

# Town of Windham

Planning Department  
8 School Road  
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

## MEMO

DATE: April 17, 2014

TO: Windham Town Council  
THROUGH: Tony Plante, Town Manager  
FROM: Ben Smith, Planning Director *BUS*  
Cc: Tony Vance, R & T Enterprises, LLC

RE: Zoning Map Amendment Request – R & T Enterprises, LLC, Tax Map 18; Lot 31C  
Commercial 1 (C-1) to Medium-Density Residential (RM)

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The Planning Department has received a zoning amendment request to rezone a 4.85 acre undeveloped property on Sandbar Road, identified on Tax Map 18; Lot 31C. The request is to change the zoning for the property from Commercial 1 (C-1) to Medium-Density Residential (RM).

The zone change request is being made in order to accommodate residential development of the property. The only residential development allowed in the C-1 zone is Housing for Older Persons, with no dwelling units on the first floor, unless a development is classified as “affordable” under federal housing standards. RM zoning standards allow Single Family Detached Dwellings, Two-Family Dwellings, and Multifamily Dwellings, along with Housing for Older Persons without the restriction on first floor dwelling units.

Given the property location away from an arterial street, and the goal of the 21<sup>st</sup> Century Downtown Plan to make residential housing an allowed use throughout the North Windham area, staff supports the idea of increased residential development in this area. Staff discussed several ways to meet this objective with the applicant, arranged here in order of likely shortest to longest time to implement:

- Submit a zone change request from C-1 to RM.
  - This is how the applicant has chosen to start the conversation. The closest point of the zoning boundary between the C-1 and RM districts on the southerly side of Tandberg Trail, east of Collins Pond Road, over 600 feet away. This would result in an “island” of RM zoning in the middle of the C-1 zoning district, and is not a best zoning practice.

- Establish a contract zone to allow residential development of this property.
  - Contract zoning is an agreement between the Town Council and the property owner which establishes restrictions or standards for a specific property which are not applicable to other properties with similar zoning. Per §108 of the Land Use Ordinance, contract zoning can be enacted “for reasons such as the unusual nature or unique location of the development proposed” and can include changes to the “number and types of uses permitted” and “the scale and density of the development.”
  - The applicant has not yet made an effort yet to demonstrate that there are unique or unusual characteristic of this property that sets it apart from other C-1 zoning district properties.
- Wait for the results of the Land Use Ordinance Committee (LUOC) work of making a comprehensive review of C-1 district standards and recommending changes based on goals of the 21<sup>st</sup> Century Plan.
  - This item, along with other LUOC priorities approved last September, is on the Town Council agenda as a Discussion Item for the meeting on April 22, 2014.

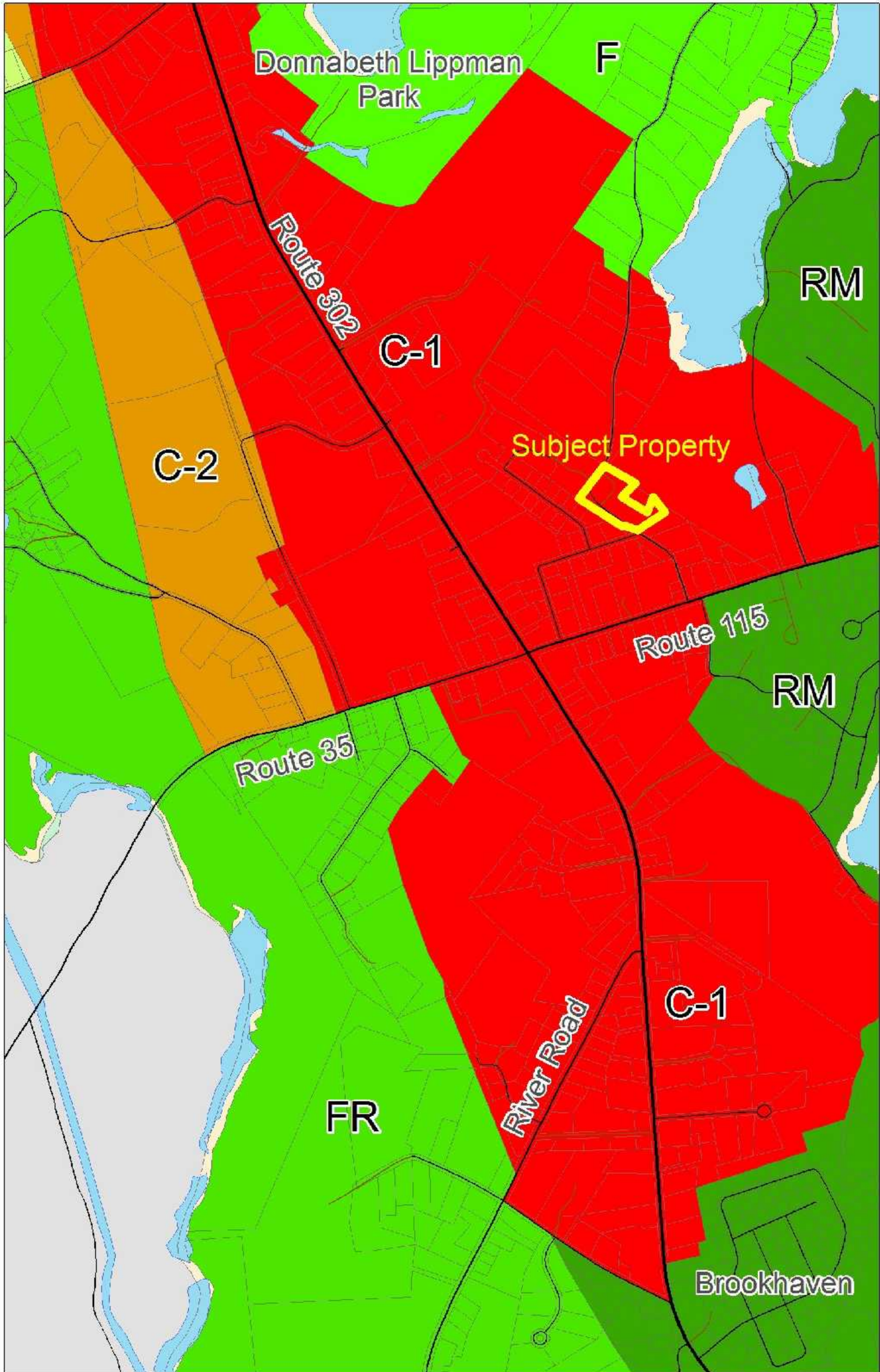
**Zoning Amendment Process**

If the Town Council chooses to start this request through the zoning amendment process, the Planning Board will review the submitted information and make a recommendation to the Town Council. A public hearing will be part of the Planning Board’s review.

The recommendation from the Planning Board will be sent back to the Town Council for final action. Only the Town Council can make changes to the zoning map or zoning standards.

There are no specific standards in the Town ordinance by which to judge the proposed zoning change. Section 107 of the Land Use Ordinance (page 1-3) states that, “After review and recommendation by the Planning Board, this chapter may be amended in accordance with the Town Charter.” That being said, State statute requires all proposed zoning changes and zoning map amendments to be consistent with the goals and objectives of the Comprehensive Plan.





Donnabeth Lippman  
Park

F

RM

Route 302

C-1

Subject Property

C-2

Route 115

RM

Route 35

FR

River Road

C-1

Brookhaven



**TOWN OF WINDHAM  
ZONE CHANGE APPLICATION**

The original signed copy of this application must be accompanied by the required application fee, along with fifteen (15) copies of any and all plans, maps, drawings, and any related information which shall be printed or reproduced on paper. Applications must be submitted to the Town of Windham Planning Department. The Town Council Chair and Vice-Chair shall place the request on the Town Council's agenda at their discretion.

**Contact Information**

1. Applicant

Name: RALPH VANCE LAND DEVELOPMENT R.V.L.D.  
Mailing Address: 590 ROOSEVELT TRAIL  
Telephone: 650-3060 Fax: 892 0008 E-mail: GOODWILLNANA@AOL.COM

2. Record owner of property

(Check here if same as applicant)

Name:  
Mailing Address:  
Telephone: Fax: E-mail:

**Property Information**

Property Address:

9 SAND BAR ROAD

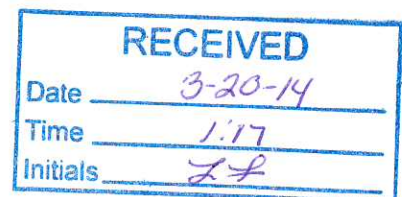
Assessor's Tax Map & Lot(s) #:

Map: 18 Lot 31

DEED BOOK 2044 PAGE 36

Property size (square feet):

211,136 Sq. FT. 4.85 ACRES





Current Zoning District:

Requested Zoning District:

C-1

R-M

Current use of the property:

Requested use of the property:

VACANT LAND

RESIDENTIAL USE

**Required Attachments**

1. Evidence of right, title, or interest in the property.
2. An explanation of how rezoning the property in question would support the goals and objectives of the Town of Windham Comprehensive Plan.
3. A plan of the lot(s) proposed to be rezoned. This plan may be a Windham Tax Map *or* Survey conducted by a Maine Licensed Surveyor. At a minimum, the plan must contain the following:
  - a. Lot lines of the lot(s) proposed to be rezoned,
  - b. Approximate location, width, and purpose of easements or restrictions on the property (if applicable),
  - c. Streets on and adjacent to the lot(s),
  - d. Approximate location of existing buildings, structures, or other improvements to the site (if none, please note).
  - e. Major natural features of the site, approximated by the applicant, including wetlands, streams, ponds, floodplains, treelines, and other important natural features (if none, please note).

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I certify all the information in this application form and accompanying materials is true and accurate to the best of my knowledge.

Ralph E. Vance  
Signature

3/18/14  
Date

SANDBAR ROAD PROPERTY

3/20/14

LOCATED ON RIGHT SIDE OF SANDBAR SHORT WAYS IN FROM RTE. 115

ACROSS FROM ENTRANCE TO ABBY LANE

SOILS - GRAVEL WITH UNLIMITED AMOUNT OF SAND GREAT FOR  
FILTER BEDS & DRAINAGE

LAND SIZE 4.85 ACRES

LOCATION – IDEAL SPOT FOR HOMES / DUPLEXES / SENIOR HOUSING

SHORT DISTANCE TO POST OFFICE/ RESTAURANTS/ SHAWS  
SUPERMARKET

POOR LOCATION FOR C-1 ZONE / WHERE COMMERCIAL GARAGE OR  
OTHER COMMERCIAL BUILDINGS COULD BE BUILT

PUBLIC WATER ALREADY IN AT THIS LOCATION OF SANDBAR RD.

SCRUB PINE TREES HAVE BEEN TAKEN DOWN & CHIPPED

NO WINDHAM IN NEED FOR MORE RESIDENTIAL HOUSING

EVERYONE WE HAVE TALKED TO WOULD RATHER HAVE HOMES  
INSTEAD OF COMMERCIAL BUILDINGS ON THIS PROPERTY

SENIOR HOUSING LOCATED ACROSS THE STREET FROM THIS PROPERTY

SOIL TEST & DRAINAGE STUDIES HAVE ALREADY BEEN DONE ON THIS  
PROPERTY

ALL SINGLE FAMILY HOMES IN THIS AREA

SPEED LIMIT IS 25 MPH ON SANDBAR RD.





7

SITE

C-7

RM

SANDBERG TRAIL

VETERANS MEMORIAL DR

SANDBAR RD

SABBADY POINT RD

DUNDAS RD

32-1

31A

32H

31A-1

31B

31

31C

36

31-1

31-2

37A

37-1

38A

39A

40

41

42

32-1

32J

32E

32B

32

32F

32G

35

32D

32A-1

32A

32A-2

32K

38

14A

33A

26A

79

20

83B

69

89C

65A

47A

67

86

63

64

75

74

73

72

71A

79

80

81

69

69A

68

7

6

6A

5

2-1

2

67-2A

67-2A-1

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45A

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72A

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71-1

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70-1

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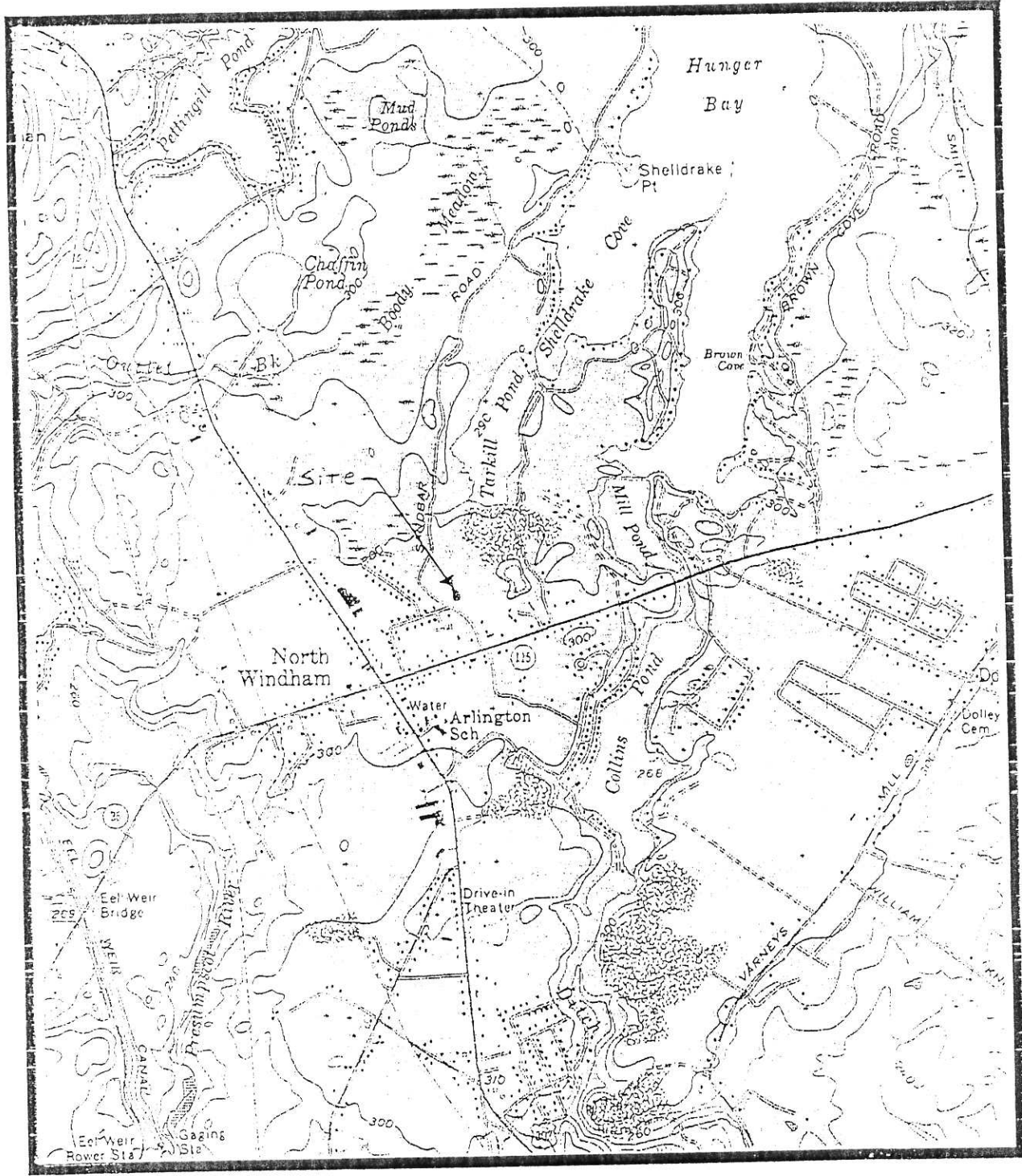
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6



# SITE LOCATION MAP

SANDBAR ROAD  
WINDHAM, ME

1" = 2,000'

**Sebago Technics**  
Engineering Expertise You Can Build On

One Chobot Street  
Westbrook, Me 04095-1339  
Tel (207) 856-0277





# WARRANTY DEED

## Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, That We, GEORGE A. KEEF and JEAN A. KEEF, a/k/a JEAN D. KEEF, being married, of the Town of Windham, County of Cumberland, and State of Maine, whose mailing address is 9 Sandbar Road, Windham, Maine 04062 (hereinafter "Grantor"), for consideration paid, grant to R&T Enterprise, LLC, a limited liability company organized under the laws of the State of Maine and having a mailing address of 588 Roosevelt Trail, Windham, Maine 04062, (hereinafter "Grantee"), with WARRANTY COVENANTS, the land in the Town of Windham, County of Cumberland, and State of Maine more particularly described as follows:

See attached Exhibit A.

IN WITNESS WHEREOF, the said George A. Keef and Jean A. Keef have caused this instrument to be signed this:

29<sup>th</sup> day of the month of August, 2005.

SIGNED, SEALED AND DELIVERED in the presence of:

*Curtis Lane*  
 Witness

*George A. Keef*  
 George A. Keef

*Curtis Lane*  
 Witness

*Jean A. Keef*  
 Jean A. Keef

MAINE REAL ESTATE TAX PAID

State of Maine )  
Cumberland County )

ss.

August 23, 2005

Then personally appeared the above-named George A. Keef and Jean A. Keef and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Eric L. Frank

Eric L. Frank  
Printed Name of Notary/Attorney



Exhibit A

Beginning at a 4" x 4" granite monument located on the southerly sideline of Abby Road; said monument marks the northwest corner of land now or formerly Brown/Neault as described in Deed Book 15614, Page 64 of the Cumberland County Registry of Deeds.

Thence North 37° 58' 51" West across Abby Road as depicted on plan of Fairview Park Extension One recorded in Plan Book 61, Page 18 of the Cumberland County Registry of Deeds, and along the easterly sideline of land now or formerly Cummings as described in Deed Book 13434, Page 42 of the Cumberland County Registry of Deeds also being Lot 17 of said plan, Two Hundred Forty Eight Feet and 18/100 (248.18) to a point marking the Southeast corner of land now or formerly Ingerowski as described in Deed Book 6247, Page 69 of the Cumberland County Registry of Deeds;

Thence North 38° 43' 40" West along the Northeasterly sideline of land now or formerly Ingerowski, land now or formerly Geary as described in Deed Book 15303, Page 254 of the Cumberland County Registry of Deeds and land now or formerly Horr as described in Deed Book 10801, Page 262 Cumberland County Registry of Deeds, Three Hundred Twenty-Two Feet and 56/100 (322.56) to a No. 5 rebar marking the Southwest corner of land now or formerly Marblehead Seniors Housing Corp. as described in Deed Book 4374, Page 254 recorded in the Cumberland County Registry of Deeds;

Thence North 61° 10' 41" East along the Southerly sideline of land now or formerly Marblehead Seniors Housing Corp. and across the assumed right of way of Sand Bar Road, Three Hundred Thirty Four Feet and 59/100 (334.59) to a 1" iron pipe on the assumed Southeasterly sideline of Sand Bar Road; Said iron pipe marks the Northwest corner of land now or formerly Dizenzo as described in Deed Book 3747, Page 52 in the Cumberland County Registry of Deeds;

Thence South 40° 34' 39" East along the Westerly sideline of land now or formerly Dizenzo, Two Hundred Fifty Feet and 00/100 (250.00) to a No. 5 rebar at the Northerly corner of land now or formerly Noel as described in Deed Book 6280, Page 308 in the Cumberland County Registry of Deeds;

Thence South 49° 25' 21" West along land now or formerly Noel, One Hundred Fifty Feet and 00/100 (150.00) to a No. 5 rebar;

Thence South 40° 34' 39" East continuing along land now or formerly Noel, Two Hundred Feet and 00/100 (200.00) to a No. 5 rebar;

Thence North 49° 25' 21" East continuing along land now or formerly Noel, One Hundred Fifty Feet and 00/100 (150.00) to a No. 5 rebar at land now or formerly Dizenzo as previously described;

Thence South 40°34'39" East along the Westerly sideline of land now or formerly Dizenzo, Three Hundred Fifty-One Feet and 77/100 (351.77) to a No. 5 rebar;

Thence South 83°35'01" West across land of the Grantor herein and the assumed right of way of Sand Bar Road, Three Hundred Fifty Feet and 23/100 (350.23) to a No. 5 rebar at land now or formerly Brown/Neault as previously described;

Thence North 43°24'51" West along the assumed Westerly sideline of Sand Bar Road and land now or formerly Brown/Neault, Fifty-Seven Feet and 68/100 (57.68) to a 1" iron pipe marking the Northeast corner of land now or formerly Brown/Neault;

Thence South 88°08'09" West along the Northerly sideline of land now or formerly Brown/Neault and the Southerly sideline of Abby Road, Seventy-One Feet and 53/100 (71.53) to the point of beginning.

Said parcel contains 4.85 acres. Bearings are magnetic of the year 2005. Said parcel is a portion of land described in Deed Book 2044, Page 36 recorded in the Cumberland County Registry of Deeds. Parcel subject to right-of-ways and/or easements of record.

Said parcel is subject to a 28' right-of-way known as Sand Bar Road described in Deed Book 1337, Page 413 of the Cumberland County Registry of Deeds.

Said parcel is also subject to a 50' right of way benefiting land now or formerly Noel as described in Deed Book 6280, Page 308 in the Cumberland County Registry of Deeds.

Parcel is also subject to an easement for New England Telephone and Telegraph Company as described in Deed Book 9692, Page 157 of the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Boundary Survey" located on Sand Bar Road, for Tony Vance, R & T Enterprises, I.L.C by Survey, Inc. dated June 2005.

Said parcel is also subject to the following Restrictive Covenants which shall hence forth run with the land.

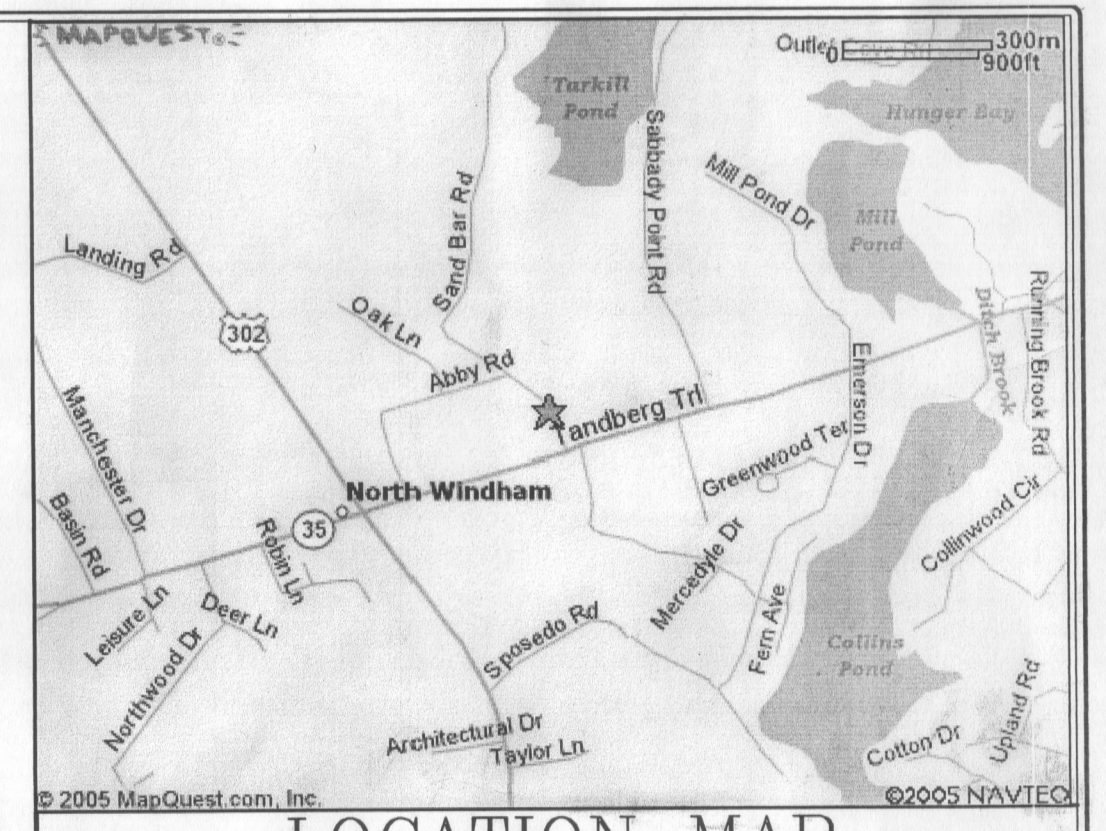
No building shall be erected, altered, enlarged, rebuilt, or used and no premises shall be used except for the following uses:

- a. Retail business which conducted all business exclusively within the building's enclosure;
- b. Business and professional offices;
- c. Fully enclosed places of assembly, amusement, culture, and government.

- d. Accessory buildings and uses;
- e. Municipal uses;
- f. Single and multi-family housing, provided that the dwelling unit (or units) is situated only on the second floor of a mixed-use commercial and residential building, and that the areas devoted to dwelling units meet the standards specified in the then current Town of Windham, Land Use Ordinance, section devoted to mixed-use commercial and residential buildings.
- g. Wireless telecommunications facilities;
- h. Elderly housing projects;
- i. The following uses of the property are permitted if authorized by the Windham Board of Appeals or the entity fulfilling that function at the time of the application, said uses include:
  - 1. Hotels, motels, clubs, and lodging houses; and
  - 2. Restaurants.
- j. Second curb cut, off-street parking facility
- k. Residential housing if the Town of Windham's Land Use Ordinance is modified to allow for such use of the property.
  - 1. Licensed child care facilities that operate both inside and outside a structure.

Received  
Recorded Register of Deeds  
Aug 24 2005 12:33:34P  
Cumberland County  
John B. O'Brien





**LOCATION MAP**  
(NOT TO SCALE)

**NOTES:**

- (1) DEED REFERENCE: PLAN SHOWS PORTION OF DEED BOOK 2044, PAGE 36 CUMBERLAND COUNTY REGISTRY OF DEEDS (C.C.R.D.)
- (2) TAX MAP REFERENCE: TAX MAP -18, LOT 31
- (3) PLAN REFERENCES:
  - (A) PLAN OF OAK GROVE FOR: GENERAL DEVELOPMENT CO. BY: E. A. SAUNDERS, C.E. DATED: AUGUST 10, 1965 RECORDED: PLAN BOOK 70, PAGE 17 (C.C.R.D.)
  - (B) PLAN OF 4TH DIVISION OF LOTS IN WINDHAM, MAINE. 1804
  - (C) BOUNDARY SURVEY FOR: NEW MARBLE HEAD NORTH HOUSING CORP. BY: SURVEY, INC. DATED: OCTOBER 1987
  - (D) PLAN OF PROPERTY FOR: F.S. PLUMMER CO. BY: ROBERT P. TITCOMB DATED: 10/16/80 RECORDED: PLAN BOOK 130, PAGE 7 (C.C.R.D.)
  - (E) FAIRVIEW PARK, EXTENSION ONE FOR: GREGG WOODMAN CO., INC. BY: L.B. VARNNEY, ENG. DATED: NOVEMBER 1961 RECORDED: PLAN BOOK 61, PAGE 18 (C.C.R.D.)
  - (F) STANDARD BOUNDARY SURVEY FOR: FIBER OPTIC SWITCHING FACILITY BY: OEST ASSOCIATES, INC. DATED: JUNE 1991
  - (G) EXISTING CONDITIONS AND DEMOLITION PLAN FOR: PASTCO ASSOCIATES BY: SEBAGO TECHNICS INC. DATED: 7/20/89

**BOUNDARY SURVEY**

FOR: **R & T ENTERPRISES**  
588 ROOSEVELT TRAIL  
WINDHAM, MAINE 04062

**GEORGE A. & JEAN A. KEEF**  
102 TANDBERG TRAIL  
WINDHAM, MAINE  
(OWNERS OF RECORD)

*Abby Commons*

THIS PLAN SHALL NOT BE USED AND/OR MODIFIED WITHOUT WRITTEN PERMISSION FROM SURVEY, INC. ANY CHANGES SHALL BE AT USER'S RISK AND WITHOUT LIABILITY TO SURVEY, INC.

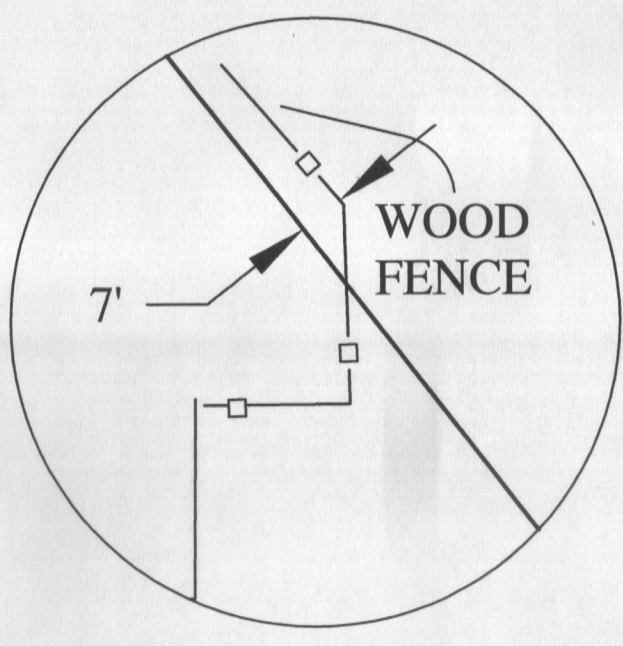
SURVEY BY: **SURVEY, INC.**  
P.O. BOX 210  
WINDHAM, ME 04062  
(207) 892-2556 (207) 892-2557 FAX  
SURVEY.INC@VERIZON.NET

PLAN BY: **CAF @ SURVEY, INC.**  
DATE: JUNE 2005 JOB NO. 05-049

*Parcel A - 1.39 acres*  
*Parcel B - 3.46 acres*  
*280' FRONTAGE*  
*lots sold separately require Town Approval (April 06)?*

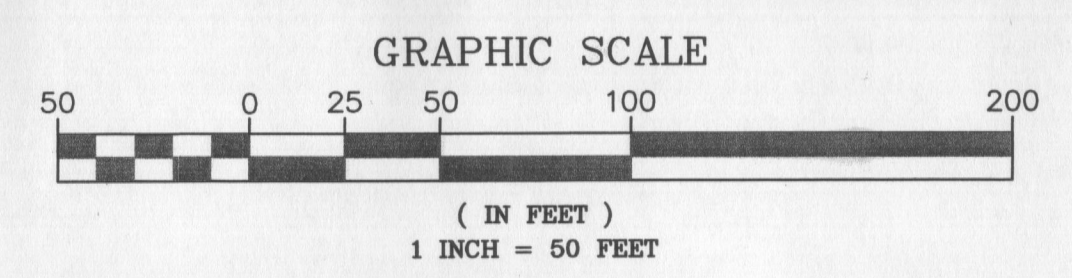
**AREA CALCULATIONS:**

TOTAL AREA:	211,136 S.F. (4.85 ACRES)
AREA BURDENED WITHIN NOEL R/W:	5,713 S.F. (.13 ACRES)
AREA WITHIN FIBER OPTIC SWITCHING FACILITY:	2,400 S.F. (.06 ACRES)
YIELDS A NET AREA OF:	203,023 S.F. (4.66 ACRES)



DETAIL N.T.S.

- LEGEND:**
- IRON PIN FOUND
  - NO. 5 REBAR SET
  - ⊙ UTILITY POLE
  - N/F NOW OR FORMERLY
  - 123/45 DEED BOOK/PAGE
  - ▭ EXISTING STRUCTURE
  - ⊖ STONE WALL



I CERTIFY THAT THIS SURVEY CONFORMS TO THE STANDARDS OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE, BELIEF AND PROFESSIONAL OPINION.

ROBERT N. FARTHING P.L.S. 586