



TOWN COUNCIL MEMORANDUM

DATE: May 22, 2024

TO: Town Council

THROUGH: Barry Tibbetts, Town Manager

FROM: Steve Puleo, Planning Director

Cc: Robert Burns, Assistant Town Manager
Mark Arienti, Town Engineer
Jonathon Earl, Public Works Director
Jarod Robie, Robie Holding, LLC

RE: #20-27–Public Acceptance of Streets – Dovak Way & Chamberlain Drive – Chamberlain Estates

Overview

Robie Holding, LLC is offering Dovak Way, a 250-foot paved road located off Manchester Drive and Chamberlain Drive, a 1,450-foot-long paved road, as public streets, along with 50% access driveway to Lowes Home Improvement store. These new streets were constructed to serve the 40 apartment units of the Chamberlain Estate subdivision. The Planning Board approved the subdivision May 10, 2021 and that time §120-555C required new streets with direct connections to public streets to be constructed to the Local Streets standards found in [Appendix B](#). In April 2022, the Council approved an amendment to §120-555C remove to accommodate the [§120-814](#) Multifamily performance standard, which allowed multifamily/apartment developments to access the dwelling units via a driveway built to the major private street standards without a right of way (ROW) required in the definition street standards.

The developer received three (3) waivers of the Local Standards to allow the development of twenty duplex dwellings-unit:

1. Waiver of [§120-522B\(2\)\(a\)](#); allowing each unit to have a dedicated driveway on the new internal street.
2. Waiver of [§120-911M\(5\)\(b\)\[7\]](#); allowing one street connection (Dovak Way) to Manchester Drive with a second street connection via the existing shared access to the Lowes store.
3. Waiver of [§120-911M\(5\)\(a\)\[1\]](#); the developer was allowed to deviate from the [Appendix B](#) Commercial Street Standards as follows:
 - Allowing an esplanade as a planter type (grass strip with trees planted in it).
 - Allowing an alternative type of curbing concrete material instead of granite.
 - Allowing a larger than 12' turning radius.
 - Allowing sidewalks on one side of the road, instead of both sides.
 - Allowing to remove the on-street parking entirely for multiple portions of the streets.

Submission Requirements

The submission requirements for offering the new streets for public acceptance are in §120-911M(6) of Windham's Subdivision Ordinance and include, but are not limited to, as-built plans, an offer of cessation to the Town for the street, a warranty deed to transfer the street right-of-way to the Town, and an access easement for possible future road extensions through the common lands to Basin Road. However, the access driveway providing access to the apartment complex from Manchester Drive is shared with Lowes Home Improvement Store. The purchase of the land for the development only

provided 50% of the driveway's ROW, and Lowes Real Estate holding company provided an access easement to cross the Lowes' property (see the legal opinion of the Lowes access drive). The developer would be responsible for obtaining the fee for the remaining portion of the access driveway and overlay with asphalt the entire width of the access driveway from Manchester Drive to the Chamberlain Drive and apartment complex. The Town's Addressing Officer shall provide a name for the access driveway, which may be an extension of Chamberlain Drive

Based on staff review, the public acceptance of street application is **incomplete**, because the developer had not provided the deed for the access ROW to Basin Road and the deed for the portion of the access driveway ROW to Lowes. It should be noted, however, that all stormwater infrastructure, including soil filter basins, culverts, and swales not within the right-of-way, will be the responsibility of the homeowner's association or property owner and not the Town.

Maintenance Guarantee Requirements

The developer shall warranty all public improvements for one year from the date of acceptance and provide a maintenance guarantee as required by the Town's subdivision regulations. The maintenance guarantee shall ensure the workmanship and durability of all materials used in the construction of the roadways, curbing, esplanades, sidewalks, sanitary sewerage systems, storm drainage systems, street lighting, tree planting, and other public improvements located within the right-of-way that may become defective within the one (1) year period, all as determined by the Public Works Director or Town Engineer by §120-911M(6)(e)[2]. The amount of the maintenance guarantee shall be 10% of the total construction costs of all required improvements to ensure there are no defects in the workmanship of the street.

Attachments: Developer's email regarding the street acceptance of Chamberlain Drive and Dovak Way
Signed and Recorded Chamberlain Estates Subdivision Plan
Manchester Deed to Robie Holding 50% of Access Road ROW to Lowes Store and Apartment complex.
Letter of Cession from Robie Holdings, LLC
Town Engineer's Right-of-Way Assessment
Unrecorded Quitclaim Deed of the Dovak Way, Chamberlain Drive, and Deed Correction
Legal Opinion of Lowes Access Drive
As-Built Plans – Chamberlain Estates Subdivision