



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Planning Board

Monday, July 13, 2020

6:30 PM

Online via Zoom

To join the meeting remotely, use this link: <https://us02web.zoom.us/j/143936937>. You may also call 1-646-558-8656 and enter meeting ID: 143 936 937.

The meeting will be recorded and broadcast on TV-7 (Channel 1303) and the Town's Facebook page.

1 Call To Order

2 Roll Call and Declaration of Quorum

The meeting was called to order by Chair, Keith Elder. Other members present were: Tyler Dunlea, Colin Swan, and Haden Brooks.

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

4 [PB 20-054](#) Approval of Minutes: June 22, 2020

Attachments: [Minutes 6-22-2020-draft](#)

Haden Brooks made a motion to approve the minutes from June 22, 2020.

Seconded by Tyler Dunlea.

Roll Call:

*Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor Colin Swan - In Favor*

All in favor.

Public Hearings & Continuing Business

5 [PB 20-055](#) Amendments to Town of Windham Land Use Ordinance, Chapter 140, Section 1200 Impact Fees and Appendix A Fee Schedule related to Public Safety and Municipal Office impact fees.

Attachments: [PB packet PublicSafety MuniOffice Impact Fee 07-09-20](#)
[WindhamMEImpactFeesSafety&TownOfficeDRAFT18May2020](#)

Amanda Lessard explained:

- *The fee would be used to fund new construction and renovations to the Public Safety Building and for Town Office services.*
- *The impact fee requirement would expire in 20 years, when the cost of the improvements had been repaid.*
- *Determination of the fee was based on the different types of uses and intensity of the need for public services from the type of use. Much research had gone into the method of determining the fee.*

Public Comment

Dustin Roma – He thought that new development didn't create a unique burden and that those services should be paid for through general taxation and not a special impact fee

The Board commented:

- *The fee schedule seemed like pretty hefty increases. New development would be paying taxes going forward.*
- *Not in favor of adding more fees.*
- *Fees kept adding up, but it seemed their use wasn't organized. It should be done in a different manner.*
- *Would it be more beneficial than taxation on new development over the life of the property?*
- *Definitely opposed to it. Services should be paid for through taxes.*
- *Wouldn't it be better to postpone the discussion regarding impact fees and growth until live people could attend? It felt like the Board would get more input from the public that way.*
- *The town should pay for services that people would use.*
- *Fees would be better put toward sewer than new buildings.*
- *The impact fee could over double the cost of a building permit for a new house.*

Fire Chief, Brent Libby commented:

- *The community had been concerned that existing, long-term tax payers had to bear the cost of burden on services caused by new development.*
- *The advantage of those fees was the expense of new residents was front loaded and taxpayers didn't have to pay taxes on those expenses. Moving forward they would sustain the existing call volume. When call volume went up additional staffing and resources was needed. The advantage of the fees was the services were paid for and were not a burden to others.*
- *The improvements were for the central fire station. In that area, within the last five years there had been around 200 dwelling units approved. 68% of their call volume was emergency medical response. Each new development increased their call volume.*

Haden Brooks made a motion to not recommend approval of the proposed amendment to Section 1200 and Appendix A of the Land Use Ordinance related to Public Safety and Municipal Office impact fees.

Seconded by Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor Colin Swan - In Favor

All in favor.

- 6 [PB 20-056](#) Amendments to Town of Windham Land Use Ordinance, Chapter 140, Sections 300 Definitions and 500 Performance Standards related to Backlots.

Attachments: [PB_packet_backlot_07-09-20](#)
[Backlot Standards_pre 10-2017](#)
[McDonald Public Hearing - Backlot Driveways](#)

Amanda Lessard explained:

- *This amendment would allow for the creation of new backlots on public streets.*
- *Driveways would be required to meet a certain standard and could serve up to two dwelling units.*
- *If the right-of-way was extended or if future homes were built, the standard required improvement of the entire road to a public street standard.*

Public Comment:

Mike Pednault – His family owned a seven- acre lot, with 50 feet of frontage. This amendment directly impacted them because they were trying to build their home on the lot. Under the current ordinance they would be required to build a public road for access to their house, and to offer it to the town for acceptance. Besides the cost to build it, he felt it would be irresponsible for the town to have to pay for maintenance and snow removal for what would be his driveway.

Fire Chief, Brent Libby – He was in support of the backlot discussion. His concern was when backlots were expanded and access for public safety became an issue. As lots were further divided it became an issue of adequate access vs. inadequate. Back lots certainly had a place, but how much should be allowed and how extensive could development be? Dependent on the level of development, it could prohibit receipt of sufficient emergency services.

Bill and Linda McDonald, submitted via email – They asked what effect it would have where there were already three dwellings on a named driveway, wide and well maintained. They understood it would change to two dwellings. They asked the Board to consider allowing three dwellings. Also, the confusion of three long driveways vs. one well maintained one that branched to three dwelling units. One would be more affordable, maintain rural character, and avoid environmental concerns. There was the cost, and inspection fees and the rest of the town would have to maintain a road that went to numerous family properties. The wording should honestly and clearly address if it was about back lots or driveways, or private roads.

The Board commented:

- *How would the second lot get frontage?*
- *Would the two be separate lots?*
- *What about three dwellings on a driveway?*
- *Clarifying that it would only be two dwellings would be very helpful.*
- *The Fire Chief's concern with emergency vehicles getting up roads was understandable.*
- *As long as it didn't become a safety concern.*

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

Haden Brooks made a motion to recommend with comment the approval of the proposed

amendment to Sections 300 and 500 of the Land Use Ordinance related to backlots, comment being recommending two lots.

Seconded by Tyler Dunlea.

Roll Call:

*Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor Colin Swan - In Favor*

All in favor.

- 7 [PB 20-057](#) Town of Windham Growth Management Ordinance, Chapter 116 and Amendment to Town of Windham Official Land Use Map's Retirement Community and Care Facility Overlay District (RCCFO).

Attachments: [PB memo growth management 07-09-20](#)
[Windham-Growth-Management-Ordinance draft 061520](#)
[RCCFO revised](#)
[Building Permit count 1980 to 2019](#)
[McDonald Eliminate Senior Overlay](#)

Amanda Lessard explained:

- *The ordinance had been developed by the Long Range Planning Committee (LRPC) to address concerns regarding growth in town.*
- *It proposed a limit of 100 growth permits per year, allocated monthly at nine per month. The allocated permits that were unused in one month would roll over to the next month.*
 - o *The number of available permits would be determined by: type of dwelling unit; zoning district: whether the property was in a subdivision*
 - o *There would be a limit to 15 growth permits per individual per year and would favor a lot owner over speculative development.*
- *The ordinance would not apply to replacement homes; gift lots; senior housing; or accessory apartments.*
- *Amendment to the boundaries of the Retirement Community and Care Facility Overlay District was recommended based on where public water was available; if it was outside of the designated growth area; and if it was an area identified as where to keep rural character.*
- *A point system would determine how growth permits were allocated based on residency; how long a lot had been owned; how long the owner had been on the waiting list; and if it was in an approved subdivision.*
- *A reserve pool of permits would be established and could be used by Code Enforcement or the Town Council to allow additional permits based on certain criteria.*

Public Comment:

Jesse Burton – Their property bordered an over 55 zone. Where could they learn more?

Lynda McDonald via email– She expressed concern with the elimination of the senior overlay on tax map 12B, the Inland Farm area. It had been approved for senior housing. The Board should consider the housing needs of seniors.

Mikki vanSummern – She said she was impressed with the well thought out growth

management ordinance. It seemed they had listened to the concerns of people in town. She thought it was about high growth in subdivisions in rural areas and felt they needed caps on development. She thought this was a responsible way.

Joe Hezlep – He asked if it was based on an average how did you work with the ebb and flow of the market which dictated that? Right now there was a building phase because interest rates were low; people could buy property; and trades could keep working. When the market turned, if they were in a position where you couldn't build houses, they would be built in other places. What was the plan to deal with that?

Dustin Roma said the growth management ordinance could create a temporary situation where people felt like they had to get a growth permit right away and it created a shortage. That could accelerate growth.

The Board commented:

- There was town support for putting the brakes on.
- It was good to set some limit so growth could be predicted.
- Against it. The economy did the adjusting. Growth was good for local businesses. Why cap that, try to slow it down, and maybe push people to other towns.
- Growth helped everyone who worked in the community. The trades count on new home builds. It was surprising they weren't chiming in. It felt like it would be limiting them.
- One type of permit would be used up and result in other building types being built and dishonesty in who gets permits, i.e. a developer's wife and kids.
- Permits would be limited during the busy building season when everyone wanted to build and depended on work and money to make it through the winter.
- The town proposed an impact fee for public safety. Senior housing was one of the highest calls for emergency services. Why exempt it from growth when it was one of the biggest burdens?
- Considering this ten year cycle and the previous ten year cycle, things seemed to be on a fairly steady plane.
- The Board had voted to reject the impact fee proposal. The Board had recommended the ability to have a back lot and not have to develop town roads for all land in town. Then this, it felt like everyone in town feared bigger demands to more town facilities and they needed more fees on building permits to accommodate expansions to public buildings.

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

Haden Brooks made a motion to recommend approval of the proposed Growth Management Ordinance and zoning map amendment.

Seconded by Tyler Dunlea.

Roll Call:

Keith Elder – Opposed
Haden Brooks – Opposed

Tyler Dunlea - Opposed
Colin Swan - Opposed

All opposed.

Continuing Business

- 8 [PB 20-058](#) 20-06 Veery Estates (River Road Condos) Amendment. Major subdivision preliminary and final plan review. RMILLS LLC to request an amendment to an approved residential subdivision for the addition of 10 units (5 duplex). The property in question is located at Junco Drive and identified on Tax Map: 5, Lot: 1-1, Zone: Medium Density Residential (RM).

Attachments: [20-06 Veery Estates Amendment Final 7-8-20](#)
[Response to comments 6-8-20](#)
[Peer Review Response 6-8-20](#)
[Veery Estates Condo - Final Plan Application 2020_6_22](#)
[Veery Estates Plans 2020_6_22](#)
[Peer Review MA 6-30-20](#)
[Veery Estates - Response to Comments 2020_7_7](#)
[Subdivision Plan 2020_7_7](#)

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

He explained:

- *They proposed to add five duplexes; there would be a total of 14 units on the property.*
- *Junco Drive was complete and paved up to the first hammer-head, which would remain after the road was extended. The extension would end in a second hammer-head.*
- *Stormwater management would be achieved through the use of buffers.*
- *There would be three additional septic systems installed.*
- *They were agreeable to installing a landscaped buffer of arborvitae between units 1 and 2 and the abutter.*

Haden Brooks made a motion that the preliminary plan and final plan applications for project 20-06 Veery Estates Amendment were 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 Tyler Dunlea.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor Colin Swan - In Favor

All in favor.

Haden Brooks made a motion that the Preliminary and Final Subdivision application for 20-06 Veery Estates Amendment on Tax Map: 5, Lot: 1-1 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.*
- *The applicant requested a waiver from the hydrogeologic assessment in the preliminary plan application submitted May 11, 2020. A waiver was approved by the Planning Board on June 8, 2020.*
- *The applicant requested a waiver from the high intensity soil survey submission requirement in the preliminary plan application submitted May 11, 2020. A waiver was approved by the Planning Board on June 8, 2020. It was agreed that the applicant will submit a blasting plan before performing any blasting.*

B. WATER

- *All dwelling units will be served by public water from an existing main in River Road.*
- *The closed existing fire hydrant is located on River Road just to the north of the proposed subdivision across from the intersection with Jones Hill Road. Existing hydrant locations are less than 1,000 feet from the development.*
- *An Ability to Serve letter dated September 7, 2018 from Robert Bartels, PE, of the Portland Water District approves a new 2-inch service from the water main in River Road.*
- *A written statement from the Portland Water District verifying that there is public water in proximity to the subdivision must be submitted with the Preliminary Plan.*
- *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.*
- *At the Development Team Meeting on March 31, 2020 Fire Chief Brent Libby stated that a no new proposed hydrant location was necessary as the existing hydrant was within 1,000 from all proposed units in the development.*
- *The Preliminary Plan submission states that the water service will be an extension off of the private line and does not require PWD approval.*

C. SOIL EROSION AND STORMWATER

- *An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated July 23, 2018, has been submitted as part of the Final Plan. Notes and details are shown on Drawing D-1.*
- *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 July 23, 2018 Final Plan submission. The proposed development will create approximately 15,950 square feet (0.37 acres) of new impervious area and 44,320 square feet (1.02 acres) of proposed lawn and landscaped area. The project proposes to treat the 60,270 square feet (1.38 acres) of new developed area with two (2) underdrained filter basins and a meadow buffer. The plan notes a small increase in peak flow rates at Study Point 2 during the 2-year storm but does not anticipate any increase in flooding or downstream erosion as a result of the 0.05 cfs increase. The applicant will be responsible for the maintenance of the stormwater facilities until a homeowners' association is created. Note 12 on the plan states that the meadow stormwater buffer must not be mowed more than twice a year.*
- *This project requires Maine Department of Environmental Protection (DEP) Chapter*

500 Stormwater Permit by Rule. A note should be added to the plan that a Maine DEP Stormwater Permit by Rule is required prior to the start of construction.

- In an email dated July 30, 2018, Town Engineer Jon Earle P.E., noted that minor subdivisions do not require water quality calculations and a waiver for the increased peak flow is not necessary as the impact does not have a significant impact on the abutter or for erosion at this location.
- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
- A soil erosion and sediment control plan produced by D.M. Roma Consulting Engineers, dated April 30, 2020, was submitted as part of the Preliminary Plan submission. Notes and Details are shown on sheet D-1.
- 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 stormwater management plan has been submitted as part of the May 11, 2020 Preliminary Plan submission. The plan states that the proposed condominium development will create approximately 33,147 SF of additional impervious area from the 5 additional structures and approximately 400- of roadway and driveways. The application states that this makes the total impervious for the project 38,857 SF (0.89 acres), and the total developed area is 120,297 SF (2.76 acres) so a DEP permit-by-rule Stormwater permit is required but not a full permit. The proposed stormwater management for the development shows 3 buffers, 2 that are meadow buffers and 1 that's a forested buffer, plus an underdrain soil filter constructed as part of the first phase of the development, and roof dripline filters for each of the structures.
- The project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit by Rule which must be submitted with the Final Plan.
- The Final Plan application included a Maine DEP Stormwater Permit by Rule dated June 11, 2020.
- Town Engineer, Mark Arienti, P.E., reviewed the stormwater management plan and commented on May 26, 2020 that:
 - o The BMPs are appropriate considering the scale and extent of the development, but requesting clarification related to meadow buffer sizing.
 - o The HydroCAD analysis shows that the post-development peak flows at each study point are less than or equal to the predevelopment flows for the 2-yr, 10-yr, and 25-yr, 24 -hr storms, which indicates compliance with stormwater requirements in Windham's Subdivision Ordinance, but requesting clarification of the location of "Pond D1" in the analysis, and regarding details relating to the routing diagram flow path.
 - o A note needs to be added to the Subdivision Plan indicating that Stormwater buffers shall be temporarily marked prior to construction to ensure they will be protected, and permanent markers shall be set in the form of capped 1/4 inch rebar after tree clearing to ensure that the buffers are clearly identified on the ground.
 - o Each of the units is proposed to have a roof drip edge filter except for Units 13 and 14, whose roof runoff flows to a buffer. No outlet is shown for the roof drip edge filters for Units 5 and 6 and Units 7 and 8. It is understood that these units are to be slab-on-grade so no foundation drain is required, but would an outlet still be required for the drip edge filters, which are shown on these buildings?
- On June 8, 2020, DM Roma Engineering Consultants submitted a response to comments that included responses to Mark's questions on the Hydrocad analysis and stormwater treatment.
- On June 30, 2020 Town Engineer, Mark Arienti, P.E., reviewed the June 8, 2020 response to comments and stated that his concerns had been addressed, and he had no further comments.

D. TRAFFIC

- A new 350 foot long road will serve the development. 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).
- 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 Final Plan.
- In an email dated June 29, 2018, Town Engineer Jon Earle, PE stated that the proposed entrance is located inside of the urban compact line and the Town will issue an entrance permit. He also noted that that this section of River Road was paved in 2014 so the 5-yr moratorium on road openings will expire in 2019.
- The July 23, 2018 final plan submission states that the based on the ITE Trip Generation Manual the proposed 4 residential dwelling units are expected to generate 3 peak hour trip-ends and 25 daily vehicle trips.
- The July 23, 2018 final plan submission states that the sight distance at the proposed roadway intersection looking right is generally unrestricted to the signalized intersection with Gray Road, and looking left is approximately 620 feet to the top of a roadway crest just beyond the crosswalk for the funeral home.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated July 23, 2018, shown on Sheet GU-1, was submitted as part of the Preliminary Plan. The road cross section is shown on Sheet D-1.
- In an email dated July 30, 2018, Town Engineer Jon Earle, PE questioned how thick the base gravel will be below the proposed loam & seed top surface for the secondary shoulder, and requested that sight distance described in the narrative should be shown on the plan and that a River Road pavement restoration detail meeting the Town's standards as River Road is under moratorium until 2019.
- In an email dated September 13, 2018, Town Engineer Jon Earle, PE stated that the September 4, 2018 submission did not address his previous comments.
- The amended subdivision will be served by a 400 foot extension of Junco Drive terminating in a cul-de-sac.
- The preliminary submission dated May 11, 2020 includes a typical roadway section – 24' paved roadway made up of a 20 ft travel way with two 2-foot grassed shoulders.
- 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. The sketch plan shows a 50 wide easement to the abutting property.
- 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/units. No light poles are shown on the Preliminary Plan submitted May 11, 2020.
- At the meeting on June 8, 2020, the Planning Board decided a street light was not necessary.
- 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.
- The Preliminary Plan submission on May 11 states that based on the Institute of Transportation Engineers Trip Generation Manual, 9th edition, the proposed 10 residential dwellings are expected to generate 10 peak hour trip-ends and 100 total daily trips. 100 trips per day is less than the number of trips per day that would require a traffic impact analysis. The applicant should indicate the total number of trips per day, incorporating in the original subdivision, as they represent a common scheme of development.
- The final amended subdivision application includes a combined estimate of peak hour trips for the existing and proposed units on Junco Drive, prepared by DM Roma Consulting Engineers. The cumulative total is estimated at 140 daily vehicle trips. Based on the estimate, a traffic impact analysis is not required by the subdivision ordinance.

E. SEWERAGE

- *The development will be served by one common private subsurface wastewater disposal systems.*
- *A subsurface wastewater disposal system design prepared by Alexander A. Finamore, LSE dated July 1, 2018 show that a private septic system can be supported on site. The test pit location is shown on Sheet GU-1 of the final plan set.*
- *Soil test pit analysis must be included with the Preliminary Plan submission. Test pit locations must be shown on the plan. The Preliminary Plan submission states that the wastewater disposal systems are currently being designed and will be submitted with the final plan.*
- *The Final Plan application included three Subsurface Wastewater Disposal System applications filled out by licensed Site Evaluator Alexander A. Finamore. They describe three 1,500-gallon tank systems with septic fields, each one supporting four 3- bedroom units.*

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.*
- *The Preliminary Plan submission dated May 11, 2020 states that the lots will utilize the Town's curbside trash collection program.*

G. AESTHETICS

- *The approximately 6 acre property is a field and the majority is relatively flat, sloping towards the abutting Central Maine Power transmission lines.*
- *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). No street trees are shown on the final plan dated July 23, 2018. Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of tress is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.*
- *The existing tree line is shown on the final plan dated September 4, 2018.*
- *At the Planning Board meeting on September 24, 2018 the Board requested that additional landscaping adjacent to River Road be shown on the plan.*
- *Street trees are required at least every fifty (50) feet (§ 911.E.1.b). No street trees are shown on the Preliminary Plan dated April 30, 2020. Limits of tree clearing should be shown on the plan. There is a note on the plan stating that clearing of tress 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.*
- *Street trees that meet the subdivision ordinance requirement at § 911.E.1.b are depicted on the Amended Subdivision Plan dated 6-22-2020.*
- *The applicant submitted a Beginning with Habitat Map showing that there are no areas of significant wildlife habitat in the area of the site.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan.*

- *Land Use Ordinance:*
- *The front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR. The development is proposed within the RM zone and utilizing Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.*
- *The Town Council approved a zone change request on February 11, 2020 to amend the zoning map to allow the entire parcel to be zoned RM.*
- *The lot meeting the dimensional standards of the Medium Density Residential (RM) District (minimum 20,000 square feet on public water and 100 feet of road frontage).*
- *Net residential density calculations are shown on the plan.*

- *Subdivision Ordinance*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.*
- *Draft condominium association documents were 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 amended sketch plan shows an access easement connecting to the abutting property.*
- *Map and unit numbers have been approved by the Town of Windham Assessing Department as of July 7, 2020*
- *The Final Plan submitted July 7, 2020 shows iron rebar to be installed at the corners of the property.*

- *Others:*
- *Street Naming and Addressing: The subdivision road name, Junco Drive, has been approved by the Assessing Department and is shown on the plan.*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. See Condition of Approval #2. An Inspection, Maintenance & Housekeeping Plan was included with the Stormwater Management Plan.*

I. FINANCIAL AND TECHNICAL CAPACITY

- *Evidence of financial capacity must be provided as part of the Preliminary Plan submission.*
- *In the Preliminary Plan submission dated May 11, the applicant included cost estimates for construction totaling to \$140,000.*
- *In the Preliminary Plan submission dated May 11, the applicant stated that an updated letter of financial capacity will be submitted with the final plan.*
- *Evidence of technical capacity must be provided 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*
- *The Final Plan submission included a letter from Gorham Savings Bank dated June 5, 2020, indicating that the applicant has the financial capacity to develop and complete the proposed project.*

J. RIVER, STREAM OR BROOK IMPACTS

- *The property is located in the Presumpscot River watershed.*
- *The project will not adversely impact any river, stream, or brook.*

CONCLUSIONS (N/A)

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 March 23, 2020, as amended June 22, 2020 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 Tyler Dunlea.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor Colin Swan - In Favor

All in favor.

- 9 [PB 20-059](#) 19-21 Depot Street Subdivision. Major site plan and subdivision final plan review. MCL Realty, LLC to request review of 31 dwelling units in 3 buildings and Portland Water District sewer pump station. The subject property is located on Depot Street and identified on Tax Map: 38, Lot: 37A, Zone: Village Commercial (VC).

Attachments: [19-21 Depot Street Final 7-8-20](#)
[PWD Pump Station Plan Update - Outside Panel 6-3-20](#)
[Depot Street Apartments - Response to Comments 2020 6 22](#)
[_Compiled-Depot Street Residential Development-Design Plans \(6-22-20\)](#)
[Response to Comments 6-8-20](#)
[Peer Review Response 6-8-20](#)
[Easement Deed](#)
[Restrictive Covenant](#)

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

He explained there were a few outstanding items:

- They requested a waiver of the requirement for street trees every 50 feet. They had submitted a landscaping plan for the entire site and thought it provided sufficient coverage.
- They had complied with the Fire Chief's request:
 - o To provide a painted, striped aisle for additional access
 - o To install Fire Lane signs
 - o To move the ADA parking space so it had better access to the ramp
- The approved street name was Stockyard Drive.
- As an intermediate solution the power would be overhead to a pole and then

underground.

- The easement and covenants had been executed and recorded.

Haden Brooks recused himself.

Tyler Dunlea made a motion to approve the waiver request for the performance standard of a street tree every 50 feet.

Seconded by Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – Recused Colin Swan - In Favor

All in favor.

Tyler Dunlea made a motion that the application for project 19-21 Depot Street Apartments – Final Subdivision Plan & Site Plan 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 Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – Recused Colin Swan - In Favor

All in favor.

Tyler Dunlea made a motion that the Final Subdivision and Site Plan application for 19-21 Depot Street Apartments-on Tax Map: 38, Lot: 37-A is to be (approved with conditions/denied) with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- The applicant should indicate whether there are mapped floodplains on the project parcel.
- The proposed subdivision is in the Presumpscot River Watershed, which is not listed in Chapter 502: Direct Watersheds Of Lakes Most At Risk From New Development, And Urban Impaired Streams of the Maine Department of Environmental Protection.
- A hydrogeologic assessment is not required because the project is proposed to be served by public sewer. (See FOF E) Per 910.C.1(c)(3)(ii), the Board may require a hydrogeologic assessment in cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality.
- The Final Plan must include approval from the Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- The Preliminary Plan submission notes that the amount of wetland alteration will be 11,761sf.
- A NRPA Tier 1 Permit will be required with the Final Plan application. The applicant provided a copy of the Maine DEP NRPA Tier 1, permit #L-28526-TC-B-N, filed March

13, 2020. A note referencing the permit must be added to the final plan.

- An Army Corps of Engineers permit will be required with the Final Plan application. The Final Plan submission included Army Corps Permit #NAE-2020-00604 dated March 24, 2020. A note referencing the permit must be added to the final plan.
- Written communication from Maine DEP dated December 4, 2019, states that 25'(the setback shown on the Preliminary Plan) is the minimum distance the applicant was told that all development needed to be from the stream at a November 5, 2019 preapplication meeting.
- The 75-foot stream setback should be shown on the Plan. As of the date of this memo, the 75-foot stream setback is not shown on the plan.
- Staff note that duplex units 3-6, the pump station, and pump station parking are within the 75' stream setback.
- The 75-foot stream setback is shown on the Final Plan
- A NRPA-PBR permit allowing use within the stream setback will be required for the Final Plan
- The project site is connected by historical land use and formerly joined property to a Voluntary Remedial Action Plan (VRAP) site – the L.C. Andrews Lumber Mill. Staff obtained and read a copy of the Certificate of Completion for the VRAP, issued in 2003. In follow-up conversation with Nick Hodgkins, a representative of DEP's VRAP program, Staff were informed that removal of containerized wastes was the extent of the remedial action at the site, as contaminated soils were not encountered during the redevelopment. Mr. Hodgkins recommended that the developer should be looking out for potentially impacted soils (petroleum) and act accordingly if they find some (to include notifying DEP and getting a professional environmental specialist consultant to observe and sample). See conditions of approval 3 & 4.
- There shall be a note on the plans to indicate that the MEDEP be notified if oil or hazardous substance-impacted soils are encountered.

B. WATER

- All dwelling units will be served by public water.
- There are two hydrants within 500' of the proposed driveway entrance – one at High Street and one on 202/Main St. The project is less than 400' in depth.
- The proposed buildings will be served by sprinkler systems.
- The Preliminary Plan submission depicts fire protection water lines connecting to the two 12-unit buildings, but not the four duplexes. Fire protection code does not require sprinklers in duplexes.
- The Preliminary Plan submission must include a written statement from the Portland Water District (PWD) that there is adequate supply and pressure for the subdivision.
- The applicant stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated November 20, 2019 to November 22, 2019, indicating that the PWD is reviewing the applicant's information.
- The Final Plan submission must include an Ability to Serve letter.
- An Ability to Serve letter from PWD dated December 16, 2019 was included with the February 18, 2020 submission.

C. SOIL EROSION & STORMWATER MANAGEMENT

- 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.
- The project must submit approval from the Maine Department of Environmental Protection (DEP) under Stormwater Law with the Final Plan. The applicant provided a copy of the Maine DEP Stormwater Management Law, permit #L-28526-NJ-A-N on May

18, 2020. A note referencing the permit must be added to the final plan.

- Written communication from Maine DEP dated December 4, 2019, states that the applicant needs to submit a Stormwater Permit By Rule for the outfall, because it is within 25' of a stream.

- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.

A soil erosion and sediment control plan was submitted as part of the Preliminary Plan. The plan includes pollution prevention, temporary soil stabilization BMPs, sediment barrier BMPs, storm drain inlet protection, stabilized construction entrance/exit, dust control, land grading and slope preparation, topsoil treatment, permanent soil stabilization, stormwater channel construction, winter erosion and sedimentation controls, housekeeping notes, and details of berms, drip edges, construction entrance, and erosion control measures.

- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "As acknowledged by the Applicant, the proposed development will create 1.1 acres of new impervious area and will require a Maine DEP Stormwater Permit." The permit must be submitted as part of the Final Plan.

- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Applicant has made an initial estimate of 4,000 square feet of wetland fill required for the proposed development, but plans to conduct a formal wetland delineation of the property. The delineation should assess whether there is a stream within this wetland area, which could affect permitting requirements for the development and feasibility of the proposed pump station location."

- 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 as there is more than one (1) acre of development. See recommended Condition of Approval #2.

- The Preliminary Plan application included a Stormwater Management Plan that indicates the plan will result in a decrease of stormwater impact. It proposes to create 34,685 sf of new impervious area, and treat 95% of it, and to create 49,024 sf of new developed area, and to treat 80% of it. Treatment will be through catch basins, an SC-740 unit, and Filterra system.

- Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: The application includes an analysis of stormwater quality treatment requirements per Maine DEP Ch. 500, but no analysis of stormwater quantity management per paragraph J.6. of Windham's Subdivision Ordinance was included. [The applicant should] submit a Stormwater Management Plan as required under Section 910 of the Subdivision Ordinance that addresses the stormwater quality and quantity requirements in DEP Ch. 500.

- The applicant responded in comments dated February 18, 2020 that: "The stormwater report has been updated to include a quantity analysis for the 2, 10 and 25 -year storm recurrence intervals. The projected design effectively limits the post-development peak rate of runoff at or below the pre-development rate for all design storms with the exception of a small increase in the 25-year storm..."

- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "The applicant has requested a waiver from the flooding standard since their evaluation shows that there will be an increase in peak flow for the 25-yr storm of 1.77 cfs (5.36%) from the pre- to the post-development condition. Can the soil filter or detention area DA-1 increased in size to minimize the increase in peak flow.

- The Planning Board approved a waiver from the flooding standard on March 9, 2020.

- Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: The redevelopment stormwater analysis assigns a ranking of "3: Other parking lots and driveways; Flat asphalt rooftops; Roofs on an industrial facility" for the driveway area

from Depot St. into the property approximately 180 feet for both the existing and the developed condition when this area is a paved driveway. It doesn't seem appropriate that the ranking of the developed condition, where the surface is paved, should be the same as for the existing condition where the surface is vegetated.

- The applicant responded in comments dated February 18, 2020 that: "The historical use of this area was for parking of trailers and equipment and an industrial driveway, which we have classified as Pollutant Rank 3. We have increased the intensity of use to Pollutant Rank 4 for the portion of the proposed pavement that will be used for parking..."

- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: To meet the treatment requirements under the General Standards, the stormwater evaluation has utilized the Redevelopment Standards of Ch. 500 for the area of the site that has been used as a gravel access road and for trailer parking. The area they have designated as redevelopment seems reasonable.

- Town Engineer, Mark Arienti, P.E., had several additional questions and comments about the Stormwater Management Plan in an email dated February 26, 2020, including questions about the Hydrocad routing diagram and modeling, if there will be sufficient separation between the filter basin and the water table to preclude the need for a liner, and a request for additional detailed ground topography for the footprints of the filter basin to ensure functionality. As of the date of this memo, the additional detailed ground topography has not been added.

- Town Engineer, Mark Arienti, P.E. commented on May 28, 2020:

The MEDEP has conducted a detailed review of compliance with Maine DEP Stormwater rules as part of the review for the stormwater permit, which is required because the project will create greater than 1 acre of new impervious area. The Maine DEP memorandum dated 5/8/20 concluded that the proposed project results in treatment of almost 97% of the on-site impervious area (29,783 SF) and 82% of the total developed area (49,697 SF including 1,909 SF of off-site area) using an underdrain soil filter (UDSF). This meets the General Standards of Ch. 500 in accordance with Windham's Land use Ordinance section 911.J.

- Per Windham Land Use Ordinance, 911.J, a stormwater management plan must be submitted that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. A Stormwater Management Plan was submitted with the preliminary application dated 2/18/20 that included a waiver request from the flooding standard since their evaluation showed only a small increase in peak flow from the pre- to the post-development condition for the 25-yr storm of 1.77 cfs (5.36%). The Planning Board granted the waiver request in their 3/9/20 meeting. The 4/28/20 Stormwater Management report stated that a comparison of the pre- and post-development peak flow rates was not been included, but storm drain sizing calculations have been included as Attachment 4 of this report. Mark requested the detailed HydroCAD output pages for the 25-year storm to be submitted in addition.

- On June 8, 2020, DM Roma Engineering Consultants submitted a response to comments that included the requested HydroCAD details.

- Town Engineer, Mark Arienti, P.E., reviewed the June 8, 2020 response to comments and stated that his concerns had been addressed, and he had no further comments.

D. TRAFFIC

- The sketch plan indicates that the project will utilize an existing curb opening on Depot Street. The applicant must have a Town of Windham Public Works Department Curb Cut Permit to make use of it.

- The applicant is proposing 2 parking spaces per dwelling unit.

- The Preliminary Plan should include sight distances when exiting the site onto Depot Street.

- The applicant is proposing a secondary access point through the Little Falls

Industrial Condominium Subdivision. The Preliminary Plan submission should depict the connection and clarify the proposed extent of use; specifically, whether it will be limited to emergency vehicles. If limited to emergency vehicles, the means of limiting ingress and egress should be included. The applicant should prove appropriate right title and interest for use of the connection.

- *A traffic impact study is required if the project will generate fifty (50) or more trips during the a.m. or p.m. peak hour. With a proposed 70 parking spaces a Traffic Impact Analysis prepared by a Maine Licensed Professional Engineer with experience in traffic engineering will be required. Impacts to the Little Falls Industrial Condominium Subdivision of the proposed secondary access should be considered. Trip generation information should be provided with the Preliminary Plan submission.*
- *The February 18, 2020 submission included a traffic Assessment dated February 4, 2020 produced by William J. Bray, P.E. of Traffic Solutions. The assessment states that "The proposed 31 residential apartment units can be expected to generate a total of 206 trips during a typical weekday; 16 trips in the morning peak hour and 19 trips in the evening peak hour." The report also states that there are no high crash locations on Depot Street, and that recommends that all trees and low-level vegetation located in the public street right of way of Depot Street, extending a distance of approximately 150-feet in either direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.*
- *Town Engineer, Mark Arienti, P.E. commented on February 26, 2020 and May 28, of 2020 that A note should be added to the plans requiring all trees and low-level vegetation located in the Depot Street right of way, extending a distance of 150' in either direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.*
- *Depot Street is planned for an upgrade. The applicant should coordinate with public officials to avoid unnecessary damage to the new street.*
- *Per Section 911.M.5.a.6 (pg 9-60) access drive standards for condominium and multifamily subdivisions shall meet the major private road standard*
- *911.M.5(b)(7) Street Connection Requirements, requires a subdivision with 31 or more lots or units to have a minimum of 2 connections with an existing public street. The applicant is requesting a waiver of this requirement. The Planning Board did not approve a waiver at the April 13, 2020 meeting, and requested more information on the proposed secondary access and the public safety needs. Fire Chief Libby provided comment that one point of access would be sufficient in this case, but suggested a no-parking fire lane to ensure adequate emergency vehicle access.*
- *Staff recommended maintaining adequate turning radius areas for emergency vehicles to use the access drive.*
- *Sidewalks are proposed on Depot Street and within the development. Staff recommends reducing travel distances through the parking area with direct route sidewalks.*
- *The Preliminary Plan should show bike parking as required in 813.D.6.*
- *Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: Sight distances along Depot St. from the subdivision entrance must be shown on the plans. As of the date of this memo, the sight distances are still not shown on the plans.*
- *The applicant indicated in a response to comments dated December 3, 2019 that at a formal traffic impact analysis is being prepared and should be completed prior to the [December 9, 2019] Planning Board meeting.*
- *Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "At least one of the handicap spaces should be marked as van-accessible."*
- *Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "The location of bike racks and detail for design should be included in the plans." As of the date of this memo, they still need to be shown on the plans.*

- On May 22, 2020 Town Addressing Officer Kara Taylor confirmed that the driveway needs to be a named Street. The name must be approved by the Town Addressing Officer, and shown on the plan.
- As of the date of this memo, the Town Addressing Officer has preliminarily approved three potential street names with railroad themes and is awaiting response from the Fire Chief as to their acceptability for emergency response purposes. The street name is to be shown on the Final Plan.

E. SEWERAGE

- The site will be served by public sewer. The Final Plan must include an Ability to Serve letter from the Portland Water District (PWD) for the proposed project.
- The applicant stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated November 20, 2019 to November 22, 2019, indicating that the PWD is reviewing the applicant's information.
- The response to comments submitted by the applicant on June 22, 2020 included an updated Ability to Serve letter from the Portland Water District indicating that the subject property would be able to connect to the upgraded sewer system to be installed on the property, per the terms of the agreement between the developer and the PWD, as described in a deed easement and restrictive covenant.
- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Sketch Site Plan shows the potential location of a new Portland Water District (PWD) pump station just to the left (west) of the entrance to the proposed subdivision. This is likely a good location considering the elevation and proximity to the subdivision, but the space allotted for the pump station is likely not sufficiently large enough to accommodate maintenance vehicles such as vacuum trucks. A space potentially as large as 35'x35' may be needed. The applicant may want to consider eliminating or moving the proposed driveway parking shown on the plan adjacent to Unit 1 so that PWD can acquire this space to access the pump station."
- An easement for PWD access should be included with the Final Plan. An easement is shown on the final plan. The easement language must be submitted as well.
- An easement dated May 27, 2020 granting Portland Water District use of the property for the pump station and associated infrastructure was submitted on July 7, 2020.
- A restrictive covenant dated June 8, 2020, laying out the terms of the agreement whereby MCL Realty LLC may connect to the upgraded sewer system to be installed on the subject property, was submitted on July 7, 2020.
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020 that the plans should incorporate concurrent plans being developed by Gorrill Palmer for the pump station and associated control building, wet well, and maintenance parking to be developed in the easement area shown on the plan. See Site Plan Review.

F. SOLID WASTE

- The applicant should identify how the disposal of solid waste will be managed and provide elevations and details of the enclosure.
- The Preliminary Plan includes details for the fence enclosure – it is to be a 6' tall vinyl wrapped chain link fence with plastic privacy slats, on a concrete pad.

G. AESTHETICS

- Street trees are required at least every fifty (50) feet. Streets are not shown every 50 feet on the plan. The plan should also include a note referencing and citing the text of 911.E.1.(b). The applicant has requested a waiver from the street tree requirement.
- The Preliminary Plan includes a Landscaping Plan. It does not meet the street tree

requirement for the access drive area between the entrance and the first driveway curve. The final plan should include a landscaping plan that meets the ordinance requirement.

- A Landscaping Plan dated May 8, 2020 was submitted with the Final Plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north. There are a few trees around the building near the entrance to Depot St, but there is a 120' gap between the street trees, which does not meet the street tree requirement.
- Limits of tree clearing shall be 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.
- The applicant stated that there is no tree cover depicted on the plan, and so no treeline has been depicted, and no corresponding note has been shown on the plan.
- The dumpster enclosure is situated perpendicular to the driveway entrance, will be visible from Depot St and will be in the view straight ahead when accessing the site.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- The plan does meet the goals of the 2017 Comprehensive Plan and is located in the South Windham Growth Area.
- *Land Use Ordinance:*
- The net residential density calculations are shown on the plan.
- *Subdivision Ordinance*
- A landscaping plan must be submitted with the Preliminary Plan.
- A landscaping plan is included with the Preliminary Plan. It shows trees spaced around the perimeter, and trees, shrubs, and perennials in the parking areas and around buildings. They are used to obscure
- 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.
- *Others:*
- Chapter 221 Street Naming and Addressing: Following consultation with the Assessing Department, a proposed road names for the access drive must be shown on the Final Plan. As of the date of this memo, street names are not shown on the plan. See FOF under "Traffic"
- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. See Condition of Approval #2.

I. FINANCIAL AND TECHNICAL CAPACITY

- Evidence of financial capacity must be provided as part of the Preliminary Plan submission.
- The Preliminary Plan included a project cost estimate of \$390,000, broken down by construction components. The applicant states that a letter indicating the ability to fund the project will be submitted with the final plan. Staff note that Financial Capacity is a listed submission requirement of a major preliminary subdivision plan (911.C.1.(a)(16). Staff noted the application deficiency in an email to the applicant on February 25, 2020.
- Evidence of technical capacity must be provided as part of the Preliminary Plan submission.
- As evidence of technical capacity, the applicant stated that the plans were prepared

by DM Roma Consulting Engineers, prepared by a Maine Licensed P.E., and the wetland boundaries were delineated by Alex Finamore, a licensed site evaluator and wetland scientist with Mainely Soils, LLC.

J. RIVER, STREAM OR BROOK IMPACTS

- The project is located within the Presumpscot River Watershed. This project will not adversely impact any river, stream, or brook.

CONCLUSIONS

1. The proposed subdivision will not result in undue water or air pollution.
2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.
4. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision will provide for adequate sewage waste disposal.
7. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer has adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision is 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/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 5, 2019, as amended June 22, 2020, 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. Soils excavated on the site should be evaluated by an Environmental Professional (Licensed Engineer or Certified Geologist with experience in environmental assessment) to determine if they are impacted by oil and/or hazardous substances and require special handling if disposed of offsite or reused on site.

4. Prior to issuance of building permits, the Planning Board must find that elevations for the proposed building(s) meet the Commercial District Design Standards in §813.A.

SITE PLAN REVIEW

FINDINGS OF FACT

Utilization of the Site

- *See Subdivision Review.*

Vehicular and Pedestrian Traffic

- *See Subdivision Review.*

Sewage Disposal and Groundwater Impacts

- *See Subdivision Review.*

Stormwater Management

- *See Subdivision Review.*

Erosion Control

- * *See Subdivision Review.*

Utilities

- *There is an existing overhead electrical line and buried gas line traversing the site.*

Both will be relocated. Electrical, telephone, and cable service to the development are to be provided by underground service.

- *The Preliminary Plan includes a Grading and Utilities Plan, which shows the planned locations and connections to sanitary sewer, force main, water main, gas main, and electric. It shows a new utility pole near the proposed substation that would have three phase power installed over head to another new utility pole at the eastern property boundary, which would run along the eastern edge of the property, across two more new poles. Underground utility would be run from the new pole near the substation to the proposed buildings.*
- *812.I states that "The development shall be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility facilities shall be screened from view to the extent feasible. Utility lines shall be placed underground."*
- *The Final Plan will require a waiver of 812.I, for some of the utility lines to remain overhead. The final plan submission states that the applicant has met with Central Maine Power and the applicant will pay to remove and relocate the overhead utilities that currently run through the subject property.*
- *The generator pad, pump station, utility pole, have no proposed landscaping around them.*
- *Pump Station Drawings were submitted on March 23, 2020 that includes plans for the proposed sewer pump station improvements, associated landscaping, and details on the pump station control building.*
- *Updated pump station plans were submitted on June 3, 2020. The updated plans depict a change to box-type panel containment. PWD is no longer proposing a building.*

Financial Capacity

- *See Subdivision Review.*

Landscape Plan

- *A landscaping plan must be submitted as part of the Final Plan submission.*
- *See Subdivision Review*
- *A landscaping plan for the proposed sewer pump station is shown on Drawing No 9 submitted on March 23, 2020. The revised plan submitted on June 8 depicts arborvitae shrubs buffering the view of the box and parking area from the public street.*
- *A Landscaping Plan dated May 8, 2020 was submitted with the Final Plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north.*

Conformity with Local Plans and Ordinances

1. Land Use

- *See Subdivision Review.*

2. Comprehensive Plan

- *This project meets the goals and objectives of the 2017 Comprehensive Plan.*

3. Others: The Preliminary Plan submission shall include detailed information on how the project will comply with Section 813 Commercial District Design Standards. The plan to comply with Section 813 must incorporate the proposed pump station.

- *The submission on February 18, 2020 includes notes on which Commercial District Design Standards at 813 the applicant intends to meet, and how they intend to meet*

them.

4. The applicant intends to meet the architectural standards by not having any buildings that are a form of advertising, that will be finished with vinyl siding and vinyl trim and materials of high quality and common to northern New England. No awnings or canopies are proposed. The building colors will be typical and low reflectance. The roof pitch will be 5/12, and it will be shingled with asphalt shingles. No mechanical equipment will be mounted on the roof. The buildings will be less than 20,000 sf and not linear commercial buildings. Staff note that the newly proposed building nearest to Depot Street is linear and must therefore have a clearly defined and highly visible customer entrance.

5. The applicant intends to meet the site/parking standards by shielding parking from the public street view, having landscaping islands, parking spaces, lanes and handicap spots will be painted, screened dumpster area, and a low impact stormwater design – underdrained soil filtered.

6. The applicant intends to meet the landscaping/lighting criteria – building entrances will be highlighted, landscaping will be designed so not to obscure the lighting, snow storage areas have been designated. The plantings will be low maintenance and hardy to Maine winters, and shrubs and perennials are proposed in mass planting arrangements. The lighting is in scale with the buildings, with pole mounted fixtures less than 20 feet. The applicant submitted detail lighting information and photometric diagram.

7. The applicant is proposing to meet the bicycle/pedestrian standards by having a bike rack included at each building, a continuous internal walkway, sidewalks along Depot St where none exist, and the sidewalk network connected to the adjoining property.

- Staff note that the applicant responded to requirement A.5.e: “It is our opinion that the requirement for 40% display windows on the ground floor is not appropriate for residential housing.” (813.A.5.e: “Horizontal facades greater than 50 feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted facade shall exceed 50 horizontal feet.”). Staff find that this requirement is not optional.

- The March 23, 2020 submission includes a waiver for the pump station control building from the requirement of a minimum of 40% of the horizontal length on the ground floor in total. The applicant states that the building must remain secure and adding a window is not appropriate. The proposed plantings will help screen the building from the road. The Planning Board granted the waiver at the April 13, 2020 meeting, specific to the pump station. See FOF under Utilities above, for more information on the pump station.

- The applicant is electing to comply with B3 as one of their elective standards. B3 is for Interconnected Parking Lots, and intended for “...connections between abutting properties shall be provided to facilitate deliveries and minimize turning movements onto the highway.” Staff do not find it applicable to this project, unless the secondary connection is for more than just emergency use. The applicant must choose another elective design standard to comply with.

Impacts to Adjacent/Neighboring Properties

- Site lighting must be shown on Final Plan, and details of fixtures must be included in the submission. The locations of light poles should be shown on SB-1, and details of light fixtures must be included in the final submission. The locations of lights are shown on the Final Plan sheet for SB-1. Lighting fixtures shall be shielded or hooded, in accordance with the Site Plan ordinance.

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 landscaping.*

CONDITIONS OF APPROVAL

1. *Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 5, 2019 as amended June 22, 2020 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. *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. *Soils excavated on the site should be evaluated by an Environmental Professional (Licensed Engineer or Certified Geologist with experience in environmental assessment) to determine if they are impacted by oil and/or hazardous substances and require special handling if disposed of offsite or reused on site.*
4. *Prior to issuance of building permits, the Planning Board must find that elevations for the proposed building(s) meet the Commercial District Design Standards in §813.A.*

Seconded by Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – Recused Colin Swan - In Favor

All in favor.

New Business

- 10 [PB 20-060](#) 20-15 Woodside Condominium Retirement Community. Amendment. Weld, LLC to request review of an amendment to reassign six (6) dwelling units/three (3) duplex buildings from Phase 2 of development to the previously approved Phase 1. The property in question is located on Conifer Drive and Unity Lane and identified on Tax Map: 9, Lot: 27K, Zone: Farm Residential (FR).

Attachments: [20-15 Woodside Condos Retirement 2nd Amendment](#)

[Woodside Condominium Amended Subdivision](#)

[Application 2020 6 22](#)

[Wooside Condominium Plans 2020 6 22](#)

[Peer Review M.A. 6-30-20](#)

[Woodside Condominium - Response to Comments 2020 7 7](#)

[Peer Review M.A. 7-9-20](#)

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

He explained:

- *The buildings in Phase 1 were nearly complete and interest in sales was strong.*
- *They requested to transfer three duplex buildings from Phase 2 to Phase 1. Those buildings:*
 - o *Were served by separate utilities from the remainder of Phase 2.*
 - o *Would be serviced by two septic systems.*
 - o *Had water services that were already installed and inspected.*
 - o *Had a separate stormwater infiltration basin.*
- *The amendment would allow the developer construction through the end of the year on Phase 1, and completion of Phase 2 next year.*

The Board commented:

- *Would the shoulder along Route 202 be paved as part of Phase 1, because both roads would be in?*
- *Would the streetlight be installed at the additional intersection?*

Consensus of the Board was the shoulder pavement could wait until Phase 2.

Mr. Roma stated they could install the light now.

Haden Brooks made a motion that the 2nd Amended Subdivision application for 20-15 Woodside Condominium Retirement Community on Tax Map: 9, Lot: 27K 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:
 - a. Added the offset from the stream behind units 7, 8, 9, and 10 to the plans
 - b. 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
 - c. Revised the length of the spillway for the bioretention basin to show 5', which is consistent with the calculation.
- In a July 7, 2020 response to comments, DM Roma provided an updated Grading and Utility Plan, and Plan and Profile showing the delineation between Phase 1 and Phase 2. The response also included a narrative describing the stormwater management infrastructure to be included in the amended Phase 1 project area:
 - a. "The developer will construct all improvements shown within the Phase 1 area on these two plans, which includes the construction of the soil filter basin FB□4. The soil filter basin FB□4 was designed to provide water quality treatment and peak flow attenuation for all of the proposed improvements that will be moved from Phase 2 into Phase 1, as shown on the enclosed Watershed Map and depicted as subwatersheds 30 and 31."
- In an email dated July 9, 2020 Town Engineer Mark Arienti, PE noted that he had reviewed the applicant's July 7, 2020 responses to comments and had no comments.

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.
- At the Planning Board Meeting on November 25, 2019 the Planning Board determined that the applicant should pay the cost of having the light installed on the opposite side of the 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.
- The Amended Subdivision Plan submitted June 22, 2020 includes the note to pave the existing gravel shoulder on Gray Road between Unity Lane and Conifer Drive, which was included as part of Phase 2. This will provide for a safe pedestrian walking loop.

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."
- In a July 7, 2020 response to comments, DM Roma provided an updated Grading and Utility Plan, and Plan and Profile showing the delineation between Phase 1 and Phase 2. The updated plan shows that the two septic systems associated with units 45-50 will be constructed as part of the updated Phase 1.

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.*
- *In a July 7, 2020 response to comments, DM Roma provided an updated Grading and Utility Plan, and Plan and Profile showing the delineation between Phase 1 and Phase 2. The dwelling units not proposed to be constructed in the amended Phase I shall not be shown on the Final Plan ASB-1.*

- *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 June 22, 2020, 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, 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.*

Seconded by Tyler Dunlea.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor. Colin Swan - In Favor

All in favor.

- 11 [PB 20-061](#) 20-16 Ruby Meadows Subdivision. 3rd Amendment. Ronald Bisesti to request review of an amendment an approved subdivision for revision to the approved developed area, impervious area and tree clearing limits on Lot 11. The property in question is located on Viola Lane and identified on Tax Map: 10, Lot: 78-11, Zone: Farm (F).

Attachments: [20-16 Ruby Meadows 3rd Amendment 7-9-20](#)
[Ruby Meadows Lot 11 Amended Subdivision Application 2020 6 22](#)
[Ruby Meadows 12 20 2018](#)
[Ruby Meadows - AMENDED SUB-LOT 11](#)
[Response to Comments Ruby Meadows Lot 11 7-7-20](#)
[2 POST WS MAP](#)
[Peer Review MA 7-9-20](#)

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

- *They proposed to increase the allowable impervious surface on lot 11 from 3,524 to 17,550 square feet, and the developed area from 26,000 to 37,560 square feet. The increase was needed to accommodate a large pool, pool house, driveway, and to provide ADA accessibility.*
- *Stormwater management would be accomplished through the use of berms, a rain garden, and a roofline drip edge.*

Staff recommended a note on the plan making the property owner responsible for maintenance and reporting of the infrastructure.

Tyler Dunlea made a motion that the Subdivision application for 20-16 Ruby Meadows 3rd Amended Subdivision on Tax Map: 10, Lot: 78 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. The Planning Board granted a waiver from this submission requirement.*

B. WATER

- *The three (3) lots on Albion Road and the ten (10) lots on the proposed road will be served by public water for domestic use.*
- *An email dated June 12, 2018 from Robert Bartels, PE, of the Portland Water District includes a map noting the location, type, and size of the public water mains near the sites and states that it is possible to make a connection into a public main only after proper review and approval by PWD.*
- *An Ability to Serve letter dated July 6, 2018 from Robert Bartels, PE, of the Portland Water District approves the water system as designed.*
- *Two (2) lots on Pope Road will be served by private wells. The ordinance requires that the subdivision must be served by public water if the closest water main is within a distance equal to 100 feet multiplied by the number of lots in the subdivision. The existing public water main terminates at the intersection of Albion Road and Pope Road. The Planning Board granted a waiver from this standard.*
- *Existing fire hydrants are located on Albion Road near the Lot 13 and Lot 14 lot line, and at Pope Road at the intersection of Albion Road.*
- *At the Development Team Meeting on May 1, 2018 Fire Chief Brent Libby requested*

a new hydrant on the proposed street approximately 1,000 feet from the existing hydrants. Proposed hydrants should be shown on the plan.

- In an email dated June 29, 2018, Town Engineer Jon Earle P.E., requested a moratorium restoration detail for the water main and water service connection that conform with Chapter 210 Streets and Sidewalks.
- An Albion Road trench repair detail is shown on Sheet D-2 of the revised preliminary plan dated July 6, 2018.
- A letter dated August 11, 2018 from Kenneth P. Brown of the Portland Pipeline Corporation was submitted with the final plan submission, anticipates that the project will be able to meet PPCL's construction guidelines of a 50 foot setback from the nearest pipeline.
- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., encouraged incorporating the location of the PPCL pipelines onto the subdivision plan and road plan/profile sheets.

C. SOIL EROSION AND STORMWATER MANAGEMENT

- An erosion and sedimentation plan, prepared by DM Roma Consulting Engineers, dated June 18, 2018, has been submitted as part of the Preliminary Plan. Notes and details are shown on Drawing D-1.
- 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. If this project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, it must be submitted with the Final Plan.
- Freshwater wetlands have been identified on the plan. This project requires a Maine Department of Environmental Protection (DEP) Natural Resources Protection Act (NRPA) Tier-1 permit for wetland alterations. The permit must be submitted with the Final Plan. Five areas of wetland impacts are shown on Sheets PP-1 and LD-1.
- Note 16 on the July 6, 2018 revised subdivision plan states the total amount of wetland impact associated with the proposed development.
- The DEP NRPA Permit #L-23150-TC-C-N approved on August 22, 2018 was included with the final plan submission.
- The DEP Stormwater Permit by Rule approved on July 3, 2018 was included 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. See Condition of Approval #2.
- A stormwater management plan has been submitted as part of the June 18, 2018 Preliminary Plan submission. The project proposes to treat the 9.33 acres of total developed area with one (1) underdrained filter basin, four (4) bioretention cells, forested buffers and roofline drip edges around each house.
- The forested buffer should be shown on the subdivision plan.
- Notes should be added to the subdivision plan that all buildings will require the installation of a roof drip edge filter for stormwater treatment and that the forested buffer should be permanently marked prior to the start of construction.
- The stormwater management plan also includes an inspection, maintenance and housekeeping plan. The owner is responsible for the maintenance of all stormwater management structures and related site components until such time that a homeowner's association is created.
- In an email dated June 29, 2018, Town Engineer Jon Earle P.E., notes that there appears to be a typo in Table 1 peak runoff SP-1 25-yr storm. Chapter 500 water quality

standard have been met but he requested that the lot by lot summary of impervious and developed areas be shown on the subdivision plan. He also requested additional ground topography for the footprints for each of the filter basin and bioretention cells rather than relying on the LIDAR aerial survey, and proposed grading for bioretention cells 3 and 4.

- The applicant responded to review comments on July 6, 2018 and submitted a revised stormwater management plan and a revised plan set. The revised subdivision plan shows a lot development table, the forested buffer is shown on Lot 14. Note 12 requires permanent marking of the buffer prior to the start of construction. Note 8 specifies that houses require a roofline drip edge.

- In an email dated July 9, 2018, Town Engineer Jon Earle P.E., had no further comment and acknowledged that ground topography of the stormwater filter basins and rain gardens would be provided with a final plan submission.

- In an email dated August 17, 2018, Town Engineer Jon Earle P.E., asked if ground survey had been completed in the footprints of the constructed stormwater BMPs and requested updated stormwater treatment calculations that account for the additional disturbed areas created by a 30' cleared area along Lots 12, 13, and 14 at Albion Road.

- In an email dated November 30, 2018 Jennifer Harris of the Maine DEP stated that if the Secretary of State confirms that Ruby Meadows LLC has been revived and reformed to its original state, then the DEP does not require any permit transfers for this project.

- The amended subdivision plans prepared by DM Roma Consulting Engineers dated March 23, 2020 shows a revised tree line on Lot 3 and a table summarizing that the lot development and treatment area going to the filter basin. Stormwater runoff generated from the additional impervious area will be treated through a proposed stone berm level spreader that discharges to a wooded buffer. Engineering design calculations were included with the submission.

- The application narrative states that maintenance of the stormwater buffer will be the responsibility of the owner of Lot 3. Note 11 on the proposed amended plan states that the forested stormwater treatment buffer is deed restricted and referenced the stormwater management declaration of restrictions in Appendix A of the Inspection, Maintenance, and Housing Keeping Plan for the site and demonstrate there is no conflict with the HOA maintenance responsibilities.

- On April 8, 2020 the applicant submitted a draft forested buffer declaration of restrictions, a revised amended subdivision plan with updated maximum developed area and impervious area on Lot 3, and a report that the DEP does not require an amendment to the PBR for the increased lot development.

- Town Engineer Mark Arienti, P.E. reviewed the amended submission and commented on April 9, 2020: Calculations and buffer design are in accordance with DEP guidance. Notes should be added to the plan that the stormwater buffer will be permanently marked before construction and buildings will have a roofline drip edge filter.

- For the proposed amendment to Lot 11, a portion of the stormwater from the proposed developed lot will sheet flow in a southerly direction towards the stormwater drainage swale adjacent to Viola Lane. This runoff will then be conveyed into an existing underdrained soil filter basin (FB-1) near the entrance of the subdivision. A rain garden (bioretention basin) is proposed at the north edge of lot 11 to treat stormwater runoff from a portion of the house and the driveway area prior to discharging to the wetland on this side of the lot. A berm is proposed along the wetland area and along the western property line to ensure that runoff from the developed area will be conveyed to the rain garden. Calculations provided by the applicant show that with the proposed lot grading and incorporation of the bio-retention basin into the design, the sizing of the existing filter basin (FB-1) is sufficient to treat the portion of stormwater that flows into the swale along Viola Lane.

- Staff recommend a condition of approval for maintenance of the proposed stormwater management infrastructure. See draft COA #3.

- In an email dated June 30, 2020, Town Engineer Mark Arienti, P.E., commented on

the plan that the proposed use of bioretention basins and roof drip edge filters appears appropriate to provide treatment for the additional impervious and landscaped areas. He also requested clarification of some of the calculations.

- On July 7, 2020 DM Roma Consulting Engineers submitted a response to comments and revised plans, including clarification of stormwater calculations as requested by Mark.
- In an email dated June 30, 2020, Town Engineer Mark Arienti, P.E., commented that he had reviewed the response to comments submitted by DM Roma Consulting Engineers on July 7, 2020 and had no further comment.

D. TRAFFIC

- Most of the subdivision lots will have access from the new 975 foot subdivision street, a paved public street. Section 550.C states that no new private road shall be permitted to directly access a public street.
- The proposed street right-of-way abuts the property line to provide access to future development on the abutting parcel. The purchase and sale agreement states that an easement will be provided to the seller's remaining land. This easement should be noted on the plan.
- Three of the lots will have access on Albion Road, and two lots will have access on Pope Road. Lots 13 and 14 will share driveway entrance on Albion Road. Sight distance in each direction for the proposed street and the driveways on the existing public streets should be shown on the Preliminary Plan.
- The preliminary plan submission dated June 18, 2018 states that the site distance at the proposed roadway is 535 feet looking right and 465 feet looking left which meets the Town standards for the posted speed limit of 35 mph on Albion Road.
- Lots 3 and 12 must have driveway access from the proposed subdivision street. This requirement should be noted on the plan.
- At the Development Team meeting on May 1, 2018, it was stated that Albion Road was recently paved and would need to comply with the moratorium road restoration standards for the proposed street openings.
- 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.
- 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. The Planning Board granted a waiver from this standard.
- 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. The Planning Board granted a waiver from this submission requirement.
- The preliminary plan submission dated June 18, 2018 states that the proposed 15 residential lots are expected to generate 15 peak hour trip ends.
- A road plan and profile, prepared by DM Roma Consulting Engineers, dated June 18, 2018, shown on Sheet PP-1. The roadway cross section for a minor local street is shown on Sheet D-2.
- In an email dated June 29, 2018, Town Engineer Jon Earle P.E., noted that the sight distance is noted in the narrative but should also be shown on the plan.
- The applicant responded to review comments on July 6, 2018 and submitted a revised plan set that show sight distances and estimated traffic to be generated by the subdivision as 150 daily trips. The revised subdivision plan notes a proposed access,

utility and stormwater easement over lot 13 for the benefit of Lot 14. Note 15 on the plan provide an access, utility and maintenance easement to the remaining land of the seller.

- The final plan submission shows a 30' cleared area along Albion Road on Lots 12, 13, and 14. Note 17 states that all trees shall be removed and no trees planted in the 30' cleared area.

- In an email dated July 9, 2018, Town Engineer Jon Earle P.E., stated that language should be included in the draft declaration for the maintenance responsibility for the additional vegetation proposed to be cleared.

- E. SEWERAGE

- The development will be served by individual private subsurface wastewater disposal systems.

- Soil test pit analysis prepared by Mark Cenci, LSE of Mark Cenci Geologic, Inc dated May 8, 2018 and June 15, 2018 show that each lot has adequate soils to support a private septic system. Test pit locations are shown on the plan. There is no test pit shown on the Lot 11. TP 19 thru 22 included with Mark Cenci's June 15, 2018 additional wastewater disposal investigation aren't shown on the plan. Plan Sheet PP-1 shows TP 23 on Lot 11 and TP 24 on Lot 12, but those soil profiles were not included in the preliminary plan submission.

- The applicant responded to review comments on July 6, 2018 and submitted a revised plan set that shows a test pit on each lot.

F. SOLID WASTE

- Residents of the single family dwellings will participate in the Town's pay-per-bag garbage program.

- Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste.

G. AESTHETICS

- The site is currently undeveloped. It is wooded and includes wetland area dispersed across the parcel.

- The property abuts a Portland Pipeline Company Easement. Windham Drifters maintains a snowmobile trail in the easement.

- 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) and are shown on Sheet PP-1.

- Limits of tree clearing are shown on the preliminary plan. Note 14 on the final 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 meet the minimum lot size (80,000 square feet) and frontage (200 feet) for lots in the F zoning district.

- Net residential density calculations are shown on the Plan.

- *Subdivision Ordinance*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.*
- *Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.*
- *A Draft Declaration was included with the Final Plan 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.*
- *Note 1 on the amended plan reference the current landowner.*
- *The amended plan submission includes documentation from the Secretary of State's Office confirming that the applicant's LLC is not cancelled and remains in good standing.*

- *Others:*
- *Chapter 221 Street Naming and Addressing: Viola Lane, the name approved by the Town Addressing Officer, is shown the Final Plan.*
- *Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area. The application narrative states that maintenance of the stormwater infrastructure on Lot 11 will be the responsibility of the lot owner. See Condition of Approval #3.*

I. FINANCIAL AND TECHNICAL CAPACITY

- *A letter dated April 19, 2018 from Michael Lyden, Loan Officer at Maine Capital Group was submitted as evidence of financial capacity.*
- *The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity*

J. RIVER, STREAM OR BROOK IMPACTS

- *This project is located within the Colley Wright Brook watershed.*
- *The project will not adversely impact any river, stream, or brook.*

CONCLUSIONS

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

ordinance, comprehensive plan, development plan, or land use plan.

10. The developer has adequate financial and technical capacity to meet the standards of this section.

11. The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.

12. The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

13. The proposed subdivision is 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 June 22, 2020 and revised July 7, 2020, 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. A note shall be added to the 3rd Amended Subdivision Plan that the owner of Lot 11 is responsible for the maintenance of the stormwater infrastructure on their lot associated with this amendment, including the bioretention basin (rain garden) and berm to convey water to the bioretention basin.

Seconded by Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor. Colin Swan - In Favor

All in favor.

Other Business

- *The Planning Board needed more members.*
- *There would be an Open Space webinar on July 29, 2020.*

12 Adjournment

Haden Brooks made a motion to adjourn.

Seconded by Colin Swan.

Roll Call:

Keith Elder – In Favor Tyler Dunlea- In Favor
Haden Brooks – In Favor. Colin Swan - In Favor

All in favor.