



**Town of Windham
Planning Department**

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MEMO

DATE: November 8, 2021

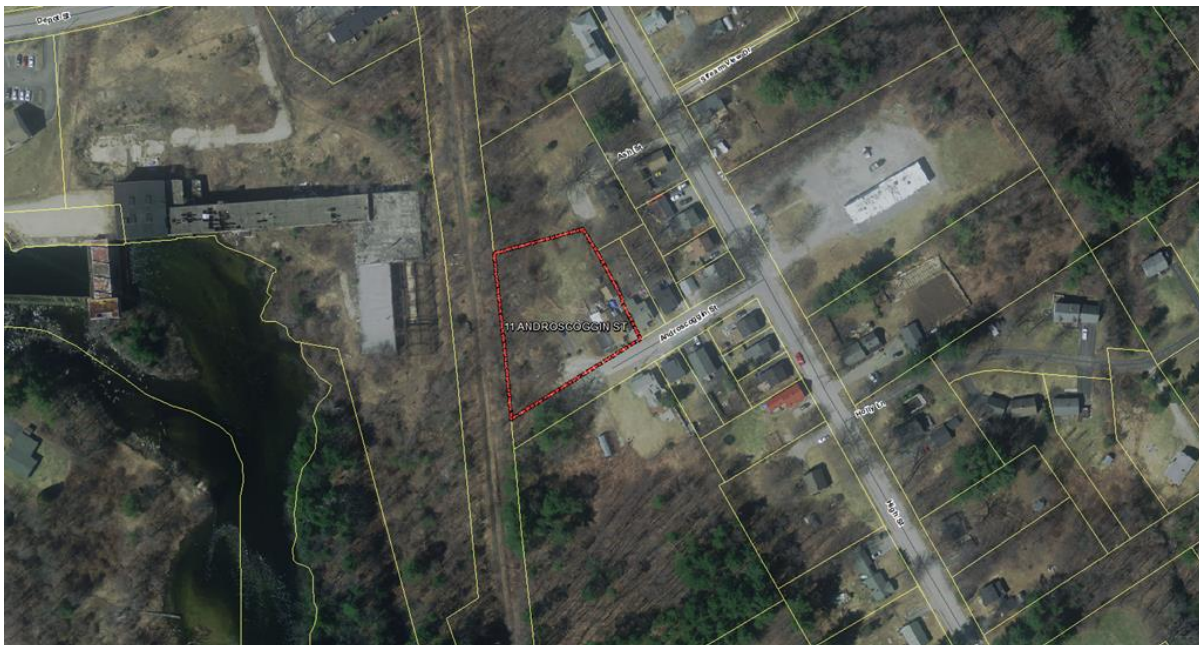
TO: Windham Planning Board
FROM: Steve Puleo, Town Planner
Cc: Dustin Roma, DM Roma Consulting Engineers
Mr. James Cummings, Applicant
Development Review Team

RE: 21-11: 11 Androscoggin Street - Minor Subdivision Final Plan Review
Planning Board Meeting: November 11, 2021

Overview –

The application is for minor subdivision approval to split the lot and create three (3) dwelling units at 11 Androscoggin Street. The lot is 39,267 SF in size and has an existing single-family residential dwelling. The applicant is proposing a parcel split into a new vacant 29,274 SF lot for a new duplex and a 9,993 SF lot with the existing single-family residences. The applicant had originally proposed a sketch plan application of an eight (8) unit residential building. The applicant was concerned about the vehicle and impact has scaled down the size of the project to reduce the amount of vehicle and pedestrian traffic of the eight (8) dwelling units to a two (2) unit residential building and ~~five (5)~~ four (4) parking spaces.

A Development Review Team meeting was held on July 27, 2021, on the 8-unit apartment. Comments received during the meeting are reflected in the memo below.



Aerial View of the subject parcel relative to surrounding properties and street network.

Tax Map: 37; Lot: 13; Zone: Village Center (VC).

Additional written public comments submitted after the public hearing have been included with the packet.

MINOR SUBDIVISION REVIEW

Staff Comments:

1. Waivers: ~~None requested~~

~~a. At the Development Review Team Meeting, the applicant stated that they would not seek any waivers from the Planning Board.~~

Limitation of Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land. Per Section 908.B.2. The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements. Per Section 908.C. The Planning Board may waive the requirements of Section 911 Performance and Design Standards, when the applicant demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in Section 908.C.2.

a. Waiver of Sections 543 and 812.C.1.(a) Parking and Loading Requirements:

The applicant is requesting a waiver allowing the four-vehicle parking are serving the Duplex structure to back out onto Androscoggin Street. The applicant sites that the driveway or parking area for the duplex building is located at the end of a short dead-end road and do not expect that vehicles will be subject or creating dangerous conditions when making a backing out movement in Androscoggin Street.

The staff finds the waiver request reasonable.

MOTION: To approve waiver request of Sections 543 and 812.C.1.(a) Parking and Loading Requirements, for the parking areas with two (2) or more parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.

1. Complete Application: *The staff finds complete the final minor subdivision plan application for a Planning Board review. The Board should determine if they have received sufficient information to address the review criteria.*

MOTION: The minor subdivision application for 11 Androscoggin Street 3 dwelling-unit subdivision project 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.

2. Public Hearing: The Planning Board scheduled a public hearing on November 8, 2021.
3. Site Walk: The Planning Board held a site walk on October 25, 2021.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: The minor subdivision application for the 11 Androscoggin Street three dwelling-unit subdivision on Tax Map: 37, Lot 13 is to be **(approved with conditions)** with the following findings of fact and conclusions.

New comments related to the minor subdivision review are added to the sketch plan review memo, dated August 23, 2021, and appears as underlined text. The Section 812 Major Site Plan review portions are deleted from the memo. The struck-through text portions of the mem are no longer part of the application.

FINDINGS OF FACT

812.C. - PARKING AND LOADING

- Per Section 542.A.1. Parking and Loading standards "in Section 800 Site Plan Review shall apply to the uses in all zoning districts", and "Waivers of the off-street parking and loading standards may only be granted by the Planning Board as part of a subdivision application."
- Per Section 812.C.1.(a) Parking and Loading Requirements, Off-street Parking Layout, "Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicles to back into the street."
- The parking area shows four (4) parking spaces, 9' x 18', although the revised application states ~~five~~ **four (4)** parking spaces.
- Per the site walk discussion, ~~the applicant stated they would provide a truck turning template for the Fire and Public Works access at the end of Androscoggin Street. A truck turning template was not provided with the revised application materials. The applicant has provide a turning movement template fo the Fire Truck. The Fire Chief was concerned about the truck tires on the lawn area and requested the building be move deeper into the lot. The applicant agree to push the building footprint 15-feet further back allow the truck tires to stay on the pavement. The applicant has shown on the revised final plan, a 15-foot wide easement area. The staff recommend a Condition of Approval to release the signed subdivision recording plan after the applicant has provide the Town Planner with recorded and executed Cross Travel and Access easement (see Conditions of Approval #6).~~

911. - SUBDIVISION REVIEW

911.A. – Basic Subdivision layout

- The site has 10,940 SF of steep slopes (> 25%). The net residential area is 28,328 SF, and the required net area is 2,500 SF per dwelling unit allowing a maximum number of dwelling units of 11.
- The applicant is proposing to divide the lot into two parcels. Lot 1 will remain a single-family dwelling, and Lot 2 will be developed with a 2-unit residential building or duplex.
- ~~Maine Subdivision Law §4402.6 exempts the division of new or existing structures into three (3) or more dwelling units, where the project is subject to municipal site plan review.~~
- ~~The splitting of the parcel into two lots requires a major subdivision review, and the development of the apartment is subjected to a major site plan review.~~
- The new residential building will not result in undue air or water pollution.
- ~~During the Development Review Team meeting, Fire Department states they will be involved with the lot number for E 911 with the Addressing Officer.~~
- At the Development Review Team meeting, the applicant stated all utilities shall be located underground, per Section 911.A.2(a).
- The Planning Board should consider adding a Condition of Approval requiring the addition of two (2) or more dwelling units on Lots 1 will require minor subdivision to be amendment to a major subdivision.
- The minor subdivision project is not expected to result in undue air or water pollution.
- The applicant should provide a monument at the boundaries of Lot 1 and 2 along the street ROW.
- During the Development Review Team meeting, Assessing Department will provide addresses and map-lot numbers for the final plan review. The applicant has not provided property addresses for the new lot or Map Lot number from the Assessing Office with their final application. The Planning Board shall require addressing and Map Lot information on the final subdivision recording plan to be verified by the Town Planner prior to the release of the signed recording plan. The Assessor's office has identified the new parcel as Tax Map: 37 Lot: 13A.

911.B. – Sufficient Water

- The Portland Water District (PWD) has a water supply line in the Androscoggin Street ROW and is available for future connections to the single-family home or a duplex.
- The applicant has not provided the PWD "Ability to Server" letter in the final submission. The Planning Board shall require the PWD "Ability to Serve" letter and verified by the Town Planner prior to the release of the signed recording plan.
- The closest fire hydrant is within 1,000 feet of the proposed subdivision.

911.C. - Erosion Control and Impact on Water Bodies

- The applicant has not provided stormwater drainage or management plan. Plan sheet GU-1, locates the installation of silt fencing, lip-level spreader, and a plunge pool outflow structure and pipe from roofline dip edge filter.

- The Town Engineer requests the Planning Board consider adding a Condition of Approval requiring grading and erosion control plans to be reviewed and approved by the Town Engineer, in writing, prior to issuing the building permit for either a single-family dwelling or duplex (see Conditions of Approval #3).
- In the revised final plan, a report from Mainly Soils, LLC identified a small wetland on-site and did not find any water bodies on the new parcel. The proposed location of the duplex structure will not impact the small wetland.

911.D. – Sewage Disposal

- The proposed duplex structure will connect the sanitary sewer lines to the Portland Water District (PWD) sewer located in the Androscoggin Street ROW.
- The applicant has not provided the PWD "Ability to Server" letter in the final submission. The Planning Board shall require the PWD "Ability to Serve" letter and verified by the Town Planner prior to the release of the signed recording plan (see Condition of Approval #5).

911.E. – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas or Public Access to the Shoreline

- The applicant will provide more information relating to the natural resource impacts as part of the final review.
- The property does not have shoreline frontage.
- The applicant did not show the limits of tree clearing as part of the final plan submission for the single-family and duplex buildings. The Board should require a note be added to the subdivision recording 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 tree clearing limit note will be verified by the Town Planner before releasing the subdivision recording plan for recording at the Cumberland County Registry of Deeds.

911.F. – Conformance with Land Use Ordinances

Comprehensive Plan:

- The plan does meet the goals of the 2017 Comprehensive Plan.

Land Use Ordinances:

- In the Village Commercial (VC) District, the minimum lot size is 5,000 SF.
- Lots meet the lot frontage requirement of 50 feet for the VC Zone.
- The net residential density requirement is 2,500 SF.
- The net residential density calculations are shown on the subdivision recording plan.
- Single-family and duplex are permitted uses in the VC zoning district.

Subdivision Ordinance

- The applicant did not provide Tax Map and Lot numbers from the Tax Assessor for the final plan submission review.
- Subdivision plan data, compatible with the Town GIS, has not been submitted in the final plan submission.
- The subdivision plan shows the entire parcel, including all contiguous land in common ownership within the last five years, as required by 30-A MRSa Section 4401.

- ~~For the final plan review, the applicant shall describe how solid waste will be collected and disposed of.~~ The solid waste generated during construction will be hauled from the site and disposed of at a licensed waste handling facility. Residents will use the Town's curbside trash collection service.
- The applicant will show the proposed driveway location and building envelopes for Lot 1 the final plan review.

911.G. – Financial and Technical Capacity

- ~~Evidence of financial capacity must be provided as part of the final plan review. The applicant has not provided an estimated cost of development or financial capacity evidence.~~ **The applicant has estimated the cost of extending the water main and sewer service from Androscoggin Street to the site will cost approximately \$20,000. A letter has been provided dated November 8, 2021 from the Mr. Robert Harville, Vice President/ Commercial Lender of Norway Saving Bank, “the Bank has worked with Mr. Cummings on many projects and feels he is financially capable of completing the project.**
- ~~Evidence of technical capacity must be provided as part of the final plan review. The applicant contacted DM Roma Consulting Engineer for permitting management and site design. The Planning Board required the subdivision record plan to be stamped and signed by a State of Maine License Survey prior to the Planning Board signing the recording plan.~~

911.H. – Impact on Ground Water Quality or Quantity

- No impacts on groundwater are expected from the future development of the structures that will be connected to the Portland Water District (PWD) water supply and sewage disposal system.

911.I. – Floodplain Management

- The subject property is not in a mapped FEMA Floodplain boundary.

911.J. – Stormwater

- The applicant has provided see Section 911.C. - Erosion Control and Impact on Water Bodies above for details.
- The stormwater drainage or management plan shall comply with Chapter 500 Stormwater Rules and shall include a maintenance plan. The applicant did not provide a ~~management~~ stormwater plan for the final review.
- The Town Engineer provided the following:
The Windham Land Use Ordinance Section 911.J.6. requires all subdivisions, regardless of size, to submit a stormwater management plan that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. Roofline drip edge filters are shown for roof runoff. Based on the location that these drip edges are shown on the plan, it appears that the roof will fully pitch toward Androscoggin St. A detail should be provided on the plans for the plunge pool that is shown on the plan that receives the drip edge and foundation drain discharges. Grading details should be provided to show how drainage from the parking area will flow to the level spreader.

- The Town Engineer requests a note be added to the subdivision recording requiring the use of roofline drip edge filters, construction details of the plunge pool, and the stormwater management plan meeting Section 911.J.6. with the building permit application. The Planning Board should consider adding a Condition of Approval requiring roofline drip edge filters, construction details of the plunge pool, and a stormwater management plan reviewed and approved by the Town Engineer, in writing, prior to issuing the building permit for either a single-family dwelling or a duplex (see Conditions of Approval #4).

911.K. – Conservation Subdivision

- Conservation subdivisions are permitted in Farm or Farm Residential zoning districts only.

911. L. – Compliance with Timber Harvesting Rules

- The applicant of the three (3) dwelling unit subdivisions will not involve timber harvesting activity. All tree removal will be limited in scope and minimal.

911.M. – Traffic Conditions and Street

- The applicant states, the minor subdivision will generate approximately two (2) peak-hour trip ends. The small amount increases of traffic expected will not adversely the are road network. The placement of driveways will not adversely impact vehicular movement on Androscoggin Street.
- All driveway curb cuts will require to be obtained for "driveway opening" and "street-opening" permits from Public Works Department prior to commencing the work.

CONCLUSIONS

1. The subdivision 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 subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision.
5. The proposed subdivision **will** not cause any 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** 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 subdivision **will** provide for adequate sewage waste disposal.
8. The proposed subdivision **conforms** to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan.
9. The developer **has** the adequate financial capacity to meet the standards of this section.
10. The proposed subdivision **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

11. The proposed subdivision **will** provide for adequate stormwater management.
12. The proposed location and height of buildings or structure walls and fences, parking, loading and landscaping shall be such that it **will** 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 landscaping.~~
14. All freshwater wetlands within the proposed subdivision **have not** been identified on the plan.
15. ~~Any river, stream, or brook within or abutting the subdivision **has/has not** been identified on any maps submitted as part of the application.~~
16. The proposed subdivision **will** provide for adequate stormwater 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 **has/does have** a lot of depth to shore frontage ratio greater than 5 to 1.~~
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.~~
20. ~~The timber on the parcel being subdivided **has/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 October 4, 2021, amended November 4, 2021, and supporting documents and oral representations submitted and affirmed by the applicant and conditions. If any conditions are imposed by the Planning Board and any variations from such plans, proposals, supporting documents, and representations are subject to review and approval by the Staff Review Committee or the Town Planner in with Section 913 of the Subdivision Ordinance.
2. The addition of two (2) or more dwelling units on the new lot shall require the minor subdivision amendment to a major subdivision.
3. The grading and erosion control plans shall be reviewed and approved by the Town Engineer, in writing, prior to issuing the building permit for either a single-family dwelling or duplex.
4. The roofline drip edge filters, construction details of the plunge pool, and a stormwater management plan shall be reviewed and approved by the Town Engineer, in writing, prior to issuing the building permit for either a single-family dwelling or a duplex.

5. The applicant shall prior the PWD “Ability to Serve” letter and verified by the Town Planner prior to the release of the signed subdivision recording plan.
6. Prior to the release of the signed subdivision recording plan, the applicant shall provide to the Town Planner an executed and recorded 15-foot wide cross travel and access easement for Town and Utility vehicles across parcel 37-13A with the Town of Windham.