



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Planning Board

---

Monday, April 22, 2019

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: Keith Elder, Nick Kalogerakis, Drew Mayo, Kaitlyn Tuttle, Michael Devoid, Griffin Bourassa and Colin Swan.*

*Planning Director, Amanda Lessard was also present.*

#### 3 [PB 19-039](#) Approval of Minutes: April 8, 2019

**Attachments:** [Minutes 4-8-19 - draft.pdf](#)

*Keith Elder made a motion to approve the minutes from the April 8, 2019 meeting.*

*Seconded by Nick Kalogerakis.*

*Vote: Six in favor. No one opposed. Griffin Bourassa abstained.*

### **Public Hearings & Continuing Business**

#### 4 [PB 19-040](#) Town of Windham Land Use Ordinance, Chapter 140 Land Use. Amendments to sections: 300, Definitions; 400, Zoning Districts; and 500, Performance Standards for the replacement of the definition of Construction Services and the addition of Contractor Services, Contractor Storage Yard, and Heavy Construction Services, Minor as a use in the Commercial 3 (C-3) zoning district.

**Attachments:** [PB packet Construction Services Amendment 4-3-19.pdf](#)

[Town Council Minutes 2016-06-28.pdf](#)

[PB recommendation to TC Construction Service Private Warehousing Landscaping 03-16-16 combined.pdf](#)

*Amanda Lessard explained:*

- *The amendment had been requested by the Windham Economic Development Corporation (WEDC) and members of the public. A similar amendment had been before the Board in 2016. Town Council had not taken action on it then.*
- *The current draft had components of Construction Services, light contractor services such as plumbing and electrician, that would have an office and vehicle storage inside.*
- *A definition had been added for Contractor Services, Contractor Storage Yards. Outdoor storage of materials would need to be screened from view.*

- *Heavy Construction Services, like paving and excavation companies, had been separated by vehicle class into Major and Minor. Minor was the only one that was proposed for the C-3 zone. Vehicles would be limited to three which would have to be screened from view.*
- *There was a new definition for Landscape Construction Services, which would require outdoor storage of materials to be screened from view.*

*Tom Bartell, Executive Director of WEDC, explained:*

- *WEDC had been working on the amendment for a long time. They were trying to preserve the commercial aspect of the C-3 zone with its connection to Construction Services and the list of business types that were included. The existing ordinance generally hampered the ability of businesses to go into a C-3 zone. There had been little commercial growth in the C-3 zone over the last three years.*
- *The proposed uses limited traffic and vehicles were generally smaller in size.*
- *The Code Enforcement Office looked at contractor issues, not as an office and storage, but as specific types of contractors and those types were not included in the definition of Contractor Services.*
- *The public had asked for Contractor Services as it was defined.*
- *Town Council had suggested the definition should be split so Heavy Construction would be isolated from the rest because of concern that small businesses were being left out in terms of Heavy Construction Services and they couldn't afford a large lot in the more expensive commercial zones. This would give an opportunity to those who had started business as a Home Occupation but were growing. If they acquired more than three vehicles they would have to move to another zone.*

*Public Comment:*

*William Deering asked if there would be an opportunity to speak to agenda items later.*

*Rosie Hartzler, Beach Road – She was confused about the Planning Board approval in 2016. Was Construction Services different? She said she was unclear as to why Heavy Construction, Minor would be considered as either a permitted or a conditional use. The 2016 minutes seemed to say the Planning Board had approved it as a conditional use. How had it gone from the Planning Board recommending a conditional use to the Town Council making it a permitted use? Why was it coming back again?*

*Ms. Hartzler stated that further confusing to her was that, following the recommendation from Town Council to the Planning Board, she had spoken with a town councilor. It seemed to her that he wasn't clear what he had voted on. She wouldn't be willing to take action on something a town Councilor was unable to clarify for her. That was very concerning for her.*

*She had a concern about the intent of development along Route 302. It was very clear in the Long Range Plan that it was not an area that should be designated for development, especially heavy construction. It was an area where there was already heavy traffic. It wasn't meant to be that way but it was. Why introduce another element in that section of Route 302 that would further congest traffic? How many people had signed the petition? Because of the proximity to Highland Lake, development was already an ongoing concern. They had done work to protect the lake. For the town to open the area up to more construction where there was already a heavily traveled road and potential for even more environmental damage seemed counter intuitive.*

*Amanda Lessard explained:*

- *The Planning Board had reviewed the addition of Construction Services as it was*

currently defined as a permitted use in C-3. The Board's recommendation to Town Council had been that it should be added to C-3 as a conditional use. The Town Council had ultimately decided not to adopt it.

- It would be a permitted use. The proposal was to add Contractor Services, Contractor Storage Yard and Heavy Construction Services, Minor to the C-3 zone. That was new and not yet allowed.
- What was proposed now was not the same as the full definition of Construction Services. There had been some concern regarding residential abutters, the Route 302 corridor, and traffic. Some Planning Board members were concerned with some of the uses within the definition of Construction Services.
- It was back again because members of the public had signed a petition and the WEDC had been interested in it for years.
- Town Council had referred it to the Planning Board, whose role was discussion of whether the standards were appropriate; understanding how to apply it in their capacity for review of projects, and what recommendations they would make to Town Council.

Jarrold Maxfield, Windham resident and Town Councilor – He said the majority of the Town Council had voted to send it to the Planning Board. He wanted the Planning Board to know why members of the Town Council were not for the amendment at this time. They were being asked to change the entire C-3 zone, not just specific properties to fulfill the small and immediate need of a small and select few in town. The intent of C-3 was to provide areas of light, low traffic generating commercial uses and single family housing.

Councilor Maxfield thought of the area as a gateway which abutted residential homes and environmentally sensitive areas. The Council had rejected the proposal three years ago.

Months back, members of the public and WEDC had asked the Council to adopt Heavy Construction Services under the old, non-specific definition. Council had asked the parties to see if they could agree on types of permitted commercial business. At a subsequent meeting a more middle-of the road approach was proposed which would allow more businesses of the light type category, electricians, and plumbers with standard sized trucks. After review of the suggested changes a majority of Councilors has asked for Heavy Construction to be added back in.

To him, the process was hurried and not well thought out. The specific reasons he asked the Planning Board not to recommend back to the Council were the need to defend the environmental work done by the Town Council, Planning Board, and public. The zone ran along Route 302 near the Highland Lake aquifer, one which had been the subject of moratoriums. Town staff and Council had worked diligently with every type of code and building standard to protect the lake. Colley Wright Brook, which flowed into South Windham, was also in the zone. Another major issue was the requirement for a building moratorium to protect the environment and ground water. They had engaged in a rigorous process to protect watersheds from the development risks of phosphorous and water contamination. These were important issues that were the subject of committee review, consideration and multiple public meetings. In two instances there were emergency moratoriums.

Would there be added controls on properties in that zone? Who would monitor those properties? He submitted the Comp Plan's Future Land Use Map. It labeled the C-3 zone along Route 302 a transition area characterized by mixed residential and commercial development lining Route 302. Maintaining traffic flow in Route 302 south of the rotary was important so that area was not an appropriate location to encourage or incentivize additional non-residential development or high impact commercial business.

*Why force this when it was contrary to all the work that had been done?*

*Jeanne Rhein, Chute Road - She had a map from the Cumberland County Water District that showed Colley Wright Brook, Highland Lake, Black Brook and Otter Brook as threatened. She was concerned with the lot sizes and development around Colley Wright Brook. It would cause congestion in an already congested area, near Coley Wright Brook. The report on impairment of the Pleasant River cited development and sewer systems as contributing significantly to the watershed run-off impairment. She said any business maneuvering or change would impact Colley Wright Brook. Big equipment and things impacted the environment.*

*Kim White, Highland Shore Road – She lived off of Route 302 in the section that would be impacted if the change went through. Route 302 in that area was heavily congested with traffic. She was concerned that the town spent a lot of time and energy developing the Comp Plan. The area was highlighted as a transition area in the plan, not an area to promote or encourage non-residential development. The proposal contradicted that.*

*Tom Bartell, Windham resident and Executive Director of WEDC – He reviewed the permitted uses in the C-3 zone. They were Agriculture, Adult Business Establishments, Retail Sales, Nurseries, Service Business, Landscaping, Single-Family Dwellings, Forestry, Medical Offices, Warehousing- Public and Private, and Recreational Facilities. Conditional uses were Assisted Living Facilities, Auto Repair Services, Bed and Breakfast, Campgrounds, Light Industry, Motels, Public Utility Facilities, and Restaurants.*

*They would be adding uses, but what Council had sent to the Planning Board was equivalent to many uses that were already permitted or conditional uses. The Comp Plan talked about transition areas as areas between growth and rural areas where further development would not necessarily be encouraged or discouraged. Moderate growth was appropriate for those areas. Those areas had no growth now. It was appalling that one to the town's commercial areas was not performing.*

*Certain businesses did not need to be in C -1 zone. They didn't need Route 302 frontage and large signs. They could be in a C-3 zone. C-1 was very expensive to buy or rent there. The uses in front of the Planning Board, with the included standards, were appropriate for C-3.*

*Larry Eliason, Colby Drive – He had listened to the pros and cons in 2016 when WEDC had spearheaded the effort. There had been a lot of time and effort spent; they had listened to small businesses and landlords in the community who were frustrated.*

*A half acre slot in C-1 and a two acre lot in C-3 cost the same. He'd had clients that wanted to locate their plumbing and heating office on Albion Road. The Code Enforcement Officer had interpreted that it wasn't allowed. People in the trades lived in Windham and some wanted to work out of their homes. There had to be a compromise for small business trades people. He asked the Board to find a reasonable balance and to make a recommendation to Council with common sense in mind.*

*Dennis Dyer, land owner on Route 302, in C-3 for 25 years – In 2010 he had gotten approval to locate his plumbing/heating/air conditioning, and oil business on his lot. It was a \$150,000 project which took three Planning Board meetings and eight years to get approvals. He wouldn't go through the approval process again. Single family and duplexes put more traffic on Route 302 and school buses did more to snarl traffic between 6 and 7 am and in the afternoon than local plumbing, heating and electrician*

*businesses would. People didn't want to live where they couldn't get a local contractor. It was pretty ridiculous when you wouldn't allow a plumber, painter, or heating contractor, electrician, services everyone needed, rather than do business locally.*

*Councilor Maxfield – the petition had 180-190 signatures on it. The town's population was 18,000. He wanted to hear from the people in town. The Comp Plan said don't put any more commercial there. He and many people had an issued with the Heavy Construction. It had started because two people needed to make a business deal to improve their situation. He was not going to vote for it at the expense of the plan and process of the rest of the town.*

*WEDC, Council, and the Planning Board should be working together on the growth zone where real opportunity was. You were not going to off-set the tax rate without making a meaningful commercial investment in the town. He thought if Heavy Construction was not included there could be a compromise.*

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

*Amanda Lessard explained:*

- The name for Contractor Services had been changed but it was the same use as Service Business, Landscaping which was already permitted in C-3. Part of the reason to change the definition was the feeling that landscaping services were more likely to have a component of outdoor storage like other contractor and construction services.*
- They had proposed performance standards for screening the stockpiles from view and it was appropriate to include that use in the proposed change. If storage yards were screened they would not be an eyesore.*

*The Board commented:*

- The contractor services portion was fine.*
- The intent of C-3 was light and low traffic, which was not defined in the definitions that made it a matter of opinion.*
- It wasn't a bad area for it, but the process was to change the intent of the zone if that was what the public wanted.*
- It would be hard to try and police Heavy Construction Services. It came down to whether to allow it or not.*
- Registered vehicles could be tracked as a way to police Heavy Construction Services. C-3 may not be a great place for it, there were a lot of houses but it shouldn't be where there weren't arterial roads because the roads wouldn't be built for it. C-1 was expensive but C-3 would limit you to three vehicles; it wasn't a good investment.*
- Town Council may look at what it was doing in C-1 so businesses didn't have to look to rural areas.*
- There was a concern with big stockpiles. A six-foot fence wouldn't screen those.*
- Three vehicles was not a big business, especially if you had to park them inside or screen them.*
- There were concerns with Heavy Construction, Minor because of the visual impact, especially from Route 302.*
- There were some concerns regarding Contractor Storage Yard with maintenance, environmental impacts, and run-off.*
- The other side of the environmental issue was that septic and wastewater fields were smaller for commercial business than for a three bedroom house so there would be less impact to the groundwater than from a residential use.*

*Amanda Lessard explained:*

- Buildings over 1,000 square feet, or developed area over 25,000 square feet were*

required to have site plan review.

- A permit would be required from the Code Enforcement Office.
- Erosion control measures were required under the Surface Water Protection Ordinance. There was an additional requirement for double erosion control measures in the Highland Lake Watershed. Additional standards were in place around phosphorus concerns in the Highland Lake Watershed. If site plan review was required there were higher standards for storm water run-off and making sure it was treated and met State standards for storm water control.

David Douglass made a motion to recommend approval of the proposed amendment to sections 300, 400, and 500 of the Land Use Ordinance to replace the definition of Construction Services and add Contractor Services and Contractor Storage Yard in C-3 without Heavy Construction, Minor as a permitted use in C-3.

He wanted to add to the motion that the town go through the vetting process that Councilor Maxfield brought up before Town Council voted on it. And to put together a committee to make sure it worked with the Comp Plan and met the needs of the people who need Contractor services before going to Council vote.

The Board commented:

- That would take another year.
- The Board could remove Heavy Construction Services, Minor and then strike the remainder of the motion to let Council look at it with their intentions.

David Douglass, the motion maker agreed to that.

Amanda Lessard read the motion, "To recommend approval of the proposed amendment to sections 300, 400, and 500 of the Land Use Ordinance to replace the definition of Construction Services and add Contractor Services, and Contractor Services Yard as a use in the C-3 zoning district.

Seconded by Keith Elder.

Vote: Four in favor. Nick Kalogerakis, Griffin Bourassa and Drew Mayo opposed.

- 5      [PB 19-041](#)      18-27 Heritage Village Amended Site Plan. Rich Family Limited Partnership to request review of a 3,900 square foot expansion of Building A for medical office use. The property in question is located at 4 Commons Avenue and identified on Tax Map: 14, Lot: 10A-1, Zone: Commercial 1 (C-1).

**Attachments:**    [18-27 Heritage Village Amendment Final 04-19-19.pdf](#)  
[Heritage Village - Response to Comments 2019\\_4\\_19.pdf](#)  
[Peer Review Heritage Village 04-09-2019.pdf](#)  
[Rich Family Limited Partnership L21739BA.PDF](#)  
[Heritage Village Resubmission 2019\\_4\\_1.pdf](#)  
[Heritage Village Site Plan Set 2019\\_4\\_1.pdf](#)  
[Peer Review Heritage Village 11-30-2018.pdf](#)  
[17069-Compiled-Heritage Village-Design Plans-11-19-18.pdf](#)  
[Compiled-Amended Site Plan Submission 11-16-18.pdf](#)

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

- The project was a proposed expansion to Building A, located at the corner of Commons Avenue and Route 302.*
- They had received their DEP Stormwater Permit. Stormwater would go to an existing catch basin and then be infiltrated.*
- Three parking spaces would be added.*
- The landscaped berm would be replaced.*
- The septic system would be relocated.*
- The addition had been designed with a hip roof; multiple dormers and canopies, stone at the base with clapboards above it; and windows along the wall facing Route 302.*

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

*Griffin Bourassa made a motion that the site plan application for project 18-27 Heritage Village Amendment 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 Drew Mayo.*

*Vote: All in favor*

*Griffin Bourassa made a motion that the Site Plan application for 18-27 Heritage Village Amendment on Tax Map:14, Lot: 10A-1 ws to be approved with conditions with the following findings of fact and conclusions.*

#### *FINDINGS OF FACT*

##### *Utilization of the Site*

- The project is located on a 2.7 acre parcel that is a combination of Lots 1 and 2 of the Lakes Region Commons Subdivision and includes four (4) commercial buildings with associated parking areas.*
- This property has been organized as the Windham Heritage Village Condominium. The applicant should demonstrate sufficient right, title and interest to amend this plan and expand Building A into the Common Elements. The existing Condo Declaration was included with the November 19, 2018 final plan submission. In the April 1, 2018 submission the applicant states that the applicant is the Declarant of the Condominium and they currently own all condominium units. The Declarant reserves the right to vary common elements and the proposed building expansion is to be built over area that was identified as Limited Common Element for Building A.*

##### *Vehicular and Pedestrian Traffic*

- The subject parcel has frontage on Route 302 and Commons Avenue.*
- The property has two existing entrances to Commons Avenue.*
- The amendment proposes five (5) additional parking spaces. In accordance with Section 811.C.2.a, no minimum number of parking spaces is required for the proposed 3,900 square foot expansion. The applicant should demonstrate that the number of spaces provided onsite will meet the needs of the anticipated uses on the property.*
- The sketch plan shows a sidewalk connection from the expanded building to the Route 302 sidewalk.*
- A traffic impact study is not required as the project will not generate fifty (50) or more trips during the a.m. or p.m. peak hour.*

- 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 November 19, 2018 final plan shows 5 new parking spaces and the narrative states that the proposed building expansion is estimated to generate 12 additional peak-hour trip-ends.
- In an email dated November 30, 2018, Town Engineer Jon Earle, PE, asked for clarification of the trip generation and determine whether the additional trip generation triggers a MDOT Traffic Movement Permit.
- The April 1, 2019 submission revised the site plan to show an addition of 3 new parking spaces.
- The April 19, 2019 submission states that the 3,535 square feet of new building footprint and will add 3 parking spaces. The new facility will generate approximately 150 additionally daily vehicle trips and does not require a Traffic Movement Permit with the Maine DOT because the building have been built for 10 years are not considered part of the calculation of new trips.

#### *Sewage Disposal, Water Quality and Groundwater Impacts*

- The development is located in the Ditch Brook watershed.
- The existing septic system serving the building is located in the same general location where the building expansion will occur, so applicant proposes to serve the property with a new private subsurface wastewater disposal (septic) system.
- A new septic system designed by Norman "Bud" Harris, LSE or Harris Septic Solutions, Inc dated November 16, 2018 has been submitted and is designed based on existing water usage (640 GPD) plus a twenty percent expansion. The septic location is shown on the plan.
- The proposed use should not have a significant impact on the quantity or quality of area groundwater.

#### *Stormwater Management*

- Per Section 812.E., a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management.
- The 2004 Heritage Village site plan approval is subject to MaineDEP Stormwater Permit #L-21739-NJ-A-N dated May 6, 2004. If an amendment to the DEP permit is required it should be submitted with the Final Plan submission.
- 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.
- The November 19, 2018 submission states that calculations have been prepared indicating the existing basin has the available capacity to accommodate the additional impervious surface based on the Maine Stormwater Management Design Manual Volume III Technical Design Manual as published by the Department of Environmental Protection.
- In an email dated November 30, 2018, Town Engineer Jon Earle, PE, requested a post-development watershed plan and calculation sheets be provided to verify that the project meets the standards.
- The final plan submission included an amended MaineDEP Stormwater Permit L-21739-NJ-B-A dated April 18, 2019. The permit details that the approximately 0.13 acres



*of new impervious area will be treated using the existing infiltration basin that is adjacent to Commons Avenue and a dripline filter around the proposed building except for where there is impervious area used for ingress/egress.*

#### *Erosion Control*

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated November 19, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.*
- In an email dated November 30, 2018, Town Engineer Jon Earle, PE, stated that the project has been designed with adequate provisions for erosion and sediment control to meet Maine DEP Chapter 500 standards.*

#### *Utilities*

- The property is currently served by public water. In an email dated September 13, 2018 Town Engineer Jon Earle PE asked if the existing water service will be used to serve the expansion.*
- The existing is served by underground utilities.*
- Based on the size of the building with the proposed addition sprinkler systems are not required by the Fire Protection Ordinance.*
- The closest fire hydrants on Route 302 are at the property line in front of the Public Safety Building, and to the south at the intersection of Pope Road and Route 202.*

#### *Technical and Financial Capacity*

- A letter dated April 3, 2018 from Ed Powell, Vice President at Mechanics Savings Bank, was submitted as evidence of financial capacity.*
- The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity.*

#### *Landscape Plan*

- The sketch plan submission states that the existing landscape berm will be removed to accommodate the new building and new landscaping will be proposed along the building frontage.*
- A landscaping plan is included as part of the amended site plan, Drawing S-1, of the final plan set dated November 19, 2018.*

#### *Conformity with Local Plans and Ordinances*

##### *1. Land Use*

- Medical Office is a permitted use in the Commercial 1 (C-1) District.*
- The project meets the minimum lot size and setback requirements of the C-1 zoning district.*

##### *2. Comprehensive Plan*

- This project is located in the North Windham Growth Area and meets the goals and objectives of the 2017 Comprehensive Plan.*

##### *3. Others:*

- Design Standards, Section 813. The project must meet the design standards of the*

C-1 zoning district, along with a minimum of 8 of the elective Design Standards.

- Building elevations were included with the November 19, 2018 final plan submission.
- The applicant has supplied a narrative on April 19, 2019 addressing the Standards in Section 813.A. The building will have a pitched roof with siding material of clapboards and stone veneer that will match the existing building. The frontage includes more than 40% windows and includes an entrance with a sidewalk connection to Roosevelt Trail. Snow storage areas are shown on the plan.

#### *Impacts to Adjacent/Neighboring Properties*

- The November 19, 2018 final plan submission states that there will be no proposed lighting fixtures as part of this project.
- The April 19, 2019 submission states that the light fixtures installed on the building are in scale with the site and building development. There are no additional pole mounted fixtures proposed.
- Impacts to nearby properties should be minimal, based on the proposed use.

#### CONCLUSIONS

1. The plan for development reflects the natural capacities of the site to support development.
2. Buildings, lots, and support facilities will 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

#### CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated September 4, 2018, as amended April 19, 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.

Seconded by Drew Mayo.

Vote: All in favor.

- 6 [PB 19-042](#) 18-41 Anglers Road Commons Apartments. Major subdivision preliminary plan review. Tim Clinton to request review of a residential development consisting of forty-two (42) units in twenty-one (21) duplexes. The property in question is located at Anglers Road identified on Tax Map: 80, Lot: 66, Zone: Commercial 1 (C-1) and Aquifer Protection Overlay District B (APB).

**Attachments:** [18-41 Anglers Road Commons Prelim 04-18-19.pdf](#)  
[Peer Review Anglers Rd Commons 04-11-2019.pdf](#)  
[Anglers Road Commons Apartments - Response to Comments 2019 4 1.pdf](#)  
[Anglers Road Commons Apartments Plan Set 2019 4 1.pdf](#)

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

- The 6.5 acre lot was part of the Anglers Road Commercial Subdivision application that was currently before the Board.
- They proposed 42 units in 21 buildings.
- There would be an 850 foot internal loop road with two connections to Anglers Road. The road would have 20 foot wide pavement with curbing and sidewalks on both sides.
- Wastewater would go to a pump station, have advanced treatment and then go to two leachfields. A third area was reserved for future use. It would be an engineered system that received review from DHS.
- DEP was reviewing the Stormwater Permit application.
- Additional overflow parking had been added.
- Portland Water District was reviewing the plans.
- They would extend the pavement on Anglers Road to the second connection and build a sidewalk between the two connections.
- They would add screening for the abutting Momentum building.

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

The Board commented:

- It would be nice to see the sidewalk extend to the next property.
- The parking lot was a good idea. Could they put a sidewalk through it for pedestrian safety?
- There should be some buffering to the house behind the project.
- What would happen at the pump station in the event of a power outage?
- Did water flow toward Chaffin Pond?
- The connectivity was good.
- Could they add more trees to the site?
- It would be nice to have some windows on the side of the first buildings in from Anglers Road.

Mr. Roma responded:

- The pump station had back-up power.
- Their property line was 250 feet away from Chaffin Pond.
- If they paved and installed a sidewalk up to the abutting property on Anglers Road it would deposit water onto that driveway.

Griffin Bourassa made a motion the preliminary subdivision application for project 18-41 Anglers Road Commons Apartments 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 Drew Mayo.

Vote: All in favor.

## **Continuing Business**

- 7      [PB 19-043](#)      19-01 515 Roosevelt Trail Condos. Major subdivision preliminary plan review. JTSH, LLC to request review of a five (5) unit residential subdivision. The subject properties are located at 515 Roosevelt Trail and 12 Varney Mill Road and identified on Tax Map: 48 Lot:30 and Tax Map 47 Lot: 3, Zones: Medium Density Residential (RM) and Stream Protection (SP).

**Attachments:**    [19-01 515 Roosevelt Trail Condos Prelim 04-18-19.pdf](#)  
[Peer Review 515 Roosevelt Trail 04-09-2019.pdf](#)  
[515 Roosevelt Trail CONDOMINIUM PLAN COMPILED 040419.pdf](#)  
[515 Roosevelt Trail Stormwater Management Report compiled.pdf](#)  
[Peer Review 515 Roosevelt Trail 03-28-2019.pdf](#)

Meeting went into Recess

Meeting Reconvened

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

- The proposal was for a five unit residential condo project.
- The road would be 250 feet long, 22 feet wide and paved. Ditch Brook was at the end of the road.
- There had been some concerns about stormwater flooding to the brook and an abutter's property so they had redirected some water toward Route 302 and enlarged one pond in the back. Their increases would be much lower than previously proposed. The peer review thought the increase was insignificant now. Mr. Roma asked the Board to reconsider the stormwater flooding standard waiver request, given the new information.
- The nitrate plume information may have been omitted from the packet. If that was the case it would be provided.
- They would require a waiver of the 10mg per liter at the property line.
- Army Corp of Engineers had approved the wetland fill permit.
- They had submitted a NRPA Permit by Rule for the pipe out-fall within 75 feet of the river and a Stormwater Permit by Rule for basic standards being met. Those had been approved.
- Portland Water District had provided an ability to serve letter.
- They had provided information regarding traffic generation.

Amanda Lessard clarified that the nitrate plume information had not been submitted and was required, as was a written request for a waiver from the standard.

Keith Elder made a motion to grant a waiver from the stormwater flooding performance standard.

Seconded by Drew Mayo.

All in favor.

## **New Business**

- 8      [PB 19-044](#)      19-07 Hillcrest Estates Amendment. Michael Harris to request an amendment to an approved subdivision for a lot line adjustment between Lots 43 and 44 for a 4,550 square foot land swap. The property in question is located at 737 River Road and identified on Tax Map: 8A, Lot: 43, Zone: Farm Residential (FR).

**Attachments:**    [19-07 Hillcrest Estates 3rd Amend 04-18-19.pdf](#)

[Hillcrest Amendment Application Harris.pdf](#)

[Hillcrest Estates FINAL Harris Plan 041719.pdf](#)

[HILLCREST ESTATES 1973.pdf](#)

[HILLCREST ESTATES-1973 topo.pdf](#)

[Kirk Michael Harris property on River Road 04-17-19.pdf](#)

Michael Harris, the applicant, was present. He explained that he owned both properties and:

- The land swap was needed because the Hillcrest Estates required setback from the property line was 15 feet and not the ten feet required by the town, creating a setback violation to the existing building on lot 43. The land swap would make the setback to the house 15 feet.
- There was an existing drainage easement along the line between the lots which would be transferred to lot 44. This would be included in the deeds for both properties.
- In 2010, he had considerable work done to install a drainage system through lot 43, which had the taken most of the drainage from Hillcrest Estates. Lot 43 was now dry.
- They were retaining the 150 feet of frontage.

Amanda Lessard explained:

- The two lots were part of the Hillcrest Estates Subdivision, which was approved in 1973. The plan had been amended a few times.
- None of the lots in the subdivision met the zone requirement for 50,000 square feet; they were non-conforming lots of record. The applicant was proposing an even land swap which was allowed as long as the nonconformity wasn't increased.
- The proposal altered the lot line and maintained the setback for the subdivision.
- The building envelope on lot 44 could support a single-family house.
- There had been a couple of letters of concern from abutters regarding drainage, the road, and the size of the building envelope.
- Staff had no concerns that the application met the ordinance.

Public Comment:

*Craig Doering, Mineral Spring Road – He thought the house had been built intentionally in the middle of the lots. If you looked at the lots, where would the driveway and septic go? Where would the well be in relation to the other houses there? It was very wet now. It would be cutting up of the original lots purely to create a space that was not intended to be there. There were also water drainage concerns for the neighbors to the back and left.*

*James Cobb, Park Road – There was a serious amount of water through there. He was very concerned about who would get the drainage easement when it transferred to lot 44. He wanted to make sure he wouldn't be flooded out and submitted a video of water running down Meadow View Road, across his drive and to the applicant's house.*

*Joan Kirk, River Road – She was very concerned about water, septic systems, and wells. They would need to bring in fill. The land behind her had been developed and now it was wet. When DOT did the work to River Road they had put a catch basin in front of her house and told her the water would drain. But, last winter her basement had flooded.*

*Mr. Harris explained:*

- The easement existed but his entire lot had been underwater. The swimming pool had imploded; and the driveway had caved in. He had met with the town, the State, engineers, and an excavator. That was when he had installed the drainage system which had taken care of the water that ran onto his property.*
- When the neighbor spoke of water on his property it was from heavy rains.*
- The second lot was never an issue. It was wet because it was low. When the State had widened River Road they had also lowered it and installed a culvert, running under the road in front of the property. He had been told he would have to raise the property, but there had been no reason to do it then. The water would go into the culvert when they raised it.*

*Amanda Lessard explained:*

- She had spoken with the Code Enforcement Officer. There were elements related to drainage and building permits that would be addressed to make sure the abutting properties were not impacted when it came to diverting run-off.*
- There was one deed for both lots which made reference to a drainage easement on the south side of lot 43. If there were metes and bounds describing the easement it should be shown on the plan.*
- The driveway location would require a permit from DOT which would put it in a safe and appropriate location with an a properly sized culvert.*

*Griffin Bourassa made a motion that the application for 19-07 Hillcrest Estates Subdivision, 3rd Amendment on Tax Map: 8A, Lot:43 was to be approved with conditions with the following findings of fact and conclusions and with the added condition that the drainage easement be reflected on the deeds for both properties and on the final plan.*

#### **FINDINGS OF FACT**

##### **A. POLLUTION**

- No portion of the lots impacted by this amendment are within the mapped 100 year floodplain.*
- No buildings or other impacts are proposed within the floodplain.*

##### **B. WATER**

- Lot 43 is currently served by a private drinking water well.*
- Except for the lots that have frontage on River Road, the remaining lots in the*

*Hillcrest Estates Subdivision are served by public water.*

- *The closest fire hydrant is located at River Road at the Park Road intersection.*
- *The proposed land swap will not result in additional demand for water.*

**C. SOIL EROSION**

- *The proposed transfer of 4,550 square feet of land between Lots 43 and 44 will have no impact on soil erosion or change the current stormwater drainage.*

**D. TRAFFIC**

- *The proposed transfer of land will not have an impact on traffic, as there is no additional development proposed.*
- *Prior to the issuance of a building permit, Lot 44 will require a driveway entrance permit issued by the Maine Department of Transportation.*

**E. SEWERAGE**

- *The existing home on Lot 43 is served by a private septic system.*
- *Lot 44 meets the minimum lot size required by the subsurface wastewater rules.*

**F. SOLID WASTE**

- *The proposed transfer of land will not have an impact on the Town's ability to collect and dispose of household waste.*

**G. AESTHETICS**

- *A portion of the single-family dwelling and in ground swimming pool on Lot 43 are currently located on Lot 44. The house was permitted in this location by the Town in 1979.*
- *There are no documented rare botanical features for significant wildlife habitat documented on the site.*

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

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan.*
- *Land Use Ordinances:*
- *Neither Lot 43 nor Lot 44 meet the minimum lot size for lots in the Farm Residential Zone. Both lots meet the current minimum requirement for road frontage. The equal area land swap is permitted in accordance with Section 204.D Alternation of Nonconforming Lots as the alteration of the lot lines does not increase or extend the degree of, or create any new, non-conformity with regard to any applicable dimensional standard.*
- *Subdivision Ordinance:*
- *None*
- *Others:*

**I. FINANCIAL AND TECHNICAL CAPACITY**

- *Evidence of financial capacity and technical capacity are not required for this lot line adjustment.*

*J. RIVER, STREAM OR BROOK IMPACTS*

- *No river, stream or brook impacts are anticipated as a result of the proposed amendment.*

*CONCLUSIONS*

1. *The proposed subdivision will not result in undue water or air pollution.*
2. *The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
3. *The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
4. *The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
5. *The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
6. *The proposed subdivision will provide for adequate sewage waste disposal.*
7. *The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
8. *The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
9. *The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
10. *The developer has adequate financial and technical capacity to meet the standards of this section.*
11. *The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. *The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
13. *The proposed subdivision is situated entirely or partially within a floodplain.*
14. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will provide for adequate storm water management.*
17. *If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision 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/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 March 26, 2019, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.*

*Seconded by Drew Mayo.*

*Vote: All in favor.*

**Other Business**

9 Adjournment

*Griffin Bourassa made a motion to adjourn.*

*Seconded by Drew Mayo.*

*Vote: All in favor.*