

Town of Windham


Planning Department
8 School Road
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

MEMO

DATE: December 23, 2019

TO: Barry Tibbetts, Interim Town Manager
FROM: Amanda Lessard, Planning Director, on behalf of the Planning Board 
Cc: Jennifer Curtis, Planner
Chris Hanson, Director of Code Enforcement
Dustin Roma, P.E., DM Roma Consulting Engineers
RE: Planning Board Recommendation: Zoning Map Amendment Request – Junco Drive,
Tax Map 5 Lot 1-1, Farm Residential (FR) to Medium-Density Residential (RM)

At the Planning Board's meeting on December 9, 2019, a public hearing was held on RMills LLC's request to rezone a portion of a 5.98 acre property on River Road, from Farm Residential (FR) to Medium-Density Residential (RM). Currently the front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR; this request would allow the entire parcel to be zoned RM. The property is located in South Windham, between Route 202 and Gambo Road, identified on Tax Map 5; Lot 1-1.

One member of the public submitted written comment with concern about expanding the RM zone as the Comp Plan supports maintaining the rural nature of the community.

Following discussion of the proposed changes, the Board made the following motion:

To recommend approval of the proposed zoning map amendment to rezone a portion of the property identified as Tax Map 5; Lot 1-1, from FR to RM.

Motion: Kaitlyn Tuttle
2nd: Colin Swan

Vote: 3-1 (Drew Mayo opposed)

Based on discussion at the meeting, the Board supported the additional residential development at this location considering the surrounding area was already densely developed and that it was appropriate for the zoning to follow the property lines. The dissenting vote was due to concerns that rather than the rezoning of one parcel, consideration should be given to the larger area and making sure that the overall zoning was consistent with implementation of the recently adopted Comprehensive Plan.

Town of Windham

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Windham, ME 04062


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MEMO

DATE: December 6, 2019

TO: Windham Planning Board

FROM: Amanda Lessard, Planning Director 

Cc: Jennifer Curtis, Planner
Chris Hanson, Director of Code Enforcement
Dustin Roma, P.E., DM Roma Consulting Engineers

RE: Zone Change Application – Junco Drive, Tax Map 5 Lot 1-1
Planning Board Meeting & Public Hearing – December 9, 2019

A public hearing is scheduled for the Planning Board meeting on December 9, 2019, for the attached zoning amendment request to rezone a portion of a 5.98 acre property on Junco Drive, identified on Tax Map 5; Lot 1-1. The property is located off River Road in South Windham, between Route 202 and Gambo Road. The request is to change the zoning for a portion of the property from Farm Residential (FR) to Medium-Density Residential (RM). Currently the front 300 feet of the parcel is zoned RM and the rear of the parcel is zoned FR.

The Planning Board approved a 4 unit/2 duplex condominium development on the RM portion of this property on September 24, 2018. The development is currently under construction. The purpose of the zone change request is to allow for the continuation of the development with same type of housing on the property. New Two-Family and Multifamily Dwellings are not a permitted use in the FR zone, while they are permitted in the RM zone at a net residential density of 15,000 square feet per dwelling unit. The property as currently zoned would allow for an additional 4 single family dwellings. If the full parcel were zoned RM, an additional 11 dwelling units, or 5 duplexes could be permitted. Please note that the current application is for the rezoning of property only. The development that the applicant is proposing would also require subdivision approval.

This is the third time this property has requested a zone change. In 2005 there was a request to change the zoning of this property from Industrial (I) to Medium-Density Residential (RM). The Town Council ultimately approved a zoning map amendment to the existing Farm Residential (FR) zone. In 2017 this same applicant requested to change the zoning of this property from Farm Residential (FR) to Medium-Density Residential (RM). The Planning Board recommend the zone change in a 3-1 vote, but the Town Council ultimately voted down the request 2-4 on January 30, 2018. The Council reconsidered their vote at a meeting on March 27, 2018 but the motion failed with a tie vote 3-3 with one Councilor absent. The previous application meeting minutes are included in the packet.

There are no specific standards in the Town ordinance by which to judge the proposed zoning change, but State statute requires all proposed zoning changes and zoning map amendments to be consistent with the goals and objectives of the Comprehensive Plan.

After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council similar to the following:

MOTION: To (**recommend/recommend with comments/not recommend**) approval of the proposed zoning map amendment to rezone a portion of the property identified as Tax Map 5; Lot 1-1, from FR to RM.

No report.

4. Highland Lake Leadership Team.

Tony Plante: He reported that subcommittees have been meeting, and there was a team meeting last week, and the committees are doing their work. They are going to have a link on the town's website, the Highland Lake Association has put together a page with resources regarding the activity of the team for the benefit of the whole team and the community.

5. Shared Maintenance Facility Joint Project Team.

Tony Plante said they had a meeting last Thursday. Previously they had issued an invitation to submit statements of qualifications for Design Build Teams back in December. Those statements of qualifications were due back January 10. Their Design Team evaluated those and forwarded their recommendations. Those were sent out to the team a couple weeks ago, and he let everybody know there was going to be a meeting last Thursday. They had five submissions, and of those five the Project Team agreed, with the recommendation of the Design Team, to invite four of the five to submit proposals. They are still working on the technical RFP that will be issued the middle of next month for those Design Build Teams to submit technical proposals with their prices. They will be conducting interviews on what they get back.

6. Windham Economic Development Corporation

Tony Plante said there was no further report other than there was a Board meeting a few weeks ago.

7. Wastewater Management Planning Advisory Committee.

Tony Plante said they are beginning the hydrogeological work on the Lippman site as well as continuing work on tasks 3 & 4. They did get a report from Wright-Pierce on work they have done so far on Task 3. Task 4, once they get beyond alternative's evaluation, it actually gets into implementation strategies.

IX. PUBLIC HEARINGS.

X. CONSENT AGENDA.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[18-005](#)

To approve a proposed zone change request from Bryan Mills to amend the official Town of Windham zoning map, to rezone a portion of a property on River Road identified on Tax Map 5, Lot 1-1, from Farm Residential (FR) to Medium-Density Residential (RM).

Attachments: [Cover Sheet 18-005](#)

[PB recommendation to TC River Road FR-RM 11-17-17](#)

[Zone Change Application - TM 5 L1-1 - 2017_10_10](#)

Tony Plante said this was postponed a couple meetings ago, it was rescheduled and the

public hearing was already held at the previous meeting. This is to rezone a portion of a property on River Road just north of the intersection of Route 202.

Jason Haskell & Bryan Mills were there to answer questions.

Councilor Haskell asked what was the benefit to the developer and the benefit to the town for rezoning? Jason Haskell said the benefit of Mr. Mills is he will potentially be looking at either condos or multi-family developments and the Farm Residential zone does not allow for those but the Medium Residential out front does. He said if anything was to happen out there the multi-family would be closer to the River Road. That is the only location they can go in, and it would be closer to the water main. You really want to set back away from the busier River Road.

Councilor Haskell asked if this meant he could put more units on that parcel of land with changing that to Medium-Residential? Jason Haskell said that was correct. Councilor Haskell asked just how many units they were planning to build because he is looking at what it costs to educate our kids, and right now it is between \$8,000 to \$11,000 per student.

Jason said anything they put through would go through the Planning Board and they would look at the traffic impact to the community, etc.

A motion was made by Councilor Nangle, seconded by Councilor Cummings, that the Order be failed. The motion failed by the following vote:

In Favor: 2 - Councilor Nangle and Council Chair Chapman

Opposed: 4 - Vice Chair Muir, Councilor Maxfield, Councilor Haskell and Councilor Cummings

Absent: 1 - Councilor Welch

[17-195](#)

To vacate a portion of a proposed, unaccepted way between parcels identified as Map 31, Lot 50 and Map 31, Lot 69, as shown on the plan of Highland Lake Beaches, recorded in 1929 at the Cumberland County Registry of Deeds at Book 19, Page 23.

Attachments: [Cover Sheet 17-195](#)

[Waterbury Paper Street Plan](#)

[Waterbury Paper Street Deed Description](#)

[Tax Map 31](#)

[Unaccepted Ways - Paper Streets 1997](#)

Tony Plante said they had a request a few months ago from Nate Waterbury who owns a lot on Cottage Road and he and his wife own an adjacent lot what is, in effect, a paper street. This is at the end of what was listed as Brook Road. It was preventing him from putting a deck on the back of his house. He came to the town with a request to consider vacating that portion of the paper street.

The town has done similar things before, and last September staff came to the Council with an Order to extend the "Town to vacate paper streets" by another 20 years where the town has not undertaken a systematic review of all of the paper streets.

Rather than hold up Mr. Waterbury, he's done the work with the survey and with the legal description, and Tony told him his request would be brought to the Council. They verified

for a two-year term ending February 15, 2020. He thanked them for volunteering.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Haskell said they had a meeting last meeting but he was unable to attend.

2. Parks & Recreation Advisory Committee.

[CD 18-110](#) Parks & Recreation Advisory Committee Minutes.

Attachments: [PRACminutesmarch122018](#)

Councilor Cummings said they will be meeting with the Community Park design firm to go over some information the week following Easter.

She said that Dundee park will be opening up Memorial Day weekend.

3. Public Easement Advisory Committee.

No report.

4. Highland Lake Leadership Team.

Tony Plante said they are meeting on the 12th .

5. Shared Maintenance Facility Joint Project Team.

Tony gave an update in his Manager's report.

6. Windham Economic Development Corporation.

Tony Plante said they have a board meeting on April 4.

IX. PUBLIC HEARINGS.

X. CONSENT AGENDA.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[18-005](#)

To approve a proposed zone change request from Bryan Mills to amend the official Town of Windham zoning map, to rezone a portion of a property on River Road identified on Tax Map 5, Lot 1-1, from Farm Residential (FR) to Medium-Density Residential (RM).

Attachments: [Cover Sheet 18-005](#)

[PB recommendation to TC River Road FR-RM 11-17-17](#)

[Zone Change Application - TM 5 L1-1 - 2017 10 10](#)

Tony Plante said this Order had been the subject of a Council public hearing and vote back on January 9th. It was considered at the meeting of February 13 and postponed to March 13 and then we had weather issues and was postponed to March 20. He said he corresponded with Mr. Roma and it was added to tonight's agenda.

This is to rezone a portion of a property that Mr. Mills owns on River Road, not far from the intersection of River Road and Route 202.

Mr. Mills and Dustin Roma came to the table and Dustin Roma said he appreciated having them back; they know how busy they are this time of year. He said they did have a meeting after the decision with staff to try and come up with a way to develop this property effectively using the current underlying zoning, and it was very confusing. They were not able to get any specific direction as to how they would develop the property under two zoning districts. He wanted to make it clear that they have a portion of this property in the zone that they are requesting to change it to. They just want to be able to move something forward.

Councilor Chapman asked Dustin if he had any idea what they are considering out on the property? Dustin said the ordinance allows them to move the zone line 50 feet, they could go to the ZBA and request it to be moved even further, but their thought was to just come to the Council and get the whole property rezoned.

He said what they can do today by moving the line 50 feet over is build multifamily out front, and under the current zoning they are looking at about 7 dwellings and another 4 single family homes out back.

If the whole thing is zoned to RM they are only talking about 15 or 16 as a total number, it is not a drastic change, and it allows them to take the units off River Road and put them further back in the field area. Multifamily units generally do not have a lot of children in the them, verses single family homes.

Councilor Chapman asked how many acres in that zone do you need to change out of the entire acreage? Dustin said the whole parcel is 6 acres, and now they have about 2 acres out front that is RM and the 4 acres out back is FR. If they move the line 50 feet, it makes it 3 acres a piece, and rather than having it split, they would like all 6 acres in the RM.

Councilor Chapman asked if they had ever considered age 55 and up housing? Maine State Housing has grants to help with those costs, and we do not have a lot of those in Windham. Dustin said they have to get to multifamily use to even do that.

Councilor Maxfield said he was the one who asked for this to come back to the Council because he didn't realize his property is dissected by the two zones. He said he would rather change his vote and give him more mobility to do a bit more, if that will put the buildings back off the road.

Councilor Chapman asked if the snowmobile trail would be allowed to stay there? Dustin said he did not see it being impacted by what they are proposing.

Councilor Welch said at the workshop there was two things he was concerned about, 1) was it spot zoning and Ben said it was not and 2) does it follow the Comp Plan and it does.

Councilor Haskell said he would still be voting against it.

A motion was made by Councilor Welch, seconded by Councilor Maxfield, that the Order be failed. The motion failed by the following vote:

In Favor: 3 - Councilor Welch, Councilor Maxfield and Council Chair Chapman

Opposed: 3 - Vice Chair Muir, Councilor Haskell and Councilor Cummings

Absent: 1 - Councilor Nangle

[18-010](#)

To approve applications for watershed protection grants, such funding to be paid from fiscal year 2017-2018 watershed protection funds in account 11500-46930.

Attachments: [Cover Sheet 18-010](#)

Tony Plante read the list of watershed grant awards: Collins Pond Improvement Association for \$1,000, Forest Lake Association for \$6,000, Highland Lake Association for \$10,000, Little Sebago Lake Association for \$6,000 and Presumptscot Regional Land Trust for \$2,000.

A motion was made by Councilor Welch, seconded by Councilor Cummings, that the Order be approved. The motion carried by the following vote:

In Favor: 6 - Councilor Welch, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

Absent: 1 - Councilor Nangle

[18-045](#)

To approve lists of election clerks submitted by the Democratic and Republican Town Committees who will serve a term of two years.

Attachments: [Cover Sheet 18-045](#)

[Approved Democrats & Republican Elec Workers](#)

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the Order be approved. The motion carried by the following vote:

In Favor: 6 - Councilor Welch, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

Absent: 1 - Councilor Nangle

[18-050](#)

To approve two (2) applications of the Standish Memorial Post 128, American Legion, for licenses to conduct Bingo and Games of Chance (Pull Tabs) at the Windham Veteran's Center from May 1, 2018 through October 31, 2018.

Attachments: [Cover Sheet 18-050](#)

[Standish Memorial Post-Games of Chance](#)



October 25, 2019

Amanda Lessard, Planning Director
Town of Windham
8 School Road
Windham, ME 04062

**Re: Application for Zone Change
Tax Map 5, Lot 1-1**

Dear Amanda:

On behalf of RMills, LLC, we have prepared the enclosed application, maps and supporting documents to request a Zone Change for property identified on Tax Map 5 as Lot 1-1. This applicant had previously requested a zone change in 2017 for this property and was denied by the Town Council in 2018 in a split vote.

The property is currently bisected by a zone line which designates a 300-foot deep portion of the property closest to River Road as Medium Density Residential Zone (RM Zone). The rear 440-foot deep portion of the parcel is designated as Farm Residential Zone (FR Zone). Our request is to rezone the rear portion of the property from FR Zone to RM Zone so that the entire 7.4-acre parcel is located in the RM Zone. This property is located on the fringe of the South Windham Growth Area as identified on the Future Land Use Map contained in Windham's 2017 Comprehensive Plan. As shown on the attached Zoning Map, the property is surrounded by a large mass of property that is zoned RM, so the zone change will not negatively impact the general character of the neighborhood.

The landowner is currently building Junco Drive and the four condominium units that were approved by the Planning Board (see attached plan). The intent is to continue the duplex unit scheme into the back land where the units will be further away from River Road and we can continue with the duplex unit arrangement. The current zoning would require the residential dwellings to be clustered close to River Road, which is not a desirable condition. The FR Zone does not allow for the construction of new 2-family or multifamily dwellings.

The rezone would be consistent with the Town's Comprehensive Plan and would allow the property to be developed utilizing best practices. We look forward to discussing this further with the Planning Department and the Town Council. Upon your review of this information, please let us know if you have any questions or require any additional information.

Sincerely,

DM ROMA CONSULTING ENGINEERS

Dustin Roma

Dustin M. Roma, P.E.
President

TOWN OF WINDHAM

ZONE CHANGE APPLICATION

The original signed copy of this application must be accompanied by the required application fee, along with five (5) copies of any and all plans, maps, drawings, and any related information which shall be printed or reproduced on paper. Applications and application fee 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: RMILLS, LLC

Mailing Address: 13 VICTORIA LANE, WINDHAM, ME 04062

Telephone: 939 - 7472

Fax:

E-mail:

2. Record owner of property

X (Check here if same as applicant)

Name:

Mailing Address:

Telephone:

Fax:

E-mail:

Property Information

Property Address: JUNCO DRIVE

Assessor's Tax Map & Lot(s) #: Map: 5 Lot 1-1

Property size (square feet): 260,246 SF 6 ACRES

Current Zoning District:

Requested Zoning District:

RM & FR

RM

Current use of the property:

Requested use of the property:

2-FAMILY RESIDENTIAL

2-FAMILY RESIDENTIAL

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).

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

Dustin Roma

10-25-2019

Signature

Date

QUITCLAIM DEED
(Maine Statutory Short Form)

DLN: 1001840024463

KNOW ALL PERSONS BY THESE PRESENTS, that, **R. Bryan Mills** of Windham, Maine, for consideration paid, hereby GRANTS to **RMILLS, LLC**, with a mailing address of 13 Victoria Lane, Windham, ME 04062, with **QUITCLAIM COVENANT**, the land with any buildings thereon situated in Windham, County of Cumberland and State of Maine, described as follows:

See Attached Exhibit A

Meaning and intending to convey the same premises conveyed to **R. Bryan Mills** by virtue of a deed from Stephen C. Loura and Richard L. Plummer. dated July 12, 2017 and recorded in the Cumberland County Registry of Deeds in Book 34155, Page 270.

Witness my hand and seal this 6th day of April, 2018.

Witness

R. Bryan Mills
R. Bryan Mills

STATE OF MAINE
COUNTY OF CUMBERLAND

April 6, 2018

Then personally appeared before me the above- named **R. Bryan Mills** and acknowledged the foregoing instrument to be his free act and deed.

Before me;

Lisa Jones
Notary Public/ Attorney at Law

Printed Name:

My Comm. Exp:

LISA JONES
NOTARY PUBLIC
State of Maine
My Commission Expires
November 10, 2022

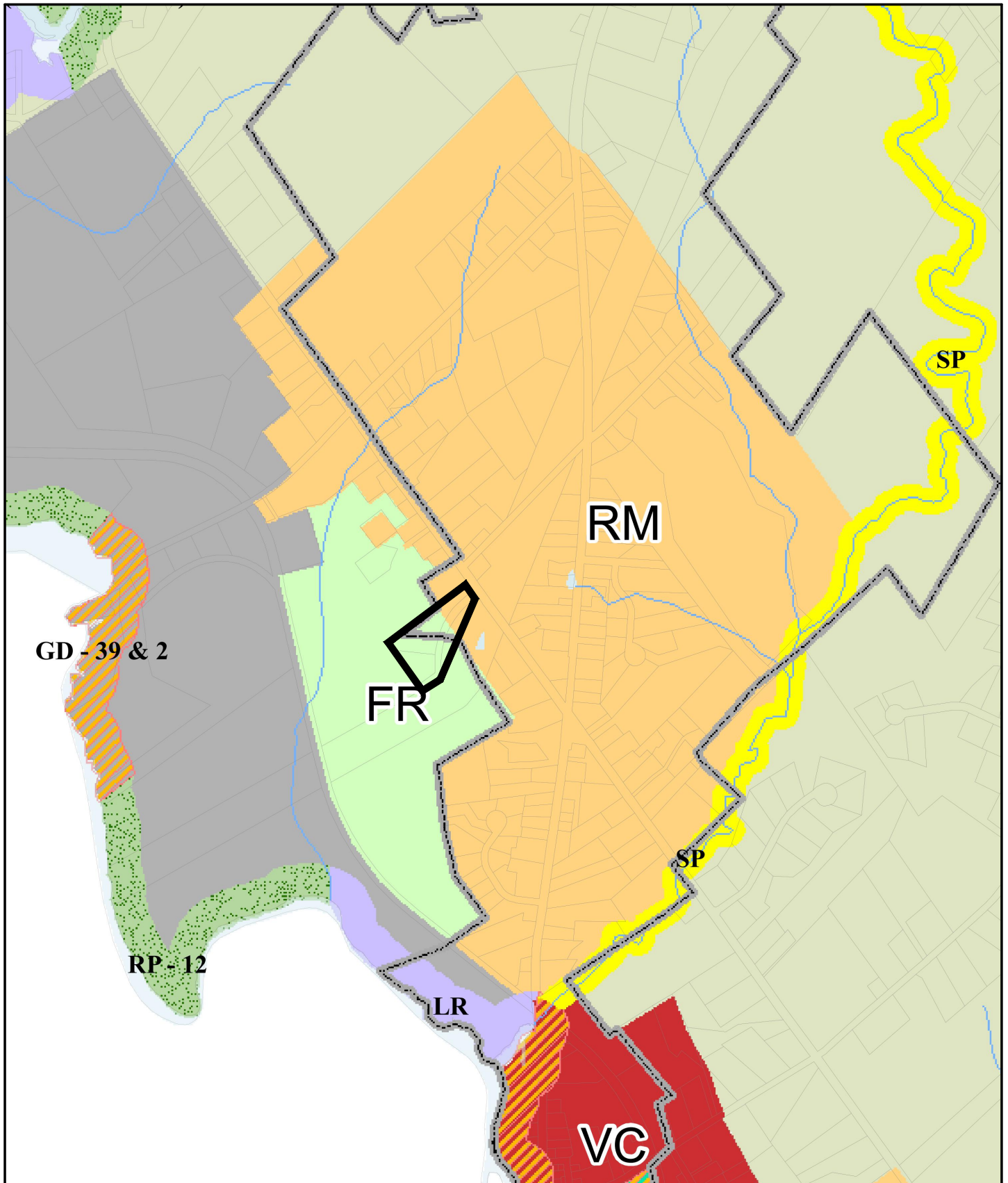
EXHIBIT A

A certain lot or parcel of land, situated in the Town of Windham, County of Cumberland and State of Maine, more particularly bounded and described as follows:

Beginning at a point located at the southeasterly corner of land recently conveyed to Jennifer Libby by deed dated January 21, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32039, Page 238, and thence traveling along River Road in a southerly direction for a distance of approximately one hundred fifty-nine and fifty-eight tenths (159.58) feet to a monument; Thence, S20°55'56"W a distance of six hundred fifty and eighteen hundredths (650.18) feet to an iron pipe or rod; Thence, S60°36'03"W a distance of one hundred eighty-two and two tenths (182.20) feet to an iron pipe or rod; Thence, N36°07'33"W a distance of four hundred seventy-four and forty-seven hundredths (474.47) to an iron pipe or rod along land now or formerly of Donald Toms as set forth in CCRD Book 13039, Page 271; Thence, N54°06'44"E a distance of two hundred forty-three (243) feet along land of said Toms to an iron pipe or rod; Thence, N58°21 '23"E a distance off one hundred ninety-six and six tenths (196.60) feet along land of said Toms to an iron pipe rod located at the southwesterly corner of land of said Libby; Thence, traveling along the southern border of said Libby N41°12'54"E a distance of two hundred ninety and sixty-four tenths (290.64) feet to the point of beginning.

Said property being the property which was known as the Alexander Estates Subdivision as set forth on the Minor Subdivision Plan of Alexander Estates Subdivision recorded at the CCRD in Plan Book 207, Page 341. See also Vacancy and Termination Order Minor Subdivision Plan Alexander Estates Subdivision recorded at CCRD in Book 32174, Page 235.

No Title Search was done in preparation of this deed



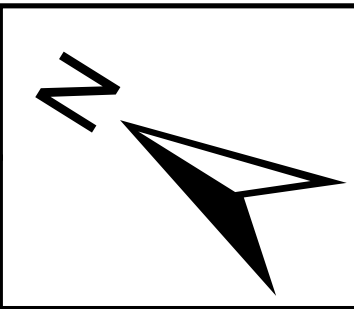
WINDHAM MUNICIPAL ZONING MAP

SCALE: 1"=1,000'
DATE: 10-9-2017
JOB NUMBER: 17057

DM ROMA

CONSULTING ENGINEERS

59 HARVEST HILL RD
WINDHAM, ME 04062
(207) 310 - 0506



THESE MAPS ARE FOR ASSESSMENT PURPOSES ONLY AND ARE NOT FOR CONVEYANCE.

These Tax Maps are based on original maps compiled by James W. Sewall Co.

TOWN OF WINDHAM CUMBERLAND COUNTY, MAINE 2016 PROPERTY MAPS

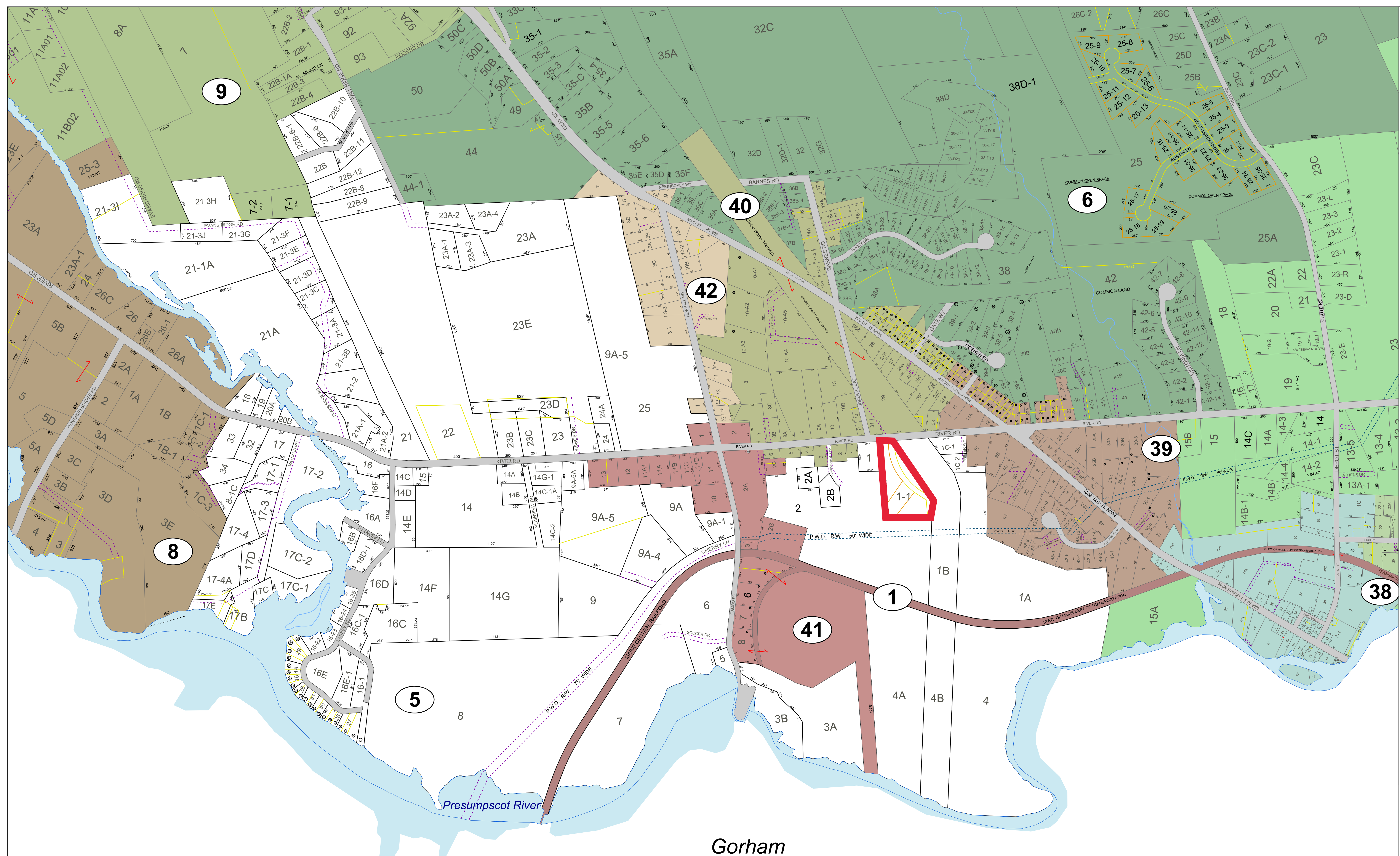
SOURCES:
Windham Tax Assessor's Office
Completion Date: April 1, 2016
UTM NAD83 Z19N
Prepared by: Windham GIS Dept.
Scale is based on printing at 24" x 36".

- Legend**
- Cemetery
 - Condominium
 - Farmstead
 - Hook
 - Old Property Lines
 - PWD ROW Easement
 - ROW Easement
 - Streams
 - Subdivision Number
 - Tie Line
 - Town Line
 - Utility
 - Vacated Subdivision
 - Subject Map

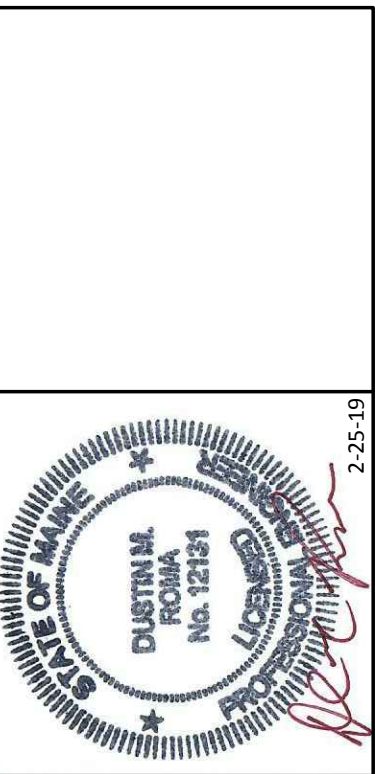
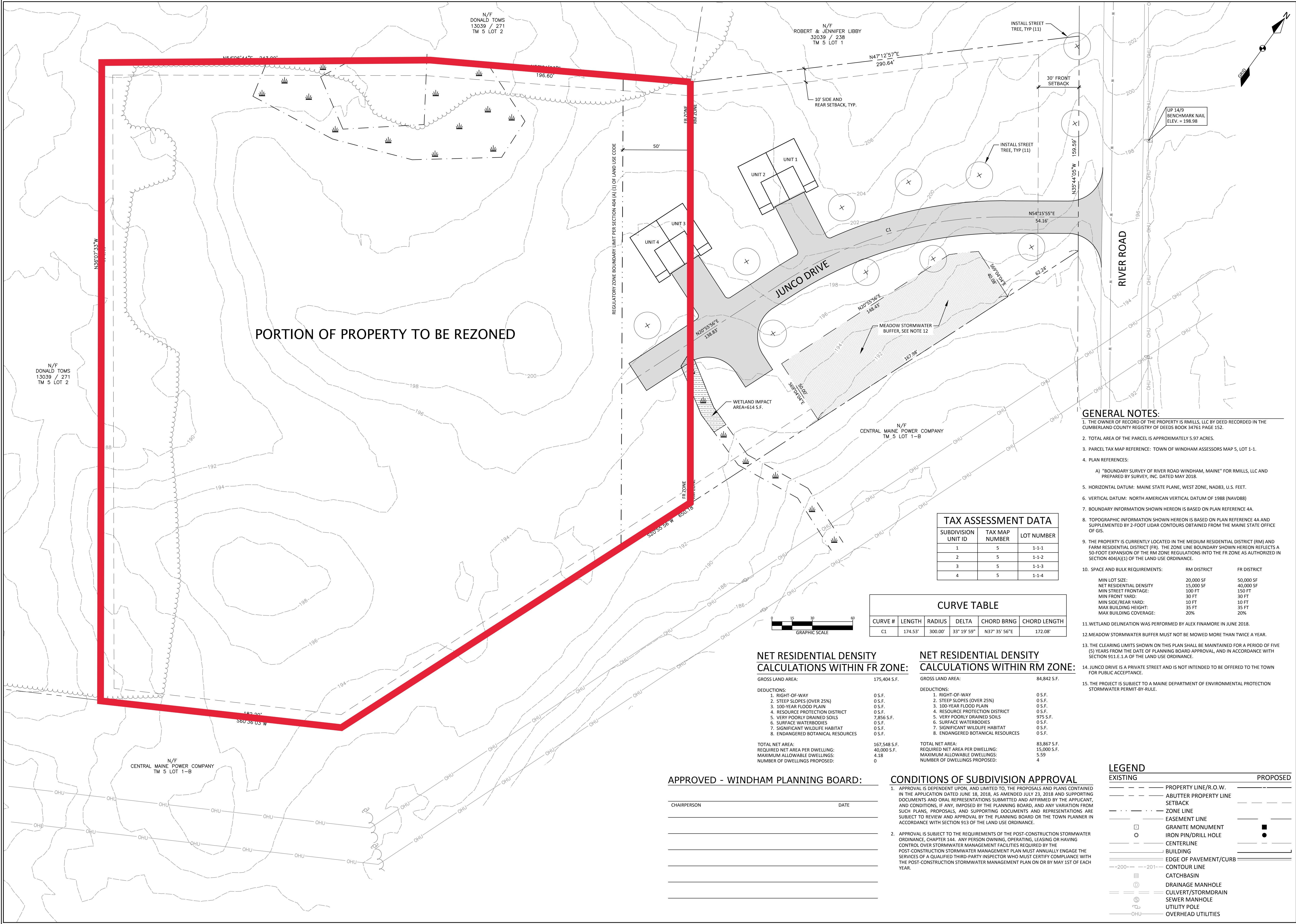
1 inch = 400 feet

0 500 1,000 2,000 Feet

Map 5



Gorham



DM ROMA
CONSULTING ENGINEERS
P.O. BOX 1116
WINDHAM, ME 04062
(207) 310-0506

REV	DATE	BY	DESCRIPTION
A	7-19-18	DMR	ISSUED FOR PWD REVIEW
B	7-23-18	DMR	ISSUED FOR TOWN REVIEW
C	9-4-18	DMR	REVISED WATER MAIN
D	11-14-18	DMR	ISSUED FOR PLANNING BOARD SIGNATURES
E	2-25-19	DMR	ADDED STREET TREES

SUBDIVISION PLAN
RIVER ROAD PROPERTY
WINDHAM, MAINE
FOR RECORD OWNER:
RMILLS, LLC
13 VICTORIA LANE
WINDHAM, ME 04062

17057
JOB NUMBER:
1" = 30'
SCALE:
2-25-2019
DATE:
SHEET 3 OF 7
SB-1