



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Planning Board

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Monday, June 24, 2024

6:30 PM

Council Chambers

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#### 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: Christian Etheridge, Anne Daigle, Evert Krikken, Kathleen Brown and Rick Yost.*

*Planning Director, Steve Puleo, was also present.*

#### 3. [PB 24-054](#) Approval of Minutes - May 13, 2024

**Attachments:** [Minutes 5-13-2024 - draft](#)

*Kathleen Brown made a motion to approve the minutes of the May 13, 2024 meeting.*

*Seconded by Anne Daigle.*

*Vote: All in favor.*

### **Public Hearing and Continuing Business**

4. [PB 24-050](#) #23-34: Major Site Plan - Natural Wonders Daycare - Final Plan Review - 184 Pope Road - Windham School Age Children Association, Inc.  
THE Final Hearing WAS POSTPONED FROM THE MAY 13th and June 10th AGENDA.  
The applicant is requesting final approval to build a childcare facility spanning 5,920 square feet on a 2.5-acre lot located at 184 Pope Road. The proposal calls for the construction of a facility capable of accommodating up to 64 children and staffing it with 12 to 16 employees, as well as parking, stormwater facilities, and a fenced-in playground area. Tax Map 43, Lot 30 A-2: Windham Center (WC) zoning district in the Pleasant River watershed.

**Attachments:** [23-34 REVS FP PB MEMO NaturalWondersDaycare 061824.pdf](#)  
[23-34 MSP FP APPLICANTS RESPONSE PB COMMENTS NaturalWondersDaycare 061824.pdf](#)  
[23-34 2ndREVS MSP FP PLAN NaturalWondersDaycare 061824.pdf](#)  
[TE Comments to Response 060624.pdf](#)  
[23-34 SR&C MEMO NaturalWondersDaycare 053124.pdf](#)  
[23-34 REVS MSP APPL NaturalWondersDaycare 060524](#)  
[23-34 REVS MSP PLAN NaturalWondersDaycare 060524](#)  
[23-34 REVS MSP StormwaterReport NaturalWondersDaycare 060524](#)  
[23-34 REVS MSP TurningTemplate NaturalWondersDaycare 060524.pdf](#)  
[23-34 MSP FP SR&C APPLICANT RESPONSE NaturalWondersDaycare 060324](#)  
[23-24 REVS MSP APPL NaturalWondersDaycare 060324](#)  
[23-34 SR&C MEMO NaturalWondersDaycare 053124](#)  
[23-24 REVS MSP APP NaturalWondersDaycare 052024.pdf](#)  
[23-34 REVS MSP PLAN NaturalWondersDaycare 052024](#)  
[23-24 MSP ARCHITECTURE 120-813A NaturalWondersDaycare 052024.pdf](#)  
[23-34 MSP FP APPL NaturalWondersDaycare 031124](#)  
[FD Comments to Response 060424](#)  
[ASSESSOR Comments 052824](#)

*Austin Fagan was present representing the applicant. He explained:*

- *The building and site design had been changed to address abutter concerns.*
- *They requested a waiver of the parking space size requirement from 30 percent to 29 percent.*

*Rick Yost joined the Board.*

*Beth Schidzig, the project architect, explained:*

- *There were two entrances to the building, one for infants and one for everyone else.*
- *The building contained multiple rooms for the different ages of children. The preschool room had been shifted further away from the neighboring property to address abutter concerns.*
- *More windows had been added to the building to meet ordinance requirements.*

*Steve Puleo reviewed:*

- *The building would have a green clapboard and stone façade and met ordinance criteria.*
- *The 24 foot wide access would be one-way, in from Pope Road.*
- *Parking consisted of 22 angled parking spaces, with two for ADA compliance. Nine parking spaces were the 10 by 20 feet.*
- *Drop off and pick up times would be scheduled every 15 minutes to reduce the chances of queuing on Pope Road*
- *A large infiltration basin would treat stormwater before it was discharged. The town's engineer was satisfied with stormwater management.*
- *Lights would be on a motion sensor.*

- *Landscaping along an eight foot tall, solid fence was proposed for buffering to the abutting residence.*

*Evert Krikken made a motion that the major plan application for project 24-34 Natural Wonders Daycare was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Kathleen Brown.*

*Vote: All in favor.*

#### *Public Comment*

*Sara Treat, Pope Road – She stated it did not belong in a neighborhood. If any of the Board members had a house where hers, or the other abutter were, they would feel the same. Trees didn't make noise buffers, didn't cut sound at all. The fence may do a little bit. What was their recourse if they started to queue on Pope Road, or if the lighting became intrusive? Headlights would go into all the houses. Had there been a traffic study? She wished the Board would say "No" and hoped it didn't happen in their neighborhood.*

*George Hillman, Pope Road – His concerns had mainly to do with traffic safety. He wondered if enough time was spent with the town planning for the traffic. Traffic was pretty heavy sometimes on Pope Road, and he also had concerns with pedestrian safety.*

*Julia Trepanier, the applicant's project manager, stated the kids wouldn't be outside all day. They would like to have them outside as much as possible. Currently, they went outside about 30 minutes before school and if it was nice for 45 minutes to two hours later in the day. They were aware of the situation and planned to be as mindful as possible.*

*There was no other public comment. Public comment was closed.*

*Consensus of the Board was the waiver wasn't necessary because parking already met the ordinance.*

*Evert Krikken made a motion to strike the waiver request for parking and loading.*

*Vote: All in favor.*

#### *Board Comment*

- *Were the buffering trees deciduous or evergreen?*
- *It was difficult to determine the noise level, given the varied ages of the children, and more than the Board's responsibility to say how many kids could go outside, and when.*
- *It would be appropriate not to light the sign.*
- *What could the town do in a case where the noise limit was being exceeded?*
- *Ultimately it either passed muster or didn't. The Board was only determining if it met town laws.*
- *The windows didn't meet the required minimum.*
- *Board members were sensitive to the situation. The reality was the zoning district allowed the use. They had to allow permitted uses to happen.*

*Evert Krikken made a motion that the major site plan application for the 23-24 Natural*

*Wonders Daycare development identified on Tax Map: 44; Lot: 30-A02; Zone: Windham Center District (WC) zoning district and located in the Pleasant River watershed is to be approved with conditions with the following Findings of Fact, Conclusions, and Conditions of Approval.*

#### **FINDINGS OF FACT**

*Jurisdiction: The Natural Wonders Daycare project is classified as a Major Site Plan, which the Planning Board is authorized to review of the 5,817 SF building and act on by §120–805A(2)(a) of the Town of Windham Land Use Ordinance.*

*Title, Right, or Interest: The applicants has submitted a copy of a Quitclaim Deed with Covenant from Bruce A. Worrey to the Windham School Age Childcare Association, Inc, dated December 29, 2022 and recorded on N/A at the Cumberland County Registry of Deeds in Book 39921 and Page 73.*

#### **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 43 Lot 30 A-2 is located in the Windham Center District (WC).*
- *The existing and proposed use is “Child-care facility”, a permitted use in the WC District §120-415.1B.*
- *Per §120-415.1E(b)[1], the applicant is showing a buffer yard along Pope Road 15 -feet in width. The applicant shall provide a landscaping plan for the area.*

#### **ARTICLE 5 PERFORMANCE STANDARDS**

##### **§120-514 – Child-care facility**

- A. Child-care facilities must have a license from the Department of Health and Human Services to operate the facility.*
- B. All outdoor play areas shall meet applicable State of Maine requirements with regards to boundaries or fencing.*

##### **§120-812 – MAJOR SITE PLAN PERFORMANCE STANDARDS**

##### **§120–812A – Utilization of the Site**

- *The subject parcel is approximately 2.50 acres (108,900 SF).*
- *The site fronts along Pope Road.*
- *The applicants are proposing to construct 5,920 SF of new buildings, which will be located in the northwest of the parcel, approximately 50 feet from the front property boundary line, a 32-space paved parking lot, a play area, the location of the wastewater disposal field, a stormwater BMP location, walkways, and a dumpster pad enclosure.*
- *The plans show driveway access from Pope Road to the site improvements.*
- *The applicant’s sketch plan shows wetlands areas and the 75’ stream setback from the stream on the site. The site design is to limit the extent of clearing and excavating the site.*

##### **§120–812B – Vehicular Traffic**

- (1) The site is located on the southern side of Pope Road and is approximately halfway between the Pope Road intersections with Route 202 (Gray Road) and Swett Road.*
  - (a) The applicant does not expect to impact any road intersections within a half mile of the project.*
- (2) The access is designed to have minimum sight distance on Pope Road and the entrance which has a 35-mph speed limit has a sight distance of 380’ to west and 580’ to east, exceeding the minimum sign distance required by MDOT. The project is expected to generate 60 AM peak hour vehicle trips per 60 PM peak hour vehicle trips. The*

applicant had provided a traffic study Traffic report review by the Town's third-party Traffic Engineer, per §120-811B(2)(h). The Town Traffic Engineer support the applicant's traffic engineer that no significant impacts for the daycare traffic is expected.

(4) The applicants have designed the site to allow internal vehicular circulation to provide safe movement of passenger, service, and emergency vehicles through the site. The site will have a 24' curb cut from Pope Road to accommodate parents, employees, and first responders' circulation. The Fires Department has reviewed the one-way traffic circulation and access to the to three sides of the new building.

#### §120-812C – Parking and Loading

(1) The applicant has designed the off-street parking layout to accommodate a total of 31 parking spaces including two (2) Handicapped accessible parking spaces. The plan shows nine (9), 10' x 20' in size, 90° parking spaces, accessed by a 24' wide travel lane located along the north side of the proposed building to allow convenient parking for the infant care portion of the facilities and 45 degrees, 22 parking spaces will be 9' x 18' in size and will be located on the easterly side of the proposed building. The applicant is proposing to include two ADA parking spaces, a striped drop-off area next to the building, and a looped 24' wide travel way from a driveway accessing Pope Road.

(d) The applicant is proposing to provide nine (9) 10' x 20' parking spaces of the total 32 spaces provided, which signifies only 29% of the parking will be 10' x 20' in size. The applicant will provide a waiver of §120-812C(1)(d) Parking and loading for a reduction of the 30% requirement for 10' x 20' parking space to 29% for the final major site plan application.

(2) The applicant states that the proposed number of spaces is adequate to provide parking for approximately 16 employees and parents visiting the new daycare building. The applicant shall provide a site lighting plan to allow the Planning Board to determine if the lighting will provide for safe pedestrian movement.

#### §120-812D – Pedestrian Traffic

- The applicant is proposing to provide a 5' wide raised bituminous sidewalk with curbing along three sides of the proposed building. On the west side facility, a decorative chained linked fenced playground area is proposed. The fenced playground area will have one (1) gated accessed from the grounds and four doorways to the building. The applicant is not proposing to construct a sidewalk along the Pope Road frontage.

#### §120-812E – Stormwater Management

(1) The applicants shall provide for final review a stormwater management system design to collection and disposal of all the stormwater that runs off from parking, roofs, travel way, play area, and other surfaces through a stormwater management plan to protect abutting or downstream properties.

(f) Major site plans, regardless of the size, shall comply with Section 4C(2) and 4C(3) of the General Standards of the DEP Chapter 500 Stormwater Management Law.

- The site is not located in the Town's Urbanize Area regulated by the MS4 (Municipal Separate Storm Sewer System).

#### Town Engineer's Comments May 31, 2024

##### Stormwater/Drainage

- The Applicant has submitted a Stormwater Management Report that includes a hydraulic analysis demonstrating that the design meets the Town's flooding standard 120-812.E(1)(a).

- The Applicant's Stormwater Management Plan states that they don't need to meet the General Standards in Maine DEP Ch. 500. However, Windham's Site Plan Review ordinance 120-812.E(1)(f) says that Major site plans, regardless of size, shall submit a stormwater management plan that complies with Section 4C(2) and Section 4C(3) of the General Standards of the DEP Chapter 500, Stormwater Management, as amended.

Since this is a Major Site plan it is required to meet the Ch. 500 General standards, which includes Section 4C(2) and Section 4C(3) of that chapter. Please provide information to demonstrate compliance with the treatment requirements.

- There is a typo on the invert elevation of the soil filter underdrain pipe. The plan says 284.50', but it should be 204.50'.
- The plans show 4" diameter underdrain pipes, but the HydroCAD hydraulic analysis uses a 6" diameter underdrain pipe. Please confirm which it is. Also please:
  - o Provide a spillway analysis of the filter basin to ensure that there is one foot of freeboard with the emergency spillway as the sole outlet for the 25-year storm, i.e. the underdrain is plugged.
  - o Verify that the water quality volume will be released from the filter basin in 24-48 hours as recommended by Maine DEP BMPs.

The Town Engineer has accepted the applicant responses to the above concerns and satisfied with the stormwater management system.

#### *§120–812F – Erosion Control*

(2) The applicant has provided for the final plan review an Erosion and Sedimentation Control plan that will meet the Basic Standards per Section 4(A) of the MeDEP Chapter 500 Stormwater Rules.

#### *§120–812G – Water Supply Provisions*

(1) Portland Water District (PWD) will be extending both domestic and fire suppression water lines to sprinkler the daycare facility building from Pope Road.

- The applicant shall provide for final review a PWD "Ability-to-Serve" letter or email.
- At the Development Review Team meeting, the Deputy Fire Chief commented, "If food preparation is done even on a residential stove, an approved sprinklered exhaust hood shall be provided, meeting NFPA 72."
- The Fire Chief reviewed the revised plans and a truck turning template for the largest town fire truck and supported the fire access.

#### *§120–812H – Sewage Disposal Provisions*

- The applicant has provided HHE-200 Subsurface Wastewater Disposal System Application dated November 28, 2022, in which the Site Evaluator has designed to contain two (2) 1,000 gallons treatment tanks to an undetermined size stone bed wastewater disposal field.

#### *§120–812I – Utilities*

- The applicants are proposing to connect the wastewater treatment facility via underground utility lines (electrical, telephone, and telecommunication services) from Pope Road.
- A utility and grade plan has been provided and the Town Engineer accepted the plan.

#### *§120–812J – Groundwater Impacts*

- The development will be connected to the PWD public water system, and the wastewater disposal system is not anticipating a disposal system with a capacity of 2,000 gallons per day (GPD).

#### *§120–812K – Water Quality Protection*

- The applicant states the daycare facility is designed to protect Windham's water quality by using a public water system and a state-approved wastewater disposal system, and the day-to-day operations do not require substances that are not hazardous, such as fuels, industrial chemicals, or waste, etc.

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

(1) *The proposed wastewater treatment facility does not anticipate handling, storing, or using any materials identified by the federal or state as hazardous, special, or radioactive. The applicants have provided a list of any materials that would fit in those categories for the final plan review and have made provision for safe storage and handling of the materials.*

*§120–812M – Shoreland Relationship*

- *The proposed development is not located in a shoreland zoning district.*

*§120–812N – Technical and Financial Capacity*

(1) *The applicants estimate of the project cost of \$310,540. A financial capacity letter shall be provided for final plan review. The applicant has provided their Secretary of State certificate of good standing dated November 28, 2023.*

(2) *The applicant has hired BH2M consulting engineer for the design and permitting of the daycare facilities.*

*§120–812O – Solid Waste Management*

- *The construction debris associated with the new building will include clean wood, material packaging, cardboard, etc. The solid waste generated by the project will be minimal and will be stored inside the building in a solid waste container and disposed of at a licensed disposal facility.*

*§120–812P – Historical and Archaeological Resources*

- *The applicant shall provide evidence from the state showing that there are no historic or archaeological resources onsite.*

*§120–812Q – Floodplain Management*

- *The proposed building is not in a mapped FEMA 100–year floodplain hazard area.*

*§120–812R – Exterior Lighting*

(1) *The applicant will provide an acceptable lighting plan with hooded or shielded fixtures, cut sheets, and locations for the final plan review. The direct or indirect illumination shall not exceed 0.5 footcandles at the lot line or upon abutting residential properties.*

(2) *The applicant will connect all light poles and other exterior light fixtures underground.*

- *The applicant will use controlled lighting on the back of the building facing the abutter's home and will be motion detector and will only come on at night if a motion occurs.*

*§120–812S – Noise*

- *The proposed daycare 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.*

- *The site abuts residential uses; therefore, no construction is allowed between the hours of 10:00 pm and 6:00 am.*

- *The daycare's Executive Director stated that they have relocated the building and the outdoor play area over 30 feet further away from the abutter's residence which will allow the daycare to maintain existing hemlocks located along the property's boundary line. On June 18th, the applicant monitored, on an iPhone, 50 decibels by 6.5-year-old and 2.5-year-old children playing and loudly yelling 20 feet away with trees in between.*

- *The applicant believes that by moving the building approximately 30 feet from the adjoining residential property, installing a solid 8-foot fence, and plantings, and retaining the existing hemlock trees along the property boundary, the childcare facilities will comply with the town's noise ordinance.*

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

- *The applicant has not provided a landscaping plan and a planting schedule or location for snow storage.*
- *The applicant has provided a location for a dumpster, concrete pad, and screening for dumpster enclosure.*
- *Locations for the snow storage is shown revised sheet 1, dated June 18, 2024*

*§120–813 Commercial District Design Standards for Commercial District (In addition to meeting all the Design Standard in the WC district, the applicants must comply with a minimum of eight (8) other Design Standards.)*

*§120–813A – Architecture/Building (Required for Final Plan Review)*

- *Required: §120–813A(1): Building style. The building is not a national franchise prototype and is not stylized to the point where it is a form of advertising. The building style is a single-story cottage style, at a residential scale and height to fit in with the surrounding neighborhood.*
- *Required: §120–813A(2): Materials. The exterior materials include vinyl clapboard and shingle siding, solid PVC or Aluminum covered wood trim. The exterior windows shall either vinyl siding or stone veneer, locations as designated on the Exterior Elevations for the final plan.*
- *Required: §120–813A(3): Color. There will be two different colors for the siding and white trim and roof facias.*
- *Required: §120–813A(4): Roofline. The roof is a combination of three (3) gabled roof with slopes of 6/12 and 5/12 at the main entrance gables. Each public entrance is covered by a gable roof matching the building gable slope above it.*
- *Required: §120–813A(5): Facades. The building's front (north) façade will be facing Pope Road. The east façade shows the main entrance to the building and a conference/multipurpose room separated by a natural landscape tween them. The Preschool was pulled back from the rest of that façade to move the play area further away from the property line for privacy. The architect has designed the front façade with at least 40% transparent openings, see the applicants response to the Planning Boards comments dated June 6, 2024.*
- *Required: §120–813A(7): The building's entrances shall be clearly defined and highly visible. The (North Elevation) will be facing Pope Road. It is the Main Entrance for the Infants only to arrive. The Main Entrance to all other areas of the building will be at the East Elevation.*
- *Required: §120–813A(8): Architectural details. The architectural details are typical of a simple Maine cottage style exterior with roof overhangs and fascias, exposed columns at entrances, and trim.*
- *Optional: §120–813A(9): LEED certification. LEED certification was not a requirement of this project. Sustainable / recycled materials have been selected for many of the building materials.*

*§120–813B – Site/Parking*

- *Optional: §120–813B(4): Orientation of Building. The front of the building is facing Pope Road.*
- *Required: §120–813B(5): Screening, parking. The parking will be located in the front of the building, parallel to Pope Road and the driveway entrance will lead to parking and one way loop drive leading back to driveway entrance.*
- *Required: §120–813B(6): Screening, Utility, and Service Areas. The dumpster will be screened with fencing and landscaping.*

*§120–813C – Landscaping/Lighting*

- *Optional: §120–813C(2): Lighting Coordinated with Architecture. All lighting is design*



to fit in the design of the building. Exterior lighting will be controlled by motion sensors.

- *Optional: §120–813C(3): Lighting Coordinated with Landscaping.* All lighting is located to avoid dark area cause by the landscaping plantings next the building.
- *Required: §120–813C(4): Existing Trees Preserved.* The applicant is proposing keep as many large existing trees along the westerly property boundary to protect the abutter from the outdoor play area and to preserve the existing trees to buffer the stream and wetlands.
- *Required: §120–813C(5): Snow Storage Areas Designated.* The applicant has not provided the locations on-site for snow storage, see sheet 1 for storage locations.
- *Optional: §120–813C(7): Planting suitability.* The applicant has chosen northern hardy plant species for the Buffer yard along the frontage and the play area.
- *Optional: §120–813C(9): Illumination levels.* The applicant is using motion detected lighting on the building. The light will only go on when motion detected.

#### *§120–813D – Bicycle/Pedestrian*

- *Optional: §120–813D(1): Continuous internal walkways.* The applicant is providing a continuous internal walkway around three sides of the building.
- *Optional: §120–813D(3): Outdoor activity.* The applicant is providing a fenced play area for the children.
- *Optional: §120–813D(5): Crosswalks for sidewalks.* The applicant is providing a crosswalk from the sidewalk in front of the building to the parking area.
- *Required: §120–813D(6): Bicycle parking and racks.* The applicant has shown the location of a bike rack.

#### *CONCLUSIONS (Required)*

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 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 the 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 groundwater.*
11. *The proposed site plan will provide for adequate stormwater 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 with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonably 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. *All freshwater wetlands within the proposed site have been identified on the plan.*

15. Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.

**CONDITIONS OF APPROVAL (REQUIRED)**

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated November 23, 2023 as amended June 10, 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 or §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. Before the required pre-construction meeting with staff and before any land use activities begins, the applicant shall provide to Planning Director a Portland Water District (PWD) authorization letter for the fire suppression and domestic water line design or any outside agencies approvals.
4. The development is subject to the following Article 12 Impact Fees, to be paid with the issuance of new building permits for the fit up of the new uses: Public Safety Impact Fee; and Municipal Office Impact Fee. All fees will be determined and collected for any building, or any other permit for the development, Section 120-1201C.
5. The applicant shall modify the front elevation to meet the 40 percent transparent opening requirement and provide a redesigned elevation to the Planning Director.

Seconded by Christian Etheridge.

Vote: All in favor.

## **Public Hearings**

5. [PB 24-048](#) #24-05 - Major Site Plan - Lippman Park Expansion and Stormwater Management Improvements - 1 and 2 Plaza Drive - Final Plan Review - JAMAR, Inc. and the Town of Windham Parks and Recreation Department
- The application is to revise the stormwater pond designed to accommodate additional development for an expansion to Donnabeth Lippman Park and additional future commercial development at 1 and 2 Plaza Drive. The project includes sitework to create a 2.5-acre lawn area for public park use, the construction of a gravel parking for 34 vehicles, and a future dog park on the property. Tax Map: 18; Lot: 19A and 20; Zoning: Commercial I (C-1), Farm (F), Resource Protection (RP) Shoreland Zone, and Aquifer Protection Overlay District A (APA) districts and located in the Chaffin Pond and Sebago Lake watershed.

**Attachments:** [24-05 MSP FP PB LippmanParkExpansion\\_061224.pdf](#)  
[24-05 MSP FP APP LippmanParkExpansion\\_052024.pdf](#)  
[24-05 MSP FP PLAN LippmanParkExpansion\\_052024.pdf](#)  
[24-05 MJR SP FP SR&C LippmanParkExpansion\\_053124](#)  
[ESC Comments\\_052924](#)  
[Applicants Response to Comments\\_060624](#)  
[Applicants Response to TE Comments\\_060624.pdf](#)

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

- *The application was an amendment to the Plaza Drive 1 and 2 site plan, in addition to the expansion plan for Donnabeth Lippman Park.*
- *The creation of a park space would be located inside of a ten acre parcel of the property. The 2.5 acre space would be cleared and regraded as a green space.*
- *The parking lot size would be doubled, with improvements to vehicle circulation and a gravel parking lot.*
  - o *The current road would be revegetated, and vehicles redirected to the new parking area.*
  - o *Children would no longer have to cross the road to reach the playground, improving their safety.*
- *The no-disturb buffer to Chaffin Pond would be maintained.*
- *Stormwater ponds were a replacement for those designed for the Plaza. Capacity was being expanded to handle additional flows from the park.*
- *The were waiting for the DEP stormwater permit.*

*Steve Puleo reviewed the application:*

- *Donnabeth Lippman park was a municipal park and recreation facility.*
- *Stormwater improvements would accommodate the added parking area and future development on Plaza Drive.*
- *A ten foot wide stone dust path would be constructed.*

*Evert Krikken made a motion that the major site plan application for project 24-05 Lippman Park Expansion and Plaza Drive Stormwater Management Improvements was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Kathleen Brown.*

*Vote: All in favor.*

*Public Comment*

*There was no public comment. The public comment was closed.*

*Board Comment*

- *The plan was well thought out.*
- *It was good they were improving the playground road; it had been an issue.*
- *Where did the path end?*

*Evert Krikken made a motion that the major site plan application for the 24-05 Lippman Park Expansion and Stormwater Management Improvements development identified on*

*Tax Map: 18; Lot: 19A & 20; Zone: Commercial 1 (C-1) and Farm (F) zoning, Resource Protection (RP) Shoreland Zone, and Aquifer Protection Overlay District A (APA) zoning district and located in the Chaffin Pond and Sebago Lake watershed is to be approved with conditions with the following Findings of Fact, Conclusions, and Conditions of Approval.*

#### *FINDINGS OF FACT*

*Jurisdiction: The Lippman Park Expansion and Plaza Drive Stormwater Management Improvements project is classified as a major site plan, which the Planning Board is authorized to review the park expansion and construction of the three (3) stormwater filter pond and act on by §120-805A(2)(c) of the Town of Windham Land Use Ordinance.*

*Title, Right, or Interest: The applicants have submitted a copy of an Amendment to Conservation from JAMAR, INC. and TOWN OF WINDHAM dated January 29, 2020 and recorded on February 21, 2020 at the Cumberland County Registry of Deeds and found in Book 28710 and Page 185.*

#### *ARTICLE 4 ZONING DISTRICTS*

- As shown on the Town of Windham Land Use Map approved by the Town Council, date August 15, 2023, Tax Map 18 Lot 19A and 20 is located in the C-1, F, RP, and Aquifer Protection Overlay District A (APA).*
- The proposed use in the conservation easement will be passive recreation facility use, which is a permitted use in the in APA district, per §120-416B(3). Uses allowed in the underlying zoning district (RP district) shall only be permitted if allowed in APA district.*
- The proposed improvements, include the creation of 2.75 acres of lawn area and gravel parking lot to accommodate thirty-four (34) vehicle parking lot, in the conservation easement area are allowed use the RP District, per §185-13A. The above uses are permitted in shoreland zoning RP district as shown in the Table of Land Uses, per §185-14.*

#### *§120-542 – Parking and Loading*

*A. The applicants shall meet the parking and loading standards in Article 8, site plan review, and shall apply to the uses in all zoning districts (see the site plan analysis).*

#### *§120- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS*

##### *§120-812A – Utilization of the Site*

- Parcel Map 18 Lot 19A, which includes the conservation easement and the undeveloped portion of 2 Plaza Drive, is approximately 14.3 acres, or 622,908 SF, in size.*
- Parcel Map 18 Lot 20, which includes 1 Plaza Drive property and Plaza Drive roadway is approximately 0.84 or 36,590.4 SF in size.*
- The applicants are proposing to construct a portion of the parking area and a 10-foot-wide stone dust walkway in the RP district, between 110 and 150 feet from the high water of Chaffin Pond.*
  - o The improvements are located to minimize environmentally sensitive areas, such as gravel aquifers and unique natural communities.*
  - o For the final plan review, the applicant has provided a map showing the unique natural communities and how the improvements will minimize the impact on the gravel aquifer areas, as stated in §120-416A.*

##### *§120-812B – Vehicular Traffic*

(1) Access to the new thirty-four (34) gravel parking area is by the existing 22-foot wide gravel road, Chaffin Pond Road. The parking area will be connected to Chaffin Pond Road by two (2) gravel 22-foot-wide access driveways.

(a) The applicants do not expect to impact any road intersections within a half mile of the project.

(2) The access to the new parking area is designed to have minimum sight distance, according to MDOT, to avoid hazardous conflicts with existing turning movements, to avoid traffic congestion, and to prevent queuing of vehicles entering and exiting the site.

(4) The applicants have designed the site to allow internal vehicular circulation to provide safe movement of passengers, service vehicles, and emergency vehicles through the parking area.

#### *§120-812C – Parking and Loading*

(1) The applicant has designed the off-street parking layout to accommodate a total of thirty-four (34) parking spaces. The plan shows the typical parking stalls to be 10' x 20' in size, with 90° parking spaces, accessed by a 24' wide travel lane between the rows.

(2) The applicant states that the proposed number of spaces is adequate to provide parking for the improvements to Lippman Park. The applicants state the park closes at dusk; therefore, no lighting on the site is proposed.

#### *§120-812D – Pedestrian Traffic*

- The improvement connection is a walking path to the new parking area. Chaffin Pond Road is a dead-end road where the park is used for passive recreation activities.

#### *§120-812E – Stormwater Management*

(1) The applicants have provided for the final plan review a stormwater management system design for the collection and disposal of all the stormwater that runs off of the parking area, the expanded lawn area, a plan showing the selected trees being preserved, and the proposed area for future development on the Plaza property through a stormwater management plan to protect adjoining or downstream properties.

(f) Major site plans, regardless of the size, shall comply with Section 4C(2) and 4C(3) of the General Standards of the DEP Chapter 500 Stormwater Management Law.

- The site is not located in the Town's Urbanize Area regulated by the MS4 (Municipal Separate Storm Sewer System).

*Town Engineer's comments and Applicant's response in red dated June 6, 2024:*

- Based on review of the Stormwater Management report, the Applicant has demonstrated compliance with the applicable Phosphorus Standard in Ch. 500 using a combination of treatment in 3 underdrain soil filter basins and paying a mitigation fee for the excess phosphorous that will be discharge to the Sebago Basin. One question I have is whether the Applicant can confirm that the stormwater design depicted on the plans and modeled in the application is based on the parking lot & roads footprint and building footprints shown on the plans included in the Maine DEP Amendment Stormwater Permit Application submitted to DEP in December 2021.

- o The stormwater management report and analysis is based on the design submitted to MDEP, which includes additional development on Plaza Drive that is not part of the Site Plan application.

- The Stormwater Management Report doesn't directly address the Town's Flooding Standard in Ch. 120-812. Although I don't disagree with the statement that the storm drains are adequately sized to handle the 25-yr storm, can the change in flow from pre- to post-development be quantified?

- o To meet the phosphorus standards, all three of the stormwater filter basins were designed with over 160% design volume capacity to increase the effective treatment factor. As a result, the ponds are 60% larger than what would typically be designed for a project of this size to manage stormwater flows. This increased capacity in the ponds

results in vastly more water being detained and filtered through the underdrains. The stormwater calculations contained in the report show that the overflow spillway would only flow 1.5 cfs during a 25-year storm with all other outlets blocked, and this flow discharges directly to the wetlands that connect into Outlet Brook. These calculations contained in the report indicate that the peak flows are being adequately maintained post-development.

- Will there be anything used to delineate the edge/limits of the new parking area?
  - o Similar to the existing parking lot, there will be no markings to delineate parking spaces on the gravel surface. The two parking lots (existing and proposed) are separated by a wide grass strip which helps to delineate the two separate parking areas.
- The applicants have agreed to Conditions of Approval #4.

#### §120-812F – Erosion Control

(2) The applicants have provided for the final plan review an Erosion and Sedimentation Control plan that will meet the Basic Standards per Section 4(A) of the MeDEP Chapter 500 Stormwater Rules.

#### §120-812G – Water Supply Provisions

- (1) The improvements to the passive recreational facility do not require public water.
- o The Fire Chief stated at the Development Review Team meeting that the department is satisfied with the access to parking and the park expansion.

#### §120-812H – Sewage Disposal Provisions

- The project does not require a sewage disposal system.

#### §120-812I – Utilities

- Utilities connections are not needed.

#### §120-812J – Groundwater Impacts

- The park improvements will not create ground impacts. The stormwater will convey surface runoff the filter pond water quality treatment facilities before conveying the treated runoff to Outlet Brook

#### §120-812K – Water Quality Protection

- The applicants state the design of the project is to protect the Town of Windham's water quality by modifying the stormwater filter pond to treat the runoff to meet Chapter 50 standards.

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

- (1) The project will not store any special hazardous and radioactive materials.

#### §120-812M – Shoreland Relationship

- The proposed development is located in a shoreland zoning RP district. The proposed use is recreational and is included in both RP and APA zoning districts.
  - o The project is located partially within the Resource Protection Shoreland Overlay Zone, which is generally defined as the land within 250 feet of Chaffin Pond. The project proposes to construct a gravel parking lot, a stone dust trail, and a lawn area to be used as a public park facility. Section 185-14 in the Shoreland Zone Ordinance indicates that "Parking Facilities", "Road and Driveway Construction" and "Public and Private recreational areas involving minimal structural development" are all permitted with approval from the Planning Board.
  - o The project is located partially within the Aquifer Protection Overlay District A. "Passive Recreation Facility" is listed as an allowable use in the district.
  - o The Amendment to the Conservation and Recreation easement was attached to the

application and is recorded in CCRD Book 36443 Page 252.

*§120–812N – Technical and Financial Capacity*

- (1) *The applicants have not provided an estimated cost of the development. A financial capacity letter has provided, explaining the breakdown costs of the design, permitting, and construction of the improvements for the Lippman Park expansion and the Plaza.*
  - o *Jamar, Inc. has provided their Secretary of State with a certificate of good standing.*
- (2) *The applicants have contracted DM Roma Consulting Engineers for the design and permitting of the Lippman Park Expansion and Stormwater Facilities Improvement project. The applicants shall provide the Land Surveyor or any other professional involved with the design and permitting of the project.*

*§120–812O – Solid Waste Management*

- *The solid waste generated by the construction of the project will be minimal and be disposed of at a licensed disposal facility.*

*§120–812P – Historical and Archaeological Resources*

- *The applicants have provided evidence from the state showing that there are no historic or archaeological resources onsite.*

*§120–812Q – Floodplain Management*

- *The applicants are not proposed to impact the mapped FEMA 100–year floodplain hazard area.*

*§120–812R – Exterior Lighting*

- (1) *The project is not proposing site lighting.*

*§120–812S – Noise*

- *The proposed Lippman Park Recreation Facility expansion shall not exceed 60 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.*

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

- *The applicant has not provided a landscaping plan or location for snow storage. The applicants have provided a landscaping plan for the improvement of Lippman Park.*
- *There are trash receptacles, which are maintained by the Town of Windham Park and Recreation Department, as well as the grounds of Lippman Park.*

*CONCLUSIONS (Final)*

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 not be maintained and protected to the maximum extent.*
4. *The proposed site plan has/does not have 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/will not provide 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 the 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 groundwater.*
11. *The proposed site plan will provide for adequate stormwater management.*
12. *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.*
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. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the site has been identified on any maps submitted as part of the application.*

#### CONDITIONS OF APPROVAL (REQUIRED)

1. *Approval is dependent upon and limited to the proposals and plans contained in the application dated January 22, 2024 as amended June 10, 2024, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with §120 -815 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. *Per 38 M.R.S. § 439-A(10) Photographic record required. A municipal ordinance adopted pursuant to this article must require an applicant for a permit for development within the shoreland zone to provide to the municipal permitting authority preconstruction photographs and, no later than 20 days after completion of the development, postconstruction photographs of the shoreline vegetation and development site.*
4. *Before the pre-construction and any land use activities, the applicant shall provide the Planning Director with the amended stormwater permit for the Plaza Drive subdivision from the Me DEP.*
5. *Improvements to the 2 Plaza Drive property will require site plan approval prior to the development of any buildings and parking areas.*

*Seconded by Christian Etheridge.*

*Vote: All in favor.*

6. [PB 24-047](#) #24-18: Major Subdivision and Site Plan - Astral Village Subdivision - Preliminary Plan Review - 0 Tandberg Trail - JR Holding Company, LLC.  
The application is to construct an 11-unit residential development is on 2.07-acre site. The development will connect to public water in the Tandberg Trail ROW. Tax Map 18-A, Lot 48-1: Commercial II (C-2) zoning district in the Presumpscot River watershed.



**Attachments:** [24-18 MSUB-SP PRLM PB MEMO AstralVillage 061224.pdf](#)  
[24-18 MJR SUB-SP PRLM SR&C AstralVillage 052431](#)  
[24-18 MSUB-SP PRLM APPL AstralVillage 052024.pdf](#)  
[24-18 MSUB-SP PRLM PLAN AstralVillage 052024.pdf](#)  
[24-18 MJR SUB-SP PRLM Grading&UtilityPlan AstralVillage 060624](#)  
[24-18 MJR SUB-SP PRLM AssessorComments 060324](#)  
[24-18 MJR SUB-SP PRLM ESCComments 052924](#)  
[24-18 MJR SUB-SP PRLM PublicComments Christie 060924.pdf](#)  
[24-18 MJR SUB-SP PRLM PublicComments DeHof 060924.pdf](#)

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

- *They proposed two multi-family buildings separated by parking.*
- *There would be in excess of two parking spaces per unit.*
- *They would install a watermain on site to provide for both fire protection and potable water.*
- *Two on-site wastewater systems had been designed for 22 bedrooms .*
- *There would be a dumpster, with enclosure and private trash removal.*
- *A paved vehicle turn-around would be constructed at the end of the road.*
- *Stormwater would be collected in a stone catch basin and drain to a stormwater basin downhill.*
- *The existing driveway entrance was to be relocated for improved site lines.*
- *The landscaping plan had been submitted.*
- *An existing driveway, at the rear of the property, would be removed and the wetlands revegetated.*
- *The eastern slope would be rip-rapped.*

*Steve Puleo explained:*

- *The buildings would be sprinkled.*
- *The Fire Chief was satisfied with access.*
- *An existing culvert would be replaced at the curb cut*
- *An internal walkway would connect at Tandberg Trail.*
- *The site was in an MS4 area and required annual monitoring and reporting.*
- *Submission requirement waivers had been requested, and granted by the Planning Director, for the high intensity soil study and hydrogeologic assessment.*

*Evert Krikken made a motion that the major site plan/subdivision application for project 24-18 Astral Village Subdivision project was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Christian Etheridge.*

*Vote: All in favor.*

*Public Comment*

*Larry DeHoff, Basin Road – His property abutted the subject property. He hadn't seen or heard anything about stormwater discharge that occurred right at the property. There was a pond within 10 to 15 feet of a proposed back door. There was a steep slope. He didn't*

see the existing stream through the wetland, which came out at the culverts. There should be a buffer and he hoped that would be investigated. The design of the facility was coming within ten feet of the property line. He requested a barrier between his property for privacy. There was no play space or grass for children. It was steeply sloped and seemed an inappropriate place to put 11 units on that small piece of property.

Mr. Dehoff had submitted a letter which would not be read into the record because he had just stated his comments.

Jean Christy, Basin Road – She had also submitted written comments and was concerned about the intense development with steep slopes, which was to be raised an additional four feet from its current level. Rip rap was located right on their property line. Trees would be cut within ten feet of line. Rather than sloping toward the river it would slope onto their property. She was concerned with new runoff onto their property that wasn't there before. Bare soil would erode quickly and then collapse. She was concerned about the steep slope, number of buildings, and impervious surface, and the potential for future erosion. The volume of storm drainage would increase from additional development; it seemed a lot of impervious surface in a small area. They had reached out to DOT and the Police Chief with concerns about turning traffic and traffic speed. She requested a privacy fence because seven homes would be looking into their back yard.

No more public comment. Public comment was closed.

#### Board Comment

- What was the difference between a hydrogeologic assessment and a hydrogeologic evaluation?
- Multi-family design standards required screening to existing residential uses.
- There was a requirement for a minimum of 15 percent total lot area to be designated and permanent for usable recreational open space. They would need 300 square feet of outdoor amenity area. How would they do that?
- The various required calculations should be shown on the plans.
- Did the units have basements?
- Would there be any access to Basin Road?

Evert Krikken made a motion that the preliminary plan review for the 24-18 Astral Village Subdivision development identified on Tax Map: 18A; Lot: 48-1; Zone: Commercial II (C-2 zoning district and located in the Presumpscot River watershed is to be approved with conditions with the following Findings of Fact, Conclusions, and Conditions of Approval.

#### FINDINGS OF FACT

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

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

#### ARTICLE 3 DEFINITIONS

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

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**ARTICLE 4 ZONING DISTRICTS**

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

**ARTICLE 5 PERFORMANCE STANDARDS****§120-511 – Buffer yards**

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

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

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

**§120-911 - SUBDIVISION PERFORMANCE STANDARDS****§120-911A – Basic Subdivision layout**

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

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

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

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

- (1) For the preliminary plan review, the applicant has provided a soil erosion and sediment control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed, and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP documents.
- (2) For the preliminary plan review, the developer has provided a statement for the Maine licensed professional civil engineer shall prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- (3) For the preliminary plan review, the applicant or developer shall consider the topsoil

as part of the subdivision is not to be removed from the site. The applicant will comply.

(4) Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion.

*§120-911D – Sewage disposal*

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

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

(1) The applicants are developing the access driveway and dwelling units in the open space of the site, preservation the natural beauty and aesthetics.

(a) For preliminary plan review, the applicant has provided a note not allowing the clearing of trees where tree cover is depicted on the plan for at least five years.

Mandatory buffer for stormwater or other reasons shown on the plan shall not be cleared of vegetation unless the Planning Board grants an amendment to the subdivision or maintenance that does not alter the purpose for which the buffer was required.

(b) For preliminary plan review, the applicant has provided a landscape plan including the planting along Tandberg Trail.

(2) For final plan review, if the applicant sells a dwelling unit; the Town will require condominium owner's association documentation recorded accounting for the reservation or dedication and maintenance of open space and/or common land, facilities, such as the stormwater management system, among others, and service.

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

*Comprehensive Plan:*

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

*Land Use Ordinance:*

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

*Subdivision Ordinance*

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

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

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

(1) For preliminary plan review, the applicant has provided evidence of financial and estimated cost of development. The estimated cost of development is \$2,000,000 and the applicant has provided a bank letter dated May 20, 2024 from Mr. Jason Straetz, Vice President fo Gorham Saving Bank, stating that JR Holding Group, LLC has the financial capacity to complete the development.

(1) For preliminary plan review, the applicant shall provide evidence of technical capacity. The applicants have contracted DM Roma Consulting Engineers to manage the permitting and design of the development.

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

(1) For preliminary plan review, the applicant has provided evidence that the subdivision will not increase any contaminant concentration in the groundwater and shall meet the State primary drink water standards. The applicant has requested a submission waiver of . §120-910C(3)(c): Hydrogeologic Assessment, the Planning Director has issues an approval to the submission waiver required.

(2) The applicant has provided evidence the proposed subdivision shall not result in

*adversely impacting the water table.*

*§120-911I – Floodplain Management*

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

*§120-911J – Stormwater*

- The project will require a Chapter 500 Stormwater Management Law permit for MeDEP.*

*Town Engineer's comments and Applicant responses in red from June 6, 2024:*

*Plans*

- The Grading and Utility Plan (GU-1) shows several areas on the site that will be 2:1 slopes. Please clarify how these slopes will be stabilized.*
- Provide additional contouring or spot grades on the northwest end of the parking lot to clarify how the stormwater drainage will get to CB-1 and the Stormwater Filter Pond*
- Will Units 8 through 11 be daylighted? If so, what will be the finish floor at that level?*
- Show proposed snow storage locations on site plan sheet.*

*The Town Engineer is satisfied with the applicant's response to the above concerns.*

- For final plan review, the applicant shall provide condominium documents include a draft deed for the units with covenants and restriction, by-laws, and stormwater maintenance and inspection plan, among other requirements.*

*§120-911K – Conservation Subdivision*

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

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

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

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

- The applicants are expecting low traffic demand for the eleven (11) residential dwelling units.*
- For the final plan review of the site plan section for more information, per §120-812B and §120-814.*

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

- For the final plan review, the applicants shall provide draft condominium association documents for the Town Attorney's review.*

*CONCLUSIONS (N/A)*

- 1. The development plan reflects/does not reflect the natural capacities of the site to support development.*
- 2. Buildings, lots, and support facilities will/will not 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/will not be maintained and protected to the maximum extent.*
- 4. The proposed site plan has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.*
- 5. 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.*
- 6. 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.*

7. *The proposed site plan will/will not provide adequate sewage waste disposal.*
8. *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.*
9. *The developer has/does not have the adequate financial capacity to meet the standards of this section.*
10. *The proposed site plan will/will not alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.*
11. *The proposed site plan will/will not provide for adequate stormwater management.*
12. *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.*
13. *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.*
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 stormwater 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 has/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. *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

1. *Approval is dependent upon and limited to the proposals and plans contained in the application dated April 22, 2024, as amended (TBD Final Approval Date), and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with §120-815 and §120-914 of the Land Use Ordinance.*
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. *If the developer sells any dwelling units before the sale of the first dwelling, they must record the Condominium or Homeowners Association Bylaws, Covenants, and relevant documentation pertaining to the care and maintenance of the access driveway, stormwater management system, and open space areas in the Cumberland County Registry of Deeds (CCRD). Additionally, the developer must submit a copy of the recorded documentation to the Planning Department for verification.*

4. Per §120-815C(1)(b), construction of improvements covered by any site plan approval shall be completed within two (2) years of the date upon which the performance guarantee is accepted by the Town Manager. If construction has not been completed within a specified period, the Town shall, at the Town Manager's discretion, use the performance guarantee to either reclaim and stabilize the site or to complete the improvements as shown on the approved plan.

5. Recreation Impact Fee, Open Space Impact Fee, Public Safety Impact Fee; and Municipal Office Impact Fee. All fees will be determined and collected for any building, or any other permits necessary for the development, §120-1201C.

Seconded by Rick Yost.

Vote: All in favor.

## Other Business

[PB 24-059](#) Rules for the Planning Board review

**Attachments:** [Rules of the Planning Board 07-24-23.pdf](#)

*Rules of the Planning Board*

*Kathleen Brown made a motion to accept the rules of the Planning Board as presented.*

*Seconded by Christian Etheridge.*

*Vote: All in favor.*

## 7. Adjournment

*Evert Krikken made a motion to adjourn.*

*Seconded by Christian Etheridge.*

*Vote: All in favor.*