

APPLICATION FOR APPEAL
TO WINDHAM ZONING BOARD OF APPEALS

Fee Paid \$400.00 CK #2520 CASH _____ CHARGE _____ DATE 8/14/2017

APPLICANT

NAME: Windham Power Sports, LLC / Chris McDonald
ADDRESS: 1037 B Roosevelt Trail, Windham, Maine 04062
TELEPHONE: 207-893-8511

OWNER

NAME: 644 Roosevelt Trail, LLC / Jerod Robie
ADDRESS: P.O. Box 1463, Windham, Maine 04062
TELEPHONE: 207-892-0650

ADDRESS OF PROPERTY OR LOCATION 644 Roosevelt Trail, Unit #2
MAP # 53 LOT # 7 PROPERTY IS ZONED C1
LOT WIDTH: 249.2 LOT DEPTH: 339.3 LOT AREA: 84,554 sq. ft.
EXISTING USE OF PROPERTY: Retail Sales - Outdoor - Unit #2

TYPE OF APPLICATION

☒ Variance from Ordinance
☐ Conditional Uses
☐ Appeal from decision of Code Enforcement Officer
☐ Home Occupation 2
☐ Expansion of a Non-Conforming Use

PROPOSED USE: Please describe in detail what you wish to do and what the use of any proposed structures will be. (Attach a letter of explanation if necessary :)

Sales and Service of Off-Road Power Sports
Vehicles currently classified under Auto
Sales and Service; Small Engine Sales Service

Why is Board of Appeals approval required?

As per Code Enforcement Staff Interpretation
of the C1 Land Use Ordinance.

Amount of variance required, if any: N/A ft.

TYPE OF SEWAGE DISPOSAL SYSTEM: Present ☒ Proposed _____

STRUCTURAL DIMENSIONS: (Exterior length and width) Unit #2

Existing 40 ft. By 50 ft. Number of Stories 2

Proposed _____ ft. By _____ ft. Number of Stories _____

NUMBER OF ROOMS IN PROPOSED STRUCTURE: N/A

IS ADDITIONAL PLUMBING CONTEMPLATED? Yes _____ No ☒

If yes, please describe: N/A

IF REQUIRED, HAS PLANNING BOARD APPROVAL BEEN OBTAINED?

Yes _____ No _____ Not Required ☒

Statement to Town of Windham Board of Appeals

I acknowledge submitting my application to the Board of Appeals and signing this statement that I the undersigned:

State the proposed plan is to scale and reflects the true representation of the proposal requested.

I further understand that if the Board finds that it does not, then the Board has the right to table my application until I have met the requirements.

Applicants
Signature

Date

8/14/2017

Windham Power Sports, LLC
Chris McDonald, Managing Partner

A location map and a scaled site plan must accompany this application. The site plan must show dimensions of the property, location of all buildings, yards, parking spaces and septic systems, and all existing and proposed setbacks.

An application fee of \$400.00 for residential appeals as well as for non-residential or multi-family is required upon application submission. *If the Code Enforcement Office determines that ordinary and customary expenses associated with review of the development are higher than the \$400.00 fee, then the applicant shall be billed and shall pay to the Town prior to the final approval said expenses, including, but not limited to cost associated with notification of abutters, advertising of public meetings, and all the time dedicated to review of the development.*

NOTE: Applicant or his/her representatives must attend board meetings. If a request is needed to be tabled, the applicant or his/her representative must attend meeting to ask to be tabled. (11/21/91).

The right of any variance from the terms of this chapter granted by the Board of Appeals Shall expire if the work or change permitted under the variance is not begun within six (6) Months or substantially completed within one (1) year of the date of the vote by the Board.

I CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND IN ITS SUPPLEMENTS IS TRUE AND CORRECT.

Applicant's Signature

Date

8/14/2017

ZBA APPLICATION CHECKLIST

Revised 06/11/2013

The following requirements are to be included with each Board of Appeals applications:

- ✓ 1. A cover letter explaining why the Board of Appeals is needed and any other information that might be necessary.
- ✓ 2. A permission letter from the owner, giving you the right to go to the Board of Appeals.
- ✓ 3. A scaled site plan must show the following locations:
 - All buildings
 - Parking spaces
 - Septic Systems
 - All existing and proposed setbacks
- ✓ 4. If the property is being used for more than one use, you need to show the following:
 - The different uses
 - Parking locations for all uses
 - The Town of Windham's Land Use Ordinance is met.
 - If necessary, restaurants must show seating plans to scale.
 - Daycare use must show floor plan and percentage of structure being used.
- ✓ 5. Questions that are attached to application need to be answered with a brief explanation and attached back to application.
- ✓ 6. The Code Enforcement Office will need 8 copies of application, site plans and any other attachments, made into packet form. (The plans must be folded when submitted).
- ✓ 7. All submissions must be 21 days prior to the next scheduled meeting. The ZBA Boards meets the first Thursday of every month unless there is a holiday.
- ✓ 8. Application fee is \$400.00, check made out to the Town of Windham.

PLEASE INFORM US OF ANY SPECIAL REQUIREMENTS YOU MAY HAVE DUE TO A DISABILITY

Windham Power Sports
1037B Roosevelt Trail
Windham, Maine 04062
Phone: (207) 893-8511

August 14, 2017

Zoning Board of Appeals
8 School Road
Windham, Maine 04062

Dear Zoning Board of Appeals Chairperson and Members,

Re: 646 Roosevelt Trail, Windham, Maine, Unit # 2, Conditional Use(s)

Windham Power Sports, LLC is a Windham, Maine based locally owned family business that plans to relocate to a new location in town at 646 Roosevelt Trail, Unit # 2, Windham, Maine.

The current approved conditional use for Unit # 2 at 646 Roosevelt Trail is Retail Sales/Outdoor. The space was most recently occupied by a furniture resale business with outdoor retail sales.

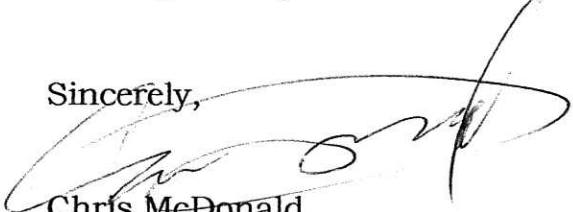
Windham Power Sports, LLC plans to relocate to this space for the sales and service of off-road power sports vehicles, which is currently classified under automobile sales and service, a conditional use. And, we request conditional use for small engine sales and service as that is a part of our family business as well.

The 646 Roosevelt Trail, Windham, Maine, Unit # 2 location is a better fit for our family business to grow and serve its customer base.

We understand that the proposed uses require Zoning Board of Appeal Review and Approval as per Windham Code Enforcement interpretation of the Commercial C1 Land Use Ordinance.

Thank you for your consideration.

Sincerely,



Chris McDonald
Managing Partner

644 Roosevelt Trail, LLC

(Owner of Record for 646 Roosevelt Trail, Windham, Maine)

c/o Robie Builders

P. O. Box 1463

Windham, Maine 04062

Office: (207) 892-0650

August 14, 2017

Zoning Board of Appeals
8 School Road
Windham, Maine 04062

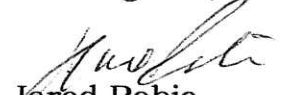
Dear Zoning Board of Appeals Chairperson and Members,

Re: 646 Roosevelt Trail, Windham, Maine, Unit # 2

With this letter, I hereby authorize Chris McDonald of Windham Power Sports, LLC, Windham, Maine to apply for Conditional Use(s) at 646 Roosevelt Trail, Unit # 2, Windham, Maine on behalf of 644 Roosevelt Trail, LLC, (Owner of Record for 646 Roosevelt Trail, Windham, Maine).

I feel Windham Power Sports, LLC is a well-regarded business in our community. I look forward to seeing this Windham based Family Business prosper at their new location.

Best regards,



Jarod Robie
Managing Partner

646 Roosevelt Trail, Windham, Maine



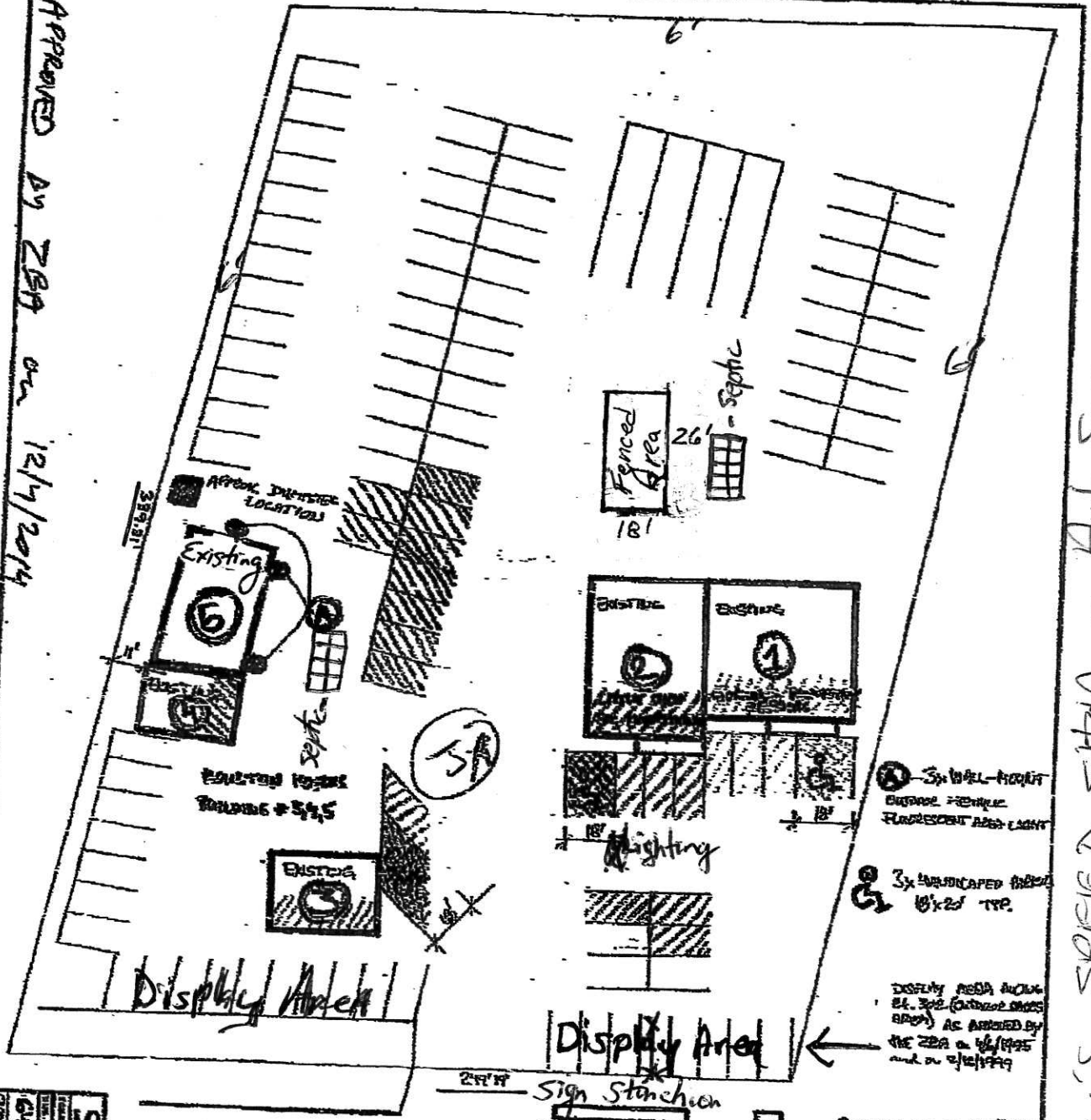
Google Earth

Imagery Date: 5/9/2016 43°49'27.76" N 70°26'06.32" W elev 317 ft eye alt 770

1998

646 Roosevelt Trail, Windham, Maine 04062

APPROVED BY ZBA on 12/17/2014



ROUTE 302 → NORTH

- ① EXISTING USE: Automobile repair services, minor - 2 bays - 4 parking spaces
- ② EXISTING USE: RETAIL SALES, Outdoor - 2000 SF x 35 ft = 7 parking spaces
- ③ EXISTING USE: RETAIL SALES, Automobile Sales - office 800 SF x 35 ft = 3 parking spaces
- ④ EXISTING USE: RETAIL SALES, Automobile Sales - Garage 1 bay = 2 parking spaces
- ⑤ PROPOSED USE: RETAIL SALES, Automobile Sales - Garage 3 bays = 6 parking spaces

TOTAL PARKING SPACES: 104 + 44 TRUCK PARKING AS APPROVED BY THE ZBA ON 2/12/1977 FOR RETAIL, SERVICE, REPAIR, AND STORAGE VEHICLES TRUCK PARKING 11' x 20' TRUCK

Side and rear setbacks - 6' As per ordinance

1 - BAXLEY'S SPEED SHOP - Auto Service

2 - Windham Power Sports - Auto Sales / Service + Small Engine

3, 4, 5 - Everything Off-Road - Auto Sales / Service

2014 ZBA Review & Approval

**TOWN OF WINDHAM
ZONING BOARD OF APPEALS
NOTICE OF DECISION**

Date: December 4, 2014

09-14-Michael Tuma - Requesting an expansion of a structure that was previously approved for automobile sales & service. Zone is C-1 (Commercial 1)
Map 53 Lot 7, for 646 Roosevelt Tr.

Motion was made by Reid Scher, as the application is complete. Seconded by Jim Cobb.

With the following conditions:

Condition of Approval:

1. Add septic design to packet
2. Business names should be on site plan for each location.
3. Show handicapped parking with sizing
4. Show outdoor lighting on plan
5. Spill control plan shall be submitted
6. Hours of operation will remain the same
7. Approval goes with the property
8. This approval is based upon any plans, sketches, drawings or other supporting materials presented by the applicant and all representations made by the applicant at the Board of Appeals hearing on the application, as well as any conditions placed by the Board on the approval. No change shall be made from the application, supporting materials, representations or conditions of approval without the prior approval by the Board of Appeals of an amendment to this approval or a new approval.

Unanimous vote 4-0

NOTE: This decision is subject to appeal within forty-five (45) days of the date of this decision.

Marjorie Govoni

Vice Chair Person -- Marge Govoni
Windham Zoning Board of Appeal

(52)

NOTE: This decision is subject to appeal within forty-five (45) days of the date of this decision.

Conditional Use Questions

H. Review Criteria. The Reviewing Authority shall have the power and duty to approve, approve with conditions, or deny conditional use applications based on the following

Standards:

1. Property Value. The proposed use will not depreciate the economic value of Surrounding properties. *No*
 2. Wildlife Habitat. The proposed use will not damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan. *No*
 3. Botanical Species. The proposed use will not damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan. *No*
 4. Potable Water
 - (a) The proposed use has access to potable water, *yes*
 - (b) The proposed use will not burden either a groundwater aquifer or public water System. *No*
 5. Sewage Disposal. The proposed use has adequate capacity to dispose of sewage waste. A change from one use to another use must show that either:
 - (a) The existing sewage system has adequate capacity for the proposed use, or
 - (b) The existing system will be improved, or a new system will be installed to provide adequate waste disposal capacity. *Adequate Capacity.*
 6. Traffic. The proposed use has adequate sight distance as established by current Maine DOT Highway Entrance and Driveway Rules. *yes*
- Sec. 500 Performance Standards Land Use Ordinance Town of Windham
- 5 - 10
7. Public Safety. The proposed use will not overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community. *No*
 8. Vibration. The proposed use will not produce inherently and recurrently generated vibrations that exceed a peak particle velocity greater than 2.0 at the closest "protected structure," as defined by the Maine Department of Environmental Protection. *No*
 9. Noise. The proposed use shall meet the noise standards in Section 812.S. of the Site Plan Review Ordinance. *YES*
 10. Off-Street Parking and Loading. The proposed use meets the parking and loading standards of Section 812.C. Site Plan Review. *YES*
 11. Odors. The proposed use will not emit noxious or odorous matter in such quantities as to be offensive at the lot boundaries. *No*
 12. Air Pollution. No emission of dust or other form of air pollution is permitted which can cause any damage to health, to animals or vegetation, or other forms of property, or which can cause any excessive soiling at any point, and in no event any emission, from any activity permitted composed of any solid or liquid particles in concentration exceeding three-tenths (0.3) grain per cubic foot of the conveying gas or air at any point. *No*
 13. Water Pollution. No discharge at any point into any private sewage disposal system or stream or into the ground of any materials in such nature or temperature as to contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements is permitted. *No*

14. Erosion and Sediment Control. The proposed use will not cause water pollution, sedimentation, erosion, nor contaminate any water supply, nor reduce the capacity of the land to hold water, so that a dangerous or unhealthy condition may result. *NO*

15. Hazardous Material. No use shall for any period of time discharge across the Boundaries of the lot wherein it is located toxic and noxious matter in concentrations so that a dangerous or unhealthy condition may result. *NO*

16. Zoning District and Performance Standards. The proposed use meets the applicable zoning district standards in Section 400 and the applicable performance standards of Section 500. Town of Windham Land Use Ordinance Sec. 500 Performance Standards 5 - 11 *YES*

17. Solid Waste Management. The proposed use shall provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes. *YES*

Conditional Use questions

H. Review Criteria. The Reviewing Authority shall have the power and duty to approve, approve with conditions, or deny conditional use applications based on the following standards:

1. Property Value. The proposed use will not depreciate the economic value of surrounding properties.

Answer: The proposed use will not depreciate the economic value of surrounding properties.

2. Wildlife Habitat. The proposed use will not damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan.

Answer: The proposed use will not damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan.

3. Botanical Species. The proposed use will not damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan.

Answer: The proposed use will not damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan.

4. Potable Water

(a) The proposed use has access to potable water,

(b) The proposed use will not burden either a groundwater aquifer or public water system.

Answer: The proposed use has access to potable water and it will not burden either a groundwater aquifer or public water system.

5. Sewage Disposal. The proposed use has adequate capacity to dispose of sewage waste. A change from one use to another use must show that either:

- (a) The existing sewage system has adequate capacity for the proposed use, or
- (b) The existing system will be improved, or a new system will be installed to provide adequate waste disposal capacity.

Answer: The proposed use has adequate capacity to dispose of sewage waste. a new system was installed to provide adequate waste disposal capacity.

6. Traffic. The proposed use has adequate sight distance as established by current Maine DOT Highway Entrance and Driveway Rules.

Sec. 500 Performance Standards Land Use Ordinance Town of Windham

5 – 10

Answer: The proposed use has adequate sight distance as established by current Maine DOT Highway Entrance and Driveway Rules.

7. Public Safety. The proposed use will not overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community.

Answer: The proposed use will not overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community.

8. Vibration. The proposed use will not produce inherently and recurrently

generated vibrations that exceed a peak particle velocity greater than 2.0 at the closest "protected structure," as defined by the Maine Department of Environmental Protection.

Answer: The proposed use will not produce inherently and recurrently generated vibrations that exceed a peak particle velocity greater than 2.0 at the closest "protected structure," as defined by the Maine Department of Environmental Protection.

9. Noise. The proposed use shall meet the noise standards in Section 812.S. of the Site Plan Review Ordinance.

Answer: The proposed use shall meet the noise standards in Section 812.S. of the Site Plan Review Ordinance.

10. Off-Street Parking and Loading. The proposed use meets the parking and loading standards of Section 812.C. Site Plan Review.

Answer: . The proposed use meets the parking and loading standards of Section 812.C. Site Plan Review.

11. Odors. The proposed use will not emit noxious or odorous matter in such quantities as to be offensive at the lot boundaries.

Answer: The proposed use will not emit noxious or odorous matter in such quantities as to be offensive at the lot boundaries.

12. Air Pollution. No emission of dust or other form of air pollution is permitted which can cause any damage to health, to animals or vegetation, or other forms of property, or which can cause any excessive soiling at any point, and in no event any emission, from any activity permitted composed of any solid or liquid particles in concentration exceeding three-tenths (0.3) grain per cubic foot of the

conveying gas or air at any point.

Answer: The proposed use will not cause emission of dust or other form of air pollution which can cause any damage to health, to animals or vegetation, or other forms of property, or which can cause any excessive soiling at any point, and in no event any emission, from any activity permitted composed of any solid or liquid particles in concentration exceeding three-tenths (0.3) grain per cubic foot of the conveying gas or air at any point.

13. Water Pollution. No discharge at any point into any private sewage disposal system or stream or into the ground of any materials in such nature or temperature as to contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements is permitted.⁶

Answer: The proposed use will not cause any discharge at any point into any private sewage disposal system or stream or into the ground of any materials in such nature or temperature as to contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements.

14. Erosion and Sediment Control. The proposed use will not cause water pollution, sedimentation, erosion, nor contaminate any water supply, nor reduce the capacity of the land to hold water, so that a dangerous or unhealthy condition may result.

Answer: The proposed use will not cause water pollution, sedimentation, erosion, nor contaminate any water supply, nor reduce the capacity of the land to hold water, so that a dangerous or unhealthy condition may result.

15. Hazardous Material. No use shall for any period of time discharge across the boundaries of the lot wherein it is located toxic and noxious matter in concentrations so that a dangerous or unhealthy condition may result.

Answer: The proposed use will not for any period of time discharge across the boundaries of the lot wherein it is located toxic and noxious matter in concentrations so that a dangerous or unhealthy condition may result.

16. Zoning District and Performance Standards. The proposed use meets the applicable zoning district standards in Section 400 and the applicable performance standards of Section 500. Town of Windham Land Use Ordinance Sec. 500 Performance Standards 5 – 11

Answer: . The proposed use meets the applicable zoning district standards in Section 400 and the applicable performance standards of Section 500. Town of Windham Land Use Ordinance Sec. 500 Performance Standards 5 – 11

17. Solid Waste Management. The proposed use shall provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

Answer: The proposed use shall provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

3. Conditional Uses

The following uses, as defined in Section 300, shall be allowed as a Conditional Use in accordance with Section 516. Refer to Section 500, Performance Standards or Subsection 6. District Standards for additional use information:

- Automobile Gas Station
- Automobile Repair Services
- Distribution Center
- Drive-through Facility
- Hotel
- Industry, Light
- Industry, Heavy
- Motel
- Public Utility Facility
- Recreation Facility, Outdoor
- Retail Sales, Automobile Sales
- Retail Sales, Minimart
- Shipping Containers
- Small Engine Repair
- Warehousing, Public

4. Prohibited Uses

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

5. Dimensional Standards

The following dimensional standards shall apply in the Commercial District I:

- | | |
|---|-------------|
| (a) Minimum Lot Size: | None |
| (1) Dwelling, Existing | 20,000 s.f. |
| (2) Dwelling, Mixed Use | 15,000 s.f. |
| (b) Net Residential Density: | |
| (1) Housing for Older Persons: | |
| (i) One (1) Bedroom Unit | 8,000 s.f. |
| (ii) Each Additional Bedroom | 6,000 s.f. |
| (2) Dwelling, Mixed Use | 15,000 s.f. |
| (c) Minimum Frontage: | 100 ft. |
| (d) Minimum Front Setback: | 40 ft. |
| (1) Minimum Landscaped Buffer Strip | 20 ft. |
| (2) Dwelling, Existing: (All associated structures) | 30 ft. |
| (i) The minimum front Setback of a lot governed by Subsection 406.E.5.(d) may be reduced to the average setback distance of the existing structures located on the lots to either side of said lot. | |
| (ii) A landscaped buffer strip is not required for lots with existing dwelling units. | |

Retail Sales, Accessory. The sale of goods or merchandise that are directly related to, or are the product of, the primary use located on the property.

Retail Sales, Automobile Sales. The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles, light trucks, vans, trailers or recreation vehicles. This use includes any vehicle preparation, warranty, or repair work conducted as an accessory use. *(See Sec. 500 Performance Standards)*

Retail Sales, Convenience. A retail establishment of up to one-thousand five-hundred (1,500) square feet selling primarily food products, household items, newspapers and magazines, candy, and beverages, and a limited amount of freshly prepared foods such as sandwiches, pizzas, and salads. *(See Sec. 500 Performance Standards)*

Retail Sales, Minimart. A convenience store that is located on the same lot and is accessory to an automobile gas station. *(See definition of "Retail Store, Convenience")*

Retail Sales, Nursery. The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as the sale of garden tools and similar accessory and ancillary products, to the general public. A nursery may also include a greenhouse structure in which plants, vegetables, and flowers are grown for sale.

Retail Sales, Outdoor. The display or sale of products and services outside of a building. This includes, but is not limited to, vehicles; garden supplies, flowers, shrubs, and other plant materials; boats and aircraft; farm equipment; motor homes; burial monuments; building and landscape materials; and lumber. This definition does not include yard sales conducted on residential properties. *(See Sec. 500 Performance Standards)*

Retirement Community. Any age restricted development, which may be in any housing form, including detached and attached units, apartments, and residences, offering private and semiprivate rooms. *(See Sec. 500 Performance Standards)*

Riding Stable. Any land or structure designed, intended or used for the keeping of horses or ponies for hire, either with or without instruction in riding.

Roadside Stand. A structure for the display and sale of agricultural products. *(See definition of "Agriculture"; and standards for, "Agriculture" in Sec. 500 Performance Standards)*

Rockery (or "rockeries"). Rough rocks stacked in an "interlocking" pattern without concrete, mortar, or steel reinforcement. Neither mechanical nor physical connections are made between the individual rocks; "interlocking" is accomplished through proper rock layout, rock weight, and frictional interaction.

Rooming House. A building used for temporary occupancy of individuals who are lodged with or without meals and in which bathroom and kitchen facilities may be shared. *(See Sec. 500 Performance Standards)*

Sexually Explicit. The display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. § 251.

Shipping Container. A free standing container typically assembled with steel and/or aluminum. The container typically does not have wheels, but rather, is transported via a flatbed truck, rail cars, or ship. The container is used for the transportation and/or storage of goods and materials. (*See Sec. 500 Performance Standards*)

Sidewalk. A paved way for pedestrian traffic which is constructed parallel to a road. (*See Sec. 900 Subdivision Review*)

Sign. A name, identification, description, emblem, trade name, trademark, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business.

Slaughterhouse. A structure, building, or facility used to process live animals for human consumption.

Small Engine Repair. The maintenance and repair of engines or motors used for the following types of equipment: power tools, lawn mowers, snowblowers and wood splitters. Small engine repair shall not include the maintenance or repair of engines or motors used in passenger vehicles, all terrain vehicles (ATV's), mopeds, motorcycles and snowmobiles is prohibited.

Smokehouse. A structure, building, or facility used to process or cure animal meat or products through the use of smoke.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story, Basement. That portion of a building which is partly or completely below grade.

Story, First. The lowest story having its finished floor surface entirely above grade, except that a basement shall be considered the first story where the finished surface of the floor *above* the basement is:

- More than six (6) feet (1829 mm) above grade plane;
- More than six (6) feet (1829 mm) above the finished ground level for more than fifty (50) percent of the total building perimeter; or
- More than twelve (12) feet (3658 mm) above the finished ground level at any point.