

PLANNING BOARD MEMO • MAJOR SUBDIVISION & SITE PLAN • PRELIMINARY PLAN REVIEW

DATE: June 5, 2025

TO: Windham Planning Board
FROM: Amanda Lessard, Senior Planner/Project Manager
Cc: Dustin Roma PE, DM Roma Consulting Engineers
Jarod Robie, Robie Holdings LLC
Steve Puleo, Planning Director

RE: #25-06 Shepherd Lane Subdivision (formerly 421 Falmouth Road Condos) - Major Subdivision & Site Plan - Preliminary Plan Review - 421 Falmouth Road - Robie Holdings, LLC
Planning Board Meeting & Public Hearing: June 9, 2025

Overview

The application is for a 13-unit single-family residential condominium development of a 22.75 acre property. The development will have a 480 foot access driveway and served by public water, shared private wastewater disposal systems, and underground utilities.

The subject property is identified as Tax Map: 19; Lots: 104 & 90G; Zone: Village Residential (VR) and Farm (F) in the Pleasant River watershed.

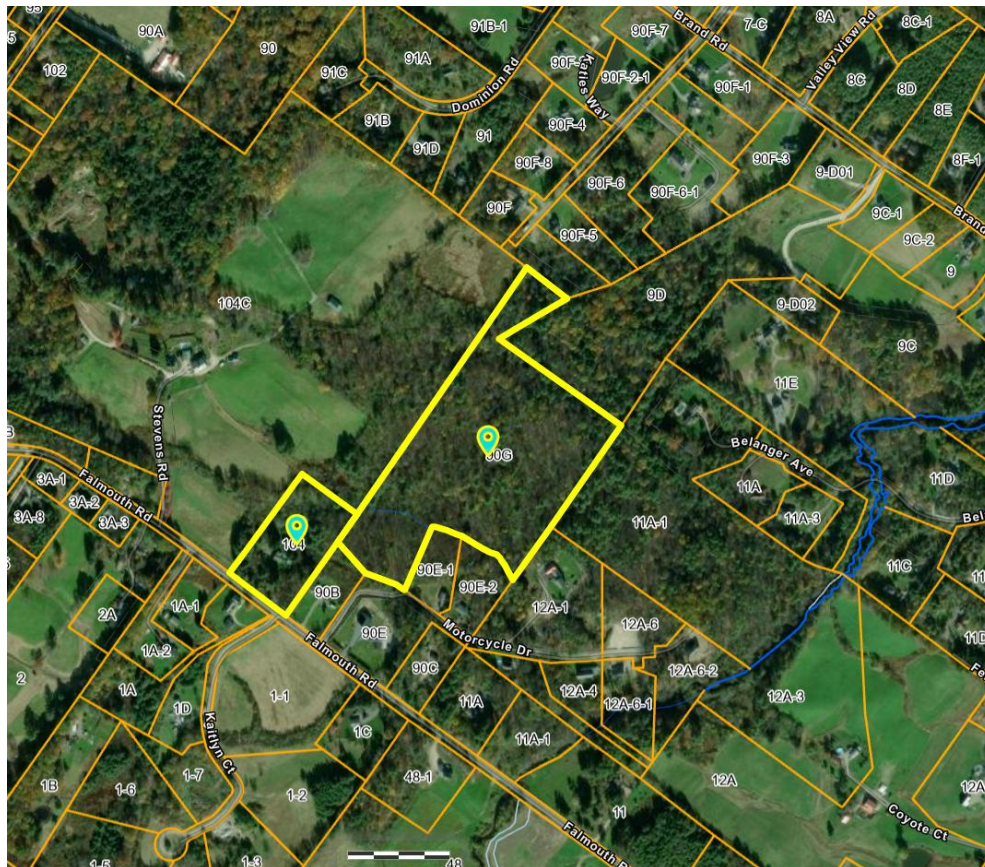


Figure 1. Aerial view of the subject parcel relative to surrounding properties and street network.

Review History

A Development Review Team meeting was held on March 4, 2025. The Planning Board reviewed the sketch plan on March 10, 2025. At that meeting the Board discussed the net density calculations for the two zoning districts, the proposed road standard and the safety of the road intersection on Falmouth Road. The Board held a site walk on June 2, 2025.

The applicant has revised the plan to increase the number of units from 11 to 13, closed on the transfer of the 17.93 acre portion of Lot 90G from the abutter, and renamed the subdivision to reflect the assigned E-911 road name.

Staff provided comments on the preliminary plan submission to the applicant in an attached memo dated May 29, 2025. As of the date of this memo, the applicant has not provided a response to staff comments.

SUBDIVISION REVIEW

PLEASE NOTE: The staff memo is a reference guidance document, and suggested topics for board discussion are listed; ~~the strikethrough text is items for the final review~~; ***bold and italic text represent unaddressed existing and/or new staff comments***; or plain underlined text are items that have been addressed by the applicant; and *italic text is for information or previously reviewed and/or approved items*.

Staff Comments:

1. Complete Application:

MOTION: [I move] the Major Subdivision & Site Plan preliminary application for project #25-06 Shepherd Lane Subdivision is found complete in regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.

2. Waivers:

Limitation of Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land.

SUBMISSION REQUIREMENTS

The Planning Director, or designee, may waive any of the submission requirements of [§120-910](#) or [§120-811](#) based upon a written request by the applicant that includes the reasons for which a waiver is sought. A waiver of any submission requirement may be granted only if the Planning Director, or designee, finds that the information is not required to determine compliance with the standards and criteria of the Land Use Ordinance or that the information relates to a standard that is not applicable to the application. Per [§120-908B\(1\)](#) the Planning Director is not required

to use any criteria in making its determination on the granting of a waiver of the submission requirements.

a) [§120-910C\(3\)\(a\)](#) High Intensity Soil Survey

The applicant states that a High Intensity Soil Survey is not needed as the 3 acre development area has Hinckley loamy sand and Scantic Silt loam soils on the medium intensity soils map, wetland boundaries have been delineated with no wetland impacts proposed and the applicant will be conducting multiple test pit analyses to design the subsurface wastewater disposal systems and stormwater management facilities.

The Planning Director has waived the High Intensity Soil Survey requirement due to the other information that will be provided as part of the subdivision review

b) [§120-910C\(3\)\(c\)](#) Hydrogeologic assessment

The applicant states that the project will include the installation of Advanced Treatment Septic Tanks that will reduce the nitrate concentration to 10 mg/l before the wastewater enters the disposal field, so nitrate plume analysis is not necessary. Stormwater management BMPs include water filtration practices with impermeable liners and/or underdrain systems that will filter the stormwater without directly introducing stormwater into the groundwater system through infiltration.

The Planning Director has waived the Hydrogeologic assessment requirement due to the use of advanced treatment wastewater disposal

PERFORMANCE STANDARD WAIVER - SUBDIVISION

Limitation of Waivers. The Planning Board may waive the requirements of [§120-911](#) Performance and Design Standards when the applicants demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, and the public health, safety, and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in [§120-908C\(2\)](#).

a) None requested.

PERFORMANCE STANDARD WAIVER – SITE PLAN

Waiver of the Site Plan Performance Standards. The Planning Board may waiver the requirements of [§120-812](#) if it finds that extraordinary an unnecessary hardship, not self-imposed, may result from strict compliance with the site plan review standards. In all cases, waivers shall not be deemed a right of the applicant, but rather shall be granted at the discretion of the Planning Board. The applicant shall submit a list of the requested waiver(s) in writing. For each waiver requested, the applicant shall submit answers to each criterion in [§120-808B\(2\)](#).

a) None requested.

3. Public Hearing: A public hearing is scheduled for June 9, 2025
4. Site Walk: The Planning Board held a site walk on June 2, 2025.

Findings of Fact, Conclusions, and Conditions of Approval for the Windham Planning Board:

Staff recommend postponing action on the application until the applicant responds to staff comments.

MOTION: ~~[I move] the Major Site Plan & Subdivision application for the #25-06 Shepherd Lane Subdivision development identified on Tax Map: 19: Lots: 104 & 90G in Village Residential (VR) and Farm (F) is to be (approved with conditions/denied) with the following Findings of Fact, Conclusions, and Conditions of Approval.~~

FINDINGS OF FACT

Jurisdiction: The Shepherd Lane Subdivision project is classified as a Major Site Plan & Subdivision, which Planning Board is authorized to review and act on by [§120-903](#) and by [§120-803A\(1\)](#) of the Town of Windham Land Use Ordinance.

Title, Right, or Interest: The applicant has submitted a copy of a Short Form Deed between Elizabeth T. High and Robie Holdings, LLC dated October 30, 2024, and recorded on October 31, 2024 at the Cumberland County Registry of Deeds in Book 41093 and Page 243 and a Warranty Deed between Philip R. Webster and Lisa M. Webster and Jarod Robie dated December 18, 2024, and recorded on December 19, 2024 at the Cumberland County Registry of Deeds in Book 41195 and Page 333.

ARTICLE 3 DEFINITIONS

Dwelling, Single-family Detached: “A freestanding building containing one dwelling unit.”

ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date April 9, 2024, Map: 19: Lots: 104 & 90G.
- The property is located in in Village Residential (VR) and Farm (F) zoning districts.
- Street trees shall be planted along the street frontage of Falmouth Road, at least one tree every 50 feet, per [§120-415.2F\(1\)\(g\)](#).

ARTICLE 5 PERFORMANCE STANDARDS

§120-541 – Net residential area of acreage

- B. The net residential area or acreage of a lot proposed for subdivision, as defined, shall be calculated by subtracting the eight (8) items listed in the subsection from the gross acreage of a lot and dividing the resulting net residential area of the parcel by the net residential density standard of the appropriate zoning district (see [Article 4](#), Zoning Districts).

§120- 812 – MAJOR SITE PLAN PERFORMANCE STANDARDS

As the application is for Preliminary Subdivision Review, the submission has not been fully reviewed against the Site Plan Review standards of Article 8.

§120-814A Multifamily Development Standards. For final plan review:

1. At least two different building designs shall be provided as required by §120-814A(1).
2. Buildings adjacent to Falmouth Road shall have entrances oriented to face the existing street as required by §120-814A(3)(a).
3. Does the existing vegetation within the proposed treeline provide a sufficient buffer or screening to the existing residential abutter at 413 Falmouth Road required by §120-814B(2)(b)?
4. The site plan shall designate, within the common open space, the required amount of contiguous area (400 square feet for 13 units) and the proposed constructed amenities for passive use or active areas required by §120-814B(4)(c).
 - a. The stormwater management report notes that the applicant is not proposing any modification to the land in the Farm Zone portion of the lot and that the existing snowmobile trails are intended to be used as walking trails for the condominium association to access the backland. The plan does not appear to provide a trail or means to access the backland. The applicant should show how pedestrian access to the undeveloped portion will occur. Additional developed area on the backland may also be required to comply with the multifamily recreation and open space requirements
5. Curb cuts on access drives must be separated by a minimum of 75 feet where possible per §120-814B(6)(c). For final plan review, the applicant should show on the site plan the distances between driveways and provide an explanation where and why it is not possible to separate curb cuts by a minimum of 75 feet.

§120-911 - SUBDIVISION PERFORMANCE STANDARDS

§120-911A – Basic Subdivision layout

- (1) The property has 22.75 acres exceeding the minimum lot size in the VR and F zoning districts. 4.87-acres in located in the VR district and 17.93 acres in the F district.
 - (a) The applicant provided a net residential density calculation by separately calculating the net residential density for each zoning district. In the VR district, the applicant deducted 48,446 SF of poorly drained soils, for the net area of 161,531 SF. The net residential density for VR is 30,000 SF, equaling 5 dwelling units. In the F district, the applicant deducted 12,002 SF of steep slopes, and 1,046 SF of 100-year flood plain, and 190,799 SF of poorly drained soils, for the net area of 577,473 SF. The net residential density for F is 60,000 SF, equaling 9 dwelling units. The total allowed dwelling unit for the parcel is 14.
 - (e) The E-911 Addressing Officer has assigned the street name Shepherd Lane.
- (2) Underground utilities are shown on the provided subdivision plan.
- (3) The location of the proposed subdivision monuments on shown on the subdivision plan.

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

- (3) The applicants have shown connection with the public water system on the provided subdivision plan, from the end of the water main in Falmouth Road. A new fire hydrant is propose to be installed at the end of the main, which is less than 1,000 feet from the last home in the subdivision. For the final plan review, the applicant shall provide an “Ability to Serve” letter from the Portland Water District.

§120-911C - Erosion Control and sedimentation control

- (1) The applicants have provided a soil erosion and sediment control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed, and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP documents.
- (3) The applicant or develop shall consider the topsoil as part of the subdivision is not to be removed from the site.
- (4) Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. *The Board may require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.*

§120-911D – Sewage disposal

- (2) The applicant is proposing three (3) private on-site subsurface disposal systems for the 13-unit condominium development. The applicant proposes to install advanced treatment units for all of disposal fields. The HHE-200s prepared by site evaluator Norman Harris of Harris Septic Solutions were include in the preliminary plan submission.

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

- (1) The applicant is developing access from Falmouth Road to serve the development. All of the back land in the Farm (F) district is proposed to remain intact, preserving the natural beauty and aesthetics.
- **The grading and utility plan appears to identify areas of wetland impacts. These areas should be more clearly labeled on this sheet and the total amount of wetland impacts should be included as a note on the subdivision plan.**
 - **The project proposes development within the 75’ stream setback. For final plan review, the applicant must obtain a NRPA PBR from DEP.**
- (a) The applicant ***has not*** provided a note not allowing the clearing of trees where tree cover is depicted on the plan for at least five years. Mandatory buffer for stormwater or other reasons shown on the plan shall not be cleared of vegetation unless the Planning Board grants an amendment to the subdivision or maintenance that does not alter the purpose for which the buffer was required.
- (b) The applicant has included a landscape plan with the application. Two trees are show along Falmouth Road and street trees are shown on the internal subdivision street every 50 feet.

- (2) For final plan review, the applicant shall provide reservation or dedication and maintenance of open space, common land, facilities such as the stormwater management system, among others, and service in the form of homeowner's association documentation. The common land shall be shown on the final plan with appropriate notations on the plan to indicate it shall not be used for future building lots.

§120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

- The plan does meet the goals of the 2024 Comprehensive Plan. The property is in the Residential Growth Area.

Subdivision Ordinance

- The applicant has provided a landscaping plan.
- Standard notes, the standard conditions of approval, and approved waiver must be shown on the plans.
- For the final plan review, a digital transfer of the subdivision plan data must be submitted for inclusion with the Town's GIS.

Growth Management, Chapter 101:

- Growth permits are required for the creation of each new single-family dwelling. Growth permit applications are submitted with building permit applications.

§120-911G – Financial and Technical Capacity

- (1) The Applicant has provided an estimated cost of the project and a letter from Maine Community showing sufficient financial resources to construct, operate, and maintain all aspect of the proposed development.
- (1) The applicant has provided evidence of technical capacity, identifying the past experience of the principals and the professional engineers, surveyors and soil scientists hired to manage the permitting and design of the development.

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

- (1) The applicant proposes the installation of Advanced Treatment Septic Tanks that will reduce the nitrate concentration to 10 mg/l before the wastewater enters the disposal field, and has requested a waiver from the requirement to submit a hydrogeologic assessment.
- (2) The proposed development will connect to available water supply provided by the Portland Water District (PWD) with a connection to the existing main in Falmouth Road. The scale of this development is not anticipated to adversely impact the overall quality or quantity of available water supply.

§120-911I – Floodplain Management

- The subject property is within a mapped FEMA Floodplain boundary. The mapped floodplain is located at the rear of the parcel in proximity to mapped wetlands. No development in proposed within the floodplain.

§120-911J – Stormwater

- The subdivision will result in 36,958 SF of impervious area and 112,733 SF of developed area. The project includes an additional 14,457 square feet of disturbance that will be allowed to revert to natural meadow.
- For final plan review, a Stormwater Permit By Rule from Maine DEP will be required.
- The responsibility of maintaining the stormwater management system will be assigned to the future Condominium Association, as per [§120-911N](#).
- For final plan review, the applicant shall provide condominium documents include a draft deed for the units with covenants and restriction, by-laws, and stormwater maintenance and inspection plan, among other requirements.
- The Stormwater Management Plan submitted indicates that the proposed development includes water quality treatment that complies with Maine DEP Ch. 500 Redevelopment Standard and the Town of Windham's Subdivision Ordinance through the construction of two (2) underdrained filter basins and roofline drip edges around each of the buildings.
- **The Town Engineer comments dated May 28, 2025:**
 - **In their Stormwater Report they say that they need to meet a 90% number for treating water quality for impervious area, but the requirement in the DEP Ch. 500 General Standards, which apply to this development, is 95%. If the applicant can treat only 90%, then they need to base their design on a Ch. 500 4C(2)(a)(ii) as described below**

(ii) Where treatment of 95% of the impervious area is not practicable, the Department may allow treatment of as low as 90% of the impervious area if the applicant is able to demonstrate that treatment of a greater depth of runoff than specified in the standards will result in at least an equivalent amount of overall treatment of the impervious area. The treatment depth of runoff must be increased by 0.05 inch for each 1% that the treatment area is decreased. Treatment must still be provided for no less than 80% of the developed area; or

- **Where the disturbed area drains directly to wetlands, the plans should show a double row of perimeter erosion control.**
- **If the existing contours are derived from LIDAR, field survey of stormwater filter basin areas should be completed in order to determine actual ground conditions at these areas.**

§120-911K – Conservation Subdivision

- (1) The development is in the VR district and therefore is not required to meet the conservation subdivision standards.

§120-911L – Compliance with Timber Harvesting Rules

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

§120-911M – Traffic Conditions and Street

- The Applicant submitted a traffic assessment that indicates that the subdivision will generate 13 trips in the PM peak hour and 123 trips during a typical weekday. Since the expected traffic does not exceed 140 trips per day, a traffic impact analysis per § 120-910C(3)(e) is not required.

- **For final plan review the applicant shall provide an estimate of the number of new peak hour trips expected to pass through the Route 302/Anglers Road/Whites Bridge Road intersection in order to calculate the [North Route 302 Road Improvements Impact Fee](#).**
- The applicant is proposing a new street connection on Falmouth Road. The entrance is proposed to be a Condominium driveway meeting the Town's "Major Private Road" standard for design and construction found in [Appendix B. Sheet D-1 Typical Roadway Section without curbing shows a 1' gravel shoulder. To comply with the Major Private Road Standard in Appendix B, this detail should show a 2' gravel shoulder.](#)
 - The condominium association will maintain the R/W road once the subdivision is completed.
 - The private road note of [§120-911M\(5\)\(a\)\[5\]\[e\]](#) **is not shown on the plan.**
- **Provide a road profile for Shepherd Lane.**
- **Site distances at the proposed entrance of Shepherd Lane at Falmouth Road that comply with Table 1 in Appendix B must be shown on the plan.**
- **Show curb cuts on opposite side of Falmouth Road on the plan.**
- **This portion of Falmouth Road is a state road outside of the urban compact. For final plan review, provide an entrance permit and a road opening permit from Maine DOT.**

§120-911N – Maintenance of common elements.

- For the final plan review, the applicants shall provide draft condominium association documents for the Town Attorney's review.
- The condominium association documents shall be recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded. See COA #3.

SUBDIVISION CONCLUSIONS

1. The development plan **reflects** the natural capacities of the site to support development.
1. Buildings, lots, and support facilities **will** be clustered in those portions of the site that have the most suitable conditions for development.
2. 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.
3. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
4. 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.
5. The proposed use and layout **will/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.
6. The proposed subdivision **will** provide adequate sewage waste disposal.
7. The proposed subdivision **conforms/does not conform** to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan.
8. The developer **has** the adequate financial capacity to meet the standards of this section.

9. The proposed subdivision **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
10. The proposed subdivision **will/will not** provide for adequate stormwater management.
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 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 on 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. 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/does not have** a lot depth to shore frontage ratio greater than 5 to 1.~~
- ~~16. The long term cumulative effects of the proposed subdivision **will/will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision. (N/A)~~
- ~~17. 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. (N/A)~~
- ~~18. The timber on the parcel being subdivided **has/has not** been harvested in violation of rules adopted pursuant to [Title 12, §8869, sub§14](#). (N/A)~~

CONDITIONS OF APPROVAL (MAJOR SUBDIVISION)

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated February 17, 2025 as amended [*the date of the final plan approval*] and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with [§120-912](#) of the Land Use Ordinance.
2. In accordance with [§120-911N\(5\)](#) of the Land Use Ordinance, the condominium association documents shall be recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded in the Cumberland County Registry of Deeds. Evidence of such recording shall be provided to the Planning Department. No units shall be sold in the subdivision prior to recording and all deeds shall reference the declaration establishing the condominium association.
3. The development is subject to the following [Article 12 Impact Fees](#), to be paid with the issuance of new building permits for the expanded uses: [North Route 302 Road Improvements Impact Fee](#) of **TBD** (*TBD during final plan review per peak hour trip through Route 302/Anglers Rd/Whites Bridge Intersection*); [Recreation Impact Fee](#), [Open Space](#)

[Impact Fee](#), [Public Safety Impact Fee](#); and [Municipal Office Impact Fee](#). All fees will be determined and collected for any building, or any other permit for the development,[§120-1201C](#).

4. In accordance with [§120-914B\(5\)](#) of the Land Use Ordinance, the Construction of improvements covered by any subdivision plan approval shall be completed within two years of the date upon which the performance guarantee is accepted by the Town Manager. The developer may request a one-year extension of the construction completion deadline prior to the expiration of the period. Such request shall be in writing and shall be made to the Planner. The Town Manager may require an update to the schedule of values and the amount of the guarantee when accepting an extension of the construction period. If construction has not been completed within the specified period, the Town shall, at the Town Manger's discretion, use the performance guarantee to either reclaim and stabilize or to complete the improvements as shown on the approved plan.