



PLANNING BOARD MEMO • MAJOR SITE PLAN AND CONDITIONAL USE • FINAL PLAN REVIEW

DATE: October 15, 2024

TO: Windham Planning Board
FROM: Evan O'Connor, Town Planner
Cc: Kirk Ball, Acheron Engineering; Agent
David Fowler, Sebago Solar, LLC; Applicant
Steve Puleo, Planning Director

RE: #24-21 – Major Site Plan – Sebago Solar – 9 Maisie Road – Final Plan Review – Sebago Solar, LLC

Planning Board Meeting: October 28, 2024

Overview –

The Sebago Solar project was previously approved in 2021 but construction did not start within the permitted window. The applicant is now proposing to construct an 10.98 acre ground mounted solar array facility. Construction will also include the grading of the field for access road and array installation, revegetating all disturbed areas, and closing the gavel pit in the parcel. Tax Map: 23; Lot: 4B; Zone: Residential Light (RL) zoning district and located in the Sebago Lake watershed.

A Development Review Team meeting was held on June 12, 2024 and a sitewalk with the Planning Board on September 21, 2024. Comments received during the meeting are reflected in the memo below.

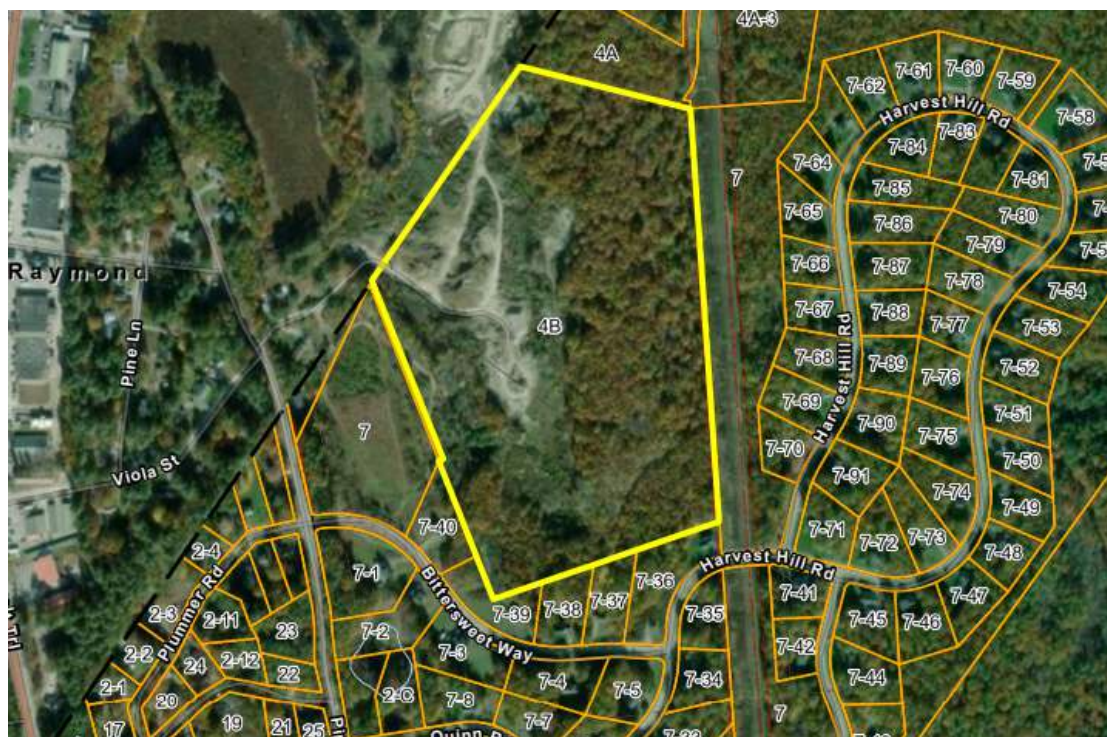


Figure 1. Aerial view of the subject parcel relative to surrounding properties and street network.

SITE PLAN REVIEW

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

Staff Comments:

1. Complete Application:

MOTION: [I move] the major site plan and conditional use applications for project #24-21 Sebago Solar is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.

2. Waivers:

None requested.

3. Public Hearing: The Planning Board held a public hearing on September 23, 2024, the hearing was continued to October 28, 2024.
4. Site Walk: The Planning Board held a site walk on September 21, 2024.

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

MOTION: [I move] the major site plan and conditional use applications for project #24-21 Sebago Solar on Tax Map: 23; Lot: 4B; Zone: Residential Light (RL) zoning district and located in the Sebago Lake watershed is to be (**approved with conditions/denied**) with the following Findings of Fact, Conclusions and Conditions of Approval.

FINDINGS OF FACT

Jurisdiction: The Sebago Solar project is classified as a Solar Energy System and Major Site Plan, which the Planning Board is authorized to review and act on the proposed large-scale solar energy system by [§120-556B\(1\)](#) and utilization of 10.98 acres of land for the solar array by [§120-805A\(2\)\(c\)](#) of the Town of Windham Land Use Ordinance.

Title, Right or Interest: The applicant has submitted a copy of Memorandum of Solar Option and Land Lease between R.N. Willey & Sons Excavating, Inc. (Lessor) and Sebago Solar, LLC (Lessee) a Maine limited liability company dated December 27, 2019, valid through December 27, 2024. A warranty deed dated October 2, 2000, for Stanley P. Quinn Jr. to R.N. Willey & Sons Excavating, Inc. recorded on October 2, 2000, at the Cumberland County Registry of Deeds in Book 15765 and Page 154.

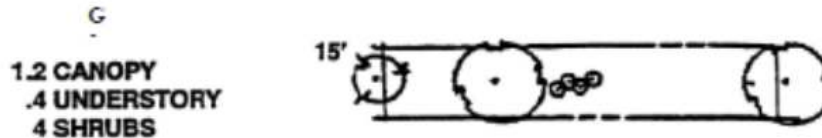
ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date April 9, 2024, Tax Map 23 Lot 4B is in the Light-Density Residential District (RL), [§120-408](#).
- The proposed land use, “Solar energy system - ground-mounted, large scale,” is permitted use as a conditional use in the RL District, per [§120-408C\(14\)](#), and in [Article 5](#) Performance Standards.

ARTICLE 5 PERFORMANCE STANDARDS

§120-511 Buffer Yards

- Per [§120-556E\(2\)\(b\)](#), the applicant has provide a buffer plan to meet Buffer Yard performance standards detailed in [§120-511](#). The proposed site falls in the Light Residential (RL) zoning district and must meet the standards for Buffer Yard G (see image below).



- The layout of the limit of the south end of the project has been moved further north. This revision allows the existing vegetation buffer at the southern parcel boundary that will be a minimum of 50 feet in depth. The site plan has been revised to include buffering along the northern limit of the project.

§120-556 – SOLAR ENERGY SYSTEMS PERFORMANCE STANDARDS

§120-556A. Purpose

- The purpose of solar energy systems is to provide local, renewable, and non-polluting energy resources that can reduce fossil fuel dependence and emissions.

§120-556C. Dimensional Standards

- The applicant is proposing to set back 50 feet of structural setback from the property boundary line. The height of the solar array is not exceeding 22 feet in height for the system.
- The applicant is proposing the setback for all property boundary lines to meet the requirements of [§120-556C\(2\)](#) of at least 30 feet in which a perimeter fence will define the interior location of the solar arrays.

§120-556D. Standards for roof-mounted and ground-mounted solar energy systems.

- The applicant is working with the Code Enforcement Officer, with input from the Town Engineer, and the Fire Chief, and will meet all safety standards of large-scale ground mounted solar energy system.
- The solar energy system and wiring shall meet National Fire Prevention Association (NFPA 1) and National Electrical Code (NFPA 70) and will be review and permit by the Town’s Electrical Inspector.

§120-556E. Additional standards for medium- and large-scale ground-mounted solar energy systems.

- There are several existing utility poles and overhead power lines around the property boundary, but no new utility poles or overhead lines are being proposed in the application.
- The applicant is designing the project to minimize the visual impact by retaining existing vegetation and promoting the establishment of natural vegetation over time. A natural forested buffer will remain to the east that exceeds 300 feet. The project fence line is set back 70 feet from the south. The southern section of the fence will include fencing screen Hedge Slats to mimic natural hedges.
- The site is currently undeveloped and is primarily forest with areas of forested wetlands. The proposed forested wetland disturbance area is 2,408 SF of the non-jurisdictional wetland disturbance equals 12,501 SF. The proposed project shall limit the amount of [land clearance](#) necessary for the construction, operation, and maintenance of the solar energy system. All disturbed areas shall be seeded with a native pollinator friendly mix.
- The applicant shall provide for a final review of [decommissioning plan](#) and if the project is approved the staff will review the applicant’s abandonment, decommissioning, and surety evidence for compliance with the solar energy systems performance standards, see COA #3 and #4.

COMPREHENSIVE PLAN

This project meets the goals and objectives of the [2024 Comprehensive Plan](#).

§120- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS

§120-812A – Utilization of the Site

- The total parcel size is approximately 38.59 acres, with the proposed solar array occupying 10.98 acres of the parcel.
- The site design includes the installation of solar panels oriented to the north with a private access driveway from across the Raymond/Windham line, an equipment pad located at the northwestern part of the site.
- The abutting properties to the north of the property are residences which are located in the town of Raymond.
- Fire and safety access for the project will be provided via two gates. A second emergency gate will be located on the former pit road, ensuring adequate emergency response access.

§120-812B – Vehicular Traffic

- (1)** The site will be accessed by a superelevated maintenance access road coming from the Town of Raymond. The Town has extended the approval the road and intersection modification of Maisie Way and Pipeline Road, along with stormwater improvements and water quality treatment infiltration basin

§120-812C – Parking and Loading

- (1)** The project will be closed to all pedestrians and local traffic. The applicant shall post the access as maintenance access road.

- The access road will be used for maintenance vehicles only, and the applicant has agreed to mark the road as restricted to maintenance access.
- The access road will be maintained year-round for emergency and service vehicle access, which includes winter plowing, sanding, and salting.

§120-812D – Pedestrian Traffic

- No pedestrian access is permitted.

§120-812E – Stormwater Management

(1) The access road is superelevated from STA 1+00 to the end to direct stormwater flow toward the meadow buffer.

- Cross-section A-A has been added to the plan to clarify the drainage direction.
- Stormwater management complies with DEP Chapter 500 standards and the Maine Construction General Permit.

§120-812F – Erosion Control

(2) The applicant will be required to meet the DEP Maine Construction General Permit Standards and the Chapter 500 Stormwater Rules: Basic Standards during the clearing and construction of the site. Soil erosion and sedimentation will be minimized and will not result in off-site impacts on watercourses and bodies of water.

§120-812G – Water Supply Provisions

- Solar energy system developments do not require a water supply.

§120-812H – Sewage Disposal Provisions

- The solar development does not require a private subsurface wastewater disposal (septic) system.

§120-812I – Utilities

- Poles and utility connections will occur through Raymond, Maine, and therefore, an overhead utility connection waiver is not required for this project.

§120-812J – Groundwater Impacts

- The solar energy system does not require a water supply or sewer system.
- A groundwater spring has been identified on the subject property. The Plan has been modified to include a 75-foot long stone level spreader. The purpose of the level spreader is to intercept the spring water, prevent it from channelizing, and convert to sheet flow to promote infiltration.
- The discharge from the spring is not currently conveyed to an adjacent parcel. During pit operations discharge has been controlled by creating infiltration basins within the pit area.
- The spring water discharge identified on the property will remain onsite and be managed through a 75-foot long stone level spreader to prevent channelization and ensure proper infiltration.

§120-812K – Water Quality Protection

- No harmful substances will be stored or used on the proposed site.

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

- (1) Handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special, or radioactive are not being proposed. Storage of flammable or explosive liquids, solids, or gases is not being proposed.

§120-812M – Shoreland Relationship

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

§120-812N – Technical and Financial Capacity

- (1) The applicant states the project development costs is \$4.1 million. The applicant provided a bank letter from Cathrine G. Dorion VP of M&T Bank, stating the applicant has had a long-standing banking relationship M&T Bank.
- The applicant will provide financial assurance for the costs of decommissioning the existing active gravel pit.
 - The applicant will also provide a Decommissioning Surety as required per §120-556E(4).
- (2) The applicant has contracted with Acheron Engineering for zoning, permitting, financing, engineering, and environmental permitting support.

§120-812O – Solid Waste Management

- The proposed solar array is not anticipated to generate solid waste.

§120-812P – Historical and Archaeological Resources

- The applicant has provided 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

- The applicant has designed the lighting to meet the town's dark sky ordinance, ensuring minimal glare and preventing light spill onto adjacent properties.
- Lighting is for security purposes only and utilizes motion sensors to limit illumination during non-operational hours.

§120-812S – Noise

- The noise level at the property must not exceed 55 dBA from 7:00 am to 10:00 pm and 45 dBA from 10:01 pm to 6:59 am.
- Construction activities cannot occur between the hours of 10:00 pm and 6:00 am.
- The applicant has provided information related to the noise output generated by the tracker motor used for the solar array. The data provided indicates a sound pressure level below the applicable limit of 55 dBA.

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

- The applicant is not proposing to store materials on-site.

- The solar facility does not generate solid waste; therefore, a dumpster or similar large collection receptacles are not proposed for the solar energy system.

§120-516 CONDITIONAL USE REVIEW

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

§120-516(H)(1) - Property Value

- The applicant states that as the prior use of the property was a gravel pit, the new proposed use of a solar facility would not decrease the surrounding property values.
- The applicant has provided studies that show no considerable decrease in surrounding property values with the installation of solar facilities.

§120-516(H)(2) - Wildlife Habitat

- The applicant states that there are not any habitats of concern on or near the project site.

§120-516(H)(3) - Botanical Species

- The applicant retained Atlantic Resources Co. to conduct a rare, threatened, and endangered species survey and found no evidence of any plant or animal species listed on the site.

§120-516(H)(4) - Potable Water

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

§120-516(H)(5) - Sewage Disposal

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

§120-516(H)(6) - Traffic

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

§120-516(H)(7) - Public Safety

- The project is an unmanned facility which will be completely fenced. The project is not anticipating any additional traffic requiring a heighten police, fire, and rescue services.

§120-516(H)(8) - Vibration

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

§120-516(H)(9) - Noise

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

§120-516(H)(10) - Off-Street Parking and Loading

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

§120-516(H)(11) - Odors

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

§120-516(H)(12) - Air Pollution

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

§120-516(H)(13) - Water Pollution

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

§120-516(H)(14) - Erosion and Sediment Control

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

§120-516(H)(15) - Hazardous Material

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

§120-516(H)(16) - Zoning District and Performance Standards

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

§120-516(H)(17) - Solid Waste Management

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

§120-516(J) – Inspections

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

CONCLUSIONS (for final plan review)

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. **Not Applicable:** 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. **Not Applicable:** 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. **Not Applicable:** 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** 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 subdivision **has** been identified on any maps submitted as part of the application.

CONDITIONS OF APPROVAL

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated June 3, 2024, revised October 4, 2024, as amended October 28, 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 [§120-815F](#) 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. Abandonment or Decommissioning
 - a) Removal Requirements: At such time that the ground-mounted solar energy system described in this approval has reached the end of its useful life or has been abandoned consistent with the Abandonment description within this condition of approval, it shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - i. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - b) Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town

retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

4. Surety: The applicant will provide financial assurance for the decommissioning costs in the form of a performance bond, surety bond, 'evergreen' letter of credit, or other means acceptable to the Town, for the total cost of decommissioning. The applicant will have the financial assurance mechanism in place prior to construction and will re-evaluate the decommissioning cost and financial assurance at the end of years, five, ten, and fifteen. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Town for review.
5. Approval is dependent upon the applicant obtaining approval for the Town of Windham's Director of Code Enforcement & Maine DEP regarding the modification for the Mineral Extraction site decommissioning plan. Prior to the pre-construction meeting, the applicant shall provide written approval to the Director of Planning to modify the mineral extraction site closure plan by retaining the existing tree line and eliminating the 2:1 grading areas that require tree removal.