



## PLANNING BOARD MEMO • MAJOR SUBDIVISION AND SITE PLAN • FINAL PLAN REVIEW

DATE: August 7, 2024

TO: Windham Planning Board  
FROM: Steve Puleo, Town Planner  
Cc: Dustin Roma, DM Roma Consulting Engineers  
Jarod Robie, The JR Holding Group, LLC

RE: #24-18 – Major Subdivision and Site Plan – Astral Village Subdivision – Tandberg Trail – Final Plan Review – The JR Holding Group, LLC

Planning Board Meeting: **August 12, 2024**

### Overview –

The application is to construct two multifamily residential buildings with 11 units total, as well as 25 paved parking spots on site. Construction will be on a 2.07-acre section of a larger parcel.

Tax Map: 18A; Lot: 48-1; Zone: Commercial II (C-2) zoning district and located in the Presumscot River watershed.

A Development Review Team meeting was held on April 30, 2024 and the Planning Board conducted a sitewalk on June 8, 2024. Comments received during the meeting are reflected in the memo below.



Figure 1. Aerial view of the subject parcel relative to surrounding properties and street network.

## **SUBDIVISION AND SITE PLAN REVIEW**

PLEASE NOTE: The staff memo is a reference guidance document, and suggested topics for board discussion are listed; ~~the strikethrough text is items for the final review~~; ***bold and italic text represent unaddressed existing and/or new staff comments***; or plain underlined text are items that have been addressed by the applicant; and *italic text is for information or previously reviewed and/or approved items*.

### Staff Comments:

#### 1. Complete Application:

**MOTION:** [I move] the major subdivision and site plan application for project #24-18 Astral Village Subdivision project is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.

#### 2. Waivers:

*Waiver of Submission Requirements: The Planning Director, or designee, may waive any of the submission requirements of [§120-811](#) based upon a written request by the applicant. Such a request shall be submitted at the time of the preapplication conference for minor developments or as part of the sketch plan application for major developments. A waiver of any submission requirement may be granted only if the Planning Director, or designee, finds that the information is not required to determine compliance with the standards and criteria of the Land Use Ordinance.*

**No waivers have been requested.**

*the Site Plan Performance Standards. The Planning Board may waiver the requirements of [§120-812](#) if it finds that extraordinary an unnecessary hardship, not self-imposed, may result from strict compliance with the site plan review standards. In all cases, waivers shall not be deemed a right of the applicant, but rather shall be granted at the discretion of the Planning Board. The applicant shall submit a list of the requested waiver(s) in writing. For each waiver requested, the applicant shall submit answers to each criterion in [§120-808B\(2\)](#).*

**No waivers have been requested.**

*Limitation of Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land. Per [§120-908B\(2\)](#). The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements. Per [§120-908C](#). The Planning Board may waive the requirements of [§120-911](#) Performance and Design Standards when the applicants demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, and the public health, safety, and welfare are protected and provided*

*the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in [§120-908C\(2\)](#).*

**a) [§120-910C\(3\)\(a\)](#): High Intensity Soils Mapping. Approved.**

The Planning Director waived the requirement to submit a high-intensity soil survey by a certified soil scientist, per [§120-910C\(3\)\(a\)](#), for a medium-intensity soil survey. The applicant will be performing soil test pits to determine potential locations for private wells and septic systems.

**b) [§120-910C\(3\)\(c\)](#): Hydrogeologic Assessment. Approved**

The Planning Director waived the submission of a hydrogeologic assessment because the residences located on Tandberg Trail have public water and no private wells will be impacted.

Town Engineer:  
Waivers

- I have no objections to the two waivers that have been requested, one for the High Intensity Soil Survey Submission Requirement and one for the Hydrogeologic Assessment Submission Requirement. The basis provided by the Applicant for these waivers seemed reasonable.

3. Public Hearing: The Planning Board held a preliminary plan review public hearing on June 24, 2024.
4. Site Walk: The Planning Board conducted a site walk on June 8, 2024.

**Findings of Fact, Conclusions, and Conditions of Approval for the Windham Planning Board:**

**MOTION:** [I move] the preliminary plan review for the #24-18 Astral Village Subdivision development identified on Tax Map: 18A; Lot: 48-1; Zone: Commercial II (C-2 zoning district and located in the Presumpscot River watershed is to be **(approved or denied)** with the following Findings of Fact, Conclusions, and Conditions of Approval.

**FINDINGS OF FACT**

**Jurisdiction:** The Astral Village Subdivision project is classified as a , which the Planning Board is authorized to review of the 89,487 SF and act on by [§120-805A\(2\)\(a\)](#), [§120-903A](#) of the Town of Windham Land Use Ordinance.

**Title, Right, or Interest:** The applicant has submitted a copy of a Quitclaim Deed between Manchester Properties Inc. and Jarod Robie, dated June 1, 2017, and recorded on June 5, 2017, at the Cumberland County Registry of Deeds in Book 34058 and Page 107. JR Holding Group, LLC is in standing with the Secretary of State.

### ARTICLE 3 DEFINITIONS

Dwelling, Multifamily: “A building containing three or more dwelling units. A multifamily dwelling may be attached to a nonresidential use.”

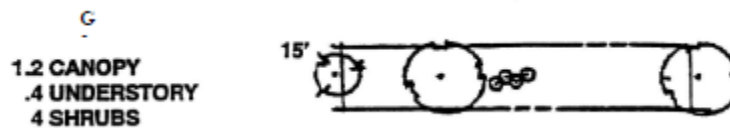
### ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham Land Use Map approved by the Town Council, date August 15, 2023, Tax Map 18-A, Lots 48-1 is located in the Commercial II (C-2) zoning District.
- Multifamily dwellings are a permitted use found in §120-411B.
- Per §120-411E Dimensional standards, the applicant is proposing to meet the minimum frontage of 150 feet as well as the front setback requirements.

### ARTICLE 5 PERFORMANCE STANDARDS

#### §120-511 – Buffer yards

C(3)(b) Commercial Districts (C-1, C-2, C-3, C-4, VC and WC Districts): use Buffer Yard G.



#### §120-541 – Net residential area of acreage

- B. The net residential area or acreage of a lot proposed for subdivision, as defined, shall be calculated by subtracting the eight (8) items listed in the subsection from the gross acreage of a lot and dividing the resulting net residential area of the parcel by the net residential density standard of the appropriate zoning district (see Article 4, Zoning Districts). The eight (8) deductions shall be subtracted from the gross acreage of the lot.

### §120-814 – MULTIFAMILY DEVELOPMENT STANDARDS.

#### §120-814A – Building Architecture

- (1) Architectural Variety. The applicant **has provided** architectural rendering and designs for the final site plan review submission.
- **The applicant states that the buildings have been designed with more than one siding color, as well as a combination of clapboard siding and vinyl trim. In the architectural rendering, only one color of siding is shown.**
  - **The two different buildings have differing design through variation to building materials, colors, rooflines, massing, or variation of form. Variation is not currently shown in the architectural renderings.**
- (2) Façade. The applicant **has provided** architectural rendering and designs for the final site plan review submission.



- **The buildings contain horizontal and vertical articulation through off-setting unit walls and rooflines to break up any long walls or rooflines. The units include porches with roof elements to create visual interest in the façade. The façade facing Astral Drive and Tandberg Trail will include a minimum of 25% fenestration.**

(3) Orientation.

- **The applicant has designed the unit closest to Tandberg Trail (Unit 1) to have a wrap-around-porch so that the building has the appearance of a street-facing façade.**

**§120-814B – Site Design**

(1) Parking.

- **The parking lot is located between the two buildings, not any closer to the street than unit 1. Areas for snow storage have been designated on the plans towards the back of the parking lot.**

(2) Screening. The applicant has provided a landscaping plan with the preliminary plan submission.

- **The proposed dumpster area will be screened from view with a fence enclosure. A 90-foot section of stockade fence will be installed along the eastern property line to buffer and screen the existing residential-use property that abuts the project to the east.**
- **The tree line along the abutting residential property line is being maintained and a 6-foot fence is proposed.**

(3) Bicycle/Pedestrian.

- **Internal sidewalks will be constructed to connect each of the residential units with each other, the common parking area, the dumpster area, and the Tandberg Trail right-of-way. A bike rack is proposed to be installed near the turn-around area that will accommodate a minimum of six bikes which meets the requirement of 0.5 bikes spaces per residential dwelling unit.**
- **The sidewalk extends to the edge of the property on Tandberg Trail.**

(4) Recreation and open space.

- **The applicant has proposed 19,664 SF of usable common open space, higher than the minimum open space requirement of 13,423 SF. The project also requires 2,550 SF of constructed areas for passive or active use within the Open Space area. The applicant has proposed a 2,981 SF area that will be improved with picnic tables and searing areas, along with formal yard space.**

(5) Landscape/Lighting.

- **The applicant has provided a landscaping plan that lists eight different plant species to be planted in different quantities.**

- The applicant shall provide a minimum of 10% of the total parking area for landscaping. The applicant shall provide this calculation to the Planning Board for final review.
- The proposed pole-mounted lights are 20 feet off of the ground, below the maximum 25 feet.

(6) Access Drive Standards

- The access drive shall remain private and shall not be maintained or repaired by the Town.
- The following note has not been added to the plan and shall be added prior to approval: "All internal access roads and driveways shall remain private and shall be maintained by the developer, lot owners, homeowners/condominium association, or road association and shall not be offered for acceptance, or maintained, by the Town of Windham unless they meet all municipal street design and construction standards at the time of offering."

**§120-911 - SUBDIVISION PERFORMANCE STANDARDS**

**§120-911A – Basic Subdivision layout**

- (1) The applicant is proposing to split properties has 2.07 acres or 89,487 SF exceeding the minimum lot size in the C-2 district, per §120-411E(1)(a).
  - (a) The applicant provided a net residential density calculation by deducting 26,061 SF of very poorly drained soils and 6,180 SF of steep slopes (> 25%) for the net area of 56,616 SF divided by 5,000 SF, equaling 11.32 lots or 11 dwelling units.
  - (b) The parcel side lot lines are generally perpendicular to Tandberg Trail.
- (2) For the preliminary plan review, the applicant has provided a plan showing where the proposed utilities will be located and shall be installed underground.
- (3) For the preliminary plan review, the applicant has provided a plan with the location of the proposed monuments.

**§120-911B – Sufficient water; water supply.**

- (3) For the final plan review, the applicant has shown the connection to the public water main.
  - A street opening permit will be required for installation of the water main connection in Rte. 35

**§120-911C - Erosion Control and sedimentation control**

- (1) The applicant has provided a soil erosion and sediment control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed, and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP documents.

- (2) The applicant has provided a statement from a Maine licensed professional civil engineer stating that the project shall prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- (3) The applicant or developer has considered the topsoil as part of the subdivision is not to be removed from the site. The applicant will comply.
- (4) Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion.

**§120-911D – Sewage disposal**

- (2) The applicants are proposing a private sewage system or individual systems to serve the condominium subdivision dwelling units. For the preliminary plan review, the applicant has submitted evidence of site suitability for subsurface sewage disposal prepared State of Maine Subsurface Waste Disposal Rules.

**§120-911E – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas, or Public Access to the Shoreline**

- (1) The existing driveway will be excavated and revegetated to be restored to the original wetland condition. The new access drive will be on the other side of the development, farther away from the wetland area.
  - (a) For preliminary plan review, the applicant has provided a note not allowing the clearing of trees where tree cover is depicted on the plan for at least five years. Mandatory buffer for stormwater or other reasons shown on the plan shall not be cleared of vegetation unless the Planning Board grants an amendment to the subdivision or maintenance that does not alter the purpose for which the buffer was required.
  - (b) For preliminary plan review, the applicant has provided a landscape plan including the planting along Tandberg Trail.
- (2) If the applicant sells a dwelling unit; the Town will require condominium owner's association documentation recorded accounting for the reservation or dedication and maintenance of open space and/or common land, facilities, such as the stormwater management system, among others, and service.
  - (c) **See above in multi-family development standards, §120-814B(4).**

**§120-911F – Conformance with Land Use Ordinances**

Comprehensive Plan:

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

Land Use Ordinance:

- There is a net residential density in Commercial II (C-2) zoning district of 5,000 SF per unit.

Subdivision Ordinance:

- Standard notes, the standard conditions of approval, and approved waiver must be shown on the plans for final review.

- For the final plan review, a digital transfer of the subdivision plan data **has been submitted** for inclusion with the Town's GIS.

#### **§120-911G – Financial and Technical Capacity**

- (1) The applicant has provided evidence of financial and estimated cost of development. The estimated cost of sitework is \$138,000 and the building construction is an estimated \$2,000,000 and the applicant has provided a bank letter dated May 20, 2024, from Mr. Jason Straetz, Vice President of Gorham Saving Bank, stating that The JR Holding Group, LLC has the financial capacity to complete the development.
- (1) The applicant, The JR Holding Group, LLC has developed multiple multi-family residential projects in Windham as well as several single-family subdivisions including lot development and road construction. The applicants have contracted DM Roma Consulting Engineers to manage the permitting and design of the development.

#### **§120-911H – Impact on Ground Water Quality or Quantity**

- (1) The applicant has provided evidence that the subdivision will not increase any contaminant concentration in the groundwater and shall meet the State primary drink water standards. The applicant has requested a submission waiver of: [§120-910C\(3\)\(c\): Hydrogeologic Assessment](#), the Planning Director has issued an approval to the submission waiver required.
- (2) The applicant has provided evidence the proposed subdivision shall not result in adversely impacting the water table.

#### **§120-911I – Floodplain Management**

- The subject property is not within a mapped FEMA Floodplain boundary.

#### **§120-911J – Stormwater**

- The project will require a Chapter 500 Stormwater Management Law permit for MeDEP.  
Town Engineer's comments from August 7, 2024:

- **On sheet S-1:**
  - **on the note regarding restoring the existing access drive, please add that it will be revegetated with native wetland plantings.**
  - **Add a note indicating that the development will need to comply with the Town's post construction stormwater ordinance.**
- **On Sheet GU-1, please clarify the drainage/flow path between the outlet of the 18" culvert and the underdrain soil filter. Is that existing rip-rap suppose to remain or be removed?**
- **On Sheet D-3, the 30-mil PVC liner only appears to wrap the bottom and sides of the filter and drainage layer but does not extend up to the water quality volume. Please clarify.**

#### **§120-911K – Conservation Subdivision**

- (1) The development is in the Commercial II (C-2) zoning district and is not required to meet the conservation subdivision ordinance.



**§120-911L – Compliance with Timber Harvesting Rules**

- The applicants stated the subdivision will not involve timber harvesting activity.

**§120-911M – Traffic Conditions and Street**

- The applicants are expecting low traffic demand for the eleven (11) residential dwelling units.

**§120-911N – Maintenance of common elements.**

- Documentation of a Condominium Owner's Association shall be provided to the Planning Board before any units are sold.

**CONCLUSIONS** (For Final Plan Review)

1. The proposed subdivision and site plan **will not** result in undue water or air pollution.
2. The proposed subdivision and site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision and site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision and 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.
5. The proposed subdivision and site plan **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 and site plan **will** provide for adequate sewage waste disposal.
7. The proposed subdivision and site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision and site plan **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 and site plan **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 and site plan **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 and site plan **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 and site plan **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.~~
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 April 22, 2024, as amended August 22, 2024, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with [§120-815](#) and [§120-912](#) of the Land Use Ordinance.
2. The signed subdivision recording plan shall be recorded three years for the date of the final approval in the Cumberland County Registry of Deeds (CCRD) and the street on which the lot fronts are complete in accordance with these regulations up to and including the entire frontage, per [§120-915B\(1\)](#) and [\(2\)](#), completed prior to conveyance of the first lot.
3. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, [Chapter 201](#). 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 June 1st of each year.
4. If the developer sells any dwelling units before the sale of the first dwelling, they must record the Condominium or Homeowners Association Bylaws, Covenants, and relevant documentation pertaining to the care and maintenance of the access driveway, stormwater management system, and open space areas in the Cumberland County Registry of Deeds (CCRD). Additionally, the developer must submit a copy of the recorded documentation to the Planning Department for verification.
5. Per [§120-815C\(1\)\(b\)](#), construction of improvements covered by any site plan approval shall be completed within two (2) years of the date upon which the performance guarantee is accepted by the Town Manager. If construction has not been completed within a specified period, the Town shall, at the Town Manager's discretion, use the performance guarantee to

either reclaim and stabilize the site or to complete the improvements as shown on the approved plan.

6. [Recreation Impact Fee](#), [Open Space Impact Fee](#), [Public Safety Impact Fee](#); and [Municipal Office Impact Fee](#). All fees will be determined and collected for any building, or any other permits necessary for the development, [§120-1201C](#).
7. Before the required pre-construction meeting with staff and before any land use activities begin, the applicant shall provide to the Planning Director the “Ability to Serve” letter from the Portland Water District (PWD).