



## PLANNING BOARD MEMO • MAJOR SUBDIVISION & SITE PLAN • PRELIMINARY PLAN REVIEW

DATE: October 3, 2024

TO: Windham Planning Board  
FROM: Evan O'Connor, Town Planner

Cc: Kylie Mason, IRA, Sebago Technics, Inc.  
Tyler Norod, Westbrook Development Corp.  
Steve Puleo, Planning Director

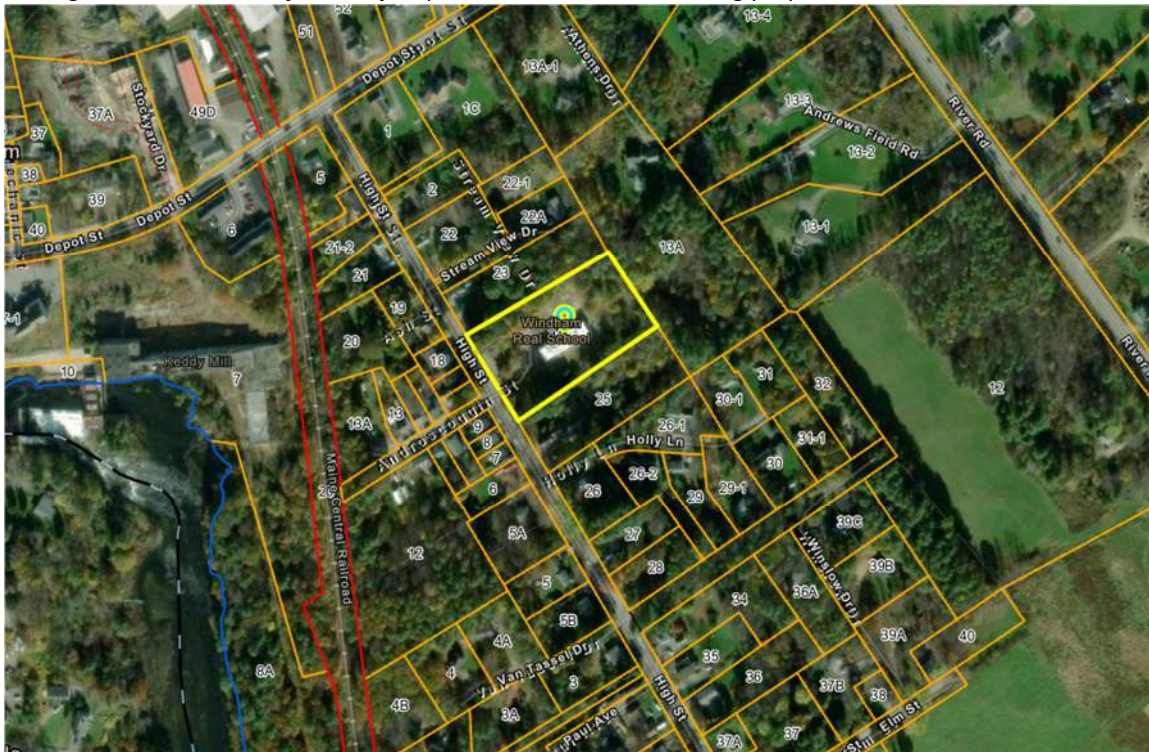
RE: #24-25 – Major Subdivision & Site Plan – Andrew School Redevelopment – 55 High Street – Preliminary Plan Review – Westbrook Development Corp.  
Planning Board Meeting: September 9<sup>th</sup>, 2024

### Overview –

The application is a mixed-income development consisting of eighteen affordable apartments for senior housing. This project also includes associated parking areas, internal vehicular drive aisles, pedestrian pathways, a centralized open green space, and stormwater treatment area.

Tax Map: 37; Lot: 24; Zone: Village Commercial (VC) zoning district and located in the Upper Presumpscot River watershed.

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



### SITE PLAN REVIEW

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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 Subdivision & Site Plan application for project #24-25 Andrew School Redevelopment project 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.*

~~a) [§120-910C\(3\)\(a\)](#): High Intensity Soils Mapping. Approved.~~

~~The Planning Director waived the requirement to submit a high-intensity soil survey by a certified soil scientist, per [§120-910C\(3\)\(a\)](#), for a medium-intensity soil survey.~~

~~b) [§120-910C\(3\)\(c\)](#): Hydrogeologic Assessment. Approved~~

~~The Planning Director waived the submission of a hydrogeologic assessment because the site is connected to public water.~~

*Waiver of the Site Plan Performance Standards. The Planning Board may waive 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\(2\)](#).*

*Limitation of Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land. Per [§120-908B\(2\)](#). The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements. Per [§120-908C](#). The Planning Board may waive the requirements of [§120-911](#) Performance and Design Standards when the applicants demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, and the public health, safety, and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in [§120-908C\(2\)](#).*

3. Public Hearing: The planning board shall hold a public hearing on October 7, 2024.
4. Site Walk: The planning board will hold a site walk on October 5<sup>th</sup>, 2024.

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

**MOTION:** [I move] the Major Subdivision & Site Plan application for the #24-25 Andrew School Redevelopment identified on Tax Map: 37; Lot: 24; Zone: Village Commercial (VC) and located in the Upper Presumpscot River watershed is to be (**approved with conditions/denied**) with the following Findings of Fact, Conclusions, and Conditions of Approval.

#### FINDINGS OF FACT

**Jurisdiction:** The Andrew School Redevelopment project is classified as a Major Subdivision & Site Plan, which the Planning Board is authorized to review and act on by [§120-905A\(2\)](#) of the Town of Windham Land Use Ordinance.

**Title, Right, or Interest:** The applicant has submitted documentation of an award between the Town of Windham and Great Falls Construction. For final plan review, please provide an acceptable form to satisfy the Right, Title, and Interest evidence.

#### ARTICLE 3 DEFINITIONS

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

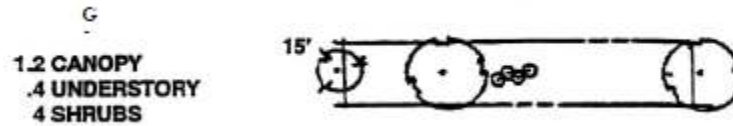
#### ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date April 9, 2024, Tax Map: 37; Lot: 24.
- The property is located in Village Commercial (VC) zoning district.
- Multifamily dwellings are a permitted use found in [§ 120-415B](#).

#### ARTICLE 5 PERFORMANCE STANDARDS

#### **§120-511 – Buffer yards**

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



### §120-911 - SUBDIVISION PERFORMANCE STANDARDS

#### §120-911A – Basic Subdivision layout

- (2) Utilities are shown on the provided subdivision plan.

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

- (3) The applicants have shown connection with the public water system on the provided subdivision plan.

For the Final Plan Review, the applicant shall submit documentation of Ability to Serve from PWD.

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

- (1) The applicants have provided a soil erosion and sediment control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed, and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP documents.
- (3) The applicant or developer shall consider the topsoil as part of the subdivision is not to be removed from the site.
- (4) Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. *The Board may require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.*

#### §120-911D – Sewage disposal

- (2) The applicant has provided evidence of site suitability for subsurface sewage disposal prepared State of Maine Subsurface Waste Disposal Rules.

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

- (1) The applicants are developing the access driveway and dwelling units in the open space of the site, preservation the natural beauty and aesthetics.
  - (a) The applicant has provided a note not allowing the clearing of trees where tree cover is depicted on the plan for at least five years. Mandatory buffer for stormwater or other reasons shown on the plan shall not be cleared of vegetation unless the Planning Board grants an amendment to the subdivision or maintenance that does not alter the purpose for which the buffer was required.
  - (b) The applicant has included a landscape plan with the application.
- (2) For final plan review, the applicant must reserve or dedicate maintenance of open space.

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

##### Comprehensive Plan:

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

##### Subdivision Ordinance

- the applicants have provided a landscaping plan.
- Standard notes, the standard conditions of approval, and approved waiver must be shown on the plans.
- For the final plan review, a digital transfer of the subdivision plan data must be submitted for inclusion with the Town's GIS.

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

- (1) The applicant has provided evidence of financial and estimated cost of development.
- (1) The applicant has provided evidence of technical capacity. The applicants have contracted Sebago Technics, Inc. to manage the permitting and design of the development.

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

- (1) The applicant has provided evidence that the subdivision shall not increase any contaminant concentration in the groundwater and shall meet the State primary drink water standards. A hydrogeological evaluation shall be required to demonstrate nitrates as nitrogen meet the maximum contaminant level.
- (2) The proposed development will connect to available water supply provided by the Portland Water District (PWD) that has an existing main along High Street. The scale of this development is not anticipated to adversely impact the overall quality or quantity of available water supply.

#### **§120-911I – Floodplain Management**

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

#### **§120-911J – Stormwater**

- The project will require a Chapter 500 Stormwater Management Law permit for MeDEP.
- A Stormwater Permit by Rule with Maine DEP will be required. For final plan review, the Applicant should submit documentation that a Notice of Intent for this permit has been filed with DEP

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

#### **§120-911K – Conservation Subdivision**

- (1) The development is in the VC district and therefore is not required to meet the conservation subdivision ordinance.

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

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

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

- A Traffic Memorandum was submitted by the Applicant that concludes that proposed traffic levels are below the threshold for requiring a traffic Management Plan (TMP) from (6 peak hour trips) Maine DOT or a Traffic Impact Analysis under the Town’s Subdivision ordinance (58 trips/day). This appears to be appropriate for the scale of the development.

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

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

#### (SUBDIVISION) CONCLUSIONS (*Final Plan Review*)

1. The development plan **reflects** the natural capacities of the site to support development.
1. Buildings, lots, and support facilities **will** be clustered in those portions of the site that have the most suitable conditions for development.
2. 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.
3. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
4. The proposed subdivision **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 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.
6. The proposed subdivision **will** provide adequate sewage waste disposal.
7. The proposed subdivision **conforms** to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan.
8. The developer **has** the adequate financial capacity to meet the standards of this section.
9. The proposed subdivision **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
10. The proposed subdivision **will** provide for adequate stormwater management.

11. The proposed location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it **will not** interfere or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.
12. On-site landscaping **does** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.
13. All freshwater wetlands within the proposed subdivision **have** been identified on the plan.
14. Any river, stream, or brook within or abutting the subdivision **has/has not** been identified on any maps submitted as part of the application.
- ~~15. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in [Title 38, §480-B](#), none of the lots created within the subdivision **has/does not have** a lot depth to shore frontage ratio greater than 5 to 1.~~
- ~~16. 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.~~
- ~~17. 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.~~
- ~~18. The timber on the parcel being subdivided **has/has not** been harvested in violation of rules adopted pursuant to [Title 12, §8869, sub§14](#).~~

#### CONDITIONS OF APPROVAL (REQUIRED)

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated August 27, 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 [§120-914](#) or [§120-815](#) of the Land Use Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 201. Any person owning, operating, leasing, or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by June 1st of each year.
3. 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.
4. In accordance with [§120-914B\(5\)](#) of the Land Use Ordinance, the Construction of improvements covered by any subdivision plan approval shall be completed within two years

of the date upon which the performance guarantee is accepted by the Town Manager. The developer may request a one-year extension of the construction completion deadline prior to the expiration of the period. Such request shall be in writing and shall be made to the Planner. The Town Manager may require an update to the schedule of values and the amount of the guarantee when accepting an extension of the construction period. If construction has not been completed within the specified period, the Town shall, at the Town Manger's discretion, use the performance guarantee to either reclaim and stabilize or to complete the improvements as shown on the approved plan.

5. [Recreation Impact Fee](#) (\$600 x 4 = \$2,400), [Open Space Impact Fee](#) (\$450 x 18 = \$8,100), [Public Safety Impact Fee](#) (\$1,008 x 4 = \$4,032); and [Municipal Office Impact Fee](#) (\$333 x 4 = \$1,332). All fees (\$2,400 + \$8,100 + \$4,032 + \$1,332 = \$15,864) will be determined and collected for any building, or any other permits necessary for the development, [§120-1201C \(MASTER FEE SCHEDULE\)](#)