



Town of Windham
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PLANNING BOARD MEMO

DATE: May 3, 2023

TO: Windham Planning Board
FROM: Steve Puleo, Town Planner
Cc: Loni Graiver, Applicant
Drew Gagnon, P.E., Gorrill Palmer Consulting Engineer Inc.
Amanda Lessard, Planning Director
Development Review Team

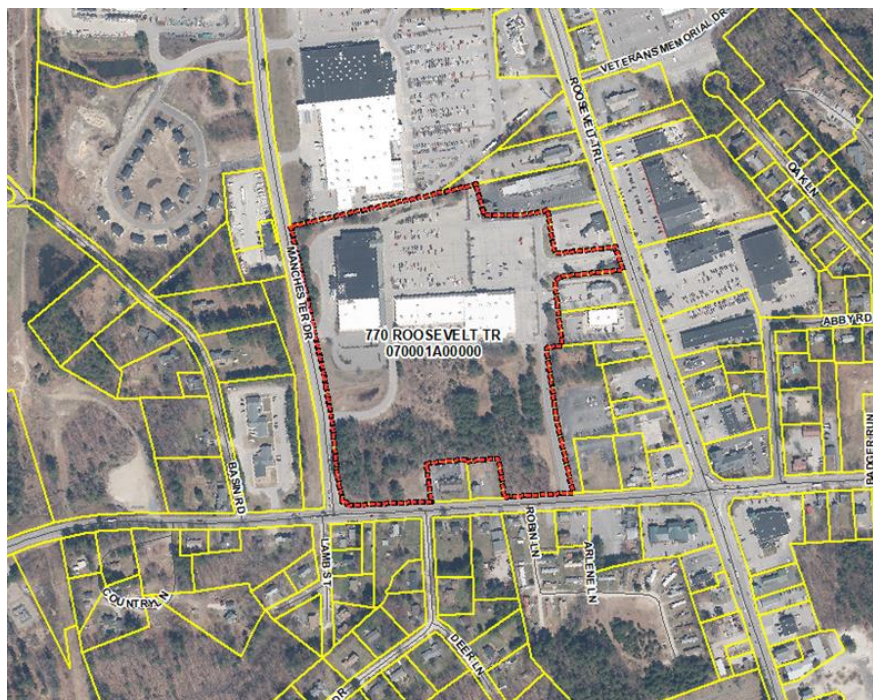
RE: #23-18 — Tandberg Trail Residential Development — Major Subdivision and Site Plan —
Loni Gravier — Sketch Plan Review

Planning Board Meeting: May 8, 2023

Overview –

The application is for the development of approximately 9-acre portion of Shaw's property with 13 buildings, 156 two-bedroom multifamily units, supporting utilities, parking areas, private drives, drainage and stormwater infrastructure, and an outdoor amenity.

A Development Review Team meeting was held on May 8, 2023. Comments received during the meeting are reflected in the memo below.



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

The property in question is identified on Tax Map: 70; Lots: 1A; Zone: Commercial I (C-1) district in the Presumpscot River watershed.

North Windham Commercial Developments: *The Board should note that on April 13, 2021, the Town Council adopted amendments to the Sewers Ordinance that specifies the areas of a planned sewer system in North Windham that includes this property. Staff has included draft Condition of Approvals related to the requirement to connect to the public sewer system, as well as payment of the North Route 302 Road Improvement Impact Fee, and submission of authorization to install stormwater structures in easement areas.*

SITE PLAN AND 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. Jurisdiction: Tandberg Trail Residential Development project is classified as a Major Subdivision and Site Plan, which the Planning Board is authorized to review and act on by [Section 120-802A\(6\)](#) and [Section 120-905A](#) of the Town of Windham Land Use Ordinance.
2. Title, Right or Interest: The applicant has submitted a copy of purchase and sale agreement dated July 11, 2022 with B33 WINDHAM II, LLC.
3. Complete Application: *[Preliminary or Final Plan]*

~~**MOTION:** I move the major subdivision application for the Tandberg Trail Residential Development 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.~~

4. Waivers: *None requested*

Waiver of Submission Requirements: The Development Review Committee, for minor developments, or the Planning Board, for major developments, may waive any of the submission requirements of [Section 120-811](#) based upon a written request by the applicant. Such a request shall be submitted at the time of 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 Board or Staff Review Committee] finds that the information is not required to determine compliance with the standards and criteria of the Land Use Ordinance.

Waiver of the Site Plan Performance Standards. The Planning Board may waiver the requirements of [Section 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 [Section 120-808B\(2\)](#).

Limitation of Subdivision 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 [Section 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 [Section 120-908C](#). The Planning Board may waive the requirements of [Section 120-911](#) Performance and Design Standards, when the applicant demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, 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 [Section 120-908C\(2\)](#).]

The applicant did not provide waiver requests with the sketch plan application.

5. Public Hearing: The Planning Board must decide to hold a public hearing on the application.
6. Site Walk: The Planning Board should determine if a site walk is necessary for this project.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: I move the major subdivision application for the Tandberg Trail Residential Development on Tax Map: 70, Lot 1A is to be **(approved with conditions/denied)** with the following findings of fact and conclusions.}]

FINDINGS OF FACT

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

[Section 120-911A](#) – Basic Subdivision layout

- (1)(a) Per [Section 120-410E\(2\)](#), there is not a net residential density standard in the Commercial I (C-1) district.
 - (b) The side boundary lines are perpendicular to Tandberg Trail and follow north along Manchester Drive and the access driveway of Shaw Plaza.
 - (d) The proposed parcel has approximately 658 feet of street frontage.
 - (e) Lot number for the proposed lot has not been assigned. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.
- (2) At the Development Review Team meeting held on May 3, 2023, the applicant stated all utilities will be located underground, per [Section 120-911A\(2\)\(a\)](#).
 - The proposed development will extend water service from Manchester Drive throughout the site for domestic and fire suppression purposes.
 - Underground electric/fiber/communication service will be provided to the development. Detail shall be provided for the preliminary plan submission.

- Natural Gas is available within the private access drive located at the eastern portion of the site.
 - Lighting will be provided throughout the development via pole and building mounted lighting fixtures. The applicant shall provide a photometric plan with the preliminary plan submission.
 - The applicant intends to connect to the public sewer by 2025.
- (3) Street line monuments along Tandberg Trail shall be set at all street intersections and the point curvature, but no further than 750 feet apart along a street line without curves or intersections.

Section 120-911B – Sufficient Water

- (1) The applicant has not provided an “Ability to Serve” letter from the water supply with the Portland Water District to supply the domestic and fire suppression services.
- (3)(d) The applicant has not provided information on the locations of public or private fire hydrants.

Section 120-911C - Erosion Control and Impact on Water Bodies

- (2) The developer shall provide a statement for the Maine licensed professional civil engineer that the plan shall prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties. The applicant is required to provide stormwater management and erosion control plans which will meet DEP Chapter 500 Stormwater Rules.

Section 120-911D – Sewage Disposal

- (1)(a) When the public sewer constructed, per the Town Council adopted amendments to the Sewers Ordinance that specifies the areas of a planned sewer system in North Windham that includes this property. Staff will include draft Condition of Approvals related to the requirement to connect to the public sewer system.
- There existing conditions shows there is a 0.76-acre subsurface wastewater disposal with a reversed areas serving the Shaw’s Plaza located along the northerly property boundary lines of the 9-acre site.

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

- (1)(a) The applicant will provide more information for the final plan review relating to the natural resource impacts for the preliminary plan review. The site has no shoreline frontage. The applicant will submit a “Beginning with Habitat Map” showing the location of the subject property in relations to deer wintering areas and brook trout habitat. There are no deer wintering areas or brook trout habitats 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. Areas where tree clearing shall be noted on the plan and be maintained for at least five years after the approval.
- (b) The developer shall include the planting of street trees along the access drive in the site and along the Manchester Drive and Tandberg Trail.
- (2)(a) The open space and common lands shall be identified on the plan and developer will own and maintain those areas.

Section 120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

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

Land Use Ordinances:

- There is no minimum lot size in the C-1 zoning district.
- Lots meet the lot frontage requirement of 100 feet in the C-1 1 zoning district.
- There is no net residential density requirement.
- The applicant has shown solid waste disposal locations throughout the development.
- The solid waste in the form of stumps or brush will be hauled off-site and disposed of in accordance with all applicable regulations.

Subdivision Ordinance:

- The Assessor’s assigned tax map and lot numbers shall be shown on the final plans.
- The data of the subdivision plan shall be compatible with the Town's GIS system in the a .DWG file format and provided to the Town prior to release or the signed recording plan.
- The building setback requirements are shown on the proposed site plan submission for all lots.
- Documents shall be provided with the preliminary plan review submission and must specify the rights and responsibilities of the property owner with respect to the maintenance, repair, and plowing of the development’s streets, and stormwater infrastructure.
- The preliminary plan shall include a boundary survey conducted and certified by a Maine Licensed Professional Surveyor.

Others:

Refer to [Chapter 204 Art. II](#) - Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the final plan.

Subdivision Ordinance:

- **Standard notes and the standard condition of approval must be shown on the plan, such as a note.**
- 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](#).

Section 120-911G – Financial and Technical Capacity

- (1) The applicant has not provided documents showing financial capacity.
 - The applicant shall provide with their preliminary plan evidence of “*adequate financial resources to construct the proposed improvements and meet the criteria of the standards of these regulations. In making its determination, the Planning Board shall consider all relevant evidence to the effect that the developer has the financial capacity to construct, operate, and maintain all aspects of the development. The Board shall also consider the proposed time frame for construction and the effects of inflation.*”
- (2) The applicant has not provided documents showing technical capacity.
 - The applicant shall provide their preliminary plan evidence of meeting Section 120-911(a) and (b).

Section 120-911H – Impact on Ground Water Quality or Quantity

- As noted above the development will be served by the Town of Windham’s Wastewater Treatment Facility and will be served by the Portland Water District water main in the Tandberg Trail ROW.

Section 120-911I – Floodplain Management

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

Section 120-911J – Stormwater

- (2) The applicant states the proposed project area 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 applicant has initiated the MeDEP review process and understands the amended SLDA permit is required for the final plan review.

Section 120-911K – Conservation Subdivision

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

Section 120-911L – Compliance with Timber Harvesting Rules

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

Section 120-911M – Traffic Conditions and Street

- (1) The proposal is meeting the general transportation performance standards by using the access driveway serving the existing Shaw’s Plaza. One connection will be a 24’ access (see [Section 120-522 Curb Cuts](#)) driveway designed to meet the Town’s [Residential Street Standards](#) from an unnamed access road from Tandberg Trail running west through the development to an 24’ access drive onto an unnamed access from Manchester Drive.
- During the Development Review Team meeting held on May 3, 2023 with the applicant and their engineering consultant the staff request the applicant to provide following for the preliminary plan submission:
 - RSU 14 requested the applicant provide a sidewalk connection for a possible future bus stop on Manchester Drive.
 - The Fire Chief requested the applicant show truck turn movements throughout the development for 46’ long fire truck.
 - The Fire Chief to review the ponding on the access drive from Tandberg Trail (near the Gorham Saving Bank, east of the site) during heavy rain event.
 - The Town Engineer requested the applicant look at overlay the existing sidewalk along the access drive to Shaw’s Plaza, along the eastern boundary of the site.
 - The Planning Director requested the applicant look at creating a “defining edge” withing the 90° parking stalls along southernly side of the site access drive to meeting the amended Town’s [Residential Street Standards](#).
- (2) The proposed development will generate less the 100 A.M. and P.M. peak hour trips and will not require Maine DOT Traffic Movement Permit.
- The applicant shall provide a traffic study meeting the Town’s performance standards.

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 with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonably 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 have** a lot of 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 April 18, 2023, as 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 Planning Board or the Town Planner in accordance with [Section 120-913](#) of the Subdivision Ordinance and [Section 120-815](#) of the Site Plan ordinance.
2. Approval is subject to the requirements of the [Post-Construction Stormwater Ordinance, Chapter 201 Article II](#). 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. [possible other conditions of approval]

Findings of fact, conclusions for the:

Windham Planning Board,

MOTION: I move the final major site plan application for the Tandberg Trail development on Tax Map: 70, Lot !A is (~~approved with conditions/denied~~) with the following findings of fact and conclusions.

FINDINGS OF FACT

[Section 120- 812](#) - MAJOR SITE PLAN PERFORMANCE STANDARDS

[Section 120-812A](#) - Utilization of the Site

- See above in Section 120-911 Subdivision for details.

[Section 120-812B](#) - Vehicular Traffic.

- See above in Section 120-911 Subdivision for details.

[Section 120-812C](#) - Parking and Loading.

- The proposed development will provide 306 total parking spaces (ratio of 1.96 per unit) based on similar developments constructed by the applicant. Over 30% of the parking space will be 10' by 20' parking stall size.

[Section 120-812D](#) - Pedestrian Traffic

- The applicant is showing a system of pedestrian ways within the development by providing sidewalks and connections from Tandberg Trail and access to the new building.

[Section 120-812E](#) - Stormwater Management.

- See above in Section 120-911 Subdivision for details.

Section 120-812F - Erosion Control

- (2) The applicant has 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 MeDEP Chapter 500 Stormwater Rules.
- The application includes an inspection, maintenance, and housekeeping plan and an erosion and sedimentation control plan sheet that generally meets the requirements of Maine DEP Chapter 500 Basic and General Standards.
 - A minimum of three construction inspections must be completed during the active earth-moving phase of construction (with one of these being completed at project completion to ensure permanent site stabilization and temporary ESCs are removed) and a minimum of one inspection must be completed annually until a project reaches substantial completion.
 - Corrective actions will be included in the inspection and must be implemented in a timely manner. Remediation tasks not completed are eligible for enforcement action.

Section 120-812G - Water Supply Provisions.

- See above in Section 120-911 Subdivision for details.

Section 120-812H - Sewage Disposal Provisions

- See above in Section 120-911 Subdivision for details.

Section 120-812I - Utilities

- See above in Section 120-911 Subdivision for details.

Section 120-812J - Groundwater Impacts.

- See above in Section 120-911 Subdivision for details.

Section 120-812K - Water Quality Protection

- See above in Section 120-911 Subdivision for details.

Section 120-812L – Hazardous, Special and Radioactive Materials

- The proposed residential uses do not anticipate handling, storing, or using any material identified by the federal or state governments as hazardous, special, or radioactive. The applicant will provide a list of any materials that would fit in those categories for the final plan review.

Section 120-812M – Shoreland Relationship

- See above in Section 120-911 Subdivision for details.

Section 120-812N - Technical and Financial Capacity

- See above in Section 120-911 Subdivision for details.

Section 120-812O – Solid Waste Management

- See above in Section 120-911 Subdivision for details.

Section 120-812P – Historical and Archaeological Resources

- There are no known historic and archaeological resources onsite.

Section 120-812Q - Floodplain Management

- See above in Section 120-911 Subdivision for details.

Section 120-812R – Exterior Lighting

- See above in Section 120-911 Subdivision for details.

Section 120-812S - Noise

- The proposed commercial uses shall not exceed 65 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.

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

- See above in Section 120-911 Subdivision for details.

Section 120-814 – Multifamily development standards.

Section 120-814A – Building Architecture

- (1) Architect style. The applicant shall provide architectural rendering and designs for the final site plan review submission.
- (2) Façade. The applicant shall provide architectural rendering and designs for the final site plan review submission.
- (3) Orientation. The applicant is showing the entrances oriented to face the access drives, Tandberg Trail, and Manchester Drive.

Section 120-814B – Site Design

- (1) Parking. See above in Section 120-911 Subdivision for details.
- (2) Screening. The applicant shall provide a landscaping plan with the preliminary plan submission.
- (3) Bicycle/Pedestrian. The applicant has provided a plan showing a network of walkways and bicycle parking pads in front of the buildings.
- (4) Recreation and open space. The applicant is proposing a dog park where the existing Shaw’s Plaza septic wastewater field is located.
- (5) Landscaping and lighting. The applicant shall provide a landscaping and light plan with the preliminary submission showing a minimum of 10% landscape area in the parking areas and lighting fixture used to in the driveways and parking lots.
- (6) Access drive standards. The access drive shall remain private and shall meet the design standards set forth in C1.

CONCLUSIONS

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 for 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** 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 ground water.~~
11. — ~~The proposed site plan **will/will not** provide for adequate storm water 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. 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.~~