



**Town of Windham
Planning Department**

8 School Road
Windham, Maine 04062
Tel: (207) 894-5960 ext 2
Fax: (207) 892-1916
www.windhammaine.us

MEMO

DATE: December 7, 2021

TO: Windham Planning Board
FROM: Steve Puleo, Town Planner
Cc: Dustin Roma, DM Roma Consulting Engineers
Robie Holdings, LLC Applicant
Development Review Team

RE: 21-24 – Badger Run Subdivision: Major Site Plan and Major Subdivision, Sketch Plan Review
Planning Board Meeting: December 13, 2021

Overview –

Robie Holdings, LLC is requesting a sketch plan review for a review of the Major Site Plan and Major Subdivision Sketch plan for a proposed 30-unit residential development project. 21-24: Badger Run Apartments. The proposal is to develop a 1.8-acre property with 30 residential dwelling units in 3 multi-family buildings and extend Badger Run to serve the development. The property in question is located at Badger Run private drive.

A Development Review Team meeting was held on December 6, 2021. Comments received during the meeting are reflected in the memo below.



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

Tax Map: 67, Lot 80. Zone: Commercial District I (C1)

SITE PLAN AND SUBDIVISION REVIEW

Staff Comments:

1. Waivers: Section 910.C.1.C.1 High-Intensity Soil Survey:

- a. The applicant states a waiver is requested due to soils in the part of Windham are consistently are deep sandy soils, supported by the medium-intensity soil maps. The applicant will be conducting a deep test pit for septic systems and stormwater infiltration systems and will provide sufficient information for project design.
- b. At the Development Review Team Meeting, the applicant stated that they would like support for a waiver from the Planning Board.

1. Complete Application: *N/A with Sketch Plan*

~~**MOTION:** The major subdivision and site plan application for the Badger Run Subdivision 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. Public Hearing: No public hearing has been scheduled for this project. The Planning Board must determine whether to hold a public hearing on the application.
3. Site Walk: A site walk has not been scheduled for this project. A site walk is required for major subdivisions and will be scheduled.

Findings of Fact and conclusions for the

Windham Planning Board,

~~**MOTION:** The major subdivision and site plan application for the Vintage Drive project on Tax Map: 67, Lot 80 is to be (**approved with conditions/denied**) with the following findings of fact and conclusions.~~

FINDINGS OF FACT

812. - MAJOR SITE PLAN PERFORMANCE STANDARDS

812.A. - Utilization of the Site

- The subject parcel is approximately 1.8 acres (78,408 SF) The site is currently vacant and relatively flat with existing few trees along the perimeter of the property boundaries.
- There are no wetlands identified on the property.

812.B. - Vehicular Traffic; 812.C. - Parking and Loading; 812.D. - Pedestrian Traffic

- The subject parcel has approximately 130 feet of frontage on Route 115, Tandberg Trail.
- The site currently has access by Badger Run private driveway servicing the North Windham Veterinary Hospital.
- The proposed project will be served by a new public street connecting to Rt 115, to be constructed to the Thoroughfare Standards 1. Residential Street, per Section 406.E.6.(k).

- Per the Development Review Team meeting, the applicant shall provide evidence that the proposed road would be primarily used for residential purposes the road is the primary access to Veterinary Hospital. The Veterinary Hospital has 13 90° parking spaces west side of the road, which would back onto the proposed new road.
- The right of way (ROW) width is no less than 30-feet and no greater than 50-feet. The applicant is proposing a 30-foot ROW.
- The pavement width is no less than 18-feet wide and no greater than 20-feet wide. The applicant is showing a 22-foot-wide pavement width.
- The margin width on either side of the pavement is no less than three (3) feet. The applicant is showing eight (8) feet on the east side of the pavement and zero (0) feet on the east side of the pavement area.
- The road must have a minimum planter width of three (3) feet. The applicant is not showing any planter areas.
- Minimum sidewalk width shall be no less than four (4) feet, the applicant is providing a five (5) foot proposed sidewalk on the east side of the proposed road, connecting the existing sidewalk along the Tandberg Trail.
- The Planning Director expressed concerns that the applicant needs to provide Right, Title, and Interest of the portion of the existing driveway to offer the road to the Town. Per Section 555.C new streets with direct access to a public street must be built to the applicable local street standard and offered to the Town for acceptance as a public street. Evidence will be required for review by the Town Attorney with the Preliminary Plan submission.
- The applicant is showing three curb cuts servicing the two (2) 12-unit apartment buildings and one curb cut servicing the six (6) townhouse units. Section 522.B.2 limits a parcel to one (1) curb cut on the street. The Planning Board may waive this standard to allow a maximum of two (2) curb cuts on a non-Arterial street.
- The proposed road right of way should extend to the northerly property line allowing a future for a connection to Abby Road complying with the C-1 block standards, per Section 406.E.6.(1).
- At the Development Review Team Meeting on December 6, 2021, Fire Chief Brent Libby was satisfied with access to three sides of the 12-unit apartment buildings. The Chief asked if the parking area for the townhouses could be extended to allow ladder truck access to unit #30.
- Sight distances for connection of Badger Run and Tandberg Trail must be shown on the preliminary plan review.
- The sketch plan shows 72 parking spaces. The ordinance does not have a minimum number of spaces required, but the applicant shall demonstrate that the number of spaces provided onsite will meet the needs of the proposed uses. Section 812.C.(1)(d) requires 30% of the parking spaces to be 10' x 20' in size.
- A traffic impact study must be submitted with the preliminary plan review if the project will generate fifty (50) or more trips during the a.m. or p.m. peak hour.
- If the project generates over 100 peak hour trips and requires a Traffic Movement Permit from the Maine Department of Transportation, it must be submitted with a preliminary plan review.
- At the Development Team Review meeting, the committee discussed the Manchester School improvements and how the proposed new access drive would be affected by the

proposed development. There was discussion regarding school bus stops on Tandberg and possible beacon activated cross allowing access to the new Manchester School entrance.

- The applicant is proposing to provide a 24' by 50' easement for turning Town vehicles with the parking area for the townhouses. The turning area is located on the west side of the proposed road. At the Development Review Team meeting the Director of Public Works stated that the plow trucks would drop the snow loads in the easement area, which would be in the middle of the parking area. The 13-parking space associated with the Veterinary Hospital would have snow loading in the parking area. Based on these two issues the Director of Public Works is not satisfied with the proposed road configuration and layout.

812.E. - Stormwater Management; 812.F. - Erosion Control

- The site is located in the Presumpscot River Watershed.
- Per Section 812.E., a stormwater plan needs to be submitted that meets the standards of Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Management.
- This project may require a DEP Chapter 500 Stormwater Permit, which must be submitted with the final plan review.
- Per Section 812.F.1., the applicant will be minimized impacts to the site to the fullest extent possible. The proposed site improvements shall preserve the natural vegetation as much as possible.
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham.
- As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance as there is more than one (1) acre of development proposed. See recommended Condition of Approval #2.
- The applicant shall provide a plan for Erosion and Sedimentation Control practices during the site improvement construction activities that will meet the Basic Standards per Section 4(A) of the DEP Chapter 500 Stormwater Rules as outlined for the preliminary plan review, per Section 812.F.2. and 2(a).

812.G. - Water Supply Provisions; 812.H. - Sewage Disposal Provisions

- The development proposal will utilize domestic from the Portland Water District (PWD).
- At the Development Team Review meeting, the Fire Chief stated that the nearest fire hydrant is 350-feet from the site within the Tandberg Trail ROW, west of the site.
- Per the Fire Department requirements, the building will have a fire suppression system installed. The applicant will be providing an “Ability to Serve” as required for the preliminary plan review, per Section 807.F.1.(e).

812.I. - Utilities

- The proposed residential buildings will be connected via underground utility lines (electrical, telephone, and telecommunication services).
- The project will be served by domestic water and an onsite septic system (s).
- The project may require a road opening permit from the Town where the public right-of-way (ROW) connects the new sidewalk to the Town's sidewalk in the Tandberg Trail ROW for the final plan review.
- Based Fire Chief's requirements and use, the applicant will install a sprinkler system and a fully addressable alarm system.

812.J. - Groundwater Impacts; 812.K. - Water Quality Protection

- The site will have an onsite septic system servicing the new building. The applicant shall provide an HHE-200 applicant and soil testing for the proposed location of the system for preliminary review.
- The site is not located in a watershed of a "body of water at risk from development," as designated by Maine DEP.

812.L. – Hazardous, Special and Radioactive Materials

- The proposed residential will not handle, store or use any material identified by the federal or state as hazardous, special, or radioactive.

812.M. – Shoreland Relationship

- The proposed residential is not located in a shoreland zoning district.

812.N. - Technical and Financial Capacity

- Evidence of financial capacity must be provided as part of the final submission
- Evidence of technical capacity must be provided as part of the final submission for review.

812.O. – Solid Waste Management; 812. P. – Historical and Archaeological Resources;

812.Q. - Floodplain Management

- The applicant has not provided a construction waste plan, a construction schedule, or a solid waste management plan.
- There are no known historic and archaeological resources onsite.
- The proposed building is not in the FEMA floodplain.

812.R. – Exterior Lighting; 812.S. - Noise

- At the Development Review Team, the Planning Director suggests the site lighting would remain private and located within the parking areas and building-mounted lighting. There is an existing Cobra-head street near the Badge Run driveway on Tandberg Trail.
- The proposed residential use will not exceed 65 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.

812.T. – Storage of Materials and Screening (Landscape Plan)

- The final submission should include a landscape plan and planting schedule.
- The snow storage area must be identified on the preliminary plan for review.

813 Commercial District Design Standards for the Commercial 1 (C1)

813.A. - Architecture/Building (Required for Final Plan Review)

- Per Section 813.A.1.a., for building style.
The applicant has not shown an example of the building style. As noted by the Economic and Development Director, the site is in the North Windham Growth Permit area and the Town Council has expressed interest in seeing the building style with their growth permit applications.
- Per Section 813.A.2.a., for the materials.
The applicant shall provide evidence with the final plan submission for completeness review.

Per Section 813.B.2.b. for awnings and canopies.

- Per Section 813.A.3.a. for Façade colors.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.4.b., for non-traditional roof forms.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.4.c., for flat roofs.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.4.d. for parapets use.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.4.e. for Roofing materials will not include high gloss roofing materials.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.4.f., for Rooftop equipment will include new mechanical units and screening from view.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.5a., for facades that face public streets.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.5.b., for retail and foodservice facades, no blank facades facing the public roads or abutting properties are permitted.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.5.c., for site plans and architectural elevations, the applicant is not proposing any exterior vending machines.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.5.d., for windows, doors, ventilation fixtures, and other building openings will be trimmed to match the existing building openings.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.5.e. for horizontal facades.
The applicant shall provide evidence with the final plan submission for completeness review.

- Per Section 813.A.6.a., for phasing plans.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.6.b., for freestanding structures.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.7.a. for renovated buildings over 20,000 SF, the building entrance shall be clearly defined and highly visible.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.7.b., for linear commercial building.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.A.8.a., for Architectural detailing and trim, the proposed new details on the facades of the building are in proportion to the existing structure.
The applicant shall provide evidence with the final plan submission for completeness review.

813.B. - Site/Parking

- Per Section 813.B.6.a., for Screening, Utility, and Service Areas.
The applicant shall provide evidence with the final plan submission for completeness review.

813.C. – Landscaping/Lighting

- Per Section 813.C.3.a., for lighting coordinating with landscaping
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.C.5.a., for designated snow storage areas.
The applicant shall provide evidence with the final plan submission for completeness review.

813.D. – Bicycle/Pedestrian

- Per Section 813. D.1. for continuous internal walkways.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.D.2.a., for links to the community.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.D.2.b., for internal pedestrian connections with abutting properties and within the parking lot.

The applicant shall provide evidence with the final plan submission for completeness review.

- Per Section 813.D.4.a. for sidewalks and planted esplanades.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.D.5.a., crosswalks for sidewalks intersecting commercial driveways or roads.
The applicant shall provide evidence with the final plan submission for completeness review.
- Per Section 813.D.6.a., for bicycle parking and racks.
The applicant shall provide evidence with the final plan submission for completeness review.

(In addition to meeting all the Design Standard in the C1 zoning, the applicant must comply with a minimum of eight (8) other Design Standards.)

Conformity with Local Plans and Ordinances

1. Land Use

- The Commercial I (C1) zoning district does not require a minimum lot size and a 100' minimum lot frontage.
- Multi-family developments in C1 shall orient buildings with the front door facing the front lot lines.
- The lot shall meet the 10–20-foot maximum setback from Route 115 and is subject to the minimum side and rear 6-foot setback. The applicant did not provide the front yard setback from the proposed improved Badger Run ROW.
- The sketch plan application identifies Multi-family residential uses in the two proposed lots.
- The buildings shall only be occupied by uses that are permitted in the C1 District.
- The final plan review needs to demonstrate how the project will comply with the Commercial District Design Guidelines in Section 813 (see above)
- Building elevations and sign details shall be provided with the preliminary plan submission

2. Comprehensive Plan

- This project meets the goals and objectives of the 2017 Comprehensive Plan. The proposed project is in the North Windham Growth Area.

3. Others:

- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area. See Condition of Approval #2.
- Chapter 221 Street Naming and Addressing: Street names approved by the Town Addressing Officer shall be shown on the preliminary plan for review.

Impacts on Adjacent/Neighboring Properties

- The sketch plan does not show any dumpster(s) locations.

- Site lighting must be shown on the preliminary plan, and details of fixtures must be included in the submission.
- The rear of the property abuts Abby Road residential homes. Screening or landscaping along the property line should be shown on the preliminary plan.

911 - MAJOR SUBDIVISION PERFORMANCE STANDARDS

911.A. – Basic Subdivision layout

- As noted above, the parcel is 1.8 acres in size. The C1 zoning does not have a minimum lot size are a net residential density associated with the subdivision proposal.
- The applicant is proposing to rebuild Badger Run private driveway to meet the Town's Thoroughfare Standards 1. Residential Street, see Section 812.C. above for details.
- The new residential buildings will not result in undue air or water pollution.
- The applicant shall provide monuments at the corners of Badger Run road public right-of-way (ROW) boundaries.
- During the Development Review Team meeting, Fire Department will be involved with lot numbering for E-911 with the Addressing Officer.
- At the Development Review Team meeting, the applicant stated all utilities will be located underground, per Section 911.A.2(a).

911.B. – Sufficient Water

- The applicant will coordinate with the Portland Water District to connect the residential apartment to domestic and fire suppression water supply lines and note above, an “Ability to Serve” letter for the water supply shall be provided with the preliminary plan submission.
- The closest fire hydrant is located 350-feet west of the proposed development. The applicant shall provide flow and distance information for the final plan review.

911.C. - Erosion Control and Impact on Water Bodies

- As mentioned in Section 812.C., the applicant will be required to provide and stormwater management and erosion control plans meeting DEP Chapter 500 Stormwater Rules.

911.D. – Sewage Disposal

- The final plan review must include a Soil Evaluation for a subsurface wastewater disposal system meeting the Maine Subsurface Wastewater Disposal Rules. The soil test pit must be shown on the preliminary plan for review.
- A groundwater impact analysis is required for the final plan involving on-site sewage disposal facilities with a capacity of 2,000 gallons per day or more.
- The sewage disposal is dependent upon notification from the Superintendent that public sewer service is available in the sewer expansion area, all dwellings in the subdivision shall, at the owner’s expense, connect any plumbing facilities directly with the public sewer in accordance with the provisions of this chapter within one hundred twenty (120) days after the date of notice by the Superintendent, see Condition of Approval #3.

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

- The applicant will provide more information for the preliminary plan review relating to the natural resource impacts for the final review.

- The site has no shoreline frontage.
- The applicant shall submit a “Beginning with Habitat Map” showing the location of the subject property in relation to deer wintering areas and brook trout habitat. There were no deer wintering areas or brook trout habitat shown on the property.
- The applicant will provide a review of the site from the Maine Historic Preservation Commission as part of the final plan review.

911.F. – Conformance with Land Use Ordinances

Comprehensive Plan:

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

Land Use Ordinances:

- See Section 813 for details of the zoning requirements.

Subdivision Ordinance

- Standard notes and the standard condition of approval must be shown on the plan.
- The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the final plan submission.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the final plan submission.
- The subdivision plan shows the entire parcel including all contiguous land in common ownership within the last five years, as required by 30-A MRSA Section 4401.

911.G. – Financial and Technical Capacity

- Evidence of financial capacity must be provided as part of the Final Plan submission.
- Evidence of technical capacity must be provided as part of the Final Plan submission.

911.H. – Impact on Ground Water Quality or Quantity

- No impacts on groundwater are expected.

911.I. – Floodplain Management

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

911. J. – Stormwater

- The stormwater management plan shall comply with Chapter 500 Stormwater Rules and shall include a maintenance plan. The applicant shall provide a management plan for the final review as discussed in Section 812.E.

911.K. – Conservation Subdivision

- The project is not located in Farm or Farm Residential zoning Districts.

911. L. – Compliance with Timber Harvesting Rules

- The applicant stated the subdivision will not involve timber harvesting activity. All trees removed will be limited in scope and clearing will be minimized to the greatest extent practical.

911.M. – Traffic Conditions and Street

- For the preliminary plan review, the applicant will provide a traffic study meeting with the requirement in Section 812.B.
- All road opening in the public ROW will require a road opening permit from Public Works Department.

At the Development Review Team meeting, the Planning Director stated the Badger Run private driveway must be improved to C-1 permitted road standards.

- The proposed Badger Run Road does not meet the Thoroughfare Standard, 1. Residential Street, the applicant shall work with planning staff to meet Section 911.M. for the preliminary plan review.

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 or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable 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.~~
16. — ~~The proposed subdivision **will/will not** provide for adequate stormwater 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 **has/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. ~~The 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 November 22, 2021, amended _____, 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 Staff Review Committee or the Town Planner in accordance with Section 814.G. and 91G. in the Land Use Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, per Chapter 144 Section 6.A. 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.
3. Approval is subject to the requirements of the Sewers Ordinance, Chapter 195. Upon notification from the Superintendent that public sewer service is available in the sewer expansion area, all dwellings in the subdivision shall, at the owner's expense, connect any plumbing facilities directly with the public sewer in accordance with the provisions of this chapter within one hundred twenty (120) days after the date of notice by the Superintendent to do so. Plans approved by the Portland Water District for the public sewerage system to serve the subdivision shall be submitted to the Planning Department prior to the start of construction.
4. [Other or unique conditions]