



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Planning Board

Monday, March 11, 2024

6:30 PM

Council Chambers

1 Call to Order – Chair’s Opening Remarks

2 Roll Call and Declaration of Quorum

Chair, Marge Govoni, called the meeting to order. Other members present were: Gale Sevard, Shonn Moulton, Christian Etheridge, Anne Daigle, Rick Yost; Evert Krikken, and Kathleen Brown.

Town Planner, Steve Puleo, and Planning Director, Amanda Lessard, were also present.

3 [PB 24-024](#) Approval of Minutes - February 26, 2024 meeting

Attachments: [Minutes 2-26-2024 - draft.pdf](#)

Evert Krikken made a motion to approve the minutes from the February 26, 2024 meeting.

Seconded by Christian Etheridge.

Vote: All in favor.

Public Hearing & Continuing Business

4 [PB 24-013](#) 24-09 Amendment to the 2016 Comprehensive Plan, Future Land Use Map. To comply with the requirements of State Law LD 2003, the Town proposes an amendment to the 2016 Comprehensive Plan Future Land Use Map to reduce the Growth Areas and expand the Rural Areas and the Route 302 Transitional Areas.

Attachments: [ProposedCompPlanAmendments_LD2003.pdf](#)

[PB memo_LD2003_03-06-2024.pdf](#)

[FutureLandUse Map Existing v Proposed.pdf](#)

[LD 2003 Presentation for PB Hearing.pdf](#)

Amanda Lessard explained LD 2003, the State housing bill which was intended to increase housing opportunities in Maine.

- *The bill required municipalities to:*
 - o *Amend land use regulations to allow accessory dwellings units where single-family*

homes were permitted.

- o Prohibit single-family dwelling only districts.
- o Allow more than one dwelling unit on a lot without requiring more land than for the first unit. In identified growth areas, allow up to four dwelling units on a lot and in other areas allow up to two units per lot.
- o Allow for affordable housing developments that were located in a growth area to have a density bonus of up to two and one half times the number of units that would otherwise be allowed.
 - The town had been:
 - o Implementing the 2016 Comprehensive Plan and working on rezoning the Windham Center Growth Area.
 - o Drafting affordable housing standards
 - o Developing the South Windham – Little Falls Master Plan with the Town of Gorham
 - o Implementing the 21st Century Downtown Plan by making zoning changes and focusing on the new sewer infrastructure
 - The amendments would amend the Comprehensive Plan, Land Use Ordinance, and town zoning map to achieve compliance with State requirements .
 - Growth areas and zoning district boundaries had to be aligned.
 - Minor amendments to affordable housing development standards:
 - o Windham Center and Village Residential Districts were not included in the affordable housing standards for growth area districts.
 - o The state now required more than 51 percent of units in an affordable housing development to comply.
 - Changes to the Future Land Use Map in the Comp Plan included:
 - o A reduction to the North Windham Growth Area
 - o A reduction to the South Windham Growth Area
 - o Expansion of the Route 302 Transitional Area
 - o Minor changes for other growth and transitional areas
 - The amendments had been reviewed and unanimously recommended by the town's Long Range Planning Committee and the Town Council Ordinance Committee.

Public Comment

Thomas Tyler, Buckfield Drive – They had purposely chosen to live in a farm zone with space for a garden and animals. In regard to the proposed change from Farm (F) to Village Residential (VR) in the Falmouth Road area, LD2003 had no reference to changing existing zoning regulations. The law only put forth density requirements for lots of land with or without existing dwellings. It did not tell the town to change zoning areas.

In the adopted Comprehensive Plan it stated the preservation of rural character and protecting important open spaces and scenic views. The Future Land section talked about several growth areas of town, not talking about zoning changes.

His objection to changing his area to VR was the restrictions of what he could do with his property. He had raised hogs, and rabbits, as many as 100 at times. A neighbor had chickens and ducks that wandered into his yard. Beef was raised in the pasture behind him. There were absolutely no issues with this. They had all bought their land for a reason. As a side note, Roger Timmons had asked him to express his total displeasure with the proposed change to VR.

They had already let North Windham change in the last 20 plus years. Why not change the regulations to allow multi-story buildings there? How many living units could 10 or more stories high buildings provide. Water and sewer were already there. The same went for South Windham. Change the density all you want, but don't tell him what he could do

with his property. The State had passed an amendment to the Constitution establishing a right to food. You had a right to raise your own food. Changing to VR was not in the picture. He could live, if you wanted to change the density of Farm or Farm Residential (FR). You cut lot size down to 40,000 square feet. But don't tell him what he could do with his property and VR restricted his property.

Barbara Maurais, William Knight Road – She had a tree farm and was surprised to read that they were reducing growth areas and expanding rural areas. Yet, they were proposing that the farm land, and tree growth, and hay fields, and beef fields, and household farms would be switched to VR. Increasing density was one thing, but please don't change the permitted uses of her tree farm.

There was no more public comment. Public comment was closed.

Consensus of the Board was to hold their comment until the ordinance amendment presentations were complete.

Amanda Lessard explained the reason for zoning map amendments to allow for affordable housing, in compliance with LD2003.

- *Zoning regulations were used to allow for the necessary density. Housing types and densities were applied and enforced by a zoning district. To align the growth areas, to have a zoning district that permitted an affordable housing bonus and allowed multi-family, up to four units as required by LD2003.*
- *There were 104 parcels proposed to be rezoned, where underlying zoning of growth area boundaries didn't support multi-family housing or where affordable housing was required. The amendments would reduce the rural area zoning, Farm and FR from about 68 percent of town to just under 60 percent of town.*
- *There were four areas where rezoning was proposed:*
 - o *The North Windham growth area included two areas proposed to be changed from F to Enterprise Development (ED). The ED zone didn't allow housing, but because it was in a growth area, they wanted to align the growth area with the zoning.*
 - o *The residential area, southeast of Varney Mill Road between Route 302 and Falmouth Road was a section proposed to be changed from F to VR. VR allowed for residential development at a slightly higher density but limited multi-family to only 4 units. Another area would change from F to Medium Density Residential (RM). That district had the same lot size but RM didn't limit the number of multi-family units which was determined by land area that the density could support.*
 - o *The North Windham Growth Area change made adjustments to the boundary of the growth area.*
 - *Two lots would change into the growth area, from FR to Commercial 1 (C-1).*
 - *One parcel would move out of the growth area, from Commercial 1 to FR.*
 - o *In the South Windham Growth Area a piece of land along River Road, between Black Brook and the prison land would change from Farm to VR.*
- *The amendments had implications for lot sizes, uses, density, setbacks, and road frontage.*
- *Prohibitions on uses included assisted living facilities and nursing homes; piggery and poultry facilities; campgrounds; farm enterprise; golf course; mineral extraction; sawmills; and shipping containers.*
- *Agriculture was still a permitted use. Having a residential use and animals, or gardening would continue to be permitted.*

Public Comment

Tom Tyler stated, in the VR zone, you couldn't have a garden where you set up a garden

to sell vegetables commercially. You couldn't raise three hogs and sell two because it would be a commercial enterprise. Is that what VR was doing, restricting people who already had farms? This particular change would affect the land of one of the biggest sheep farms in the area. It would affect the fields that the Halls owned. It could have a very long term affect? Why couldn't they leave it as F zone and just change the density requirements? Cut the lots down to 40,000 square feet instead of 80,000 to comply with State law.

Barb Maurais was very concerned regarding the current farms. To go from F to VR ... her property was what it was ...she would need less front setback, but she would have to go further back. That may or may not work. She was concerned about changing the zoning when they could just alter the density. Everything possible should be done to preserve the long-term farmers' way of life.

Jim Goode, Hackett Road – He heard them throwing certain terms around. He didn't understand affordable housing. Could they please define it?

Amanda Lessard read, for rental housing, "A development in which a household, whose income does not exceed 80 percent of the median area income. Can afford 51 percent or more of the units in the development." For owned housing, "A household whose income does not exceed 120 percent of the median area income. Can afford 51 percent of the units in the development." It also further defines housing costs, for rental the cost of rent and utilities and for ownership it includes the cost of mortgage, principal interest, real estate taxes, etc. The definition was from statute. It was a structured federal program. There were very specific requirements for the developments through Maine Housing and through the Federal Department of Housing and Urban Development.

There was no more public comment. Public comment was closed.

Board Comment

- What was the downside for the town if a parcel was left out of the rezoning and stayed in farm zone?
- How were the lines for the growth areas developed?
- Why wouldn't they shrink the growth area to follow current zoning, rather than the other way around?
- How many piggeries and poultry facilities exist in the area to be rezoned?
- Couldn't they just do FR which seemed to have conditional use of piggery or poultry.
- Would not be opposed to taking the one percent of town land mass and having it in FR residential and not allowing four units. Once they start popping up the town's thought process on them may change.
- What percentage of the proposed changes could be reduced and still comply with state law?
- Was there a reason that new information didn't change the Comp Plan?
- What percentage of the part on Varney Mill was active farm and tree growth? Was there not another area that would not affect working farms?
- One of the issues was keeping it rural. The town had grown tremendously since then and the need for housing had grown. The Comp Plan should be looked at again. What was best for the community.

Evert Krikken made a motion to recommend with comments approval of the proposed amendment to the Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 3 Definitions, Article 4 Zoning Districts, and Article 5 Performance Standards, related to affordable housing developments and Amendment to the Official Land Use Map to align zoning district boundaries with the Comprehensive Plan Future Land Use

Map growth area boundaries in order to comply with the requirements of State Law LD 2003.

Seconded by Rick Yost.

Board Comments

- The motion was for agenda items 24-09 and 24-10.
- Recommend approval of all of the changes with the adjustment that they shrink the growth area of Varney Mill to Falmouth Road.
- Because of how the town had grown, Council should consider the possibility of reviewing the Comp Plan and updating it.
- This was peoples' livelihood and property and it shouldn't hurt to look at it again.

Vote: All in favor.

- 5 [PB 24-014](#) 24-10 Amendment to Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 3 Definitions, Article 4 Zoning Districts, and Article 5 Performance Standards, related to affordable housing developments and Amendment to the Official Land Use Map to align zoning district boundaries with the Comprehensive Plan Future Land Use Map growth area boundaries.

- Attachments:** [LD 2003 LUO AMENDMENTS \(draft 12-2023\).pdf](#)
[Zoning Map Amendment_LD2003_2024-01.pdf](#)
[PB memo_LD2003_03-06-2024.pdf](#)
[Current_vs_ProposedLD2003_PercentZones.pdf](#)
[LD 2003 Presentation for PB Hearing.pdf](#)
[Public Comment_Tyler_031124.pdf](#)

Application 24-10 had been discussed previously, as part of application 24-09.

- 6 [PB 24-019](#) 24-11 Amendment to Code of the Town of Windham Chapter 185 Shoreland Zoning Ordinance and Official Land Use Map related to permit application requirements for photographic evidence and Resource Protection (RP) District freshwater wetlands which are inland waterfowl and wading bird habitat.

- Attachments:** [PB memo_ShorelandZoning_03-06-2024.pdf](#)
[Proposed Changes to Shoreland Zoning Map_2024-01-17.pdf](#)
[WINDHAM SHORELAND ZONING ORDINANCE AMENDMENT \(draft 01-2024\).pdf](#)
[Shoreland Amendments Presentation 03-2024.pdf](#)

Amanda Lessard explained the State had made some changes to their data set, regarding some shoreland areas. The amendments to the town's shoreland zoning ordinance were needed because the designation of some locations in town would change, based on the State's criteria.

- Two wetlands were not ten-acre wetlands and they were not a moderate or high value habitat. They were located:
 - o Adjacent to Sandbar Road
 - o Between Land of Nod Road, Pope Road, and Route 302
 - The forested wetland did not meet the shoreland zoning requirement; was not a freshwater wetland; and no longer had the waterfowl and wading bird habitat.
 - In reviewing this, the Natural Resource Advisory Committee, with staff support, had

recommended to keep a Resource Protection district around the wetland, but to reduce it to 75 feet.

- Two new wetlands had to be rezoned. They were:
 - o Adjacent to Richards Road.
 - 13 parcels would be rezoned from Resource Protection (RP) and Limited Residential (LD) to Farm (F).
 - Seven parcels would be added to Resource Protection (RP).
 - o Tarkill Pond was designated as a wetland with a 100 foot RPzone and a 150 foot LR zone.
 - 34 parcels would be rezoned. Part of the 250 foot buffer overlapped another at the end of Little Sebago Lake. Some of those properties were affected also.
- Uses or structures that became non-conforming as a result of rezoning to RP would be allowed:
 - o Repair and maintenance
 - o Reconstruction or replacement
 - o Expansion
 - o Construction of a single-family dwelling on a vacant lot would require Planning Board approval.
- A required change to the text of the ordinance would necessitate applicants for a permit to develop to submit photographic evidence of shoreland vegetation and the site of the proposed development before construction and then again within 20 days after completion of construction.
- Some public comment had been submitted regarding the ability of road associations to maintain private roads within the areas of change.

Public Comment

There was no public comment. Public comment was closed.

Board Comment

- Was there only one parcel being removed from shoreland zoning?
- Why not remove the forested, non-freshwater wetland from RP if it didn't meet the criteria?
- How often was the data updated?

Evert Krikken made a motion to recommend approval of the proposed amendment to the Code of the Town of Windham Chapter 185 Shoreland Zoning Ordinance and Official Land Use Map related to permit application requirements for photographic evidence and RP District freshwater wetlands which are inland waterfowl and wading bird habitat.

Seconded by Kathleen Brown.

Vote: All in favor.

Continuing Business

- 7 [PB 24-020](#) #21-13: Preliminary Major Subdivision Review - Vintage Subdivision - 626 Roosevelt Trail - PTG Properties, Inc.
 PTG Properties, Inc. is requesting preliminary plan approval for the major subdivision known as the Vintage Subdivision. The proposed plan includes the construction of a private road named Vintage Drive and the development of Lots 3 and 4 of the subdivision, which will house 30 residential units. Lots 1 and 2 will be reserved for commercial development in the future. Tax Map: 52; Lot: 24:

Zone: Commercial I District (C1).

Attachments: [21-13 PB MEMO PERLIM PLAN VintageSubdivision_030424.pdf](#)
[21-13 SR&C MEMO MAJOR SUB SP VinatageSubdivision_022624.pdf](#)
[Applicants Response to commets 030724.pdf](#)
[TE Comments 030424.pdf](#)
[21-13 MAJOR SUB SP APPLICATION VinatageSubdivision_022023.pdf](#)
[21-13 MAJOR SUB SP DrawingsVinatageSubdivision_012224.pdf](#)

Dustin Roma, of DM Roma Consulting Engineers was present representing the application. He explained:

- *The application would divide the parent parcel into four lots.*
- *Two of the lots would then have apartment buildings developed on them for a total of 30 apartments.*
 - o *They proposed 72 parking spaces in the individual areas near the buildings with over 20 on-street parking spaces located along the roadways.*
 - o *Public water would serve the development.*
 - o *Six separate leach fields would be installed and have advanced treatment units. Concrete chambered tanks would be located under the parking and in the back of some units.*
 - o *There would be underground power.*
 - o *Units would be staggered with pitched roofs.*
 - o *The DEP stormwater permit had been received. Stormwater from roadways would infiltrate through pervious pavers in parking areas and soil filters for treatment.*
 - o *They requested a waiver of the roadway construction standards because the use of permeable pavers.*

Steve Puleo reviewed the application process:

- *In February, 2022 the Planning Board held a public hearing on the application. The Board voted that the application was complete.*
- *In May, 2023 the Board had postponed consideration of the application pending a consent agreement. That consent agreement had been executed and the application represented the first phase of implementation.*
- *Commercial design standards had been changed relative to multi-family provisions. However, the application had made standing before the change, and didn't need to meet the new standards.*
- *The proposed road construction using porous pavers and infiltration was not currently an option of the ordinance. As a result, the applicant would maintain the roads as private until such time as the town may accept those standards.*
- *Previous to this meeting, the Board had approved waivers for:*
 - o *A high-intensity soil survey – which had been done anyway.*
 - o *Street connection requirements*
 - o *The required street-tree planting every 50 feet.*
- *The site was in an MS4 area. Annual reporting would be required.*

Public Comment

There was no public comment. Public comment was closed.

Evert Krikken made a motion to approve the waiver request of §120-911M(5)(b) Road Construction Standards & Appendix B Commercial Street to allow the applicant to use concrete porous pavers in a portion of the road as on-street parking spaces.

Seconded by Christian Etheridge.

Board Discussion

- *Should the motion state that the roadway would remain private until such time as the town changed the standards?*
- *This was a DEP best management practice (BMP). Suppose the pavers were not maintained? What would happen?*
- *What if the Board didn't approve the waiver?*
- *Would frost heaves disrupt the pavers?*
- *If the road became public the town and taxpayers would have to absorb the expense to maintain it.*

Vote: Six in favor. Evert Krikken opposed.

Board Comment

- *Could the applicant choose to use the newer multi-family standards apply? If so, basement bulkheads didn't meet the spirit of bike storage.*
- *What did the landscaping plan detail?*
- *From which road would the two commercial lots access?*
- *What if the applicant defaulted on the consent agreement?*
- *Was there no requirement that the applicant complete the consent agreement for the application to go through?*
- *It sounded like the Board was being asked to vote on financial and technical capacity, which was different than executing a consent agreement. Could there have been material change since the March 7, 2023 letter indicating financial capacity?*

Steve Puleo stated the applicant had submitted evidence of financial capacity.

- *A letter stating the bank would finance the project.*
- *A list of similar projects that he had completed.*
- *An executed consent agreement that rectified a Zoning Board of Appeals denial of a building permit.*
- *If the Board was concerned about financial capacity they could vote only on technical capacity.*

Amanda Lessard explained it was being called out explicitly because there had been specific discussion regarding technical capacity. They had wanted to be sure the Board was comfortable with the evidence that was provided to address the review criteria for final review. Preliminary plan review still allowed the Board to request additional information for final plan submission. If they wanted to ask for updated financial documents, because of the time period from the initial submission, it was appropriate.

Evert Krikken made a motion that the preliminary plan of the Vintage Subdivision application located on Tax Map: 52, Lot 24 was to be approved with the attached findings of fact, conclusions, and conditions of approval and the additional condition for an update letter of credit from the bank.

FINDINGS OF FACT

Jurisdiction: The Vintage Subdivision development is classified as major subdivision and site plan application, which the Planning Board is authorized to review and act on by and §120-905A(2) and §120-805A(2)(d) of the Town of Windham Land Use Ordinance.

Title, Right, or Interest: The applicant has submitted a copy of a Warranty Deed from

Gary A. Pitt, Sr. and Brenda S. Pitt to P.T.G Properties, LLC, dated August 30, 2019, and recorded on September 3, 2019, at the Cumberland County Registry of Deeds in Book 42729 and Page 336.

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 52 Lot 24 is located in the C-1 zoning district.
- The property currently has two single-family homes, two detached garage structures, and a few minor accessory structures. The single-family homes are existing non-conforming use. The application is for multi-family and mix-use development, per §120-41B.
- According to §120-410F, the future commercial development for Lots 1 and 2 will not located parking is within structures front setback, the building orientation for the multi-family portion and the future commercial structure is proposed to be parallel to the front lot line, and pedestrian access must have at least one primary entrance on the building front facade.
- The new 600-foot Vintage Drive private road will be building to commercial street standard, per §120-410F(11).

ARTICLE 5 PERFORMANCE STANDARDS

§120-511 – Buffer yards

C(3)(b) For the future commercial building on Lots 1 and 2 in the Commercial Districts (C-1, C-2, C-3, C-4, VC and WC Districts) will show the use Buffer Yard G, see exhibit below.

§120-911 - MAJOR SUBDIVISION PERFORMANCE STANDARDS

§120-911A – Basic Subdivision layout

- (1) The site is 3.7 acres in size. The C1 zoning does not have a minimum lot size or require a net residential density associated with the subdivision proposal.
 - The applicant is proposing to realign the Vintage Drive by removing the "hammerhead turn around" at the intersection of Vintage Drive. The Address Officer has confirmed the road name as Vintage Drive. The realignment of the road ROW will allow eighteen (18) dwelling units to be developed on Lot 3 and twelve (12) dwelling units to be developed on Lot 4.
 - The new residential buildings will not result in undue air or water pollution.
 - During the Development Review Team meeting and per §120-911A(1)(e), Fire Department stated they would be work with the Town's Addressing Officer to number the lots and the dwelling-unit for E-911. The applicant shall provide addressing requirements for the final plan review for the Planning Board consideration.
- (2) At the Development Review Team meeting, the applicant stated all utilities will be located underground.
- (3) The preliminary plan shows granite monuments at the corners of Lot 1, 2, 3, and 4 of Vintage, Roosevelt Trail, and the "unnamed" road, that are or will be public rights-of-way (ROW) boundaries. The new road, "Vintage Drive" will be a private road and will not have granite monumentations, also the applicant shall provide granite monumentation along the property boundary line of Roosevelt Trail.

§120-911B – Sufficient Water

- (1) As previously stated, the applicant provided an "Ability to Serve" letter from the Portland Water District's water supply connections to the residential dwelling-units for domestic and fire suppression water supply lines. The applicant is proposing to connect the water supply from one common pipe to individual 1.5" domestic and fire suppression line to each dwelling unit. The applicant provided communication with Portland Water District (PWD) regarding connections to the residential dwelling-units for domestic and fire suppression water supply lines
- (2) A private fire hydrant is proposed to be located in Vintage Drive ROW, west of the curb cut for Lot 1.

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

- (1) Requires the applicant to show watercourses and drainageways or shall be provided an easement or drainage ROW and culverts, catch basins or other means of channeling surface water within the subdivision and over the property of owners abutting it.
 - o On the Watershed Map (WS-2), the applicant shows that Watersheds #1, #2 and #3 potentially drain surface water on the abutting property north and south of the subdivision, identified points "C", "B", and "F", respectively. The applicant has provided a draft drainage easement that the surface water will not be impact the abutting property.
- (2) The applicant submitted stormwater management and erosion control plans in accordance with DEP Chapter 500 Stormwater Regulations.
 - o The applicant has provided a plan meeting the MeDEP Chapter 500 Stormwater Rules, Appendix A.

§120-911D – Sewage Disposal

- (2) The final design submission includes a soil assessment for a subsurface wastewater disposal system that complies with the Maine Subsurface Wastewater Disposal Regulations. The final plan shows the soil test pit. A groundwater impact analysis was provided for review involving on-site sewage disposal facilities with a capacity of 2,000 gallons per day or more.
 - The Town Engineer' has stated he is satisfied the infiltration systems must be located to meet or exceed the minimum setback distances from existing and proposed subsurface wastewater disposal systems provided in Table 7B of the Maine Subsurface Wastewater Disposal Rules, 144A CMR 241.
 - o Based on the 800 gpd to 1600 gpd size of the proposed septic systems, the setback should be either 100' or 200', which is far greater than the proposed 6' for several of the systems. However, the application includes a hydrogeologic analysis by Marcotte Environmental that states that "The proposed stormwater infiltration structure on this site will not adversely impact groundwater elevation at the site and vicinity because there are approximately 20 feet of unsaturated sand deposits below the infiltration areas. Furthermore, the infiltration of stormwater at this site will not adversely impact the performance of the six (6) proposed multi-unit subsurface wastewater disposal fields." Based on this statement, a waiver from the setback requirement may be justified assuming the modelling performed included the inputs from the infiltrations systems.

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

- (1) As required sub-§(a), the final subdivision shall by notes not allow clearing of trees in areas where tree cover is depicted on the plan for a period of at least five (5).
 - In sub-§(b) The applicant has shown the placement of street trees, (see waiver § for the reduction of street located every 50-feet). The applicant is proposing species of street trees capable of withstanding winter conditions,
 - The applicant/owner will be responsible for the maintenance of common open space of the development. Common open space shall be shown on the subdivision plan for final plan review and shall not use for future buildings lots.

- The site has no shoreline frontage.
- The applicant submitted a "Beginning with Habitat Map" showing the location of the subject property in relation to deer wintering areas and brook trout habitat. There are no deer wintering areas or brook trout habitats shown on the property.
- The applicant shall provide a review of the site from the Maine Historic Preservation Commission as part of the final plan review.

§120-911F – Conformance with Land Use Ordinances

Subdivision Ordinance

- Standard notes and the standard condition of approval must be shown on the plan.
- The Tax Map and Lot numbers provided by the Tax Assessor shall be shown in the final plan review.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the final plan review.
- The subdivision plan shows the entire parcel including all contiguous land in common ownership within the last five years, as required by 30-A MRSA §4401.

Comprehensive Plan:

- The plan does meet the goals of the 2017 Comprehensive Plan. The proposed project is located in the North Windham Growth Area as shown on the Future Land Use Map.

Land Use Ordinance:

- The Commercial I (C1) zoning district does not require a minimum lot size and each lot has a 100' minimum lot frontage.
- Multi-family developments in C1 shall orient buildings with the front door facing the front lot lines.
- Lots 1 and 2 shall meet the front 10–20-foot setback from Route 302 and are subject to the minimum side and rear 6-foot setback. Lots 3 and 4, front yard setback from Vintage is 0-20-foot. The applicant should provide the front yard setback information on Lots 3 and 4.
- The preliminary plan application identifies multi-family residential uses for Lots 3 and 4 and undefined commercial uses for Lots 1 and 2.
- The buildings shall only be occupied by permitted uses in the C1 District.
- For the final plan review, the applicant has met standing and will provide building elevations and sign details and demonstrate how the project will comply with the Commercial District Design Guidelines in §120-813.
- For the final plan review, the Town Engineer requesting further information on the landscaping islands within Vintage Drive's ROW.
 - o "The applicant has asked for a waiver from the §120-911E(1)(b) from the installation of street trees every 50' due to proximity to the building and buried utilities. This appears to explain the lack of landscaping in the islands from STA 10+75 to the end of Vintage Drive. Can some other landscaping be provided in these areas such as shrubs trees are not practical? Where specified, what type of tree would be provided?"
- The development is subject to the following Article 12 Impacts Fees, to be paid with the issuance of a building permit: Recreation Impact Fee, North Windham Sidewalk Impact Fee (see Condition of Approval #3), North Route 302 Road Improvements Impact Fee (see Condition of Approval #3), Open Space Impact Fee, Public Safety Impact Fee, Municipal Office Impact Fee.

§120-911G – Financial and Technical Capacity

- The project site work cost estimate is \$645,000, and the 30-units of building cost is estimated to cost \$6,600,000. The applicant has provided a letter dated March 7, 2023, from Brian Desjardin, Regional Vice President of Commercial Lending of Norway Saving

Bank stating the bank has relationship with PTG Properties, Inc. and Peter and Tammy Gilman and the applicant has the financial to support the project at 626-628 Roosevelt Trail.

- *In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.*
- o *The plans and applications were prepared by DM Roma Consulting Engineers. Dustin Roma is a Maine Licensed Professional Engineer PE#12131. The Boundary Survey was prepared by Bill Shippen, PLS with Survey, Inc. Septic system design was performed by Brady Frick, LSE with Albert Frick Associates. Hydrogeologic analysis was performed by Steve Marcotte, LSE, CG with Marcotte Environmental. Traffic Engineering was performed by Bill Bray, PE, PTOE with Traffic Solutions.*
- o *On March 8, 2023 the applicant provided a list of Planning Board approved subdivisions that have been completed by the applicant in Windham and other Maine communities.*

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

- *The site and vicinity properties are served by public water and individual on-septic systems. The applicant states that there are off-site groundwater wells within 300-feet of the property.*
- *The proposed development of thirty (30) three-bedroom unit residential development will be served by six (6) non-engineered multi-unit subsurface wastewater disposal systems. The residential wastewater effluent will be treated at the point of generation by Fuji Clean CE aerobic treatment tanks and conveyed to the subsurface wastewater disposal areas.*
- *The total design for the disposal for the fields is 8,100 Gallons per day (GPD).*
- *Based on the design and location of wastewater disposal fields and stormwater infrastructure areas, the transport calculations performed as part of the Groundwater Impact Assessment, the applicant states the nitrate levels above 10 mg/l in the groundwater at the property boundary.*

§120-911I – Floodplain Management

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

§120-911J – Stormwater

- (6) Requires the applicant to include maximum developed, distributed, and impervious areas for each lot based on the definition in §3 DEP Chapter 500 Stormwater Management. The applicant has designed the stormwater management system of the proposed roadway and the developments on Lots 3 and 4 is approximately 77,362 SF (± 1.78 acres) of impervious surfaces. The proposed landscaping with the roadway and residential development is approximately 34,725 SF (± 0.80 acres) of new landscaped and lawn areas. The proposal will disturb a total of 112,087 SF (± 2.57 acres) for the newly developed area.*
- *The applicant has submitted a stormwater permit (#L-29581-NJ-A-N) issued by Maine Department of Environmental Protection, dated March 15, 2022.*
 - *The stormwater management system incorporated into the project design consists of permeable paver systems and are intended to detain and infiltrate the stormwater to provide the required flooding control. The applicant is proposing to use 9,041 SF of permeable pavers in which 4,698 SF will be used in the roadway for on-street parking spaces and 4,343 SF as part of the residential parking areas.*
 - *The applicant has provided a maintenance and inspection plan for the managing the stormwater system in the Stormwater Management Plan.*

§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 applicant stated the subdivision will not involve timber harvesting activity.

§120-911M – Traffic Conditions and Street

(1) The applicant has designed the subdivision’s transportation system to meet the general performance standards. Vintage Drive is designed to meet the Town’s commercial street standard with 22-foot-wide pavement for two-way travel, eight-foot wide porous-paved on-street parking space, and five-foot wide paved sidewalk on both sides of the proposed road providing safe circulation of vehicles and pedestrians.

(2) The applicant has designed the access to subdivision by providing 24-foot-wide interconnection with Roosevelt Trail. This intersection is unsignalized and vehicle sightlines at Route 302 meet or exceed the highway sight distance standards of 305-feet. The applicant’s Traffic study shows that the 30-unit residential development is expected to generate 220 daily trips on a typical weekday; 14 trips in the morning peak hour and 17 trips during the afternoon peak hour; 244 daily trips on Saturday and 21 trips in the peak hour trips normal Saturday. The Traffic Engineer performed an auxiliary left lane analysis for the northbound approach from Roosevelt Trail at the proposed Vintage Drive/Roosevelt Trail intersection. Based on the National Cooperative Highway Research Program (NCHRP) report 457, process concludes a dedicated left-turn is not warranted. The traffic study does not assume any trip generation for Lots 1 and 2 of the subdivision. See Condition of Approval #4.

(3) The applicant is providing a dedicated right-of-way to connect to abutting property condominium development. The applicant shall address the need of a streetlight at the intersection of Vintage Drive and Roosevelt Trail. All driveway curb cuts will require a driveway open permit from Public Works Department.

(4) The access to Vintage Drive is perpendicular to Roosevelt Trail and meets the minimum requirements in Table 3 in Appendix B. The applicant is proposing to use the porous-paver concrete blocks as a stormwater Best Management Practice (BMP) and required in the applicant’s MeDEP stormwater permitted. The Town road standards require bituminous pavement surface across the entire width of the street. The Vintage Drive does not meet the Commercial and Industrial Street standards and the applicant is requesting a waiver of §120-911M(5)(b) and plans on keeping the road a private road.

(5) The applicant shall provide an additional note if the subdivision streets are to remain private, the following words shall appear on the recorded plan: "All roads in this subdivision shall remain private roads to be maintained by the developer, lot owners or road association, and shall not be offered for acceptance, or maintained, by the Town of Windham until they meet all municipal street design and construction standards."

- The project includes a lighting plan with building mounted lighting fixtures to illuminate the sidewalks, on-street parking and parking lots next to the buildings. There will be lighting fixture mounted on 12 to 14-foot pole located behind the dumpster pad. The applicant states that the pole is at least 70 feet from the closest property line. The applicant shall provide a photometric plan, as required in §120-813C(1).
-

§120-911N – Maintenance of common elements

CONCLUSIONS

1. The proposed subdivision will/will not result in undue water or air pollution.
2. The proposed subdivision has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision will/will not cause an unreasonable burden on an existing

water supply.

4. *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.*
5. *The proposed subdivision will/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/will not provide for adequate sewage waste disposal.*
7. *The proposed subdivision will/will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
8. *The proposed subdivision will/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/does not conform with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
10. *The developer has/does not have adequate financial and technical capacity to meet the standards of this section.*
11. *The proposed subdivision is/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/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/have not been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has/has not been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will/will not 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, §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/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.*
20. *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

1. *Approval is dependent upon and limited to, the proposals and plans contained in the application dated January 22, 2024, amended on March 11, 2024, and final review on (To Be Determined) 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 with §120-815 of the Site Plan and §120-913 of the Subdivision Ordinances.*
2. *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.

3. The development is subject to the following Article 12 Impact Fees, to be paid with the issuance of building permits for the North Windham Side Impact Fee of N/A plus the cost of the annual inflation rate at the time applying for building permits; North Route 302 Road Improvements Impact Fee of \$1,530.60; Recreation Impact Fee, Open Space Impact Fee, Public Safety Impact Fee; and Municipal Office Impact Fee.

4. At the time Lots 1 and 2 are approved for development, the applicant or applicants are required to address the cumulative traffic generation from all the lots within the subdivision and pay the North Route 302 Road Improvements Impact Fee.

Seconded by Christian Etheridge.

Vote: All in favor.

New Business

- 8 [PB 24-021](#) #24-08 - Shoreland Zoning - Planning Board Marina Review - Marston Road Slips, LLC
 The application is to add 16 boat slips to the existing private marina at the end Marston Road on the Sebago Lake Basin. The property is in the Limited Residential Shoreland Zoning District which allows for Marinas with a Planning Board review and approval. Tax Map: 72; Lot: 48; Zone: Limited Residential Shoreland Zoning District in the Sebago Lake watershed.

Attachments: [24-08 PB MEMO SHORELAND ZONE MarstonBoatSlip_030724.pdf](#)
[f](#)
[24-08 SR&C](#)
[MEMO SHORELAND ZONE MarstonRoadSlips_022724.pdf](#)
[24-08 SHORELAND ZONE APPLICATION MartonBoatSlips_012224.pdf](#)
[24-08 SHORELAND ZONE DRAWING MartonBoatSlips_012224.pdf](#)
[Public Comments Nadeau_030624.pdf](#)
[Public Comments Schneider_030624.pdf](#)
[Photo Sheets for Marston Road Slips.pdf](#)
[Public Comments Concerns 24-08 for Marston Road Slips LLC expansion_030724.pdf](#)
[Public Comments McLain_030624.pdf](#)
[Public Comments Theriault_030824.pdf](#)
[Public Comments Smith_030824.pdf](#)
[Public Comments Smalley_030824.pdf](#)
[Public Comments Kohler_030824.pdf](#)
[Public Comments Durgin_030824.pdf](#)
[Public Comments DianaCobert_030824.pdf](#)
[Public Comments SeanCobert_030824.pdf](#)
[Public Comments Talon_030924.pdf](#)
[FAQ on Towns Ordinance Authority over MDIFW Moorings.pdf](#)
[Public Comments Hall_031124.pdf](#)
[Comments Shoreland DirectorClark_030824.pdf](#)
[Public Comments WalkerBowman_031124.pdf](#)
[Public Comments JimGoode_031124.pdf](#)
[Public Comments Evangelou_031124.pdf](#)
[Public Comments Bancroft_031124.pdf](#)

Dustin Roma, of DM Roma Consulting Engineers was present representing the application. He explained:

- *The marina was in condo ownership. There were 24 existing boat slips.*
- *At the time of conversion, a declaration document was filed with the Registry of Deeds which detailed the creation, management, and potential future phases of the marina.*
- *Parking was located at the intersection of Hackett and Marston Roads. There was additional parking space on other land that was owned by the condominium.*
- *The existing dock was 120 feet long with a permanent portion and segments which provided for the 24 boat slips.*
- *The same size and type of dock would be used to extend to approximately 210 feet.*
- *They understood that neighbors had concerns with parking; traffic on private roads; and use of the marina around their properties. In response to parking issues, they had determined that the proposed 16 slips, units 25 through 40, would not have deeded access to the parking area for passenger vehicles.*
- *Their intent had been to provide access to some of the area residents, and existing slip owners.*
- *In addition to town requirements for the application, they were required to meet State*

and Federal requirements for docks and marinas.

Steve Puleo reviewed:

- There were eight positive findings required by the Planning Board, as contained in the Shoreland Zoning Ordinance.
- Members of the community had provided written comments.
- Any enforcement action was outside of the Board's authority.
- DEP and Army Corp of Engineers didn't regulate temporary docks. The Department of Conservation did regulate moorings and slips through the Department of Inland Fisheries and Wildlife (IF&W).
 - o Under IF&W regulations, the dock length would be limited to 200 feet if the town didn't regulate the length of the dock.
 - o How would the existing slips be regulated? Did they have permission from IF&W or would they have to be moved?
- The applicant had indicated, with parking access prohibited for the new slips, owners would be expected to walk from their homes.
- The town's attorney concurred that the applicant had the right to expand the number of slips under the association's reserved rights and the association members approval of the expansion was not required.
- Additional evidence provided by IF &W regarding the regulations for mooring or slips beyond 200 feet was requested by staff.
- The Planning Board had to review the application under the requirements of the Shoreland Zoning Ordinance.

Board Comment

- A sitewalk was requested.
- Photos of Hacket Road, a private road that led to the marina were not included in photos that had been submitted. Did the road association have any say whatsoever about all the vehicles travelling over a private road?
- The shoreland zoning ordinance didn't prohibit the Board from doing a sitewalk.
- Several of the eight required positive findings seemed to be things that required visual inspection of the property.
- How would the applicant prevent people from parking in the lot? It was understood that some of the slips were rented. People already parked golf carts where they shouldn't. Where would the golf carts park? There were already issues with parking.
- Was enforcement of parking a private matter, not a town concern?
- Could the Board consider indirect affects of adding the docks?
- Would not being able to exceed 200 feet in length stop the application?
- Were there requirements for the toilet facilities depending on the number of slips?

Amanda Lessard suggested having the town's attorney provide an opinion regarding the Board's authority to do a sitewalk.

Evert Krikken made a motion to conduct a sitewalk for project number 24-021.

Seconded by Kathleen Brown.

Vote: All in favor.

- 9** [PB 24-023](#) #24-06 – Major Subdivision and Site Plan- Sketch Plan Review – Daigle Field Condominium - 1 Daigle Drive and 65 Nash Road - Benjamin, Sandra, and David Daigle
- The application proposes the combination of two parcels into a single development lot. The proposal will develop the property with nine additional

single-family dwelling units and manage it as a 10-unit condominium conservation subdivision. Tax Map: 12B; Lots: 4A& 4A-02 Zone: Farm District (F), and the Pleasant River watershed.

Attachments: [24-06 PB MEMO MAJOR SUB SKETCH PLAN DaigleFieldCondominium_030524.pdf](#)
[24-06 SR&C MEMO DaigleFieldsCondo_022624.pdf](#)
[24-06 SKETCH PLAN RESPONSE DaigleFieldCondominium_030724.pdf](#)
[24-06 SKETCH PLAN APPLICATION DaigleFieldCondominium_012524.pdf](#)
[24-06 SKETCH PLAN REV DRAWINGS DaigleFieldCondominium_030724.pdf](#)
[Public Comments Rampino 030924.pdf](#)

Dustin Roma, of DM Roma Consulting Engineers was present representing the application. He explained:

- *They proposed to rejoin two lots, which had previously been divided; to eliminate Daigle Drive as a street, and to convert it to a condominium driveway for the condo units in the conservation subdivision.*
- *Unit one was a single-family dwelling which currently existed. Nine additional units would be built.*
- *Wetlands that had been delineated on the site.*
- *Some areas of steep slopes existed.*
- *They needed to cross one wetland but would otherwise maintain the 100 foot setback.*
- *An existing stone wall along the tree line would be preserved.*
- *Some area of encroachment for construction of the paved roadway would occur within the 50 foot buffer for a conservation subdivision. The area was open field and no trees would be removed. Negative impacts should not result from the encroachment.*
- *About 17 feet of the garage on the existing house would be removed to create better site distance.*
- *Individual septic systems were planned.*
- *The Fire Department did not think additional turn around area was needed along the road.*

Steve Puleo explained there was a site plan component to this application in addition to the conservation subdivision because there were more than three multi-family dwellings.

- *The access drive had to meet the major private road standard.*
- *Open space hadn't been defined yet.*
- *Reduction of the 50 foot buffer requirement was a potential waiver request.*
- *Ten units were allowed, based on the analysis that had been submitted regarding the poorly drained soils and wetlands. That may change relative to additional wetland analysis and resource inventory.*
- *The buildings would need residential fire suppression systems.*
- *Underground utilities would come in from Nash Road.*

Board Comment

- *Who currently owned the existing house?*
- *They were already talking about a waiver for putting the roadway in a buffer. There was technicality around the language of the ordinance and how waivers were determined.*
- *Was there a difference between the standard of construction for the existing 100 feet of roadway vs. the proposed?*

- *Were there any sidewalks?*
- *How would trash be collected?*
- *The Police Chief had requested a light at the entrance.*

10

[PB 24-022](#)

#24-12 - Major Subdivision - Betty Lane Subdivision - Sketch Plan Review - Betty Lane - RCI, LLC

The application is to develop a new conservation subdivision with a minor private road of 850' in length. The applicant will construct the road in the general location of the named private driveway, Betty Lane. The proposal is to provide six (6) building lots of about 30,00 SF in size, with the remaining area as open space. Tax Map: 6; Lot: 26; Zone: Farm District (F) in the Colley Wright Brook watershed.

Attachments: [24-12 MAJOR SUB SKETCH PLAN APPLICATION BettyLaneSubdivision_022024.pdf](#)
[24-12 MAJOR SUB SKETCH PLAN DRAWINGS BettyLaneSubdivision_022024.pdf](#)
[24-12 MAJOR SUB SKETCH PLAN RESPONSE BettyLaneSubdivision_022024.pdf](#)
[24-12 MAJOR SUB SKETCH PLAN REV DRAWINGS BettyLaneSubdivision_030424.pdf](#)
[24-12 PB MEMO MAJOR SUB SKETCH PLAN BettyLaneSubdivision_030524.pdf](#)
[24-12 SR&C MEMO SKETCH PLAN BettyLaneSubdivision_030124.pdf](#)
[DEP Remediation letter_052020.pdf](#)
[FC Comments_030524.pdf](#)

Steve Roberge, of SGR Engineering was present representing the application. He reviewed the application:

- *They proposed a six lot conservation subdivision.*
- *The new paved road would be located in the same area as the former Betty Lane and built to the minor local road standard.*
- *There was a large wetland on the property.*
- *The entire site was wooded. One area of open space would be used to provide a buffer to the development and for stormwater soil filter ponds.*
- *They needed a stormwater Permit by Rule from DEP.*
- *They proposed a trail system for residents.*
- *They would request a waiver for density. Calculations put them roughly 1,500 feet short of allowing six lots after the required deductions.*
- *Utilities would be underground.*
- *Lots would have private wells and septic.*
- *Stormwater would be captured in detention ditches.*

Steve Puleo explained:

- *The Fire Chief would allow a cistern for fire protection. The best location would be within the first hundred feet of the development and would need a turn-out.*
- *Landscaping would be required to fill gaps.*
- *Waivers from submission requirements had been granted by the Planning Director or were pending receipt of more information:*
 - o *High intensity soils mapping*
 - o *Hydrological analysis – pending receipt of more information*
 - o *Traffic impact analysis*
 - o *Minimum open space requirement – pending receipt of more information*

Board Comment

- *They qualified for seven lots, wanted six, but the way it was designed could only do five?*
- *Wetlands, steep grades, and floodplains were included in the deductions, that was not the applicant's fault.*

Other Business

11 Election of Planning Board Chair and Vice Chair

Evert Krikken nominated Marge Govoni.

Shonn Moulton nominated Rick Yost.

Four in favor of Marge's nomination.

Vice Chair

Gale Savard nominated Evert Krikken for Vice Chair.

Vote: Six in favor. No one opposed. Evert Krikken abstained.

12 Adjournment

Evert Krikken made a motion to adjourn.

Seconded by Christian Etheridge.

Vote: All in favor.