



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Planning Board

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Monday, September 28, 2020

6:30 PM

Online via Zoom

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To join the meeting remotely, use this link: <https://us02web.zoom.us/j/143936937>. You may also call 1-646-558-8656 and enter meeting ID: 143 936 937.

*The meeting was called to order by Chair, Keith Elder. Other members present were: Colin Swan, Kaitlyn Tuttle, and Hayden Brooks.*

*Planner, Jenn Curtis, and Planning Director, Amanda Lessard, were also present.*

#### 1 Call To Order

#### 2 Roll Call and Declaration of a Quorum

#### 3 [PB 20-073](#) Approval of Minutes: August 24, 2020

*Colin Swan made a motion to approve the minutes of August 24, 2020.*

*Seconded by Haden Brooks.*

*Roll Call:*

*Haden Brooks – In favor    Kaitlyn Tuttle – In favor  
Keith Elder – In favor        Colin Swan – In favor*

*Vote: All in favor.*

#### **New Business**

#### 4 [PB 20-071](#) 20-22 Quarry Ridge Business Park, Lot 15-3. Fourth Amendment. Dwight Investments, LLC to request an amendment to divide lot 15-3 into two (2) lots. The property in question is located on Enterprise Drive and identified on Tax Map: 21., Lot: 15-3, Zone: Enterprise Development (ED).

**Attachments:** [20-22 Quarry Ridge Lot3 Amend 9-24-20.pdf](#)

[Subdivision Amendment Application 8-25-20.pdf](#)

[Additional Submission Sept 15 2020.pdf](#)

[Sheet 7 Quarry Ridge Phase 1B Approved Plans Revised through 05.24.2016.pdf](#)

[Mark A Comments 9-15-20.pdf](#)

Craig Burgess, of Sebago Technics was present representing the applicant. He explained:

- The amendment was to divide lot 3 into two lots. Lot 3A would have frontage on Enterprise Drive and Bedrock Terrace. Lot 3B would have frontage on Bedrock Terrace where it would gain access.
- Public water was available from both Enterprise Drive and Bedrock Terrace.
- Septic systems would be private.
- They had submitted a minor amendment application to DEP to demonstrate the total impervious area across both lots and so DEP could review the septic systems.

The Board commented:

- Did splitting the lot require Bedrock Terrace to be completed?
- What type of business would likely located there?

Haden Brooks made a motion that the application for project 19-25 Quarry Ridge Business Park, 4th Amendment 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 Colin Swan.

Roll Call:

Haden Brooks – In favor    Kaitlyn Tuttle – In favor  
 Keith Elder – In favor        Colin Swan – In favor

Vote: All in favor.

Consensus of the Board was that a site walk and public hearing were not required.

Haden Brooks made a motion the Preliminary Plan application for 19-25 Quarry Ridge Business Park, 4th Amendment on Tax Map: 21; Lot 15-3 was to be approved with conditions with the following findings of fact and conclusions.

**FINDINGS OF FACT**

**A. POLLUTION**

- The floodplain boundary should be clearly depicted and labeled on the amended subdivision plan.
- No buildings or specific uses are proposed at this time.
- The applicant submitted a memo and 7 test pit logs signed and stamped by licensed site evaluator, Gary M. Fullerton. The memo states that most of the site was filled, with bedrock encountered within 60 inches. Test pits 1 and 2 had enough original soil to meet the minimum standards for suitable soils for septic systems in accordance with Maine Subsurface Wastewater Disposal Rules, and the remaining test pits would meet minimum standards if the fill was placed prior to October 31, 1995. Staff note that no groundwater was documented in any of the test pits.
- The applicant states that the area was filled prior to October 31, 1995.
- The applicant should submit a map depicting the location of test pits, for verification that both lots will meet the requirements for a septic system.
- Note 14 of the proposed 4th amended subdivision plan dated August 21, 2020 notes that the wetland within the open space easement on the land retained by the owner in intended to provide nitrate uptake form future subsurface wastewater disposal systems

located on individual lots within the Quarry Ridge Business Park. The easement area should be shown on the plan.

#### B. WATER

- The proposed Lot 5 will be served by public water and will not result in additional demand for water beyond the currently approved subdivision.
- An existing fire hydrant is located on Bedrock Terrace and should be shown on the plan.

#### C. SOIL EROSION AND STORMWATER MANAGMENT

- The Maine Department of Environmental Protection Site Location of Development Permit #L-18029-39-L-N dated November 16, 2005 as amended included the design of stormwater ponds and stormwater conveyance infrastructure for the entire Quarry Ridge Business Park development. Under the DEP Site Law permit each lot within the subdivision was given an allocation for allowable impervious surface based on 75% lot coverage.
- The applicant proposes to split the approved amount of impervious area, so that the total remains the same. The 1.84 acre lot would be allotted .95ac of impervious surface, and the 2.04 acre lot would be allotted 1.06 acres of impervious surface. The table "Maximum Assumed Impervious Area Per Lot" on the Subdivision Plan dated September 8, 2020 has been updated to reflect those impervious area assumptions. Each of the two parcels will be able to conform with the original stormwater management treatment plan, as they will have access to the roadside ditch along Bedrock Terrace.
- A Maine DEP Minor Revision application will need to be filed, and included with the final subdivision application
- In an email dated September 15, 2020, Mark Arienti, P.E. commented: "I think the stormwater memo is fine as long as there's no issue with runoff from Lot 3B going into the roadside ditch in front of Lot 3A so that it can get the pond on the other side of Enterprise Drive. As long as the ditch is in the road right-of-way, then it should be fine."
- Freshwater wetlands have been identified on the plan. No wetland impacts are proposed as part of the amended subdivision application.

#### D. TRAFFIC

- The proposed lot reconfiguration will be served by frontage on the previously approved street, Bedrock Terrace. Bedrock Terrace has been designed and currently is mostly construction to the public street standard. An adequate amount of Bedrock Terrace will need to be constructed to the public street standard, in order for each of the lots to meet the 100' minimum frontage requirement of the Enterprise Development zoning district (§406.1.5.(b))
- The applicant submitted a memo dated September 8, 2020 prepared by Darek Caldwell, P.E., PTOE of Sebago Technics, Inc. The memo states that the Maine DOT Traffic Movement Permit (TMP) issued in 2008 for the full buildout assumed approximately 15,000sf of building area on each of the 12 lots. The TMP was issued for a total of 257 trips in the AM peak hour and 253 trips in the PM peak hour. Divided amongst the twelve lots, this would equate to approximately 21 AM peak hour trips and 21 PM peak hour trips per lot.
- In an email dated September 15, 2020 Town Engineer Mark Arienti, P.E., commented that the cumulative # of peak hour trips for both of the new lots should not exceed the amount assumed for the parent lot (Lot 3), in order to stay within the parameters assumed by the TMP.

#### E. SEWERAGE

- *Both lots will be served by an individual private subsurface wastewater disposal system.*
- *Test pit soil conditions were considered during the Quarry Ridge Business Park subdivision review. The Maine Department of Environmental Protection Site Location of Development Permit included the provision for up to a 1,000 gallon-per-day subsurface wastewater disposal system on each of the properties.*
- *To verify that the site had adequate capacity to have septic systems on both lots, the applicant submitted a memo and 7 test pit logs signed and stamped by licensed site evaluator, Gary M. Fullerton. See FOF under POLLUTION for more information.*

#### F. SOLID WASTE

- *The applicant is not proposing to utilize municipal solid waste at this time as not uses are proposed, but the proposed split should not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized.*

#### G. AESTHETICS

- *No uses are proposed at this time, but all future site development will be subject to the District Standards at §406.I.6.*
- *The boundaries of the lots are located substantially more than 100' from any commercial or residential district.*
- *Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.*

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan. The property is located in the North Windham Growth Area.*
  
- *Land Use Ordinances:*
- *The proposed lots meet the minimum lot size requirements of the ED zoning district.*
- *An adequate amount of Bedrock Terrace will need to be constructed to the public street standard, in order for each of the lots to meet the 100' minimum frontage requirement of the Enterprise Development zoning district (§406.I.5.(b)). Bedrock Terrace is proposed to be constructed to the public street standard. The Town holds a performance guarantee for the required improvements.*
- *Development must meet the maximum building coverage (50%) and maximum impervious area (75%) requirements of the ED zoning district.*
- *District Standards, Section 406.I. The project must meet the standards of the ED zoning district.*
- *All parking lots shall maintain a 30 ft setback from all property lines.*
  
- *Subdivision Ordinance*
- *Section 911.A.c requires that parcels with more than twice the required minimum lot size shall require deed restriction or notes on the plan to either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulation and conditions placed on the original approval. The amended plan should include language similar to Note 13 on the 2006 2nd Amended Plan*

regarding the remaining land of RJGF, LLC. See COA#5.

- Standard notes and the standard condition of approval must be shown on the plans.
- The Tax Map and Lot numbers provided by the Tax Assessor shall be shown on the Plan.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.
- A note should be included on the final plan specifying the rights and responsibilities of each owner with respect to the maintenance and repair of stormwater infrastructure.
  
- Others:

#### *I. RIVER, STREAM OR BROOK IMPACTS*

- This project is located in the Sebago Lake Watershed.
- No river, stream or brook impacts are anticipated as a result of the proposed amendment.

#### *CONCLUSIONS (N/A)*

- 1. The proposed subdivision will/will not result in undue water or air pollution.*
- 2. The proposed subdivision has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.*
- 3. The proposed subdivision will/will not cause an unreasonable burden on an existing water supply.*
- 4. The proposed subdivision will/will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.*
- 5. The proposed subdivision will/will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
- 6. The proposed subdivision will/will not provide for adequate sewage waste disposal.*
- 7. The proposed subdivision will/will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
- 8. The proposed subdivision will/will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
- 9. The proposed subdivision conforms/does not conform with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 10. The developer has/does not have adequate financial and technical capacity to meet the standards of this section.*
- 11. The proposed subdivision is/is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
- 12. The proposed subdivision will/will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 13. The proposed subdivision is/is not situated entirely or partially within a floodplain.*
- 14. All freshwater wetlands within the proposed subdivision have/have not been identified on the plan.*
- 15. Any river, stream, or brook within or abutting the subdivision has/has not been identified on any maps submitted as part of the application.*
- 16. The proposed subdivision will/will not provide for adequate storm water management.*
- 17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots*

created within the subdivision have/do not have a lot depth to shore frontage ratio greater than 5 to 1.

18. The long-term cumulative effects of the proposed subdivision will/will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will/will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

20. Timber on the parcel being subdivided has/has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

#### CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 25, 2020, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

2. Buildings within the site plan shall be constructed with provisions for either of the following:

a. A positive free outlet foundation drain, whereby the footing elevations should be set as established by the builder, or;

b. Any other foundation drainage system, such as a sump hole, whereby the bottom of the footing elevation shall be set at least 12" above the limiting groundwater level, as determined by a licensed site evaluator and approved by the Town of Windham Code Enforcement Officer

3. Prior to installing a driveway serving and use, the owners of the property must secure, in writing, all required permits for a driveway opening

4. The Deeds for the approved lots of this subdivision shall include a provision that requires the lot owner to perform routine mowing of grass lined drainage swales and/or grassed esplanades which abut their lot. Drainage swales shall be mowed to maintain a minimum grass height of approximately 6 inches and to prevent the growth of woody vegetation. All maintenance of the roadside swales, with the exception of routine mowing, shall be the responsibility of the Town of Windham Public Works Department.

5. The Wetlands within the open space easement on land retained by the owner is intended to provide nitrate uptake from future subsurface wastewater disposal systems located on individual lots within the Quarry Ridge Business Park subdivision wetland areas within this easement shall remain in their undisturbed natural state. The owner may amend the open space easement and develop land within it to suit future project needs without individual lot owners' approval. Such future alterations shall require prior approval of the Maine Department of Environmental Protection, the Town of Windham, and other authorities with jurisdiction. Land within the open space easement shall be retained by the owner and may only be conveyed as part of the business park prior to any such sale or conveyance of land within the open space easement, the owner shall amend the Maine Department of Environmental Protection Site Location of Development Approval Order #L-18029-39-L-N dated November 16, 2005 as amended, for the quarry ridge business park to include such land within the subdivision as open space.

6. Development of the Quarry Ridge Business Park is subject to the terms and conditions of the Maine Department of Environmental Protection Site Location of Development Approval order #L-18029-39-L-N dated November 16, 2005 as amended.

7. Split peak hour trips allotted (see notes from PB 9-28-20).

Seconded by Colin Swan.

Roll Call:

Haden Brooks – In favor    Kaitlyn Tuttle – In favor  
 Keith Elder – In favor        Colin Swan – In favor

Vote: All in favor.

- 5        [PB 20-072](#)    20-23 WH02 Solar. Major site plan review. TPE ME WH02, LLC to request review of a 19.99 acre, approximately 5 MW, solar project. The property in question is located on Swett Road and identified on Tax Map: 6, Lot: 60, Zone: Farm (F).

**Attachments:** [WH02 Solar Sketch 9-24-20.pdf](#)  
[2020-09-08 Sketch Plan Application Compiled.pdf](#)  
[2020-09-04 Sketch Plan Set.pdf](#)

Silas Canivan was present representing the applicant.

- They proposed a solar array, located on 61 acres off of Chute Road. The occupied area would be kept to 19.99 acres or less.
- The site drained to a stream. It also contained wetlands and four vernal pools. The vernal pools were assumed to be significant for the purpose of DEP permitting.
- Access would be from Swett Road. The project would have a security fence and be gated.
- A CMP corridor ran through the property.
- Development would be fixed, tilt-rack panels, ten to 12 feet above the ground, lighting, and four utility poles that would tie in with CMP.
- They would provide a buffer to Swett Road and an abutter and intended to plant evergreens as screening. The site would be stumped, grubbed, regraded, loamed and seeded.
- They would have less than a 25% clearing in the vernal pool buffers, as allowed by DEP.
- Required permits through DEP were for a Permit by Rule for stormwater; NRPA Tier 1 for wetland impacts; NRPA Permit by Rule for tree clearing in vernal pool and stream buffers.
- Any damage to Swett Road caused by construction would be repaired to the road's existing condition.

Jenn Curtis commented:

- The town engineer had requested a drainage plan with the final submission.
- The ordinance required utility lines to be underground or a waiver request was required.
- An estimate of construction truck traffic was needed.
- A new subdivision was going in nearby. The applicant should consider the view shed analysis.
- The application must meet the DEP stormwater standards contained in the town ordinance.
- How would they access the site without a road?
- How long would construction take?
- How would they deal with the ledge on the site?

Planning Board Comment:

- *Were there three phase utility poles on Swett Road?*
- *There would be much clearing; maintenance was a concern.*
- *The project should blend in as much as possible. Could the fence be green or some other color?*
- *Could there be better screening facing the road, where it would be seen?*
- *Were they opposed to having people around the fence and through the site?*
- *Was there a provision for erosion control if grass didn't grow under the panels?*
- *There should be a provision for funds to clean up the site if it was abandoned at the end of its life.*
- *Did the benefit outweigh the cost of clearing such a large wooded site?*

*A site walk and public hearing would be scheduled.*

*Consensus of the Board was to wait to take public comment until after the site walk.*

## **Other Business**

### **6 Assign a member to serve on the Long Range Planning Committee**

*The Long Range Planning Committee needed a member from the Planning Board. Board members who were present were unable to fill the position because of other commitments.*

### **7 Adjournment**

*Haden Brooks made a motion to adjourn.*

*Seconded by Colin Swan.*

*Roll Call:*

*Haden Brooks – In favor  
Keith Elder – In favor*

*Kaitlyn Tuttle – In favor  
Colin Swan – In favor*

*Vote: All in favor.*