Town of Windham Planning Board Meeting

(518) 610-6552 – sallen@townofwindhamny.gov

Lisa Jaeger, Chairman
Claudia Lane, Member
Ray Curtis, Member
Nate Holdridge, Member
Mike Troccoli, Member
John O'Neill, Alternate Member
Sandra Allen, Planning Board Clerk

Thursday, October 15, 2026

Board Members Present: Chairperson: Lisa Jaeger
Members: Nathan Holdridge, Claudia Lane, Mike Troccoli, Ray Curtis
Alternate Member: John O'Neill
Planning Board Clerk: Sandra Allen

Board Members Absent:

Meeting was called to order at 7:00 PM, followed by the Pledge of Allegiance.

MINUTES: Motion to approve October 1, 2026, minutes was made by Troccoli, seconded by Holdridge with all in favor.

SITE PLAN: Furst Windham House LLC, Lot 4 of Windham Luxury Estates, Estate View Drive/Galway Rd, TM# 79.00-8-4. Previously reviewed by Zoning Officer, proposed project is a single family, 5-bedroom home, 3,900 sq. ft, 10.35 acres, meets all setback regulations, meets all Windham Luxury Estates conditional subdivision requirements. Motion to waive the Public Hearing was made by Troccoli, seconded by Holdridge with all in favor. Motion to approve as presented was made by Troccoli, seconded by Curtis with all in favor.

SPECIAL USE PERMIT: No show.

Troccoli, Lane and Curtis recused themselves from the following Windham Mountain projects. For the record recusal is not mandatory in all cases, and Lane and Curtis determined they will recuse themselves to remove any appearance of conflict. O'Neill was appointed as alternate.

SUBDIVISION: Windham Mountain Master Plan aka Windham Mountain Club. Request for an extension, received in a timely fashion due by Nov 4, 2026. Motion to approve the 90-day extension was made by Jaeger, seconded by Holdridge with 3 in favor and 3 recused.

SITE PLAN AMENDMENT: Windham Mountain Club, hotel addition.
Attorney Phillips read a response memo addressing public comments alleging a conflict of interest and impermissible bias or prejudgment. (see attached)
Phillips read Town Attorney, Rappleyea, memo addressing the zoning concerns for the record. (see attached)
Chairperson Jaeger read a prepared statement regarding the allegations from the public. (see attached)
Ouimet, for WMC, read prepared responses to the questions and concerns from the public. (see attached)
Written Public Comments (see attached)
Phillips explained the following steps this Board will take regarding the project:

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Review the proposed modifications under the standards of the local laws which include but not limited to traffic access, location and sufficiency of parking, loading areas, pedestrian walkways, building layout, landscaping, impact on neighboring property owners, emergency service, drainage, etc. Now that public hearing comments have been made, they can be considered during this phase of review.
Identify in advance of each meeting what topics will be discussed.
Only the modification is being reviewed. Phillips and Yagelski will prepare what will be reviewed at the Nov 5th meeting. State law gives 62 days for a decision, however if more time is needed an extension will be requested. After all has been reviewed, Phillips will provide a Decision Document for review.
Bove and Torgersen requested that the Public Hearing remain open longer, it was explained that the PH has been open since June and comments have been received the entire time and this modification was present in January of this year and was discussed in open meetings since that time; their request has been noted for the record.
Motion to close the Public Hearing was made by Jaeger, seconded by Holdridge with 3 in favor and 3 recused.

All documents and maps regarding this project can be reviewed on the Town Website under the Planning Board tab.

Lane, Troccoli and Curtis rejoined the Board.

Meeting was adjourned at 7:48 PM on a motion by Jaeger, seconded by Troccoli with all in favor.

Respectfully Submitted,

Sandra Allen, Planning Board Clerk

Attorney Allyson Phillips

Young / Sommer LLC

ATTORNEYS AT LAW

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MEMO

To: Windham Planning Board/ Records of Proceedings

From: Allyson M. Phillips, Esq.

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October 15, 2026

Re: WMC – Request for Amendment to Preliminary Plat and Site Plan/

Public Hearing Comments Regarding Planning Board Member Recusals

Date: October 15, 2026

This Memo is to address public comments that have been received alleging the Planning Board Chairperson has an impermissible conflict of interest that should preclude her involvement in the Planning Board's review of this application. In addition, this memo addresses comments that allege statements made by Planning Board members during public deliberations at its August 14, 2026, meeting constitute an impermissible bias or pre-judgement against the application. To the extent these comments raise legal questions, a summary response is provided for the record and the Planning Board's consideration.

I. Public Comments Alleging a Conflict of Interest

Article 18 of the N.Y. General Municipal Law (§800 et seq.) prohibits municipal officers and employees from having an interest in any contract with the municipality if the officer or an employee has some control over that contract for the municipality. The basis of the prohibited conduct is an interest in a contract; therefore, the statute only applies if there is a qualifying "contract" present and if the subject Town official has an "interest" in that contract.

A "contract", for purposes of Article 18, is defined in N.Y. General Municipal Law §800(2) as any "claim, account or demand against or agreement with a municipality, express or implied". An applicant's request for a site plan or subdivision approval (or modification of a previously granted approval) is not a "contract" with a municipality as defined by Article 18. Even if a Planning Board application were considered a "contract" with the Town, a conflict of interest does not arise unless a reviewing board member has an "interest" in that application. The statute defines "interest" as "a direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves". N.Y. Gen. Mun. Law §800(3). Thus, a Planning Board member that receives no payment or other material benefit that is dependent or contingent upon the approval of an application, does not have an "interest" in the application that would require recusal.

The Planning Board Chairwoman does not have a direct or indirect pecuniary or material interest in the Applicant's redevelopment project or its request to modify its preliminary plat and site plan approval to permit the construction and operation of a hotel. Therefore, it cannot be said that she has an "interest" in the matter before the Planning Board that would require recusal.

Public comments raise the following additional facts as providing a basis for recusal:

1) *The Planning Board Chairperson is also the Chairperson of the Windham Chamber of Commerce ("Chamber") Board of Directors*.

Article 18 of the N.Y. General Municipal Law would only apply to a contract between the Town and the Chamber. This matter does not involve a municipal contract with the Chamber, or even an application by the Chamber to the

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Planning Board. Therefore, the Planning Board Chairperson's involvement with the Chamber does not create a conflict of interest that requires her recusal.

2) The Applicant has donated to the Chamber, and its president is on the Chamber's Board of Directors.

The Planning Board Chairperson has no pecuniary interest and does not personally benefit from donations that are made to the Chamber, and as noted above, this matter does not involve a Chamber contract or application. Regardless, it is noted the statute exempts contracts with "membership corporation[s] or voluntary nonprofit corporations or associations". N.Y. Gen. Mun. Law §802(1)(f). The exemption constitutes a legislative finding that an interest in such contracts does not create an impermissible conflict of interest. Therefore, the Applicant's donations to the Chamber and/or service on the Chamber's board do not give rise to an impermissible conflict of interest or require the Planning Board Chairperson's recusal.

3) The Planning Board Chairperson has a family member that works at the ski mountain.

A municipal officer or employee is deemed to have an interest in a contract of "his spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves." N. Y. Gen. Mun. Law §800(3). For purposes of the statute, a minor is defined as "a person who has not attained the age of eighteen years". N.Y. Gen. Mun. Law § 2(3). The Chairperson's adult son works at the ski mountain; he is not a minor child, and therefore, his employment at the ski mountain does not create an impermissible interest in the application that would require the Chairperson's recusal.

4) The Planning Board Chairperson is a real estate agent.

The Chairperson is not a party to any agreements with the Applicant whereby she may receive a payment or other benefit that is contingent or dependent on the Planning Board granting a favorable approval. Therefore, her employment as a local real estate agent does not give her an "interest" in the Planning Board application that would create a conflict of interest or require recusal. *See* N.Y. Gen. Mun. Law §800(3).[1]

In sum, it is clear the public hearing comments and related facts do not give rise to a conflict of interest under Article 18 of the N. Y. General Municipal Law that would require the Planning Board Chairperson's recusal. In addition, her involvement in the Chamber, her employment as a local real estate agent, and her adult son's employment at the ski mountain do not create an appearance of impropriety that would preclude her from participating in the review of this application. The facts do not demonstrate the Chairperson's ability to make impartial judgments has or will be compromised, or that she is not able to make decisions that are solely in public interest. In such cases, reviewing courts have held recusal is not required. *See e.g., Matter of DePaolo v. Town of Itaca,* 25 AD2d 68, 72 (3d Dept. 1999) (where board members had no "direct or indirect interest pecuniary or otherwise, in the [project] such that their vote could reasonably be interpreted as potentially benefitting themselves" there was no defect that would invalidate their vote).

[1] The state legislature has recognized and enshrined in its policies the principle that governmental employees and officials should be able "to share the normal benefits of the democratic society and economy they serve" and "[i]f government is to attract and hold competent administrators, public service must not require a complete divesting of all proprietary interests." *See* L. 1964, c 946, §1 *eff.* Sept. 1, 1964. Thus, the conflict-of-interest statute seeks to protect the governmental process from the influence of impermissible conflicts, but also to "protect[] innocent public officers from unwarranted assaults on their integrity". *Id.*

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The Applicant is the largest employer in the Town of Windham and many residents have affiliations with the ski mountain. Regardless, each question involving actual and potential conflicts must be reviewed and determined on a case-by-case basis. The Planning Board has taken steps to ensure its members avoid circumstances that, while not violating the statute, create even the appearance of impropriety. The record reflects the following:

- Planning Board member Ray Curtis recused himself from Planning Board matters involving the Applicant due to his direct employment as a ski instructor at the ski mountain.

- Planning Board member Claudia Lane recused herself from Planning Board matters involving the applicant due to her direct employment by an entity that is affiliated with the ski mountain.

While these members did not have an interest in Planning Board applications that would *require* their recusal, they chose to recuse themselves to avoid the appearance or suggestion that their direct employment relationship with the Applicant would or could influence their judgement. In 2025, Planning Board member Mike Tricoli also recused himself from Planning Board matters involving the Applicant when he resumed his membership in the Windham Mountain Club. These actions, and the Planning Board consideration of public comments concerning the Planning Board Chairperson, demonstrate the board's commitment to maintaining the integrity of its review process.

2. Public Comments Alleging Impermissible Bias or Prejudgment

One commentor has alleged the Planning Board's public deliberations at the August 14, 2026, Planning Board meeting, concerning its review of Part 2 of the Applicant's FEAF, "pre- judged" the application. The commentor cited the Third Department decision in *Matter of Schweichler v. Village of Caledonia,* 45 AD3d 1281, which annulled a planning board determination after finding board members "impermissibly prejudged" an application by signing a petition and drafting letters in support of a project. *Id.* at p. 1283. The case and holding are clearly distinguishable from the present matter.

The Planning Board is *required* to consider the potential for significant adverse environmental impacts resulting from the proposed modification. Their deliberations must be made at an open meeting where the public can observe and hear the discussion. In this case, the Planning Board has publicly considered and deliberated on the potential for environmental impact arising from the proposed modification for several months. It also took the extraordinary step of holding a public hearing and allowing comments from the public before it made a SEQRA determination. This is not required under applicable law, but the Planning Board felt it was important to hear from members of the public. The Planning Board discussed and considered those comments during its public meetings, including its meeting on August 14, 2026, when the board revisited their review of Part 2 of the FEAF.

The Planning Board's obligation to take a hard look at potential environmental impacts is a legal requirement that must take place *before* it can decide an application. It must review and analyze the evidence in the record and apply the relevant standards in deliberations that take place before the public. That is exactly what occurred in this case. The Planning Board's consideration and discussion of the SEQRA record is not an impermissible bias or pre-judgement of the application; it is necessary step in the review process that must take place *before* a decision is made on the application. Public comments asserting the contrary indicate a misunderstanding of the applicable law and required procedure.

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Lisa Jaeger Chairperson

In light of recent questions concerning my service as Chairperson of the Town of Windham Planning Board and President of the Windham Chamber of Commerce, I would like to provide some clarification.
The Windham Chamber of Commerce is a nonprofit organization governed by an entirely volunteer Board of Directors made up of dedicated local residents and business owners who generously give their time because they care deeply about our community. The Chamber supports local businesses, promotes Windham, and organizes events and activities that bring people together and strengthen our local economy. Board members receive no compensation for their service, and funds raised through memberships, sponsorships, and community support are reinvested into Chamber programs, events, and initiatives that benefit Windham. Our commitment is rooted in a shared pride in Windham and a genuine desire to give back to the community we call home.
Windham Mountain has also historically maintained representation on the Chamber's Board of Directors. These longstanding community relationships predate the current proposed site plan amendment and have been centered on supporting Windham and its local economy.
In a small community like Windham, it's not uncommon for residents and business owners to wear multiple hats, volunteering their time with organizations such as the Chamber, Rotary, local foundations, youth sports, and other community groups. This spirit of volunteerism and shared commitment is part of what makes our town special. Serving in more than one capacity does not, in itself, mean those responsibilities are in conflict. What matters is that each role is carried out independently, with integrity and respect for the responsibilities it entails.
My service with the Chamber is entirely voluntary. I receive no personal financial compensation or monetary benefit from Windham Mountain, nor do I have any personal financial interest in the outcome of its site plan amendment application.
I have discussed these circumstances with Town counsel and have been advised that they do not constitute a conflict of interest requiring my recusal from the Planning Board's review.
My responsibilities as Planning Board Chair are separate and distinct from my involvement with the Chamber. Every application before the Planning Board must be evaluated on its own merits, fairly and objectively, in accordance with applicable laws, regulations, and the Town's zoning provisions.
I am proud of the Chamber's contributions to Windham and the dedication of its volunteer Board. I am equally committed to fulfilling my responsibilities as Planning Board Chair with integrity, independence, and impartiality, ensuring that every application receives fair and objective consideration under the law.
Lisa Jaeger
Chairperson, Town of Windham Planning Board

Attorney Tal Rappleyea

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MEMORANDUM

TO: Windham Planning Board

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October 15, 2026

FROM: Tal G. Rappleyea, Attorney for the Town

Windham Resort and New Zoning Applicability

Date: October 15, 2026

I have reviewed public comments submitted to the Planning Board during the public hearing on Windham Mountain Partner's (Applicant) request for modification to its preliminary plat and site plan approval to permit the construction and operation of a hotel. It is noted that several residents have commented that the Planning Board review process "should be paused until the Town Board completes the review required by Zoning Law section 6-8 (c)(3)" of the newly adopted Town of Windham Zoning Law (Local Law No. 3 of 2026). As the Town
Attorney and legal counsel to the Town Board regarding the Zoning Law, I provide the following response and clarification for the Planning Board's record.

Section 13-4 governs the Zoning Law's applicability to pending applications and provides in relevant part as follows:

> § 13-4 Effective Date, Pending Applications and Prior Enactments
>
> A. This chapter shall take effect after filing in the office of the Secretary of State and in accordance with the procedural requirements set forth in Town Law S264.
>
> B. Applications for subdivision and site plan approval submitted to or approved by the Town of Windham Planning Board prior to December 11. 2025. the date of the Town Board's acceptance of the referral of the proposed zoning law by the Town Zoning Commission. shall be subiect to the local laws in place at the time of application. In such cases, all final and/or conditional final site plan approvals shall be valid for a period not to exceed twelve (12) months and shall be subject to the requirements of 8-4.D of this chapter. If the Applicant fails to obtain third party approvals and apply for building permits within this timeframe, the approval shall be null and void and a new application must be submitted subject to all of the provisions of this chapter. (Emphasis added).

The Applicant submitted applications for its redevelopment project to the Town Planning Board in 2023. The Planning Board granted preliminary plat and site plan approval in April of 2025. As of December 1 1, 2025, the Applicant was still working to satisfy the conditions of that approval and had not received final plat approval.

The Zoning Law took effect upon its filing with the New York Secretaty of State which occurred on June 18, 2026. Pursuant to Section 13-4, the application is grandfathered and is subject to the local laws in place at the time of the 2023 application.

Before the Zoning Law was adopted, the Applicant requested a modification to the preliminary plat and site plan approval to permit the construction and operation of a hotel. This request for modification is part of the pending application, and therefore are not subject to the Zoning Law per Section 13-4 (B). The Town Board confirmed this was the intent when it adopted the Zoning Law.

It is noted several members ofthe public suggest the Planning Board's review should be "paused" while the Town Board conducts a review under Section 6-8 (c)(3) of the Zoning Law. However, Section 6-8(c)(3) only requires that the Town Boad review and determine if a planned modification "merit[s] further review" by the Planning Board. If so, a developer is "directed

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by the Town Board to prepare a formal site plan submission to the Planning Board for review and approval". Zoning Law Section 6-8 (c)(3).

In this case, Planning Board review and approval was required under che local laws Chat were in place at the time of the original application. The Planning Board's review had already commenced before the Zoning Law was adopted; submissions on the proposed modification had been under review for several months and were the subject of discussion at several Planning Board meetings, the Planning Board had circulated materials to involved and interested agencies, referred the request to the Greene County Planning Board, and opened a public hearing. It was the Town Board's intent that this process would continue pursuant to Section 13-4 after the Zoning Law was adopted and became effective.

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Kaaterskill for WMC

October 15, 2026

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October 14, 2026

Town of Windham Planning Board

371 NY-296

Hensonville, NY 12439

Re: WMC-Hotel

Town of Windham

Greene Country, New York Tax Parcel: 95.10-3-34

KA Project: 325825.18 WMP-Hotel

Dear Windham Planning Board Members:

Below, please find response to the comments submitted in writing and to comments made at the Public Hearings for the amended Site Plan and preliminary Subdivision plat approval. Similar topics and comments have been grouped together.

Zoning:

Is the project subject to the recently enacted zoning law? If not then why? Was the above referenced project before the planning board prior to zoning being enacted? I ask that any approval of the Windham Mountain Club hotel be paused until the Town Board completes the review required by Zoning Law section 6-8 C(3), and that the review be fair and follow the Town's own process.

Applicant Response

The applicability of the new zoning to this project has been addressed on the record during previous Planning Board meetings, the applications for site plan and subdivision approval and the evaluation of environmental impacts based upon the master plan for the resort are not subject to the new zoning law. Regardless hotels, like the proposed WMC Hotel, are allowed under the new Town zoning code in Resorts.

Approval Pre Determined:
The Planning Board decided how they were going to vote prior to a Public Hearing.

Applicant Response

The Planning Board at the August 6 meeting was discussing the potential environmental impacts of the requested amendment to the Site Plan and preliminary subdivision plat approval, including replacing the town houses nearest the ski center with the hotel. By determining to issue a negative SEQR

Determination, the Planning Board did not approve the requested amendment. The Planning Board was correctly going through the SEQRA procedure. A SEQRA determination of significance is a required step in the process and must occur prior to the application being complete and must occur prior to the Public Hearing for the Subdivision.

Although not required by SEQRA, the Board, as is its common practice on this Project, went above and beyond what's required and held a Public Hearing prior to adopting the SEQRA negative declaration as well, which Public Hearing was held on June 18th. The Planning Board has not voted on the merits of the application yet.

Hotel Removal:
The applicant removed the hotel from the original plans to avoid a thorough review and said a Hotel was no longer proposed. The applicant lied when they said they would never build a Hotel.

Applicant Response

The original Sketch Plan submitted in July of 2023 did show a proposed Hotel. The Hotel was removed following that initial Sketch Plan conference with the Planning Board. At the time, the Hotel shown in the sketch plan was removed because the hotel, in that size and location, presented several issues raised by the Planning Board at the Sketch Conference.

It is very common for a project scope to change following an initial sketch plan conference. The elimination of the hotel was one of many changes which were implemented after the initial sketch plan conference.

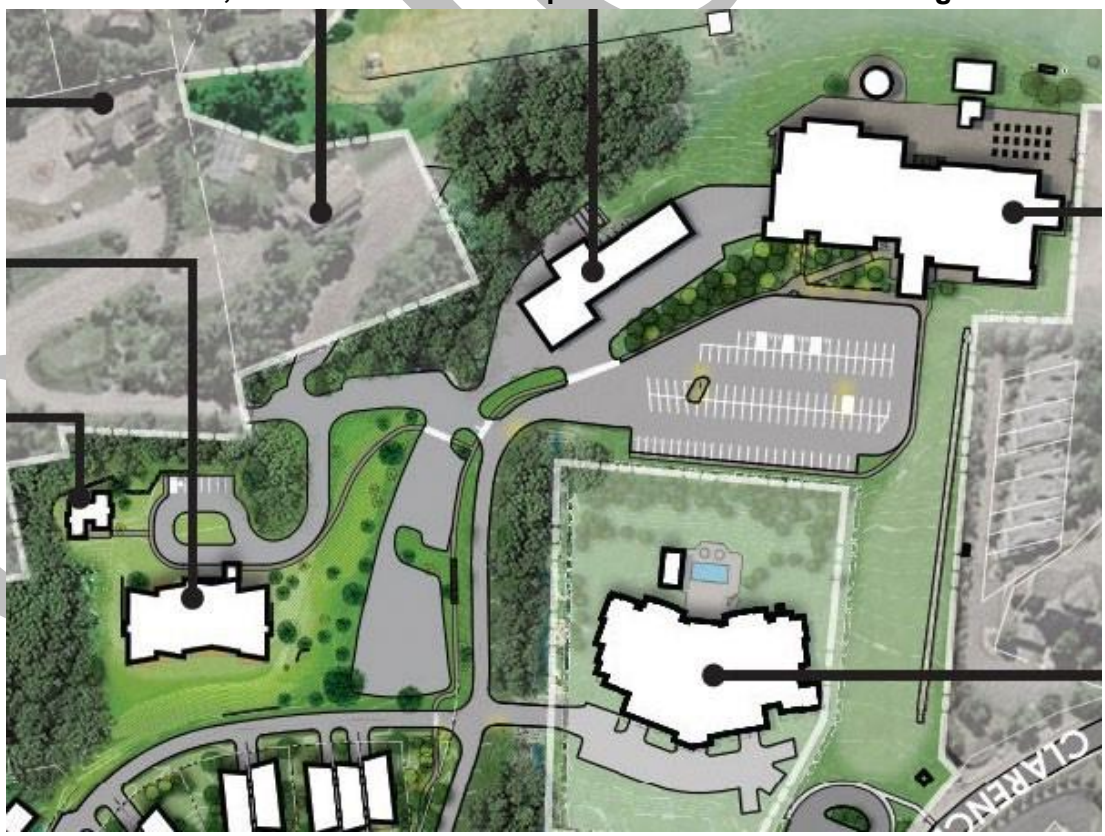
In late 2025, after extensive Planning Board review of the project, the applicant decided to modify the plan by inclusion of a hotel that is substantially different than what was shown in the 2023 sketch plan. The proposed hotel currently being reviewed by the Planning Board is in a substantially different location and is a substantially different scale than the hotel shown on the sketch plan.

The hotel was not removed "to avoid a thorough review." In fact, the decision to include this hotel modification has extended the review timeframe and created additional steps for the applicant.

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Sketch Plan showed 63 rooms, located between Whisper Creek and the Base Lodge



The proposed hotel is 26 rooms and is located where a 5 unit Townhouse was previously proposed

Parking:
Reducing parking could limit the resorts' ability to attract visits.

Applicant Response

The proposed amendment increases the amount of parking available as the applicant is no longer proposing a duplex townhouse unit that was proposed in the existing valet lot. The amendment will increase parking by 30 spaces. WMC has prepared a parking operations plan that shows how adequate parking is maintained throughout the development of the residential project and hotel.

Lighting, Proximity to Residential:
The Hotel will introduce noise and light impacts close to existing residential uses and remove more vegetation and screening.

Applicant Response

The proposed hotel is located in the same location as the previously approved 5 unit Townhouse. The lighting is dark sky compliant and nearly identical to what was previously approved. The screening and vegetation are consistent with the prior plan.

New Hotel scale and appearance:
Is the proposed Hotel similar in height and appearance to the prior Townhouse already approved?

Applicant Response

The proposed Hotel is nearly identical to the size, appearance, and location to the 5 unit Townhouse approved as part of the Residential Development. Some minor changes have been made to some of the exterior finishes and color tones to distinguish the building from the near by Townhomes. Renderings for the proposed Townhouses and the Hotel are available on the Town website.

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Five unit Townhome



Proposed Hotel

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Collaboration:
The Mountain, Town, and Towns Businesses need to work together more.

Applicant Response
Windham Mountain Club has for decades and will continue to work with the community and with businesses in the Town. WMC has been very open and receptive to community input and has entered into a Development Agreement with the Town Board. Windham Mountain Club has guaranteed ski tickets will be available to local lodging facilities during peak days. WMC has also made changes to its website to direct visitors to the websites of local lodging facilities. WMC encourages club members and members of the public to visit businesses and restaurants in Town.

As documented in a letter from the Windham Mountain Club President to the Town of Windham submitted on March 18, 2026;
One of the goals of WMC has been to increase year-round visits, multi day visits, and visits on week days. From 23/24 to 25/26 WMC has seen a 45% increase in multi-day ticket sales. At the close of the early bird season ticket sales for this coming year WMC has had a 7% increase in the number of season ticket sales and a 17% increase in season program registrations between the kid's programs, adult programs, and competitive programs. Families committing to being in Windham every weekend for these programs will result in increased tourism, benefits to the community and to existing businesses.

Please feel free to contact our office with any questions.

Sincerely:
Kaaterskill Associates

Scott Ouimet, P.E.
Senior Civil Engineer

Cc: Client
Young Sommer
Delaware Engineering
Whiteman Osterman & Hanna
File