

## **Town of Windham**

Town Offices 8 School Road Windham, Maine

## **Meeting Minutes - Draft**

# **Planning Board**

Monday, June 22, 2020 6:30 PM Online via Zoom

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.

- 1 Call To Order
- 2 Roll Call and Declaration of Quorum

The meeting was called to order by Chair, Keith Elder. Other members present were:

Michael Devoid, Tyler Dunlea, Drew Mayo, Colin Swan, and Kaitlyn Tuttle.

Planner, Jenn Curtis, and Planning Director, Amanda Lessard, were also present.

3 PB 20-049 Approval of Minutes: June 8, 2020

Attachments: Minutes 6-8-2020 - draft

Drew Mayo made a motion to approve the minutes from May 26, 2020 and June 8,

2020.

Seconded by Michael Devoid.

Roll Call:

Michael Devoid – In Favor Colin Swan – In Favor Tyler Dunlea – In Favor Kaitlyn Tuttle – In Favor Keith Elder – In Favor Drew Mayo – In Favor

All in favor.

## **Public Hearing & Continuing Business**

4 PB 20-050 20-05 PTG Commercial Complex. Minor subdivision final plan review. PTG Properties LLC to request review of a four (4) lot commercial

subdivision. The property in question is located at 626 Roosevelt Trail and

identified on Tax Map: 52, Lot: 24, Zone: Commercial 1 (C-1).

Attachments: 20-05 PTG Commercial Final 6-18-20

Compiled-626 Roosevelt Trail-Design Plans (6-1-20)

626 Roosevelt - Minor Subdivision Application 2020 6 1

Compiled-19046-MHPC Letter and Attachments

**Beginning With Habitat Map** 

G.P. Peer Review 6-17-20

M.A. Peer Review 6-17-20

Response to comments 6-18-20

Dustin Roma was present representing the applicant. He explained:

- They proposed a four-lot commercial subdivision. Previously, they had presented a commercial site plan to the Board but had decided that the individual businesses should submit for site plan review.
- The DEP storm water permit and MDOT traffic movement permits would be obtained cumulatively for site plan development of the entire site. They asked this to be a condition of approval.
- The road would meet the standard for a commercial thoroughfare with sidewalks and curbing on both sides. A road extension was proposed to the south.
- On-street, parallel parking would be provided.
- There would be streetlights at the intersections.
- A dedicated right turn lane would be provided onto Route 302.
- Storm water would be infiltrated.
- Power would be underground.
- Portland Water District was working on review and approval of the design. They
  requested that submission of the Ability to Serve letter be a condition of approval.
- They requested a waiver of the requirement for a hydrogeological study. That would be more appropriate to do during the individual site plan reviews.

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

Tyler Dunlea left the meeting, briefly.

Drew Mayo made a motion to approve the waiver request for submission of the hydrogeological survey.

Seconded by Michael Devoid.

Roll Call:

Michael Devoid – In Favor Colin Swan – In Favor Tyler Dunlea – Absent Kaitlyn Tuttle – In Favor Keith Elder – In Favor Drew Mayo – In Favor

Five in favor. No one opposed. Tyler Dunlea absent.

Tyler Dunlea rejoined the meeting.

Drew Mayo made a motion that the Minor Final Subdivision application for 20-05 PTG Commercial Complex on Tax Map: 52, Lot 24 was to be approved with conditions with the following findings of fact and conclusions:

FINDINGS OF FACT

#### Utilization of the Site

- The site is currently occupied by with two single-family homes and two detached garage structures, along with other minor accessory structures. The existing structures are proposed to be demolished and removed.
- The property was recently timber harvested and cleared.
- There are no wetlands identified on the property.

#### Pollution

- No portion of this subdivision is within the mapped 100-year floodplain.
- This subdivision is located over a significant sand and gravel aquifer.
- There is no subsurface wastewater disposal proposed at this time, and no anticipated groundwater impacts.
- Stormwater runoff from the proposed road will be treated according to a stormwater management plan that meets the standards of DEP Chapter 500. (See FOF under Stormwater Management)

#### Vehicular and Pedestrian Traffic

- The subject parcel has approximately 250 feet of frontage on Route 302.
- The site currently has two driveway openings on Route 302. In accordance with Section 406.E.6.d, new, enlarged or rebuilt uses on an arterial road, shall be limited to one (1) curb cut.
- The proposed project will be served by a new public street connecting to Rt 302, to be constructed to the Commercial Street standard and the minor local street road base. A sidewalk is shown on the sketch plan. The two existing curb cuts will be closed.
- The proposed access drive location in proximity to the southern property line would allow for a connection to the undeveloped parcel to be able to develop a street network to comply with the C-1 block standards.
- At the Development Review Team Meeting on March 31, 2020, Town Engineer Mark Arienti and Fire Chief Brent Libby requested turn radius diagram for fire trucks and similar vehicles to be able to circulate through the property.
- Development in the C-1 zoning district is subject to the Sidewalk Impact Fee (Section 1201).
- Sight distances for the entrance must be shown on the final plan.
- Driveway entrances on adjacent abutting properties should be shown on the final plan.
- A traffic impact study must be submitted with the final plan set if the project will generate fifty (50) or more trips during the a.m. or p.m. peak hour.
- If the project generates over 100 peak hour trips and requires a Traffic Movement Permit from the Maine Department of Transportation, it must be submitted with Final Plan.
- Development on the lots may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour.
- The lots with frontage on Route 302 are subject to the North Windham Sidewalk Impact Fee (Section 1202).
- A road plan and profile were submitted with the Final Plan on June 1, 2020.
- Mark Arienti, P.E., Town Engineer, commented in an email on June 16, 2020:
- The proposed commercial street does not appear to conform with the applicable

Zoning District Performance Standards, which in this case are Commercial 1. The proposed subdivision street must be designed to the Thoroughfare Standard Commercial Street shown in Appendix B, which require street parking on both sides. The plans only show street parking on one side of the street.

- The plan view of the proposed street shown on Sheets PP-1 and PP-2 is not consistent with what is shown on the Typical Roadway Section on Sheet D-1. Please clarify.
- No street lighting is shown at the entrance from Rte. 302 and along the proposed street. Please clarify
- The vehicle sight distances in both directions should be shown on the plans.
- A driveway location permit will need to be obtained from Public Works prior to the start of construction.
- No stop sign is shown at the entrance onto Roosevelt Trail nor is there a detail. Please clarify.
- As noted in the application, a Traffic Movement Permit will need to be obtained from the Maine DOT for trip ends in the range of 100 to 200 peak hour trips prior to applying for site plan approval on individual lots.
- At the Planning Board meeting on June 22, 2020, the applicant indicated they are designing Vintage Drive to meet the Commercial Street standard. It will have 10' travel lanes, 7' parking lanes, and 8' margins with 4' walkways on either side.
- The final plan depicts pole mounted light fixtures along Vintage Drive, and a light mounted to an existing telephone pole at the intersection with Route 302.

Sewage Disposal, Water Quality and Groundwater Impacts

- There is no subsurface wastewater disposal proposed at this time. Subsurface wastewater disposal plans will be reviewed and approved through the site plan review process.
- The applicant requested a waiver from the requirement to submit a hydrogeologic assessment showing that the project meets the subsurface wastewater performance standards. Staff find it reasonable that the applicant not be required to submit evidence that the subsurface wastewater disposal systems would meet the performance standards, as it has not been determined what type of subsurface wastewater systems will be installed, but because the site plan standards are not as restrictive as the subdivision standards with regard to subsurface wastewater disposal, staff recommend that the Planning Board require that when reviewed for site plan approval, the individual lots must demonstrate that they meet the subdivision performance standards for subsurface wastewater disposal. Staff recommends this be noted on the subdivision plan.
- The final application included a Soil Evaluation for Subsurface Wastewater Disposal Systems produced by Mainely Soils LLC, dated June 1, 2020. The report stated that four test pits were dug at proposed leach bed sites to at least 42 inches depth and contained well drained glacial outwash material suitable to support a first-time system according to the Maine Subsurface Wastewater Disposal Rules. The test pit locations are shown on the Final Subdivision Plan.

#### Solid Waste

 Commercial Uses are responsible for the private collection and disposal of solid waste. Further review of solid waste disposal will occur with the individual lot development's site plan review.

Stormwater Management

- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance as there is more than one (1) acre of development proposed. See recommended Condition of Approval #2.
- The Final application dated June 1, 2020 included a stormwater management report prepared by D.M Roma Consulting Engineers. The report states that the project has been designed to meet the MDEP Chapter 500 Basic Standards, and the Flooding Standard outlined in MDEP Chapter 500. To meet the standard, two areas of permeable pavers have been designed to reduce the peak discharge.
- The property is located in the Little Sebago Watershed. 906.E.7 requires that the project be reviewed in compliance with the stormwater standards included in the Maine Department of Environmental Protection Chapter 500 including basic, general, phosphorus, flooding, and other standards. The review shall also ensure compliance with performance standards contained in Sections 911.C, 911.D.2, 911.H.1, 911.J of the land use ordinance.
- On June 16, 2020 Will Haskell, P.E. of Gorrill Palmer had the following comments on the proposed stormwater management plan:
- 911.J.1 Provide the impervious area proposed for each lot.
- 911.J.4 Provide a calculation that shows compliance with the MDEP Chapter 500 General Standards.
- 911.J.6 In order to show compliance with the flooding standard provide the following:
- How was the soil infiltration rate determined?
- The proposed lot impervious areas should be included in the calculations.
- The total areas between pre and post are slightly different but should have no significant impact on the calculations.
- Revise the Study Points on the existing conditions Watershed Map, three points are shown.
- In accordance with MDEP Infiltration BMP's, test pits showing the depth to seasonal high water and bedrock should be performed in the infiltration areas.
- The proposed subsurface wastewater disposal systems may need to be sited to provide a Major Watercourse setback to the stormwater infiltration systems in accordance with the BMP.
- On June 16, 2020 Mark Arienti, P.E. commented in email that:
- The applicant is proposing to use strips of permeable pavers along the subdivision streets to provide treatment and to meet the flooding requirements of Windham's Subdivision ordinance, which references Maine DEP Ch. 500. The paver strips are used to infiltrate runoff from these two areas. The Medium Intensity Soil Maps show the underlying soils to be Hinkley soils in Hydrologic Soil Group A, which means they are well drained. DEP's Stormwater BMP Manual recommends that the infiltration rate should be confirmed with a double ring infiltrometer test to confirm that the soil's permeability is equal to the 2.41 inches per hour used in the Hydrocad analysis.
- The analysis submitted by the applicant shows that the design using the pavers results in the post-development peak flows from the 2-, 10, and 25-yr, 24-hr storms that are lower than the predevelopments flows as required in DEP Ch. 500 using an infiltration rate of 2.41 inches/hour. This infiltration rate should be confirmed as noted above.
- The applicant submitted a response to comments on June 18, 2020 that has not been reviewed as of the date of this memo.
- On June 22, 2020 Will Haskell, P.E. of Gorrill Palmer commented that the receipt of an MDEP stormwater permit should be a condition of approval. (SEE COA #3)

**Erosion Control** 

- A soil erosion and sediment control plan must be submitted as part of the Final Plan submission.
- A soil erosion and sediment control plan was submitted as part of the Final Plan on June 1, 2020.
- On June 16, 2020 Mark Arienti, P.E. commented in email that:
- The plan set includes Sheet D-1, which addresses the Maine DEP Chapter 500 Basic Standards regarding Erosion Control Best Management Practices. Although Note #2 in Housekeeping does address the protection of infiltrations areas, a more targeted note should be added to specifically mention the protection of the permeable pavers to prevent the pavers from being filled with sediment and clogged during construction and thereafter.

#### Utilities

- The property must be served by underground utilities.
- The project will be served by public water for domestic use and fire protection.
- The Town received communication from Portland Water District in an email on June 10, 2020, indicating that they are waiting for the applicant to have an approved road layout from the Town to compare against their standards before continuing their review.
- At the Planning Board meeting on June 22, 2020 it was discussed that an Ability to Serve letter from Portland Water District is required prior to Planning Board signatures on the approved plan.
- The project will require road opening permits from the Town for each public right of way that is disturbed.
- The closest fire hydrant on Route 302 is just north of the Page Road intersection.

#### Technical and Financial Capacity

- Evidence of financial capacity must be provided as part of the final submission
- In the final application submission dated June 1, 2020, the applicant included a listing of expected construction costs, and a letter from Norway Savings Bank that states that PTG Properties, Inc has the financial capacity to support the project.
- Evidence of technical capacity must be provided as part of the final submission.
- In the final application submission dated June 1, 2020, the applicant stated that the plan was prepared by DM Roma Consulting Engineers, the boundary survey prepared by Survey, Inc., and soil analysis was performed by Mainely Soils, LLC. All individuals and firms have been performing similar services for multiple years, in Windham and the surrounding communities.

#### Landscape Plan

- The Final Plan sheets Road 1, and Road 2, show street trees along the sides of the streets at 50' intervals, and a note that trees shall be planted at an interval of no less than one tree every 50 feet.
- The Final Subdivision Plan dated June 18, 2020 includes a note that "street trees shall be planted at an interval no less than one tree every 50 feet of roadway and shall be of a tree species variety capable of withstanding winter street maintenance in accordance with section 911.E.1.B of the Windham Land Use Ordinance."

#### Conformity with Local Plans and Ordinances

- 1. Land Use
- This proposed lots meet the minimum lot size requirements and minimum lot frontage requirements of the C1 zoning district.

- Front, side and rear setbacks are shown for each lot on the plan.
- 2. Subdivision Ordinance
- Standard notes and the standard condition of approval must be shown on the plan.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.
- The applicant submitted a "Beginning with Habitat Map" showing the location of the subject property in relation to deer wintering areas and brook trout habitat. There were no deer wintering areas or brook trout habitat shown on the property.
- The applicant submitted a letter requesting project review from the Maine Historic Preservation Commission dated June 10, 2020.
- 3. Comprehensive Plan
- This project meets the goals and objectives of the 2017 Comprehensive Plan. The property is located in the North Windham Growth Area.
- 4. Others:
- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area. See Condition of Approval #2.
- Chapter 221 Street Naming and Addressing: Street names approved by the Town Addressing Officer shall be shown on the Final Plan.
- The Town Addressing Officer approved the street name "Vintage Drive" on June 16, 2020.

Impacts to Adjacent/Neighboring Properties

- The rear of the property abuts Trailwood Village, a residential subdivision. Screening or landscaping along the property line should be shown on the final plan.
- No screening or landscaping along the property line is shown on the Subdivision Plan submitted June 1, 2020.

#### 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 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 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 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 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 March 23, 2020, amended June 1, 2020, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Staff Review Committee, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Staff Review Committee or the Town Planner in accordance with Section 814.G. 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 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. Prior to building permit or site plan approval development on each lot shall obtain or show compliance with Maine DOT traffic movement and Maine DEP stormwater permits incorporating all existing and proposed development.
- 4. Prior to building permit or site plan approval development on each lot shall obtain or show compliance with subdivision standard 911.H.1. Ground Water Quality.

Seconded by Michael Devoid.

Roll Call:

Michael Devoid – In Favor

Tyler Dunlea – In Favor.

Keith Elder – In Favor

Drew Mayo – In Favor

All in favor.

## **New Business**

PB 20-051 5

Amendments to Town of Windham Land Use Ordinance, Chapter 140, Section 1200 Impact Fees and Appendix A Fee Schedule related to Public Safety and Municipal Office impact fees.

Attachments: PB packet PublicSafety MuniOffice Impact Fee 06-18-20 WindhamMEImpactFeesSafety&TownOfficeDRAFT18May2020

Amanda Lessard explained:

- The proposed impact fee would be assessed on new residential and commercial development and used to fund expansion of the Public Safety and Town Hall buildings and to purchase emergency services equipment.
- The amount of the impact fee would be determined by the type of residential dwelling unit or the square footage of the commercial building.
- Payment of the impact fee would be refunded in the event that a building permit lapsed.
- Payment of the impact fee would be refunded if it was not spent within ten years. In that event, it would be returned to the current owner of the property.

#### The Board commented:

- Liked the idea of fees for things that used town services.
- Not a fan of impact fees.
- This missed some of the issues. They had been talking about schools and a community building. These were hefty fees for something else.
- Impact fees were another tax.
- This was not geared in the right direction.

PB 20-052 6

Amendments to Town of Windham Land Use Ordinance, Chapter 140. Sections 300 Definitions and 500 Performance Standards related to Backlots.

Attachments: PB packet backlot 06-17-20

Backlot Standards pre 10-2017

#### Amanda Lessard explained:

- This amendment would allow for the creation of new backlots on a public street.
- The creation of new backlots had been removed from the ordinance in 2017.
- The previous ordinance had been difficult to administer.
- As part of the 2017 amendment, it was clarified that a driveway could serve as access for no more than two lots.
- New streets were required to be built to a public street standard. This had resulted in the need to build large streets for a short road.
- The new provisions would:
- Apply to public streets. 0
- Clarify a backlot as any lot that did not have the required minimum street frontage. 0
- Specify new standards for a driveway, which would be allowed to serve two homes. 0
- Require the backlot to be accessed via a 50-foot-wide right-of-way. If the right-of-way

Town of Windham Page 9

was extended or if future homes were built, the standard required improvement of the entire road to a public street standard.

#### The Board commented:

- A driveway had no standard and was not maintained by the town.
- Was there no way to expand a driveway with two lots?
- Backlots were shortsighted. Some did not allow the creation of a road.
- Driveways were too long and cost prohibitive to upgrade.
- It was important to have adequate road frontage for emergency services access otherwise it could be difficult to find an address.
- The town should invest in the infrastructure.
- This was a backwards move for a community that was growing so fast.

#### PB 20-053 7

Town of Windham Growth Management Ordinance, Chapter 116 and Amendment to Town of Windham Official Zoning Map Retirement Community and Care Facility Overlay District (RCCFO).

Attachments: PB memo growth management 06-17-20

Windham-Growth-Management-Ordinance draft 061520

RCCFO revised

Building Permit count 1980 to 2019

#### Amanda Lessard explained:

- The ordinance had been developed by the Long Range Planning Committee (LRPC) to address concerns regarding growth in town.
- It proposed a limit of 100 growth permits per year, allocated monthly.
- If the limit wasn't reached in a month, the unused permits could be rolled over.
- The number of available permits would be determined by: type of dwelling unit; zoning district; whether the property was in a subdivision, and how many other permits the receiving entity had gotten during the year.
- A point system was proposed, to determine priority.
- The ordinance would not apply to replacement homes; gift lots; senior housing; access apts???
- A reserve pool of permits would be established and could be used by Town Council to allocate additional permits.
- The Code Enforcement Office could issue some single family house permits if they ran out before the end of the year.
- The LRPC had suggested amendments to the boundaries of the Retirement Community and Care Facility Overlay Zone (RCCFO) because it was exempt from the ordinance. Determination of the new proposed boundary was based on:
- The Future Land Use Map contained in the Comp Plan
- Available infrastructure; areas with no public water
- Properties outside of Growth Areas
- Areas of rural character to be maintained

#### The Board commented:

- Not a fan of a cap on the number of permits
- It was better to build things right; have bigger lots in the Farm zone; and incentivize growth.
- People would have to wait for permits.
- Gift lots should have to stand in line like everyone else.
- This seemed like a band-aid to appease the voice of the minority.
- It was a horrible idea that had failed elsewhere.

- Why put an impact fee on new houses and then limit the number of new houses?
- The proposed impact fees should cover the cost of growth.
- Why limit the number per year that a person could get? Maybe that person was a really good company and the permits would then go to someone not so good.
- Definitely opposed to it.
- This would stifle growth.

## **Other Business**

## 8 Assign a member to serve on the Long Range Planning Committee

No Board member was interested in serving on the LRPC.

## 9 Adjournment

Drew Mayo made a motion to adjourn.

Seconded by Michael Devoid.

Roll Call:

Michael Devoid – In Favor

Tyler Dunlea – In Favor.

Keith Elder – In Favor

Drew Mayo – In Favor

All in favor.