



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Planning Board

Monday, May 8, 2023

6:30 PM

Council Chambers/** Via Zoom

FINAL AGENDA

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.

Pursuant to the Town of Windham Planning Board's Remote Participation Policy adopted September 13, 2021 (online at <https://www.windhammaine.us/372/Planning-Board>), Zoom is only available to the public if one or more of the Board members cannot attend in person but will be participating remotely

Zoom will be the meeting platform used by both the Board and the public.

Information about using Zoom is available at

<https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-at-tendee->. Please note that members of the public will need to use the raise your hand feature in Zoom or type *9 on the phone to be called on and heard during the public testimony portion of the agenda.

1 Call To Order

2 Roll Call and Declaration of Quorum

3 [PB 23-029](#) Approval of Minutes - April 10, 2023 Special Meeting

Attachments: [Minutes 4-10-2023 Special Meeting.pdf](#)

Kathleen Brown made a motion to approve the minutes of the April 10, 2023 special meeting.

Seconded by Evert Krikken.

Vote: All in favor.

[PB 23-030](#) Approval of Minutes - April 10, 2023 meeting

Attachments: [Minutes 4-10-2023 - draft.pdf](#)

Kathleen Brown made a motion to approve the minutes of the April 10, 2023 meeting.

Seconded by Evert Krikken .

Vote: All in favor.

[PB 23-031](#) Approval of Minutes - April 24, 2023 meeting

Attachments: [Minutes 4-24-2023 - draft.pdf](#)

Kathleen Brown made a motion to approve the minutes of the April 24, 2023 meeting.

Seconded by Evert Krikken.

Vote: All in favor.

Continuing Business

- 4 [PB 23-025](#) #20-10 Roosevelt Trail Solar 1, LLC is requesting the Planning Board review and approve a second and final 1-year extension for the 464 Roosevelt Trail Solar project. The Planning Board approved the major site plan on May 22, 2020, and granted a 1-year extension on April 11, 2022. The subject property is Tax Map 15 Lot 1 in the Commercial III (C-3) and Farm Residential (FR) Zoning Districts.

Attachments: [20-10 PB MEMO SP-Ext RooseveltTrailSolar1_050323.pdf](#)

[#20-10 EXTENTION REQUEST RooseveltTrailSolar1_041423.pdf](#)

[#20-10 PLANSET RooseveltTrailSolar1_041423.pdf](#)

[#20-10 RESPONSE RooseveltTrailSolar1_041423.pdf](#)

Ryan Bailey, New Leaf Energy Director of Development, was present representing the application. This was their second extension request. He explained the history of their delay:

- *On May 14, 2020 they had been notified that they were part of a larger, CMP transmission study which was expected to be done in December of 2021.*
- *They had received their Planning Board approval May 22, 2020*
- *The study had been continually delayed. It was now scheduled to end in 2023 but the date kept changing.*
- *They were unable to secure construction financing, begin construction, or operate until the study was complete.*
- *With the study done at the end of the year, they would be able to begin construction in the Spring of 2024.*
- *This was their last possible extension request.*
- *New Leaf Energy was the new owner of the project because Borego Solar, as a development company, had been restructured and transferred into New Leaf Energy.*

Steve Puleo explained:

- *New Leaf Energy had provided the required evidence of financial capacity.*
- *The DEP permits were still valid.*
- *The Army Corp of Engineers Wetland Fill permit was still valid.*
- *Implementation of a decommissioning permit was required if the project did not operate within a one year period.*

Board Comment

- *Were there any substantive amendments to the ordinances that would affect the plan if the site plan approval lapsed, no reason to delay the project.*
- *Was there any other option to the approval lapsing after the second extension?*

Evert Krikken made a motion that the Roosevelt Solar 1, LLC's second one-year site plan extension request be approved, in accordance with Section 120-814A(2), for the 464 Roosevelt Trail Solar public utility facility, including the amended development and decommission plans of December 3, 2021, the findings of fact, conclusions, waivers, and conditions of approval of May 11, 2020, expiring May 22, 2024.

Seconded by Christian Etheridge.

Vote: All in favor.

New Business

- 5 [PB 23-026](#) #23-10 Depot Street Apartments Amended Site Plan and Subdivision. Peter Anania and Simon Beylin request review to change the ownership of the project and revise the building design for the two 12-unit buildings and one 7-unit building. The subject property is Tax Map 38 Lot 37A in the Village Commercial (VC) Zoning District.

Attachments: [23-10_PB_MEMO_FINAL_MajorSubSite_DepotStApt_050423.pdf](#)
[STAFF_REVIEW_MEMO_AmdSitePlan_DepotStApt_.pdf](#)
[AMD_SITE_PLAN_Application_DepotStApt_23-10_030623.pdf](#)
[AMD_SITE_PLAN_Plan_DepotStApt_23-10_030623.pdf](#)
[Subdivision_Application_DepotStreetApartments_2023_4_10.pdf](#)
[17035-AMENDED_PLAN_SET_4-18-2023.pdf](#)
[Response_to_Comments_DepotStreet_2023_4_18.pdf](#)
[TownEngineerComments_0414023.pdf](#)
[Anania_L-28526CT_Acceptance_Letter.pdf](#)
[FireChief_Coments_042823.pdf](#)

Dustin Roma, of DM Roma Consulting Engineers, was present representing the application. He reviewed:

- *The application was originally approved in 2020. Review had focused on:*
 - o *Site plan elements*
 - o *Traffic circulation*
 - o *Utilities design*
 - o *Parking*
 - o *Landscaping*
- *At the same time, the town was working with Portland Water District (PWD) to build a sewer pump station, which would be located on the property.*
- *The driveway for the project had been completed as part of the pump station project.*
- *They were required, as a condition of the 2020 approval, to return to the Planning Board for approval of building elevations.*
- *New standards for multi-family development had become effective so this application would be reviewed under them.*
- *In 2020 the Planning Board had approved a required second access at the rear of the property.*
- *Parking spaces were the same.*
- *Bedroom counts had changed. They now proposed two, 12 unit buildings with two bedrooms per unit and one, seven unit building with three bedrooms per unit.*
- *PWD had updated the ability to serve letters to reflect the added wastewater*

requirement.

- *The Fire Dept was satisfied with access to the three buildings.*

Steve Puleo stated:

- *The owner had extended the site plan approval for a one year period.*
- *There was a three year period in which to record the subdivision plan and begin construction.*
- *The developer had to inspect erosion control measures annually.*
- *The developer had to report annually on maintenance of the stormwater measures.*
- *The DEP stormwater and NRPA permits were still valid. The new owner was in the process of having them transferred.*
- *The design elements criteria of the new ordinance were:*
 - o *Architectural design*
 - o *Vertical and horizontal articulation of the façade*
 - o *Articulation of roof alignment*
 - o *A 35 foot height limit*

Board Comment

- *Do all the multi-family standards apply to the project?*
- *Did the landscaping plan that was submitted meet the requirement?*
- *Would there be an additional pump station?*
- *Where was the 75 foot setback to a stream?*
- *Were all of the utilities underground?*
- *Columns would approve the appearance of the seven unit building.*
- *What about the waiver request for secondary access?*

Consensus of the Board was not to require a site walk.

Christian Etheridge made a motion that the application for project 23-10 Depot Street Apartments amended subdivision and site plan were 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 Evert Krikken.

Vote: All in favor.

Christian Etheridge made a motion that the final amended Subdivision application for 23-10 Depot Street Apartments on Tax Map: 38, Lot: 37-A was to be approved with conditions with the following findings of fact, conclusions, and conditions of approval.

EDITED FINDINGS OF FACT FROM THE APPROVED OF JULY 13, 2020

Section 120-911 - SUBDIVISION PERFORMANCE STANDARDS

Section 120-911A – Basic Subdivision layout

- (1) The parcel shown on the plan meets the Village Commercial (VC) Dimensional standards connected to public water, per Section 120-415E.*
- *Building heights are designed not to exceed 35 feet.*
 - *The property is 2.1 acres in size.*
 - *The recording shows all the required setbacks and street frontage in the VC district.*
- (a) The net residential calculations are shown on the recording subdivision plan, per Section 120-541, allowing the 32 residential unit.*

(2) See site plan review.

Section 120-911B – Sufficient water; water supply.

- All dwelling units will be served by public water.
- There are two hydrants within 500' of the proposed driveway entrance – one at High Street and one on 202/Main St. The project is less than 400' in depth.
- The proposed buildings will be served by sprinkler systems.
- The final plan submission depicts fire protection water lines connecting to the two 12-unit buildings, but not the four duplexes. Fire protection code does not require sprinklers in duplexes.
- The final plan submission must include a written statement from the Portland Water District (PWD) that there is adequate supply and pressure for the subdivision.
- The applicants stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated November 20, 2019 to November 22, 2019, indicating that the PWD is reviewing the applicants' information.
- The final Plan submission must include an Ability to Serve letter.
- An Ability to Serve email from PWD dated April 14, 2023 confirming wastewater and water flow to serve the development.

Section 120-911C - Erosion Control and Impact on Water Bodies

- A soil erosion and sediment control plan must be submitted as part of the final plan.
- A soil erosion and sediment control plan were submitted as part of the final plan. The plan includes pollution prevention, temporary soil stabilization BMPs, sediment barrier BMPs, storm drain inlet protection, stabilized construction entrance/exit, dust control, land grading and slope preparation, topsoil treatment, permanent soil stabilization, stormwater channel construction, winter erosion and sedimentation controls, housekeeping notes, and details of berms, drip edges, construction entrance, and erosion control measures.

Section 120-911D – Sewage disposal

- The site will be served by a public sewer. The final plan includes an Ability to Serve letter from the Portland Water District (PWD) for the proposed project.
- The applicants stated that they initiated coordination with the PWD and submitted a copy of a chain of email communication with PWD dated April 14, 2023 approves the sewer design.
- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Sketch Site Plan shows the potential location of a new Portland Water District (PWD) pump station just to the left (west) of the entrance to the proposed subdivision. This is likely a good location considering the elevation and proximity to the subdivision, but the space allotted for the pump station is likely not sufficiently large enough to accommodate maintenance vehicles such as vacuum trucks. A space potentially as large as 35'x35' may be needed. The applicants may want to consider eliminating or moving the proposed driveway parking shown on the plan adjacent to Unit 1 so that PWD can acquire this space to access the pump station."
- An easement for PWD access was included with the final plan.
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020 that the plans should incorporate concurrent plans being developed by Gorrill Palmer for the pump station and associated control building, wet well, and maintenance parking to be developed in the easement area shown on the plan. See Site Plan Review.

Section 120-911E – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas, or Public Access to the Shoreline

- Street trees are required at least every fifty (50) feet. The Board has not approved the waiver request for street trees every 50 feet. The Board should consider a waiver request.

- *The final plan includes a Landscaping Plan. It does not meet the street tree requirement for the access drive area between the entrance and the first driveway curve.*
- *A Landscaping Plan dated March 6, 2023 was submitted with the final plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north.*
- *Limits of tree clearing shall be shown on the final plan. A note on the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.*
- *The applicants stated that there is no tree cover depicted on the plan, and so no tree line has been depicted, and no corresponding note has been on the plan.*
- *The dumpster enclosure is situated perpendicular to the driveway entrance, will be visible from Depot St and will be in the view straight ahead when accessing the site, the applicants are proposing screening.*
- *The project is located within the Presumpscot River Watershed. This project will not adversely impact any river, stream, or brook.*

Section 120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

- *The plan does meet the goals of the 2017 Comprehensive Plan and is located in the South Windham Growth Area.*

Land Use Ordinance:

- *The net residential density calculations are shown on the plan.*

Subdivision Ordinance

- *A landscaping plan must be submitted with the final plan.*
- *A landscaping plan is included with the final plan. It shows trees spaced around the perimeter, and trees, shrubs, and perennials in the parking areas and around buildings.*
- *Standard notes and the standard condition of approval must be shown on the plans.*
- *Digital transfer of the subdivision plan data must be submitted with the final Plan submission for inclusion with the Town's GIS*

Section 120-911G – Financial and Technical Capacity

- *Evidence of financial capacity is provided in the final plan submission showing the estimated cost of the \$5,000,000 and the applicants have provided evidence dated March 6, 2023 that the Pentucket Bank will provide financing for the development.*
- *As evidence of technical capacity, Peter Anania and Simon Beylin have extensive experience in developing large projects. The applicants contracted DM Roma Consulting Engineers, prepared by a Maine Licensed P.E., the wetland boundaries were delineated by Alex Finamore, a licensed site evaluator and wetland scientist with Mainely Soils, LLC, and DSA Architects designed the buildings.*

Section 120-911H – Impact on Ground Water Quality or Quantity

- (1) *The applicants have not anticipated impacts on the quality of the groundwater due to the are being served by public water provided by PWD.*
- (2) *The Portland Water District will provide the public water supply and will not use groundwater.*

Section 120-911I – Floodplain Management

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

Section 120-911J – Stormwater

- *The applicants submitted a stormwater management plan that meets the water quality and quantity standards as well as the flooding standard of Section 3 DEP Chapter 500 Stormwater Management.*
- *Written communication from Maine DEP dated December 4, 2019, states that the*

applicants need to submit a Stormwater Permit by Rule for the outfall, because it is within 25' of a stream. On April 11, 2023, the MeDEP acknowledged the processing of the Transfer of Ownership for Peter Anania and Simon Beylin.

- The project must submit approval from the Maine Department of Environmental Protection (DEP) under Stormwater Law with the final Plan. The applicants provided a copy of the Maine DEP Stormwater Management Law, permit #L-28526-NJ-A-N on May 18, 2020. A note referring to the permits as well as the transfer of ownership must be added to the final plan.
- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "As acknowledged by the Applicants, the proposed development will create 1.1 acres of new impervious area and will require a Maine DEP Stormwater Permit." The permit must be submitted as part of the final Plan.
- Town Engineer, Mark Arienti, P.E., commented in an email dated September 13, 2019: "The Applicants have made an initial estimate of 4,000 square feet of wetland fill required for the proposed development, but plans to conduct a formal wetland delineation of the property. The delineation should assess whether there is a stream within this wetland area, which could affect permitting requirements for the development and feasibility of the proposed pump station location."
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance as there is more than one (1) acre of development. See recommended Condition of Approval #2.
- The final plan application included a Stormwater Management Plan that indicates the plan will result in a decrease of stormwater impact. It proposes to create 34,685 sf of new impervious area, and treat 95% of it, and to create 49,024 sf of new developed area, and to treat 80% of it. Treatment will be through catch basins and an SC-740 unit.
- Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: The application includes an analysis of stormwater quality treatment requirements per Maine DEP Ch. 500.
- The applicants responded in comments dated February 18, 2020 that: "The stormwater report has been updated to include a quantity analysis for the 2, 10 and 25 -year storm recurrence intervals. The projected design effectively limits the post-development peak rate of runoff at or below the pre-development rate for all design storms with the exception of a small increase in the 25-year storm..."
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: "The applicants have requested a waiver from the flooding standard since their evaluation shows that there will be an increase in peak flow for the 25-yr storm of 1.77 cfs (5.36%) from the pre- to the post-development condition. Can the soil filter or detention area DA-1 increase in size to minimize the increase in peak flow."
- The Planning Board approved a waiver from the flooding standard on March 9, 2020.
- The applicants responded in comments dated February 18, 2020 that: "The historical use of this area was for parking trailers and equipment and an industrial driveway, which we have classified as Pollutant Rank 3. We have increased the intensity of use to Pollutant Rank 4 for the portion of the proposed pavement that will be used for parking..."
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: To meet the treatment requirements under the General Standards, the stormwater evaluation has utilized the Redevelopment Standards of Ch. 500 for the area of the site that has been used as a gravel access road and for trailer parking. The area they have designated for redevelopment seems reasonable.
- Town Engineer, Mark Arienti, P.E., had several additional questions and comments about the Stormwater Management Plan in an email dated February 26, 2020, including questions about the Hydrocad routing diagram and modeling, if there will be sufficient separation between the filter basin and the water table to preclude the need for a liner,

and a request for additional detailed ground topography for the footprints of the filter basin to ensure functionality. As of the date of this memo, the additional detailed ground topography has not been added.

- Town Engineer, Mark Arienti, P.E. commented on May 28, 2020:
- The MEDEP has conducted a detailed review of compliance with Maine DEP Stormwater rules as part of the review for the stormwater permit, which is required because the project will create greater than 1 acre of new impervious area. The Maine DEP memorandum dated 5/8/20 concluded that the proposed project results in treatment of almost 97% of the on-site impervious area (29,783 SF) and 82% of the total developed area (49,697 SF including 1,909 SF of off-site area) using an underdrain soil filter (UDSF). This meets the General Standards of Ch. 500 in accordance with Windham's Land use Ordinance section 911.J.
- Per Windham Land Use Ordinance, 911.J, a stormwater management plan must be submitted that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. The Board approved the request from the flooding standard since their evaluation showed only a small increase in peak flow from the pre- to the post-development condition for the 25-yr storm of 1.77 cfs (5.36%). The Planning Board granted the waiver request in their 3/9/20 meeting.
- The proposed subdivision is in the Presumpscot River Watershed, which is not listed in Chapter 502: Direct Watersheds of Lakes Most At Risk From New Development, And Urban Impaired Streams of the Maine Department of Environmental Protection.
- The final Plan must include approval from the Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- The final plan submission notes that the amount of wetland alteration will be 11,761sf.
- A NRPA Tier 1 Permit will be required with the final Plan application. The applicants provided a copy of the Maine DEP NRPA Tier 1, permit #L-28526-TC-B-N, filed March 13, 2020. A note referring to the permit must be added to the final plan.
- An Army Corps of Engineers permit will be required with the final Plan application. The final plan submission included Army Corps Permit #NAE-2020-00604 dated March 24, 2020. A note referring to the permit must be added to the final plan.
- Written communication from Maine DEP dated December 4, 2019, states that 25'(the setback shown on the final plan) is the minimum distance the applicants was told that all development needed to be from the stream at a November 5, 2019 preapplication meeting.
- The 75-foot stream setback should be shown on the Plan. As of the date of this memo, the 75-foot stream setback is not shown on the plan.
- Staff note that duplex units 3-6, the pump station, and pump station parking are within the 75' stream setback.
- A NRPA-PBR permit allowing use within the stream setback will be required for the final Plan.
- The project site is connected by historical land use and formerly joined property to a Voluntary Remedial Action Plan (VRAP) site – the L.C. Andrews Lumber Mill. Staff obtained and read a copy of the Certificate of Completion for the VRAP, issued in 2003. In follow-up conversation with Nick Hodgkins, a representative of DEP's VRAP program, Staff were informed that removal of containerized wastes was the extent of the remedial action at the site, as contaminated soils were not encountered during the redevelopment. Mr. Hodgkins recommended that the developer should be looking out for potentially impacted soils (petroleum) and act accordingly if they find some (to include notifying DEP and getting a professional environmental specialist consultant to observe and sample). See conditions of approval 3.

Section 120-911K – Conservation Subdivision

- The project is not located in Farm (F), Farm Residential (FR), or in the

Medium-density Residential (RM) zoning districts.

Section 120-911L – Compliance with Timber Harvesting Rules

- *The applicants stated the subdivision will not involve timber harvesting activity.*

Section 120-911M – Traffic Conditions and Street

- *See site plan review.*

CONCLUSIONS (N/A)

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 subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.*
5. *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.*
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 subdivision will provide 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 location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it will not interfere with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.*
12. *On-site landscaping does provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.*
13. *All freshwater wetlands within the proposed subdivision have been identified in the plan.*
14. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
15. *The proposed subdivision will provide for adequate stormwater management.*
16. *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, §480-B, none of the lots created within the subdivision has/do not have a lot depth to shore frontage ratio greater than 5 to 1.*
17. *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.*
18. *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.*
19. *The timber on the parcel being subdivided has not been harvested in violation of*

rules adopted pursuant to Title 12, §8869, subsection 14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 5, 2019, as amended May 8, 2023, and supporting documents and oral representations submitted and affirmed by the applicants, 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 120-913 of the Subdivision Ordinance and Section 120-814 of the Site Plan ordinance.
2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 201. Any person owning, operating, leasing or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.
3. Soils excavated on the site should be evaluated by an Environmental Professional (Licensed Engineer or Certified Geologist with experience in environmental assessment) to determine if they are impacted by oil and/or hazardous substances and require special handling if disposed of offsite or reused on site.

Seconded by Evert Krikken.

Vote: All in favor.

Christian Etheridge made a motion that the final site plan application for 23-10 Depot Street Apartments on Tax Map: 38, Lot: 37-A was to be approved with conditions with the following findings of fact, conclusions, and conditions of approval.

FINDINGS OF FACT

Section 120- 812 - MAJOR SITE PLAN PERFORMANCE STANDARDS

Section 120-812A - Utilization of the Site

- See subdivision review.

Section 120-812B - Vehicular Traffic.

- The applicants must have a Town of Windham Public Works Department Curb Cut Permit to Depot Street.
- The applicants are proposing 2 parking spaces per dwelling unit.
- The final plan should include sight distances when exiting the site onto Depot Street.
- The applicants are proposing a secondary access point through the Little Falls Industrial Condominium Subdivision. The final plan submission should depict the connection and clarify the proposed extent of use; specifically, whether it will be limited to emergency vehicles. If limited to emergency vehicles, the means of limiting ingress and egress should be included. The applicants should prove appropriate right title and interest for use of the connection.
- The applicants are electing to comply with B3 as one of their elective standards. B3 is for Interconnected Parking Lots and intended for "...connections between abutting properties shall be provided to facilitate deliveries and minimize turning movements onto the highway." Staff do not find it applicable to this project unless the secondary connection is for more than just emergency use. The applicants must choose another elective design standard to comply.

- The applicants are requesting a waiver of this requirement.
- The February 18, 2020 submission included a traffic Assessment dated February 4, 2020 produced by William J. Bray, P.E. of Traffic Solutions. The assessment states that “The proposed 31 residential apartment units can be expected to generate a total of 206 trips during a typical weekday; 16 trips in the morning peak hour and 19 trips in the evening peak hour.” The report also states that there are no high crash locations on Depot Street, and that recommends that all trees and low-level vegetation located in the public street right of way of Depot Street, extending a distance of approximately 150-feet in either direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.
- Town Engineer, Mark Arienti, P.E. commented on February 26, 2020 and May 28, of 2020 that A note should be added to the plans requiring all trees and low-level vegetation located in the Depot Street right of way, extending a distance of 150’ in either direction from the center of the proposed driveway entrance, be removed and maintained as necessary to ensure adequate sight distance.
- Depot Street is planned for an upgrade. The applicants should coordinate with public officials to avoid unnecessary damage to the new street.
- Per Section 911.M.5.a.6, access drive standards for condominium and multifamily subdivisions shall meet the major private road standard.
- 911.M.5(b)(7) Street Connection Requirements, requires a subdivision with 31 or more lots or units to have a minimum of 2 connections with an existing public street. The applicants are requesting a waiver of this requirement. The Planning Board did not approve a waiver at the April 13, 2020 meeting and requested more information on the proposed secondary access and the public safety needs. Fire Chief Libby provided comment that one point of access would be sufficient in this case but suggested a no-parking fire lane to ensure adequate emergency vehicle access.
- Sidewalks are proposed on Depot Street and within the development. Staff recommended reducing travel distances through the parking area with direct route sidewalks.
- The final plan shows bike parking as required in 814.D.6.
- Town Engineer, Mark Arienti, P.E., commented in an email dated November 27, 2019: Sight distances along Depot St. from the subdivision entrance must be shown on the plans. As of the date of this memo, the sight distances are still not shown on the plans.
- The applicants indicated in a response to comments dated December 3, 2019 that a formal traffic impact analysis is being prepared and should be completed prior to the [December 9, 2019] Planning Board meeting.
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: “At least one of the handicap spaces should be marked as van accessible.”
- Town Engineer, Mark Arienti, P.E., commented in an email dated February 26, 2020: “The location of bike racks and detail for design should be included in the plans.” As of the date of this memo, they still need to be shown on the plans.
- On May 22, 2020 Town Addressing Officer Kara Taylor confirmed that the driveway needs to be a named Street. The name must be approved by the Town Addressing Officer and shown on the plan.

Section 120-812C - Parking and Loading.

- With the proposed 65 parking spaces a Traffic Impact Analysis prepared by a Maine Licensed Professional Engineer with experience in traffic engineering.

Section 120-812D - Pedestrian Traffic

- The applicants are showing a system of pedestrian ways within the development by providing a sidewalk from Roosevelt Trail to the new building.

Section 120-812E - Stormwater Management.

- See subdivision review.

Section 120-812F - Erosion Control

- See subdivision review.
- *The application includes an inspection, maintenance, and housekeeping plan and an erosion and sedimentation control plan sheet that generally meets the requirements of Maine DEP Chapter 500 Basic and General Standards.*
- *A minimum of three construction inspections must be completed during the active earth-moving phase of construction (with one of these being completed at project completion to ensure permanent site stabilization and temporary ESCs are removed) and a minimum of one inspection must be completed annually until a project reaches substantial completion.*
 - o *Corrective actions will be included in the inspection and must be implemented in a timely manner. Remediation tasks not completed are eligible for enforcement action.*

Section 120-812G - Water Supply Provisions.

- See subdivision review.

Section 120-812H - Sewage Disposal Provisions

- See subdivision review.

Section 120-812I - Utilities

- *There is an existing overhead electrical line and buried gas line traversing the site. Both will be relocated. Electrical, telephone, and cable services for the development are to be provided by underground service.*
- *The final plan includes a Grading and Utilities Plan, which shows the planned locations and connections to sanitary sewers, force main, water main, gas main, and electric. It shows a new utility pole near the proposed substation that would have three phase power installed over head to another new utility pole at the eastern property boundary, which would run along the eastern edge of the property, across two more new poles. Underground utility would be run from the new pole near the substation to the proposed buildings.*
- *812.I states that "The development shall be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility facilities shall be screened from view to the extent feasible. Utility lines shall be placed underground."*
- *The final Plan will require a waiver of 812.I, for some of the utility lines to remain overhead. The final plan submission states that the applicants have met with Central Maine Power and the applicants will pay to remove and relocate the overhead utilities that currently run through the subject property.*
- *The generator pad, pump station, utility pole, have no proposed landscaping around them.*
- *Pump Station Drawings were submitted on March 23, 2020 that includes plans for the proposed sewer pump station improvements, associated landscaping, and details on the pump station control building.*
- *Updated pump station plans were submitted on June 3, 2020. The updated plans depict a change to box-type panel containment. PWD is no longer proposing a building.*

Section 120-812J - Groundwater Impacts.

- See subdivision review.

Section 120-812K - Water Quality Protection

- *The applicants are proposing the PWD water and sewer systems.*

Section 120-812L – Hazardous, Special and Radioactive Materials

- *The proposed commercial uses do not anticipate handling, storing, or using any material identified by the federal or state governments as hazardous, special, or radioactive. The applicants will provide a list of any materials that would fit in those categories for the final plan review.*

Section 120-812M – Shoreland Relationship

- *The proposed development is not located in a shoreland zoning district.*

Section 120-812N - Technical and Financial Capacity

- *See subdivision review.*

Section 120-812O – Solid Waste Management

- *See subdivision review.*

Section 120-812P – Historical and Archaeological Resources

- *There are no known historic and archaeological resources onsite.*

Section 120-812Q - Floodplain Management

- *The proposed buildings are not in the FEMA 100-year floodplain.*

Section 120-812R – Exterior Lighting

- *Site lighting is shown on final plan, and details of fixtures must be included in the submission. The locations of light poles should be shown on SB-1, and details of light fixtures have been included in the final submission.*

Section 120-812S - Noise

- *The proposed commercial uses shall not exceed 65 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.*

Section 120-812T – Storage of Materials and Screening (Landscape Plan)

- *A landscaping plan was submitted as part of the final plan submission.*
- *See Subdivision Review*
- *A landscaping plan for the proposed sewer pump station is shown on Drawing No 9 submitted on March 23, 2020.*
- *A Landscaping Plan dated May 8, 2020 was submitted with the final Plan. It shows a variety of trees and smaller plantings around the perimeter of the parking lot areas, and the buildings to the north.*

Section 120-814 – Multifamily development standards.

Section 120-814A – Building Architecture

- (1) Architect style. The applicants shall provide architectural rendering and designs for the final site plan review submission.*
- (2) Façade. The façades that face the roadways have been designed with windows and entry areas that have transparent openings to substantially conform with the standard. There are no proposed vending machines. All windows and doors will be trimmed to create a frame around the opening. The visible wall planes have been designed so that the walls are broken up into a maximum of 44-foot segments with wall plane projections in the form of building foundation steps, porches, and decks.*
- (3) Orientation. The applicants are showing the entrances oriented to face the access drive (named Stockyard Drive and Depot Street).*

Section 120-814B- Site/Parking

(6) *Screening, Utility, and Service Areas. The dumpster will be screened with fencing and landscaping.*

Section 120-814C – Landscaping/Lighting

(1) *Lighting/Photometric Plan. The applicants are proposing to install wall mounted wall packs and three pole mount lights.*

[1] *Lighting specifications were provided in the original application showing two poles mount lights. The plan includes multiple building-mounted wall lighting fixtures to illuminate around the building, roadways, service area, landscaping and parking areas, and pedestrian ways.*

(2) *Lighting Coordinated with Architecture. The proposed lighting will bring attention to the doorway entrance elements without creating glare or distraction.*

(3) *Lighting Coordinated with Landscaping. The proposed lighting over the doorway entrances will not be negatively impacted by the mature growth of landscaping on the property and will not result in eventual dark spots.*

(5) *Snow Storage Areas Designated. The site has been designed to provide snow storage in multiple areas adjacent to the parking spaces, without damaging the landscaped areas or conflicting with the stormwater drainage.*

Section 120-814D – Bicycle/Pedestrian

(2) *Links to community. The project improves an existing gravel driveway to a paved road with paved sidewalks to create a pedestrian and vehicle link between the adjacent properties.*

(4) *Sidewalks. Sidewalks currently exist on Depot Street.*

(6) *Bicycle parking/racks. A bike rack will be installed near the building entrance.*

(In addition to meeting all the Design Standard in the C1 zoning, the applicants must comply with a minimum of eight (8) other Design Standards.)

1. *Section 120-814B(1), Internal walkways. A paved sidewalk is proposed to be built along the roadways, with direct sidewalk access to the parking lot.*

2. *Section 120-814B(2), Internal Traffic Flow. The parking lot will be paved and striped with white reflective pavement marking so that parking spaces and drive aisles are clearly identified. Paint striping will be applied to mark the location of designated spaces for no parking in front of the building entrances in the locations shown on the site plan.*

3. *Section 120-814B(3), Interconnected Parking Lots. The project connects abutting properties with a shared driveway.*

4. *Section 120-814B(7), Parking Lot Landscaping. Parking lot perimeter landscaping is proposed so that at least 15% of the parking lot area will include landscaping.*

5. *Section 120-814B(8), Low-Impact Design Stormwater. Parking lot perimeter landscaping is proposed so that at least 15% of the parking lot area will include landscaping.*

6. *Section 120-814C(6), Planting variety. The planting schedule provides a balance between monoculture and too much variety.*

7. *Section 120-814C(7), Planting suitability. The chosen plant species require a low degree of maintenance and are suitable for Maine climate conditions.*

8. *Section 120-814C(8), Mass Plantings. The landscaping has been proposed in planting beds to create large mass of plantings instead of individual specimens.*

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 groundwater.

11. The proposed site plan 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 not interfere with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.

On-site landscaping does provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.

Seconded by Evert Krikken.

Vote: All in favor.

- 6 [PB 23-027](#) #23-18 Tandberg Trail Residential Development. Major Site Plan and Major Subdivision sketch plan review. 770 Roosevelt Development, LLC requests review of a 13-building 156-unit residential development with associated parking and infrastructure on 9.1 acres. The subject property is a portion of Tax Map 70 Lot 1A in the Commercial I (C-1) Zoning District.

Attachments: [23-18 PB MEMO SKETCH PLAN_MajorSubSP_TandbergTrailResDevel_050323.pdf](#)
[#23-10 STAFF RC MEMO SketchPlanReview TandbergTrailResDevel_042823.docx.pdf](#)
[#23-10 APPLICATION SketchPlanReview TandbergTrailResDevel_041723.pdf](#)
[#23-10 PLANS SketchPlanReview TandbergTrailResDevel_041723.pdf](#)
[#23-10 RESPONSE SketchPlanReview TandbergTrailResDevel_05-423.pdf](#)
[#23-10 ALTA SURVEY SketchPlanReview TandbergTrailResDevel_041723.pdf](#)

Lonnie Garver, the applicant, explained they proposed:

- 13 buildings containing 156 apartments, 144 apartments having two bedrooms and 12 having one bedroom.
- A community center with office space, a game room, and a dog wash
- A dog park
- Public sewer service
- Plowing and snow removal would be self-managed.

Drew Gagnon, of Gorrill-Palmer explained:

- The site was nine acres and located at the corner of Tandberg Tail and Manchester Drive. It abutted the Shaw's shopping center.
- There were no vernal pools, streams, wetlands, or other natural resources on site.
- They proposed 306 parking spaces, 30% would be oversized.
- The dog park would be located over the existing disposal field for Shaw's.
- Utilities would be underground.
- Natural gas was available.
- Watermains would provide both domestic and fire service.
- They were coordinating with the town and PWD for connection locations to the proposed sewer and pump station.
- Drainage and stormwater would infiltrate through two basins.
- They were amending the existing site law permit.
- They would do a full traffic study, and anticipated 80pm trip-ends.
- The SLODA permit was expected by months end.
- They anticipated beginning construction in June 2024 and occupancy in late 2025.

Steve Puleo explained:

- The applicant would need to divide the parcel from Shaw's.
- There was an existing sidewalk.
- Access drives had to meet standards for commercial industrial, residential street, and curb lane road designs.
- There would be no groundwater impacts because it would be on sewer.
- The school district had requested a bus stop area.
- The buildings would be sprinkled.
- The Fire Department had requested a turning template

Board Comment

- Roughly how big was dog park area?
- Was any space set aside for human recreation? There was not much in the area for small kids to do. It would be nice to have an area for them.
- The forward looking nature of the plan was appreciated.
- Both access streets belonged to Shaw's Plaza. Maintenance of those had to be improved.
- Was there any thought to adding a sidewalk on Manchester Drive?
- The first floor community area was great.

- 7 [PB 23-028](#) #23-19 Amendment to Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 8 Site Plan Review and Article 9 Subdivision Review related to MS4 Stormwater Permit requirements

Attachments: [PB MEMO MS4 SiteSub 050423.pdf](#)
[Memo MS4 Permit Ordinance Amendments.pdf](#)
[Site Plan Review Official Draft 4.7.23.pdf](#)
[Subdivision Review Official Draft 04.7.23.pdf](#)

Steve Puleo explained the town was subject to the MS4 General Permit of Discharge of Stormwater for Small Municipal Separated Storm Sewer Systems.

- That permit required the land use ordinance to be amended to reflect changes required of MS4 communities.
- It applied to:
 - o Urbanized areas; the majority of built areas in town were in urbanized areas.

- o *Permitting issued by the State or town for over one acre of disturbance.*
- *It required annual reporting to the town's Sustainability Coordinator.*
- *Home Owners' Associations were required to document the maintenance and operation plan for their stormwater systems.*
- *The amendments applied to minor and major site plan review and required additional stormwater drainage narratives and the maintenance and inspection program to be clearly delineated as submission requirements.*
- *It also revised erosion control standards so they were part of the inspection process.*
- *A section of the ordinance that was not applicable to post-construction stormwater management requirements would be removed.*

Other Business

8 Adjournment

Evert Krikken made a motion to adjourn.

Seconded by Kathleen Brown.

Vote: All in favor.

Note

Note

Meeting went into Recess

Note

Note

Meeting Reconvened