

# Town of Windham

Planning Department  
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## MEMO

DATE: August 8, 2019

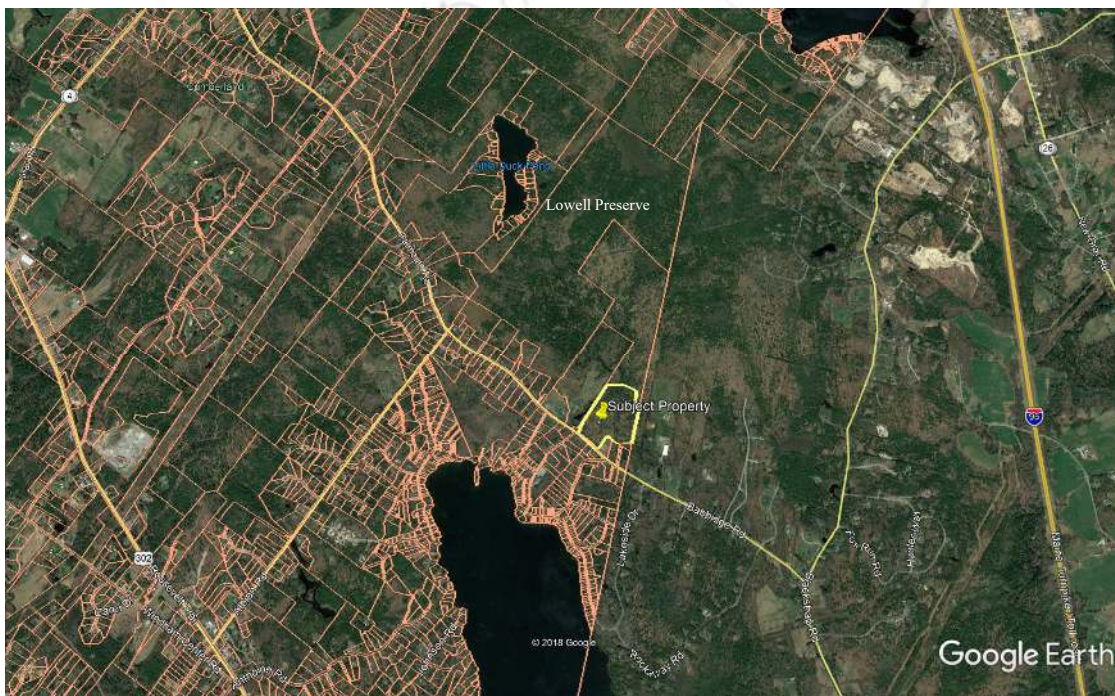
TO: Planning Board  
FROM: Jennifer Curtis, Planner  
Cc: Dustin Roma, P.E., DM Roma Consulting Engineers  
Amanda Lessard, Planning Director  
Development Review Team

RE: 19-15 Babbidge Farms – Minor Subdivision, Sketch Plan  
Planning Board Meeting: August 12, 2019

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### Overview –

The applicant, Sebago Heights, LLC, is proposing a 4 lot subdivision on a 29.7 acre property located on Falmouth Road at the town line with Falmouth. McIntosh Brook runs across a portion of the property.



Aerial View of the subject parcel relative to surrounding properties and street network.

The Planning Board considered a sketch plan for a 13-lot cluster subdivision on September 24, 2018. This plan is scaled back from the previous plan in terms of number of lots and a reduction in the amount of road that will be developed. An approximately 14 acre back portion of the lot is proposed to be sold to an abutting landowner.

A site walk for the previous project was held on November 17, 2018.

Tax Map: 13; Lot 44. Zoning District: Farm (F) and Stream Protection (SP).

### SUBDIVISION REVIEW

#### Staff Comments:

1. Waivers Requested: *The applicant notes the following waiver request in the sketch plan narrative. The applicant must submit written waiver request that address the waiver criteria of Section 908. The Planning Board cannot act on waivers or potential waiver requests at the Sketch/Preapplication review phase. It is appropriate to discuss potential waiver requests to give the applicant guidance.*
  - a) §911.M.5.b.6.ii – Sidewalks or shoulders performance standard.  
*The applicant is proposing no additional paved shoulder. The standards for Sidewalks or Shoulders, Major Local Streets state that sidewalks are not required if the subdivision is more than 1,000 feet from a “public building.” If sidewalks are not proposed, an additional one foot of paved shoulders are required on each side. It is more than 1,000 feet to the Little League field and playground on Falmouth Road from the proposed subdivision road entrance. The applicant states that the people who end up using the two lots that will gain access from the road, will be adequately served with a 24-foot wide roadway with 2-foot gravel shoulders. There is potential for later connectivity with the portion of the lot being transferred, and contiguous property beyond.*
2. Complete Application: *N/A with Sketch Plan*  
  
**MOTION:** ~~The application for project 19-15 Babbidge Farms 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: No public hearing has been scheduled for this project. The Board must determine whether to hold a public hearing on the application.
4. Site Walk: A site walk has not been scheduled for this project. The Planning Board held a site walk on a previously proposed subdivision at the same site on November 17, 2018.

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** ~~The Subdivision application for 19-15 Babbidge Farms Subdivision on Tax Map 13, Lot 44, is to be (approved with conditions/denied) with the following findings of fact and conclusions.~~

FINDINGS OF FACT

A. POLLUTION

- A portion of the proposed 29.7 acre property is located within the mapped 100 year flood plain. This flood plain area is located near McIntosh Brook. There is no development proposed within the limits of the mapped floodplain.
- This subdivision is not located over a significant sand and gravel aquifer.
- As the proposed subdivision is in a Direct Watershed of a Lake Most at Risk from New Development (Highland Lake), independent professional review is required. An independent third-party reviewer, a Professional Engineer at Gorrill Palmer, Inc, is performing peer-review of the application in addition to the staff review.

B. WATER

- All lots will be served by public water from a water main extended from the existing water main in Falmouth Road.
- 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 Falmouth Road at Cottage Road and at Pine Drive. Existing and proposed hydrants should be shown on the plan. The final plan needs to demonstrate conformance to fire code, Chapter 95 of Windham Land Use Ordinance, specifically at 95.4.1.

C. SOIL EROSION & SEDIMENTATION CONTROL & STORMWATER MANAGEMENT

- A soil erosion and sediment control plan must be submitted as part of the Final Plan.
- Chapter 142 Surface Water Protection requires that projects within the Highland Lake watershed incorporate double temporary erosion control measures at the perimeter of the project.
- Wetlands have been delineated by Longview Partners, LLC. Wetlands are shown on the plan. The applicant should quantify the impacts that the project will have on the wetlands, and seek a NRPA permit, if necessary. If a NRPA permit is required, it must be submitted with the final plan. The plan shows a driveway crossing the wetland. No building envelopes are shown.
- In an email dated August 5<sup>th</sup>, 2019, Will Haskell, P.E. of Gorrill Palmer, commented “We recommend that lot building envelopes be defined to exclude wetlands, or that a note be added

to the plan that Maine DEP NRPA and/or Army Corp wetland impact permits may be required to accommodate lot development.”

- In an email dated August 5<sup>th</sup>, 2019, Will Haskell, P.E. of Gorrill Palmer, commented “Erosion control design shall be compliant with Section 911.C.”

D. TRAFFIC

- Two of the lots will have a shared driveway off of Falmouth Road. The lots without frontage on Falmouth Road, will gain access from a 200’ long roadway designed to the Town’s Minor Local Street standard.
- A 50 foot right-of-way to the abutting property is shown on the plan.
- Sight distances for the new subdivision street and the shared driveway should be shown for both directions along Falmouth Road on the Final Plan.
- At the Development Team meeting on September 17, 2018, pertaining to the same site, Public Works Director Doug Fortier stated that Falmouth Road is in moratorium until 2020. The project would need to comply with the moratorium road restoration standards for any proposed street openings.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets.
- Based on the distance to uses that would generate pedestrian trips (it is more than 1,000 feet to the Little League field and playground on Falmouth Road from the proposed subdivision road entrance), 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.
- Town-approved street names shall be shown on the Final Plan.

E. SEWERAGE

- The proposed lots will be served private septic systems.
- The Final Plan submission shall include the location and results of test pits performed by a Maine Licensed Site Evaluator or Certified Soil Scientist. At least one test pit per lot.

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 currently undeveloped. The property has recently been timber harvested, and is located on a hill that the property generally slopes from an elevation of about 280 feet on the east side of the property down to elevations of approximately 230 feet. There is an area of ponded water at the northwestern side of the property, at an approximate elevation of 230 feet.

- At the Development Team meeting on September 17, 2018, pertaining to the same site, Assessor Elisa Trepanier stated that the property is currently enrolled in the tree growth tax program and would need to be removed prior to development. On August 6, 2019 staff confirmed that the parcel is still in Tree Growth Program.
- Street trees must be planted at least every 50-feet along the length of the new subdivision street.
- 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.
- The Final Plan shall include a boundary survey, certified by a Maine Licensed Professional Surveyor

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan meets the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
  - All lots meet the minimum lot size of 80,000 square feet for lots in the F zoning district.
  - Net residential density calculations are shown on the Plan.
  - A 100' Stream Setback is shown on the plan.
- 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.
  - Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, and stormwater infrastructure.
  - Utilities shall be installed underground
  - 14.8 acres are shown on the sketch plan to be transferred to an abutter. This transfer to the abutter should be completed prior to the final plan submission. If this real estate is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot subject to subdivision review.
- Others:
  - Refer to Chapter 221 - Street Naming and Addressing: A street name 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 Final Plan submission.

- Evidence of technical capacity must be provided as part of the Final Plan submission.

J. RIVER, STREAM OR BROOK IMPACTS

- The project is located in the Highland Lake watershed.
- McIntosh Brook runs over a portion of this property. McIntosh Brook starts as the outlet for Little Duck Pond and flows to Highland Lake. There is a 100-foot Stream Protection Zone on either side of this brook that should be shown on the plan. No development is proposed within the 100 foot setback.
- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.

CONCLUSIONS (N/A)

1. ~~The proposed subdivision **will/will not** result in undue water or air pollution.~~
2. ~~The proposed subdivision **has/does not have** sufficient water available for the reasonably foreseeable needs of the site plan.~~
3. ~~The proposed subdivision **will/will not** cause an unreasonable burden on an existing water supply.~~
4. ~~The proposed subdivision **will/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/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/will not** provide for adequate sewage waste disposal.~~
7. ~~The proposed subdivision **will/will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.~~
8. ~~The proposed subdivision **will/will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.~~
9. ~~The proposed subdivision **conforms/does not conform** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.~~
10. ~~The developer **has/does not have** adequate financial and technical capacity to meet the standards of this section.~~
11. ~~The proposed subdivision **is/is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.~~
12. ~~The proposed subdivision **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.~~
13. ~~The proposed subdivision **is/is not** situated entirely or partially within a floodplain.~~
14. ~~All freshwater wetlands within the proposed subdivision **have/have not** 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/will not** provide for adequate storm water management.~~
17. ~~If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision **have/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/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.~~
20. ~~Timber on the parcel being subdivided **has/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 July 22, 2019 as amended \_\_\_\_\_, 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 Land Use Ordinance.