



PLANNING BOARD MEMO • MAJOR SITE PLAN & SUBDIVISION • SKETCH PLAN REVIEW

DATE: October 24, 2024

TO: Windham Planning Board
FROM: Evan O'Connor, Town Planner

Cc: Steve Puleo, Planning Director
Gateway Development, LLC
Dustin Roma, Agent

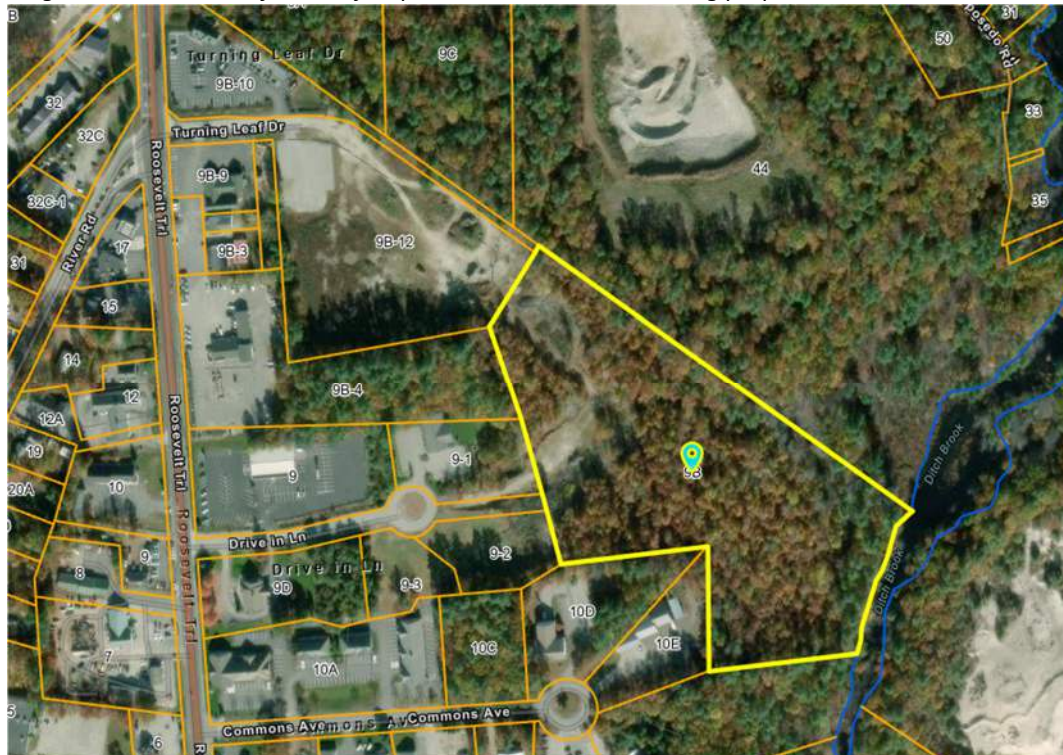
RE: #24-31 – Major Site Plan & Subdivision – Turning Leaf Heights – Turning Leaf Drive –
Sketch Plan Review – Gateway Development, LLC,
Planning Board Meeting: October 28, 2024

Overview –

This Application proposes a multifamily development consisting of three (3) buildings with 30 units each, two (2) buildings with 12 units each, seven (7) buildings with four (4) units each, and two duplex buildings for a total of 146 dwelling units. Tax Map: 14; Lot: 9B; Zone: Commercial 1 (C-1) zoning district in the Ditch Brook watershed.

A Development Review Team meeting was held on October 15, 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.



SITE PLAN & SUBDIVISION 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 Site Plan & Subdivision application for project #24-31 Turning Leaf Heights 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:

The applicant had initially indicated that a waiver will be requested for §120-812 – Major Site Plan Performance Standards, though no specific details or waiver request form were provided- a waiver would have been required for the two parking spaces perpendicular to Drive-In Lane, however the applicant has indicated these will be corrected and no waiver will be requested.

3. Public Hearing: The planning board has scheduled a public hearing for October 28, 2024.

4. Site Walk: The planning board shall determine if a site walk is necessary.

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

MOTION: ~~[I move] the Major Site Plan & Subdivision application for the #24-31 Turning Leaf Heights identified on Tax Map: 14; Lot: 9 B; Zone: and located in the watershed is to be (approved with conditions/denied) with the following Findings of Fact, Conclusions, and Conditions of Approval.~~

FINDINGS OF FACT

Jurisdiction: The Turning Leaf Heights project is classified as a Major Site Plan & Subdivision, which the Planning Board is authorized to review and act on by [§120-803A\(1\)](#), [§120-903A](#) of the Town of Windham Land Use Ordinance.

Title, Right, or Interest: The applicant has submitted a copy of a Quitclaim Deed with Covenant between Timm Realty LLC (Grantor) and Gateway Development, LLC (Grantee), dated August 5, 2014, and recorded on August 5, 2014, at the Cumberland County Registry of Deeds in Book 31719 and Page 84.

The applicant has submitted a copy of a Warranty Deed between The Rich Family Limited Partnership (Grantor) and Gateway Development, LLC (Grantee), dated March 1, 2006, and recorded on March 1, 2006, at the Cumberland County Registry of Deeds in Book 24400 and Page 96.

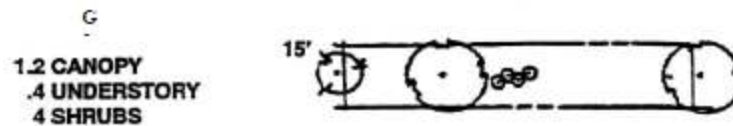
ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date April 9, 2024, Tax Map: 14; Lot: 9-B.
- The property is located in the Commercial I (C-1) zoning district.

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- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS

§120-812A – Utilization of the Site

- The subject parcel is approximately 12.2 acres (530,000 SF) in size.
- The site fronts along Turning Leaf Drive and Drive In Lane. It is located in a wooded area within the Commercial-1 (C-1) zoning district.
-

§120-812B – Vehicular Traffic

- (1) The site is located off Turning Leaf Drive and Drive In Lane, with access to Roosevelt Trail. The primary traffic impact will be from residents traveling through the existing roadways, including intersections with Route 302.
 - The applicant does not expect to impact any major intersections within half a mile of the project, but additional analysis will be required.
 - For **final plan review**, the applicant shall provide a traffic study prepared by a Maine-licensed professional engineer to assess the capacity, level of service, and safety of adjacent streets.
- (2) The access to the development is designed to meet MDOT sight distance standards and prevent hazardous turning conflicts. A traffic study will determine whether any additional measures (e.g., turning lanes or signage) are necessary. The applicant shall work with the Town Planner and Traffic Engineer to determine any required North Route 302 Improvement Impact Fee for the project.

- **The two perpendicular parking spaces located along Drive-In Lane do not meet the design requirements, this will be amended prior to the final plan review.**

(3) The proposal includes access points from Turning Leaf Drive and Drive In Lane.

- The Fire and Police Chiefs will review the access design for emergency vehicle safety. For **final plan review**, the applicant must provide turning radii for fire trucks and confirm emergency access designs.

§120-812C – Parking and Loading

(1) The applicant has designed a parking layout that accommodates approximately 196 spaces, which includes both off-street parking lots for multifamily buildings and driveway/garage parking for townhouse units.

- For multifamily buildings, there are shared parking lots adjacent to the structures, ensuring each building has adequate parking. Additional on-street parking is proposed along Turning Leaf Drive.
- **The two perpendicular parking spaces located along Drive-In Lane do not meet the design requirements, this will be amended prior to the final plan review.**

§120-812D – Pedestrian Traffic

The applicant is proposing to install sidewalks along all internal roadways. Sidewalks will also be included within the parking lots to allow pedestrian movement between buildings. A crosswalk will connect the parking areas and pedestrian pathways, ensuring safe access to residential units.

§120-812E – Stormwater Management

(1) A stormwater management system will be designed to collect and dispose of runoff from parking areas, roofs, travel ways, and other impervious surfaces.

- The applicant shall comply with MDEP Chapter 500 Stormwater Management Law, as the development exceeds an acre of disturbance. A stormwater management plan will be submitted for **final plan review**.

(2) The project site will undergo stormwater management in compliance with MS4 (Municipal Separate Storm Sewer System) regulations, as the disturbance area exceeds one acre. The applicant shall provide an annual maintenance and inspection report.

§120-812F – Erosion Control

(2) The applicant must submit a detailed erosion and sedimentation control plan for **final plan review**, as per MeDEP Chapter 500. This plan will outline specific measures to mitigate erosion risks, particularly in areas near Ditch Brook and the Stream Protection Shoreland Zone.

§120-812G – Water Supply Provisions

- (1) The applicant is coordinating with the Portland Water District to connect the development to the public water system. An Ability to Serve letter from the PWD will be required for **final plan review**.

§120-812H – Sewage Disposal Provisions

- The development will be connected to the public sewer system, which is currently under construction. A developer's agreement and a timeline for sewer connection will be required for **final plan review**.

§120-812I – Utilities

- All utility connections (water, sewer, electric, telephone, and telecommunication services) will be located underground. A utility and grading plan will be submitted for **final plan review**.

§120-812J – Groundwater Impacts

- The development will be connected to public water and sewer, so no on-site disposal systems are anticipated. The project is not expected to have significant impacts on groundwater, as all waste will be managed through public utilities.

§120-812K – Water Quality Protection

- The day-to-day operations do not require substances that are hazardous, such as fuels, industrial chemicals, waste, etc.

§120-812L – Hazardous, Special and Radioactive Materials

- (1) No hazardous materials are expected to be stored or used on-site, as this is a residential development.

§120-812M – Shoreland Relationship

- A portion of the property is located within the Stream Protection Shoreland Zone along Ditch Brook, but no development is planned within this area.

§120-812N – Technical and Financial Capacity

- (1) For **final plan review**, the applicant shall provide evidence of financial capacity, including project cost estimates and funding sources.
- (2) The applicant has hired DM Roma Consulting Engineers, for site planning, permitting, and engineering services for the project.

§120-812O – Solid Waste Management

- A dumpster pad with appropriate screening will be provided to handle solid waste disposal. Waste will be transported to a licensed facility.

§120-812P – Historical and Archaeological Resources

- The applicant shall provide for **final plan review** evidence from the State showing that there are no historic or archaeological resources onsite.

§120-812Q – Floodplain Management

- The site is not located in the mapped FEMA 100-year floodplain hazard.

§120-812R – Exterior Lighting

- (1) The applicant will provide an acceptable lighting plan with hooded or shielded fixtures, cut sheets, and locations for review for **the final plan review**.
- (2) The applicant shall connect all light poles and other exterior light fixtures underground.

§120-812S – Noise

- (1) The proposed use shall not exceed 65 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.
- (3) No construction activities are allowed between the hours of 10:00 PM and 6:00 AM.

§120-812T – Storage of Materials and Screening (Landscape Plan)

- The applicant will provide a landscaping plan and planting schedule for *final plan review*.
- **The applicant has provided a location for a dumpster; however, the location puts the dumpster pad within the front yard setback on Drive-In Lane. The applicant shall address this issue prior to the final plan review.**

§ 120-911 - SUBDIVISION PERFORMANCE STANDARDS

§ 120-911A – Basic Subdivision layout

- (1) The parcel shown on the plan shall meet the Commercial I (C-1) zoning district Dimensional standards, per § 120-415E.
 - The C-1 does not have a maximum building height.
 - The property is 12.2 acres in size.
 - The applicant shall show, for the preliminary plan review, all the required setbacks and street frontage.
 - The C-1 district does not have a net residential density standard.
 - All utility connections (water, sewer, electric, telephone, and telecommunication services) will be located underground. A utility and grading plan will be submitted for **preliminary plan review**.

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

- All dwelling units will be served by public water.
- Fire hydrants shall be provided every 1,000 feet.
- The proposed buildings with more than 2 units must be served by sprinkler systems.

- **The final plan submission** must include “Ability to Serve” letter from the Portland Water District (PWD) and that there is adequate supply and pressure for the subdivision.

§ 120-911C - Erosion Control and Impact on Water Bodies

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

§ 120-911D – Sewage disposal

- The development will connect to the public sewer system, which is currently under construction. Coordination with the Town of Windham and the PWD is ongoing.
- The **final plan submission** must include an Ability to Serve letter from PWD confirming the project’s access to public sewer.

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

- A stream protection area along the eastern boundary protects Ditch Brook. The project avoids any development in the Stream Protection Shoreland Zone.
- A landscaping plan will be required for preliminary plan review.
- The final plan will show limits of tree clearing, and a note will be added stating that no clearing is allowed in designated areas for at least five years from the date of Planning Board approval.
- The project is within the Ditch Brook Watershed, but it is not expected to negatively affect the water quality or environment of the brook.

§ 120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

- The plan does meet the goals of the 2024 Comprehensive Plan and is located in the North Windham growth area.

Land Use Ordinance:

- There is no net residential density in this zoning district.

Subdivision Ordinance

- A landscaping plan must be submitted with the final plan.
- Standard notes and the standard conditions of approval and approved waiver 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

§ 120-911G – Financial and Technical Capacity

- Evidence of financial capacity shall be provided for **the preliminary plan review**.
- As evidence of technical capacity, the applicants contracted DM Roma Consulting Engineers.

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

- (1) The applicants have not anticipated impacts on the quality of the groundwater as the development will be connected to public sewer and public water systems.

- (2) The Portland Water District will provide the public water supply, and the development will not use private wells or groundwater.

§ 120-911I – Floodplain Management

- A portion of the property lies within Zone AE of the FEMA Flood Hazard Area, but no development is planned within this zone, ensuring compliance with floodplain management standards.

§ 120-911J – Stormwater

- The applicant will submit a stormwater management plan that complies with MDEP Chapter 500 standards. The plan will manage runoff from impervious surfaces, including roads, parking lots, and roofs.
- A stormwater pond will be constructed during phase one of the development to handle runoff for the entire project.
- The project requires a Site Location of Development Permit from the Maine DEP due to its size and scale.
- For **final plan review**, the applicant must submit condominium documents, including a stormwater maintenance and inspection plan and draft deeds for the units.

§ 120-911K – Conservation Subdivision

- The project is not located in Farm (F), Farm Residential (FR), or in the Medium-density Residential (RM) zoning districts.

§ 120-911L – Compliance with Timber Harvesting Rules

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

§ 120-911M – Traffic Conditions and Street

- As the project includes 146 residential units, there will be two points of access from Turning Leaf Drive and Drive-In Lane to meet the standard requiring two connections to public streets.
- A traffic study must be provided for **final plan review** to assess the impact on traffic conditions, street standards, and safety.

(SITE PLAN) CONCLUSIONS (*Final Plan Review*)

- ~~1. The plan for development **reflects/does not reflect** the natural capacities of the site to support development.~~
- ~~1. Buildings, lots, and support facilities **will/will not** be clustered in those portions of the site that have the most suitable conditions for development.~~
- ~~2. 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/will not** be maintained and protected to the maximum extent.~~

3. ~~The proposed site plan **has/does not have** sufficient water available for the reasonably foreseeable needs of the site plan.~~
4. ~~The proposed site plan **will/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 use and layout **will/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.~~
6. ~~The proposed site plan **will/will not** provide adequate sewage waste disposal.~~
7. ~~The proposed site plan **conforms/does not conform** to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.~~
8. ~~The developer **has/does not have** the adequate financial capacity to meet the standards of this §.~~
9. ~~The proposed site plan **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.~~
10. ~~The proposed site plan **will/will not** provide for adequate stormwater management.~~
11. ~~The proposed location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it **will/will not** interfere with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonably affect its value.~~
12. ~~On site landscaping **does/does not** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.~~
13. ~~All freshwater wetlands within the proposed subdivision **have/have not** been identified on the plan.~~
14. ~~Any river, stream, or brook within or abutting the subdivision **has/has not** been identified on any maps submitted as part of the application.~~
15. ~~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, § 480-B, none of the lots created within the subdivision **has/do have** a lot of depth to shore frontage ratio greater than 5 to 1.~~
16. ~~The long term cumulative effects of the proposed site plan **will/will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.~~
17. ~~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.~~
18. ~~The timber on the parcel being subdivided **has/has not** been harvested in violation of rules adopted pursuant to Title 12, § 8869, sub§ 14.~~

(SUBDIVISION) CONCLUSIONS (*Final Plan Review*)

19. ~~The development plan **reflects/does not reflect** the natural capacities of the site to support development.~~
20. ~~Buildings, lots, and support facilities **will/will not** be clustered in those portions of the site that have the most suitable conditions for development.~~

21. ~~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/will not** be maintained and protected to the maximum extent.~~
22. ~~The proposed subdivision **has/does not have** sufficient water available for the reasonably foreseeable needs of the site plan.~~
23. ~~The proposed subdivision **will/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.~~
24. ~~The proposed use and layout **will/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.~~
25. ~~The proposed subdivision **will/will not** provide adequate sewage waste disposal.~~
26. ~~The proposed subdivision **conforms/does not conform** to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan.~~
27. ~~The developer **has/does not have** the adequate financial capacity to meet the standards of this §.~~
28. ~~The proposed subdivision **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.~~
29. ~~The proposed subdivision **will/will not** provide for adequate stormwater management.~~
30. ~~The proposed location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it **will/will not** interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.~~
31. ~~On site landscaping **does/does not** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.~~
32. ~~All freshwater wetlands within the proposed subdivision **have/have not** been identified on the plan.~~
33. ~~Any river, stream, or brook within or abutting the subdivision **has/has not** been identified on any maps submitted as part of the application.~~
34. ~~The proposed subdivision **will/will not** provide for adequate stormwater management.~~
35. ~~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, §480-B](#), none of the lots created within the subdivision **has/does not have** a lot depth to shore frontage ratio greater than 5 to 1.~~
36. ~~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.~~
37. ~~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.~~
38. ~~The timber on the parcel being subdivided **has/has not** been harvested in violation of rules adopted pursuant to [Title 12, §8869, sub§14](#).~~

~~CONDITIONS OF APPROVAL (REQUIRED)~~

- ~~1. Approval is dependent upon and limited to the proposals and plans contained in the application dated October 7, 2024 as amended TBD 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 [§120-914](#) or [§120-815](#) of the Land Use Ordinance.~~
- ~~2. (SITE PLAN) In accordance with [§120-815C\(1\)\(b\)](#) of the Land Use Ordinance, the Construction of improvements covered by any site plan approval shall be completed within two years of the date upon which the performance guarantee is accepted by the Town Manager. If construction has not been completed within the 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.~~
- ~~3. (SUBDIVISION) In accordance with [§120-914B\(5\)](#) of the Land Use Ordinance, the Construction of improvements covered by any subdivision plan approval shall be completed within two years of the date upon which the performance guarantee is accepted by the Town Manager. The developer may request a one-year extension of the construction completion deadline prior to the expiration of the period. Such request shall be in writing and shall be made to the Planner. The Town Manager may require an update to the schedule of values and the amount of the guarantee when accepting an extension of the construction period. If construction has not been completed within the specified period, the Town shall, at the Town Manger's discretion, use the performance guarantee to either reclaim and stabilize or to complete the improvements as shown on the approved plan.~~