

**ADMINISTRATIVE CONSENT AGREEMENT**

This Administrative Consent Agreement ("Agreement") is made this 11 day of January, 2024, by and among Peter Gilman, Tammy Gilman, Anna Gilman, Michael Gilman, Emily Gilman, Kyle Gilman and P.T.G. Properties, Inc. (collectively, the "Owners"), and the Town of Windham, Maine (the "Town"). The above parties shall be collectively referred to herein as the "Parties."

WHEREAS the Owners are the owners of the respective lots in the Town of Windham (hereinafter "Owners Lots"):

<b>Map / Lot</b>	<b>Cumb. Cty. Deed ref.</b>	<b>Owner(s) of record</b>
22 I 20-5	Bk. 28745, Pg. 61	Tammy and Kyle Gilman
22 I 23-3	Bk. 33746, Pg. 322	Peter and Tammy Gilman
22 I 23-3B	Bk. 35447, Pg. 177	P.T.G Properties Inc.
22 I 23-6	Bk. 28682, Pg. 130	Tammy and Anna Gilman
22 I 23-7	Bk. 28682, Pg. 136	Tammy Gilman
22 I 23-8	Bk. 28682, Pg. 142	Tammy and Michael Gilman
22 I 23-9	Bk. 28682, Pg. 149	Tammy and Emily Gilman
22 I 23-10	Bk. 28682, Pg. 152	Tammy and Kyle Gilman
22 I 23-11	Bk. 28692, Pg. 279	Tammy Gilman
22 I 23-12	Bk. 28692, Pg. 282	Tammy and Michael Gilman

WHEREAS, the Town is considering legal action regarding whether Owners have created one or more subdivisions by dividing and/or transferring various lots shown in the map attached as Exhibit A (hereinafter "the Development"), without receiving Planning Board approval in accordance with 30-A M.R.S. § 4406; and

WHEREAS, Owners and the Town wish to settle this matter and provide for Planning Board review and approval of some or all of the Development to ensure, to the greatest extent practicable, compliance with 30-A M.R.S. §§ 4401-4408 and the Town of Windham Land Use Ordinance; and

WHEREAS, this Agreement is intended to, and shall only, resolve the Town's potential legal action against the Owners, and in no way shall be construed to or shall actually constitute approval of any subdivision, such legal authority being resolved only for the Town Planning Board;

NOW THEREFORE, in acknowledgment and consideration of the mutual covenants contained herein, the Parties hereby agree as follows:

1. The Owners shall, by March 1, 2024 present to the Town of Windham Planning Director a preliminary subdivision plan ("Preliminary Plan") showing the Development, a copy of which is attached hereto as Exhibit B, as well as an application review fee to reflect such fees as would be charged for a standard subdivision review.

2. All materials set forth in Exhibit B shall be included with the Preliminary Plan submission, including but not limited to those reiterated herein:

a. The Owners shall, at their sole expense, construct, erect, install, and do all things necessary to effectuate the operation of: one (1) 30,000-gallon fire protection cistern, and one (1) 10,000-gallon fire protection cistern, as depicted on Exhibit A;

b. The Owners shall, at their sole expense, comply with the terms and conditions of any storm water management plans as recorded in the Cumberland County Registry of Deeds;

c. The Owners shall, at their sole expense, conduct asphalt overlay paving along those roadways highlighted on Exhibit A, consisting of approximately 750 linear feet of Cross Ridge Drive between the intersections of Smith Road and Lockland Drive, including an additional 50 linear feet of Lockland Drive from its intersection with Cross Ridge Drive, to a minimum depth of 1.5 inches.

3. Upon receipt of the Preliminary Plan and other required submittals, the Planning Director shall schedule one or more meetings between the Owners and the Development Review

Team to review the Preliminary Plan. The Owners and the Development Review Team shall in good faith attempt to mutually agree upon the additional improvements, excepting those enumerated in paragraph 2(a)-(c) above. The Planning Director may also schedule one or more meetings with owners of lots in the Development to elicit feedback on the Preliminary Plan.

4. Any requested changes or additions to the Preliminary Plan or other requirements to be incorporated into a final plan submission shall be set forth in writing and delivered to the Owners by the Town Planning Director and approved by the Owners ("Addendum"). The Addendum shall be appended to this Consent Agreement and become a part of the Agreement by reference.

5. In establishing any further requirements for the final subdivision plan ("Final Plan"), the Planning Director, in consultation with the Development Review Team, shall apply the requirements of Article 9 of the Land Use Ordinance only to the extent Owners hold right, title and interest sufficient to meet the Ordinance standards and the Owner's consent thereto.

6. Within 45 days following delivery of the Addendum described in Paragraph 3 or such later deadline as may be set by the Planning Director in the Addendum, Owners shall submit to the Planning Director the Final Plan incorporating any additions or changes requested in the Addendum agreed upon by the Parties.

7. If the Planning Director accepts the Final Plan as being in accordance with this Agreement and the Addendum, the Planning Director shall confirm in writing to the Owners that the Final Plan complies with this Agreement and Addendum. The Final Plan and related submissions shall be submitted to the Planning Board by the Owners for public hearing and consideration. If a public hearing is held the Owners shall not personally be required to attend the public hearing, the Owners' representative, however, shall appear at any Planning Board meetings concerning this matter.

8. Owners shall demonstrate to the Planning Board that maintenance of the roadways and any common elements (including but not limited to fire protection areas, turnarounds and stormwater infrastructure) within the Development will be adequately ensured through one or more methods allowable under Section 120-911M(5)(a)[5][f] of the LUO, with any maintenance agreements and/or homeowners' or road association documents to be presented to the Planning Board.

9. Unless and until responsibility for improvements and best management practices required within the stormwater plan(s) as approved by DEP have been accepted by owners within the Development through a maintenance agreement or through relevant homeowners' or road association documents, responsibility for the same shall remain with the Owners, unless and until such transfer as noted herein occurs.

10. Review and approval of the Final Plan shall rest solely with the Planning Board in accordance with LUO. By entering into this Agreement, the Town Council makes no representations or warranties that by entering into this agreement the Planning Board will approve such Final Plan.

11. If the Planning Board approves the Final Plan, the Owners shall:

a. Within six months of Planning Board approval, provide such performance guarantee as may be required by the Planning Board pursuant to Section 120-914A of the Land Use Ordinance, for review and acceptance by the Town. Upon acceptance of the performance guarantee, the Town shall cause the Final Plan to be immediately recorded in the Cumberland County Registry of Deeds ("Approved Plan").

b. Within one year of Planning Board approval, cause all new infrastructure and improvements, including but not limited to fire protection and roadway improvements, to be completed as specified in the Approved Plan subject to a reasonable extension arising from causes beyond the control of the Owners. With the exception of the above deadline

to complete improvements, Owners shall comply with all other post-approval requirements of Section 120-914 if such requirements are allowed as a matter of law.

c. Within one year of the Planning Board's approval of the Approved Plan, take any steps necessary to effectuate the agreement(s) or association(s) proposed and approved to address ongoing road and/or common element maintenance.

12. This Consent Agreement shall take effect immediately upon execution. The Town shall not pursue enforcement action against Owners related to the Development or to the creation or existence of Owners' Lots, provided Owners have complied with the terms thereof. The Owners agree not to pursue any legal remedies related to the Development provided the Town has complied with the terms of this Agreement.

13. Upon the recording of the Approved Plan in the Cumberland County Registry of Deeds, and a Performance Guaranty has been accepted by the Town, Owners may sell, lease, divide or otherwise transfer their respective interests in Owners Lots to any third party, including any corporation of which any Owner is a member, and may develop or build upon Owners Lots. The Owners reserve the right to transfer Owners Lots to each other subject to the terms of this Agreement, provided that the boundaries of any Owners Lot as described in the above- referenced deeds shall not be changed, and provided that notice of any planned transfer and the intended deed shall be provided to the Town Planning Director at least seven (7) days in advance of the conveyance, and a copy of the deed shall be provided to the Town no more than seven days following its execution. The Town shall issue building permits for the Owners Lots upon the Town's acceptance of the performance guaranty and submission of documents that are sufficient to require the issuance of building permits.

14. This Agreement and the representations herein are made solely between the Owners and the Town and shall have no legal effect upon lots within the Development other than Owners

Lots. The Town will take no action to prevent the holding, sale, division or transfer of lots other than Owners Lots within the Development except to the extent any further division creates a new unapproved subdivision or a new lot that is not otherwise in compliance with the Land Use Ordinance.

15. Upon the execution of this Administrative Consent Agreement the Town shall neither delay nor otherwise withhold approval of any other project submitted for approval by the Owners based upon the dispute identified in this Agreement.

16. The Parties acknowledge that they have had an opportunity to review this Agreement with counsel, and agree that they have entered into this Agreement voluntarily, and not as a result of any promise or representation except as set forth expressly herein, and not as a result of any duress or coercion by any person or entity.

17. This Agreement, and all Exhibits and other documents attached hereto, constitutes the entire agreement of the Parties, and it is expressly agreed that this Agreement may not be altered, amended, modified, or otherwise changed in any respect, except by a writing duly executed by all of the Parties.

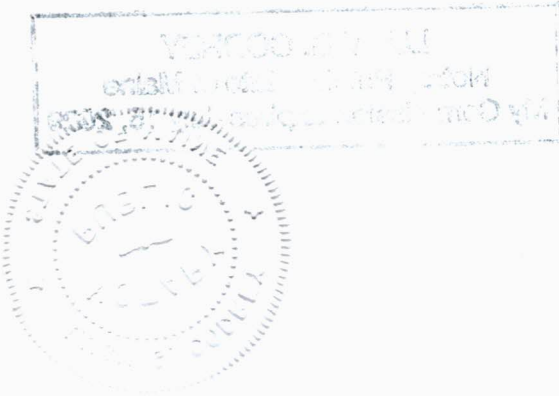
18. This Agreement shall inure to the benefit of, and be binding upon, the Parties to this Agreement and each of their officers, directors, members, shareholders, trustees, beneficiaries, insurers, agents, employees, predecessors, heirs, successors, transferees, assigns, instrumentalities, officials, and constituents.

19. This Agreement may be executed in counterparts, each of which shall be treated as an original.

20. If either Party violates any provision of this Consent Agreement, the sole remedy for such violation is the termination of this Agreement, with each Party retaining all of the rights and remedies it held prior to entering into this Agreement, including the Town's right to institute

enforcement proceedings for any existing violations. This Consent Agreement shall be recorded in the Cumberland County Registry of Deeds and shall be binding upon Owners' respective successors and assigns.

[Signature Pages to Follow]



**TOWN SIGNATURE PAGE**

WITNESS my hand and seal this 11 day of JANUARY 2024.

WITNESS:

**TOWN OF WINDHAM**

Leri Rob

[Signature]

By: \_\_\_\_\_

Print Name: Barry Tibbetts

Its: Town Manager

Duly authorized by vote of Town Council

1/9, 2024

STATE OF MAINE  
COUNTY OF CUMBERLAND

1/10, 2024

Then personally appeared the above-named Barry Tibbetts, Town Manager of the Town of Windham, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of the Town of Windham.

Before me,

[Signature]

Notary Public

Print Name: Lucy Codrey

Commission Expires: 07/15/2029

**LUCY G. CODREY**  
Notary Public, State of Maine  
My Commission Expires July 15, 2029





OWNERS SIGNATURE PAGE

WITNESS my hand and seal this 11<sup>th</sup> day of January 2024.

WITNESS: [Signature]  
Stephen Mosley

OWNERS

By: [Signature]

Print Name: Tammy Gilman

Kyle Gilman

[Signature]

By: [Signature]

Print Name: Peter Gilman

Michael Gilman

1/13/2024,  
Notarized for:  
Kyle, Michael, Anna Gilman  
[Signature]  
ELIZABETH GEMME  
Notary Public, Maine  
My Commission Expires July 19, 2026

By: [Signature]

Print Name: Emily Gilman

Anna Gilman

[Signature]

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_



PTG PROPERTIES, INC.

By: [Signature]

Print Name: Peter Gilman - Pres.

STATE OF MAINE  
COUNTY OF CUMBERLAND

Then personally appeared the above-named Tammy, Peter, Emily Gilman, January 11<sup>th</sup>, 2024, and acknowledged the foregoing instrument to be their free act and deed and the free act and deed.

Before me, [Signature]

Notary Public  
Print Name: Elizabeth Gemme  
Commission Expires: 7/19/2026

ELIZABETH GEMME  
Notary Public, Maine  
My Commission Expires July 19, 2026





PTG PROPERTIES, INC  
CROSS RIDGE DRIVE & LOCKLAND DRIVE SUBDIVISION  
WINDHAM, MAINE

EXHIBIT A - OVERALL SUBDIVISION PLAN

APPROVED - WINDHAM PLANNING BOARD:  
COMMISSIONER: \_\_\_\_\_ DATE: \_\_\_\_\_

STATE OF MAINE  
COUNTY SS. REGISTRY OF DEEDS  
RECEIVED \_\_\_\_\_ 20\_\_\_\_ M  
AT \_\_\_\_\_ h \_\_\_\_\_ m PAGE \_\_\_\_\_  
PLAN BOOK \_\_\_\_\_  
ATTEST: \_\_\_\_\_ REGISTER

REV	DATE	DESCRIPTION
A	11.22.09	ISSUE FOR TOWN REVIEW
B	4.29.21	ISSUE FOR TOWN REVIEW
C	12.23.21	ISSUE FOR TOWN REVIEW

**DM ROMA**  
CONSULTING ENGINEERS  
P.O. BOX 1114  
WINDHAM, ME 04092  
(207) 310-0906

PRELIMINARY  
NOT FOR  
CONSTRUCTION

- GENERAL NOTES:**
1. ALL RECORD DRAWINGS SHOWN ON THIS PLAN SHALL BE MAINTAINED AS A PART OF THE RECORD DRAWINGS FOR THIS PROJECT AND SHALL BE PROVIDED TO THE TOWN OF WINDHAM UPON REQUEST.
  2. ALL UTILITIES SHOWN ON THIS PLAN SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
  3. THE PROPERTY LOCATED BY THE FARM REPRESENTATIVE DISTRICT IS SHOWN FOR INFORMATION ONLY AND DOES NOT CONSTITUTE A WARRANTY BY THE ENGINEER.
  4. THE PROPOSED LOT LINES SHALL BE BASED ON THE FIELD SURVEY DATA PROVIDED BY THE PROPERTY OWNER.
  5. THE PROPOSED LOT LINES SHALL BE BASED ON THE FIELD SURVEY DATA PROVIDED BY THE PROPERTY OWNER.
  6. THE PROPOSED LOT LINES SHALL BE BASED ON THE FIELD SURVEY DATA PROVIDED BY THE PROPERTY OWNER.
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- LEGEND**
- EXISTING**
- PROPERTY BOUNDARY LINE
  - EASEMENT LINE
  - SETBACK
  - ROCKY HILLS
  - IRON PROBE/POLE
  - BUILDING
  - CENTURIE
  - EDGE OF GRAVEL
  - EDGE OF WETLANDS
  - CENTURIE OF STREAM
  - WETLANDS
  - WETLANDS
  - WETLANDS
- PROPOSED**
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  - EDGE OF WETLANDS
  - CENTURIE OF STREAM
  - WETLANDS
  - WETLANDS
  - WETLANDS

## EXHIBIT B

### Preliminary Plan Submission Requirements

The plan shall depict only the lots shown in Exhibit A as subdivision lots. The following materials shall be submitted and/or depicted on the plan(s) as required:

- a. Depiction and written description of two (2) fire cisterns as depicted on Exhibit A. Said cisterns shall have an aggregate capacity of at least 40,000 gallons.
- b. Erosion and sedimentation control plan for any proposed new land disturbances only.
- c. Plan for asphalt overlay paving as set forth on Exhibit A.
- d. Evidence of right, title and interest for all properties in the Development that are currently owned by Owners, including any deeds for road rights-of-way.
- e. Copies of all existing recorded deed restrictions, easements, right-of-way, other encumbrances, and/or road maintenance agreements.
- f. Narrative describing Owners' intended provisions for post-approval ownership and maintenance of roads, fire protection areas and other common areas within the Development.
- g. Drafts of any proposed easements to be placed on Development lots.
- h. Copies of proposed covenants or deed restrictions intended to cover all lots or part of the lots or dwellings in the subdivision.
- i. Existing drainage and stormwater management plans and permits; depiction of existing and proposed stormwater controls on the plan submission.
- j. Erosion control plans for any areas to be newly disturbed or altered.
- k. Location of existing and proposed cul de sacs, turnarounds and hammerheads; templates for any proposed hammerhead and truck turnaround areas.
- l. Copies of DEP Order # L-21336-TB-A-N dated April 18, 2003, for wetland fill, and Order #L-21336-NJ-B-NIL-21336-TB-C-N dated January 6, 2011, including the applications filed with DEP for review, and any further applications, amendments or permits filed with or issued by DEP related to the Development.
- m. Information demonstrating financial capacity to perform all new work identified as part of plan.

- n. Confirmation that the proposed lot configurations satisfies the current dimensional standards for conventional lots in the Farm Residential Zone.
- o. Confirmation by a land surveyor that all monumentation for the proposed numbered lots in the subdivision have been installed.
- p. Confirmation that stormwater management devices have been installed in accordance with MDEP Stormwater Permits.
- q. The establishment, if agreed upon, of homeowners' associations to assume responsibility of stormwater maintenance and road maintenance, to the extent not established by existing instruments recorded in the Cumberland County Registry of Deeds.
- r. Construction details for both water cisterns. The applicant shall install the cisterns and fill the cisterns one (1) time.
- s. Cost estimate for the installation of the cisterns and the proposed pavement overlay. The Town shall review the cost estimate and set the required Performance Guarantee amount as part of the Final Plan review and prior to the Planning Board public hearing.
- t. Other plan information, only as required and necessary, as follows:
  - i. Name of the subdivision.
  - ii. Surveyor stamp.
  - iii. Location Map.
  - iv. Vicinity Plan.
  - v. Boundary survey of the effected lots.
  - vi. Existing lot lines and approximate dimensions and the area of each lot.
  - vii. Typical cross section of roadways, sidewalks, stormwater structures, and installation of fire protection systems (i.e., cisterns etc.).
  - viii. Wetland areas.
  - ix. Contours lines at 2-foot intervals.
  - x. Number of acres with the subdivision.
  - xi. Location of all rivers and/or stream and waterbodies.
  - xii. Zoning district(s).
  - xiii. Area flood-hazard areas.