

PLANNING BOARD MEMO • AMENDED MAJOR SUBDIVISION & SITE PLAN • FINAL PLAN REVIEW

DATE: October 23, 2025

TO: Windham Planning Board
FROM: Amanda Lessard, Senior Planner/Project Manager
Cc: Steve Puleo, Planning Director
Drew Gagnon, Gorrell Palmer Consulting Engineer Inc.
Loni Gravier, Windham Village Apartments, LLC

RE: #23-18 Windham Village Apartments – Third Amended Subdivision & Site Plan – Final Plan Review – Stillwater Drive – Windham Village Apartments, LLC
Planning Board Meeting: October 27, 2025

Overview –

The applicant is proposing to amend the approval to develop a 14 building, 172 dwelling unit apartment complex initially approved by the Planning Board on July 1, 2024 and last amended on September 8, 2025, to add a condition of approval that in lieu of the furnishing of a performance guarantee no building permit for units will be issued until all project improvements are complete or a performance guarantee is accepted. In accordance with [§120-914A\(1\)\(d\)](#) of the Land Use Ordinance, this is an option for a type of performance guarantee for a subdivision that is served by private streets. The property is identified as Tax Map: 70; Lot: 1-A01: Zone: Commercial I (C-1) in the Presumpscot River watershed.



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

Review History

The Windham Village Apartments, a major subdivision and site plan for the construction 172 dwelling unit apartment complex, was approved by the Planning Board on July 1, 2024.

The Planning Board granted an amendment to the approval on January 27, 2025 to reflect that the applicant was required to obtain a MDOT Traffic Movement Permit (TMP) for the traffic generation from the development. The Board's findings were modified and a condition of approval related to the traffic impact fees was added to the plan.

The Board approved a second amendment to the plan on September 8, 2025 to create a condominium development and revise the building elevations for the 4 buildings with 48 units proposed to be condo units to be sold.

Planning Board Review Authority

The Planning Board's review authority is governed by [§120-913A](#), which stipulates that the Board must make findings of fact to determine whether the proposed revision meets the criteria outlined in [30-A M.R.S.A. §4404](#). Under [§120-913B\(2\)](#), the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. The application must include sufficient supporting information to demonstrate that the proposed revisions satisfy the standards of Article 9 and the relevant State subdivision statutes. The revised plan must clearly indicate it is a revision of the previously approved and recorded plan, as required by [§120-913B\(3\)](#).

Per [§120-913B\(4\)](#), the Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

The amended subdivision and site plan review comments below are limited to the applicable LUO performance standard sections impacted by the proposed amendment. Revision to the memo dated September 4, 2025 appear as underlined text.

AMENDED SUBDIVISION REVIEW

PLEASE NOTE: Staff comments reference guidance documents and suggested topics for Board discussion are in *italics text form a previously reviewed and approved items*, **bold and italic text represent unaddressed existing or new staff comments** or plain underlined text are items have been addressed by the applicant.

Staff Comments:

1. Complete Application: *[Amended Plan]*

MOTION: I move the amended subdivision and site plan application for the Windham Village Apartment 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:

SUBMISSION REQUIREMENTS

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.

The Planning Director, or designee, may waive any of the submission requirements of [§120-910](#) or [§120-811](#) based upon a written request by the applicant that includes the reasons for which a waiver is sought. 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 or that the information relates to a standard that is not applicable to the application. Per [§120-908B\(1\)](#) the Planning Director is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements.

a) No waivers of submission requirements have been requested.

PERFORMANCE STANDARD WAIVER - SUBDIVISION

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\(2\)](#).

a) None requested.

PERFORMANCE STANDARD WAIVER – SITE PLAN

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\(2\)](#).

a) None requested.

3. Public Hearing: The Planning Board held a public hearing on April 22, 2024, no public hearing is required for the amended subdivision and site plan review.
4. Site Walk: The Planning Board held a site walk on April 22, 2024.

Findings of Fact and conclusions for the Windham Planning Board,

MOTION: I move the Third Amended major subdivision and site plan application for the 23-18 Windham Village Apartments development identified as Tax Map: 70, Lot 1-A01 is to be **(approved with conditions/denied)** with following Findings of Fact, Conclusions, and Conditions of Approval.

FINDINGS OF FACT

Jurisdiction: Windham Village Apartments project is classified as an Amended Major Subdivision and Site Plan, which the Planning Board is authorized to review and act on by [§120-903](#) and by [§120-803A\(1\)](#) of the Town of Windham Land Use Ordinance. The Planning has authority to review revision to approved plans in accordance with [§120-913](#).

Title, Right or Interest: The applicant has submitted a copy of a Short Form Quitclaim Deed with Covenant between B33 Windham II LLC and Windham Village Apartments LLC dated June 27, 2024, and recorded on July 10, 2024 at the Cumberland County Registry of Deeds in Book 40857 Page 252.

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 70, Lot 1A is located in the Commercial I (C-1) District.
- The detached multifamily dwelling residences are a permitted use in the C-1 District [§120-410B](#).

[§120-911](#) - MAJOR SUBDIVISION PERFORMANCE STANDARDS

[§120-911F](#) – Conformance with Land Use Ordinances

Comprehensive Plan:

- The plan does meet the goals of the 2017 Comprehensive Plan. The development is location in the North Windham Growth Area.

Subdivision Ordinance

- Standard notes and the standard conditions of approval must be shown on the plans (see the proposed Conditions of Approval).
- In accordance with [§120-914A](#) the applicant shall provide a performance guarantees for an amount adequate to cover 110% of the total construction costs of all required improvements. [§120-914A\(1\)\(d\)](#) states that in lieu of the furnishing of a performance guarantee before the recording of the final plan, the Planning Board may accept the agreement of the subdivider that no lot or parcel of land shall be conveyed, and no building permit for any building or portion of the development shall be issued by the Code Enforcement Officer, until the completion of required improvements. Such agreement shall be acknowledged by a note on the final subdivision plan (see proposed Condition of Approval #9).

[§120-911J](#) – Stormwater

- (2) The development will create over 3-acres of non-vegetated area within the Shaw's Plaza development, as such, the project will be required to obtain MeDEP Site Location of Development Act (SLDA) permit.

- The Maine DEP Site Law Permit dated May 30, 2024 is recorded at the Cumberland County Registry of Deeds in Book 40805 Page 253.
- The draft condominium documents provided state that the association shall maintain and take all actions required to comply with the Site Law Permit. The permit states that the applicant (Windham Villages Apartments LLC) will be responsible for the maintenance of all common facilities including the stormwater management system. See condition of approval #8.

§120-911N – Maintenance of common elements.

- The applicant provided draft condominium association documents.
- The condominium association documents shall be recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded. See condition of approval #7.

§120- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS

§120-812C - Parking and Loading

- The amended plan for the development will provide 349 parking spaces, of which 14 are accessible. The parking layout revised the previously approved 338 proposed parking spaces (14 accessible and 102 oversized) based on the Town Council Order 25-043 effective May 30, 2025, removing the requirement for 30% oversized spaces.

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

- The amended subdivision site plan shows the location of 4 dumpster enclosure areas. One of the dumpster locations has been relocated from across from Building 11 to Across from Building 6. ~~The dumpster pad should be revised to not be located within the Access Drive ROW.~~

§120-814 – MULTIFAMILY DEVELOPMENT STANDARDS.

§120-814A – Building Architecture

- (1) Architectural variety. The applicant has provided architectural rendering and designs for the 4 condo buildings (located in the southwestern corner of the parcel) with revised color scheme and accents. The apartment buildings were previously approved with two colors of siding and white trim on each building. The revised color scheme for the condo buildings have two colors.

CONCLUSIONS

1. The proposed subdivision and site plan **will not** result in undue water or air pollution.
2. The proposed subdivision and site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision and site plan **will not** cause an unreasonable burden on an existing water supply.

4. The proposed subdivision and 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.
5. The proposed subdivision and site plan **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 and site plan **will** provide for adequate sewage waste disposal.
7. The proposed subdivision and site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision and site plan **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** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision and site plan **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 and site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision and site plan **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.
16. The proposed subdivision and site plan **will** 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.~~
(N/A)
18. The long-term cumulative effects of the proposed subdivision **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.~~ (N/A)
20. Timber on the parcel being subdivided **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 June 3, 2024, July 1, 2024, November 25, 2024, January 27, 2025, August 22, 2025, as amended October 6, 2025 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 with [§120-814](#) and [§120-815](#) of the Site Plan and [§120-913](#) of the Subdivision Ordinances.
2. Approval is subject to the requirements of [Chapter 201 Article II](#) Post-Construction Stormwater Ordinance. 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. At the time of applying for building permits for the 172 residential units, the applicant shall pay the required Traffic Impact Fees as described in the approved Traffic Movement Permit #REG 01-000432-A-N. This includes safety and mobility impact fees totaling \$56,854 and \$7,653 paid to the Town for the [North Windham Route 302 Road Improvement impact fee](#).
4. Recreation Impact Fee, the Open Space Impact Fee, the Public Safety Impact Fee, and the Municipal Office Impact Fee. All fees will be determined and collected for any building, or any other permits necessary for the development, [§120-1201C](#).
5. Any building plan, subdivision plan or site plan submitted for building(s) to be located in a sewer expansion area shall include on the plan the location of any service pipe to be installed in accordance with this section. Subdivisions shall further comply with the provisions of [§181-45](#).
- ~~6. Before the required pre-construction meeting with staff and before any land use activities begin, the applicant shall provide to the Planning Director the "Ability to Serve" letter from the Portland Water District (PWD).~~
7. In accordance with [§120-911N\(5\)](#) of the Land Use Ordinance, the condominium association documents, including but not limited to the condominium declaration, bylaws, plat, and plans, shall be approved as to form by the Town Attorney and recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded in the Cumberland County Registry of Deeds. Evidence of such recording shall be provided to the Planning Department. No units shall be sold in the subdivision prior to recording of such condominium association documents and all deeds shall reference the declaration establishing the condominium association.
8. The applicant shall provide the Planner with a copy of the approved and recorded transfer of Maine DEP Site Location of Development Act Permit to the Condominium Association.
9. In lieu of a performance guarantee for the construction of the project improvements, no lot or parcel of land may be conveyed, and no building permit for any building or portion of the development shall be issued by the Code Enforcement Officer until the completion of all streets, utilities and other required improvements in accordance with

this plan and all applicable laws, ordinances and standards. If the applicant wishes to convey or obtain a building permit prior to all project improvements being completed in accordance with this plan and all applicable laws, ordinances and standards, a performance guarantee equal to the cost of the remaining improvements shall first be approved by the Town Manager, in consultation with the Planning Director, and submitted to the Town.