



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, November 25, 2019

7:00 PM

Council Chambers

1 Call To Order

2 Roll Call and Declaration of Quorum

The meeting was called to order by Vice Chair, Keith Elder. Other members present were: Drew Mayo, Kaitlyn Tuttle, and Michael Devoid.

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

3 Administration

Chair, David Douglass, and Nick Kalogerakis, had been elected to Town Council and were no longer Planning Board members. Consensus of the Board was to wait until there was full Board membership before electing a new chair. Until then, Vice-Chair Keith Elder would fill the position.

4 [PB 19-103](#) Approval of Minutes: October 28, 2019

Attachments: [Minutes 10-28-19 - draft](#)

Drew Mayo made a motion to accept the minutes of the October 28, 2019 meeting.

Seconded by Michael Devoid.

Vote: All in favor.

Public Hearings & Continuing Business

5 [PB 19-095](#) Town of Windham Land Use Ordinance, Chapter 140, Section 1200 Impact Fees and Appendix A Fee Schedule. Amendments related to open space impact fees.

Attachments: [PB packet Open Space Impact Fee 11-18-19](#)

Amanda Lessard explained that Town Council had directed the Long Range Planning Committee (LRPC) to draft amendment language regarding an impact fee which would be assessed on new residential development.

- The methodology for determining the impact fee was required be in direct relation to the cost of new growth and infrastructure.*
- The LRPC had based determination of the impact fee on the amount of open space in town and the rate at which more would have to be acquired in order to keep up with growth. This was consistent with the way other municipalities assessed impact fees*

Public Comment

There was no public comment. The public hearing was closed.

The Board commented:

- *Was the fee high enough so that it would accomplish anything?*
- *It would help to off-set the tax burden of new development.*
- *The town would be able to invest in infrastructure that it currently lacked.*
- *It was better to use the impact fees to buy chunks of land, rather than open space that was not contiguous.*
- *Was there an opportunity to reconsider the fee schedule?*
- *The town had several other impact fees. If something was important to the town it should be budgeted through Council and planned for that way.*
- *Subdivision open space was not utilized; this may be a better way to go about it.*
- *Starting to put money aside for open space was a good start; it would be a long-term help.*

Drew Mayo made a motion to recommend approval of the proposed amendment to Section 1200 and Appendix A of the Land Use Ordinance related to open space impact fees.

Seconded by Kaitlyn Tuttle.

Vote: All in favor.

Continuing Business

- 6 [PB 19-067](#) 18-24 Land of Nod Road Subdivision. Major subdivision preliminary plan review. Grondin Corporation to request review of a 30 lot residential cluster subdivision. The property in question is located at 120 Land of Nod Road and identified on Tax Map: 7, Lot: 29, Zone: Farm (F).

Attachments: [18-24 Land of Nod Final 11-22-2019](#)

[A-16236-Land of Nod -- Prelim-final Rev Resp#3 Nov 4-2019](#)

[PLANS-16236 LAND OF NOD Rev. 2019-11-04](#)

[B-Waiver 3_16236](#)

[C-HydroCAD Report POST-DEVELOPMENT revised 2019-11-04](#)

[Site Location Permit_GrondinCorp_L28165bn](#)

[Peer review comments 11-13-19](#)

[2019-11-20.BINDER-Final Sub App-Land of Nod_16236](#)

[16236 LAND OF NOD plan set 2019-11-20](#)

Jim Seymour, a civil engineer with Sebago Technics, was present representing the applicant. He explained:

- *Comments from the third party review engineer had been addressed.*
- *They requested a waiver of the flooding standard.*
 - o *The area that exceeded the run off standard was near a large wetland which would consume the water.*
 - o *Stormwater infrastructure would require digging a big hole adjacent to the wetland,*

which seemed counterproductive.

- o The requested waiver of the flooding standard was required to comply with DEP.
- DEP had issued approval for Site Location of Development.
- The subdivision roads were named Leonards Way and Persian Way.
- Open space would remain with the homeowners' association and have a perpetual easement of non-disturbance because of the vernal pools.

The Board commented:

- Waivers for flooding standards resulted in more water downstream. They should find a way to keep water on site.
- DEP had looked at run off and there would be no minimal increase.
- Would the open space be offered for public use? It would be good to maintain the trail system.
- Would water be public or private?

Drew Mayo made a motion to approve the waiver request of the flooding standard requirement.

Seconded by Kaitlyn Tuttle.

Vote: Three in favor. Michael Devoid opposed.

Drew Mayo made a motion that the Final Major Subdivision application for project 18-24 Land of Nod Road 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 Kaitlyn Tuttle.

Vote: All in favor.

Drew Mayo made a motion that the Final Major Subdivision application for 18-24 Land of Nod Road Subdivision on Tax Map: 7, Lot: 29 was to be approved with conditions with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- The applicant should verify if any part of this subdivision is within the mapped 100 year floodplain. A tributary to Colley Wright Brook is located at northern corner of the property at Land of Nod Road and has a mapped floodplain.
- The Plan dated 11-20-2019 notes that a portion of the northerly part of the property are within the mapped special flood hazard area. The proposed developed area is over 600 feet from the mapped special flood hazard area, and the project has received a Site Location of Development Act permit from DEP, which incorporates Stormwater Management plans that meet State standards.
- This subdivision is not located over a significant sand and gravel aquifer.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan as the subdivision is not served by public sewer and the subdivision has an average density of more than one dwelling unit per 100,000 square feet.
- A groundwater impact study was included in the February 4, 2019 preliminary plan submission. The study concludes that the wastewater disposal systems will not result in an increase of NO₃-N concentration above 10 mg/L in groundwater at the subdivision perimeter property line.
- The groundwater impact study does not address groundwater quantity. A proposed

subdivision shall not result in any water table drawdowns beyond the subdivision boundaries, due to withdrawals by the proposed subdivision, and shall not adversely impact groundwater supply availability to existing wells.

- In the July 1, 2019 Preliminary Plan application, the applicant responded to the groundwater drawdown concern, that annual rainfall over the property would be greater than the demand generated from all the homes. Staff Engineer Mark Arienti, P.E. reviewed soils and well data submitted by the applicant, and upon considered the density of development and proposed clearing limits, found the groundwater recharge potential adequate to ensure the proposed subdivision shall not adversely impact groundwater supply available to existing wells.*

B. WATER

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

C. SOIL EROSION & STORMWATER MANAGEMENT

- An erosion and sedimentation plan, prepared by Sebago Technics, dated February 4, 2019, has been submitted as part of the Preliminary Plan. Details are shown on Sheets 8 and 9 of 11. Details are shown on Sheet 13 of 16 of the July 1, 2019 Preliminary 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.*

- This project will require a Maine Department of Environmental Protection (DEP) Site Law Permit. A copy of that permit must be submitted with the Final Plan.
- Maine DEP Site Location of Development Act Permit #L-28165-L3-B-N for the project was approved on November 7, 2019. It states that "The applicant submitted a stormwater management plan based on the ... Standards contained in Chapter 500...The proposed management system consists of a wetpond, a buffer, and two underdrained soil filters.
- Wetlands were delineated by Gary M. Fullerton, CSS of Sebago Technics in June and July of 2017. Freshwater wetlands are shown on the plan.
- The project will alter 2,200 square feet of wetland near the connection of the proposed road at Land of Nod Road. This area should be identified and noted on the subdivision plan. This area is shown on the subdivision plan submitted on July 1, 2019.
- A stormwater management plan prepared by Sebago Technics has been submitted as part of the February 4, 2019 Preliminary Plan submission. The project proposes to treat the 2.75 acres of impervious area and 1.96 acres of pervious area, or 4.71 acres of new developed area with a meadow buffer, a wooded buffer, and two (2) underdrained filter basins.
- In an email dated February 13, 2019, Will Haskell, P.E. of Gorrill-Palmer had many comments related the stormwater management plan including the length of the meadow buffer and calculation for the underdrained soil filters. Field surveys of stormwater management facility areas should be included with the final plan submission.
- The July 1, 2019 Preliminary Plan application included an updated Stormwater Management Plan. The updated plan proposes to treat the 1.49 acres of impervious area and 4.64 acres of permeable area, totaling 6.13 acres of developed area with a meadow-buffer, wet pond, and two underdrained soil filters.
- In an email dated July 11, 2019 Will Haskell, P.E. of Gorrill-Palmer had many peer review comments in response to comments and the Stormwater Management Plan submitted by the applicant on July 1, 2019, related to the Stormwater Management Plan. Comments including discrepancies to the percent treatment of impervious and developed areas, the need to potentially account for wetland impacts to develop wells located within wetlands, that treelines shown on the plan should be moved to match building envelopes, roof dripline filter details should be removed from the plans if not in use, and multiple other substantive technical comments related to plan discrepancies, calculations, and design details.
- The November 4, 2019, and November 20, 2019 submissions included responses by Jim Seymour, P.E. to peer review comments respectively submitted by Gorrill Palmer, and by Town Engineer Mark Arienti, P.E. on November 13, 2019. Upon review of both responses, Mark and had no further comments, finding them all to be addressed.

D. TRAFFIC

- The subdivision lots will have frontage on a new 1,800 foot long subdivision street which intersects with Land of Nod Road, a paved public road.
- Section 550.C states that no new private road will be permitted to directly access a public street. In the July 1, 2019 Preliminary Plan application the applicant indicated that they intend to build the roads to the minor local street standard for eventual Town acceptance.
- A road connection to the abutting property (Lot 36 on Tax Map 7) and the proposed Highland Woods Subdivision, a 22 lot cluster subdivision off of Highland Cliff Road currently under review, is shown on the sketch plan. The Planning Board approved a waiver request for the Highland Woods Subdivision to modify the minor local street standard shoulder requirements.
- Street design standards for dead end streets in Section 911.K.4.g requires a hammerhead turnarounds every 1,000 feet. The sketch plan shows a street intersection at approximately 900 feet.

- Two existing single family homes will become lots in the subdivision. The existing driveway will be removed and new driveway access will be provided to the subdivision street.
- Sight distance at the subdivision road for both directions along Land of Road should be on the Preliminary Plan. Sight distances at the subdivision road is shown as being 1,000ft+ in both directions on the July 1, 2019 Preliminary Plan.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. A streetlight on Land of Nod Road at the intersection of the subdivision road would comply with the Town of Windham Streetlight Policy, adopted June 25, 2013.
- The Final Plan shows a light to be mounted to an existing utility pole at the intersection with Land of Nod Road.
- Based on the distance to uses that would generate pedestrian trips, sidewalks are not required. When sidewalks are not required for local streets, Section 911.M.5.b.6.ii requires that the applicant construct a sidewalk or a street with a widened shoulder. One (1) additional foot of paved shoulder, on each side of the street, shall be added to the required minimum shoulder width.
- A traffic impact analysis must be submitted with the Preliminary Plan submission as the subdivision is projected to generate more than 140 vehicle trips per day.
- There is a large property which abuts the proposed subdivision (Map 7 Lot 27B). Section 911.M.3.a (page 9-51) and Section 911.M.5.b.5.iii (page 9-60) allows the Board to require the dedication of a right-of-way to provide continuation of the road where future development is possible. One of the new subdivision roads ends at the property line.
- The Preliminary Plan subdivision roadway cross section is not consistent with the Minor Local Street standard typical cross section. The plan shows 3 foot paved shoulders and 1 foot secondary gravel shoulders. The standard calls for 2 foot paved shoulders and 2 foot gravel shoulders. The cross section should be revised or a written waiver request submitted. The July 1, 2019 Preliminary Plan application included the waiver request.
- A traffic impact study dated October 22, 2018 was included in the February 4, 2019 preliminary plan submission. The traffic study is for a proposed 32 new single family homes in addition to two existing homes for a total of 34 single family homes. The project is expected to generate 30 AM peak hour trips and 39 PM peak hour trips and a total of 385 daily trips. Sight distances at the proposed intersection is in excess of 500 feet in both directions. The study concludes that the surrounding area roadways are able to accommodate the expected increase in traffic.
- In an email dated February 13, 2019, Will Haskell, P.E. of Gorrill-Palmer requested stop signs, show roadway centerline curve data on plans, radii at cul-de-sac, revisions to the typical roadway section, drainage ditches, removal of and new driveway locations for existing houses, show sight distance on the plan, provide ditch sizing calculations and lining requirements, providing easements where ditch grading and riprap extend beyond the road right-of-way. Gorrill-Palmer had no comments on the traffic study. A July 16, 2019 email from Will Haskell, P.E. of Gorrill-Palmer indicated the applicant had addressed all of the concerns in the July 1, 2019 Preliminary Plan Submission.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- A high intensity soil survey was included in the February 4, 2019 Preliminary Plan set.
- Soil test pit analysis was included with the Preliminary Plan submission as a Class B High Intensity Soil Survey Report prepared by Gary Fullerton, CSS. All lots have at least one passing test pit. Test pit locations are shown on the Preliminary Plan.

F. SOLID WASTE

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

G. AESTHETICS

- The site is mostly undeveloped; containing two vacated residential single family homes located near the parcel's frontage on Land of Nod Road. The remainder of the site is combination of open field meadows, and woods with defined wood line. The lot was once subject to gravel pit operations and remnants of those excavated areas are noted on the peripheries of the site.
- A vernal pool survey conforming with MaineDEP standards was performed during May of 2017 by Gary Fullerton of Sebago Technics. Vernal pools are shown on the sketch plan.
- There are no documented rare botanical features or significant wildlife habitat documented on the site.
- A landscape plan is required for the preliminary plan submission. The February 4, 2019 preliminary plan submission states that proposed landscaping limited to areas near the entrance of the proposed road near Land of Nod Road. It will be placed on upland areas, out of the wetland limits, so that it will screen those homes to be in the meadow from Land of Nod Road view.
- The Preliminary Plan submission on July 1, 2019 includes a tree planting detail and some Landscape Notes. It should include the locations of all plantings, and a list of proposed plant species and their size and maturity at the time of installation.
- Street trees are required at least every fifty (50) feet (§ 911.E.1.b). Street trees are not shown on the February 4, 2019 preliminary plan. Street trees are not shown on the July 1, 2019 preliminary plan. The Final Plan dated November 20, 2019 includes a note (#21): "Street trees shall be planted or preserved at an interval no less than one tree every 50 feet of roadway and in accordance with section 911.E.1.B of the Land Use Ordinance."
- Limits of tree clearing are shown on the preliminary plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- A note has been added to the Subdivision Plan stating that "Contractor shall temporarily stake out limits of tree clearing prior to site construction and permanently define the tree clearing limits with signage, in accordance with MDEP BMP Chapter 5."
- A response from Maine State Historic Preservation Commission noted there are no National Register eligible properties on or adjacent to the parcels. In addition, the project area is not considered sensitive for archaeological resources.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinance:
 - All lots fall within the minimum and maximum lot sizes of 30,000-50,000 square feet (one lot 60,000 sf max) and frontage (100 feet or 50 feet on cul-de-sac) for cluster lots in the F zoning district.

- *Net residential density calculations are shown on the Plan.*
- *No more than 30% of the lots have direct vehicular access onto an existing public road.*
- *The total area of reserved open space equals or exceeds 50% of the gross land area of the property to be subdivided and is contiguous.*
- *The open space reserved includes 50% of the land suitable for development.*

- *Subdivision Ordinance*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.*
- *A table, Tax Assessment Data, is included on the Final Plan which identifies the Tax Map and Lot Numbers of the lots, as assigned by the Town.*
- *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*
- *Digital data was submitted as part of the Final Plan submission.*
- *Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space and stormwater infrastructure.*
- *Homeowner association documents were provided with the Final Plan submission that address the required elements.*
- *Two pieces of land, 0.86 acres and 2.26 acres, are shown on the sketch plan to be transferred to abutters. These transfers to the abutters should be completed prior to the final plan submission. If this real estate is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot subject to subdivision review. See Condition #2*

- *Others:*
- *Chapter 221 Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan. The street name shown on the preliminary plan, Sanborn Lane, has not been approved by the Town.*
- *The Final Plan as revised November 20, 2019 identifies the road intersecting Land of Nod Road as Leonards Way and the spur road as Persion Way. Both names have been approved by the Town.*
- *On April 24, 2018 the Town adopted a Moratorium Ordinance on Mineral Extraction. At the Development Team meeting on August 22, 2018 the applicant indicated that there would be no excess material leaving the site.*

I. FINANCIAL AND TECHNICAL CAPACITY

- *A cost estimate for the project was included as part of the preliminary plan submission.*
- *The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity.*
- *Evidence of financial capacity was submitted in the form of a letter from Gorham Savings Bank dated February 25, 2019, attesting that Mr. Grondin has the financial capacity to successfully finance the 30-lot residential subdivision project.*

J. RIVER, STREAM OR BROOK IMPACTS

- *This project is located within the Colley Wright Brook watershed.*
- *There is 75-foot Stream Protection District for the tributary to Colley Wright Brook that is located on the northern corner of the property at Land of Nod Road. The district*

boundary should be shown on the plan. The 75-foot Stream Protection District for the stream on the northern corner of the property is shown on the July 1, 2019 Preliminary Plan.

- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.
- A response from Maine Department of Inland Fisheries and Wildlife noted there are no mapped essential habitats that will be affected by the project.

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/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/will not provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
- N/A
18. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. N/A

20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 6, 2018, as amended November 4, 2019, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.
2. Prior to the issuance of building permits for the project, the two pieces of land that are shown on the plan to be transferred to abutters, must be transferred, and recorded in the registry of deeds.

Seconded by Kaitlyn Tuttle.

Vote: All in favor.

- 7 [PB 19-101](#) 19-05 Woodside Condos Retirement Community Phase 2. Major subdivision final 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_Final_11-20-19](#)
[Peer Review_Woodside Condos_06-05-19](#)
[Final Subdivision Application - Woodside Condominium - 2019_8_19](#)
[Woodside Condominium Plan Set 2019_8_19](#)
[Engineered Wastewater Disposal System Application - Woodside Condominium Retirement Community_8-15-19](#)
[17070 - Compiled - Woodside Condominium - Wastewater Plans \(8-15-19\)](#)
[10-22-19 Response to Comments](#)
[10-22-19 Plan Revisions](#)
[Peer Review_Woodside Condos_11-7-19](#)
[Woodside Condominium - Response to Comments 2019_11_15](#)
[Woodside Condos - Revised Plan Sheets 2019_11_15](#)

Jason Haskell, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- DEP had approved the stormwater permit and NRPA Permit by Rule.
- The Department of Health and Human Services (DHHS) had approved the engineered wastewater system.
- They would install a streetlight at the intersection of Conifer Drive and suggested that the town install the light at the intersection of Unity Lane. That light would illuminate the community park.
- They had received the ability to serve letter from Portland Water District (PWD).

- *A ledge profile would be provided as part of the blasting plan.*

The Board commented:

- *Town staff review and approval of the blasting plan should be condition of approval.*
- *Hours for blasting should be 7 to 5.*
- *It should not be the town's responsibility to notify abutters.*
- *A preblast survey should be mandatory within so many feet.*
- *The applicant should pay for installation of the streetlight at Unity Lane and Gray Road.*

Drew Mayo made a motion that the Final Amended Subdivision 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 Michael Devoid.

Vote: All in favor.

Drew Mayo made a motion that the Final Amended 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 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.*
- *In the May 13, 2019 submission, the applicant has requested a waiver from the groundwater quality standard. The waiver was granted on May 29, 2019 with the Planning Board comment that the applicant should provide a certified notice to the potentially impacted abutter regarding the nitrate plume. In the Final submission, the applicant included a copy of the letter that was sent to the abutter. In the August November 15,*

2019 response to comments, the applicant provided a copy of the certified mail receipt.

- In an email dated May 15, 2019 Will Haskell P.E. of Gorrill-Palmer, recommended that the offsite well location be addressed. In a response to comments dated October 22, 2019, the applicant states that the location of the offsite well has been shown on the plan, and that it is more than 300 feet from the proposed engineered leach field. Staff note that on the plan, the well shown on Map 9, lot 27-F is approximately 180 feet from the closest edge of septic field E. In a communication with the applicant, Staff were informed that the well located on lot 27-F at approximately 180' from septic field E, is an abandoned dug well. The applicant reported that they spoke with the owners of the property and learned that a new well, more than 300' from proposed septic field E, had replaced it.
- The October 22, 2019 response to comments included a blasting plan, as had been requested by the Planning Board. The plan anticipates approximately 3 weeks of blasting during Phase 2. The applicant intends to hire the same blasting contractor that performed the Phase 1 work, Wakefield Drilling & Blasting out of Harrison, Maine. They state that the owner is experienced and maintains current licenses and insurance to perform the necessary blasting operations. The applicant proposes to perform a ledge profile with a drill rig prior to beginning the next round of blasting to accurately estimate the quantity and duration of blasting required, and then provide a plan to the Town that clearly indicates the areas of blasting that will be completed and the expected duration and meet with the Planning Staff to determine the extent of pre-blast survey work. Seismic monitoring will be done at the property line and at structures within 100 feet of the property line, to ensure compliance with Town and ATF standards. The blasting contractor will notify the Town Code Enforcement Office and Public Safety Department at least 24 hours prior to performing any blasting at the site. The applicant did not identify any existing wells that could reasonably be expected to be impacted by any blasting on this property.

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. The applicant submitted an email from PWD stating that they had reviewed, and approved revisions dated July 3, 2019 as final design of Phase I approved by the Ability to Serve letter issued on January 3, 2019. The applicant clarifies that the plans dated July 3, 2019 included Phases 1 and 2.
- 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.
- In an email dated November 7, 2019 Town Engineer Mark Arienti, PE noted that he had reviewed the applicant's October 22, 2019 responses to comments and determined that issues relating to stormwater management identified in previous peer review comments had been addressed, including:
 - o Added the offset from the stream behind units 7, 8, 9, and 10 to the plans
 - o Provided a spillway analysis that shows there is sufficient freeboard between the top of berm and emergency spillways for each of the stormwater basins during a 25-year storm event when the spillway is the sole discharge device
 - o Revised the length of the spillway for the bioretention basin to show 5', which is consistent with the calculation.

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. Due to the number of units served, Staff recommend that streetlights are added at both intersections with Gray Road.

- The applicant is proposing a streetlight on the new pole that will be set near the intersection of Conifer and Gray Road. The applicant also states that they have lined up the Unity Lane driveway to be directly across from the driveway to the Town's Community Park, and that where the utility poles are on the park side of the road, they request that the Town install a street light on that side to illuminate both intersections.
- 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 proposed roadway section was discussed at the May 29, 2019 meeting and determined to be the same cross section as for Phase 1. A waiver from the Major Private Road Standard was granted.
- 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. The plans submitted on August 19, 2019 show pedestrian ramps with detectable warnings at the northerly intersection of Conifer Drive. 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.
- A traffic memo for Phase 2 of the project, prepared by Milone and Macbroom, dated May 24, 2019 was submitted. It stated that the trip generation calculations indicate that the proposed development would generate 17 trip-ends for the weekday AM peak hour, 16 for the PM peak hour, and 17 for the Saturday peak hour, and will not meet the minimum threshold of 100 new peak hour trips requiring a Maine DOT Traffic Movement Permit. The report also stated that there are no high crash locations in the study area, and that the sight distance far exceeds the required 580', with over 1,000' of sight in both directions. Will Haskell, P.E. of Gorrill-Palmer agreed with the findings in the report in an email dated June 5, 2019.
- The road segment connecting Gray Road to Conifer Drive has been named "Unity Lane" and is labeled on the plan.
- The applicant addressed the adequacy of parking with a statement that each dwelling will contain a garage parking space and a second parking space within the driveway. Additional guest parking will be accommodated as on-street parking on the private road. No vehicles are anticipated to be parked on Gray Road.

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 October 22, 2019 response to comments included a Maine DHHS approval of the engineered system dated October 7, 2019. It describes the

treatment tanks as fifteen 1,500-gallon septic tanks, two 2,000-gallon flow equalization tanks, and two Fuji Clean CEN21 advanced treatment units. The proposed disposal area consists of six 60-foot-long rows of three foot by two-foot stone and pipe trenches. It states that there are no potable water supply wells reported within 300 feet of the proposal. The approval includes Maine DEP review comments that "...no reason was found to believe the proposal would cause unreasonable adverse impact on resources and uses in the area likely to be affected..."

- 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. See FOF under "A. Pollution."

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.
- In the application submitted October 22, 2019, the applicant stated that they intend to work with the Town to provide the necessary agreements so that trash will be picked up curbside in front of each residence under the Town's municipal contract.

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. Street trees are shown on the final plan.
- 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. Note 12 is the

same on the final plan.

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. Tax Map and Lot numbers are 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. In a response to comments on October 22, 2019, the applicant stated that the proposed pin had been added to the plan. The pin is indicated on the plan dated October 21, 2019.*
- *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. The Final application includes a draft declaration of condominium for Woodside Condominium, which includes the elements required by 911.E.2.*
- *Others:*
- *Chapter 221 Street Naming and Addressing: The street name shown on the plan, Conifer Drive, has been approved by the Town. The second access drive connection to Gray Road shown on revised plan sheets dated November 12, 2019, Unity Lane, has been approved by the Town.*

I. FINANCIAL AND TECHNICAL CAPACITY

- *Evidence of financial capacity must be provided as part of the Preliminary Plan submission. A letter from Cort & Small, LLC, a tax preparation and accounting company was submitted, which verifies the financial capacity of the applicant to complete the project.*
- *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 75' setback is shown on the plan submitted October 22, 2019.
- *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.*
- *The final application included Maine DEP Stormwater Permit L-28315-NJ-A-N which states that "The Department accepted a NRPA PBR Notification Form (PBR #67737) on May 24, 2019, for activities adjacent to a natural resource that will be constructed in accordance with Chapter 305 Section 2 of PBR Standards. The applicant also proposes to fill 2,817 square feet of freshwater wetland. This amount of wetland alteration is exempt from permitting pursuant to 38 M.R.S. §480(Q)(17) of the NRPA."*

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/is not situated entirely or partially within a floodplain.*
14. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will provide for adequate storm water management.*
17. *If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision do not have a lot depth to shore frontage ratio greater than 5 to 1.*
18. *The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.*
19. *For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will 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 dependent upon, and limited to, the proposals and plans contained in the application dated March 18, 2019, as further amended May 13, August 19, and October 21 of 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. *Prior to any blasting for Phase 2, as delineated on plan sheet PP-2, the applicant shall submit a detailed blasting plan to Planning Staff for review and receive approval of the extents of pre-blast survey work. The detailed blasting plan shall include a ledge profile created using a drill rig, an estimate of the quantity and duration of blasting required, extents of areas where blasting may occur, and when it may occur. The call list is the responsibility of the contractor and blasting hours to be 7:00 to 5:00.*

Seconded by Michael Devoid.

Vote: All in favor.

- 8 [PB 19-102](#) 19-20 Mineral Extraction (Sand and Gravel Pit). Site plan final plan review. Les Wilson & Sons, Inc. to request review of a proposed 4.8 acre mineral extraction operation. The subject property is located on Maysens Way and identified on Tax Map: 7, Lot: 36, Zone: Farm (F).

Attachments: [19-20 Les Wilson Pit Final 11-21-19](#)
[Les Wilson & Sons - Response to Comments 2019 10 23](#)
[Cover Letter - Les Wilson & Sons Pit](#)
[Pit Reclamation Plan 2019 10 30](#)
[Peer Review Comments 11-20-19](#)
[Les Wilson Pit Reclamation Plan 2019 11 21](#)

Jason Haskell, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The plans had been revised to address concerns regarding dust on trucks leaving the pit.
 - o They would have a 100 foot long paved apron.
 - o They would include a detail of the proposed gate.
 - o A sign outside of the gate would indicate the approval language; hours of operation and notice to contact the Planning Department for additional information.
- The applicant had agreed to include extra money in the performance guarantee to repair any damage to the road, after the pit was reclaimed.
- They understood that a 50 foot vegetated buffer strip was required around the pit where it abutted a private road or property boundary. That was shown on the plan.
- They requested a waiver from the abutters for impact within the buffer strip, if it was an option.

The Board commented:

- Who would make sure the tree line was replanted in the spring?
- How long was the mineral extraction expected to last? How long would it take the road to fall apart? It wouldn't be in three or five years; it would be longer. Could they pave it so the homeowners wouldn't have to do it early?
- There would be turning impacts to Highland Cliff Road. Could the bond be used for any of that impact?
- Maysens Way would be constructed to withstand the truck traffic. Older surrounding streets were not.
- What would the bond be intended to cover?
- How would the pit be reclaimed?
- The final plan should show the existing tree line so condition four wouldn't be needed.

Drew Mayo made a motion that the site plan application for project 19-20 Les Wilson & Sons Pit was found complete with 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 Kaitlyn Tuttle.

Vote: All in favor.

Drew Mayo made a motion that the Site Plan application for 19-20 Les Wilson & Sons Pit on Tax Map: 7 Lot: 36 was to be approved with conditions with the following findings of fact and conclusions and striking condition number four.

FINDINGS OF FACT

Utilization of the Site

- The project is located on a 17 acre property.
- The site is currently undeveloped and covered with a mixture of deciduous and evergreen trees and natural forest vegetation. An area was recently harvested for timber. The applicant should identify on the plan the area that has been cleared of natural vegetation.
- The applicant should indicate the intended length of time the pit is planned to be in operation, and how many truckloads of material will be removed over that time period.
- The applicant should include an estimate the number of truckloads of material to be removed.

- The application states that the pit is anticipated to be in operation for 5 years. The applicant indicated during the Sketch Plan presentation that the truck traffic would be would occur during the hours of 7AM and 6PM. Stumps may be stockpiled and ground on site to be transported off the property as erosion control mix. The aggregate material will be transported to the owner's Westbrook facility where it will be stockpiled for use by the owner's company.

Vehicular and Pedestrian Traffic

- The subject parcel is a non-conforming lot that does not have frontage on an existing road. The road that will provide frontage, Maysens Way, is currently under construction as part of the Highland Woods Subdivision. Maysens Way will be built to the minor local street standard and intended to be offered to the Town for public acceptance.
- A natural buffer strip at least 50 feet wide must be maintained between the working edge of an excavation and any private road or right-of-way. The width of the buffer may be reduced if the applicant receives written permission from the person having a right-of-way over the private road. The buffer strip was not shown on the October 7, 2019 Final Plan submission. A buffer strip is shown on the Final Plan dated October 30, 2019.
- The access driveway should be shown on the plan. Access driveways shall be paved a minimum of 100 feet from the intersection with the public or private street. The paved access drive was not shown on the October 7, 2019 Final Plan submission. 100 feet of paved driveway is shown on the Final Plan dated October 30, 2019 at the entrance/exit.
- Sight distances for the entrance must be shown on the final plan.
- The final plan submission should include information on days and hours of operation and the anticipated peak hour and daily traffic to be generated. The October 7, 2019 Final Plan submission indicated that work hours would be between 7AM and 6PM. Anticipated peak hour and daily traffic estimates were not provided. The November 4, 2019 submission states that hours of operation will be 7AM to 5PM.
- A traffic impact study is required for projects will generate fifty (50) or more trips during the a.m. or p.m. peak hour.
- The applicant indicated that the access road would be gated. A gate is shown on the October 7, 2019 Final Plan submission.
- In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented that a detail for the gate at the gravel pit entrance should be provided.
- In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that a detail for the gate was added to the plan, and the gate will consist of two concrete blocks and a chain, with PVC pipe and reflective cover installed over the gate for safety.
- The applicant stated that vehicles will not be accessing the site every day. There may be several weeks between a series of haul trips.
- In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented: An additional 1" of base course hot mix asphalt is recommended to be added to Maysens Way to compensate for the large number of heavily-loaded dump trucks hauling gravel from the pit over this road. This would result in 3.5" of base course HMA, which would help lessen the damage to the road during the 5 years that the gravel pit will be operated.
- In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that Maysens Way was designed to meet the Town's standards for a public street, and would adequately handle the heavy vehicle traffic related to the pit. In conversation with Planning Staff, the applicant indicated they were willing to include an additional line item in the performance guarantee to cover any needed repairs to Maysens Way, due to the operation of the pit.

Sewage Disposal and Groundwater Impacts

- The development is not proposing a private subsurface wastewater disposal (septic) system.
- The sketch plan submission states that preliminary test pits have been conducted on the property will be supplemented with additional test pits to determine depth to groundwater.
- The application states that seasonal high groundwater in the area of the proposed excavation has been estimated at 223' based on nearby wetland elevations. Higher groundwater levels were encountered along the eastern property boundary.
- Excavation may not occur within five (5) feet of the seasonal high groundwater table. A benchmark sufficient to verify the location of the seasonal high water table and at least one monitoring well must be established and maintained by the operator to demonstrate separation above groundwater in accordance with 606.A.2.e.
- The applicant is proposing to install monitoring wells on the eastern property boundary, where groundwater was encountered at higher elevations, to ensure that the base of excavation is maintained 5' above the water table. In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented: "Although the exact location of these wells is not known at this time, the approximate location should be noted on the plan"
- Locations of surrounding drinking water supplies should be shown on the plan. A 200 foot separation from any excavation and a dug well, a 100 foot separation from a private well, or more for public drinking water sources.
- The applicant stated that they located drinking water wells in the area and verified that none were located within the required setbacks. None are shown on the plan as they are not within the area.
- The final plan should include information related to refueling operations on site any proposed spill prevention, control and countermeasures plan which must comply with 606.A.2.d. Information related to refueling operations on site were not included the October 7, 2019 Final Plan submission.
- According to the State of Maine Department of Environmental Protection (DEP), Article 7, Section 490-C, a DEP permit is not required for excavations less than 5 acres in size.

Stormwater Management

- Per Section 812.E, a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management.
- The Town received a copy of Maine DEP Stormwater Permit by Rule #68972 accepted November 7, 2019.
- The Final Plan submitted on October 7, 2019 includes stormwater management plan for the site to be internally drained, including a stormwater collection swale with an underdrain pipe, and a riser at the culvert inlet to ensure internal drainage.
- In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented: The plan shows a stormwater collection swale with an underdrain. Is there an outlet for the underdrain?
- In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that the underdrain has been removed so that the pit remains internally drained.
- In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented: A detail should be provided for the culvert invert near the gravel pit entrance.
- In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that the culvert has been removed so that the pit remains internally drained.
- Any person owning, operating, leasing or having control over stormwater management facilities required by a stormwater management plan approved as part of a mineral

extraction operation is required to annually inspect the stormwater management facilities and provide a certification to the Town of Windham. See Condition of Approval #2.

- The proposed development is located within Colley Wright Brook Watershed, which is not a watershed of a lake most at risk from new development as designated in Chapter 502: Direct Watersheds Of Lakes Most At Risk From New Development, And Urban Impaired Streams of the Maine Department of Environmental Protection, and therefore does not require independent review per 807.F.6.
- The Final Plan should indicate setbacks to freshwater wetlands in accordance with 606.3
- The applicant states that there are no wetlands that classify as protected natural resources under 606.3, and therefore a setback is not required. Staff concur.

Erosion Control

- A soil erosion and sediment control plan must be submitted with the final plan set. This may take the form of a printed best management practices plan rather than on-the-ground designation of erosion control measures.
- Soil erosion measures are included on the Final Plan submission dated October 7, 2019 including a sediment filter fence between the excavation area and downslope wetlands, and a detail of erosion control mix berm.
- A final rehabilitation plan including seeding, planting, drainage, erosion control, final grading, shaping, and surface stabilization plans showing contours at five (5) foot intervals must be submitted with the final plan set. Where an embankment remains after the completion of operations, it shall not be graded at a slope not steeper than 1 foot vertical to 2.5 feet horizontal.
- A reclamation plan submitted with the Final Plan submission on October 7, 2019 indicates that all slopes will be permanently stabilized with loam and seed following completion of mineral extraction operation. The steepest portion of the proposed rehabilitation grading is shown on the plan as 2' vertical to 5 feet horizontal. The grade must be consistent across the slope to meet the requirement of no steeper than 1 foot vertical to 2.5 foot horizontal.

Utilities

- No permanent utilities will be supplied to the site.
- The nearest fire hydrant is located over 1 mile away from the project site at the corner of Albion Road and Pope Road.

Financial & Technical Capacity

- Evidence of technical capacity must be provided as part of the Final Plan submission.
- As part of the next submission, the applicant must show an estimate the total project costs and submit evidence of financial capacity to complete the project as proposed.
- Evidence of technical and financial capacity were not included in the Final Plan submission dated October 7, 2019.
- The Response to comments dated October 23, 2019 states for technical capacity that Les Wilson & Sons, Inc. is an earthwork contractor based in Westbrook that has been in business for 60 years.
- The Response to comments dated October 23, 2019 states for financial capacity that there are no significant costs associated with the project because the applicant already owns the necessary equipment to operate the project.

Landscape Plan

- *The tree cover on the perimeter of the property should be shown on the final plan and a note added to the plan restricting removal in the tree line area. If insufficient vegetation exists within the required natural buffers from the property boundary then a plan for reestablishing vegetation must be submitted with the final plan.*
- *The Final Plan Application submitted on October 7, 2019 does not include a note restricting removal of perimeter vegetation.*
- *An updated plan submitted on November 21, 2019 includes a reference in the buffer to a note on the plan stating that a 50 ft natural buffer strip shall be maintained between any excavation and property boundary, with a reference to section 606.4. See proposed Condition of Approval #4.*

Conformity with Local Plans and Ordinances

1. Land Use

- *The project meets the minimum lot size and setback requirements of the F zoning district.*
- *The proposed mineral extraction use is permitted in the Farm District if it meets the standards Section 600 Mineral Extraction.*

2. Comprehensive Plan

- *This project meets the goals and objectives of the 2017 Comprehensive Plan. The project is located in the rural area of the Future Land Use Plan.*

3. Others:

- *Mineral Extraction, Section 600. The Planning Board shall take into consideration the following:*
 - o *Fencing, landscaped buffer strips, and other public safety and nuisance considerations*
 - o *Signs and lighting*
 - o *Adequate parking spaces, loading and unloading areas*
 - o *Safe entrances and exits*
 - o *Total estimated life of the pit*
 - o *Days and hours of normal operation*
 - o *Methods of operation, removal or processing*
 - o *Area and depth of excavation*
 - o *Provision for temporary or permanent drainage and sedimentation control*
 - o *Disposition of stumps, brush and boulders*
 - o *Type and location of temporary and permanent structures*
 - o *Storage and containment of any materials (e.g., petroleum products, salt, hazardous materials, rubbish, treated timber)*
 - o *Complete rehabilitation proposals for compliance with Section 607.*
 - o *Noise levels*
 - o *Vibration levels*
 - o *Dust levels and measures for minimization*

The project must meet the performance standards in Section 606.A

- 1. Solid Waste. Wood waste must be disposed of in accordance with state law.*
- 2. Groundwater Protection. See Site Plan Review.*
- 3. Protected natural resources. The property does not include any protected natural resources identified in this subsection.*
- 4. Natural buffer strips. Existing vegetation may not be removed. See Site Plan Review*

5. *Public or private roads. Fifty (50) foot natural buffer strip required from right-of-way. See Site Plan Review – not addressed on October 7, 2019 submission. Partially addressed in November 4 plan submission. See proposed condition of approval #4.*
6. *Property boundary. Fifty (50) foot natural buffer strip from any property boundary. If written permission of the abutter is obtained, excavation less than ten (10) feet from lot lines may be allowed. See Site Plan Review – not addressed on October 7, 2019 submission. 50' buffer shown on November 4, 2019 plan submission.*
7. *Excavation at least two hundred (200) feet from any existing residence.*
8. *Erosion and sedimentation control. See Site Plan Review*
9. *Water quality protection and stormwater management. See Site Plan Review.*
10. *Traffic. See Site Plan Review.*
11. *Noise. See Site Plan Review.*
 - i. *The maximum sound pressure level measured at least four (4) feet above ground at the closest occupied structure shall not exceed sixty (60) dBA during the day and fifty (55) dBA at night.*
12. *Dust. Dust generated must be controlled by BMPs. The access driveway shall be paved a minimum of 100 feet. Loaded vehicles shall be suitably covered to prevent dust from spilling or blowing from the load. In an email dated October 16, 2019 Mark Arienti, P.E., Town Engineer, commented: the application should indicate how dust from the truck traffic into and out of the gravel pit will be controlled.*
 - *In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that forested buffer areas around the perimeter of the property would minimize dust, and that the pit floor and haul road would be treated with water as necessary to control dust.*
 - *The Plan dated 10-30-19 shows a 100' paved apron at the entrance/exit of the haul road.*
13. *Blasting. Not applicable.*

Impacts to Adjacent/Neighboring Properties

- *The development proposal does not include the construction of buildings, wall, fencing or landscaping that would interfere with or discourage the appropriate development in the use of adjacent land or unreasonably affect its value.*
- *The working area pit of the must be screened by the vegetated buffer.*
- *See "Conformity with Local Plans and Ordinances"*
- *There is no proposed blasting to occur on the property. In response to comments dated October 23, 2019, Dustin Roma, P.E., on behalf of the applicant, responded that excavation work is not expected to generate high levels of noise or vibrations beyond the property limits and that forested buffer areas around the perimeter of the property would minimize noise offsite.*
- *The November 4, 2019 submission includes the following text, for a sign to be installed at the project entrance: "THIS SAND AND GRAVEL PIT IS APPROVED BY THE TOWN OF WINDHAM, IN ACCORDANCE WITH THE LAND USE ORDINANCE, WITH LIMITATIONS AND CONDITIONS CONTAINED IN A SITE PLAN APPROVAL GRANTED BY THE WINDHAM PLANNING BOARD. HOURS OF OPERATION ARE 7 AM TO 5 PM. CONTACT THE TOWN OF WINDHAM PLANNING DEPARTMENT FOR ADDITIONAL INFORMATION."*

CONCLUSIONS

1. *The plan for development reflects the natural capacities of the site to support development.*
2. *Buildings, lots, and support facilities will/will not be clustered in those portions of the site that have the most suitable conditions for development.*

3. *Environmentally sensitive areas, including but not limited to, wetlands; steep slopes; flood plains; significant wildlife habitats, fisheries, and scenic areas; habitat for rare and endangered plants and animals; unique natural communities and natural areas; and, sand and gravel aquifers will be maintained and protected to the maximum extent.*
4. *The proposed site plan has sufficient water available for the reasonably foreseeable needs of the site plan.*
5. *The proposed site plan 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.*
6. *The proposed use and layout will not be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.*
7. *The proposed site plan will provide for adequate sewage waste disposal.*
8. *The proposed site plan conforms to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
9. *The developer has adequate financial capacity to meet the standards of this section.*
10. *The proposed site plan will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
11. *The proposed site plan will provide for adequate storm water management.*
12. *The proposed location and height of buildings or structure walls and fences, parking, loading and landscaping shall be such that it will not interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.*
13. *On-site landscaping does provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.*

CONDITIONS OF APPROVAL

1. *Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 19, 2019, as amended October 30, 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 814.G. of the Land Use Ordinance.*
2. *Any person owning, operating, leasing or having control over stormwater management facilities required by a stormwater management plan approved as part of a mineral extraction operation is required to annually inspect the stormwater management facilities and provide a certification to the Town of Windham.*
3. *A performance guarantee for the project shall include an amount for road repairs that may be required due to traffic associated with the gravel pit.*
4. *A note shall be added to the plan that: "A buffer strip at least 50 feet wide must be maintained between the working edge of an excavation and any private road or right-of-way, per 606.5.e. Vegetation must be reestablished as soon as practicable within areas of the natural buffer strip that were cleared prior to approval."*

Seconded by Kaitlyn Tuttle.

Vote: All in favor.

9 [PB 19-089](#)

19-19 Belvedere Commons, Formerly Kettle Estates, Phase II. Major subdivision, Phases 1 and 2 preliminary plan review; Phase 1 final plan review. Robie Holdings, LLC to request review of a 46-unit residential subdivision to be constructed in phases, which will eventually connect to Dusty Rhoades Lane. The subject property is located on Briarwood Lane and identified on Tax Map: 19, Lot: 8-2, Zone: Medium Density Residential (RM).

Attachments: [19-19 Belvedere Commons \(Robie Holdings Condos\) Prelim Ph 1 and 2 Final Ph 1 11-22-19](#)
[Belvedere Commons Final Plan Application 2019 11 4](#)
[Belvedere Commons Plan Set 2019 11 4](#)
[SWPBR RobieHoldingsLLc 11082019](#)
[Belvedere Commons - Supplemental Information 2019 11 12](#)
[Belvedere Commons Revised Plan Set 2019 11 20](#)
[Peer Review Comments 11-20-19](#)
[Public Comment Oct 29 to Nov 21 2019](#)

Jason Haskell, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- *They proposed 44 condominium units to be developed in two phases. The first phase would include units 1 thru 14 and include the split of lot A.*
- *The project would be served by public water. Portland Water District had issued and Ability to Serve letter.*
- *Septic systems would be shared.*
- *Utilities would be underground.*
- *They had completed a hydrogeological assessment.*
- *A traffic study had been done.*
- *Stormwater management would be via a closed drainage system to level spreaders and then to forested buffers.*
- *They requested two waivers:*
 - o *The submission requirement for a high intensity soil survey. They had done a hydrogeological assessment. One septic system had been relocated to remove that proposed nitrate plume from a neighboring property, based on the medium intensity soil survey.*
 - o *The flooding standard requirement. Run off would go into the pit, which was internally drained so no runoff would leave the site. More than 75% of the site runoff was directed to buffers so the Planning Board could grant a waiver.*
- *There would be a street light at the intersection with Briarwood Lane.*
- *A cluster mailbox would be located at the entrance.*
- *Trash would be picked up at the condo units.*
- *DEP had issued a permit by Rule approval for Phase 1.*

The Board commented:

- *If Phase 2 didn't happen would the road not get built to the connection with Dusty Rhoades Lane?*
- *What was the extent of fill that was being excavated?*
- *Was the prep work for Phase 2 being started in Phase 1?*

Waivers

Drew Mayo made a motion to grant waiver of the high intensity soil survey submission requirement.

Seconded by Kaitlyn Tuttle.

Vote: All in favor.

Drew Mayo made a motion to grant a waiver of the flooding standard.

Seconded by Kaitlyn Tuttle.

Vote: Three in favor. Michael Devoid opposed.

Drew Mayo made a motion that the application for Preliminary Plan approval of Phases 1 & 2, and Final Plan approval of Phase 1 of project 19-19 –Belvedere Commons (previously Robie Holdings Condos) 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 Kaitlyn Tuttle.

Vote: All in favor.

Drew Mayo made a motion that the Phase 1 and 2 Preliminary, and Phase 1 Final Major Subdivision application for 19-19 Belvedere Commons (formerly Robie Holdings Condos) on Tax Map: 19, Lot: 8-2-2 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.*
- *The plan notes that there are no wetlands on the property.*
- *A portion of this subdivision is 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.*
- *The applicant is requesting a waiver request from the hydrogeologic assessment submission requirement.*
- *In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, recommended that where the property is located over a significant sand and gravel aquifer, a hydrogeologic assessment should be performed.*
- *A hydrogeologic assessment performed by Mark Cenci of Geologic, Inc. dated November 4, 2019 was submitted. It states that for each leach field the 10 mg/liter NO3-N plumes are calculated to be 150 feet in length.*
- *Staff noted that the Nitrate Plan dated 11-4-19 shows that one of the nitrate plumes extends over the property boundary on to the parcel at Map 19, Lot 8C.*
- *Dustin Roma, PE, submitted a revised Nitrate Plume Plan on November 20, showing a revised leach field location.*
- *Town Engineer, Mark Arienti, P.E., reviewed the revised Nitrate Plume Plan and commented that moving the leach field makes sense, but the Town should make sure to have the revised analysis for the new plume location.*

B. WATER

- *All dwelling units will be served by public water in a proposed new water main located in the subdivision street.*
- *A written statement from the Portland Water District indicating that there is adequate*

water supply to service the subdivision must be submitted with the Preliminary Plan.

- The Preliminary Plan Submission included documentation of email correspondence on October 7, 2019, notifying Portland Water District of the planned development, including estimated water needs, and requesting follow-up that would ultimately result in an Ability to Serve Letter.
- An Ability to Serve letter from the Portland Water District must be submitted with the final plan.
- An Ability to Serve letter dated November 5, 2019 was included with the supplemental submission on November 12, 2019.
- There is an existing fire hydrant located at the intersection of Briarwood and Underwood Lanes.
- A fire hydrant will be located near the mid-point of the new subdivision street and will be shown on the Preliminary Plan. The Preliminary Plan Submitted October 7, 2019 does not show the hydrants. The hydrants should be shown on the Plan.
- A new private hydrant to be installed, is shown near unit 12, just past road station 5+00.

C. SOIL EROSION & STORMWATER MANAGEMENT

- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
- The applicant must submit 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 as part of the preliminary plan.
- As part of the Preliminary Plan submission dated October 7, 2019, the applicant submitted stormwater management plans. The stormwater management report documents that the project will result in 10.76 acres of total developed area. Proposed treatment measures consist of subsurface storm drain collection system to capture and convey site runoff, which will be discharged into either of two stone-bermed level spreaders. The level spreaders will distribute the flow into forested buffers. Stormwater from the roofs of the buildings will drain to roofline drip-edges.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: The Applicant has stated that since the project will create less than 3 acres of impervious area and less than 20 acres of developed area it is not required by the MDEP to meet the Flooding Standard. However, Section 911.J of Windham's Subdivision Standard requires all subdivisions, regardless of size, to submit a stormwater management plan that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. Section 911.j does, however, allow an applicant for a project that does not require a DEP Site Location of Development (SLDA) Permit to request the Planning Board to waive the Flooding Standard in the event that greater than 75% of the impervious and developed areas for both the lots and infrastructure are treated through the use of buffers in accordance with DEP Chapter 500 Stormwater Management. A formal waiver application should be submitted to support the applicants request to avoid meeting the flooding standard.
- The applicant submitted a waiver request for the flooding standard in a response to comments on October 23, 2019.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: Forested Buffer #2 appears to receive stormwater drainage from Belvedere Drive at approximately STA 7+00 to the Cul-de-Sac and the connection to Dusty Rhoades Lane. A 15" culvert with a slope of 15.4% discharges to what appears to be a plunge pool and then a 90 degree turn into a level spreader that feeds the buffer. An analysis should be provided to document that the design will adequately support the anticipated flow. For this buffer, please also confirm the calculation of the required berm length. Attachment 2 of the application indicates a tributary landscaped area of 209,445 SF, but from the

Stormwater Treatment Table appears to shows 202,195 SF of new area and 39,618 SF of existing area for a total of 241,813 SF.

- In a response to comments dated October 23, 2019, Dustin Roma, P.E. submitted revised calculations revising buffer width, and riprap sizing calculations. He noted that the outlet to the culvert was raised to provide less slope on the pipe, and to provide a more natural flow path from the pipe outlet to the level spreader swale. Mark had no further comment.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: Please provide flow lines on the Stormwater Treatment Plan (sheet SWT-1) to better illustrate drainage paths and also please clarify what the diagonal hatch is meant to show.
- In an October 23, 2019 response to comments, flow lines were added to the plan. Mark had no further comment.
- A DEP Stormwater permit is required for this project. The permit must be submitted as part of the Final Plan.
- A SLDA permit could be required if DEP determines that this project is a common scheme of development with Kettle Estates.
- The applicant informed staff in conversation that they intend to seek a SLDA permit prior to the Phase 2 final approval.
- The Town received a copy DEP Storm water Permit by Rule # 69049, which specifies the project's scope as a 14 unit condo project with 607 feet of road and a hammerhead turn around; accepted by DEP on November 8, 2019.
- This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance if the area of development is greater than one (1) acre. The stormwater management report documents that the project will result in 10.76 acres of total developed area. See Condition #2.
- A hydrogeologic assessment shall be submitted with the Preliminary Plan (see Findings under A. Pollution)
- The area of gravel excavation should be quantified and may require Site Plan review.
- In the Preliminary Plan application submitted on October 7, 2019, the applicant noted that the finish grades reflect an export of approximately 50,000 cubic yards of gravel material. The applicant has indicated that the planned excavation and grading is only being undertaken as part of and subordinate to the construction of the subdivision project; the 4 to 8 feet of cut will enable the dwellings to be constructed with foundation footings on natural grade, rather than fill, which would have to be added to areas that had been mined for gravel by the previous owner. In conversation with staff, the applicant stated they are willing to undertake the excavation and grading portion of the project as part of the Phase 2 subdivision development, within the same time period. The applicant further stated that in their assessment, the impact of the excavation and grading portion of the subdivision development would be perceived by nearby residents as substantially similar to the rest of the project. Staff find that the excavation is only being undertaken as part of and subordinate to the construction of the subdivision project, and therefore qualifies per 603.A.4. of the Mineral Extraction Ordinance to be exempt from the requirement at 601.A, and does not require Site Plan review in addition to Subdivision review.

D. TRAFFIC

- The site is accessed off Briarwood Lane, a public street, and Dusty Rhoades Lane, a private road, constructed to the Major Private Road standard as part of the Kettle Estate Subdivision.
- As part of the Kettle Estates Subdivision, an easement was granted to this property

to travel over Dusty Rhoades Lane, to Acorn Lane, a public street.

- 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).
- In the Preliminary Plan submission on October 7, 2019, the applicant submitted a detail of Typical Roadway Section of Belvedere Drive. It is depicted as having a 24' paved surface (two 10' lanes, and two 2' paved shoulders), with a 2' grassed shoulder on one side, and a 5' sidewalk on the other
- Section 911 M. (7) (page 9-62) requires a minimum of two connections to an existing public street for a residential subdivision street serving 31 or more units.
- At the Development Team meeting Fire Chief Brent Libby asked about the ability for emergency services to utilize the Kettle Estates hammerhead turnaround if winter maintenance for this development and Kettle Estates is managed separately.
- The road should match Dusty Rhoades section of Kettle Estates, which is approved as a paved road meeting the Major Private Road standard, with a (5) foot wide sidewalk on one side of the road.
- In the Preliminary Plan submission on October 7, 2019, the applicant submitted a detail of Typical Roadway Section of Dusty Rhoades Lane, which would create a "T" intersection with Belvedere Drive, and end in a cul-de-sac. A typical roadway section of Dusty Rhoades Lane is depicted as having a 28' paved surface (two 12' travel lanes and two 2' paved shoulders), with a 2' grassed shoulder on one side, and a 5' sidewalk on the other side. The total width of paved sections would match; however, the proposed extension would not include the 6' wide esplanade between the paved surface and sidewalk that the existing Dusty Rhoades Lane has.
- 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 units, therefore a new streetlight is required at the intersection with Briarwood Lane is required
- A street light is shown on a utility pole to be installed at the intersection with Briarwood Lane on sheet PP-1 dated 11-4-19.
- A traffic impact analysis is required for subdivisions involving 28 or more parking spaces, or that are projected to generate more than 140 vehicle trips per day and should be submitted with the Preliminary Plan.
- The Preliminary Plan Submission on October 7, 2019 notes that a vehicle traffic analysis is being prepared and will include counts at the intersection of Briarwood Lane and Varney Mill Road and will incorporate the trips expected to be generated from the full buildout. The application states that vehicle sight distance at the proposed intersection of Belvedere Drive and Briarwood Lane is at the mid-point of the outside of the roadway curve and provides ample sight distance in both directions. The applicant should quantify the distances and note them on the Final Plan, to demonstrate compliance with the ordinance
- A Traffic Impact Study for Proposed Belvedere Commons Subdivision, prepared by William Bray, was submitted with a November 12, 2019. It includes a Traffic Accident Summary of nearby major intersections, including Falmouth Road at Varney Mill Road and a mobility analysis. It concludes that peak hour traffic generated by the proposed residential subdivision has negligible impact on traffic operations at the Varney Mill
- Road/Briarwood Lane/Dyer Place and Varney Mill Road/Forbes Lane intersections.
- The Traffic Impact Study states that 200' of unobstructed sight line is required at the intersection with Briarwood, based on the 25 mph speed limit, and there is a clear line of sight in excess of 350 feet in both directions from the proposed center line of the subdivision street where it will connect to Briarwood.

- *The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour.*
- *The Traffic Impact Study does not include an assessment of additional vehicle trips to be generated by the development which will pass through the North Route 302 Capital Improvement District in the peak commuter hour. The project shall be assessed the fee per dwelling unit for fee area 2, as shown on Table 1. North Route 302 Road Improvement Impact Fee at 1204.L.*
- *In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: There should be a crosswalk shown on the plan between the sidewalk at the end of Belvedere Drive over to the Sidewalk on The Dusty Rhoades Extension. Provide curb tip down and crosswalk details and call out on plans.*
- *A crosswalk is shown on plan sheet PP-2 dated 11-4-19. It includes a curb tip down and call out on plan and sidewalk ramp and crosswalk detail.*

E. SEWERAGE

- *The development will be served by several community subsurface wastewater disposal systems.*
- *Soil test pit analysis which indicates soils that will support a septic system for this use must be included with the final plan submission. Test pit locations must be shown on the plan.*
- *The Preliminary Plan submission on October 7, 2019 included locations of test pits on the plan, and test pit analysis prepared by a Maine Licensed Site Evaluator, Alexander Finamore, LSE #391. The analysis concluded that all of the test pits contained suitable soils to support a 'First Time System' according to the Maine Subsurface Wastewater Disposal Rules.*
- *Leach field locations are shown on the final plan set.*
- *See A. Pollution for findings based on the hydrogeologic analysis.*

F. SOLID WASTE

- *Residents of the single family dwellings and the duplex 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 located on one half of a reclaimed gravel pit, which appears to be grown up with brush and scrub. The old pit is completely surrounded by residential neighborhoods.*
- *Street trees should be shown on the site plan. The Preliminary Plan submitted on October 7, 2019 shows vegetation clearing limits and notes that it should be maintained for five years from the date of Planning Board approval. Planting details should be included on the Final Plan.*
- *Tree and shrub installation details are included in the November 4, 2019 submission.*
- *Buffers for neighboring properties should be shown on the Preliminary Plan.*
- *The applicant may propose a private park, for residents of the subdivision, to be considered for acceptance in lieu of the recreation impact fee.*
- *At the September 9, 2019 Planning Board meeting, the Planning Board said they would like to know how close the new houses would be to neighboring properties. The*

Preliminary Plan submission on October 7, 2019 does not indicate limited building envelopes within the unit boundaries. A 10' setback is shown on the plan.

- *Areas designated for common land or access to common land should be noted on the site plan.*
- *The November 4, 2019 submission includes notes on the limits of common elements.*

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 Residential Grown Area shown on the Future Land Use Map.*

Land Use Ordinance:

- *The proposal meets the net residential density requirements and the setback requirements of the RM district.*

Subdivision Ordinance:

- *Street trees are required and must conform with § 911 E.1.(b).*
- *Street trees that conform with § 911 E.1.(b). are shown on the Plan and Profile sheets of the November 4, 2019 submission.*
- *A landscaping plan must be submitted with the Preliminary Plan.*
- *A landscaping plan is included with the November 4, 2019 submission.*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *Digital transfer of the subdivision plan data must be submitted with the Final Plan submission for inclusion with the Town's GIS.*
- *Condominium Association Documents shall be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space and stormwater infrastructure.*
- *The supplemental submission on November 12, 2019 includes draft Declaration of Condominium documents which include the required elements.*
- *Section 912.G states that If a plan has received a phased approval, the first phase shall be recorded within three (3) years of the original approval and subsequent phases shall be recorded within five (5) years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.*
- *Section 914.A.6. states that the Board may approve plans to develop a Major Subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee.*

Others:

- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area as well as the Pleasant River watershed (the Town's high priority watershed).*

I. FINANCIAL AND TECHNICAL CAPACITY

- *Evidence of financial capacity must be provided as part of the Preliminary Plan submission.*
- *The Preliminary Plan application submission on October 7, 2019 includes estimated construction costs, totaling \$600,000 (six-hundred thousand dollars).*
- *The applicant submitted a Certificate of Good Standing indicating that Robie Holdings LLC is a corporation in Good standing from the Maine Secretary of State's*

Office.

- The Preliminary Plan submission on October 7, 2019 was signed and stamped by State of Maine licensed professional engineers. The applicant has managed recent subdivision developments in the Town of Windham.

J. RIVER, STREAM OR BROOK IMPACTS

- The property is located in the Pleasant River and Collins Pond watersheds.
- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.
- See Findings of Fact under A. Pollution, and C. Soil Erosion.

CONCLUSIONS

1. The proposed subdivision will not result in undue water or air pollution.
2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.
4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision will provide for adequate sewage waste disposal.
7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer has adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision is not situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision have been identified on the plan.
15. Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.
16. The proposed subdivision will provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have/do not 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 is dependent upon, and limited to, the proposals and plans contained in the application dated August 18, 2019 as amended November 4, 2019, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.

3. Prior to the issuance of permits for buildings in Phase 2, a permanent easement shall be recorded over Kettle Estates subdivision to allow for the use of the access road to access the forested buffers and level spreader stormwater management elements for maintenance purposes. Easement language shall be approved by Planning Staff prior to recording.

Seconded by Michael Devoid.

Vote: All in favor.

New Business

- 10 [PB 19-094](#) 19-23 Town of Windham Official Zoning Map Amendment. RMills, LLC to request a change to the zoning for a portion of the lot from Farm Residential to Medium-Density Residential. The subject property is located on Junco Drive and identified on Tax Map: 5, Lot: 1-1, Zones: Farm Residential (FR) and Medium Density Residential (RM).

Attachments: [PB Memo Zone Change TM 5 L1-1 11-18-19](#)

[RMills Rezone Request 2019 10 25](#)

[Town Council Minutes 2018-01-30](#)

Jason Haskell, of DM Roma Consulting Engineers, was present representing the applicant. He explained:

- The subject property contained both the Medium Density Residential (RM) and Farm Residential (FR) zones. They were requesting to rezone the FR as RM.
- The lot was at the edge of the South Windham growth area and was surrounded by residential uses. It shouldn't negatively impact the neighborhood properties.
- The applicant had previously received approval for two duplexes and Junco Drive. Their intent was to continue the duplex unit scheme of development on the property, further from River Road. The current zoning required clustering near River Road and

would not allow multi-unit dwellings.

- The applicant had applied for a zone change one year ago and been denied by Town Council.

The Board commented:

- What had changed since a year ago?
- How many more duplexes would there be?
- The Board was always hearing about too much development. The rezoning had been tried before.
- This was an island of FR zoning among residential development. FR seemed out of place.

- 11 [PB 19-096](#) 19-25 Quarry Ridge Business Park 4th Amended Subdivision. Copart of Connecticut Inc. to an amendment to an approved subdivision to combine Lots 5, 6, 7 and a portion of 15 into one 50.2 acre lot. The subject property is located at 11 Bedrock Terrace and identified on Tax Map: 21 Lots: 15, 15-5, 15-6, 15-7 Zone: Enterprise Development (ED), Farm (F) and Resource Protection (RP).

Attachments: [19-25 Quarry Ridge 4th Amend 11-18-19](#)
[Quarry Ridge-4th Amended Sub 2019-11-04](#)
[Quarry Ridge-BINDER.Sketch-Sub Amendment 2019-11-04](#)
[Quarry Ridge Overall 2nd Amend Sub 06-2006](#)

Craig Burgess, from Sebago Technics, was present representing the applicant. He explained:

- They proposed to combine subdivision lots 5, 6 and 7 and to add more acreage from lot 15 for a total site of 50.2 acres.
- The amendment was necessary to accommodate the Copart application, which would be before the Board next.
- A 200 foot buffer strip, associated with a quarry operation, would be reduced to 50 feet.

Consensus of the Board was to wait on the application until the applicant had received their amended site law permit.

- 12 [PB 19-097](#) 19-26 Copart Phase 2. Major site plan sketch plan review. Copart of Connecticut Inc. to request review of an Automobile Auction Facility consisting of a 7,200 square foot office/warehouse building with an approximate 25 acre gravel storage area. The subject property is located at 11 Bedrock Terrace and identified on Tax Map: 21 Lots: 15, 15-5, 15-6, 15-7 Zone: Enterprise Development (ED), Farm (F) and Resource Protection (RP).

Attachments: [19-26 Copart Phase 2 sketch 11-20-19](#)
[Copart Application - Site Plan Sketch Plan](#)
[Copart Sketch Plan](#)

Craig Burgess, from Sebago Technics was present representing the applicant. He explained:

- Copart provided asset liquidation services to institutional, commercial, and private

owners of used, damaged or undamaged vehicles, trailers, watercraft, industrial, and construction equipment. Assets would arrive at the site and be catalogued, inspected, and stored for between 50-80 days until being auctioned. There would be no dismantling.

- The site would include customer and employee paved parking; a 7,200 square foot building with both administrative and warehouse space, a receiving and delivery area; fencing; security; and a crushed stone storage area
- Most of the work was done on-line.
- Noise would be minimal.
- Only the area around the building would be lit.
- The project would disturb about 25 acres.
- There was a wading bird habitat on site. DEP and Inland fisheries & Wildlife (IF&W) had found the majority of the site was already disturbed. They saw no issue with the facility expanding into the habitat as long as the developed area did not grow.
- They proposed a fairly elaborate stormwater system with detention and infiltration.

The Board commented:

- Keep the snowmobile trail accessible.
- Would there be fuel storage on site?
- What was the process for damaged assets that may leak fluids?
- Was it in the Sebago Lake watershed as well as the Pettingill Pond water shed? Where was the dividing line?
- What was the daily traffic expectation?

Consensus of the Board was to schedule a site walk.

Consensus of the Board was to schedule a public hearing.

- 13 [PB 19-098](#) 19-27 Copp Quarry. Major site plan sketch plan. Copp Equipment & CSG Properties LLC to request review of a 60 acre mineral extraction operation. The subject properties are located on Lakeside Drive and identified on Tax Map: 17 Lots: 9, 13, 14, 14A, 15, 17, 18, 19, and 26 and Map: 36 Lot 19, Zone: Farm (F).

Attachments: [Copp Site Plans 10-31-19](#)
[19-27 Copp Quarry Sketch 11-8-2019](#)
[Copp Sketch Plan Application 10-31-19](#)
[Town of Falmouth 11-22-19](#)
[Hutchins, Larry 11-21-19](#)
[Dolan, Jean 11-20-19](#)
[Bressler, M 11-12-19](#)
[Hooper-Bressler, K 11-12-19](#)
[Reid, John 11-12-19](#)
[Ann Sparling Fwd Gravel Pit 04-18-18](#)
[Brianna Schoen Proposed Quarry on Forest Lake 04-04-18](#)
[Kellie H Copp Quarry 03-31-18](#)
[Janene Gorham proposed gravel pit 03-28-18](#)
[Scott Campbell Quarry Proposal - Maps 03-27-18](#)

Meeting went into Recess

Meeting Reconvened

Patrick Coughlin, from Saint Germaine Collins, was present representing the applicant.

- *The project had been before the Board in 2018. The size of the proposed quarry had been reduced since then. They had pulled back from the stream and vernal pools.*
- *A solar array was also proposed on the site. Some development may overlap.*
- *There were two options for the access road:*
 - o *Upgrading Lakeside Drive to public road standards and the town accepting it.*
 - o *Creating a second private road to access the site.*
- *The solar array and quarry had different standards for stormwater management. They hadn't yet determined what those were.*
- *The two projects would progress on independent timelines.*
- *They proposed a maintenance building and an office building.*
- *There would be a double-walled 1,000 gallon diesel tank with spill prevention measures.*
- *The proposed road would come out at the last 10 to 12 feet within the Town of Windham. Would that satisfy the requirement for diminimus affect?*

Amanda Lessard explained:

- *Development in lake watersheds required additional review.*
- *The quarry would be internally drained. However, areas outside of the excavated area still needed to meet DEP standards for stormwater management.*
- *Staff had some concerns regarding connection to a public street and title issues for the prospective parallel access road.*
- *Information was needed for other infrastructure: fuel storage, buildings, drinking water, and wastewater disposal.*
- *Both the quarry and solar projects were on non-conforming lots of record which had no road frontage. The town attorney had said there was some ambiguity regarding what kinds of structures were allowed on those nonconforming lots and had suggested amending the ordinance for clarification.*
- *The Town of Cumberland may require a road opening permit if there was a connection.*
- *Information was needed on performance standards: dust control, hours, truck traffic, a blasting plan, etc.*
- *There was a DEP permit for mining activity. The scope of the project had changed; was the permit still valid?*

The Board commented:

- *They should wait for the town attorney's opinion.*
- *It would be an asset to have Lakeside Drive rebuilt to a town standard, but Town Council would still have to accept it.*
- *The benefit of an access road would be no trucks on Lakeside Drive, no dust, and more privacy.*
- *The bus stop should be moved if the quarry access was there.*
- *What was the ownership of the road?*
- *A traffic review was needed because of number of towns be impacted.*
- *There had been public concern regarding run off and water quality.*
- *It was not the responsibility of any applicant to open land up to the public but it would be a great opportunity to link to Lowell preserve and areas of other towns.*
- *What would the vibration at the property line, amount of dust, noise, and number of times a year they would blast be?*

Keith Elder disclosed that he ran an excavation company and bought dirt from everybody.

That didn't affect his Board decisions.

No one expressed any concerns.

Michael Devoid lived in the area and was concerned with the roads.

No one expressed any concerns.

- 14 [PB 19-099](#) 19-28 Forest Lake Solar. Major site plan and Conditional Use sketch plan review. Borrego Solar Systems, Inc to request review of a 20 acre solar array. The subject properties are located on Lakeside Drive and identified on Tax Map: 17 Lots: 15, 17, 18, 19, and 26 Zone: Farm (F).

Attachments: [19-28 Forest Lake Solar Sketch 11-21-2019](#)
[Borrego Sketch Plan Layout - Lakeside Dr, Windham](#)
[Borrego Sketch Plan Application 11-04-19](#)

Ryan Bailey, was present representing the applicant. They proposed:

- *A roughly 20 acre solar project, on the same property as the previous quarry application, which would be focused more on the front of the property. They were in consultation with DEP regarding the footprint of the property. Access and easement issues were still being worked out.*
- *Some clearing and grading would be required. There would be two concrete pads and metal screws in the ground as well as conduit. They expected a six month construction period. The site would be surrounded by a seven foot fence.*
- *They planned to extend three-phase power from Lakeside Drive. 24/7 access to the utilities was required for safety reasons.*
- *Life of the project was expected to be 20 to 30 years. At the end most of the materials would be recycled. Conduit would remain in the ground. The lot would appear to be a grassy field.*

Amanda Lessard explained:

- *A public utility facility was a conditional use. As part of the review the Board could consider traffic impacts.*
- *Staff recommended the requirement of an escrow account to decommission the facility.*
- *Timing for the quarry project and this application were different.*

The Board commented:

- *There was an issue of access and required road frontage.*
- *What kind of traffic would it take to build and maintain the project?*
- *There should be a guarantee that Lakeside Drive would be in as good, or better condition after construction was done.*
- *A waiver would be required for above ground utilities.*
- *Consensus of the Board was to require a public hearing.*

- 15 [PB 19-100](#) Town of Windham Land Use Ordinance Chapter, 140, Sections 300, 550 and Appendix B, related to the creation, extension, and improvement of private roads, and development along and accessed by private roads.

Attachments: [PB packet Private Roads 11-20-19](#)

Amanda Lessard explained:

- *The proposed amendments to the ordinance would affect definitions, performance standards, and Appendix B, Street Standards.*
- *They had been drafted by the Private Roads Ad Hoc Committee and were intended to make improvements to requirements for construction of private roads related to the amendments approved by Town Council in October, 2017.*
- *For streets serving 10 to 30 homes the standard would be similar to a major private road standards except pavement wouldn't be required.*
- *A street serving over 30 homes must meet the standard.*
- *A waiver provision was included for when the standard couldn't be met.*
- *There was a one-time exemption provision for the frontage requirement if the land had been owned for the previous five years.*
- *Recording of the road plan and maintenance agreement at the Registry of Deeds was a requirement.*
- *The requirement to build the street to the public street standard had been removed.*

The Board commented:

- *The Town should deal with the roads and not put the responsibility onto its citizens.*
- *This was a good compromise for streets built before the standard.*

Other Business

16 Adjournment

Drew Mayo made a motion to adjourn.

Seconded by Michael Devoid.

Vote: All in favor.