

# DM ROMA

CONSULTING ENGINEERS

October 19, 2020

Jennifer Curtis, Town Planner  
Town of Windham  
8 School Road  
Windham, ME 04062

**Re: Final Subdivision Plan Application  
Belvedere Commons Subdivision – Phase 2  
Robie Holdings, LLC. – Applicant/Owner**

Dear Jennifer:

Please find enclosed the following information regarding Final Subdivision Plan approval for Phase 2 of the Belvedere Commons Subdivision project:

1. Final plan set as approved by Maine Department of Environmental Protection (MDEP)
2. Letter from Maine Department of Inland Fisheries and Wildlife indicating there are no mapped Essential Wildlife Habitats that would be affected by the project
3. MDEP Site Location of Development Act Permit Approval Order
4. Draft easement benefiting Belvedere Commons Condominium providing access over Kettle Estates property for maintenance of stormwater facilities
5. Compact Disc with digital copies of application material and CAD files

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 M. Roma, P.E.  
President

**Final Plan - Major Subdivision**

**Project Name:** BELVEDERE COMMONS SUBDIVISION

**Tax Map:** 19 **Lot:** 8-2

**Number of lots/dwelling units:** 46 **Estimated road length:** 1,700 FT

**Is the total disturbance proposed > 1 acre?**  **Yes**  **No**

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**Contact Information**

1. Applicant

Name: ROBIE HOLDINGS, LLC

Mailing Address: PO BOX 1508, WINDHAM, ME 04062

Telephone: 892 - 0650 Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

2. Record owner of property

(Check here if same as applicant)

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

3. Contact Person/Agent (if completed and signed by applicant's agent, provide written documentation of authority to act on behalf of applicant)

Name: DUSTIN ROMA

Company Name: DM ROMA CONSULTING ENGINEERS

Mailing Address: PO BOX 1116, WINDHAM, ME 04062

Telephone: 310 - 0506 Fax: \_\_\_\_\_ E-mail: DUSTIN@DMROMA.COM

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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.



Signature

10-19-2020

Date

Applicant      Staff

**Final Plan - Major Subdivision: Submission Requirements****A. Mandatory Written Information**

|   |   |     |  |
|---|---|-----|--|
| 1 | A fully executed application form   | X   |  |
| 2 | Evidence that the escrow account balance is greater than 25% of the initial Preliminary Plan deposit                | X   |  |
| 3 | If public open space is to be provided, written offers of cession to the Town of Windham shall be provided          | N/A |  |
| 4 | If the subdivider reserves title to spaces within the subdivision, provide copies of agreements or other documents. | N/A |  |
| 5 | Copies of any outside agency approvals  | X   |  |
| 6 | Statement from the Maine Inland Fisheries & Wildlife that no significant wildlife habitat exists on the site        | X   |  |
| 7 | Digital transfer of subdivision plan data (GIS format)  | X   |  |

**B. Mandatory Plan Information**

|   |  |     |  |
|---|--|-----|--|
| 1 | All information presented on the Preliminary Plan, and any amendments suggested or required by the Board.                                  | X   |  |
| 2 | Map and lot numbers for all lots as assigned by the Town of Windham Assessing Department   | X   |  |
| 3 | Seal of the Maine Licensed Professional who prepared the plan  | X   |  |
| 4 | All public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by the subdivider | N/A |  |
| 5 | Location of all permanent monuments  | X   |  |

**Electronic Submission**

|   |  |
|---|--|
| X |  |
|---|--|



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF  
INLAND FISHERIES & WILDLIFE  
284 STATE STREET  
41 STATE HOUSE STATION  
AUGUSTA ME 04333-0041



JUDITH CAMUSO  
COMMISSIONER

February 13, 2020

Jayson Haskell  
DM Roma Consulting Engineers  
PO Box 1116  
Windham, ME 04062

**RE: Information Request - Kettle Estates and Belvedere Commons Project, Windham**

Dear Jayson:

Per your request received February 11, 2020, we have reviewed current Maine Department of Inland Fisheries and Wildlife (MDIFW) information for known locations of Endangered, Threatened, and Special Concern species; designated Essential and Significant Wildlife Habitats; and inland fisheries habitat concerns within the vicinity of the *Kettle Estates and Belvedere Commons Project* in Windham. Note that as project details are lacking, and due to the general nature and scale of the map that was provided, our comments are non-specific and should be considered preliminary.

Our Department has not mapped any Essential Habitats or inland fisheries habitats that would be directly affected by your project.

***Endangered, Threatened, and Special Concern Species***

**Bats**

Of the eight species of bats that occur in Maine, the three *Myotis* species are protected under Maine's Endangered Species Act (MESA) and are afforded special protection under 12 M.R.S §12801 - §12810. The three *Myotis* species include little brown bat (State Endangered), northern long-eared bat (State Endangered), and eastern small-footed bat (State Threatened). The five remaining bat species are listed as Special Concern: big brown bat, red bat, hoary bat, silver-haired bat, and tri-colored bat.

While a comprehensive statewide inventory for bats has not been completed, based on historical evidence it is likely that several of these species occur within the project area during migration and/or the breeding season. However, our Agency does not anticipate significant impacts to any of the bat species as a result of this project.

***Significant Wildlife Habitat***

**Significant Vernal Pools**

At this time MDIFW Significant Wildlife Habitat (SWH) maps indicate no known presence of SWHs subject to protection under the Natural Resources Protection Act (NRPA) within the project area, which include Waterfowl and Wading Bird Habitats, Seabird Nesting Islands, Shorebird Areas, and Significant

Vernal Pools. However, a comprehensive statewide inventory for Significant Vernal Pools has not been completed. Therefore, we recommend that surveys for vernal pools be conducted within the project boundary by qualified wetland scientists prior to final project design to determine whether there are Significant Vernal Pools present in the area. These surveys should extend up to 250 feet beyond the anticipated project footprint because of potential performance standard requirements for off-site Significant Vernal Pools, assuming such pools are located on land owned or controlled by the applicant. Once surveys are completed, survey forms should be submitted to our Agency for review well before the submission of any necessary permits. Our Department will need to review and verify any vernal pool data prior to final determination of significance.

This consultation review has been conducted specifically for known MDIFW jurisdictional features and should not be interpreted as a comprehensive review for the presence of other regulated features that may occur in this area. Prior to the start of any future site disturbance we recommend additional consultation with the municipality, and other state resource agencies including the Maine Natural Areas Program, Maine Department of Marine Resources, and Maine Department of Environmental Protection in order to avoid unintended protected resource disturbance.

Please feel free to contact my office if you have any questions regarding this information, or if I can be of any further assistance.

Best regards,



Becca Settele  
Wildlife Biologist

## EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS THAT **Kettle Estates, LLC**, a Maine limited liability company with a place of business in Windham, Maine (“**Grantor**”), in consideration of One Dollar (\$1.00) and other valuable consideration paid by **Belvedere Commons Condominium Association**, a Maine nonprofit corporation with a place of business in Windham, Maine (“**Grantee**”), the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said Grantee, its, successors and assigns forever, the following rights, easement or right of way:

### Section 1. Location and Description of Access Easement Rights.

- A. Easement Area. The easement granted herein passes over a private access way located near Dusty Rhoades Lane in the Town of Windham, Cumberland County, Maine, and are more particularly bounded and described on the attached **Exhibit A** (the “**Easement Area**”). The Easement Area is also shown on the plan excerpt attached hereto as **Exhibit B** (the “**Plan**”).
- B. Easement Granted. A non-exclusive, perpetual easement on and over the Easement Area for the purposes of ingress and egress to and from the Benefited Parcel, in connection with the installation, maintenance, repair and replacement of stormwater buffers, pipe outfalls and level spreaders and other stormwater infrastructure located on the Benefited Parcel (the “**Stormwater Improvements**”), by the Grantee, its, successors and assigns and its and their invitees and licensees, by means of pedestrian, vehicular, motorized or non-motorized traffic, and all other uses reasonably incidental to the above-described purposes (the “**Easement**”), including, but not limited to, clearing the Easement Area to facilitate passage. For sake of clarity, the intent of this Easement Deed is that the use of the Easement be limited to provide access to the Stormwater Improvements and not for general purposes of accessing the Benefited Parcel.
- C. Land Benefited by Easement. The rights and easements described herein are intended to benefit and serve a certain lot or parcel of land near Briarwood Lane and Belvedere Drive in the Town of Windham, Cumberland County, Maine, as further described in that certain Declaration of Condominium, Belvedere Commons Condominium, recorded in the Cumberland Country Registry of Deeds on July 14, 2020, in Book 36927, Page 101 (the “**Benefited Parcel**”).
- D. Land Burdened by Easement. The rights and easements described herein are intended to burden a certain lot or parcel of land near Varney Mill Road and Dusty Rhoades Lane in the Town of Windham, Cumberland County, Maine, as more particularly described in a Warranty Deed from Robie Holdings, LLC to the Grantor herein, recorded in the Cumberland Country Registry of Deeds on July 10, 2019 in Book 35788, Page 90 and shown on the Plan (the “**Burdened Parcel**”).

Section 2. Indemnification. The owner or owners of the Benefited Parcel shall defend, with counsel reasonably acceptable to the owner of the Burdened Parcel, and indemnify the owner or owners of the Burdened Parcel, against any actions, claims, demands or damages arising from or

relating to the use of the Easement by the owner or owners of the Benefited Parcel or its or their invitees, licensees and guests.

Section 3. Miscellaneous. The easements rights and obligations described herein shall run with the land and be binding upon the parties' respective heirs, personal representatives, successors and assigns. This Easement Deed may be amended or terminated by the written agreement of the owners of the Burdened Parcel and the Benefited Parcel and any such amendment or termination shall be effective upon recording the same in the Cumberland County Registry of Deeds. This Easement Deed shall be interpreted and enforced in accordance with laws of the State of Maine.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed this \_\_\_\_ day of the month of \_\_\_\_\_, 2019.

Signed, Sealed and Delivered  
in the presence of:

**Kettle Estates, LLC**

\_\_\_\_\_  
Witness

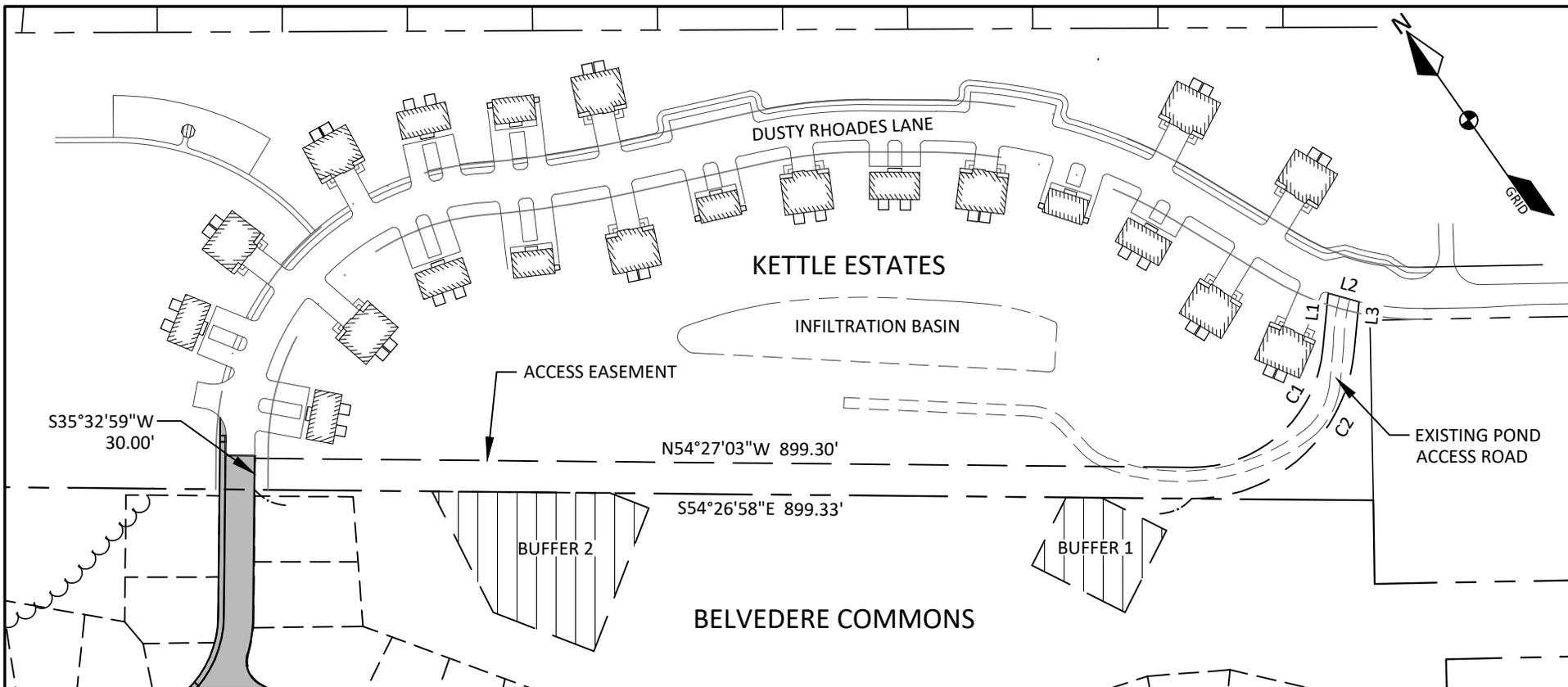
\_\_\_\_\_  
Jarod Robie, Sole Member

STATE OF MAINE \_\_\_\_\_, 2020  
COUNTY: \_\_\_\_\_, ss.

Then personally appeared the above-named Jarod Robie, Sole Member of Kettle Estates, LLC, and acknowledged the foregoing instrument to be his free act and deed in his stated capacity.

Before me,

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



**CURVE TABLE**

| CURVE # | LENGTH  | RADIUS  | DELTA       | CHORD BRNG    | CHORD LENGTH |
|---------|---------|---------|-------------|---------------|--------------|
| C1      | 185.40' | 125.00' | 84° 58' 48" | S83° 03' 33"W | 168.87'      |
| C2      | 229.86' | 155.00' | 84° 57' 58" | N83° 03' 08"E | 209.37'      |

**LINE TABLE**

| LINE # | LENGTH | BEARING       |
|--------|--------|---------------|
| L1     | 54.32' | S40° 34' 09"W |
| L2     | 30.50' | S39° 00' 18"E |
| L3     | 48.83' | N40° 34' 09"E |

**EXHIBIT B**

BELVEDERE COMMONS & KETTLE ESTATES  
WINDHAM, MAINE

FOR:  
ROBIE HOLDINGS, LLC  
P.O. BOX 1508  
WINDHAM, MAINE 04062

SCALE: 1"=150'  
DATE: 9-24-2020  
JOB NUMBER: 18067



CONSULTING ENGINEERS

P.O. BOX 1116  
WINDHAM, ME 04062  
(207) 310 - 0506

NOTES:



DEPARTMENT ORDER

IN THE MATTER OF

ROBIE HOLDINGS, LLC ) SITE LOCATION OF DEVELOPMENT ACT  
Windham, Cumberland County )  
BELVEDERE COMMONS )  
L-27647-87-B-N (approval) ) FINDINGS OF FACT AND ORDER

Pursuant to the provisions of 38 M.R.S. §§ 481–489-E and Chapters 375 and 500 of Department rules, the Department of Environmental Protection has considered the application of ROBIE HOLDINGS, LLC with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: In Board Order #L-02284-80-A-X, dated September 24, 1975, the Department approved the development of a 17.5-acre gravel pit located on Varney Mill Road in the Town of Windham. On October 23, 2017, the applicant filed an application with the Department seeking to rescind Board Order #L-02284-80-A-X. In Department Order #L-02284-80-C-M, dated December 4, 2017, the Department found that the area of the gravel pit had been reclaimed in accordance with the previously approved reclamation plan and rescinded the Board Order.

Subsequently, the parcel was divided into two parcels, one consisting of approximately 15.5 acres and one of approximately 16.9 acres. In Department Order #L-27647-NJ-A-N, dated January 26, 2018, the Department approved the construction of a stormwater management system for Kettle Estates, a 42-unit apartment complex in 21 duplex buildings with an associated road, sidewalks, parking, utilities, community gazebo, community garden, and basketball court on the 15.46-acre lot. Subsequent to the issuance of Department Order #L-27647-NJ-A-N, the applicant acquired the abutting 16.9-acre parcel of land that formerly comprised the gravel pit site. On November 8, 2019 the Department accepted a Stormwater Permit-by-Rule (PBR# 69049) for the construction of 14 condominium units and 607 linear feet of roadway on this parcel.

B. Summary: The applicant proposes to construct Belvedere Commons, a development consisting of 44 single-family condominium units and one stand-alone duplex unit, with an associated road, sidewalks, utilities, and stormwater infrastructure. Belvedere Commons includes the roadway and units approved in PBR# 69049 discussed above. The project also includes a 430-foot extension of Dusty Rhoades Lane that connects the Belvedere Commons and Kettle Estates developments. The Department determined that this project constitutes a common scheme of development pursuant to Chapter 371, §1(C). The Belvedere Commons project is shown on a set of plans the first of which is titled “Belvedere Commons, Briarwood Lane & Dusty Rhoades Lane,

Windham, Maine,” prepared by DM Roma Consulting Engineers, and dated March 9, 2020, with a last revision date of October 2, 2020. The Kettle Estates project is shown on the set of plans approved in Department Order #L-27647-NJ-A-N. The project site is located on the west side of Varney Mill Road in the Town of Windham.

C. Current Use of Site: The project parcel currently contains the Kettle Estates development as described above. Units 1-14 and a portion of the Belvedere Commons access road that were included in Stormwater PBR# 69049 are under construction.

2. FINANCIAL CAPACITY:

The total cost of the project is estimated to be \$12,780,000. The Kettle Estates portion of the project has already been constructed, and the applicant estimates that remaining cost for completion of the Belvedere Commons portion of the project is \$7,415,000. Prior to the start of construction, the applicant must submit evidence that it has been granted a line of credit or a loan by a financial institution authorized to do business in this State or evidence of any other form of financial assurance consistent with Department Rules, Chapter 373, § 1, to the Bureau of Land Resources (BLR) for review and approval.

The Department finds that the applicant has demonstrated adequate financial capacity to comply with Department standards provided that prior to the start of construction the applicant submits financial capacity information as described above to the BLR for review and approval.

3. TECHNICAL ABILITY:

The applicant provided resume information for key persons involved with the project and a list of projects successfully constructed by the applicant. The applicant also retained the services of DM Roma Consulting Engineers, a professional engineering firm, to assist in the design and engineering of the project, Wayne T. Wood and Company to provide surveying services, Mainely Soils, LLC to assist with soil analysis services and septic system design, Mark Cenci Geologic, Inc., to provide a hydrogeologic assessment of the site, and Albert Frick Associates, Inc., to complete a soil survey.

The Department finds that the applicant has demonstrated adequate technical ability to comply with Department standards.

4. NOISE:

The Department finds that no regulated sources of noise have been identified.

5. SCENIC CHARACTER:

The project site is surrounded by existing residential developments, and based on the project’s location and design, the Department finds that the proposed project will not have an unreasonable adverse effect on the scenic character of the surrounding area.

6. WILDLIFE AND FISHERIES:

The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the proposed project. In its comments, MDIFW stated that it found no records of any Essential or Significant Wildlife Habitats, or other wildlife habitats of special concern associated with this site. No fisheries concerns were identified.

The Department finds that the applicant has made adequate provision for the protection of wildlife and fisheries.

7. HISTORIC SITES AND UNUSUAL NATURAL AREAS:

The Maine Historic Preservation Commission reviewed the proposed project and stated that it will have no effect upon any structure or site of historic, architectural, or archaeological significance as defined by the National Historic Preservation Act of 1966.

The Maine Natural Areas Program database does not contain any records documenting the existence of rare or unique botanical features on the project site and, as discussed in Finding 6, MDIFW did not identify any unusual wildlife habitats located on the project site.

The Department finds that the proposed development will not have an adverse effect on the preservation of any historic sites or unusual natural areas either on or near the development site.

8. BUFFER STRIPS:

The applicant proposes to treat stormwater runoff from the Belvedere Commons portion of the project with two no-disturbance forested treatment buffers as discussed further in Finding 10. The applicant is also proposing an informal wooded buffer ranging in width from 15 to 150 feet around the perimeter of the parcel to provide visual screening between the project and neighboring properties. Prior to the start of construction, the location of stormwater treatment buffers must be permanently marked on the ground and deed restrictions executed as discussed further in Finding 10.

The Department finds that the applicant has made adequate provision for buffer strips.

9. SOILS:

The applicant submitted a Class A High Intensity soil survey map and report based on the soils found at the project site. This report was prepared by a certified soils scientist and reviewed by staff from the Division of Environmental Assessment (DEA) of the Bureau of Water Quality (BWQ).

The Department finds that, based on this report(s) and Blasting Plan, and DEA's review, the soils on the project site present no limitations to the proposed project that cannot be overcome through standard engineering practices.

10. STORMWATER MANAGEMENT:

The proposed project includes a total of approximately 22.38 acres of developed area, of which 6.01 acres is impervious area. In Department Order #L-27647-NJ-A-N, dated January 26, 2018, the Department approved a stormwater management system for the Kettle Estates portion of the project that includes 11.46 acres of developed area and 2.88 acres of impervious area. This stormwater management system consists of catch basins, a subsurface drainage system, a riprap swale, an infiltration basin, and roof-drain filter strips. Pursuant to 38 M.R.S. §420-D(7)(I), this portion of the project is exempt from additional review.

The Belvedere Commons portion of the project includes approximately 10.92 acres of developed area, of which 3.12 acres is impervious area. It lies within the watershed of Stanley Hall Brook, a tributary to the Pleasant River. The applicant submitted a stormwater management plan based on the Basic, General, and Flooding Standards contained in Chapter 500 Stormwater Management rules (06-096 C.M.R. ch. 500, effective August 12, 2015). The proposed stormwater management system consists of catch basins, subsurface drainage systems, and two level lip spreaders followed by forested stormwater treatment buffers. In addition, each unit will be constructed with roof drip edge filters.

A. Basic Standards:

(1) Erosion and Sedimentation Control: The applicant submitted an Erosion and Sedimentation Control Plan (Section 14 of the application) that is based on the performance standards contained in Appendix A of Chapter 500 and the Best Management Practices outlined in the Maine Erosion and Sediment Control BMPs, which were developed by the Department. This plan and plan sheets containing erosion control details were reviewed by, and revised in response to the comments of, the Bureau of Land Resources (BLR).

Erosion control details will be included on the final construction plans and the erosion control narrative will be included in the project specifications to be provided to the construction contractor.

(2) Inspection and Maintenance: The applicant submitted a maintenance plan that addresses both short-term construction and long-term, post-construction maintenance requirements. The maintenance plan is based on the standards contained in Appendix B of Chapter 500. This plan was reviewed by, and revised in response to the comments of, BLR. Kettle Estates, LLC, the owner of the Kettle Estates portion of the project is responsible for the inspection and maintenance of all common facilities, including the stormwater management system for the Kettle Estates apartments. A homeowners'

association will be established that will be responsible for the maintenance of all common facilities, including the stormwater management system, for the Belvedere Commons portion of the project. The Declaration of Covenants and Restrictions for the association was reviewed and found to meet Department requirements. Prior to the formation of the homeowners' association, the applicant will be responsible for all such maintenance.

Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Maine Solid Waste Management Rules.

(3) Housekeeping: The proposed project will comply with the performance standards outlined in Appendix C of Chapter 500.

Based on BLR's review of the erosion and sedimentation control plan and the maintenance plan, the Department finds that the proposed project meets the Basic Standards contained in Chapter 500, § 4(B).

#### B. General Standards:

The applicant's stormwater management plan includes general treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This mitigation is being achieved by using Best Management Practices (BMPs) that will control runoff from 99% of the impervious area and 96% of the developed area for the Belvedere Commons portion of the project.

The forested, no disturbance stormwater buffers will be protected from alteration through the execution of a deed restriction. The applicant proposes to use the deed restriction language contained in Appendix G of Chapter 500 and submitted a draft deed restriction that meets Department standards.

Prior to the start of construction, the location of forested stormwater buffers must be permanently marked on the ground. The deed for the parcel must contain deed restrictions relative to the buffers and have attached to it a plot plan, drawn to scale, that specifies the location of the buffers on the parcel. The applicant shall execute and record all required deed restrictions, including the appropriate buffer deed restrictions, within 60 days of the date of this Order. The applicant shall submit a copy of the recorded deed restriction, including the plot plan, to the BLR within 60 days of its recording.

The stormwater management system proposed by the applicant was reviewed by, and revised in response to comments from, BLR. After a final review, BLR commented that the proposed stormwater management system is designed in accordance with the General Standards contained in Chapter 500, § 4(C) and recommended that the design engineer or other qualified engineer oversee the construction of the stormwater management system in accordance with the details and notes specified on the approved plans. Within 30 days of completion of the entire system or at least once per year, the applicant must submit a

log of inspection reports detailing the items inspected, photos taken, and the dates of each inspection to the BLR for review. Within six months of completion of the project, the applicant shall submit as-built drawings of the stormwater management system, including the stormwater BMPs, to the BLR.

Based on the stormwater system's design and BLR's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the General Standards contained in Chapter 500, § 4(C) provided that prior to the start of construction the location of forested stormwater buffers are permanently marked on the ground, that deed restrictions for the stormwater buffers are recorded as described above and a copy submitted to the BLR, and that within six months of completion of the project the applicant submits as-built drawings to the BLR.

C. Flooding Standard:

The applicant is proposing to utilize a stormwater management system based on estimates of pre- and post-development stormwater runoff flows obtained by using Hydrocad, a stormwater modeling software that utilizes the methodologies outlined in Technical Releases #55 and #20, U.S.D.A., Soil Conservation Service and detains stormwater from 24-hour storms of 2-, 10-, and 25-year frequency. The post-development peak flow from the site will not exceed the pre-development peak flow from the site.

BLR commented that the proposed system is designed in accordance with the Flooding Standard contained in Chapter 500, § 4(F).

Based on the system's design and BLR's review, the Department finds that the applicant has made adequate provision to ensure that the proposed project will meet the Flooding Standard contained in Chapter 500, § 4(F) for peak flow from the project site, and channel limits and runoff areas.

11. GROUNDWATER:

The development is located over a mapped sand and gravel aquifer, and, in part, over a mapped significant sand and gravel aquifer as confirmed by a DEA geologist. The proposed project does not propose any withdrawal from groundwater. The project will discharge wastewater to multiple common subsurface wastewater disposal systems. The applicant submitted a nitrate-impact assessment indicating that use of the proposed wastewater disposal systems will not result in groundwater beyond the boundary of the development exceeding the drinking water standard for nitrate-nitrogen. This assessment was reviewed by and revised in response to comments from DEA. DEA stated that the discharge to the aquifer will not result in an unreasonable adverse impact on groundwater quality as defined in the statute and rules provided that the final design plans for Belvedere Commons Units 19-44 are submitted for review and approval as discussed further in Finding 13, and that the wastewater disposal systems are used and maintained in a manner consistent with their design, the subsurface wastewater disposal rules, and 38 M.R.S. §413.

The Department finds that the proposed project will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur provided that the applicant submits final wastewater designs for review and approval as described above. Therefore, the Department further finds that the proposed project will not have an unreasonable adverse effect on ground water quality.

12. WATER SUPPLY:

When completed, the proposed development is anticipated to use a total of 21,240 gallons of water per day (gpd). The existing Kettle Estates portion of the project uses 9,540 gpd and is supplied by the Portland Water District (PWD). The Belvedere Commons portion of the project is anticipated to use 11,700 gpd and will also be supplied by the PWD. The applicant submitted a letter from the PWD, dated November 5, 2019, indicating that it will be capable of servicing the Belvedere Commons project. The letter specifies that the water service for the two portions of the project are not permitted to connect with each other.

The Department finds that the applicant has made adequate provision for securing and maintaining a sufficient and healthful water supply provided that water service for the Kettle Estates portion of the project and the Belvedere Commons portion of the project do not connect.

13. WASTEWATER DISPOSAL:

Wastewater will be disposed of by 22 common subsurface wastewater disposal systems, each of which serve several residential units. The applicant submitted the soil survey map and report as discussed in Finding 9 and an analysis of potential impacts to off-site groundwater quality resulting from on-site wastewater disposal prepared by a certified geologist as described in Finding 11. This information was reviewed by, and revised in response to comments from, DEA.

Each system must be designed to meet the requirements of the Maine State Plumbing Code. The applicant submitted Maine Department of Health and Human Services, Division of Health Engineering, Subsurface Wastewater Disposal System Application (HHE-200) forms for all proposed subsurface wastewater disposal systems; however, the HHE-200 forms for the systems serving Units 19-44 of the Belvedere Commons are marked preliminary. Prior to any construction activities other than clearing and site grading for Belvedere Commons Units 19-44, the applicant must submit final wastewater design plans and HHE-200 forms to the BLR for review and approval.

Based on DEA's comments, the Department finds that the proposed wastewater disposal systems will be built on suitable soil types and that Maine's Drinking Water Standard for nitrates will be met at the project's property lines provided that final HHE-200 forms and wastewater design plans are submitted for review and approval prior to construction of Units 19-44 of the Belvedere Commons.

14. SOLID WASTE:

When completed, the proposed project is anticipated to generate 900 cubic yards of municipal solid waste (MSW) per year. MSW and recyclables will be picked up curbside by Pine Tree Waste and transported to the Westbrook Pine Tree Waste transfer station. Single sort recycling will be transported to the Casella Recycling facility in Lewiston, and the MSW will be transported to either PERC, a waste-to-energy facility in Orrington or to the Juniper Ridge Landfill in Old Town. These methods of disposal are in compliance with the Maine Solid Waste Management Rules.

All stumps and grubblings generated will be ground on site using a portable grinder. The ground material will be incorporated into erosion control mix for use on the site or will be removed to a facility licensed to accept the material after 30 days. This method of disposal is in compliance with the Maine Solid Waste Management Rules.

The proposed project will generate approximately 15 cubic yards of construction debris for each building constructed. No demolition debris is expected. All construction debris generated will be transported to the Pine Tree Waste transfer station in Westbrook and disposed of at the same locations as the MSW as described above. This method of disposal is in compliance with the Maine Solid Waste Management Rules.

Based on the above information, the Department finds that the applicant has made adequate provision for solid waste disposal.

15. FLOODING:

The proposed project is not located within the 100-year flood plain of any river or stream.

The Department finds that the proposed project is unlikely to cause or increase flooding or cause an unreasonable flood hazard to any structure.

16. ALL OTHER:

All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-27647-NJ-A-N, and subsequent Orders.

BASED on the above findings of fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 481–489-E:

- A. The applicant has provided adequate evidence of financial capacity and technical ability to develop the project in a manner consistent with state environmental standards provided that prior to the start of construction final financial information is submitted to the BLR for review and approval as outlined in Finding 2.
- B. The applicant has made adequate provision for fitting the development harmoniously into the existing natural environment and the development will not adversely affect existing

uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities.

- C. The proposed development will be built on soil types which are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment nor inhibit the natural transfer of soil.
- D. The proposed development meets the standards for storm water management in 38 M.R.S. § 420-D and the standard for erosion and sedimentation control in 38 M.R.S. § 420-C provided that storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities are disposed of in compliance with the Maine Solid Waste Management Rules, that the applicant performs construction inspections of the stormwater management system, that prior to the start of construction, the location of stormwater treatment buffers are permanently marked on the ground, that deed restrictions relative to stormwater treatment buffers are recorded and submitted to BLR, and as-built drawings are submitted, all as described in Finding 10.
- E. The proposed development will not pose an unreasonable risk that a discharge to a significant groundwater aquifer will occur provided that prior to any construction activities other than clearing and site grading for Units 19-44 of Belvedere Commons, the applicant submits final wastewater design plans and HHE-200 forms to the BLR for review and approval.
- F. The applicant has made adequate provision of utilities, including water supplies, sewerage facilities and solid waste disposal required for the development, and the development will not have an unreasonable adverse effect on the existing or proposed utilities in the municipality or area served by those services provided that prior to any construction activities other than clearing and site grading for Units 19-44 of Belvedere Commons, the applicant submits final wastewater design plans and HHE-200 forms to the BLR for review and approval.
- G. The activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to any structure.

THEREFORE, the Department APPROVES the application of ROBIE HOLDINGS, LLC to construct a residential development as described in Finding 1, SUBJECT TO THE FOLLOWING CONDITIONS and all applicable standards and regulations:

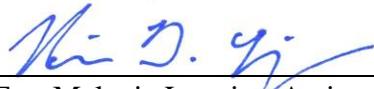
1. The Standard Conditions of Approval, a copy attached.
2. In addition to any specific erosion control measures described in this or previous orders, the applicant shall take all necessary actions to ensure that its activities or those of its agents do not result in noticeable erosion of soils or fugitive dust emissions on the site during the construction and operation of the project covered by this approval.

3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.
4. Prior to the start of construction, the applicant shall submit evidence of final financial commitment to the BLR for review and approval with a condition compliance application.
5. Prior to the start of construction, the location of forested stormwater treatment buffers shall be permanently marked on the ground.
6. The applicant shall execute and record all required deed restrictions, including the appropriate stormwater buffer deed restrictions, within 60 days of the date of this Order. The applicant shall submit a copy of the recorded deed restrictions, including the plot plan, to the BLR within 60 days of its recording.
7. Storm sewer grit and sediment materials removed from stormwater control structures during maintenance activities must be disposed of in compliance with the Maine Solid Waste Management Rules.
8. The applicant's design engineer or other qualified professional shall oversee the construction of the stormwater management system to ensure that the system is constructed in accordance with the details and notes specified on the approved plans. Within 30 days from completion of the entire system or at least once per year, the applicant must submit a log of inspection reports detailing the items inspected, photographs taken, and dates of each inspection to the BLR for review.
9. Within six months of completion, the applicant must submit as-built drawings of the stormwater management system, including the BMPs to the BLR.
10. Prior to any construction activities, other than clearing and site grading, for Units 19-44 of Belvedere Commons, the applicant shall submit final wastewater design plans and HHE-200 forms to the BLR for review and approval with a condition compliance application.
11. All other Findings of Fact, Conclusions and Conditions remain as approved in Department Order #L-27647-NJ-A-N, and subsequent Orders, and are incorporated herein.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 8<sup>TH</sup> DAY OF OCTOBER, 2020.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:   
For: Melanie Loyzim, Acting Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

JM/L27647BN/ATS#85881

**FILED**  
October 9, 2020  
State of Maine  
Board of Environmental Protection

**Department of Environmental Protection**  
**SITE LOCATION OF DEVELOPMENT (SITE)**  
**STANDARD CONDITIONS**

- A. Approval of Variations from Plans.** The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals, and supporting documents is subject to review and approval prior to implementation. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited without prior approval of the Board, and the applicant shall include deed restrictions to that effect.
- B. Compliance with All Applicable Laws.** The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- C. Compliance with All Terms and Conditions of Approval.** The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all preconstruction terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- D. Advertising.** Advertising relating to matters included in this application shall refer to this approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- E. Transfer of Development.** Unless otherwise provided in this approval, the applicant shall not sell, lease, assign or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval shall be granted only if the applicant or transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant.
- F. Time frame for approvals.** If the construction or operation of the activity is not begun within four years, this approval shall lapse and the applicant shall reapply to the Board for a new approval. The applicant may not begin construction or operation of the development until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- G. Approval Included in Contract Bids.** A copy of this approval must be included in or attached to all contract bid specifications for the development.
- H. Approval Shown to Contractors.** Work done by a contractor pursuant to this approval shall not begin before the contractor has been shown by the developer a copy of this approval.

## STORMWATER STANDARD CONDITIONS

### STRICT CONFORMANCE WITH THE STANDARD AND SPECIAL CONDITIONS OF THIS APPROVAL IS NECESSARY FOR THE PROJECT TO MEET THE STATUTORY CRITERIA FOR APPROVAL

**Standard conditions of approval.** Unless otherwise specifically stated in the approval, a department approval is subject to the following standard conditions pursuant to Chapter 500 Stormwater Management Law.

- (1) Approval of variations from plans. The granting of this approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the permittee. Any variation from these plans, proposals, and supporting documents must be reviewed and approved by the department prior to implementation. Any variation undertaken without approval of the department is in violation of 38 M.R.S. §420-D(8) and is subject to penalties under 38 M.R.S. §349.
- (2) Compliance with all terms and conditions of approval. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this approval. All preconstruction terms and conditions must be met before construction begins.
- (3) Advertising. Advertising relating to matters included in this application may not refer to this approval unless it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.
- (4) Transfer of project. Unless otherwise provided in this approval, the applicant may not sell, lease, assign, or otherwise transfer the project or any portion thereof without written approval by the department where the purpose or consequence of the transfer is to transfer any of the obligations of the developer as incorporated in this approval. Such approval may only be granted if the applicant or transferee demonstrates to the department that the transferee agrees to comply with conditions of this approval and the proposals and plans contained in the application and supporting documents submitted by the applicant. Approval of a transfer of the permit must be applied for no later than two weeks after any transfer of property subject to the license.
- (5) Time frame for approvals. If the construction or operation of the activity is not begun within four years, this approval shall lapse and the applicant shall reapply to the department for a new approval. The applicant may not begin construction or operation of the project until a new approval is granted. A reapplication for approval may include information submitted in the initial application by reference. This approval, if construction is begun within the four-year time frame, is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.
- (6) Certification. Contracts must specify that "all work is to comply with the conditions of the Stormwater Permit." Work done by a contractor or subcontractor pursuant to this approval may not begin before the contractor and any subcontractors have been shown a copy of this approval with the conditions by the permittee, and the permittee and each contractor and subcontractor has certified, on a form provided by the department, that the approval and conditions have been received and read, and that the work will be carried out in accordance with the approval and conditions. Completed certification forms must be forwarded to the department.

- (7) Maintenance. The components of the stormwater management system must be adequately maintained to ensure that the system operates as designed, and as approved by the Department. If maintenance responsibility is to be transferred from the permittee to another entity, a transfer request must be filed with the Department which includes the name and contact information for the person or entity responsible for this maintenance. The form must be signed by the responsible person or agent of the responsible entity.
- (8) Recertification requirement. Within three months of the expiration of each five-year interval from the date of issuance of the permit, the permittee shall certify the following to the department.
- (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
  - (b) All aspects of the stormwater control system are operating as approved, have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system, as necessary.
  - (c) The stormwater maintenance plan for the site is being implemented as approved by the Department, and the maintenance log is being maintained.
  - (d) All proprietary systems have been maintained according to the manufacturer's recommendations. Where required by the Department, the permittee shall execute a 5-year maintenance contract with a qualified professional for the coming 5-year interval. The maintenance contract must include provisions for routine inspections, cleaning and general maintenance.
  - (e) The Department may waive some or all of these recertification requirements on a case-by-case basis for permittees subject to the Department's Multi-Sector General Permit ("MSGP") and/or Maine Pollutant Discharge Elimination System ("MEPDES") programs where it is demonstrated that these programs are providing stormwater control that is at least as effective as required pursuant to this Chapter.
- (9) Transfer of property subject to the license. If any portion of the property subject to the license containing areas of flow or areas that are flooded are transferred to a new property owner, restrictive covenants protecting these areas must be included in any deeds or leases, and recorded at the appropriate county registry of deeds. Also, in all transfers of such areas and areas containing parts of the stormwater management system, deed restrictions must be included making the property transfer subject to all applicable terms and conditions of the permit. These terms and conditions must be incorporated by specific and prominent reference to the permit in the deed. All transfers must include in the restrictions the requirement that any subsequent transfer must specifically include the same restrictions unless their removal or modification is approved by the Department. These restrictions must be written to be enforceable by the Department, and must reference the permit number.
- (10) Severability. The invalidity or unenforceability of any provision, or part thereof, of this permit shall not affect the remainder of the provision or any other provisions. This permit shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.