

Town of Windham

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MEMO

DATE: October 1, 2019

TO: Windham Planning Board
FROM: Jenn Curtis, Planner
Cc: Ellen J. Rathbone
Staff Review Committee

RE: 19-22 Retail Medical Marijuana (839 Roosevelt) Minor Site Plan
Staff Review Committee Meeting October 3, 2019

Overview –

The applicant is proposing to construct a 1600 square foot retail medical marijuana store with a paved parking lot with 9 spaces behind the store, located at 839 Roosevelt Trail on Tax Map: 71 Lot: 7 Zone: Commercial I (C1). A change of use permit for this project was issued by the Town of Windham on December 8, 2018.

The proposed Business and Professional Office is a permitted use in the C1 zone.

This project is subject to site plan review due to the proposed use and square footage of buildings to be constructed. This application has been classified as a minor development as the gross non-residential floor area proposed to be constructed is less than 5,000 square feet.



Figure 1. Aerial view of lot 71-7

SITE PLAN REVIEW

Staff Comments:

1. Waivers:
 - a) None
2. Complete Application:
 - a) *Staff find the application complete with regard to submission requirements*

MOTION: The application for project 19-22 Retail Medical Marijuana (839 Roosevelt) is found complete in regard to the submission requirements based on the application checklist, but the Staff Review Committee retains the right to request more information where review criteria are not fully addressed.

3. Public Hearing: A public hearing has not been scheduled for this project.
4. Site Walk: A site walk has not been scheduled for this project.

Findings of Fact and conclusions for the

Windham Staff Review Committee,

MOTION: The Site Plan application for 19-22 Retail Medical Marijuana (839 Roosevelt Trail) on Tax Map: 71 Lot: 7 is to be (**approved with conditions/denied**) with the following findings of fact and conclusions.

FINDINGS OF FACT

Utilization of the Site

- The subject parcel is approximately .46 acres and is currently developed with a vacant dilapidated building with paved area around it and grassy area behind it.

Vehicular and Pedestrian Traffic

- The lot has 100' of frontage on Roosevelt Trail.
- Primary vehicle access is from a single 26' proposed driveway opening.
- The site is approximately 650' from the nearest signalized intersection.
- The applicant provided a statement from Patrick Gere, PE, indicating that there are sight distances greater than 645 feet in both directions. 250' is required
- There are nine parking spots proposed. The parking spaces meet the dimensional requirements of the performance standards.
- The proposal includes ADA compliant sidewalks with ramps and detectable warning devices along Roosevelt Trail, leading to the front of the building, and on the south and east sides of the building, to facilitate safe pedestrian movement.
- There appears to be adequate provision for safe movement of traffic through the site.
- The applicant stated that the development would be expected to generate approximately 10 AM peak hour trips and 9 PM peak hour trips, 17 peak hour Saturday trips and 128 average daily trips, based on estimates published by the institute of Transportation Engineers Trip Generation Manual, 10th Edition, modified by local factors including the number of nearby dispensaries and the population density of the region.
- The project will require a driveway entrance permit from the Town
- See Condition of Approval #3, requiring an easement for the continued use of the connections to the adjoining driveway.

Sewage Disposal and Groundwater Impacts

- The site will be served by a subsurface wastewater disposal system. The existing system will be reconfigured; the tanks on Lot 7 will be removed and a new system will be installed that can support five employees and an occasional customer.
- The applicant submitted an HHE-200 subsurface wastewater disposal application submitted to the Maine Department of Health and Human Services. The submittal included a subsurface wastewater disposal system design signed by Site Evaluator Michael Cuomo. It indicates that the system would serve 6 employees.

Stormwater Management

- The applicant submitted a Stormwater Management Report. The report summary indicates that runoff quantity requirements are met by maintaining or reducing the rate of stormwater runoff from the site, and that stormwater runoff quality will be improved by use of roof dripline filters.
- In an email to the applicant dated September 25, 2019, Town Engineer Mark Arienti, P. E. commented: The Applicant has submitted a Stormwater Management Report to comply with Section 811.E of the Site Plan Review ordinance. The stormwater analysis concluded that the post-development peak flows are less than the pre-development flows at Analysis Points 2 and 3, but slightly greater an Analysis Point 1. Since some of the post-development flows do exceed

the pre-development flows, the Applicant will need to submit a written waiver request as outlined in paragraph E.1(a) of that section.

In an email dated September 30, 2019, the applicant responded to the comment with an amended plan that they indicate will eliminate the problem of increased peak flow.

In a response to the amended plan submission, Town Engineer Mark Arienti, P. E. commented: "The revised plans and analysis have been modified so that post development flows are less than or equal to predevelopment flows so I agree with their conclusion that no waiver is necessary."

- In an email to the applicant dated September 25, 2019, Town Engineer Mark Arienti, P. E. commented: The Applicant proposes to incorporate the existing infiltration basin between the Pratt Abbott building and the road into its stormwater management plan for the proposed development. Please document that this system, as installed and maintained, is still functioning as originally designed.

In an email dated September 30, 2019, the applicant referenced the most recent annual inspection certificate, provided to the town in August 2019.

Town Engineer Mark Arienti, P. E. commented: The Applicant has provided a copy of the most recent (August 2019) annual inspection of the Stormwater Management Facilities, which includes the infiltration basin between Pratt Abbott and Roosevelt Trail. The inspection report noted that there were no deficiencies, which addresses my comment. The Applicant should continue to perform the require maintenance and inspections to ensure the stormwater management facilities on the property continue to function as designed.

- See Condition of Approval #2, requiring an easement for the continued use of the joint stormwater management facilities.

Erosion Control

- The plan signed by Patrick M. Gere, P.E., of St. Germain Gollins, dated September 10th, includes erosion control best management practices prescribed for the site including Temporary soil stabilization Best Management Practices (BMPs), Sediment Barrier BMPs, Construction Entrance/Exit Stabilization, and Catch Basin Hay Bale Barrier.

Utilities

- Water will continue to be supplied by public water. The application includes an Ability to Serve letter from the Portland Water District documenting the adequacy of the system to support the change of use.
- The application indicates that the site will be served by underground gas and electricity lines. Any telecommunication service lines must be underground as well, per requirements of 812.I.
- An existing fire hydrant is located approximately 300' north on Roosevelt Trail. The building is not required to be sprinklered.

Financial and Technical Capacity

- The applicant estimates that the project will cost approximately \$291,000. The applicant submitted a letter from Key Bank indicating the applicant's financial capacity through net worth and potential financing.

- The applicant has retained the services of an established architecture firm to prepare the plans for the building and civil design. In addition, the applicant has successfully completed other commercial development projects in the Town of Windham.

Impacts to Adjacent/Neighboring Properties

- The proposed development is not expected to have any undue adverse impacts to adjacent or nearby properties due to noise, lighting, pollution, unsightly conditions, vibrations, hours of operation, or any other form of nuisance.
- The applicant states that a private trash removal service will be used for solid waste disposal. A concrete dumpster pad with fenced enclosure will be located in the back corner of the parking area.

Conformity with Local Plans and Ordinances

1. Land Use

- The proposed use is retail sales – medical marijuana. The proposed use is legally existing, non-conforming. Retail sales is an allowed use in the C1, however the specific use, sales of medical marijuana, is not currently an allowed use because the Town has not opted-in to Retail Sales of Medical Marijuana to date, as required by State Statute. The proposed use for the site was approved on December 7, 2018, when it was legally allowed.
- The Commercial District Design Standards at 813 will be met. The applicant submitted building elevations to confirm that they meet the required standards. Staff reviewed the elevations and found them to be compliant. The applicant noted that they will additionally comply with the standard by meeting the following elective design standards: B1 – Parking location (all of the parking is at the back of the building), B-2 Internal traffic flow (pavement markings will effectively control traffic), B-3 Interconnected parking lots (potential to share parking with adjoining lot), B4 – Orientation of building (building faces the street), B8 – Low Impact Design Stormwater, B9 – Shared stormwater treatment, C6 – Planting variety (plantings in the buffer meet the requirement), and C7 – Planting suitability (plantings in the buffer meet the requirement).

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.

CONCLUSIONS

1. The plan for development **reflects** the natural capacities of the site to support development.
2. Buildings, lots, and support facilities **will** 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** be maintained and protected to the maximum extent.

4. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
5. The proposed 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.
6. The proposed use and layout **will not** be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.
7. The proposed site plan **will** provide for adequate sewage waste disposal.
8. The proposed site plan **conforms** to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
9. The developer **has** adequate financial capacity to meet the standards of this section.
10. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
11. The proposed site plan **will** 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 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** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated September 17, 2019, as amended September 30, 2019, 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 814.G. of the Land Use Ordinance.
2. Prior to the individual sale of Lot 7 on Tax Map 7 or Lot 6 on Tax Map 7, such that the two lots are no longer under the same ownership, an easement shall be drafted and submitted for approval by the Planning Department at the Town of Windham, and to be then recorded in the registry of deeds for the proposed development on Lot 7 to use the joint stormwater management structures as described in the stormwater management report submitted to the Town of Windham on September 30, 2009.
3. Prior to the individual sale of Lot 7 on Tax Map 7 or Lot 6 on Tax Map 7, such that the two lots are no longer under the same ownership, an easement shall be drafted and submitted for approval by the Planning Department at the Town of Windham, and to be then recorded in the registry of deeds, providing the development on Lot 7 right to use the connecting driveways with Lot 6, as depicted on the approved site plan.