

Town of Windham

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MEMO

DATE: October 22, 2020

TO: Windham Planning Board
FROM: Jennifer Curtis, Planner
Cc: Amanda Lessard, Planning Director
Sebago Solar, LLC
Kirk Ball, P.E. Acheron Engineering Services
Development Review Team

RE: 20-25 Sebago Solar - Major Site Plan & Conditional Use, Sketch Plan Review
Planning Board Meeting: October 26, 2020

Overview –

This application is for a new a 14.5-acre, ~ 5MW solar project on a portion of the 40 acre property east of Pipeline Road owned by Wiley R.N. & Sons. About half of the project parcel is an existing gravel pit. The remainder is wooded area. The parcel abuts the Raymond/Windham Town line. Access to the pit is tentatively planned to be from the Raymond side of the parcel.

Public Utility Facility is a conditional use in the Light-Density Residential District where the project is proposed to be located. In accordance with Section 516.B the Planning Board shall serve as the review authority. The applicant should submit a written statement with the final plan application describing how the conditional use will meet the review criteria of Section 516.

A Development Team meeting was held on October 21, 2020. Comments from that meeting are incorporated into the memo below.

Tax Map: 23 Lots: 4B. Zone: Light-Density Residential District (RL)



Figure 1. Satellite image of the project parcel (selected) and surrounding area

SITE PLAN REVIEW

Staff Comments:

1. Waivers: *The Planning Board cannot act on waivers or potential waiver requests at the Sketch review phase, however it is appropriate to discuss potential waiver requests to give the applicant guidance*

None

2. Complete Application: N/A for sketch plan

MOTION: ~~The site plan application for project 20-25 Sebago Solar 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: A public hearing must be held, due to the Conditional Use. One will be scheduled for the date of the final application review.

4. Site Walk: A site walk has not been scheduled. The Planning Board should determine if one should be held.

Findings of Fact and conclusions for the

Windham Planning Board,

~~The Site Plan application for 20-25 Sebago Solar on Tax Map: 23 Lot: 4B is to be (approved with conditions/denied) with the following findings of fact and conclusions.~~

FINDINGS OF FACT

Utilization of the Site

- The site is a gravel pit mostly surrounded by wooded land. There are some homes on adjacent parcels to the south and east and one or two to the north.
- The project proposes to reclaim the gravel pit portion, where the project will be primarily located.
- The solar panels are currently proposed to occupy the pit area, and leave most of the wooded area untouched.
- The developer plans to re-grade the site and use cut material from steep slopes on-site to avoid the need for trucks driving in and out during the grading operation.

Vehicular and Pedestrian Traffic

- The subject parcel is a nonconforming lot of record that does not have frontage on an existing road.
- The applicant has not detailed their plans for access as of the date of the sketch plan review, but they have indicated they plan to access the site from the Raymond side. The final plan must include any Town of Raymond site plan approvals for access and development in Raymond.
- The final plan should clarify the site access and prove right, title or interest.
- Sight distances for the entrance must be shown on the final plan.
- The final plan submission must include an estimate of the weekday AM and PM and Saturday peak hour and daily traffic to be generated by the project.
- A traffic impact study is not required as the project will not generate fifty (50) or more trips during the a.m. or p.m. peak hour.
- Section 812.B.1.b states that “existing streets that can be expected to carry traffic generated by the development shall have the capacity or be suitably improved to accommodate that traffic.

Sewage Disposal and Groundwater Impacts

- The development is not proposing a private subsurface wastewater disposal (septic) system.

Stormwater Management

- Per Section 812.E, a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management. Any Stormwater Permit required by Maine DEP must be submitted with the final plan submission.
- The proposed development is located within the Sebago Lake watershed, which is a watershed of a lake most at risk from new development as designated in Chapter 502: Direct Watersheds Of Lakes Most At Risk From New Development, And Urban Impaired Streams of the Maine Department of Environmental Protection, and therefore requires independent review per 807.F.6. The project shall 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.

Erosion Control

- A soil erosion and sediment control plan must be submitted with the final plan set. This may take the form of a printed best management practices plan rather than on-the-ground designation of erosion control measures.
- At the Development Team meeting on October 21, 2020, the applicants representative stated that the topography indicated the site was internally drained.

Utilities

- 3-Phase power exists near the edge of the property on the Raymond side. A short extension to the site, and some electrical equipment will need to be installed.
- All utilities shall be installed underground, per Site Plan ordinance.
- A power shut off should be located on site. An emergency service plan should be provided to local emergency services.

Financial & Technical Capacity

- Evidence of technical capacity must be provided as part of the Final Plan submission.
- As part of the next submission, the applicant must show an estimate the total project costs, and submit evidence of financial capacity to complete the project as proposed.

Impacts to Adjacent/Neighboring Properties

- A landscaping plan must be submitted as part of the final plan set.
- Any proposed site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.
- No construction activities are permitted between 10pm and 6am.

- A fence is proposed around the perimeter of the solar equipment. Details of the fence should be provided with the final plan submission.

Conformity with Local Plans and Ordinances

1. Land Use

- The minimum lot size and setback requirements of the RL zoning district.
- The proposed public utility facility use is conditional in the RL district if it meets the standards Section 516.
- The property is a nonconforming lot of record that does not have frontage on an existing road. Section 204 of the Land Use only allows a single family dwelling to be erected on a nonconforming lot of record.
- Non-residential uses in the RL are required to have a minimum 15' landscaped buffer.

2. Comprehensive Plan

- This project meets the goals and objectives of the 2017 Comprehensive Plan. The project is located in the rural area of the Future Land Use Plan.

3. Others:

- Conditional Use, Section 516. The project must comply with the review criteria. Conditional Use review criteria are listed following the Site Plan Review criteria.

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.~~
- ~~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~~

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated October 5, 2020, 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 814.G. of the Land Use Ordinance.
2. **Abandonment or Decommissioning**
 - a) Removal Requirements: At such time that the ground-mounted solar energy system described in this approval has reached the end of its useful life or has been abandoned consistent with the Abandonment description within this condition of approval, it shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - i. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
 - b) Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale groundmounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town

retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

- c) Surety: The applicant will provide financial assurance for the decommissioning costs in the form of a performance bond, surety bond, 'evergreen' letter of credit, or other means acceptable to the Town, for the total cost of decommissioning. The applicant will have the financial assurance mechanism in place prior to construction and will re-evaluate the decommissioning cost and financial assurance at the end of years, five, ten, and fifteen. Every five years after the start of construction, updated proof of acceptable financial assurance must be submitted to the Town for review.

CONDITIONAL USE REVIEW

FINDINGS OF FACT

Property Value

- Staff recommends a performance guarantee in the amount of the cost of decommissioning the facility in the event the facility is ever abandoned and the Town would need to remove the equipment.

Wildlife Habitat

- See Site Plan Review

Botanical Species

- See Site Plan Review

Potable Water

- See Site Plan Review

Sewage Disposal

- See Site Plan Review

Traffic

- See Site Plan Review

Public Safety

- See Site Plan Review

Vibration

- The applicant should provide documentation if blasting is proposed to construct the proposed facility or if the use will produce recurrently generated vibrations.

Noise

- See Site Plan Review

Off-Street Parking and Loading

- See Site Plan Review

Odors

- See Site Plan Review

Air Pollution

- See Site Plan Review

Water Pollution

- See Site Plan Review

Erosion and Sediment Control

- See Site Plan Review

Hazardous Material

- See Site Plan Review

Zoning District and Performance Standards

- See Site Plan Review

Solid Waste Management

- See Site Plan Review

CONCLUSIONS

1. ~~The proposed use **will not** depreciate the economic value of surrounding properties.~~
2. ~~The proposed use **will not** damage significant wildlife habitat or spawning grounds identified by the Maine Department of Inland Fisheries and Wildlife or by the Town of Windham's Comprehensive Plan.~~
3. ~~The proposed use **will not** damage rare or endangered botanical species as identified by the Maine Department of Conservation or by the Town of Windham's Comprehensive Plan.~~
4. ~~The proposed use **has** access to potable water and **will not** burden either a groundwater aquifer or public water system.~~
5. ~~The proposed use **has** adequate capacity to dispose of sewage waste.~~
6. ~~The proposed use **has** adequate sight distance as established by current Maine DOT Highway Entrance and Driveway Rules.~~

7. ~~The proposed use **will not** overburden police, fire and rescue services, as determined by response time, accessibility to the site of the proposed use, and numbers and types of emergency personnel and equipment presently serving the community.~~