



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Planning Board

Monday, December 28, 2020

6:30 PM

Remote 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, Kaitlyn Tuttle, and Colin Swan.

Jennifer Curtis and Amanda Lessard were also present.

3 Approval of Minutes: December 14, 2020 (TABLED - Minutes not available for approval)

Continuing Business and Public Hearing

- 4 [PB 20-086](#) 20-23 WH02 Solar. Major site plan final plan review. TPE ME WH02, LLC to request review of a 19.99 acre, approximately 5 MW, solar project. The property in question is located on Swett Road and identified on Tax Map: 6, Lot: 60, Zone: Farm (F).

Attachments: [WH02 Solar Final 12-23-20.pdf](#)

[2020-11-23 WH02 Town Application & Plans.pdf](#)

[2020-11-20 Stormwater Report.pdf](#)

[MA Peer Review Comments 12-1-20.pdf](#)

[Jordan Belknap\(as applicant\)_RE_Town Council Questions_12-3-20.pdf](#)

[2020-12-02 Final MHPC Determination.pdf](#)

[2020-12-10 Financial Capacity Letter.pdf](#)

[C1.0.pdf](#)

[C4.1.pdf](#)

[NAE-2020-03015-NPR.pdf](#)

[TPE ME WH02 LLC_L28911AN.pdf](#)

Silas Canavan was present representing the applicants. He explained:

- They had received their approvals from DEP and Army Corp of Engineers. This was what they had been waiting for.
- Construction would be restricted to the hours of 7 am to 8 pm.
- The bottom of the security fence would be raised to approximately six inches to allow wildlife to travel through the array area.

Public Comment

There was no public comment.

There was no Board comment.

The public hearing was closed.

Kaitlyn Tuttle made a motion that the Final Site Plan and Conditional Use application for project 20-23 WH02 Solar was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.

Seconded by Colin Swan.

Roll Call

*Michael Devoid- In favor Colin Swan - In favor
Keith Elder- In favor Kaitlyn Tuttle - In favor
Vote: All in favor.*

Kaitlyn Tuttle made a motion that the Site Plan and Conditional Use application for 20-23 WH02 Solar on Tax Map: 6 Lot: 60 was to be approved with conditions with the following findings of fact and conclusions.

FINDINGS OF FACT

Review Authority

Per the Town of Windham Land Use Ordinance, at §803.A.1, and §805.A.2., the individual or cumulative Development of one (1) acre or more land is subject to review by the Planning Board.

Utilization of the Site

- *The applicant submitted a 25-year real estate lease option agreement for the subject parcel, dated April 17, 2020, with the landowners, Laurence A and Kathryn A Clark.*
- *The proposed site location is undeveloped and currently mostly wooded.*
- *The site will be occupied by approximately 20 acres of ground mounted solar panels and an electrical equipment area near the proposed access road with turnaround, surrounded by a security fence that may be raised up slightly to allow small wildlife to travel underneath.*
- *The area under and around the solar panels will be returned to a vegetated meadow condition, mowed no more than twice per year.*
- *Drainage patterns will remain generally the same.*
- *Two streams, multiple wetlands, and three potential vernal pools were identified. The applicant is conservatively assuming the vernal pools are significant and applying setbacks accordingly.*
- *A Maine DEP NRPA PBR for work adjacent to natural resource, and a Tier 1 NRPA Permit for wetland impacts must be submitted with the final application.*
- *The applicant submitted applications to DEP for NRPA PBR on November 18, 2020.*

The 14-day review period expires on December 4, 2020.

- The applicant applied for a Tier 1 NRPA Permit for wetland impacts.
- DEP issued a Tier 1 NRPA permit (#L-28911-TB-A-N) for the wetland impacts on December 23, 2020. The permit was reviewed by Mark Arienti, P.E., Town Engineer. Mark had no comments.
- The applicant states that the Army Corps considers the type of wetland impacts they are proposing to be exempt. The applicant will send copy of the Tier 1 NRPA to the Army Corps.
- The Army Corps issued a permit (# NAE-2020-03015) on December 23, 2020, authorizing the proposed filling of freshwater wetland. The permit was reviewed by Mark Arienti, P.E., Town Engineer. Mark had no comments.
- The project is not located within an essential or significant habitat as mapped on the Beginning with Habitat website and is not located over a significant sand and gravel aquifer as mapped by the Maine Geological Survey.
- The MHPC requested additional information from the applicant to determine if the project will have impacts on any historic or archeological resources.
- On December 10, 2020, the applicant submitted a memo dated December 2, 2020 stating that there are no National register eligible properties on or adjacent to the parcels, and the project area is not considered sensitive for archeological resources.
- It was discussed at the Development Review Team Meeting that there is likely to be ledge near the surface in the area of the project, and the applicant indicated they were planning to use an anchor system that would still work with ledge.
- With regard to carbon footprint, the applicant supplied a carbon footprint analysis in the Final Plan application, and the following summary: "It was determined that the project will result in clearing of approximately 720± trees, but the carbon offset of the solar project is equal to between approximately 54,000± and 295,000± trees. Therefore, conservatively, the existing trees onsite produce only 1.3% of the carbon offset that the proposed solar array will produce."

Vehicular and Pedestrian Traffic

- The project site has frontage on Swett Road, a gravel surface public street, and would have a small gravel access drive with a turnaround.
- Sight distances for the entrance must be shown on the final plan.
- The applicant states that the minimum sight distance is 335', and presumed the speed limit for Swett Road, as 25 MPH, as it was not posted. The site distance required for a 25MPH road is 250'.
- In an email dated December 7, 2020, Bill Andrews, Windham Police Captain, interprets the lack of a posted speed, and lack of development in the area, to result in the speed limit to default to 45MPH.
- The applicant states that they do not have adequate sight distances to accommodate a 45MPH speed limit. The applicant must submit a written waiver request of 812.B.2.(a).
- The applicant included information on typical construction traffic, estimated at a total of 2, 120 vehicle trips (a trip is counted for each direction, so a trip to the site and from it is counted as 2, so the number of vehicles leaving and entering is half of the total trips). The construction period is estimated at 3-5 months.
- The application states that the project would generate only a few trips per month.
- 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.
- The project will need an entrance permit from the Department of Public Works. The Director of Public Works recommended a performance guarantee amount to cover the costs to repair any damages to Swett Road that occur due to construction.
- The Final Plan includes a note "THE CONTRACTOR SHALL DOCUMENT THE CONDITION OF SWETT ROAD WITH PHOTOGRAPHS AND VIDEO PRIOR TO

CONSTRUCTION AND AT THE COMPLETION OF THE PROJECT. IF DAMAGE TO SWETT ROAD FROM CONSTRUCTION VEHICLE TRAFFIC IS IDENTIFIED, THE ROAD SHALL BE REPAIRED TO ITS EXISTING CONDITION AT THE CONTRACTOR'S EXPENSE"

- Staff recommend the note be revised to "...ROAD SHALL BE REPAIRED TO ITS PRIOR CONDITION..."
- A revised version of the final plan includes the proposed change.

Sewage Disposal, Groundwater Impacts, Hazardous Materials

- The development is not proposing a private subsurface wastewater disposal (septic) system.
- No storage or handling of hazardous materials is proposed on site.
- In an email dated December 2, 2020, Jordan Belknap, on behalf of the applicant, commented that "The solar panels are not classified as hazardous waste, and are manufactured to meet EPA requirements for toxicity based on the Toxicity Characteristic Leaching Procedure (TCLP). The modules are silicon based and primarily composed of glass, aluminum, and silicon."

Stormwater Management

- Per Section 812.E, a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management.
- A Stormwater Permit required by Maine DEP must be submitted with the final plan submission.
- The applicant applied for a Maine DEP Stormwater Permit by Rule (PBR) on November 18, 2020.
- Town Engineer, Mark Arienti, P.E., commented in an email on December 1, 2020 "The stormwater management report includes an analysis of peak flow rates at the site that indicates that post-development peak flow from the site will be less than or equal to pre-development flows as required by the Town's Site Plan Review Ordinance. This is achieved through the construction of two detention ponds, three level spreaders, a forested buffer, and several culverts and rip-rap inlet and outlet aprons.", and "The report includes a post-construction Inspection and Maintenance Plan for Stormwater Management facilities that appears to adequately address the maintenance and upkeep of the proposed facilities." Mark also determined that the amount of impervious surface associated with the array is well below an acre.
- The proposed development is located within the Black Brook and Colley Wright Brook watersheds, neither of which are 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 does not require independent review per 807.F.6.
- Town Engineer, Mark Arienti, P.E., commented on the plan set in an email on December 1, 2020, with a variety of comments related to stormwater management related items, particularly relating to elevations of inlets, outlets and like details. The comments were satisfactorily addressed by the applicant, as indicated in a follow up email from Mark on December 4, 2020.

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.
- The Final Plan includes an Erosion and Sediment Control Plan (sheet C3, notes and details C4) showing the location of silt fence and erosion control berms, including double rows within 75' of stream and wetland, and a stabilized construction entrance.

Utilities

- §812.I requires that new utility facilities shall be screened from view to the extent feasible, and utility lines shall be placed underground.
- At the Development Review Team meeting the applicant stated that the project would tie-in to existing power lines on Swett Road.
- Equipment will be monitored remotely at all times. Emergency personal will have a plan for access.

Financial & Technical Capacity

- 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.
- The Final Plan application states that the project cost is estimated at \$8.4 Million.
- The Final Plan included a financial plan from the developer stating that they plan to bring in a third party investor to own, operate and maintain the project once it reaches the construction phase, and also a statement that the developer has financial capacity through an affiliated entity (parent company, Turning Point Energy). On December 10, 2020, the applicant submitted a letter stating that the parent company has sufficient capital on balance sheets to cover the costs of project development. The letter included an attached letter from bank that has a relationship with the parent company, stating that the parent company has more than 20% of the project costs, as evidence of a cash equity commitment. Considering
 - The applicant submitted a record from the Maine Bureau of Corporations indicating that the applicant is a foreign limited liability company in good standing as of September 3, 2020. Staff find that the limited information provided for financial capacity is not concerning due to the requirements for the applicant to provide an acceptable performance guarantee for construction, and because of the Planning Board's practice of requiring a surety for decommissioning for large solar projects.
 - Evidence of technical capacity must be provided as part of the Final Plan submission.
 - The applicant has retained the services of qualified professionals, to design the project and perform permitting consultation. The project was surveyed by Jones Associates, Inc., and designed by Civil Engineer Silas Canavan, PE at Walsh Engineering Associates, Inc.

Impacts to Adjacent/Neighboring Properties

- A landscaping plan must be submitted as part of the final plan set.
- The applicant is proposing an evergreen screening buffer along the western portion of the project.
- Any proposed site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.
- The Final Plan indicates there will be no exterior lighting.
- No construction activities are permitted between 10pm and 6am.
- Town Engineer, Mark Arienti, P.E., commented in an email on December 1, 2020 that Note 8 on plan sheet C1 indicated construction activities may not occur between 10PM and 6AM. He suggested that due to the residential nature of the surrounding area, the applicant should consider limiting construction to between 7AM and 8PM.
- A security chain link fence is proposed around the perimeter of the solar equipment.
- During the Development Review Team Meeting it was noted that there may be neighbors in the newly constructed residential development to the south that would have concerns about visibility, and viewshed analysis to help determine the visual impacts to those neighbors would be helpful for final review.

- *The Final Plan indicates that the applicant will maintain a total of 55' of vegetated buffer along Swett Road. The residential development to the east will be buffered by more than 200' of existing vegetation that will remain.*
- *The applicant submitted view plan sections demonstrating that there will be no undue adverse viewshed impacts to the abutter at 17 Swett Road, Swett Road users, or the easterly abutters.*
- *The Final Plan application states that there will be no exterior lighting installed.*

Conformity with Local Plans and Ordinances

1. Land Use

- *The project meets the minimum lot size and frontage requirements of the F zoning district.*
- *The minimum front setback for non-residential use is a minimum landscaped buffer strip of 15'. Newly implemented Farm District streetscape landscape requirements vary depending on tree density. The applicant is proposing a 55' natural vegetated buffer. There is significant vegetative growth in the front setback area as of the date of this memo; however, the applicant must create additional landscaped buffer if needed.*
- *The proposed public utility facility use is conditional in the Farm District if it meets the standards Section 516.*

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 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

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated September 8, 2020, as amended December 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. Abandonment or Decommissioning

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:

(a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) 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.

Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted 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.

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

Review Authority

- *Per the Windham Land Use Ordinance at §516.B.2.B, the Planning Board has Conditional Use review authority of a project under review as a Major Site Plan.*

Property Value

- *The use will not impact the value of surrounding properties. 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. See COA #2.*

Wildlife Habitat

- *The applicant consulted the Maine Department of Inland Fisheries and Wildlife (MDIFW) as to the presence of endangered and threatened species in the project area. There were no species identified, outside of the potential for Northern Long Eared Bats to live in the trees there, as they may live essentially anywhere there are trees. The applicant will restrict tree clearing in the months of June and July as Required by MDIFW.*
- *A small amount of clearing is proposed within the 250' potential vernal pool buffers (PVP1 and PVP2), but the clearing is less than the DEP's allowable threshold of 25%. One wetland of 5,471 sf will be filled. The permits for clearing in the PVP buffer and filling the wetland have been submitted to DEP. The approval from DEP for NRPA Tier 1 permit was received on December 23, 2020. See Site Plan Review – POLLUTION.*
- *The project, as proposed, will not impact significant wildlife habitat or spawning grounds identified by the MDIFW or by the Town's Comprehensive Plan.*
- *At the meeting on December 14, 2020 the applicant agreed to raise the bottom height of the fence to 6" to allow small terrestrial animals to pass through.*

Botanical Species

- *The applicant consulted the Maine Natural Areas Program to determine if the site was known to contain Rare or Endangered botanical species. MNAP did not identify the site as an area containing Rare or Endangered species. No rare or endangered species are identified in this area by the Town of Windham's Comprehensive Plan.*

Potable Water

- *The proposed project does not require a water supply.*

Sewage Disposal

- *The proposed project does not require sewage disposal.*

Traffic

- *See Site Plan Review – the applicant demonstrated adequate sight distance. See Site Plan review - TRAFFIC*

Public Safety

- *The proposed project is not anticipated to require frequent or extensive support from the Town's public safety services*

Vibration

- *The applicant stated that no blasting will be required for installation. No vibration will be generated by the development.*

Noise

- *The applicant states that no construction activities will take place outside the hours of 10PM and 6AM. Town Engineer, Mark Arienti, P.E., commented in an email on December 1, 2020 that Note 8 on plan sheet C1 indicated construction activities may not*

occur between 10PM and 6AM. He suggested that due to the residential nature of the surrounding area, the applicant should consider limiting construction to between 7AM and 8PM.

- §516.S requires reduced sound pressure levels during the hours between 10PM and 7AM.
- At the meeting on December 10, 2020, the applicant agreed to include a note on the Final Plan that limits construction hours to between 7AM and 8PM. The note is on the Final Plan dated December 22, 2020.

Off-Street Parking and Loading

- See Site Plan Review

Odors

- The project will not produce noxious odors.

Air Pollution

- The project will not produce air pollution.

Water Pollution

- See Groundwater Impacts, Stormwater Management, and Erosion Control above, under Site Plan Review

Erosion and Sediment Control

- See Site Plan Review

Hazardous Material

- See Site Plan Review
- Town Engineer, Mark Arienti, P.E., commented that disposing of the panels was a possible concern, but he did not find any evidence that the type of conditions that are anticipated to occur at the project during operations would create a potential hazard.

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.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor Colin Swan - In favor
Keith Elder- In favor Kaitlyn Tuttle - In favor

Vote: All in favor.

Continuing Business

- 5 [PB 20-090](#) 20-22 Quarry Ridge Business Park, Lot 15-3. Fourth Amendment. Dwight Investments, LLC to request an amendment to divide lot 15-3 into two (2) lots. The property in question is located on Enterprise Drive and identified on Tax Map: 21, Lot: 15-3, Zone: Enterprise Development (ED).

Attachments: [20-22 Quarry Ridge Lot3 Amend FINAL 12-22-20.pdf](#)

[Subdivision Amendment Application 8-25-20.pdf](#)

[Additional Submission Sept 15 2020.pdf](#)

[Quarry Ridge Subdivision Lot 3 Amended Plan 8-25-20.pdf](#)

[Sheet 7 Quarry Ridge Phase 1B Approved Plans Revised through 05.24.2016.pdf](#)

[DEP Permit - Dwight Investments LLC L18029TM.pdf](#)

[Lot # approval.pdf](#)

Craig Burgess, from Sebago Technics, was present representing the applicant. He explained:

- *The application was to split lot 3 into two lots, one being 1.8 acres and the other two acres.*
- *They had received approval for the minor revision to the DEP permit.*
- *The assumed traffic count would be divided in half between the two lots.*

There was no Board comment.

Kaitlyn Tuttle made a motion that the application for project 20-22 Quarry Ridge Business Park, 4th Amendment was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor Colin Swan - In favor
Keith Elder- In favor Kaitlyn Tuttle - In favor

Vote: All in favor.

Kaitlyn Tuttle made a motion that the Final Plan application for 20-22 Quarry Ridge Lot 3, 4th Amendment on Tax Map: 21; Lot 15-3 was to be approved with conditions with the

following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION

- *The floodplain boundary should be clearly depicted and labeled on the amended subdivision plan. The floodplain label should be shown, to indicate none on the property, if that is the case.*
- *No buildings or specific uses are proposed at this time.*
- *The applicant submitted a memo and 7 test pit logs signed and stamped by licensed site evaluator, Gary M. Fullerton. The memo states that most of the site was filled, with bedrock encountered within 60 inches. Test pits 1 and 2 had enough original soil to meet the minimum standards for suitable soils for septic systems in accordance with Maine Subsurface Wastewater Disposal Rules, and the remaining test pits would meet minimum standards if the fill was placed prior to October 31, 1995. Staff note that no groundwater was documented in any of the test pits.*
- *The applicant states that the area was filled prior to October 31, 1995.*
- *The applicant should submit a map depicting the location of test pits, for verification that both lots will meet the requirements for a septic system.*
- *Note 14 of the proposed 4th amended subdivision plan dated August 21, 2020 notes that the wetland within the open space easement on the land retained by the owner in intended to provide nitrate uptake form future subsurface wastewater disposal systems located on individual lots within the Quarry Ridge Business Park. The easement area should be shown on the plan.*
- *Maine DEP Site Location of Development Act permit L-18029-39-T-M dated December 4, 2020, issued for the Lot 3 Lot Split, included the following two special conditions of approval:*
 - o *Condition 4: The subsurface wastewater disposal systems for Lots 3A and 3B shall be located as shown on the plan referenced in Finding 1.*
 - o *Condition 5: Any subsurface wastewater disposal system with a design flow that exceeds 1,000 gallons per day shall comply with Special Condition #10 in Department Order #L-1802939-L-N. (this condition requires that they submit the details of the system to the Bureau of Land and Water Quality for approval).*

B. WATER

- *The proposed Lots will be served by public water and will not result in additional demand for water beyond the currently approved subdivision.*
- *There are fire hydrants located on Bedrock Terrace and Enterprise Drive, both within 100' of the subject area. Hydrants should be shown on the Final Plan.*

C. SOIL EROSION AND STORMWATER MANAGMENT

- *The Maine Department of Environmental Protection Site Location of Development Permit #L-18029-39-L-N dated November 16, 2005 as amended included the design of stormwater ponds and stormwater conveyance infrastructure for the entire Quarry Ridge Business Park development. Under the DEP Site Law permit each lot within the subdivision was given an allocation for allowable impervious surface based on 75% lot coverage.*
- *The applicant proposes to split the approved amount of impervious area, so that the total remains the same. The 1.84 acre lot, (lot 3-A) would be allotted .95ac of impervious surface, and the 2.04 acre lot (lot 3-B) would be allotted 1.06 acres of impervious surface. The table "Maximum Assumed Impervious Area Per Lot" on the Subdivision Plan dated September 8, 2020 has been updated to reflect those impervious area*

assumptions. Each of the two parcels will be able to conform with the original stormwater management treatment plan, as they will have access to the roadside ditch along Bedrock Terrace.

- A Maine DEP Minor Revision application will need to be filed, and included with the final subdivision application
- Maine DEP Site Location of Development Act permit L-18029-39-T-M dated December 4, 2020, was issued for the Lot 3 Lot Split. The permit states that "The proposed development meets the standards for storm water management in 38 M.R.S. § 420-D and the standard for erosion and sedimentation control in 38 M.R.S. § 420-C."; and, "The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure."
- In an email dated September 15, 2020, Mark Arienti, P.E. commented: "I think the stormwater memo is fine as long as there's no issue with runoff from Lot 3B going into the roadside ditch in front of Lot 3A so that it can get the pond on the other side of Enterprise Drive. As long as the ditch is in the road right-of-way, then it should be fine."
- Freshwater wetlands have been identified on the plan. No wetland impacts are proposed as part of the amended subdivision application.

D. TRAFFIC

- The proposed lot reconfiguration will be served by frontage on the previously approved street, Bedrock Terrace. Bedrock Terrace has been designed and currently is mostly constructed to the public street standard. An adequate amount of Bedrock Terrace will need to be constructed to the public street standard, in order for each of the lots to meet the 100' minimum frontage requirement of the Enterprise Development zoning district (§406.I.5.(b)). The Town of Windham holds a performance guarantee for the construction of the required improvements of the Phase 1B approved subdivision, which includes completing the construction of Bedrock Terrace across the frontage of Lot 3.
- The applicant submitted a memo dated September 8, 2020 prepared by Darek Caldwell, P.E., PTOE of Sebago Technics, Inc. The memo states that the Maine DOT Traffic Movement Permit (TMP) issued in 2008 for the full buildout assumed approximately 15,000sf of building area on each of the 12 lots. The TMP was issued for a total of 257 trips in the AM peak hour and 253 trips in the PM peak hour. Divided amongst the twelve lots, this would equate to approximately 21 AM peak hour trips and 21 PM peak hour trips per lot.
- In an email dated September 15, 2020 Town Engineer Mark Arienti, P.E., commented that the cumulative # of peak hour trips for both of the new lots should not exceed the amount assumed for the parent lot (Lot 3), in order to stay within the parameters assumed by the TMP.
- At the Planning Board meeting on September 28, 2020, the applicant agreed to split the number of assumed trips, originally allotted to Lot 3, amongst the two proposed lots. See COA #7.

E. SEWERAGE

- Both lots will be served by an individual private subsurface wastewater disposal system.
- Test pit soil conditions were considered during the Quarry Ridge Business Park subdivision review. The Maine Department of Environmental Protection Site Location of Development Permit included the provision for up to a 1,000 gallon-per-day subsurface wastewater disposal system on each of the properties.
- To verify that the site had adequate capacity to have septic systems on both lots,

the applicant submitted a memo and 7 test pit logs signed and stamped by licensed site evaluator, Gary M. Fullerton. See FOF under POLLUTION for more information.

- *See FOF under POLLUTION regarding FOF for Maine DEP permit L-18029-39-T-M.*

F. SOLID WASTE

- *The applicant is not proposing to utilize municipal solid waste at this time as not uses are proposed, but the proposed split should not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized.*

G. AESTHETICS

- *No uses are proposed at this time, but all future site development will be subject to the District Standards at §406.I.6.*
- *The boundaries of the lots are located substantially more than 100' from any commercial or residential district.*
- *Limits of tree clearing should be shown on the 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.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- *Comprehensive Plan:*
- *The plan does meet the goals of the 2017 Comprehensive Plan. The property is located in the North Windham Growth Area.*
- *Land Use Ordinances:*
- *The proposed lots meet the minimum lot size and 100-foot minimum frontage requirements of the ED zoning district. Development must meet the maximum building coverage (50%) and maximum impervious area (75%) requirements of the ED zoning district.*
- *District Standards, Section 406.I. The project must meet the standards of the ED zoning district.*
 - o *All parking lots shall maintain a 30 ft setback from all property lines.*
- *Subdivision Ordinance*
- *Section 911.A.c requires that parcels with more than twice the required minimum lot size shall require deed restriction or notes on the plan to either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulation and conditions placed on the original approval. The amended plan should include language similar to Note 13 on the 2006 2nd Amended Plan regarding the remaining land of RJGF, LLC. See COA#5.*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *The Tax Map and Lot numbers provided by the Tax Assessor shall be shown on the Plan.*
- *Lot numbers, 15-3-A, and 15-3-B, approved by Town of Windham E911 Addressing Officer on December 16, 2020, must be shown on the Final Plan.*
- *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*
- *A note should be included on the final plan specifying the rights and responsibilities of each owner with respect to the maintenance and repair of stormwater infrastructure.*
- *Note #13 on the Amended Subdivision Plan dated August 21, 2020 references lot-owner stormwater maintenance responsibilities.*

- *Others:*

I. FINANCIAL AND TECHNICAL CAPACITY

- *There is no public infrastructure or improvements proposed as part of this application. Costs associated with review of this project are privately finance by the applicant.*
- *The professional working on the project have demonstrated technical capacity for this project.*

J. RIVER, STREAM OR BROOK IMPACTS

- *This project is located in the Sebago Lake Watershed.*
- *No river, stream or brook impacts are anticipated as a result of the proposed amendment.*

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 not 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 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 25, 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. Buildings within the site plan shall be constructed with provisions for either of the following:

a. A positive free outlet foundation drain, whereby the footing elevations should be set as established by the builder, or;

b. Any other foundation drainage system, such as a sump hole, whereby the bottom of the footing elevation shall be set at least 12" above the limiting groundwater level, as determined by a licensed site evaluator and approved by the Town of Windham Code Enforcement Officer

3. Prior to installing a driveway serving and use, the owners of the property must secure, in writing, all required permits for a driveway opening

4. The Deeds for the approved lots of this subdivision shall include a provision that requires the lot owner to perform routine mowing of grass lined drainage swales and/or grassed esplanades which abut their lot. Drainage swales shall be mowed to maintain a minimum grass height of approximately 6 inches and to prevent the growth of woody vegetation. All maintenance of the roadside swales, with the exception of routine mowing, shall be the responsibility of the Town of Windham Public Works Department.

5. The Wetlands within the open space easement on land retained by the owner is intended to provide nitrate uptake from future subsurface wastewater disposal systems located on individual lots within the Quarry Ridge Business Park subdivision wetland areas within this easement shall remain in their undisturbed natural state. The owner may amend the open space easement and develop land within it to suit future project needs without individual lot owner's approval. Such future alterations shall require prior approval of the Maine Department of Environmental Protection, the Town of Windham, and other authorities with jurisdiction. Land within the open space easement shall be retained by the owner and may only be conveyed as part of the business park prior to any such sale or conveyance of land within the open space easement, the owner shall amend the Maine Department of Environmental Protection Site Location of Development Approval Order #L-18029-39-L-N dated November 16, 2005 as amended, for the quarry ridge business park to include such land within the subdivision as open space.

6. Development of the Quarry Ridge Business Park is subject to the terms and conditions of the Maine Department of Environmental Protection Site Location of Development Approval order #L-18029-39-L-N dated November 16, 2005. This

amendment was further authorized by DEP permit L-18029-39-T-M. December 4, 2020.

7. Each of the two created lots shall be developed to attract no more than $\frac{1}{2}$ of the number of anticipated total peak hour trips, as evenly divided amongst the original 12 lots in the subdivision, based on the Maine DOT Traffic Movement Permit, which calculates out to 10 AM peak hour trips and 10 PM Peak hour trips for each lot, 15-3-A and 15-3-B.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor Colin Swan - In favor

Keith Elder- In favor Kaitlyn Tuttle - In favor

Vote: All in favor.

New Business

- 6 [PB 20-089](#) (TABLED BY APPLICANT - will not be reviewed on December 28, 2020) 20-30 Canada Hill Subdivision, Phase 2. Major subdivision sketch plan review. Chase Custom Homes and Finance to request review of a 12-lot residential subdivision. The subject property is located on Highland Cliff Road and Canada Hill Road and identified on Tax Map: 4, Lot: 9-14, Zone: Farm (F).

Attachments: [Canada Hill Phase 2 - Application Materials.pdf](#)

[Canada Hill Phase 2 - Concept Plan.pdf](#)

Other Business

7 Adjournment

Kaitlyn Tuttle made a motion to adjourn.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor Colin Swan - In favor

Keith Elder- In favor Kaitlyn Tuttle - In favor

Vote: All in favor.