer be included as well.

#### FINDINGS OF FACT

##### A. POLLUTION

- A portion of the subdivision is within the mapped 100 year floodplain of a tributary to Colley Wright Brook that is located just beyond the northern corner of the property. The 100-yr floodplain is shown on the rear of Lots 14 and 15 8 and Open Space 2.
- 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 hydrogeologic assessment prepared by Stephen B. Marcotte, P.G. of Summit Geoengineering Services dated July 23, 2018 concludes that the proposed subsurface wastewater disposal systems will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary.
- A hydrogeologic assessment prepared by Stephen B. Marcotte, P.G. of Summit Geoengineering Services dated October 26, 2018 concludes that the proposed subsurface wastewater disposal systems will not result in an increase of nitrate-nitrogen above 10 mg/L in groundwater at the property boundary.
- In an email dated November 20, 2018, Town Engineer Jon Earle P.E., asked for clarification as lots 9-22 appear to have the test pit located outside of the footprint where

*the disposal field is being proposed and subsequent plume.*

- In the plan dated May 8, 2019, additional test pits # 40, 41, and 42 correspond to the locations of the disposal field footprints for lots 9, 10, and 11.*

#### **B. WATER**

- All lots will be served by individual wells.*
- The closest fire hydrants are located on Pope Road at Albion Road and at Roosevelt Trail at Pope Road, over a mile from the subdivision. At the Development Team meeting on May 1, 2018, Fire Chief Brent Libby recommended that the new houses in this subdivision include sprinkler systems that meet NFPA standards.*
- A note should be added to the plan that all new homes shall be equipped with sprinkler systems that meet NFPA and the Town of Windham standards.*
- Note 13 on the subdivision plan dated January 7, 2019 states that all dwellings within the subdivision shall include 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.*
- A plan of wastewater disposal systems is shown on Sheet WW-1 dated July 23, 2018.*
- A plan of wastewater disposal systems is shown on Sheet WW-1 dated October 26, 2018. Well exclusion areas should be noted the final subdivision plan.*
- A note should be added to the final subdivision plan about the well exclusion areas.*

#### **C. SOIL EROSION**

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated June 4, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.*
- Phase 1 of his project will require a Stormwater Permit Maine Department of Environmental Protection (DEP). Phase 2 of this project will require a Site Location of Development permit from Maine Department of Environmental Protection (DEP). The permits must be submitted with the applicable Final Plan submission.*
- 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.*
- Wetlands were delineated by Sweet Associates on September 8, 2017. Freshwater wetlands are shown on the plan. This project requires a Maine Department of Environmental Protection (DEP) Natural Resources Protection Act (NRPA) Tier-1 permit for wetland alterations. The permit must be submitted with the Final Plan. Note 1 on Sheet PP-1 state that there will be approximately 14,365 S.F. of total wetland impact associated with the proposed development. This note should also be on Sheets SB-1 and ASB-1.*
- A stormwater management plan has been submitted as part of the June 4, 2018 Preliminary Plan submission. The project proposes to treat the 3.09 acres of new impervious area with five (5) underdrained filter basins.*
- The stormwater treatment table is shown on Sheet SWP-2 of the preliminary subdivision plan set. A note should be added to the recording plan that describes the assumed impervious and developed area for each lot.*
- Note 10 on the subdivision plan sheets SB-1 and SB-2 states that all buildings will require the installation of a roof drip edge filter for stormwater treatment.*

- The plan also includes an inspection, maintenance and housekeeping plan. The owner is responsible for the maintenance of all stormwater management structures and related site components until such time that a homeowner's association is created.
- In an email dated June 14, 2018, Town Engineer Jon Earle P.E., notes that a waiver from the flooding standard for minor increase in peak flows should be requested for Study Point #1 (10 and 25 year storm) and Study Point #3 (10 year storm). Chapter 500 water quality standard have been met. He also noted that the minimum culvert size allowed in a public way is 15 inches and requested additional ground topography for the footprints for each of the 5 filter basins rather than relying on the LIDAR aerial survey.
- In an email dated July 31, 2018, Town Engineer Jon Earle P.E., stated that stormwater comments from June 14th have not been addressed.
- The November 5, 2018 preliminary plan submission includes a wetland delineation by Mainely Soils LLC dated October 2, 2018. The preliminary plan note 5 that there will be approximately 14,365 square feet of wetland impact associated with the proposed development.
- The November 5, 2018 preliminary plan submission includes a high-intensity soil survey prepared by Longview Partners, LLC dated October 2018.
- Revised stormwater treatment calculations have been submitted as part of the November 5, 2018 Preliminary Plan submission.
- In an email dated November 20, 2018, Town Engineer Jon Earle P.E., requested a table with the individual lot assumptions for impervious and developed areas in addition to the watershed subcatchment assumptions for impervious/developed areas.
- A revised stormwater management plan has been submitted as part of the January 7, 2019 Preliminary Plan submission. The project proposes to treat the total developed area of 7.4 acres (1.04 acres of new impervious area) with three (3) underdrained filter basins and roofline drip edges around each building.
- A lot area summary table is shown on the January 7, 2019 subdivision plan that shows the individual lot assumption for impervious and developed areas and Note 10 requires the installation of roof drip edge filters.
- In an email dated January 22, 2019 Town Engineer Jon Earle P.E., noted that the project meets Chapter 500 basic, general and flooding standards. He also request that additional ground topography for the footprints for each of the filter basins be submitted with the final plan rather than relying solely on LIDAR aerial survey.
- A Stormwater Management Law, Natural Resources Protection Act, Tier 1 Wetland Alteration, Water Quality Certification Permit was submitted as part of the Final Plan submission. The plan should include the permit # in reference notes.
- In an email dated May 16, 2019 Town Engineer Mark Arienti, P.E., requested that additional ground topography for the footprints for each of the 3 filter basins rather than relying solely on LIDAR aerial survey as part of the Final Plan submission.
- In an email dated May 16, 2019 Town Engineer Mark Arienti, P.E., noted that the stormwater plan was previously reviewed (1/22/19) by Jonathan Earle and found to be in compliance with the Basic and General standards, but requested that a spillway analysis for the underdrained soil filters for a 25-yr storm with the spillway as the sole outlet; as it was not included.
- In an email dated May 16, 2019 Town Engineer Mark Arienti, P.E., noted that the Hydrocad modeling output included in the Stormwater Management Report does not appear to include the post-development results for filter basins 1, 2, and 3, and requested it.

#### D. TRAFFIC

- The subdivision lots will have frontage on a new 1,500-foot-long subdivision street which intersects with Highland Cliff Road, a paved public road.
- The new road will be built to a Minor Local Street standard, as is required in cluster

subdivisions.

- 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 hammerhead at approximately 750 feet.
- Sight distance at Maysens Way for both directions along Highland Cliff Road should be shown on the Preliminary Plan. The preliminary plan submission dated June 4, 2018 states that the site distance exceeds 500 feet looking left and exceeds 700 feet looking right.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. A streetlight on Highland Cliff Road at the intersection of Maysens Way 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.
- The preliminary plan submission dated June 4, 2014 states that the proposed 22 residential lots are expected to generate 22 peak hour trip ends.
- There is a large property which abuts the proposed subdivision (Map 7 Lot 29). 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.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated June 4, 2018, shown on Sheet 4, 5 and 6, was submitted as part of the Preliminary Plan. The roadway cross section is shown on Sheet 10.
- The Preliminary Plan dated June 4, 2018 shows on Sheet ASB-1 a private right-of-way to the abutting property Lot 32A, near the property line of Lot 29. This future right-of-way should also be shown on Sheet SB-1 and offered to the Town when the road right-of-way is offered for public acceptance.
- In an email dated June 14, 2018, Town Engineer Jon Earle P.E., asked if the road would be offered for public acceptance prior to the start of Phase 2. Binder pavement must over winter prior to surface paving. The site distance is noted in the narrative but should also be shown on the plan. A stop sign and detail should be added to the plans.
- A traffic assessment prepared by William J. Bray, P.E. of Traffic Solutions dated July 22, 2018 concludes that the 22 lot residential subdivision can be expected to generate 209 daily trips; seventeen (17) trips in the morning peak hour and 22 trips during the afternoon peak commuter hours. Maine DOT's most recent three year accident safety audit shows a total of 4 vehicle crashes have been reported for the full length of Highland Cliff Road, and that vehicle sightlines measured in both direction from the proposed subdivision entrance onto Highland Cliff Road exceeds the sight distance standard.
- The road profile shown on Sheet D-1 dated July 23, 2018 reflects the waiver approved by the Planning Board on June 25, 2018 to require an additional foot of paved shoulder, and a reduced width gravel shoulder.
- In an email dated July 31, 2018, Town Engineer Jon Earle P.E. requested sight distance shown on the subdivision plan and a stop sign and construction detail.
- The Preliminary Plan dated November 5, 2018 shows a proposed land swap with the abutter to allow for the subdivision road to terminate at the property line for a connection to a future development. The plan shows a hammerhead turnaround at end of the proposed street. The Minor Local Street Standard requires a cul-de-sac. A written waiver request should be submitted.

- A road plan and profile, prepared by DM Roma Consulting Engineers, dated November 5, 2018, shown on Sheet 4, 5 and 6, was submitted as part of the Preliminary Plan. The roadway cross section is shown on Sheet 10.
- The Preliminary Plan dated January 7, 2019 shows the subdivision road to terminate with a hammerhead turnaround at end of the proposed street. The Minor Local Street Standard requires a cul-de-sac. A written waiver request should be submitted. A right-of-way to the abutting property is shown on Lot 12 and labeled for future road connection.
- In an email dated January 22, Town Engineer Jon Earle P.E. had no further comment as there is no change to the road cross section and the proposed second hammerhead design meets town standards. He recommended that the traffic impact analysis be revised for the final plan submission to show traffic generated for the reduced project size.
- A waiver request for the subdivision road to terminate with a hammerhead turnaround at the end of the proposed road was granted by the Planning Board on 1-28-19.
- In an email dated May 16, 2019 Town Engineer Mark Arienti, P.E., commented that as noted in the 1/22/19 review comments by Jonathan Earle, prior to final plan submission, the traffic study should be revised to show traffic generated from the reduced project size and not what was originally submitted.

#### E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis prepared by Alexander A. Finamore, LSE dated June 8, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan.
- Additional soil test pit analysis prepared by Alexander A. Finamore, LSE dated October 17, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the 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 currently undeveloped. It is wooded and includes a large contiguous wetland area near the center of the parcel.
- 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 (§ 911.E.1.b). Street trees are not shown on the Final Plan.
- Limits of tree clearing are shown on the plan. Note 11 on the 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.
- At the January 28, 2019 meeting, the Board requested notes on the plan detailing the landscaping plan for a buffer with the abutting properties to lots 6 & 7, and that it be a deeded no-cut buffer.

#### 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.*
- *The open space reserved includes 50% of the land suitable for development.*
- *The open space in the subdivision is required to be contiguous but is shown as three areas on the preliminary plan. The Board approved a waiver from this standard. The January 7, 2019 preliminary plan shows two (2) areas of open space.*
  
- *Subdivision Ordinance*
- *A landscaping plan must be submitted with the Preliminary Plan.*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *The subdivision is utilizing the 20% density bonus to gain four (4) additional lots. 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. See Condition of Approval #2.*
- *The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.*
- *In an email dated May 16, 2019 Town Engineer Mark Arienti, P.E., commented that the applicant should provide monumentation/pins at all lot corners in conformance with 911.A.3.b. One or more of the rear lot pins are missing on Lots 5, 8, 9, 10 and 11.*
- *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*
  
- *Others:*
- *Chapter 221 Street Naming and Addressing: The Assessing Department approved the road name, Maysens Way, shown on the preliminary plan.*
- *On April 24, 2018 the Town adopted a Moratorium Ordinance on Mineral Extraction. At the Development Team meeting on May 1, 2018 the applicant indicated that existing material found on site would be used for the construction of the roadway. The applicant should specify the amount of material that is proposed to be taken off site.*
- *The preliminary plan submission dated June 4, 2018 states the area that will be occupied by the Phase 2 lots will be graded as generally shown on Sheet 7 of the plan se and the sand and gravel material that will be excavated from the Phase 2 area will be used by the landowner and is not intended for public sale. In an email dated June 14, 2018, Town Engineer Jon Earle P.E requested that the excess sand and gravel material be quantified.*
- *The July 23, 2018 submission provides an estimate of excavation quantities of a net cut of 78,865 cubic yards.*
- *The November 5, 2018 submission includes a revised road plan and profile. In an email dated November 20, 2018 Town Engineer Jon Earle, PE stated that it does appear that the work will result in the same amount of cut and fill volumes. He requested a submission in excavation quantities as part of the final plan submission.*

- *The revised plans that include only 11 house lots do not propose removal of a significant amount of fill material*

*I. FINANCIAL AND TECHNICAL CAPACITY*

- *A cost estimate for the project was included in the November 5, 2018 submission.*
- *A letter from Andrew M Cook, Senior Vice President at People's United Bank, dated June 7, 2018 was submitted as evidence of financial capacity.*
- *The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity*

*J. RIVER, STREAM OR BROOK IMPACTS*

- *This project is located within the Colley Wright Brook watershed.*
- *The 75 foot Stream Protection District for the tributary to Colley Wright Brook that is located just beyond the northern corner of the property is shown on the plan at the rear of Lots 8 and Open Space 2 on the preliminary plan.*
- *The project will not adversely impact any river, stream, or brook.*

*CONCLUSIONS*

- 1. The proposed subdivision will not result in undue water or air pollution.*
- 2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
- 4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
- 5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
- 6. The proposed subdivision will provide for adequate sewage waste disposal.*
- 7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
- 9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 10. The developer has adequate financial and technical capacity to meet the standards of this section.*
- 11. The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
- 12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 13. The proposed subdivision is 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 was dependent upon, and limited to, the proposals and plans contained in the application dated April 23, 2018, as amended May 24, 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.

2. An access easement for public use of the open space must be recorded in the Cumberland County Registry of Deeds prior to the issuance of building permits.

Seconded by Keith Elder.

Vote: All in favor.

#### 5 [PB 19-053](#)

19-05 Woodside Condos Retirement Community Phase 2. Major subdivision preliminary plan review. Weld, LLC to request an amendment to an approved subdivision for an additional thirty-six (36) residential dwelling units in eighteen (18) duplexes. The property in question is located on Conifer Drive and identified on Tax Map: 9, Lots: 27K and 27E, Zone: Farm Residential (FR) and Retirement Community and Care Facility Overlay District (RCCFO).

**Attachments:** [19-05 Woodside Condos Retirement Phase 2 Prelim 05-23-19.pdf](#)

[Peer Review Woodside Condos 05-15-19](#)

[17070 - STORMWATER-SWP - Post](#)

[17070 - STORMWATER-SWP - PRE](#)

[17070-WOODSIDE COND AMENDED SUB COMPILED 05102019](#)

[Woodside Condominium - Response to Comments 2019\\_5\\_13](#)

Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained the waiver requests:

- High Intensity Soil Survey – They had done multiple test pits throughout the property which had been evaluated by two different site evaluators and a geologist. This provided reasonable information to determine the site soil conditions.
- Traffic Impact – They withdrew this request.

- *Groundwater Quality Performance Standard – Nitrate plumes for leach fields F and G extended over the property line in two areas. Adjacent properties on Route 202 were served by public water. Should those abutters ever decide to install a well, the 100 foot exclusion zone for the leach fields would prevent it from being done in a location where it would be impacted by the plumes.*
- *Major Private Road Performance Standard – The access drives would be 22 feet wide and have a five foot sidewalk on one side. A wider more sweeping curve radii would result in less than the required 100 foot tangent between reverse curves.*

*Keith Elder made a motion to grant the High Intensity Soil Survey waiver request.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

*Keith Elder made a motion to grant the Groundwater Quality Performance Standard waiver request.*

*Seconded by Nick Kalogerakis.*

*The motion maker and second agreed to amend the motion to include that the applicant would provide a certified notice to the direct abutter regarding the nitrate plume which would go into their property.*

*Vote: All in favor.*

*Keith Elder made a motion to grant the Major Private Road Performance Standard waiver request.*

*Seconded by Colin Swan.*

*Vote: All in favor.*

*Keith Elder made a motion that the Preliminary Plan application for project 19-05 Woodside Condominium Retirement Community was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Nick Kalogerakis.*

*Vote: All in favor.*

*Nick Kalogerakis made a motion that the Preliminary Subdivision application for 19-05 Woodside Condominium Retirement Community on Tax Map: 9, Lots: 27K and 27E was to be approved with conditions 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 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 in 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

*The proposed subdivision will not result in undue water or air pollution.*

- 1. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 2. The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
- 3. 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.*
- 4. 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.*
- 5. The proposed subdivision will provide for adequate sewage waste disposal.*
- 6. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 7. 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.*
- 8. The proposed subdivision conforms with 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 and technical capacity to meet the standards of this section.*
- 10. 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.*
- 11. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 12. The proposed subdivision is/is not situated entirely or partially within a floodplain.*
- 13. All freshwater wetlands within the proposed subdivision have been identified on the plan.*
- 14. Any river, stream, or brook within or abutting the subdivision has/has not been identified on any maps submitted as part of the application.*
- 15. The proposed subdivision will provide for adequate storm water management.*
- 16. 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.*
- 17. 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.*
- 18. 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.*
- 19. 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 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.

Seconded by Keith Elder.

Vote: all in favor.

- 6      [PB 19-054](#)      18-41 Anglers Road Commons Apartments. Major subdivision preliminary plan review. Tim Clinton to request review of a residential development consisting of forty-two (42) units in twenty-one (21) duplexes. The property in question is located at Anglers Road identified on Tax Map: 80, Lot: 66, Zone: Commercial 1 (C-1) and Aquifer Protection Overlay District B (APB).

**Attachments:**    [18-41 Anglers Road Commons Prelim 04-18-19.pdf](#)  
[Peer Review Anglers Rd Commons 05-22-2019.pdf](#)  
[Anglers Road Commons Plans 4262019](#)  
[Letter response comments 5-14-2019](#)

Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained:

- DEP had approved the stormwater management facilities infrastructure; this would amend the town's previous permit.
- They would construct a fence along the common property line with Momentum to act as buffering.
- They requested a waiver of the site plan ordinance, section 812 C. 1. (d), the requirement that 30% of the parking spaces measure 10 by 20 feet.

Keith Elder made a motion to grant the waiver request.

Seconded by Nick Kalogerakis.

Vote: All in favor.

**New Business**

- 7      [PB 19-055](#)      Amendment to Town of Windham Land Use Ordinance, Chapter 140, Section 400 Zoning Districts. Proposed changes related to accessory building front setback in the Commercial 1 (C-1) and Commercial 2 (C-2) zoning districts.

**Attachments:**    [PB packet accessory building setback 05-23-19.pdf](#)

Amanda Lessard explained:

- The proposed change was to correct an oversight from a previous amendment which had established a maximum setback for the frontage of buildings and had been intended

*to facilitate zoning with the 21st Century Downtown Plan.*

- The Code Enforcement Office was interpreting the setback to apply for all buildings. The amendment would allow accessory buildings to be permitted, typically to the rear.*

*A public hearing would be scheduled.*

## **Other Business**

### **8 Adjournment**

*Nick Kalogerakis made a motion to adjourn.*

*Seconded by Colin Swan.*

*Vote: All in favor.*