



## PLANNING BOARD MEMO • MAJOR SITE PLAN • SKETCH PLAN REVIEW

DATE: June 25, 2024

TO: Windham Planning Board  
FROM: Steve Puleo, Planning Director  
Cc: Kirk Ball, Acheron Engineering  
David Fowler, Sebago Solar, LLC  
Jasmine Lopez, Planning Intern

RE: #24-21 – Major Site Plan – Sebago Solar – 9 Maisie Road – Sketch Plan Review – Sebago Solar, LLC  
Planning Board Meeting: **July 1, 2024 (Special Meeting)**

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### 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 11 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. Comments received during the meeting are reflected in the memo below.

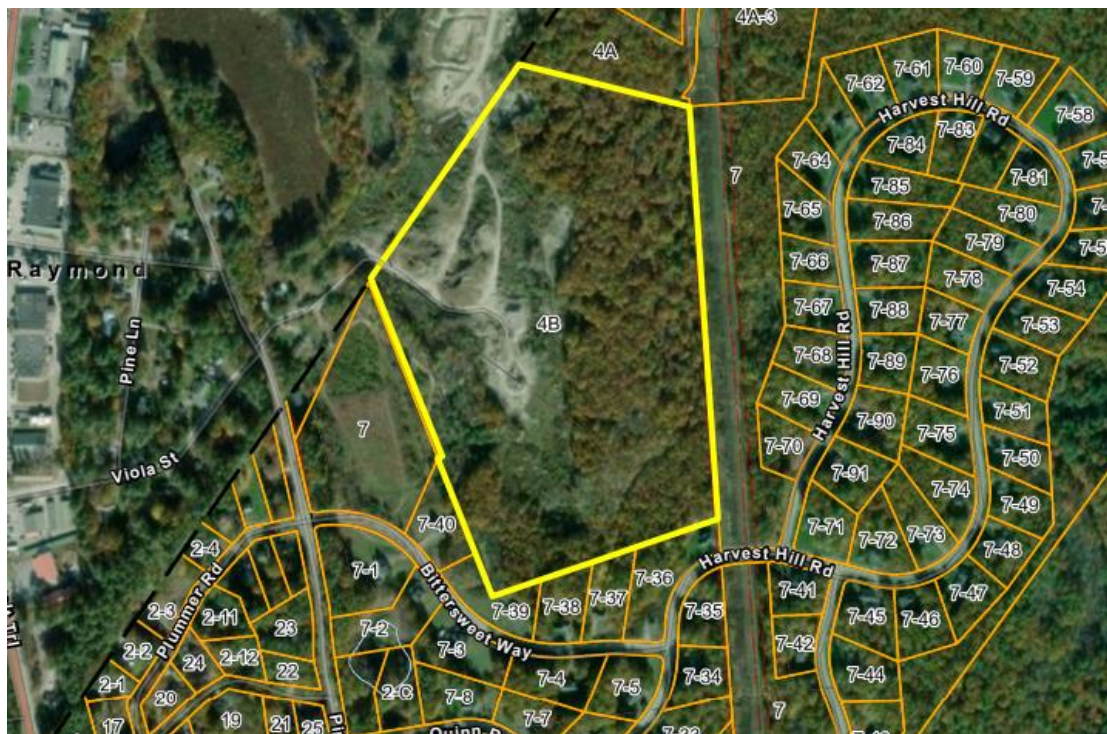


Figure 1. Aerial view of the subject parcel relative to surrounding properties and street network.

## **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: N/A

**MOTION:** ~~[I move] the major site plan application for project #24-24 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:

*Waiver of Submission Requirements: The Planning Director, or designee, may waive any of the submission requirements of [§120-811](#) based upon a written request by the applicant. Such a request shall be submitted at the time of the preapplication conference for minor developments or as part of the sketch plan application for major developments. A waiver of any submission requirement may be granted only if the Planning Director, or designee, finds that the information is not required to determine compliance with the standards and criteria of the Land Use Ordinance.*

### **None requested.**

*Waiver of the Site Plan Performance Standards. The Planning Board may waiver the requirements of [§120-812](#) if it finds that extraordinary an unnecessary hardship, not self-imposed, may result from strict compliance with the site plan review standards. In all cases, waivers shall not be deemed a right of the applicant, but rather shall be granted at the discretion of the Planning Board. The applicant shall submit a list of the requested waiver(s) in writing. For each waiver requested, the applicant shall submit answers to each criterion in [§120-808B\(2\)](#).*

#### **a) [§120-556E\(2\)\(b\)](#) Solar Energy Systems, Buffer Yards.**

The applicant had requested an exemption from the buffer yard requirement, stating that the nature of the project converting the land use from a gravel pit to a solar energy system is inherently meeting the purpose of a buffer yard as described by the land use ordinance.

**The buffer yard requirement under [§120-556E\(2\)\(b\)](#) is a district standard under [§120-408F\(5\)](#) and cannot be waived.**

3. Public Hearing: The Planning Board shall determine the scheduling of a public hearing.

4. Site Walk: The Planning Board shall determine if a site walk is necessary for this project.

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

**MOTION:** ~~[I move] the site plan application for project #23-35 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 14 acres of land for the solar array and appurtenances 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 Sollar, 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.

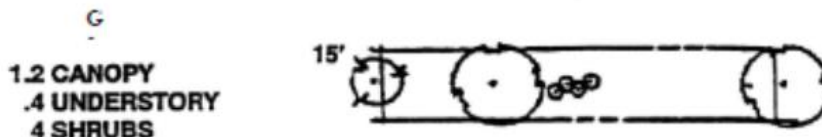
**ARTICLE 4 ZONING DISTRICTS**

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date August 15, 2023, 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 buffers will 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).



**§120-516 CONDITIONAL USE**

- For final plan review, the applicant shall meet the requirements of a conditional use permit.

**§120-516B. Review Authority**

**§120-516C. Submission Timelines**

**§120-516D. Submission Requirements**

**§120-516E. Application Fees**

**§120-516F. Consulting and Review Fees**

**§120-516G. Public Hearing**

**§120-516H. Review Criteria**

**§120-516I. Conditions of Approval**

**§120-516J. Inspections**

**§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 30 feet of structural setback from the property boundary line. The height of the solar array shall not exceed 22 feet 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 will work with the Code Enforcement Officer, with input from the Town Engineer and the Fire Chief, to meet all safety standards for developing a solar energy system.
- The solar energy system and wiring shall meet National Fire Prevention Association (NFPA 1) and National Electrical Code (NFPA 70).

**§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 Fencescreen Hedge Slats that will mimic natural hedges.

- The site is currently undeveloped and is primarily forest and forested wetland. The proposed forested wetland disturbance area is 2,408 sf and 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.

### **COMPREHENSIVE PLAN**

This project meets the goals and objectives of the [2017 Comprehensive Plan](#). The project is in the North Windham Growth Area of the Future Land Use Plan.

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

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

- The project will occupy approximately 14 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 located in the town of Raymond.

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

- (1)** The site will be accessed by a maintenance access road coming from the town of Raymond.

#### **§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 applicant shall contact the Assessor's Office to name the access driveway for the E-911 protocol for the final review. A project sign has been proposed. The applicant will maintain the driveway by winter plowing, sanding, and salting for the access solar array project and make any necessary repairs for safe ingress and egress for the Town's emergency services.

#### **§120-812D – Pedestrian Traffic**

- No pedestrian access is permitted.

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

- (1)** The applicant shall provide an adequate stormwater management plan for final plan review that is in accordance with MeDEP solar facility stormwater regulations and retains the project site's natural drainage patterns, per [§120-812E\(1\)\(c\)](#), by attenuating and



treating areas under, between, and surrounding the solar panels with a meadow stormwater buffer.

- (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.

**§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**

- The application plan shows the utility lines installed below ground.

**§120-812J – Groundwater Impacts**

- The solar energy system does not require.

**§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 has not provided the project development costs. The applicant shall provide, for final review, an estimate for the cost of development and evidence of financial capacity for the project.
- The applicant will provide financial assurance for the costs of decommissioning the existing active gravel pit.
- (2)** The applicant has contracted with Acheron Engineering for zoning, permitting, financing, engineering, and environmental permitting support. The applicant shall provide for final approval a copy of the Maine Secretary of State's certificate of good standing.

**§120-812O – Solid Waste Management**

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

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

- The applicant shall provide for final review 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 shall provide design details for the proposed external light poles for the final plan review.

**§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.

**§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.

**CONCLUSIONS (N/A)**

1. ~~The plan for development **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 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/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.~~

#### CONDITIONS OF APPROVAL

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated June 3, 2024, as amended TBD, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with [§120-815F](#) 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. Approval is subject to the requirements of the [Article II Post-Construction Stormwater Management](#). 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 May 1st of each year.
4. 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.
5. 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.