



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, April 10, 2023

6:30 PM

Council Chambers/** Via Zoom

FINAL AGENDA

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

Pursuant to the Town of Windham Planning Board's Remote Participation Policy adopted September 13, 2021 (online at <https://www.windhammaine.us/372/Planning-Board>), Zoom is only available to the public if one or more of the Board members cannot attend in person but will be participating remotely

Zoom will be the meeting platform used by both the Board and the public.

Information about using Zoom is available at

<https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-at-tendee->. Please note that members of the public will need to use the raise your hand feature in Zoom or type *9 on the phone to be called on and heard during the public testimony portion of the agenda.

1 Call To Order

2 Roll Call and Declaration of Quorum

3 [PB 23-020](#) Approval of Minutes -March 13, 2023

Attachments: [Minutes 3-13-2023.pdf](#)

Evert Krikken made a motion to approve the minutes of March 13, 2023.

Seconded by Shonn Moulton.

Vote: Five in favor. No one opposed. Kathleen Brown abstained.

Public Hearings and Continuing Business

4 [PB 23-019](#) 23-09 Code of the Town of Windham, Chapter 120 Land Use Ordinance, Article 4 Zoning Districts, Article 5 Performance Standards, Article 8 Site Plan Review, and the Official Land Use Map - Windham Center and Village Residential Districts.

Attachments: [PB MEMO_WindhamCenter032223.pdf](#)
[WC Presentation PB March 2023.pdf](#)
[WC VR LUOamendment REVISED March2023.pdf](#)
[WindhamCenter ProposedMap 04-2021.pdf](#)
[WindhamCenter ProposedZoningChangesMap 04-2021.pdf](#)
[FR F compare WC VR revised Feb2023.pdf](#)
[Zoning Standards WC VR Feb2023.pdf](#)
[Public Comment David Stevens Proposed Zoning Changes.pdf](#)
[Public Comment William Livengood Proposed Windham Center.pdf](#)

Amanda Lessard explained the area for the proposed amendments had been identified in the Comprehensive Plan as a growth area.

- State law required zoning to be consistent with the Comprehensive Plan. This was not currently the case for the Windham Center Growth Area.
- Town Council had directed the Long Range Planning Committee (LRPC) to draft ordinance that would implement the needed changes.
- During that time the State passed a law that required municipalities to increase ordinance opportunities for multi-family housing. This would require, by July 1, 2023, that up to four dwelling units must be allowed on every lot where a single-family home would be permitted in the Windham Center Growth Area.
- The LRPC had been directed to draft additional standards for multi-family developments, because of Town Council and Planning Board concerns regarding the scope of proposed changes and types of uses. This resulted in what the Planning Board was currently considering.

The Pleasant River divided the Windham Center Growth Area diagonally and there was a clear difference in the types of uses that existed. The LRPC considered that the Windham Center area was different from other growth areas and had developed lot sizes and land uses for the proposed Village Residential and Windham Center districts.

- Village Residential (VR), on the west side of the river, was the more suburban area.
 - o Existing residential development was predominantly single family dwellings in older subdivisions.
 - o Lot sizes were smaller than the current zoning standard. This area was proposed to be more walkable with limited small businesses to meet neighborhood needs.
 - o Multi-family dwellings would be limited to four units.
 - o Prohibited uses would be those that were more rural in nature or larger in size and not compatible with high-density neighborhoods.
 - o The requirement for a 4/12 minimum roof pitch may not be needed as the applicable design standards for multi-family housing addressed roof pitch.
- Windham Center (WC), on the east side of the river, to Route 202, had a variety of commercial uses, civic facilities, the Black Brook Preserve, and a protected farm.
 - o Many lots were undersized for current zoning with a clear pattern of smaller lots fronting on Route 202.
 - o The largest lots were undevelopable parts of the school campus, protected area, or open space.
 - o No lots seemed to fit the character of conditions west of the river.
 - o The area was proposed to be primarily residential and walkable with various commercial uses to support and promote business within the area, including: arts, cultural, and community space.
 - o Multi-family dwellings would be limited to four units.
 - o Prohibited uses would be those that were more rural in nature or larger in size and

not compatible with high-density neighborhoods.

- o If a building was to be over 35 feet high, the side and rear setbacks for it would increase to 15 feet.*
- There were no proposed changes to the zoning map from what the Planning Board had reviewed in 2021.*

Two written public comments had been received. Neither were in favor of the proposed amendments because:

- Of the historic nature of Windham Hill*
- There was no plan to make it walkable*
- Concerns regarding the reduction of lot size*
- Increases in maximum building height, setbacks, and road frontage*

Public Comment

Bill Livengood, Pope Road – He was disappointed to see matter back before the Board without major changes to narrow the size of the district. Drive-throughs should not be allowed. Sidewalks should be mandatory. There was no need to make Windham Center a commercial center. The properties in Windham Center had scenic and historic areas which contributed to the charm and character of the town and should be preserved.

Pope Road had no sidewalks. The road edge was crumbling in places and there was nothing to walk on. There was a blind corner coming from Route 202 to Pope Road. It was dangerous for walking.

They had moved into a historic house primarily because of rural farms and character, and had maintained those with gardens, fields, woods, and access to fishing on the Pleasant River. This would create pressure to develop in respect to rural lots. More banks were not needed in that area of town.

Gayle Shaw, Pope Road – She concurred with Mr. Livengood's comments and was very concerned about changes in the area. Her house was historic. She had been concerned with the school buying the property and tearing her house down and changing the area. That could happen in a snap, and it changed the whole tenure of an area. She was concerned with business lights changing nature of the sky in the area and the wildlife. She wanted to make sure lighting was kept to a minimum. Banks with drive-throughs were not necessary. The road was very dangerous. It was almost impossible to cross Route 202 from Pope Road at 7 am. That area would be impacted by traffic, increasing traffic would be dangerous. A childcare center with 50 children would increase the amount of litter, traffic, lighting, and noise.

Sarah Treat, Pope Road – At her house she had goats, chickens, geese, and ducks. Would she be grandfathered for them? Would anyone buying there be able to have goats and horses? She agreed with the previous speakers. It was beautiful and historic, please don't make it commercial. The road was small, traffic was terrible. This would make it worse. She understood the need for growth, but 50 kids in a daycare across from your house really changed the neighborhood. Where would the septic go? Lighting, traffic, childcare and historic nature, businesses would change the whole nature of things.

Sharon Emerson, Windham Center Road – She totally agreed. The area was not meant for what was proposed. She worried about taxes and what the property value would be. She didn't think the area was commercial and didn't want a drive-through next to her.

Clayton Haskell, Gray Road – He owned 200 acres that would be divided in half and he

was totally against division of the Windham Center area. It was probably the only area of town that was still rural. You had the Forever Farm, the land trust, and tree growth areas. You couldn't move existing development to put more houses in. There was too much growth. Growth didn't have to go in that area as long as the town provided that space somewhere.

If the State was forcing change, then the state should come in with some money for the town because of the increased burden on taxes, public works, police, and fire. Pope Road was atrocious. People moved to town for the characteristics and now they were trying to change are away from that. He was strongly opposed. He was probably the largest landowner in that area and would fight tooth and nail if they changed it.

There was no more public comment. The public hearing was closed.

Board Comment

- Was everything along Pope Road zoned the same?*
- All farm zone land should be removed from the proposed zone.*
- Did the proposed ordinances acknowledge the historic nature of the community?*
- Generally, you didn't try to shotgun commercial growth across an entire landscape. Economics would create where business went but generally commercial was zoned in its own growth section. It was too much all at once. It created too much gray area with where things would go because they were allowed.*
- The Board member lived on Park Road and was part of the LUOC. He recommended making public comments to Town Council. Even though some commercial uses were being proposed, some impactful uses were being taken away.*
- The Planning Board should recommend removal of the minimum roof pitch requirement because it was covered elsewhere in the ordinance.*
- Sidewalks should be required because some roads were not walkable or bikable.*
- Increased setbacks would help with spacing of buildings.*
- Maybe drive-throughs and banks could be downgraded a little, for consistency with a more residential nature.*
- There was no way to get around the fact that it was a designated growth area and some things would be imposed as opposed to being a choice.*
- Some concerns would alleviate themselves because of economic viability.*
- The base issue was that the growth area was too broad. The zone was needed, but it didn't need to be that big.*
- The lighting and sign ordinances needed to be reviewed for how they would be used as opposed to in a commercial zone.*
- Sidewalks should be required for at least one side of the streets.*

Evert Krikken made a motion recommend with comments approval of the proposed amendments to the Land Use Ordinance, Chapter 120 Article 4 Zoning Districts, Article 5 Performance Standards, Article 8 Site Plan Review, and the Official Land Use Map - Windham Center and Village Residential Districts.

Seconded by Rick Yost.

Roll Call

Kathleen Brown – In Favor

Marge Govoni – In Favor

Shonn Moulton – In Favor

Rick Yost – Opposed

Evert Krikken – In Favor

Christian Etheridge – Opposed

Vote: Four in favor. Two opposed. No one abstained.

- 5 [PB 23-016](#) #21-13 - Vintage Subdivision - Major Subdivision, Preliminary Plan Review - PTG Properties, Inc. The application is for a major subdivision preliminary plan known as Vintage Subdivision. The proposal includes the construction of the private road, Vintage Drive, and the development of Lots 3 and 4 of the subdivision with 30 residential dwelling units. Lots 1 and 2 will remain undeveloped for future commercial developments. Tax Map: 52, Lot 24. Zone: Commercial I District (C-1).

Attachments: [PB MEMO PERLIM PLANM VintageDriveSub 21-13 0330323.pdf](#)
[Response to Comments Vintage Subdivision 2023 3 22.pdf](#)
[09 - Details.pdf](#)
[5th_SRC MEMO PrelPlan VintageDrive 21-13 031723.pdf](#)
[SUBM COMPL MEMO FinalMajorSub&SP VintageSub 21-13 022823.pdf](#)
[TownEngineer Comments 022823.pdf](#)
[PREL PLAN PlansSet VintageSub 21-13 022123.pdf](#)
[PREL PLAN Application VintageSub 21-13 022023.pdf](#)
[PTG Properties Inc L29581AN.pdf](#)
[P Gilman PTG Properties Letter of Denial 2018-07-13.pdf](#)
[ZBA 9.6.18 Minutes and Finding of Facts GILMAN PTG.pdf](#)
[6th_SRC MEMO PrelPlan VintageDrive 21-13 033023.pdf](#)

Steve Puleo explained:

- The project was a four lot subdivision with two of those lots dedicated to a 30 unit residential development.
- The Fire Department was satisfied with the emergency vehicle access.
- Portland Water District (PWD) had approved the service connection.
- DEP had issued the stormwater permit.
- The Board had previously postponed its decision at the public hearing, pending an amendment to the ordinance which would now allow the subdivision to have a private road. That ordinance amendment had been granted and the developer was now proposing a private road.

Christian Etheridge joined the Board, via Zoom.

The town was currently in negotiation with the applicant regarding a consent agreement for another development in town that would require Planning Board review.

Marge Govoni disclosed that the other development had been reviewed by the Zoning Board of Appeals when she was that Board's chair. She had no financial interest in the project and was unbiased toward the applicant and anything he may propose.

Kathleen Brown made a motion to acknowledge that the Board Chair had disclosed she had been the Chair for the Zoning Board of Appeals, and the Planning Board had made a finding that there was no conflict of interest.

Seconded by Evert Krikken.

Vote: All in favor.

Rick Yost made a motion to postpone Vintage Subdivision until May 22nd.

Seconded by Shonn Moulton.

Board Comment

- *The Board should not make a decision until the pending consent agreement had been executed.*
- *The Board was questioning the applicant's technical ability in regard to the provisions of the ordinance, specifically:*
 - o *The applicants previous experience*
 - o *The experience and training of the applicant's consultants and contractors*
 - o *The existence of previous violations of approvals granted to the applicant*
- *It was worthwhile to postpone further consideration of the application so as not to put the applicant in position where the application may be denied.*

Roll Call

Rick Yost – In Favor

Evert Krikken – Opposed

Marge Govoini – In Favor

Shonn Mouton – In Favor

Christian Etheridge – In Favor

Kathleen Brown - Abstained

Vote 4 in favor to postpone. Evert Krikken opposed. Kathleen Brown abstained.

6 [PB 23-017](#)

#20-11 - Roosevelt Apartment Homes - 963 Roosevelt Trail - Amended Major Site Plan Final Review - Heyland Development, LLC. The application is for the construction of a three-story, 50-unit apartment building that would contain a mix of one- and two-bedroom units. The site is 6.91 acres and has an existing 74-room hotel, a 100-person conference room, and parking facilities. Tax Map: 21; Lot: 19A: Zone: Commercial I North (C-1N) in the Pettingill Pond watershed.

Attachments: [PB MEMO FINAL SITE PLAN RooseveltApartmentHomes 20-11_040623.pdf](#)
[Applicant_Final_Response_040622.pdf](#)
[APPLICANT_RESPONSE_Email_RooseveltApartmentHomes_20-11_040623.pdf](#)
[REV 963 Roosevelt Trail Drainge Report 4-3-23.pdf](#)
[REV 963 Roosevelt Trail Plans 4-3-23.pdf](#)
[6th REVISED COMPLETENESS MEMO MSP RooseveltApartmentHomes 20-11_033023.pdf](#)
[TownEngineer Comments 032423.pdf](#)
[PLANS_963 Roosevelt Trail Plans 032123.pdf](#)
[REV 963 Roosevelt Trail Drainage Report 032123.pdf](#)
[TOWN ATTORNEYoosevelt Apartment Homes Stormwater Review 031623.pdf](#)
[5th REVISED COMPLETENESS MEMO MSP RooseveltApartmentHomes 20-11_031323.pdf](#)
[3rd-party_Engineering_comments_102422.pdf](#)
[DEP_Determination about SW modification-03.pdf](#)
[TownEngineer_Comments_on_DEP_Email031723.pdf](#)
[DHHS Approval RooseveltAptHomes7-16-21 Corrected 0320823.pdf](#)
[APPLICANT_Response to comments030323.pdf](#)
[Waiver Request Form Groundwater Protection 122222.pdf](#)
[APPLICATION RooseveltApartmentHomes 20-11_060222.pdf](#)
[DEP L-23535-NB-D-A_963RooseveltTrail_042522.pdf](#)

Steve Puleo explained:

- The Planning Board had concerns regarding the review engineer's previous comments pertaining to:
 - o Stormwater compliance under DEP rules
 - o Phosphorus standards
 - o Flooding standards
 - o Stormwater
 - o Erosion control
 - o Sewerage disposal
 - o Groundwater quality protection.
- The applicant had worked with the engineers regarding their concerns.
 - o The engineers were mostly satisfied with the stormwater system redesign.
 - o Staff had met with the project engineer and DEP regarding concerns for the phosphorous standards and the State drinking water standards.
 - ☐ The Department of Health and Human Services had permitted a wastewater field with pretreatment for nitrogen.
 - ☐ The applicant had requested a waiver of the requirement for a hydrogeological assessment.
 - ☐ Staff was concerned that, without the hydrogeological assessment, there would be no way of determining if the nitrogen standard at the property line was being met.

Eric Heyland was present, representing the application. He explained:

- They had made enhancements to what DEP had permitted. Nothing had been taken away.

- *They proposed a 50-unit apartment building, similar in appearance to the hotel.*
- *Parking would be shared with the hotel.*
- *The septic system was located out back .*
- *There would be public water service.*
- *The building would be sprinkled.*

Board Comment

- *What if DEP didn't approve the revised stormwater system after the Board approved the application?*
- *There had been a conflict between what DEP approved and what the town would allow. Had that been resolved?*
- *Why did the applicant feel the waiver was needed?*
- *If the applicant did the study, would they meet the standard?*
- *Was there any property within the 300 foot radius that wasn't developed? Was it developable?*
- *It was anticipated that the system they were using would meet the standard anyway.*
- *Who was responsible for the long-term maintenance of the system?*
- *Did the town support the waiver?*
- *This was about drinking water, not watershed protection?*

Evert Krikken made a motion to approve the waiver request of Section 120-812J to allow sewage disposal systems with a capacity of 2,000 gallons per day (GPD) or greater to not meet the State's safe drinking water standards for groundwater at the property line following the development.

Seconded by Shonn Mouton.

Roll Call

*Kathleen Brown – Opposed
Marge Govoni – Opposed
Shonn Moulton – Opposed
Rick Yost – In Favor
Evert Krikken – Opposed
Christian Etheridge – In Favor*

Vote: Two in favor. Four opposed. No one abstained.

Evert Krikken made a motion to postpone 23-11 Roosevelt Apartment Homes.

Seconded by Shonn Moulton

Roll Call

*Kathleen Brown – In Favor
Marge Govoni – In Favor
Shonn Moulton – In Favor
Rick Yost – In Favor
Evert Krikken – In Favor
Christian Etheridge – In Favor*

Vote: All in favor.

Other Business

Consensus of the Board was for Evert Krikken to continue on the LRPC.

7 Adjournment

Rick Yost made a motion to adjourn.

Seconded by Shonn Moulton.

Vote: All in favor.