

Planning Board Member’s Composite Identification of Inconsistencies in North Pole Estates Submittals and Comments

Summary

The Planning Board understands that it is customary for a project to continue to evolve after submission for review by municipal entities. However, it is also customary that any changes to a project be tracked through clarification letters, addendums, or resubmissions of project documents as necessary to ensure that all project documents and public hearing comments support one another and accurately describe the project for which approval is sought.

Project Scope Inconsistencies

Development Impact Statement - General Comment:

This statement is based on 4 new lots only, based on the attached coversheet with no ANR lots reflected. This causes considerable confusion with subsequent references to the “subdivision”, “4 lots”, “9 lots”, etc. Please clarify this discrepancy within the DIS document and provide a separate, written explanation as to why the two ANR lots off Hadley Street are part of this subdivision application when they are typically processed under a simple endorsement request process.

The applicant’s often introduction of a hypothetical scenario is confusing the review and analysis. There is nothing in the Subdivision Regulations which requires an applicant to identify “hypothetical” scenarios. The applicant’s consultant has referenced Section 360-21B(14) which states:

A sketch plan of the applicant's contiguous unsubdivided land, showing possible or contemplated development and street layout.

However, since the applicant’s submittal depicts ALL of the applicant’s subject property as being in at least one of the proposed 9 lots, there is NOT any “contiguous unsubdivided land” and the applicant’s representative has made clear that they are NOT contemplating the development shown in the “conceptual plan” – it is, by the applicant’s representatives’ description “hypothetical”.

Development Impact Statement, IIa (page 45/131)

“The proposed street has been laid out to allow for future completion of a loop within the subject properties {...}For information regarding the future street location please refer to the overall subdivision concept plan on sheet D-2”

This statement indicates that the street has been laid out to allow for completion of a future loop (not a hypothetical future loop) and instructs the board to refer to the overall subdivision concept plan on D-2 for these future street locations. The concept plan on sheet D-2 is the same in both 10/15/2019 and 1/20/2020 submissions. The applicant has made conflicting statements during public hearings as to how the Board should interpret the conceptual drawing on sheet D-2. During the 7/22 public hearing the applicant’s representative stated that drawing D-2 “is not in

the project”. During 9/22/2020 public hearing, the applicant’s representative said D-2 was included only to fulfill a submission requirement but also that it reflected “potential” future development.

Since the only properties cited in this statement are 4 building lots, street design should be designed for these only as any hypothetical future phases are not applicable.

Development Impact Statement, IIIh

“Schools – Project the student population of the project for the nursery, elementary, middle school and senior high school levels and indicate the distance, capacity, and present enrollment of the nearest elementary and secondary schools.”

The response makes reference to 9 single-family detached lots — this is the first time 9 is introduced in this document, which doesn't jibe with the cover sheet. It also makes reference to “potential for 67 single-family detached lots, etc.).

Since the applicant’s representative has been very clear that the ONLY project proposed is the 9 lots, 4 new building lots, the analysis should reflect the proposed lots only.

Development Impact Statement, IVa (page 51/131)

“...The subdivision will have 3:1 slopes along the limits of excavation between current and future phases.”

Future phases are described as non-hypothetical.

Development Impact Statement, IVc

“Mineral resources – Indicate extent and economic importance of resources, extent and means of proposed extraction, rehabilitation measures.”

The applicant’s response makes no assessment of the economic value of the material being removed – yet they are proposing to remove nearly 500,000 cubic yards of material and engage in little, if any, “cut and fill” to balance out the removal – an unusual practice for developing a subdivision. This suggests that there is some “economic importance” of the material. Further, there is no mention of the “means of the proposed extraction”.

The applicant’s response also makes reference to a 9-lot subdivision. Yet, the Cover page reflects 4 lots in the proposed subdivision. Clarification of these matters is needed.

Development Impact Statement, IVj

“j. Vegetative Cover – RLA Response: The vegetative cover in the area of the proposed subdivision consists of mature trees along Hadley Street and along the property lines between the existing parcels. Excluding the aforementioned areas the majority of the land within the area of work is hay field or cleared land. The future subdivision concept includes mostly wooded upland. “

Again, the reference to a “hypothetical” concept as “the future” introduces contradictions. Either submit a Definitive Plan depicting the “build out” or “future”, or remove reference to “The future subdivision...” This references a hypothetical scenario and does not appear to apply to the project under review – as described by the applicant’s representative.

Development Impact Statement, VIII,d (page 61/131)

“The proposed subdivision will be constructed in one phase. Remaining portions of the property will be pursued for future development. It is anticipated that the subsequent phases will be applied for in the next 8 years”.

The first sentence identifies this as a standalone project. The second sentence indicates there will (not hypothetically) be future development. The last sentence indicates a phased approach and suggests a timeline for when future phases “will be applied for.”

The term “phase” appears to contradict what the applicant has been saying about this project – that what is before the Board is a single project – not the first phase of a multiphased development. Therefore, the applicant should remove “phase” from the description or submit a multiphased plan for the Board to review.

Hydrogeological Assessment Study (dated 10/25/2019)(Introduction page 3/376)

“The current proposal is to develop North Pole Estates in phases; a Phase 1 Plan is included as Figure 3A”

This excerpt from the Hydrogeological Assessment Study suggests that the applicant’s consultant preparing the analysis was under the impression that this was a multi-phase project. Note that figure 3A(**page 25/376**) does not reflect revisions dated 1/20/2020 but it does show the conceptual future build-out - matching the conceptual buildout on drawing D-2- and indicates that Frosty Way is “phase I”. Reinforcing this, the hydrogeologic study examines the impact of the entire conceptual future buildout and is not limited to examining the impacts of the work area of the definitive plan.

Traffic Analysis (dated 10/25/2019), Project description (page 5/39)

“The proposed project calls for the development of a residential subdivision in several phases, with a full build out of 67 detached residential units. The residential subdivision would be connected through a series of internal roadways and is proposed to be accessed via two full-access driveways on the west side of Hadley Street approximately 600 feet apart. The northern site driveway is located approximately 650 feet south of the intersection with Pearl Street, and the Southern Driveway is approximately 1,250 feet south of Pearl Street. The site concept plan is shown in appendix A”

Appendix A (page 5/78)

This excerpt from the Traffic Analysis suggests that the applicant’s consultant preparing the analysis was under the impression that this was a multi-phase project with a full build-out of 67 units. The traffic analysis diagrams correspond to the two entrance roads shown on the overall subdivision concept plan on drawing D-2. Appendix A of the Traffic Analysis is the same drawing as in the HAS, figure 3A. During the 6/22/2020 public hearing, the consultant that

prepared the study had difficulty figuring out which diagrams in the study would correspond to Frosty Way as depicted in the current definitive plan set.

**Stormwater Report (dated 10/25/2019)
Post Development Conditions Page 8/255**

“The proposed cul-de-sac is temporary in nature and shall be removed upon a properly permitted extension to the subdivision....”

Clarification Letter (dated 10/28/2019)

“Potential future development is contemplated at 67 total lots.”

This letter introduces the idea of work beyond the initial 9-lot subdivision as “potential” and clarifies the consultant’s different figures for total number of proposed lots as “based on each consultant’s understanding of the conceptual buildout”. However, it does not clarify any of the descriptions of the proposed subdivision as being part of a multi-phase larger project in the Development Impact Statement or individual consultant’s studies. It further states that *“Regardless, the total number of proposed lots are subject to change as the future phases are designed and implemented”*.

Definitive Plan Set (dated 10/15/2019), drawing C-3

The cul-de-sac is labeled as temporary suggesting an intent to expand the project in the future.

Definitive Plan Set (dated 01/20/2020), drawing C-5

The cul-de-sac is still labeled as temporary suggesting the intent to expand the project in the future remains.

Response to Peer Review (dated 3/12/2020), page 19/28

“The applicant chose to pursue a smaller project at this time. The hypothetical future buildout was changed to allow for a layout that was more desirable to the applicant.”

This comment is the first written indication the Board has of an intended change in project scope. It is unclear what referenced changes to the “hypothetical future buildout” were made since the conceptual buildout drawing on D-2 is the same for both the 10/15/2019 and 1/20/2020 submissions. The Planning Board, to date, has not received any addendums or clarification letters elucidating this change to the “hypothetical future buildout.”

Public Hearing Comments, December 16, 2019

When asked why the stormwater basin was located on the uphill side of Frosty Way (plan set dated 10/15/2020) the applicant indicated that the location was necessitated by future phases of the project. It would seem that, at least up to this point in time, this development was intended to be a multi-phase project. See also “Response to Peer Review dated 3/12/2020”

Public Hearing Comments, February 10, 2020 - July 13, 2020.

Beginning at the February 10, 2020 public hearing the applicant's representative began describing the project during public hearing comments as a single-phase, stand-alone subdivision with no current future plans to expand.

Public Hearing Comments, September 14, 2020

During comments at the September 14, 2020 public hearing, the applicant's representative indicated a plan to pursue additional building lots on the north side of Frosty Way through the ANR process after completion of the subdivision.

This was the first time that it was suggested that there would be ANR development off Frost Way.

Open Space/Public Area Inconsistencies

Development Impact Statement, III,g,2 (page 49/131)

"Based on the potential for future development and based on the overall subdivision concept shown on sheet D-2 of the subdivision plan set produced for said future development, approximately 23 acres could be set aside for passive recreation as protected open spaces. Opportunities to connect into the Bachelor Brook Recreation Area will exist in future phases of the development of the subject properties. The proposed lots within the subdivision will all be a minimum of 40,000 s.f. providing area within each of the lots for recreational activities to take place."

Since the subject development includes no open space, explain how the project before the Board at this time incorporates the open space or remove this reference to future development as it refers to a hypothetical or potential scenario and not the project under review.

Development Impact Statement, VIj (page 59/131)

"j. Measures taken to protect wildlife habitats - RLA Response: The conceptual future buildout of the subdivision will provide approximately 23 acres of open space adjacent to the CT River."

Again, the applicant relies on a "hypothetical" scenario which is not before the Board. The applicant's representatives have been clear that what is before the Board is only the Frosty Way proposal. So, how does that proposal address this question?

Please remove reference to future buildout which is hypothetical and subject development does not include any Open Space and address the question.

Development Impact Statement, VIIA (page 59/131)

"The proposed development takes advantage of existing by-right zoning that has been planned and zoned by the Town. The proponent anticipates protecting approximately 23 acres of Open Space adjacent to the CT River and wetland resource areas along the northwest side of the property. This area will be contiguous with the Bachelor Brook Recreation area and will likely help to provide a connection to the trails leading to Skinner Mountain."

The applicant's response makes reference the 23 acres of Open Space which may exist in the future. As the applicant's representative has repeatedly noted, such a hypothetical plan is NOT before the Planning Board. Therefore, the applicant's response does not comport with the project under review.

Development Impact Statement, VIIB (page 59/131)

"The proponent anticipated protecting approximately 23 acres of Open Space adjacent to the CT River and wetland resource areas along the northwest side of the property. This area will be contiguous with the Bachelor Brook Recreation area and will likely help provide a connection to the trails leading to Skinner Mountain effectively creating a north south greenway along the CT River and further protecting the District II well.

The applicant's response makes reference the 23 acres of Open Space which may exist in the future. As the applicant's representative has repeatedly noted, such a hypothetical plan is NOT before the Planning Board. Therefore, the applicant's response does not comport with the project under review.

Hydrogeological Assessment Study (Page 9/376):

"The Full Build-Out project area is 108.9 acres, with 23.4 acres of set-aside open space . . . "

Hydrogeological Assessment Study (Page 11/376):

"The Full Build-Out project area is 108.9 acres, with 23.4 acres of set-aside open space . . . "

Hydrogeological Assessment Study (Page 12/376):

"Additionally, the North Pole Estates development has 23 acres of set-aside open space."

Hydrogeological Assessment Study (Page 15/376) (under "8.0 FINDINGS"):

"In addition, the development will include 23 acres of supplemental set-aside open space that offers a supplemental factor of safety to protect the underlying groundwater resources."

It would seem that the consultant's study included the 23 acres of set-aside open space as a safety factor in their analysis.

Conclusion of this study, in part, is based on the 23 acres of OS set aside in the future conceptual plan, not the development currently under review. Has or will the hydro consultant revise the study given the applicant's change in plans?

Lots 1 & 2 Timeline Inconsistencies

Public Hearing Comments, February 10, 2020.

During the public hearing on February 10, 2020, the applicant's representative was asked what, if any, provisions would be made to buffer lots 1 and 2 from ongoing sand and gravel extraction work adjacent to these parcels. The applicant's representative seemed to indicate that lots 1 and 2 would remain undeveloped until sand and gravel extraction operations ceased.

Public Hearing Comments, September 14, 2020.

During the public hearing on September 14, 2020, the applicant's representative seemed to indicate that lots 1 and 2 would be developed as soon as Frosty Way was completed.

Hydrogeological Assessment Study/Plan Inconsistencies or Questions

Study is not based on the full site grading plan. It is unclear if the HAS considered the earth removal element of this project

Study, as it stands, was based on an old plan which entailed less material removal than is now being proposed. Was the quantity of material removal a consideration in the Hydro consultant's study? Has the Hydro consultant reviewed this aspect of proposal again based on the 35,000 cubic yard net increase?

The cumulative effect of nitrogen nitrate and run-off from fertilizer have yet to be analyzed by the applicant. Will this study be revised to analyze the impact of these known contaminants related to the development?