

# Town of Windham

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## MEMO

DATE: July 8, 2020

TO: Windham Planning Board  
FROM: Amanda Lessard, Planning Director and Jennifer Curtis, Planner  
Cc: Dustin Roma, P.E., DM Roma Consulting Engineers  
Will Haskell, P.E., Gorrill Palmer  
Development Review Team  
RE: 19-21 Depot Street Apartments – Final Subdivision Plan & Site Plan  
Planning Board Meeting: July 13, 2020

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### Overview –

The applicant, MCL Realty, LLC, is proposing to develop 31 dwelling units in two 12-unit apartment buildings, and one 3-story 7-unit building, North of Depot Street, across from the Keddy Mill Site on a 2.1-acre property. The proposal includes a new sewer pump station to be constructed by the Portland Water District (PWD) for improved service to the area.

The property is currently vacant and wooded land with a drainage swale, an overhead utility line, and underground gas line running through it.

This application is being reviewed under the Town's Subdivision Review and Site Plan Review ordinances. Each section will be listed separately below, though references from the Site Plan review section to the Subdivision Review section will be made for overlapping review criteria.

At the June 3, 2020 meeting, the Planning Board found the final application incomplete pending an easement and agreement from Portland Water District for sewer service, among other things; granted a waiver from the requirement for 2 points of access to public streets; considered revised plans from PWD for freestanding secured panels instead of a pump station; and agreed that submission of building elevations for Planning Board review prior to issuance of building permits was an acceptable condition of approval (see draft COA #4).

Underlined text in the memo below shows new information included with the submission and new staff comments from the memo dated June 3, 2020.

Tax Map:38; Lot 37-A. Zoning District: Village Commercial (VC)

## SUBDIVISION REVIEW

### Staff Comments:

#### 1. Waivers:

- a) 911.E.1.B street tree performance standard, requiring street trees no more than 50' apart.

The applicant states that the prepared landscaping plan incorporates street trees to the greatest extent based on the site limitations. At the June 8, 2020 meeting, the Planning Board indicated that they had no objection to the waiver, based on the extents of proposed landscaping.

- b) 911.M.5.(b)(7) Street Connection Performance Standard that requires 2 street connection points for a subdivision that serves 30 or more units.

A waiver was granted at the June 8, 2020 meeting.

- c) 910.C.1.(c)(1) A high-intensity soil survey by a Certified Soil Scientist. The applicant states that all soils on the property are mapped as either soil group D or wetlands, so they are assuming poor soil conditions. The buildings will require a geotechnical analysis of the soils for foundation design, completed for building permits.

*Waiver granted at the December 9, 2019 meeting.*

- d) 911.J.6. MDEP Flooding Standard. The applicant states that the stormwater model predicts a 5% increase in the 25-year storm event. The applicant states that the study stream could handle the additional flow.

*Waiver granted at the March 9, 2020 meeting.*

- e) 813.A.5. Commercial District Design Standards. In the VC zoning district, facades that face public streets shall have transparent openings, such as display windows or entry areas, a minimum of 40% of the horizontal length on the ground floor in total.

Waiver granted, specific to the pump station building, at the meeting on April 13, 2020. (No longer applicable if not constructing a building.)

2. Complete Application: Staff found the application complete with regard to the application checklist.

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**MOTION:** The application for project 19-21 Depot Street Apartments – Final Subdivision Plan & Site Plan 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.

3. Public Hearing: held at the Planning Board meeting on December 9, 2019. A second public hearing was held March 9, 2020 in response to newly submitted materials for preliminary approval.
4. Site Walk: A site walk was held on November 23, 2019.

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** The Final Subdivision and Site Plan application for 19-21 Depot Street Apartments-on Tax Map: 38, Lot: 37-A is to be **(approved with conditions/denied)** with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- The applicant should indicate whether there are mapped floodplains on the project parcel.
- The proposed subdivision is in the Presumpscot River Watershed, which is not listed in Chapter 502: Direct Watersheds Of Lakes Most At Risk From New Development, And Urban Impaired Streams of the Maine Department of Environmental Protection.
- A hydrogeologic assessment is not required because the project is proposed to be served by public sewer. (See FOF E) Per 910.C.1(c)(3)(ii), the Board may require a hydrogeologic assessment in cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality.
- The Final Plan must include approval from the Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- The Preliminary Plan submission notes that the amount of wetland alteration will be 11,761sf.
- A NRPA Tier 1 Permit will be required with the Final Plan application. The applicant provided a copy of the Maine DEP NRPA Tier 1, permit #L-28526-TC-B-N, filed March 13, 2020. A note referencing the permit must be added to the final plan.
- An Army Corps of Engineers permit will be required with the Final Plan application. The Final Plan submission included Army Corps Permit #NAE-2020-00604 dated March 24, 2020. A note referencing the permit must be added to the final plan.
- Written communication from Maine DEP dated December 4, 2019, states that 25’(the setback shown on the Preliminary Plan) is the minimum distance the applicant was told that

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all development needed to be from the stream at a November 5, 2019 preapplication meeting.

- The 75-foot stream setback should be shown on the Plan. As of the date of this memo, the 75-foot stream setback is not shown on the plan.
- Staff note that duplex units 3-6, the pump station, and pump station parking are within the 75' stream setback.
- The 75-foot stream setback is shown on the Final Plan
- A NRPA-PBR permit allowing use within the stream setback will be required for the Final Plan
- The project site is connected by historical land use and formerly joined property to a Voluntary Remedial Action Plan (VRAP) site – the L.C. Andrews Lumber Mill. Staff obtained and read a copy of the Certificate of Completion for the VRAP, issued in 2003. In follow-up conversation with Nick Hodgkins, a representative of DEP's VRAP program, Staff were informed that removal of containerized wastes was the extent of the remedial action at the site, as contaminated soils were not encountered during the redevelopment. Mr. Hodgkins recommended that the developer should be looking out for potentially impacted soils (petroleum) and act accordingly if they find some (to include notifying DEP and getting a professional environmental specialist consultant to observe and sample). See conditions of approval 3 & 4.
- There shall be a note on the plans to indicate that the MEDEP be notified if oil or hazardous substance-impacted soils are encountered.

#### B. WATER

- All dwelling units will be served by public water.
- There are two hydrants within 500' of the proposed driveway entrance – one at High Street and one on 202/Main St. The project is less than 400' in depth.
- The proposed buildings will be served by sprinkler systems.
- The Preliminary Plan submission depicts fire protection water lines connecting to the two 12-unit buildings, but not the four duplexes. Fire protection code does not require sprinklers in duplexes.
- The Preliminary Plan submission must include a written statement from the Portland Water District (PWD) that there is adequate supply and pressure for the subdivision.
- The applicant stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated November 20, 2019 to November 22, 2019, indicating that the PWD is reviewing the applicant's information.
- The Final Plan submission must include an Ability to Serve letter.
- An Ability to Serve letter from PWD dated December 16, 2019 was included with the February 18, 2020 submission.

#### C. SOIL EROSION & STORMWATER MANAGEMENT

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- The applicant must submit a stormwater management plan that meets the water quality and quantity standards as well as the flooding standard of Section 3 DEP Chapter 500 Stormwater Management.
  - The project must submit approval from the Maine Department of Environmental Protection (DEP) under Stormwater Law with the Final Plan. The applicant provided a copy of the Maine DEP Stormwater Management Law, permit #L-28526-NJ-A-N on May 18, 2020. A note referencing the permit must be added to the final plan.
  - Written communication from Maine DEP dated December 4, 2019, states that the applicant needs to submit a Stormwater Permit By Rule for the outfall, because it is within 25' of a stream.
  - A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
  - A soil erosion and sediment control plan was submitted as part of the Preliminary Plan. The plan includes pollution prevention, temporary soil stabilization BMPs, sediment barrier BMPs, storm drain inlet protection, stabilized construction entrance/exit, dust control, land grading and slope preparation, topsoil treatment, permanent soil stabilization, stormwater channel construction, winter erosion and sedimentation controls, housekeeping notes, and details of berms, drip edges, construction entrance, and erosion control measures.
  - Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "As acknowledged by the Applicant, the proposed development will create 1.1 acres of new impervious area and will require a Maine DEP Stormwater Permit." The permit must be submitted as part of the Final Plan.
  - Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Applicant has made an initial estimate of 4,000 square feet of wetland fill required for the proposed development, but plans to conduct a formal wetland delineation of the property. The delineation should assess whether there is a stream within this wetland area, which could affect permitting requirements for the development and feasibility of the proposed pump station location."
  - 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. See recommended Condition of Approval #2.
  - The Preliminary Plan application included a Stormwater Management Plan that indicates the plan will result in a decrease of stormwater impact. It proposes to create 34,685 sf of new impervious area, and treat 95% of it, and to create 49,024 sf of new developed area, and to treat 80% of it. Treatment will be through catch basins, an SC-740 unit, and Filterra system.
  - Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: The application includes an analysis of stormwater quality treatment requirements per Maine DEP Ch. 500, but no analysis of stormwater quantity management per paragraph J.6. of Windham's Subdivision Ordinance was included. [The applicant should] submit a Stormwater Management Plan as required under Section 910 of the Subdivision Ordinance that addresses the stormwater quality and quantity requirements in DEP Ch. 500.

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- The applicant responded in comments dated February 18, 2020 that: “The stormwater report has been updated to include a quantity analysis for the 2, 10 and 25-year storm recurrence intervals. The projected design effectively limits the post-development peak rate of runoff at or below the pre-development rate for all design storms with the exception of a small increase in the 25-year storm...”
  - Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: “The applicant has requested a waiver from the flooding standard since their evaluation shows that there will be an increase in peak flow for the 25-yr storm of 1.77 cfs (5.36%) from the pre- to the post-development condition. Can the soil filter or detention area DA-1 increased in size to minimize the increase in peak flow.
  - The Planning Board approved a waiver from the flooding standard on March 9, 2020.
  - Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: The redevelopment stormwater analysis assigns a ranking of “3: Other parking lots and driveways; Flat asphalt rooftops; Roofs on an industrial facility” for the driveway area from Depot St. into the property approximately 180 feet for both the existing and the developed condition when this area is a paved driveway. It doesn’t seem appropriate that the ranking of the developed condition, where the surface is paved, should be the same as for the existing condition where the surface is vegetated.
  - The applicant responded in comments dated February 18, 2020 that: “The historical use of this area was for parking of trailers and equipment and an industrial driveway, which we have classified as Pollutant Rank 3. We have increased the intensity of use to Pollutant Rank 4 for the portion of the proposed pavement that will be used for parking...”
  - Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: To meet the treatment requirements under the General Standards, the stormwater evaluation has utilized the Redevelopment Standards of Ch. 500 for the area of the site that has been used as a gravel access road and for trailer parking. The area they have designated as redevelopment seems reasonable.
  - Town Engineer, Mark Arienti, P.E., had several additional questions and comments about the Stormwater Management Plan in an email dated February 26, 2020, including questions about the Hydrocad routing diagram and modeling, if there will be sufficient separation between the filter basin and the water table to preclude the need for a liner, and a request for additional detailed ground topography for the footprints of the filter basin to ensure functionality. As of the date of this memo, the additional detailed ground topography has not been added.
  - Town Engineer, Mark Arienti, P.E. commented on May 28, 2020:
    - The MEDEP has conducted a detailed review of compliance with Maine DEP Stormwater rules as part of the review for the stormwater permit, which is required because the project will create greater than 1 acre of new impervious area. The Maine DEP memorandum dated 5/8/20 concluded that the proposed project results in treatment of almost 97% of the on-site impervious area (29,783 SF) and 82% of the total developed area (49,697 SF including 1,909 SF of off-site area) using an underdrain soil filter (UDSF). This meets the General Standards of Ch. 500 in accordance with Windham’s Land use Ordinance section 911.J.

- Per Windham Land Use Ordinance, 911.J, a stormwater management plan must be submitted that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. A Stormwater Management Plan was submitted with the preliminary application dated 2/18/20 that included a waiver request from the flooding standard since their evaluation showed only a small increase in peak flow from the pre- to the post-development condition for the 25-yr storm of 1.77 cfs (5.36%). The Planning Board granted the waiver request in their 3/9/20 meeting. The 4/28/20 Stormwater Management report stated that a comparison of the pre- and post-development peak flow rates was not been included, but storm drain sizing calculations have been included as Attachment 4 of this report. Mark requested the detailed HydroCAD output pages for the 25-year storm to be submitted in addition.
- On June 8, 2020, DM Roma Engineering Consultants submitted a response to comments that included the requested HydroCAD details.
- Town Engineer, Mark Arienti, P.E., reviewed the June 8, 2020 response to comments and stated that his concerns had been addressed, and he had no further comments.

D. TRAFFIC

- The sketch plan indicates that the project will utilize an existing curb opening on Depot Street. The applicant must have a Town of Windham Public Works Department Curb Cut Permit to make use of it.
- The applicant is proposing 2 parking spaces per dwelling unit.
- The Preliminary Plan should include sight distances when exiting the site onto Depot Street.
- The applicant is proposing a secondary access point through the Little Falls Industrial Condominium Subdivision. The Preliminary Plan submission should depict the connection and clarify the proposed extent of use; specifically, whether it will be limited to emergency vehicles. If limited to emergency vehicles, the means of limiting ingress and egress should be included. The applicant should prove appropriate right title and interest for use of the connection.
- A traffic impact study is required if the project will generate fifty (50) or more trips during the a.m. or p.m. peak hour. With a proposed 70 parking spaces a Traffic Impact Analysis prepared by a Maine Licensed Professional Engineer with experience in traffic engineering will be required. Impacts to the Little Falls Industrial Condominium Subdivision of the proposed secondary access should be considered. Trip generation information should be provided with the Preliminary Plan submission.
- The February 18, 2020 submission included a traffic Assessment dated February 4, 2020 produced by William J. Bray, P.E. of Traffic Solutions. The assessment states that “The proposed 31 residential apartment units can be expected to generate a total of 206 trips during a typical weekday; 16 trips in the morning peak hour and 19 trips in the evening peak hour.” The report also states that there are no high crash locations on Depot Street, and that recommends that all trees and low-level vegetation located in the public street right of way of Depot Street, extending a distance of approximately 150-feet in either

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direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.

- Town Engineer, Mark Arienti, P.E. commented on February 26, 2020 and May 28, of 2020 that A note should be added to the plans requiring all trees and low-level vegetation located in the Depot Street right of way, extending a distance of 150' in either direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.
- Depot Street is planned for an upgrade. The applicant should coordinate with public officials to avoid unnecessary damage to the new street.
- Per Section 911.M.5.a.6 (pg 9-60) access drive standards for condominium and multifamily subdivisions shall meet the major private road standard
- 911.M.5(b)(7) Street Connection Requirements, requires a subdivision with 31 or more lots or units to have a minimum of 2 connections with an existing public street. The applicant is requesting a waiver of this requirement. The Planning Board did not approve a waiver at the April 13, 2020 meeting, and requested more information on the proposed secondary access and the public safety needs. Fire Chief Libby provided comment that one point of access would be sufficient in this case, but suggested a no-parking fire lane to ensure adequate emergency vehicle access.
- Staff recommended maintaining adequate turning radius areas for emergency vehicles to use the access drive.
- Sidewalks are proposed on Depot Street and within the development. Staff recommends reducing travel distances through the parking area with direct route sidewalks.
- The Preliminary Plan should show bike parking as required in 813.D.6.
- Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: Sight distances along Depot St. from the subdivision entrance must be shown on the plans. As of the date of this memo, the sight distances are still not shown on the plans.
- The applicant indicated in a response to comments dated December 3, 2019 that at a formal traffic impact analysis is being prepared and should be completed prior to the [December 9, 2019] Planning Board meeting.
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "At least one of the handicap spaces should be marked as van-accessible."
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "The location of bike racks and detail for design should be included in the plans." As of the date of this memo, they still need to be shown on the plans.
- On May 22, 2020 Town Addressing Officer Kara Taylor confirmed that the driveway needs to be a named Street. The name must be approved by the Town Addressing Officer, and shown on the plan.
- As of the date of this memo, the Town Addressing Officer has preliminarily approved three potential street names with railroad themes and is awaiting response from the Fire Chief as to their acceptability for emergency response purposes. The street name is to be shown on the Final Plan.

E. SEWERAGE



- The site will be served by public sewer. The Final Plan must include an Ability to Serve letter from the Portland Water District (PWD) for the proposed project.
- The applicant stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated November 20, 2019 to November 22, 2019, indicating that the PWD is reviewing the applicant's information.
- The response to comments submitted by the applicant on June 22, 2020 included an updated Ability to Serve letter from the Portland Water District indicating that the subject property would be able to connect to the upgraded sewer system to be installed on the property, per the terms of the agreement between the developer and the PWD, as described in a deed easement and restrictive covenant.
- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Sketch Site Plan shows the potential location of a new Portland Water District (PWD) pump station just to the left (west) of the entrance to the proposed subdivision. This is likely a good location considering the elevation and proximity to the subdivision, but the space allotted for the pump station is likely not sufficiently large enough to accommodate maintenance vehicles such as vacuum trucks. A space potentially as large as 35'x35' may be needed. The applicant may want to consider eliminating or moving the proposed driveway parking shown on the plan adjacent to Unit 1 so that PWD can acquire this space to access the pump station."
- An easement for PWD access should be included with the Final Plan. An easement is shown on the final plan. The easement language must be submitted as well.
- An easement dated May 27, 2020 granting Portland Water District use of the property for the pump station and associated infrastructure was submitted on July 7, 2020.
- A restrictive covenant dated June 8, 2020, laying out the terms of the agreement whereby MCL Realty LLC may connect to the upgraded sewer system to be installed on the subject property, was submitted on July 7, 2020.
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020 that the plans should incorporate concurrent plans being developed by Gorrill Palmer for the pump station and associated control building, wet well, and maintenance parking to be developed in the easement area shown on the plan. See Site Plan Review.

F. SOLID WASTE

- The applicant should identify how the disposal of solid waste will be managed and provide elevations and details of the enclosure.
- The Preliminary Plan includes details for the fence enclosure – it is to be a 6' tall vinyl wrapped chain link fence with plastic privacy slats, on a concrete pad.

G. AESTHETICS

- Street trees are required at least every fifty (50) feet. Streets are not shown every 50 feet on the plan. The plan should also include a note referencing and citing the text of 911.E.1.(b). The applicant has requested a waiver from the street tree requirement.

- The Preliminary Plan includes a Landscaping Plan. It does not meet the street tree requirement for the access drive area between the entrance and the first driveway curve. The final plan should include a landscaping plan that meets the ordinance requirement.
- A Landscaping Plan dated May 8, 2020 was submitted with the Final Plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north. There are a few trees around the building near the entrance to Depot St, but there is a 120' gap between the street trees, which does not meet the street tree requirement.
- Limits of tree clearing shall be shown on the preliminary plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- The applicant stated that there is no tree cover depicted on the plan, and so no treeline has been depicted, and no corresponding note has been shown on the plan.
- The dumpster enclosure is situated perpendicular to the driveway entrance, will be visible from Depot St and will be in the view straight ahead when accessing the site.

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan does meet the goals of the 2017 Comprehensive Plan and is located in the South Windham Growth Area.
- Land Use Ordinance:
  - The net residential density calculations are shown on the plan.
- Subdivision Ordinance
  - A landscaping plan must be submitted with the Preliminary Plan.
  - A landscaping plan is included with the Preliminary Plan. It shows trees spaced around the perimeter, and trees, shrubs, and perennials in the parking areas and around buildings. They are used to obscure
  - Standard notes and the standard condition of approval must be shown on the plans.
  - Digital transfer of the subdivision plan data must be submitted with the Final Plan submission for inclusion with the Town's GIS.
- Others:
  - Chapter 221 Street Naming and Addressing: Following consultation with the Assessing Department, a proposed road names for the access drive must be shown on the Final Plan. As of the date of this memo, street names are not shown on the plan. See FOF under "Traffic"
  - Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area. See Condition of Approval #2.

#### I. FINANCIAL AND TECHNICAL CAPACITY

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- Evidence of financial capacity must be provided as part of the Preliminary Plan submission.
  - The Preliminary Plan included a project cost estimate of \$390,000, broken down by construction components. The applicant states that a letter indicating the ability to fund the project will be submitted with the final plan. Staff note that Financial Capacity is a listed submission requirement of a major preliminary subdivision plan (911.C.1.(a)(16). Staff noted the application deficiency in an email to the applicant on February 25, 2020.
  - Evidence of technical capacity must be provided as part of the Preliminary Plan submission.
  - As evidence of technical capacity, the applicant stated that the plans were prepared by DM Roma Consulting Engineers, prepared by a Maine Licensed P.E., and the wetland boundaries were delineated by Alex Finamore, a licensed site evaluator and wetland scientist with Mainely Soils, LLC.

#### J. RIVER, STREAM OR BROOK IMPACTS

- The project is located within the Presumpscot River Watershed. This project will not adversely impact any river, stream, or brook.

#### CONCLUSIONS

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **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 **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 **will** provide for adequate sewage waste disposal.
7. The proposed subdivision **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision **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 **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 **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 **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 **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/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 August 5, 2019, as amended June 22, 2020, 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 913 of the Subdivision Ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. 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. Soils excavated on the site should be evaluated by an Environmental Professional (Licensed Engineer or Certified Geologist with experience in environmental assessment) to determine if they are impacted by oil and/or hazardous substances and require special handling if disposed of offsite or reused on site.

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4. Prior to issuance of building permits, the Planning Board must find that elevations for the proposed building(s) meet the Commercial District Design Standards in §813.A.

#### SITE PLAN REVIEW

#### FINDINGS OF FACT

##### **Utilization of the Site**

- See Subdivision Review.

##### **Vehicular and Pedestrian Traffic**

- See Subdivision Review.

##### **Sewage Disposal and Groundwater Impacts**

- See Subdivision Review.

##### **Stormwater Management**

- See Subdivision Review.

##### **Erosion Control**

- See Subdivision Review.

##### **Utilities**

- There is an existing overhead electrical line and buried gas line traversing the site. Both will be relocated. Electrical, telephone, and cable service to the development are to be provided by underground service.
- The Preliminary Plan includes a Grading and Utilities Plan, which shows the planned locations and connections to sanitary sewer, force main, water main, gas main, and electric. It shows a new utility pole near the proposed substation that would have three phase power installed over head to another new utility pole at the eastern property boundary, which would run along the eastern edge of the property, across two more new poles. Underground utility would be run from the new pole near the substation to the proposed buildings.
- 812.I states that “The development shall be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility facilities shall be screened from view to the extent feasible. Utility lines shall be placed underground.”

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- The Final Plan will require a waiver of 812.I, for some of the utility lines to remain overhead. The final plan submission states that the applicant has met with Central Maine Power and the applicant will pay to remove and relocate the overhead utilities that currently run through the subject property.
  - The generator pad, pump station, utility pole, have no proposed landscaping around them.
  - Pump Station Drawings were submitted on March 23, 2020 that includes plans for the proposed sewer pump station improvements, associated landscaping, and details on the pump station control building.
  - Updated pump station plans were submitted on June 3, 2020. The updated plans depict a change to box-type panel containment. PWD is no longer proposing a building.

### **Financial Capacity**

- See Subdivision Review.

### **Landscape Plan**

- A landscaping plan must be submitted as part of the Final Plan submission.
- See Subdivision Review
- A landscaping plan for the proposed sewer pump station is shown on Drawing No 9 submitted on March 23, 2020. The revised plan submitted on June 8 depicts arborvitae shrubs buffering the view of the box and parking area from the public street.
- A Landscaping Plan dated May 8, 2020 was submitted with the Final Plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north.

### **Conformity with Local Plans and Ordinances**

- Land Use
  - See Subdivision Review.
- Comprehensive Plan
  - This project meets the goals and objectives of the 2017 Comprehensive Plan.
- Others: The Preliminary Plan submission shall include detailed information on how the project will comply with Section 813 Commercial District Design Standards. The plan to comply with Section 813 must incorporate the proposed pump station.
- The submission on February 18, 2020 includes notes on which Commercial District Design Standards at 813 the applicant intends to meet, and how they intend to meet them.
  - The applicant intends to meet the architectural standards by not having any buildings that are a form of advertising, that will be finished with vinyl siding and vinyl trim and materials of high quality and common to northern New England. No awnings or canopies are proposed. The building colors will be typical and low reflectance. The

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- roof pitch will be 5/12, and it will be shingled with asphalt singles. No mechanical equipment will be mounted on the roof. The buildings will be less than 20,000 sf and not linear commercial buildings. Staff note that the newly proposed building nearest to Depot Street is linear and must therefore have a clearly defined and highly visible customer entrance.
- The applicant intends to meet the site/parking standards by shielding parking from the public street view, having landscaping islands, parking spaces, lanes and handicap spots will be painted, screened dumpster area, and a low impact stormwater design – underdrained soil filtered.
  - The applicant intends to meet the landscaping/lighting criteria – building entrances will be highlighted, landscaping will be designed so not to obscure the lighting, snow storage areas have been designated. The plantings will be low maintenance and hardy to Maine winters, and shrubs and perennials are proposed in mass planting arrangements. The lighting is in scale with the buildings, with pole mounted fixtures less than 20 feet. The applicant submitted detail lighting information and photometric diagram.
  - The applicant is proposing to meet the bicycle/pedestrian standards by having a bike rack included at each building, a continuous internal walkway, sidewalks along Depot St where none exist, and the sidewalk network connected to the adjoining property.
  - Staff note that the applicant responded to requirement A.5.e: “It is our opinion that the requirement for 40% display windows on the ground floor is not appropriate for residential housing.” (813.A.5.e: “Horizontal facades greater than 50 feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the facade and extending at least 20% of the length of the facade. No uninterrupted facade shall exceed 50 horizontal feet.”). Staff find that this requirement is not optional.
  - The March 23, 2020 submission includes a waiver for the pump station control building from the requirement of a minimum of 40% of the horizontal length on the ground floor in total. The applicant states that the building must remain secure and adding a window is not appropriate. The proposed plantings will help screen the building from the road. The Planning Board granted the waiver at the April 13, 2020 meeting, specific to the pump station. See FOF under Utilities above, for more information on the pump station.
  - The applicant is electing to comply with B3 as one of their elective standards. B3 is for Interconnected Parking Lots, and intended for “...connections between abutting properties shall be provided to facilitate deliveries and minimize turning movements onto the highway.” Staff do not find it applicable to this project, unless the secondary connection is for more than just emergency use. The applicant must choose another elective design standard to comply with.

### **Impacts to Adjacent/Neighboring Properties**

- Site lighting must be shown on Final Plan, and details of fixtures must be included in the submission. The locations of light poles should be shown on SB-1, and details of light fixtures must be included in the final submission. The locations of lights are shown on the

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Final Plan sheet for SB-1. Lighting fixtures shall be shielded or hooded, in accordance with the Site Plan ordinance.

## 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 August 5, 2019 as amended June 22, 2020 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. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. Any person owning, operating, leasing or having control over stormwater



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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. Soils excavated on the site should be evaluated by an Environmental Professional (Licensed Engineer or Certified Geologist with experience in environmental assessment) to determine if they are impacted by oil and/or hazardous substances and require special handling if disposed of offsite or reused on site.
4. Prior to issuance of building permits, the Planning Board must find that elevations for the proposed building(s) meet the Commercial District Design Standards in §813.A.