



PLANNING BOARD MEMO • CONDITIONAL USE • AMENDED PLAN REVIEW

DATE: July 15, 2024

TO: Windham Planning Board
FROM: Steve Puleo, Planning Director

Cc: Owens McCullough, Sebago Technics, Inc.
Gary LaPlante, Department of Corrections, Maine Correction Center, Applicant
Jasmine Lopez, Planning Intern

RE: #24-22 – Conditional Use – MDOC Women's Mental Health Addition – 17 Mallison Falls Rd.
– Amended Plan Review – Maine Correction Center

Planning Board Meeting: **July 22, 2024**

Overview –

The application is to include the addition of a 3,896 SF Women's Mental Health building to the Maine Correctional Center. The addition provides a separate medical space within the Women's Unit. Tax Map: 3; Lot: 5; Zone: Industrial (I) zoning district and located in the Presumpscot River watershed.

Correctional facilities are a conditional use in the Industrial District so in accordance with [§120-516.B](#) the Planning Board shall serve as the review authority. May 17, 2024, the Planning Director issued a Minor Change Approval to project #19-08, Renovation of the Maine State Correction Facility, by demolishing Building #11 and converting the area to lawns and extending new subsurface chilling and heating service pipes to campus buildings on the east side from the central plant.

The addition of the Women's Mental Health Facility at the Maine Correction Center is an amendment to the original project and does not require a Development Review Team meeting. The Development Review Team meeting was held for the original project which was approved on October 9, 2019. Staff comments are reflected in the memo below.

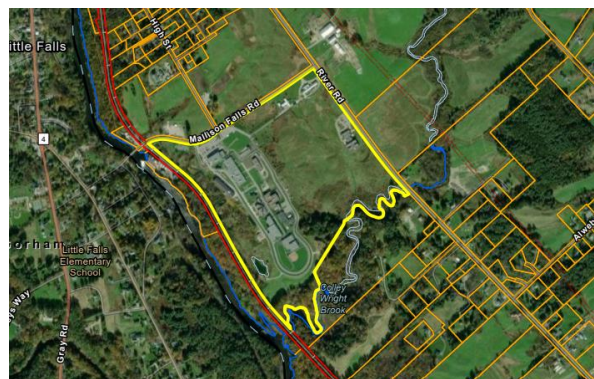


Figure 1. Aerial view of the subject parcel relative to surrounding properties and street network.

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 plan application for project #24-22 MDOC Women's Mental Health Addition 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.

None requested.

Waiver of 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\(2\)](#).

None 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\(2\)](#).

3. Public Hearing: A public hearing was held for the original application on July 22, 2019.
4. Site Walk: A site walk for the original application was held on July 20, 2019.

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

MOTION: [I move] the major plan application for the #24-22 MDOC Women's Mental Health Addition identified on Tax Map: 3; Lot: 5; Zone: Industrial (I) and located in the Presumpscot River watershed is to be **(approved with conditions/denied)** with the following Findings of Fact, Conclusions, and Conditions of Approval.

FINDINGS OF FACT

Jurisdiction: The MDOC Women's Mental Health Addition project is classified as a Conditional Use, which the Planning Board is authorized to review of the 3,896 SF building addition 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 Property Deed between Jesse Holden and William Ash, dated May 4, 1920, and recorded on May 18, 1920, at the Cumberland County Registry of Deeds in Book 1051 and Page 179.

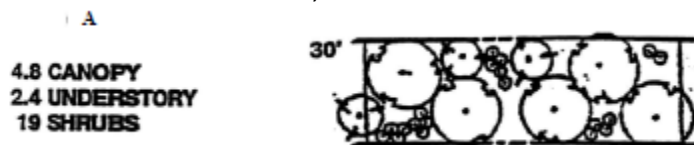
ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date April 9, 2024, Tax Map: 3 Lot: 5 is located in the Industrial (I) zoning district in the Presumpscot watershed.
- Per [§120-413C\(2\)](#), the application is permitted as a conditional use in the Industrial (I) zoning district.

ARTICLE 5 PERFORMANCE STANDARDS

§120-511 – Buffer yards

C(3)(c) Industrial District: use Buffer Yard A, see exhibit below.



- The project is located interior to the prison site and is located 1,400 feet from Route 302 and Mallison Falls Road and over 800 feet from side and rear property lines. The project area far exceeds buffer yard setbacks. The building will be approximately 18 feet tall, well below the maximum height of 35 feet.

- The nature of the project makes it consistent with the buffer yard requirements by being located at a significant distance from property lines, blending in with existing site development, and maintaining natural buffering and vegetation that currently exist.

§120- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS

§120-812A – Utilization of the Site

- The site addition is approximately 3,896 SF in size.
- The applicants are proposing to construct a Women's Mental Health addition to the fully developed Maine Department of Corrections prison.
- The addition will be located within the existing developed footprint that is currently pavement and will not change the developed area of the prison.
- The location is serviced by existing utilities and within the secured area of the prison.

§120-812B – Vehicular Traffic

- The proposed addition will not generate any new traffic and will operate internally to the existing prison.

§120-812C – Parking and Loading

- The proposed addition will not require any new parking or place any added demand on existing parking.
- The addition will be accessed from the existing interior perimeter road. A service drive from the secure interior perimeter will be provided to the side door of the building and will accommodate for emergency access, maintenance, and supply delivery.

§120-812D – Pedestrian Traffic

- Pedestrian traffic is limited to the secure movement of prison officers and residents to and from the building and facility.

§120-812E – Stormwater Management

- The addition is entirely located within the existing developed footprint of the prison and will not alter the existing stormwater.
- (1) The proposed plan for the addition includes a roof drain that connects to the existing closed storm drainage system.
- The project is located in Windham's MS4 urbanized area. The stormwater plan must comply with §201-21, post-construction stormwater management plan compliance. The existing facility is already meeting these requirements.

§120-812F – Erosion Control

- (1) The plan states that all areas disturbed during construction and not restored with impervious surfaces shall receive loam and seed.
- (2) All erosion and sedimentation control measures shall be installed in accordance with "Maine Erosion and Sedimentation Control BMPs" as noted on the plan set.

§120-812G – Water Supply Provisions

- (1) The project site is an existing facility serviced by public water. The proposed project will not result in the need for additional water capacity since the project will serve existing residents.

§120-812H – Sewage Disposal Provisions

- The project site is an existing facility serviced by public sewer. The proposed project will not result in the need for additional sewer system capacity since the project will serve existing residents.

§120-812I – Utilities

- A site utility and grading plan has been provided for sketch plan review.
- The project site shall be serviced by underground public utilities including water, sewer, power, and communications.

§120-812J – Groundwater Impacts

- The project involves no groundwater discharges.

§120-812K – Water Quality Protection

- The proposed addition is entirely located within an existing developed footprint of the prison and will not alter stormwater. The construction of the addition and the associated pavement reduces the site's overall impervious surface by approximately 1,614 SF, thus improving the water quality.

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

- (1) The proposed addition does not include the handling, storing, or using any materials identified by the federal or state as hazardous, special, or radioactive.

§120-812M – Shoreland Relationship

- The site is not within a shoreland zoning district.

§120-812N – Technical and Financial Capacity

- (1) The project is being funded through existing allocated state funds for the prison. The total estimated cost for the project is \$6,000,000.
- (2) The applicant has hired SMRT, Inc. and Sebago Technics, Inc. who to design the project. Both are established design firms with substantive experience. The building will be constructed by Cianbro Corporation, the contractor who has completed all of the prison improvements to date.

§120-812O – Solid Waste Management

- Solid waste will be limited due to the nature of the facility. Medical waste will be placed in separate, secure containers and general waste will be placed in secure trash bins at designated areas within the building. Solid Waste is removed by MDOC that currently services the prison.

§120-812P – Historical and Archaeological Resources

- The site is currently being utilized as a prison and there are no historical or archaeological resources on site.

§120-812Q – Floodplain Management

- The proposed site does not fall within a FEMA 100-year floodplain.

§120-812R – Exterior Lighting

- (1)** The exterior light and photometric plan has been indicated on the plan set. Existing light pole-mounted lights will remain were approved with the initial site plan application.
 - (a)** The proposed lighting fixtures are shielded.
- (2)** The applicant shall connect all light poles and other exterior light fixtures underground.

§120-812S – Noise

- (1)** The proposed facility 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 project proposes no outdoor storage and is fully located within an existing developed footprint of the prison.
- The applicant has detailed within the site plan a healing garden for the residents.

CONDITIONAL USE REVIEW

The applicant shall provide evidence that the project will conform with [§120-516 Conditional Use](#) (see criteria below).

§120-516(H)(1) - Property Value

- The proposed project involves work with an existing correctional facility that has been in existence since 1919. Given the longevity of the facility, the small addition is not anticipated to impact area property values.

§120-516(H)(2) - Wildlife Habitat

- The proposed project is within the already developed footprint of the existing prison and thus will not impact any wetlands or other environmental features. The proposed site will also reduce impervious surface.

§120-516(H)(3) - Botanical Species

- The proposed project is within the already developed footprint of the existing prison and thus will not impact any rare or endangered botanical species.

§120-516(H)(4) - Potable Water

See above in Major Site Performance Standards, [§120–812G](#).

[§120-516\(H\)\(5\)](#) - Sewage Disposal

See above in Major Site Performance Standards, [§120–812H](#).

[§120-516\(H\)\(6\)](#) - Traffic

See above in Major Site Performance Standards, [§120–812B](#).

[§120-516\(H\)\(7\)](#) - Public Safety

- The project is a secured prison and maintains its own security and first response. Should additional support be needed, the State of Maine utilizes mutual aid with the municipal communities and State Police.
- The building will be fully sprinkled, and emergency access is provided via the perimeter road and secure gated access.

[§120-516\(H\)\(8\)](#) - Vibration

- The proposed use will not utilize any equipment that will generate vibrations.

[§120-516\(H\)\(9\)](#) - Noise

See above in Major Site Performance Standards, [§120–812S](#).

[§120-516\(H\)\(10\)](#) - Off-Street Parking and Loading

See above in Major Site Performance Standards, [§120–812C](#).

[§120-516\(H\)\(11\)](#) - Odors

- The project will not emit any noxious or odorous matter.

[§120-516\(H\)\(12\)](#) - Air Pollution

- This project will not create dust or any other form of air pollution.

[§120-516\(H\)\(13\)](#) - Water Pollution

- See above in Major Site Performance Standards [§120–812J](#) and [§120–812K](#)

[§120-516\(H\)\(14\)](#) - Erosion and Sediment Control

See above in Major Site Performance Standards [§120–812F](#).

[§120-516\(H\)\(15\)](#) - Hazardous Material

See above in Major Site Performance Standards, [§120–812L](#).

[§120-516\(H\)\(16\)](#) - Zoning District and Performance Standards

See above in Major Site Performance Standards, [§120-413C\(2\)](#).

[§120-516\(H\)\(17\)](#) - Solid Waste Management

See above in Major Site Performance Standards, [§120–812O](#).

§120-516(J) – Inspections

The Review Authority (Planning Board) may require the provision of third-party inspection during the construction of the proposed use. The applicant shall be responsible for all third-party inspections and an escrow account for the inspections.

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.
14. The proposed use **will** depreciate the economic value of surrounding properties.
15. The proposed use **will not** damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan.
16. The proposed use **will not** damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan.
17. The proposed use **has** access to potable water and **will not** burden either a groundwater aquifer or public water system.
18. The proposed use **has** adequate capacity to dispose of sewage waste.

19. The proposed use **has** adequate sight distance as established by the current Maine DOT Highway Entrance and Driveway Rules.
20. The proposed use **will not** overburden police, fire, and rescue services, as determined by the response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community.

CONDITIONS OF APPROVAL (REQUIRED)

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated June 7, 2024, as amended July 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 [§120-516I](#) and [§120-815](#) of the Land Use Ordinance.
2. 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. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, [Chapter 201 Article II](#). 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. The development is subject to the following [Article 12 Impact Fees](#), to be paid with the issuance of a building: [§120-1206](#), Public Safety Impact Fee; and [§120-1207](#), Municipal Office Impact Fee. All fees will be determined and collected for any building, or any other permits necessary for the development, [§120-1201C](#).