



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Planning Board

Monday, December 11, 2017

7:00 PM

Council Chambers

1 Call To Order

2 Roll Call and Declaration of Quorum

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

Planner, Amanda Lessard, and Planning Director, Ben Smith, were also present.

3 [PB 17-102](#) Approval of Minutes: November 13, 2017

Attachments: [Minutes 11-13-17 - draft](#)

Margaret Pinchbeck made a motion to approve the minutes.

Seconded by Nick Kalogerakis.

Vote: Three in favor. No one opposed. David Douglass abstained.

Continuing Business

4 [PB 17-103](#) 17-17 River Road Subdivision. Major subdivision preliminary/final plan review. River Road Housing, LLC to request review of a seven (7) lot residential cluster subdivision. The subject property is located at River Road and identified on Tax Map: 8A Lot: 56 (portion), Zone: Farm Residential (FR).

Attachments: [17-17 River Road PrelimFinal 12-06-2017](#)
[Response to Comments - River Road Subdivision 2017_12_4](#)
[River Road Subdivision Plan Set 2017_12_4](#)
[Peer Review_River Road_12-01-2017](#)
[River Rd Subdivision Final Plan Application 2017_11_20](#)
[River Road Subdivision Plan Set 2017_11_20](#)

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

- They had requested a waiver for the requirement of a cul-de-sac and had consulted with both the town's Public Works Director and Engineer. Each would support the construction of a hammer-head and they would not use the hammer-head as a basis to not recommend possible future acceptance of the road.*

- They had requested a waiver of town's minor local street standard requirement. The road would have to be widened and the stormwater buffers and impervious surfaces increased in order to meet the pavement width requirement. They wanted to keep the road at the town's public street standard without the wide shoulder.
- There had been a missing pin along the road frontage. That error had been corrected. Net density wasn't affected by the pin adjustment. Storm water ponds and level spreaders had been adjusted as a result of the correction.
- Street tree locations had been added to the plan.
- Septic systems and well exclusion zones had been located on the plans.
- They had the driveway entrance permit from DOT.
- Notice for the DEP Permit by Rule had been completed.

Amanda Lessard explained:

- Staff had no concerns regarding the waiver requests.
- All the staff concerns had been addressed.

Keith Elder made a motion to grant the waiver request of the dead-end street standard.

Seconded by Margaret Pinchbeck.

Vote: All in favor.

Margaret Pinchbeck made a motion to grant the waiver request of the sidewalks or shoulders performance standard.

Seconded by Nick Kalogerakis.

Vote: All in favor.

Margaret Pinchbeck made a motion that the Preliminary and Final Subdivision application for project 17-17 – River 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 Nick Kalogerakis.

Vote: All in favor.

Margaret Pinchbeck made a motion that the Preliminary and Final Subdivision application for 17-17 River Road Subdivision on Tax Map: 8A, Lot: 56 was to be approved with conditions with the findings of fact and conclusions in the December 6, 2017 staff memo.

FINDINGS OF FACT

A. POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- 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.
- The applicant has submitted a waiver request for a hydrogeologic assessment based on the well-drained glacial till soils on the property and the location of proposed leach fields more than 100 feet from the downhill property line.

B. WATER

- The sketch plan proposes that dwelling units may be served by public water in a new water main extended from an existing main in Timberhill Road to be located in a 40 foot utility easement over the abutting property. 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. In the event the PWD does not allow the extension, the lots will be served by individual wells.
- In a letter dated August 22, 2017 from Robert Bartels, P.E. of the Portland Water District, water service for this project would need to be provided from a main extension within River Road. Therefore, lots in the subdivision will be served by individual wells.
- 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.
- Existing fire hydrants are located on River Road to the north of the proposed subdivision at the intersections of Presumpscot Road and to the south of the proposed subdivision at the intersection with Park Road. Existing hydrant locations are more than 1,000 feet from the development.
- At the Development Team meeting on July 31, 2017, Fire Chief Brent Libby recommended that if the development was not served by public water, that all homes in this subdivision include sprinkler systems that meet NFPA standards.
- Well exclusion areas are shown on the subdivision plan revised December 4, 2017.
- Note 14 on the final subdivision plan states that all dwelling within the subdivision shall include sprinkler subdivisions.

C. SOIL EROSION

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated October 2, 2017, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1. A lot grading plan for Lots 2 & 3 was also included with the preliminary plan submission.
- This project may require a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit. A copy of the permit must be submitted with the Final Plan application. The DEP Stormwater Permit by Rule application dated November 29, 2017 was submitted on December 5, 2017.
- 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.
- This project is in the NPDES (National Pollutant Discharge Elimination System) 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. See Condition of Approval #2.
- A stormwater management plan has been submitted as part of the October 2, 2017 Preliminary Plan submission. The project proposes to treat the 3.23 acres of new developed area with an underdrained filter basin, forested buffers and a roof drip edge.
- A note should be added to the plan that stormwater buffers will be permanently marked prior to the start of construction.
- In an email dated October 11, 2017, Town Engineer Jon Earle P.E., confirmed that the project meets the Chapter 500 standards for water quality and noted that the applicant is requesting a waiver from the stormwater flooding standard, as more than 75% of the impervious and developed areas are treated through the use of wooded buffers.

He also requested easement language for the location on the stormwater treatment BMPs located on Lot A, which is not part of the subdivision. The stormwater treatment table from sheet TP-1 should be included on the subdivision plan.

- A draft deed for Parcel A was included in the December 5, 2017 submission which provides a stormwater easement with access for maintenance and/or repair of any structures or buffer areas.
- The stormwater treatment table is shown on the final subdivision plan and Note 16 describes the assumed impervious and developed area for each lot.

D. TRAFFIC

- The subdivision lots will have access from the new 650 foot subdivision street. Section 911.K.3.f requires cluster subdivision roads to be built to the Minor Local Street standard.
- The site is accessed off of River Road, a paved public street. Sight distance for the new subdivision street should be shown for both directions along River Road on the Preliminary Plan.
- At the Development Team meeting on July 31, 2017, Public Works Director Doug Fortier stated that the proposed entrance on River Road is located at the urban compact line and may require an entrance permit from MaineDOT. The applicant should contact MDOT to determine who has jurisdiction over issuing the entrance permit. If required, an MDOT Entrance Permit must be submitted with the Final Plan.
- The proposed hammerhead turn around shown at the end of the subdivision street does not meet the cluster subdivision ordinance requirement. A waiver may be requested from the requirement for a cul-de-sac.
- Sidewalks are required in the subdivision. This subdivision is less than 1,000 linear feet from an existing convenience store or public building (The Church of Jesus Christ of Latter-day Saints). The applicant has submitted a waiver request from this requirement.
- The October 2, 2017 preliminary plan submission states that based on the ITE Trip Generation Manual the proposed 7 residential lots are expected to generate 7 peak hour trip-ends.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated October 2, 2017, shown on Sheet PP-1, was submitted as part of the Preliminary Plan.
- The road plan and profile (Sheet PP-1) and details (Sheet D-1) dated October 2, 2017 propose constructing the road with an 18 foot wide paved (2" surface pavement) travel way with 2 foot gravel shoulders.
- Site distances are shown on the preliminary plan: 630 feet looking left, or south down River Road, and in excess of 700 feet looking right, or north up River Road.
- The standard private road note should be shown on the plan.
- In an email dated October 11, 2017, Town Engineer Jon Earle P.E., recommends 2.5" of binder and 1.5" of surface pavement. He also noted that an 18" culvert is located within the River Road ROW and may need to be removed and reset or replaced and this and inverts should be noted on the plan.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated November 20, 2017, shown on Sheet PP-1, was submitted as part of the Final Plan submission.
- The road plan and profile (Sheet PP-1) and details (Sheet D-1) dated November 20, 2017 propose constructing the road to the Minor Local Street standard with a hammerhead turnaround. The applicant has submitted a request from the requirement for a cul-de-sac.
- In an email dated December 1, 2017 Town Engineer Jon Earle P.E. confirms the road construction detail and states that he and the Public Works director have no objections to the cul-de-sac waiver request.
- A Driveway/Entrance Permit issued by the Maine Department of Transportation dated

November 22, 2017 was submitted on December 5, 2017.

- A draft deed for Parcel A was included in the December 5, 2017 submission which provides a right of way easement over Abenaki Drive. Lot A has no obligation to share in any costs of plowing, sanding or maintenance of said right of way.

E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.
- Soil test pit analysis prepared by Brady Frick, LSE of Albert Frick Associates, Inc dated September 29, 2017 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan.

F. SOLID WASTE

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

G. AESTHETICS

- The site is lightly wooded and slopes in a northwesterly direction towards River Road. Some areas of steep slopes are shown on the plan.
- 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 road plan and profile (Sheet PP-1) dated December 4, 2017.
- Limits of tree clearing are shown on the preliminary plan. Note 12 on the plan states that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan does meet the goals of the 2017 Comprehensive Plan.
- Land Use Ordinance:
 - All lots fall within the minimum and maximum lot sizes of 20,000-35,000 square feet (one lot 45,000 sf max) for cluster lots in the FR 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.
 - At least 50% of the land suitable for development shall be included in the common open space. This calculation is shown on the plan.
- Subdivision Ordinance
 - Standard notes and the standard condition of approval are shown on the plan.
 - The Tax Map and Lot numbers provided by the Tax Assessor are shown on the Final Plan.
 - Subdivision plan data compatible with the Town GIS has been submitted as part of the Final Plan submission.
 - A sample deed was provided in the December 5, 2017 submission and specifies 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.

- *Others:*
- *Street Naming and Addressing: The road name approved by the Assessing Department, Abenaki Drive, is shown on the Final Plan.*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. See Condition of Approval #2.*

I. FINANCIAL AND TECHNICAL CAPACITY

- *The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity*
- *An undated letter from Lee Ann Sanborn, Assistant Vice President at Key Bank was submitted on December 5, 2017 as evidence of financial capacity.*

J. RIVER, STREAM OR BROOK IMPACTS

- *The project will not adversely impact any river, stream, or brook.*

CONCLUSIONS

- 1. The proposed subdivision will not result in undue water or air pollution.*
- 2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
- 4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
- 5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
- 6. The proposed subdivision will provide for adequate sewage waste disposal.*
- 7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
- 9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 10. The developer has adequate financial and technical capacity to meet the standards of this section.*
- 11. The proposed subdivision is 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 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 July 24, 2017, as amended December 5, 2017, 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.

Seconded by Keith Elder.

Vote: All in favor.

5 [PB 17-104](#)

17-21 Plaza Amendment. JAMAR, Inc to request an amendment to an approved site plan for a revision to the building architecture, curbing and sidewalks and landscaping. The subject property is located at 1Plaza Drive and identified on Tax Map: 18, Lot: 20. Zone: Commercial 1 (C-1).

Attachments: [17-21 Plaza Project Amendment 12-06-2017](#)
[Cover Letter - The Plaza Amendment 2017 12 5](#)
[The Plaza - Amended Site Plan - 2017 12 5](#)
[The Plaza - Building Elevations - 2017 12 5](#)

Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. In order for the building to meet the design guidelines:

- They still proposed a concrete sidewalk along the front of the building and would have planters installed along the front.
- Additional landscaping had been added to the site.
- There would be a bike rack along the side of the building.
- Their focus had been on the main entrances of the building. They proposed a peaked roof with custom millwork over the front door entrances.
- Additional glass, which would mimic the existing windows, was proposed on the sides

of the building. Windows would not work because the interior needed a closed surface.

- The wall panel on the back of the building would be extended up three feet to match the other walls.
- Smaller scale timber supported millwork would be constructed over the two back doors.
- Mechanical units would be located almost dead-center on the roof. Parapets would partially hide the mechanical equipment of the roof. On other sides of the building it would be necessary to be about 160 feet away before it was visible.
- The back would have a drivable, gravel surface.

The Board commented:

- Was the sidewalk wide enough for the planters?
- Where was trash storage?
- Would the stone on the bottom of the building be on the back also?
- Did the glass on the sides meet the 40% requirement?
- The building would be seen from all sides because people would be driving around it. It had to be represented on all sides.

- During the approval process it had been noted that the mechanical units had to be screened. They were not.
- The ordinance stated that non-traditional roof forms could not be used as the primary roofline. The proposed false parapet wall was the primary roofline.
- The ordinance required horizontal facades greater than 50 feet in length to incorporate wall plane projections or recesses.
- There were a number of items that had not been addressed and the building didn't meet the ordinance. More work had to be done before approval of the building based on the guidelines.
- The Design Guidelines were about appearance. The plan showed 19 golden junipers on the north side of the building. If faux windows were to be located along that side it would be better to have the junipers at the top of the boulder retaining wall. That would hide the back of the building from the fourth view and improve the appearance.
- The back wall should incorporate the architectural features used on the other sides.
- The building was there, and they were not starting from the ground up. The changes that Mr. Roma had offered would be great. The back wasn't great but at this point what would it take for 100% compliance?

Mr. Roma responded:

- He thought the sidewalks were eight feet from the face of the curb to the building.
- There would be no exterior trash storage.
- The stone was continuous along the entire front of the building and wrapped around the corners. Then there were textured panels.
- They could add more windows to get to the 40% requirement.
- The Staff Review Committee had approved the building without the projections or recesses. When the building had originally been approved it had been as a retail/office building. Changes had been made based on the intended use of the building for retail. They were looking at the context of things that they could do, within reason, to bring it back to what the Board was looking for. Wrapping facades around the back and adding more windows were things they could discuss and do. They were not prepared to move walls and projections.

Keith Elder made a motion for a five minute recess.

Seconded by Nick Kalogerakis.

Vote: All in favor.

The meeting reconvened.

Mr. Roma proposed:

- *Adding windows to meet the 40% requirement on both sides of the building.*
- *It was important to keep the parapet because it would shield the mechanical equipment in the back. There had been some concern regarding how tall it looked. They could make it narrower to shorten it up.*
- *On the back side of the building they would landscape the entire top of the boulder wall to provide continuous landscaping and screen the back of the building from view. The back would never look like the front of the building. It had big power meters on it; the gas service with a regulator with big bollards. They thought it was better to screen it from view.*

The Board commented:

- *The applicant was proposing less than could be done to make the building more conforming to the ordinance.*
- *The building already existed. What was feasible to ask the owner to change? You couldn't rewind and start over.*
- *It would be fairly simple to wrap the stone around the building to the back wall so it was tied into the design of the building.*

Keith Elder made a motion the Site Plan application for 17-02 Plaza Project Amendment on Tax Map: 18, Lot: 20 was to be approved with the following findings of fact and conclusions found in the staff memo of December 6, 2017 with the amendments that there would be an additional faux window added to the north and south sides as well as continuous evergreen shrubs planted above the boulder wall on the backside of the building.

Seconded by Nick Kalogerakis.

Margaret made a motion to amend to include that the faux windows would bring it up to the required 40%.

The motion was amenable to both Keith Elder and Nick Kalogerakis.

Vote: Two in favor. David Douglass and Margaret Pinchbeck opposed.

Amanda Lessard explained that a tie vote resulted in postponement of the motion until the next meeting when the Board would vote again.

New Business

- 6 [PB 17-105](#) 17-24 519 Roosevelt Trail Condos. Major subdivision sketch plan review. JTSH, LLC to request review of a five (5) unit residential subdivision. The subject property is located at 519 Roosevelt Trail and identified on Tax Map: 48 Lot: 30A, Zone: Medium Density Residential (RM) and Stream Protection (SP).

Attachments: [17-24 519 Roosevelt Trail Condos Sketch 12-06-2017](#)
[519 Roosevelt Condominium - Sketch Plan Application 2017 11 20](#)
[519 Roosevelt Trail Sketch Subdivision Plan 2017 11 20](#)

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

- The property was about 90,000 square feet with frontage on Route 302. The rear of the property fronted on Ditch Brook.
- A stream ran through the back of the property and into Ditch Brook.
- A 100 foot stream protection overlay zone ran along Ditch Brook and there was a 100 year flood plain that ran into the property. Those had been delineated on the plan.
- They proposed five single-unit, two bedroom detached residences with garages.
- The site would be built up to provide daylight basements.
- The road was really the condominium driveway. It would be privately owned and end in a hammer-head. The property had been previously developed and they proposed to use the location of the existing drive.
- Public water would be provided.
- Power would be underground.
- They anticipated installing a stormwater filter.
- The Fire Chief had stated they wouldn't require sprinklers.

Margaret Pinchbeck made a motion to schedule a public hearing.

Seconded by Keith Elder.

Vote: All in favor.

7 [PB 17-106](#) Discussion of 21st Century Downtown Master Plan and North Windham Zoning Ordinance Changes

Attachments: [PB packet NW zoning 12-07-17](#)

Ben Smith provided a summary of the 21st Century Downtown Plan:

- The 21st Century Plan had come from the fact that the existing zoning ordinance had not resulted in the type of North Windham that was desired.
- The Plan had been adopted in 2013. It outlined a vision for North Windham that would be more attractive, safer, and a place where people could live, work and shop. It would represent a new type of downtown.
- The plan addressed:
 - o Infrastructure needs
 - o Street scape and pedestrian improvements
 - o Sewer
 - o Broadband
 - o Ordinances

The first steps toward implementation of the 21st Century Plan had been taken.

- Preliminary engineering for sidewalks, street trees, and street lighting in the area of River Road to Anglers Road.
- A sidewalk project on Route 35 from Payson Road to Boody's Corner.
- Maine Design Workshop had been retained to revise the ordinances. They had provided a draft of Character Based Codes.
- Town Council had directed staff to work on an alternate version of the draft codes and had decided to adopt those as soon as possible. The Character Based Code would be an alternative that people could choose from.
- The Town Council wanted input from the Planning Board regarding whether the choice of two ordinances was workable or if it should be one or the other.

Character Based Code was also known as form based code.

- *It was a way to regulate land use for a specific form of development.*
- *There was less emphasis for specific uses and more emphasis on the form and design of buildings.*
- *New building and street standards would exist.*

Things that would be addressed differently than they were under current zoning were:

- *Building orientation*
- *Parking*
- *Setbacks to the street*

Some changes that could be expected were:

- *Additional definitions*
- *Changes in zoning standards for C1 and C2 districts.*
- *Additions and deletions to permitted uses*
- *Minimum lot sizes and residential densities would be eliminated and state subsurface rules would control*
- *Parking would be prohibited in front of buildings*
- *No new private roads would be allowed in the North Windham growth area*
- *Areas designated for a specific kind of development*

Other Business

8 Adjournment

Keith Elder made a motion to adjourn.

Seconded by Margaret Pinchbeck.

Vote: All in favor.