



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Planning Board

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Monday, March 22, 2021

6:30 PM

Remote via Zoom

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To join the meeting remotely, use this link: <https://us02web.zoom.us/j/143936937>. You may also call 1-646-558-8656 and enter meeting ID: 143 936 937.

#### 1 Call To Order

1 Call To Order

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#### 2 Roll Call and Declaration of Quorum

*The meeting was called to order by Chair, Keith Elder. Other members present were: Michael Devoid, Kaitlyn Tuttle, Colin Swan, Marge Govoni, and Rick Yost.*

*Jennifer Curtis, Planner; and Amanda Lessard, Planning Director, were also present.*

#### 3 [PB 21-016](#) Approval of Minutes: March 8, 2021

**Attachments:** [Minutes 3-8-2021 - draft.pdf](#)

*Michael Devoid made a motion to approve the minutes from March 8, 2021.*

*Seconded by Kaitlyn Tuttle.*

*Roll Call*

*Michael Devoid- In favor    Colin Swan – In favor  
Keith Elder- In favor        Kaitlyn Tuttle - In favor  
Marge Govoni – In favor*

*Vote: All in favor.*

#### Continuing Business

- 4 [PB 20-093](#) 19-25 Quarry Ridge Business Park 5th Amended Subdivision. Copart of Connecticut Inc. to request an amendment to an approved subdivision to combine Lots 5, 6, 7 and a portion of 15 into one 50.2 acre lot. The subject property is located at 11 Bedrock Terrace and identified on Tax Map: 21 Lots: 15,

15-5, 15-6, 15-7 Zone: Enterprise Development (ED), Farm (F) and Resource Protection (RP).

**Attachments:** [19-25 Quarry Ridge 5th Amend 3-18-21.pdf](#)  
[14135 5th ASB-201218.pdf](#)  
[Copart of Connecticut LLC L18029QM.pdf](#)  
[Quarry Ridge Overall 2nd Amend Sub 06-2006](#)  
[14135 Waiver Request 2020-01-07.pdf](#)

*Craig Burgess, with Sebago Technics, was present representing the applicant. He explained the lots would be combined for construction of an on-line automobile auction company.*

*Jenn Curtis explained:*

- *This application was the fifth amendment to the subdivision and was for combination of the lots.*
- *The waiver which had been requested didn't apply because septic was reduced from what was previously approved, so the project was still in compliance.*

*Michael Devoid made a motion that the application for 19-25 Quarry Ridge Business Park Subdivision, 5th Amendment on Tax Map: 21; Lots 15 (portion), 15-5, 15-6, and 15-7 was to be approved with conditions with the following findings of fact and conclusions.*

#### **FINDINGS OF FACT**

##### **A. POLLUTION**

- *A portion of the lots impacted by this amendment are within the mapped 100 year floodplain. The floodplain boundary should be more clearly shown on the amended subdivision plan.*
- *No buildings are proposed within the floodplain.*
- *Note 14 of the proposed 4th amended subdivision plan dated November 4, 2019 notes that the wetland within the open space easement on the land retained by the owner is intended to provide nitrate uptake from future subsurface wastewater disposal systems located on individual lots within the Quarry Ridge Business Park. The easement area should be shown on the plan.*

##### **B. WATER**

- *The proposed Lot 5 will be served by public water and will not result in additional demand for water beyond the currently approved subdivision.*
- *An existing fire hydrant is located on Bedrock Terrace.*

##### **C. SOIL EROSION AND STORMWATER MANAGEMENT**

- *A soil erosion and sediment control plan must be submitted as part of the next submission.*
- *A stormwater management plan that meets the water quality and quantity standards as well as the flooding standard of Section 3 DEP Chapter 500 Stormwater Management must be submitted as part of the next submission.*
- *The Maine Department of Environmental Protection Site Location of Development Permit #L-18029-39-L-N dated November 16, 2005 as amended included the design of stormwater ponds and stormwater conveyance infrastructure for the entire Quarry Ridge Business Park development. Under the DEP Site Law permit each lot within the*

subdivision was given an allocation for allowable impervious surface based on 75% lot coverage. An amended permit must be submitted as part of the next submission.

- Freshwater wetlands have been identified on the plan. No wetland impacts are proposed as part of the amended subdivision application.
- Maine DEP issued an approval for the subdivision amendment, L-18029-39-Q-M, finding that the amendment is a minor change and will not significantly affect any issues identified during previous Department reviews of the project site, on February 25, 2021.

#### D. TRAFFIC

- The proposed lot reconfiguration will be served by frontage on the previously approved street, Bedrock Terrace. Bedrock Terrace has been designed and currently is mostly construction to the public street standard.
- At the Development Team meeting on October 9, 2018 Town Engineer Jon Earle, PE, asked how the proposed traffic generation compared with the assumptions from the prior approval and contributed towards the Enterprise Drive/Route 302 traffic signal warrant analysis.
- The Final Plan application includes a traffic analysis concluding that "The number of trips generated by the site is less than that permitted as part of the original approved Maine DOT Traffic Movement Permit for the Quarry Ridge business Park." Impact fees were also calculated and are contained in the findings for site plan project 19-26.

#### E. SEWERAGE

- The new Lot 15-5 will be served by an individual private subsurface wastewater disposal system.
- Test pit soil conditions were considered during the Quarry Ridge Business Park subdivision review. The Maine Department of Environmental Protection Site Location of Development Permit included the provision for up to a 1,000 gallon-per-day subsurface wastewater disposal system on each of the properties.

#### F. SOLID WASTE

- The proposed combination of three lots and addition of land to the lot should not have an impact on the Town's ability to collect and dispose of household waste.

#### G. AESTHETICS

- The existing Lots 5, 6, 7 and the 40.01 acre portion of the remainder of the original subdivision parcel (Lot 13 on the subdivision plan) are relatively flat and are an active quarry operation with multiple stockpiles on site.
- A portion of the property is identified as significant habitat for wading birds and waterfowl and identified as the Resource Protection District on the plan.
- Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan does meet the goals of the 2017 Comprehensive Plan. The property is located in the North Windham Growth Area.
- Land Use Ordinances:

- *The proposed Lot 15-5 meets the minimum lot size requirements and minimum lot frontage requirements of the ED zoning district. The remainder of Lot 13 continues of meet the minimum lot size and minimum lot frontage requirements of the ED zoning district.*
    - o *The existing Lots 5, 6, and 7 are zoned ED and the abutting portion of Lot 13 to be added to the proposed reconfigured lot is zoned Farm. Development proposed within the ED zone may also utilize Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.*
    - *Development on this lot must meet the maximum building coverage (50%) and maximum impervious area (75%) requirements of the ED zoning district. Combined lot area is 50.2 acres. The building will cover 7,200sf (<1%), and impervious surfaces will be 27.3 ac (~54.4%)*
    - *District Standards, Section 406.I. The project must meet the standards of the ED zoning district.*
      - o *In and ED District where a lot abuts a residential district boundary, a fifty (50) foot wide buffer strip shall be provided. Twenty (20) feet nearest the boundary shall be used and maintained as a landscaped buffer strip. The 50 ft buffer strip shown on the November 4, 2019 is located on the Farm side of the property line as permitted by Section 404.*
      - o *All parking lots shall maintain a 30 ft setback from all property lines.*
  - *Subdivision Ordinance*
  - *Section 911.A.c requires that parcels with more than twice the required minimum lot size shall require deed restriction or notes on the plan to either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulation and conditions placed on the original approval. The final amended plan should include language regarding Lot 13 similar to Note 13 on the 2006 2nd Amended Plan regarding the remaining land of RJGF, LLC.*
  - *A landscaping plan must be submitted with the next submission.*
  - *Standard notes and the standard condition of approval must be shown on the plans.*
  - *The Tax Map and Lot numbers provided by the Tax Assessor are shown on the Plan.*
  - *Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.*
  - *Others:*
  - *Chapter 199 Shoreland Zoning. A portion of the amended Lot 5 is located in the Resource Protection District, a 250 foot area surrounding a wetland complex identified as moderate or high value wading bird habitat by Maine DEP and the Maine Department of Inland Fisheries and Wildlife (IF&W).*
- I. *FINANCIAL AND TECHNICAL CAPACITY*
- *Evidence of financial capacity must be provided as part of the next submission.*
  - *Evidence of technical capacity must be provided as part of the next submission.*
- J. *RIVER, STREAM OR BROOK IMPACTS*
- *This project is located in the Pettingill Pond and Sebago Lake watersheds, both listed in DEP Chapter 502 as Lakes Most at Risk to New Development.*
  - *No river, stream or brook impacts are anticipated as a result of the proposed amendment.*

### CONCLUSIONS

1. *The proposed subdivision will not result in undue water or air pollution.*
2. *The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
3. *The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
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 subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
6. *The proposed subdivision will provide for adequate sewage waste disposal.*
7. *The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
8. *The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
9. *The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
10. *The developer has adequate financial and technical capacity to meet the standards of this section.*
11. *The proposed subdivision is situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. *The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
13. *The proposed subdivision is not situated entirely or partially within a floodplain.*
14. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will provide for adequate storm water management.*
17. *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, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.*
18. *The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.*
19. *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)*
20. *Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.*

### CONDITIONS OF APPROVAL

1. *Approval is dependent upon, and limited to, the proposals and plans contained in the application dated November 4, 2019, as revised December 18, 2020, and supporting*

documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor    Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor    Rick Yost – In favor

Vote: All in favor.

- 5        [PB 20-092](#)        19-26 Copart, Phase 2. Major site plan final plan review and Shoreland Zoning Permit. Copart of Connecticut, Inc. to request review of an Automobile Auction Facility consisting of a 7,200 square foot office/warehouse building with an approximate 25-acre gravel storage area. The subject properties are located on Bedrock Terrace and identified on Tax Map: 21, Lots: 15, 15-5, 15-6, 15-7 Zone: Enterprise Development (ED), Farm (F), and Resource Protection (RP).

- Attachments:** [19-26 Copart Phase 2 Final 1-7-20.pdf](#)  
[Copart\\_of\\_Connecticut\\_LL\\_C29113ANBNCN.pdf](#)  
[Plan sheets rev Jan 22 2021.pdf](#)  
[Craig Burgess RE Copart Final Site Plan and Quarry Ridge Subdivision Amendment.pdf](#)  
[Fuel Cube Data 2021-01-22.pdf](#)  
[M150-M180-M240-Owners-Manual.pdf](#)  
[MA response to CB 1-25-21.pdf](#)  
[Windham ME AST Visual Inspection Checklist.pdf](#)  
[Windham ME Spill Response FM-186 Manual 1.15.21.pdf](#)

Craig Burgess, from Sebago Technics, was present representing the applicant. He explained:

- A 7,200 square foot administration/garage building would be constructed.
- They proposed a large gravel yard with a paved apron which would be surrounded by a fence.
- The fuel cube had been moved behind the building, onto a concrete pad with bollards.
- The only lighting would be around the building.
- Utilities would be public water and underground power.
- The site would have a septic system.
- There would be a tow yard for vehicle drop-off.
- There would be significant pretreatment of stormwater, which would be infiltrated.
- A portion of the property was in the Resource Protection (RP) zone. DEP had approved this provided there was no tree clearing in the zone.
- Impact to vernal pool habitats had been minimized.
- The existing snowmobile trail would be relocated.

*Jenn Curtis explained conditions of approval:*

- *The project was required to pay the Route 302 North impact fee.*
- *Annual groundwater monitoring was required.*
- *Prior to construction the applicant must pay the phosphorous mitigation compensation fee.*

*The Board commented:*

- *Where did the damaged vehicles go when they first came in?*
- *It was surprising they could pay the fee for exceeding phosphorous.*
- *Why was tree cutting prohibited from June 1st to July 31st ?*
- *What was involved with construction oversight of the BMPs?*

*Michael Devoid made a motion that the final plan application for project 19-26 Copart Phase 2 was found complete in regard to the submission requirements based on the application checklist, but the Planning retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Marge Govoni.*

*Roll Call*

*Michael Devoid- In favor    Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor    Rick Yost – In favor*

*Vote: All in favor.*

*Michael Devoid made a motion that the Site Plan and Shoreland Zoning application for 19-26 Copart on Tax Map: 21, Lots 15, 15-5, 15-6, and 15-7 was to be approved with conditions with the following findings of fact and conclusions.*

**FINDINGS OF FACT**

*Utilization of the Site*

- *The three (3) subject parcels total approximately 10.43 acres and is currently undeveloped. The properties are Lots 5, 6, and 7 of the Quarry Ridge Business Park, a 12 lot commercial subdivision. The majority of the site is relatively flat and is an active quarry operation with multiple stockpiles on site. The parcels are encumbered by 30 foot wide drainage easements along the northerly side of the Lots along Bedrock Terrace and between Lots 5 and 6 and Lots 6 and 7.*
- *The four (4) subject parcels total approximately 50.24 acres and is currently undeveloped. The properties are Lots 5, 6, and 7 of the Quarry Ridge Business Park, a 12 lot commercial subdivision, and a 40.01 acre portion of the remainder of the original subdivision parcel (Lot 13 on the subdivision plan). The majority of the site is relatively flat and is an active quarry operation with multiple stockpiles on site. Stormwater ponds constructed as part of the previous phases of the subdivision are located in the Farm zoned portion of the parcel.*
- *A portion of the property is identified as significant habit for wading birds and waterfowl and identified as the Resource Protection District on the plan. A portion of the RP area has been excavated for the permitted mineral extraction operation, while the remainder is a forested buffer to the wetland.*

*Vehicular and Pedestrian Traffic*

- *The Quarry Ridge Business Park is accessed by a paved public road, Enterprise Drive. The applicant proposes to construct three (3) 24 foot wide entrances (one entrance for each lot) onto Bedrock Terrace, a private road, to serve the project.*
- *For Phase 2 of the project the applicant proposed to construct one (1) 30 foot wide entrance onto Bedrock Terrace, widening the entrance to Lot 5 on the Phase 1 approval. The other entrances will be regraded.*
- *The paved portion of Bedrock Terrace terminates approximately 150 feet from the intersection of Bedrock Terrace with Enterprise Drive, well before the frontage of the subject property. Both Enterprise Drive and Bedrock Terrace are designed to the industrial street standard and are intended to be offered for public acceptance.*
- *The site improvements consist of parking lots constructed with reclaimed asphalt surfaces, to be used to the temporary storage of automobiles that are offered for sale by the applicant, an automobile auction business. Sufficient parking for employees is available.*
- *The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour.*
- *The final plan submission states that the use is expected to generate 6 to 8 truck deliveries per day.*
- *In an email dated July 19, 2018 Town Engineer Jon Earle, PE, questioned if improvements to Bedrock Terrace would be completed in conjunction with this project or if the existing gravel portion of Bedrock Terrace was able to accommodate the proposed development. He also requested a traffic analysis to determine the peak hour traffic.*
- *In a memo dated July 24, 2018 Derek Caldwell, PE, PTOE of Sebago Technics estimated that 2 carrier vehicles would enter and exit the site during the commuter peak hour and provided an estimate of the North Route 302 Road Improvements Impact Fee of \$765.30.*
- *In a response to comments submitted July 25, 2018 the applicant confirmed that the approved upgrades to Bedrock Terrace will be completed in conjunction with this project.*
- *In an email dated July 30, 2019 Town Engineer Jon Earle, PE stated he had no further comments on the project.*
- *The site improvements consist of a 7,200 square foot office/warehouse building with a paved parking area with 57 parking spaces and a gravel storage area for auction vehicles. The total proposed impervious area is approximately 25 acres.*
- *The ordinance does not have a minimum number of spaces required but the applicant shall demonstrate that the number of spaces provided onsite will meet the needs of the proposed use.*
- *At the Development Team meeting on October 9, 2018 Town Engineer Jon Earle, PE, asked how the proposed traffic generation compared with the assumptions from the prior approval and contributed towards the Enterprise Drive/Route 302 traffic signal warrant analysis.*
- *A traffic impact study must be submitted with the final plan set if the project will generate fifty (50) or more trips during the a.m. or p.m. peak hour.*
- *The applicant states that the expected peak traffic numbers will remain within the thresholds approved with the subdivision. The Final Site Plan submission includes a Traffic Generation Analysis stamped by traffic engineer, Darek H. Caldwell, P.E., PTOE, stating that the project is expected to generate a maximum of 25 trips during both the AM and PM peak hours. The approved subdivision allocated 21 AM and PM peak hour trips per lot. As this development is to take place on three of the lots, it would be allocated 63 AM and PM peak hour trips.*

- *The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour.*
- *The Final Submission dated October 5, 2020 included a calculation of the North Route 302 Road Improvement Impact Fee at \$4,974.45*
- *In a response to comments on the Final Submission dated December 18, 2020, the applicant revised the percentage of trips to the north and south, resulting in an updated calculation of \$7,270.35.*
- *Windham Drifters maintains a snowmobile trail across a portion of existing Lot 15. The applicant should address if this trail will be maintained and if so, show it on the plan.*
- *The Final Submission states that the snowmobile trail will be relocated outside the limits of the Copart parcel in coordination with Grondin and the Snowmobile Club.*

#### *Sewage Disposal, Water Quality and Groundwater Impacts*

- *Test pit soil conditions were considered during the Quarry Ridge Business Park subdivision review. The Maine Department of Environmental Protection Site Location of Development Permit included the provision for up to a 1,000 gallon-per-day subsurface wastewater disposal system on each of the properties.*
- *The proposed use does not require a sewage disposal system.*
- *The properties are located in the Sebago Lake Watershed.*
- *A fuel cube is proposed for fueling of onsite work vehicles. The location on Lot 6 is shown on Sheet 4 of 9. Details of the fuel cube and a Spill Prevention Control and Countermeasure (SPCC) Plan should be provided.*
- *The proposed use should not have a significant impact on the quantity or quality of area groundwater.*
- *The proposed 7,200 square foot office/warehouse building will be served by a private subsurface wastewater disposal system.*
- *Test pit soil analysis should be submitted with the final plan. The test pit location must be shown on the plan.*
- *The Final Plan submission includes an HHE form, prepared by licensed Site Evaluator Gary M. Fullerton. The HHE describes a 1,000 gallon treatment tank and 800 square foot disposal field designed to accommodate 20 employees.*
- *The final plan should show the location of the fuel cube and the submission should clarify if a greater amount of fuel will be stored on site than the Phase 1 approval.*
- *The Final Plan submission on December 18, 2020 included the location of a fuel cube on a 10x10 concrete pad, surrounded by bollards. The pad is set back more than 75' from the nearest property boundary. The application states that the fuel cube is double-walled, which creates a secondary containment for leaks, should the internal tank rupture. The Planning Board may wish to enquire about having a secondary backup containment created by adding raised sides to the concrete pad. This may seem like extraordinary measure, but the site is located in a sensitive watershed area. The fuel cube will be used to fuel the loader that will be moving vehicles around the yard.*
- *In a comment dated October 29, 2020, peer reviewer Will Haskell, P.E., asked if the crushed stone surface proposed for the vehicle storage area would reduce the ability to detect leaking fluids, and recommended that a portion of the storage area be paved and used for vehicles that may have leaking fluids.*
- *In a response to comments dated December 18, 2020, the applicant responded, among other things, that they are agreeable to construction of a 200' x 200' paved pad on the south side of the building, and also referred to Copart's Drip Prevention and BMP's for ground water protection.*
- *Mark Arienti, P.E., Town Engineer sent an email on January 13, 2021 requesting that*

*the applicant make some modifications to the plan to further prevent the likelihood or possibility of spills related to the fuel storage cube.*

- The Final Plan updated on January 22, 2021 depicts the fuel cube location adjacent to the parking lot area behind the building. It is located on a concrete pad and surrounded by bollards. In an email dated January 25, 2021, the applicant noted the inclusion of a weekly above ground storage tank inspection requirement to the spill response manual for Windham (on page 13), and a spill kit verification has been added to the inspection checklist (line 16). The applicant also stated that "Each tank is outfitted with a fuel level gauge to prevent overfilling. If an overfill were to occur, the unique design of having the fill port located inside the spill box/secondary containment effectively eliminates any chance of a release to the environment. Copart also utilizes a national network of professionally trained jobbers for fuel deliveries which further reduces the risk of an overfill event."*
- Mark reviewed the updates sent by the applicant on January 22 and responded on January 25, 2021 that the additional detail on the fuel cube and the increase to weekly inspections seemed sufficient. He had no further comment.*

#### *Stormwater Management*

- The Maine Department of Environmental Protection Site Location of Development Permit #L-18029-39-L-N dated November 16, 2005 as amended included the design of stormwater ponds and stormwater conveyance infrastructure for the entire Quarry Ridge Business Park development.*
- Under the DEP Site Law permit each lot within the subdivision was given an allocation for allowable impervious surface based on 75% lot coverage. Lots 5, 6 and 7 were permitted with 1.46 acres, 2.20 acres, and 1.99 acres of impervious area respectively. The proposed site improvements include gravel parking areas designed so that the total impervious area created on individual lots is less than the maximum allowable limit as approved. Stormwater runoff will be directed to 30-foot wide grassed drainage ditches between each lot, which is consistent with the drainage plan prepared as part of the Site Law permit. Lots 6 and 7 both drain to existing detention pond #3, and Lot 5 drains to existing detention pond #1.*
- The project must receive approvals from Maine DEP for an amendment to a Site Location of Development Act permit and must comply with the standards of DEP Chapter 500 Stormwater Management. The permit amendment has not been received as of the date of this memo.*
- An amended DEP permit must be submitted as part of the Final Plan submission.*
- The Final Plan submission dated October 5, 2020 included a Stormwater Management Plan, as submitted to DEP, which included Water Quality Calculations, Pre-and Post-Development Stormwater Modeling, and an Inspection, Maintenance, and Housekeeping Plan.*
- In a comment dated October 29, 2020, peer reviewer Will Haskell, P.E., had a significant number of Stormwater Management related comments related to flow analysis, seepage, and the design of stormwater management structures. The comments were responded to on December 18, 2020, and a follow-up set of comments from Will on December 30, 2020 indicated that most of the initial comments had been resolved. Four remaining comments on the stormwater management plan should be reviewed for response prior to final approval.*
- On November 5, 2020 Town Engineer Mark Arienti, P.E., commented on the phosphorus calculations, and requested that the applicant confirm that compensation opportunities are available in the Little Sebago Lake Watershed.*
- In a response to comments dated December 18, 2020 the applicant stated that Copart is to be responsible for maintenance and repair of stormwater infrastructure on Lot 5 of the subdivision and provided an email correspondence with the Little Sebago*

Lake Association indicating that they have interest in compensation opportunities. They are of the understanding that RJG&F, LLC, owner of Lot 13, maintains the existing pond located at the southwest corner of the property, mostly off of the Copart subject area.

- An amended DEP permit was not issued as of the date of the January 7, 2021 memo.
- Maine DEP order L-29113-26-A-N, L-29113-VP-B-N, and L-29113-IW-C-N; Site Location of Development Act, Natural Resources Protection Act, Significant Vernal Pool Inland Waterfowl and Wading Bird Habitat was issued on February 25, 2021, authorizing the proposed project. Among the findings is the analysis of impacts to phosphorus, which requires the applicant to pay an \$82,610 mitigation compensation fee to the Cumberland county Soil and Water Conservation District, prior to construction, to be utilized at other sites in the Little Sebago watershed to reduce phosphorus exports to the pond.
- Third-party reviewer, Gorrill Palmer, reviewed the DEP order on behalf of the Town and commented that the Town may want to monitor conditions of approval related to prohibiting tree cutting between June 1 and July 31, and providing construction oversight of stormwater treatment BMPs. They also commented that the permit requires quarterly monitoring of groundwater mounding and quality, with one analysis prior to the on-site storage of vehicles, and an annual submission of the results to MDEP. Gorrill Palmer suggested that the Town may also want to require a submission of the annual results to the Town. Town Engineer Mark Arienti, P.E., agreed that the Town would want the results of groundwater monitoring sent to the Town. See draft COA #3.

#### *Erosion Control*

- A soil erosion and sediment control plan was submitted with the plan set (Sheet 8 of 9). This included a narrative best management practices plan along with construction details of the proposed erosion control measures shown on Sheets 4, 5, 6, and 7.
- A soil erosion and sediment control plan for Phase 2 must be submitted as part of the Final Plan submission.
- The Final Plan submission includes an Erosion and Sediment Control Plan that includes installation of sediment barriers and revegetation to minimize erosion potential from development activities during and after construction. The Erosion Control Plan includes locations of elements on site, a narrative, and construction details for reference.

#### *Utilities*

- No new utilities are proposed to serve this project.
- There are existing fire hydrants on Enterprise Drive at corner of Bedrock Terrace and on Bedrock Terrace at the property line between Lots 2 and 5. The hydrant locations are shown on the plan.
- The property must be served by underground utilities.
- The proposed building will be served by public water with a service from the 8" water main in Bedrock Terrace.
- The applicant must submit an Ability to Serve letter from the Portland Water District that confirms the proposed water services conform with its design and construction standards, that the development will not result in an undue burden on the systems, and the water lines will be installed in a manner adequate to provide needed domestic and fire protection flows.
- The Final Plan submission includes an Ability to Serve letter from Portland Water District, dated December 4, 2019.
- An existing fire hydrant is located on Bedrock Terrace and is shown on the plan.

#### *Technical and Financial Capacity*

- A May 2018 bank statement from Bank of America, N.A. has been provided as evidence of financial capacity.
- The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity.
- Evidence of financial capacity must be provided as part of the next submission.
- The applicant estimates that the project will cost \$6.5 Million.
- The Final Plan submission dated October 5, 2020 included a 2020 third quarter report for Copart, Inc. indicating a net income of \$147.5 Million.
- Evidence of technical capacity must be provided as part of the next submission.
- The Final Plan submission dated October 5, 2020 states that Copart has an existing facility in Lyman Maine, and over 200 others throughout the country and is experienced in site development. Copart has additionally retained the services of Sebago Technics, to perform Site Design and Permit Acquisition and Compliance work. Sebago Technics has been in business over 35 years and has a variety of professionals on staff with the required experience and expertise.

#### *Landscape Plan*

- The Final Plan submission, Exhibit 15 states that the applicant is not proposing landscaping at this time. Thirty (30) foot wide grasses areas are proposed between individual lots. A perimeter fence with sliding gates at each entrance is shown on Sheet 4 of 9. Fence and gate details are shown on Sheet 9 of 9.
- Section 406.I 5 requires a 40 foot minimum buffer strip along Bedrock Terrace. Section 511 requires that the landscaped buffer strip be covered with trees or shrubs for at least ten (10) percent of its area. The site plans shows the parking area setback 30 feet from the front property line.
- The rear of Lots 5, 6, and 7 abut the Farm Zone, a residential district. Section 406.I requires a 50-foot wide buffer strip. 20 feet nearest the boundary shall be maintained as a landscaped buffer strip as defined, and the remaining 30 feet of the buffer strip shall also be used and maintained as a suitable planting area for lawn with trees, shrubs, or other landscape material.
- A landscaping plan must be submitted as part of the final plan set.
- Landscaping plans were submitted with the Final Plan submission. They show landscaping around the building, and some at the site perimeters, where not already vegetated.
- In an ED District where a lot abuts a residential district boundary, a fifty (50) foot wide buffer strip shall be provided. Twenty (20) feet nearest the boundary shall be used and maintained as a landscaped buffer strip.

#### *Conformity with Local Plans and Ordinances*

##### *Land Use*

- This project meets the minimum lot size requirements and minimum lot frontage requirements of the ED zoning district.
- This project has met the maximum building coverage (50%) and maximum impervious area (75%) requirements of the ED zoning district.
- District Standards, Section 406.I. The project must meet the standards of the ED zoning district.
- All parking lots shall maintain a 30 ft setback from all property lines. The parking lots on the final plan revised July 25, 2018 show a 20 ft setback between Lots 5 and 6 and Lots 6 and 7 and along the easterly border of Lot 7.
- Automobile Auction Facilities require a 6 foot tall opaque fence to enclose any outdoor storage area. Fence details are shown on Sheet 9 of 9. A 9 foot tall 26 gauge white painted interlocking steel panel fence is proposed.

- *Automobile Auction Facility Performance Standards, Section 506*
- *Automobiles shall be kept on the lot for no more than 180 cumulative days*
- *All stored automobiles shall be kept in a designated parking area.*
- *The designated parking area shall be screened from public ways and abutting properties.*
- *The Automobile Auction Facility shall ensure that leaking fluids from damaged or wrecked vehicles are collected or contained per applicable Maine Department of Environmental Protection standards.*
- *Automobile Auction Facilities shall require an annual inspection by the Code Enforcement Officer.*
- *This project meets the minimum lot size requirements and minimum lot frontage requirements of the ED zoning district.*
- *The existing Lots 5, 6, and 7 are zoned ED and the abutting portion of Lot 15 to be added to the proposed reconfigured lot is zoned Farm. Development proposed within the ED zone may also utilize Section 404 the Land Use Ordinance that states that where a land use district boundary line divides a parcel the regulations applicable to the less restricted portion of the lot may be extended 50 feet into the more restricted portion of the lot.*
- *This project must meet the maximum building coverage (50%) and maximum impervious area (75%) requirements of the ED zoning district.*
- *The project is proposing a 7,200 sf building and 27.3 acres of impervious surface, of the total lot size of 50.2 acres.*
- *District Standards, Section 406.I. The project must meet the standards of the ED zoning district.*
  - o *In an ED District where a lot abuts a residential district boundary, a fifty (50) foot wide buffer strip shall be provided. Twenty (20) feet nearest the boundary shall be used and maintained as a landscaped buffer strip. The 50 ft buffer strip shown on the sketch plan is located on the Farm side of the property line as permitted by Section 404.*
  - o *On Final Site Plan sheets 6-8, dated December 18, 2020, there is a 50' wide landscaped buffer shown at the southern property border, with the F District. On the overall site plan, the buffer strip appears to be the same width, but is described as a "25' wide strip of land to be maintained". The applicant should clarify that it is to be a 50' wide buffer strip with (at least) the 20' nearest the boundary to be maintained as a landscaped buffer strip.*
  - o *All parking lots shall maintain a 30 ft setback from all property lines.*
  - o *All parking lots shown on the Final Site Plan are set back at least 30' from the property lines.*
  - o *Automobile Auction Facilities require a 6 foot tall opaque fence to enclose any outdoor storage area.*
  - o *The Final Overall Site Plan notes that there will be a "white interlocking steel panel" around the perimeter of the gravel parking area. It does not specify the height. A corresponding detail was not found by staff.*
- *Automobile Auction Facility Performance Standards, Section 506*
- o *Automobiles shall be kept on the lot for no more than 180 cumulative days*
- o *All stored automobiles shall be kept in a designated parking area.*
- o *The designated parking area shall be screened from public ways and abutting properties.*
- o *The Automobile Auction Facility shall ensure that leaking fluids from damaged or wrecked vehicles are collected or contained per applicable Maine Department of Environmental Protection standards.*
- o *Automobile Auction Facilities shall require an annual inspection by the Code Enforcement Officer.*

Comprehensive Plan

- *This project meets the goals and objectives of the 2017 Comprehensive Plan. The property is located in the North Windham Growth Area.*

*Others:*

- *Chapter 199 Shoreland Zoning. A portion of the amended Lot 5 is located in the Resource Protection District, a 250 foot area surrounding a wetland complex identified as moderate or high value wading bird habitat by Maine DEP and the Maine Department of Inland Fisheries and Wildlife (IF&W). Parking Facilities are allowed with a permit issued by the Planning Board. The development proposed within the RP zone will be limited to areas that were previously disturbed during approved mineral extraction operations. See Shoreland Zoning Review FOF below.*

*Impacts to Adjacent/Neighboring Properties*

- *The Final Plan submission, Exhibit 10 states that no lighting will be installed.*
- *The use is not expected to generate a significant amount of solid waste so will not need to have a dumpster location on site.*
- *The impacts of the proposed use to neighboring properties should be negligible.*
- *Site lighting must be shown on Final Plan, and details of fixtures must be included in the submission.*
- *Specifications for lighting were included as part of the Final Plan submission. A photometric plan was also included, which demonstrates that the project will not exceed 0.5 footcandles of light at the property boundary lines.*

*SHORELAND ZONING PERMIT REVIEW*

*1. Will maintain safe and healthful conditions:*

*The project will be required to meet the Town standards for an automobile auction facility and will be required to meet the requirements of their Maine DEP Site Location of Development Act Permit.*

*2. Will not result in water pollution, erosion, or sedimentation to surface waters; Appropriate measures have been incorporated into the site plan to minimize any potential water pollution associated with the use of the facility, including that the project is designed to prevent the runoff from the parking lot flowing directly into the wetland. Instead, it will drain to the proposed detention pond, which then flows to the infiltration basin, before draining to local waterways and water bodies.*

*See FOF for Sewage Disposal, Water Quality and Groundwater Impacts, Erosion Control, and Stormwater Management, under Site Plan Review above.*

*3. Will adequately provide for the disposal of all wastewater;  
See FOF for Sewage Disposal*

*4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.  
See FOF for Sewage Disposal, Water Quality and Groundwater Impacts, Erosion Control, and Stormwater Management, under Site Plan Review above.*

*5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;  
The development proposed within the RP zone will be limited to areas that were previously disturbed during approved mineral extraction operations.*

6. *Will protect archaeological and historic resources as designated in the comprehensive plan;*

*No portions of the property or the project area are within a mapped "Area of Known or Expected Pre-Historic Archeological Sites" in the 2003 Comprehensive Plan. There are no historic structures or sites on the property.*

7. *Will avoid problems associated with flood plain development and use; and*

*The applicant states that a small portion of the combined lot is located within a mapped floodplain area. No development is proposed in the floodplain.*

8. *Is in conformance with the provisions of Section 199-15, Land Use Standards.*

*See "Conformance with Local Plans and Ordinances" above, under Site Plan Review for project compliance with Land Use Standards.*

*D. Campgrounds*

*This application does not include any campgrounds.*

*E. Individual Private Campsites*

*This application does not include any individual private campsites.*

*F. Commercial and Industrial Uses*

*This application does not include any commercial or industrial uses within the shoreland zone, that are prohibited.*

*G. Parking Areas*

*The proposed parking area within the RP zone is more than 50 feet from the shoreline or tributary stream, and is designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, or wetland.*

*H. Roads and Driveways*

*No new roads or driveways are proposed in the shoreland zone as part of this application.*

*I. Signs*

*This application does not include any proposed signs.*

*J. Storm Water Runoff*

*See Site Plan review findings above, for Stormwater Management and Erosion Control.*

*K. Septic Waste Disposal.*

*See Sewage Disposal findings above, under Site Plan review.*

*L. Essential Services*

*The applicant is not proposing to install any new services in the shoreland zone.*

*M. Mineral Exploration and Excavation Permits*

*The application is not for mineral exploration or any other mining or gravel pit operations.*

*N. Agriculture*

*The applicant is not proposing any livestock grazing areas, mature stockpiles or any agriculture activities within the parcel.*

*O. Timber Harvesting (Repealed)*

*P. Clearing or Removal of Vegetation for Development Other Than Timber Harvesting*

*Vegetation clearing limits are shown on the site plan.*

*Q. Erosion and Sedimentation Control*

*The applicant shall obtain a soil and erosion control permit from Code Enforcement when obtaining a building permit. The contractor shall provide evidence of certification by Maine DEP in Erosion Control Practices.*

*R. Soils*

*See FOF for Sewage Disposal, Water Quality and Groundwater Impacts, Erosion Control, and Stormwater Management, under Site Plan Review above.*

*S. Water Quality*

*See FOF for Sewage Disposal, Water Quality and Groundwater Impacts, Erosion Control, and Stormwater Management, under Site Plan Review above.*

*T. Archaeological Sites*

*The parcel and abutting parcels do not appear to be associated with any archaeological or historic resources and are not listed on the National Register of Historic Places.*

*U. Home Occupations*

*This application does not include a home occupation.*

*V. Animals in Shoreland Zone*

*This application does not include any animals in the shoreland zone.*

**CONCLUSIONS**

- 1. The plan for development reflects the natural capacities of the site to support development.*
- 2. Buildings, lots, and support facilities will be clustered in those portions of the site that have the most suitable conditions for development.*
- 3. 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.*
- 4. The proposed site plan has sufficient water available for the reasonably foreseeable needs of the site plan.*
- 5. The proposed site plan 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.*
- 6. The proposed use and layout 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.*
- 7. The proposed site plan will provide for adequate sewage waste disposal.*
- 8. The proposed site plan conforms to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
- 9. The developer has adequate financial capacity to meet the standards of this section.*
- 10. The proposed site plan will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
- 11. The proposed site plan will provide for adequate storm water management.*
- 12. 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.*
- 13. On-site landscaping does provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.*

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated November 4, 2019, amended October 5, 2020, and further supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 814.G. of the Land Use Ordinance.
2. Based on information contained in the Traffic Impact Analysis, the project is subject to a North Route 302 Road Improvement Impact Fee of \$7,270.35
3. Condition of approval #14 of the DEP order # L-29113-26-A-N/L-29113-VP-B-N/L-29113-IW-C-N requires annual groundwater monitoring of the infiltration basin prior to and during operations. The applicant shall submit a copy of each report to the Town of Windham, Maine, Attn: Planning Department.
4. Prior to construction, the applicant shall provide evidence that they have paid the \$82,610 mitigation compensation fee to the Cumberland county Soil and Water Conservation District, to be utilized at other sites in the Little Sebago watershed to reduce phosphorus exports to the pond, as required by DEP order # L-29113-26-A-N/L-29113-VP-B-N/L-29113-IW-C-N.

Roll Call

Michael Devoid- In favor      Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor      Rick Yost – In favor

Vote: All in favor.

- 6      [PB 21-013](#)      20-21 Nelson Meadows Subdivision. Major subdivision final plan review. Grondin Corporation, Inc. to request review of a 21-lot residential subdivision. The property in question is located at 176 Albion Road and identified on Tax Map: 13, Lot: 14, Zone: Farm Residential (FR).

**Attachments:** [20-21 Nelson Meadows Major Subdivision\\_Final 3-18-21.pdf](#)  
[\\_Compiled-Nelson Meadows-Final Sub Application \(2-21-2021\).pdf](#)  
[20020 - SUBDIVISION PLAN SET\\_COMPILED.pdf](#)  
[D-2 Nelson Meadows \(3-8-2021\).pdf](#)  
[Nelson Meadows - Filter Basin FB-2 Sizing.pdf](#)  
[Nelson Meadows - Wet Pond Sizing.pdf](#)  
[P-2 Nelson Meadows \(2-26-2021\).pdf](#)  
[PP-1 Nelson Meadows \(2-26-2021\).pdf](#)  
[MA Peer Review 3-5-21.pdf](#)  
[MA Peer Review 3-8-21.pdf](#)  
[MA Peer Review 3-10-21.pdf](#)

Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained the outstanding items for the 21 lot subdivision

*off of Albion Road:*

- They had provided two options on the plan for a possible future 50 foot wide right-of-way to an abutting parcel.
- A trail was included within the right-of-way areas.
- DEP permits had been received.
- Digital GPS data had been submitted to the town.
- They had modified the driveway for lot 21.
- o The lot was now accessed from the subdivision road and not Albion Road.
- o This avoided impacts to the wetland.
- o It eliminated the need for larger culverts.
- o It increase the open space area.

*Jenn Curtis explained:*

- She had not yet heard from the town’s attorney regarding review of the proposed right-of-way plan note.
- Individual lot owners would need confirmation that they met the Surface Water Protection Ordinance.
- The changes to lot 21 were positive. The driveway was close to a wetland, so the town’s engineer added more erosion control measures.

*The Board commented:*

- Glad to see the right-of-way for future use.
- The changes to the lot 21 driveway were good.
- Who would be responsible for installing fire hydrants in the future right-of-way?
- If a road were to be constructed within the right-of-way, would it need to have Planning Board review first?
- The project was in the Highland Lake watershed. Had the Highland Lake Association been involved?
- The plan was good, and the concerns of the Board and the neighbors had been addressed.

*Michael Devoid made a motion that the Final Subdivision Plan application for project 20-21 Nelson Meadows Subdivision was found complete with regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Colin Swan.*

*Roll Call*

*Michael Devoid- In favor      Colin Swan – In favor  
 Keith Elder- In favor          Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor      Rick Yost – In favor*

*Vote: All in favor.*

*Michael Devoid made a motion that the Final Subdivision Plan application for 20-21 Nelson Meadows Subdivision on Tax Map 13, Lot 14, was to be approved with conditions with the following findings of fact and conclusions.*

**FINDINGS OF FACT**

**A. POLLUTION**

- Zone A Floodplain is mapped in the area of the subject property – northwest of Long

Lane. The applicant should show the Special Flood Hazard Area in relation to the subject parcel.

- The Preliminary Plan shows the Zone A Flood Hazard Area boundaries, and includes a note with the FIRM Panel # reference in the notes.

- Maine DEP rules on Significant Wildlife Habitat at Chapter 335 state that: "Significant vernal pool habitat consists of a vernal pool depression and that portion of the critical terrestrial habitat within 250 feet of the spring or fall high water mark of the depression. An activity that takes place in, on, or over a significant vernal pool habitat must meet the standards of this chapter." The applicant should show the 250' significant vernal pool habitat setback on the Plan.

- The Preliminary Plan submission dated January 18, 2021, shows a walking trail in the vicinity of the vernal pool. The detail for the foot path, on plan sheet D-2 states that it will be created by clearing brush and vegetation, but will not involve disturbance of earth, and it will meander around large trees.

- The Preliminary Plan application includes a NRPA Tier 1 permit application for alterations to a wetland of special significance. The permit must be included in the Final Plan submission.

- This subdivision is not located over a significant sand and gravel aquifer.

- As the proposed subdivision is in a Direct Watershed of a Lake Most at Risk from New Development (Highland Lake), independent professional review is required. An independent third-party reviewer, a Professional Engineer at Gorrill Palmer, Inc, is performing peer-review of the application in addition to the staff review.

- An Army Corps wetlands alteration permit needs to be included with the Final Plan submission.

- The applicant submitted Army Corps permit # NAE-2020-03135, dated January 15, 2021 for the placement of fill in approximately 8,439 sf of wetlands associated with the Nelson Meadows Subdivision.

- The Sketch Plan notes that the wetlands delineation and vernal pool assessment was performed by Mainely Soils, LLC. The applicant should quantify the impacts that the project will have on the wetlands, and seek a NRPA permit, if necessary. If a NRPA permit is required, it must be submitted with the final plan. The plan shows a driveway crossing the wetland. No building envelopes are shown.

- The Preliminary Plan depicts driveways crossing wetlands. A Maine DEP NRPA permit must be included with the Final Plan submission.

- At the Development Review Team meeting on August 17, 2020, Will Haskell, P.E. of Gorrill Palmer, recommend that lot building envelopes be defined to exclude wetlands. Amanda Lessard, Planning Director, added that the building envelopes should exclude the 100' setback required by the Conservation Subdivision ordinance.

- A hydrogeologic assessment must be submitted as part of the Preliminary Plan when the subdivision is not served by public sewer and the subdivision has an average density of more than one dwelling unit per 100,000 square feet. The applicant has requested a waiver from the hydrogeologic analysis submission requirement.

- In an email dated December 3, 2020 Mark Arienti, P.E., Town Engineer recommended hydrogeologic assessments be performed for septic systems on lots within 200 feet of what appears to be an adjacent property with a drinking water well.

- The applicant submitted a hydrogeologic assessment dated February 2, 2021, produced by Mark Cenci Geologic, Inc. that assessed the effects of wastewater plumes on groundwater from the septic systems of five selected planned septic systems. Based on a review comment from Town Engineer Mark Arienti, the applicant submitted a follow-up email from Mark Cenci, explaining why there is nothing to indicate a septic system on proposed Lot 21 would affect the well identified on Map 13 Lot 13, currently owned by Allen Caron. Town Engineer Mark Arienti, P.E. stated in an email dated February 4, 2021 that he was comfortable with the follow-up analysis and that his concerns were satisfied.

- *The applicant proposed in an email dated February 8, 2021, and affirmed during the Planning Board meeting on February 8, 2021 that they would add the following language to the Homeowners Association Documents: "The use of fertilizers containing phosphorus is prohibited on any lot, open space or common area" and that they were agreeable to adding the following as a condition of approval: "Prior to building permit issuance, each individual lot in the subdivision shall obtain a Phosphorus Control Management Permit for development of a lot in the Highland Lake Watershed, in accordance with Section K.5 of the Town of Windham Surface Water Protection Ordinance."*
- *Planning Staff, in coordination with Code Enforcement Director Chris Hanson propose a change to the condition; "Prior to building permit issuance, each individual lot in the subdivision shall obtain certification from a licensed State of Maine Professional Engineer or Soil Evaluator or Certified Professional in Soil and Erosion Control that the proposed treatment measure matches or exceeds the performance of the treatment measure under the specific point system allowance, in accordance with Section K.5.b of the Town of Windham Surface Water Protection Ordinance, for alternate means of calculation of stormwater management for projects in the Highland Lake Watershed." See draft COA #2. This will allow the flexibility for each lot owner to tailor their lot design to their specific needs, while ensuring that the Highland Lake Watershed is protected from over-development of the lots.*
- *The Final Application included Maine DEP permit approval for Stormwater Management, NRP A Freshwater Wetland Alteration, and Water Quality Certification, dated February 16, 2021. #L-28909-NJ-A-N and #L-28909-TB-B-N.*

#### **B. WATER**

- *All lots will be served by public water from a water main extended from the existing water main in Albion Road.*
- *An Ability to Serve letter from the Portland Water District approving the public water service to the subdivision must be submitted with the Final Plan.*
- *Deputy Fire Chief John Wescott recommended a new hydrant be placed in the subdivision near proposed lot 16, at about 800'. Existing and proposed hydrants should be shown on the plan. The final plan needs to demonstrate conformance to fire code, Chapter 95 of Windham Land Use Ordinance, specifically at 95.4.1.*
- *The Preliminary Plan profile sheet of Nelson Meadows Drive (PP-1) includes a hydrant on the south side of subdivision street, adjacent to the open space proposed between lots 4 and 5.*
- *The Preliminary Plan submission includes correspondence from the Portland Water District and a map noting the location, type, and size of the public water mains near the subdivision.*
- *The applicant submitted an Ability to Serve letter from Portland Water District, dated January 13, 2021.*
- *The applicant submitted an updated Ability to Serve letter dated February 26, 2021 with a note that it had been required due to the change in location of Lot 21.*

#### **C. SOIL EROSION & SEDIMENTATION CONTROL & STORMWATER MANAGEMENT**

- *A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.*
- *Chapter 142 Surface Water Protection requires that projects within the Highland Lake watershed incorporate double temporary erosion control measures at the perimeter of the project.*
- *§907.B.4.c.(4) The project shall be reviewed in compliance with the stormwater standards included in the Maine Department of Environmental Protection Chapter 500*

*including basic, general, phosphorus, flooding, and other standards*

- *A Maine DEP stormwater permit needs to be included with the Final Plan submission.*
- *The Preliminary Plan depicts building envelopes for lots 9-15 partially overlapping with the 250' Vernal Pool Critical Terrestrial Habitat setback. A Maine DEP NRPA permit approval must be included with the Final Plan application.*
- *An erosion and sedimentation control plan shown on Details Sheet D-1 of the preliminary plan submission dated November 23, 2020.*
- *A stormwater management plan has been submitted as part of the November 23, 2020 Preliminary Plan submission. The project proposes to treat the 3.67 acres of total developed area (note that this does not include the required lot development) with one (1) wet pond and two (2) underdrain filter basins. The plan also includes a phosphorous export summary showing compliance with the phosphorous budget for the Highland Lake watershed.*
- *The stormwater management plan also includes an inspection, maintenance, and housekeeping plan. The owner is responsible for the maintenance of all stormwater management structures and related site components until such time that a homeowner's association is created.*
- *In an email dated December 2, 2020, Will Haskell, P.E. of Gorrill Palmer commented as a third-party reviewer on behalf of the Town that the stormwater ordinance requires appropriate treatment for water quantity and quality, and that the applicant should include maximum developed, disturbed, and impervious areas for each lot in the calculations. Mr. Haskell had a variety of other comments related to stormwater management plan details, that the applicant should address in the Preliminary Plan. Mr. Haskell noted that he did not have any technical concerns with the high intensity soil survey waiver request or hydrogeologic assessment waiver request*
- *In an email dated December 3, 2020 Mark Arienti, P.E., Town Engineer requested the outline of the entire subdivision on the Pre- and Post- Development watershed maps, and clarification of markings.*
- *The applicant submitted a compiled response to comments on January 19, 2021. In the response, the applicant:*
  1. *Noted that they have included in the updated subdivision plan a lot development table indicating assumed impervious area, landscaped area, and developed area and required driveway culvert size for each lot.*
  2. *Included easements around each of the stormwater BMPs to the Town for access to maintain the ponds if the association does. The homeowners' association document has been revised to indicate that the Town has the right to enter and maintain the BMPs.*
  3. *Addressed a variety of concerns regarding erosion control notation and stormwater engineering design elements*
  4. *They are planning to collect field topography for stormwater planning purposes, to be included on the Final Plan.*
- *Town Engineer, Mark Arienti, P.E. responded in an email dated January 29, 2021 indicating that most of his comments had been adequately addressed. He had some follow up comments related to elevations of stormwater management infrastructure, and calculations in the stormwater management report.*
- *As of the date of the February 4, 2021 memo, Gorrill Palmer had not commented as to the responses to their previous comments.*
- *On February 25, 2021 Will Haskell, P.E., of Gorrill Palmer commented in an email that he had reviewed the Final subdivision application and plan set, and the revised plan set addressed their previous comments. They have no further concerns.*
- *See FOF under "POLLUTION" regarding Phosphorus management.*
- *Town Engineer, Mark Arienti, P.E., reviewed the Final subdivision application dated February 23, 2021, and provided the applicant with a couple comments regarding Filter Basin #2 details, the erosion control treatment for the wetland adjacent to Lot 21. The*

applicant responded in an email dated March 8, providing additional detail for FB #2, and noting that a sediment barrier has been added to the wetland side of the proposed Lot 21 driveway. Mark confirmed in an email on March 10, 2021 that his concerns had been addressed.

#### D. TRAFFIC

- The applicant is proposing a 1,300 foot long roadway with a cul-de-sac at the terminus. The road is to be built to the public standard and offered to the Town for acceptance.
- One lot is proposed to have a driveway off of Albion Road. The location of the driveway should be shown on the plan.
- The applicant should determine if the Rangeway shown on the sketch plan is abandoned, or state the intended plan for its continuance.
- §911.M.3.(a) The public street or public street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Where a proposed development abuts unplatted land, or a future development phase of the same development, the Board may require the dedication of a right-of-way equal to the right-of-way width of the internal subdivision street to provide continuation of the road where future development is possible.
- No right-of-way to the abutting property is shown on the preliminary plan. The Board should determine if one should be added, to allow for future extension of the street.
- Sight distances should be shown for both directions along Albion Road for both the lot accessing Albion Road directly, and the newly proposed road, on the plan. At the Development Review Team Meeting on August 17, 2020, Police Captain Bill Andrew stated that there was a topographical change and vegetation that may limit sight distances. As needed, maintenance of clearings should be addressed.
- Sight distance is shown on the plan sheet PP-1 dated January 18, 2021, indicating sight distances in excess of 400' in both directions from the proposed subdivision road.
- At the Development Team meeting on August 17, 2020, pertaining to the same site, Public Works Director Doug Fortier stated that the project will need a street opening permit to connect to Albion Road, and a water main opening permit.
- Section §911.M.3.d states that streetlights may be required at intersections with existing public streets. At the Development Review Team Meeting on August 17, 2020, Police Captain Bill Andrew stated that a light would be good to have at that location, due to the increase in pedestrian and street traffic. Staff determined there are no streetlights near the proposed intersection. The Planning Board should decide if it will be required. The Town of Windham Streetlight Policy, adopted June 25, 2013, states that streetlights should be at intersection of a public street (subdivision street) and a collector street (Albion Road). A streetlight should be shown on the Plan. A streetlight is shown on sheet PP-1 dated January 18, 2021.
- Town-approved street names shall be shown on the Final Plan. "Hayfield Lane", the road name shown on the Final Plan, was approved by the Town Addressing officer on December 7, 2020.
- §911.K.3.(a) The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and minimizing cut and fill. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision.
- The applicant proposes a 26-foot wide paved surface with 1' gravel shoulders on either side. (10' travel lanes, and 3' paved shoulders). The Minor Local Street Standard requires 20' of paved travel way, with either both shoulders with 2' of pavement and 2' of gravel, or one shoulder that way and another shoulder that is 2' paved with curb and/or 5'

minimum esplanade and 5' minimum sidewalk). The applicant should provide a proposed road profile with the Preliminary Plan Submission and request any necessary waivers from the applicable road standards.

- The roadway section shown on the Preliminary Plan, on Details sheet D-2 matches a version of the Minor Local Street standard in Appendix B, (when considered in the context of sidewalk or shoulder standards at 911.M.5.(b)(6)(ii)c). The Planning Board determined at the December 14, 2020 meeting that it was appropriate for the development and approved a waiver to reduce the gravel shoulder width.
- The Planning Board should determine if the property is within 1,000' to uses that would generate pedestrian trips, to determine if sidewalks are needed. When sidewalks are not required for local streets, §911.M.5.b.6.ii requires that the applicant construct a sidewalk or a street with a widened shoulder. At the meeting on December 14, 2020, the Planning Board determined that a widened shoulder was appropriate for the development.
- The road must include a hammerhead, per §911.M.5.b.(5).(i)(a) There is no maximum length limit for streets served by the Portland Water District that have fire hydrants and hammerhead turnarounds installed every 1,000 linear feet.
- The preliminary plan does not show a hammerhead turnaround every 1,000 feet. The applicant has submitted a written waiver request. The Planning Board approved a waiver from this standard at the February 8, 2021 meeting.
- A trail system shall be created within the Open Space to provide access from the subdivision homes to the open space network created by the subdivision, per 911.K.3.(4) (See FOF under H related to Conservation Subdivision Ordinance).
- Per 911.M.3.a.2 All dead-end streets or street connection rights-of-way shall be provided with a hammerhead turn around unless specifically exempted by the Planning Board.
- The Preliminary Plan Submission included a vehicle traffic assessment prepared by William Bray, PE with Traffic Solutions. The assessment states that the project is expected to generate 198 daily trips with 16 in the morning peak hour and 21 in the evening peak hour. No high crash locations were identified in the area. The sight distances for both the proposed location of subdivision street, and the driveway for Lot 21 were determined to have sight distances in excess of the required 305' for Albion Road, which is posted with a 35mph speed limit.
- The driveway location for Lot 21 is shown on Sheet P-2 of the Preliminary Plan set dated November 23, 2020.
- In an email dated December 2, 2020, Will Haskell, P.E. of Gorrill Palmer commented as a third-party reviewer on behalf of the Town that certain portions of the proposed road would be outside of the right of way and easements should be provided to ensure that they could be maintained as needed. Mr. Haskell concurred with the Traffic Assessment, but stated they had not confirmed the sight distance in the field.
- In an email dated December 3, 2020 Mark Arienti, P.E., Town Engineer requested more information on the road profile plans, PP-1. and PP-2 and agreed with statements from Will Haskell at Gorrill Palmer that easements for future maintenance and repair of culverts and ditch backslopes outside of the right of way should be provided to allow for future maintenance as needed.
- The applicant submitted a compiled response to comments on January 19, 2021. In the response, the applicant:
  1. Noted that they have included in the updated subdivision plan required driveway culvert size for each lot.
  2. Noted that the road is being designed for public acceptance, and added additional grading and drainage easements to the plan set.
  3. Added approximate driveway locations to the plan set.
- A cluster mailbox is shown on Albion Road, adjacent to the newly proposed road, on plan sheet PP-1, dated January 18, 2021. At the meeting on February 8, 2021, the applicant stated that they will meet with the postmaster about the location of the mailbox.

- During the meeting on February 8, 2021, the Planning Board requested that the applicant add a ROW to the plan, connecting the end of the proposed cul-de-sac to the abutting property to the north. The Board further affirmed that the ROW area would not be deducted from the open space. The ROW was to be preserved in case of future development on the abutting lot, and the intention was for the abutting landowner to make up the difference of the future loss of open space. See COA #3.
- The Final Plan includes a change to the location of Lot 21 that eliminates the second curb cut on Albion Road.

#### E. SEWERAGE

- The proposed lots will be served private septic systems.
- The Preliminary Plan submission shall include the location and results of test pits performed by a Maine Licensed Site Evaluator or Certified Soil Scientist. At least one test pit per lot.
- The Preliminary Plan submission dated November 23, 2020 included the location of test pits, at least one per lot, shown on the Subdivision Plan, and a letter from Licensed Site Evaluator Alexander A. Finamore, stating that all of the test pits contained suitable soils to support a first time system according to the Maine Subsurface Wastewater Disposal Rules. Soil profiles were included.
- See FOF under "POLLUTION" for information on the hydrogeologic assessment of impacts of proposed septic systems on drinking water.

#### F. SOLID WASTE

- The applicant should indicate how solid waste will be handled.
- The Preliminary Plan application states that residents will utilize the Town's curbside trash collection program.

#### G. AESTHETICS

- The subject property is located on a vacated farm. Aerial images indicate that the area proposed to be developed is mostly vegetated with trees. The applicant should show the existing tree line.
- Harriet Thoms, Assessing Administrator, stated that records show that the property had been removed from the Tree Growth program in April, 2020.
- Street trees must be planted at least every 50-feet along the length of the new subdivision street. Street trees are not shown on the Preliminary Plan. Street Trees are shown on road profile plan sheets PP-1 and PP-2, dated January 18, 2021.
- Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval. Limits of tree clearing are shown on the Preliminary Plan, and note # 13 includes the restrictions on tree clearing for five years from the date of Planning Board approval.
- The Final Plan shall include a boundary survey, certified by a Maine Licensed Professional Surveyor.
- The plan shows all parcels in common ownership within the last 5 years.
- The applicant submitted a letter from Maine DIFW dated June 10, 2020, stating that the department has not mapped any essential habitats that would be directly affected by the project.

#### H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:

- *The plan meets the goals of the 2017 Comprehensive Plan.*
  
- *Land Use Ordinances:*
  - *All lots must meet the minimum lot size of 20,000 sf in the FR for Conservation subdivisions connected to public water. The sketch plan incorrectly indicates minimum lot size is 10,000 sf. The incorrect minimum lot size is shown on the Preliminary Plan submitted November 23, 2020. The Plan should be updated to correct the minimum lot size. The Subdivision Plan dated January 18, 2021 correctly states the minimum lot size as 20,000 sf.*
  - *Front, side, and rear setbacks are shown on the Sketch Plan.*
  - *Net residential density calculations are shown on the Plan. Net residential acreage, 23.87ac (1,069,733 sf.) divided by the net residential density of 40,000 sf = 26.74 (26 lots allowable). The applicant is proposing 21 lots. The applicant should describe the relationship between the driveway for proposed lot 21, stormwater management easements, and open space area in the setback area from Albion Rd. They appear to all overlap. 75' of frontage is required in a conservation subdivision; 50' where entirely on a cul-de-sac. The Subdivision Plan dated January 18, 2021 shows 75' of frontage on Albion Road for Lot 21.*
  - *The applicant should consult with the local postmaster as to appropriate mailbox locations and types and if a gang mailbox is required it should be shown on the Final Plan.*
  - *A cluster mailbox is depicted on Sheet PP-1 of the Final Plan, on the right-hand side of Hayfield Drive, near the entrance from Albion Road.*
  
- *Subdivision Ordinance*
  - *911.K, Conservation Subdivisions:*
    - *The applicant should develop primary and secondary conservation areas in conformance with 911.K.3.(a)*
    - *The Preliminary Plan includes a Resource Conservation Inventory Map (RC-2) that shows primary conservation areas, and appear to have building setback buffers around them (perhaps as described in 911.K.3.(a)(i)), which are not shaded or labeled. Areas shaded in red are labeled "outside of primary and secondary conservation areas". The plan sheet would benefit from better labeling, particularly of secondary areas.*
    - *The Plan shows that primary areas are almost entirely contained in the proposed open space, with the exception of some wetland crossings for the proposed road and driveway. Floodplains, steep slopes, and the majority of wetlands, including the significant vernal pool (which should be labeled) are contained in the open space. A 100' open space area is depicted at the property boundary with Albion Road. This area contained significant vegetation and character that the Planning Board identified during the site walk as preferable to keep for aesthetic purposes.*
    - *Secondary areas that are included in the open space appear to be mostly prescribed building window setback areas.*
    - *Lot 1, 2, 3, 4, 8, 15, 18, and 21 all have building windows that are not generally located at least 100 feet from primary conservation areas; however, given the site constraints, it may be unavoidable.*
    - *Impacts of the propose street plan on conservation lands appears to be minimized, with limited cut and fill required.*
    - *The open space areas proposed are contiguous.*
    - *Per 911.K.6.(a), the Subdivision Plan shall identify open space on the plan with the note "Open Space – Reserved for Recreation, Agricultural and/or Conservation Purposes." The required note is shown on the Subdivision Plan dated January 18, 2021.*
    - *Maine DEP Chapter 335: Significant Wildlife Habitat notes that "The 250 feet of critical terrestrial habitat protected as significant vernal pool habitat is only a portion of the habitat used by adult wood frogs, ambystomatid salamanders, and rare, threatened*

and endangered species. Tracking studies of adult pool-breeding amphibians have shown that they can travel over a third-mile away from their breeding pool, and that the area within 750 feet of the pool is valuable for protecting viable amphibian populations. The department encourages efforts to protect more habitat adjacent to a vernal pool than this rule has authority over.”

- 911.K.3.(a)(2)e The boundaries of Open Spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the Open Space ends and private lot areas begin. These boundaries should be shown on the Preliminary Plan.
- Building envelopes should be shown on the plan that meet the requirements of 911.K.3.(a)(3) and §911.K.3.(a)4.(e).
- Road alignment and design shall meet the requirements at §911.K.3.(a)(4)
- The minimum amount of Open Space must be all of the areas of the parcel deducted from the gross area ( $62,829 + 23,174 + 9,132 + 170,358 = 265,493/43,560 = 6.09ac$ . The applicant has rounded up to 6.10 ac.) Plus 50% of the net residential area,  $23.72ac / 2 = 11.86ac$ . Total required open space =  $6.09 ac + 11.86ac = 17.95ac$ . The applicant is currently proposing 18.00 ac of open space.
- The Final application also includes a change to the location of Lot 21 that results in a net increase to the primary conservation area. The change to Net Residential Density Calculations needs to be reflected on Final Plan.
- Standard notes and the standard condition of approval must be shown on the plans.
- The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.
- Tax Map and Lot Numbers are shown on the Final Plan.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission. The GIS-compatible Final Plan data has not been submitted.
- Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, and stormwater infrastructure.
- Utilities shall be installed underground
- The development is subject to the following Section 1200 Impacts Fees, to be paid with the issuance of a building permit: Recreation Impact Fee, Open Space Impact Fee, Public Safety Impact Fee, Municipal Office Impact Fee.
- Others:
- Chapter 221 Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan. The street name shown on the Preliminary Plan is not the approved name.
- “Hayfield Lane”, the road name shown on the Final Plan, was approved by the Town Addressing officer on December 7, 2020.
- Chapter 116 Growth Management Ordinance: Growth permits are required prior to the issuance of a building permit for the construction, creation, or placement of each new dwelling unit within the Town of Windham.

#### I.FINANCIAL AND TECHNICAL CAPACITY

- Evidence of financial capacity must be provided as part of the Final Plan submission.
- The Preliminary Plan included a Construction Costs estimate of \$390,000.
- The Preliminary Plan included a letter from Gorham Savings Bank dated November 18, 2020, indicating that the applicant has the financial capacity to complete the project.

- *Evidence of technical capacity must be provided as part of the Final Plan submission.*
- *The applicant has retained the services of qualified professionals to design the project. Soils information was prepared by Mainely Soils, LLC. Survey data provided by Survey, Inc., and the Plans were prepared by D.M. Roma Consulting Engineers.*

#### *J.RIVER, STREAM OR BROOK IMPACTS*

- *The project is located in the Highland Lake watershed.*
- *The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.*

#### *CONCLUSIONS*

1. *The proposed subdivision will result in undue water or air pollution.*
2. *The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
3. *The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
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 subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
6. *The proposed subdivision will provide for adequate sewage waste disposal.*
7. *The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
8. *The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
9. *The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
10. *The developer has adequate financial and technical capacity to meet the standards of this section.*
11. *The proposed subdivision is situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. *The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
13. *The proposed subdivision is situated entirely or partially within a floodplain.*
14. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will provide for adequate storm water management.*
17. *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, section 480-B, none of the lots created within the subdivision have/do not have a lot depth to shore frontage ratio greater than 5 to 1. (N/A)*
18. *The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.*

- 19. 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)
- 20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

CONDITIONS OF APPROVAL

- 1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated August 3, 2020 as amended February 23, 2021, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Land Use Ordinance.
- 2. Prior to building permit issuance, each individual lot in the subdivision shall obtain certification from a licensed State of Maine Professional Engineer or Soil Evaluator or Certified Professional in Soil and Erosion Control that the proposed treatment measure matches or exceeds the performance of the treatment measure under the specific point system allowance, in accordance with Section K.5.b of the Town of Windham Surface Water Protection Ordinance, for alternate means of calculation of stormwater management for projects in the Highland Lake Watershed.
- 3. If the right of way (ROW) is to be developed in the future, it must be replaced with equivalent amount of open space on another property and contiguous with the Nelson Meadows Subdivision open space. At such time as the developer proposes to construct a road within this ROW, the developer shall apply to the Planning Board for approval. If road is to be extended through open space for future development, additional net residential area and open space will need to be provided to offset the right of way deduction. Because the ROW extends through an existing Vernal Pool Habitat area, if it is to be developed, additional state and federal permits may need to be obtained.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor      Colin Swan – In favor  
 Keith Elder- In favor          Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor      Rick Yost – In favor

Vote: All in favor.

- 7      [PB 21-014](#)      20-29 Stark Self Storage. Major site plan final plan review. Keith Harnum to request review of a self-storage facility consisting of one 8,000 square foot building and one 13,200 square foot building. The subject property is located at 52 Roosevelt Trail and identified on Tax Map: 25, Lots: 9A-3A1, 9A-3B2 Zone: Commercial 3 (C-3).

**Attachments:** [20-29 Stark Self Storage Final 03-18-21.pdf](#)  
[\\_Compiled-Stark Self Storage-Design Plans \(2-23-2021\).pdf](#)  
[20074-SW-PBR compiled 2-22-2021.pdf](#)  
[2021-02-28 Harnum Keith SWPBR71842-71843-RS.pdf](#)

*Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained the outstanding items for the site plan:*

- *The project would not impact any more wetlands than what had been approved for a previous project on the site.*
- *They had added evergreen trees in between the street trees, which were shown along the road on the plan.*
- *Additional trees had been added to the plan at the back corner to shield the abutting house from vehicle headlights.*
- *The updated Permit by Rule had been approved by DEP.*
- *There would be fewer than ten peak hour trips per day, and no change to the peak hour trips between weekdays and weekends,. Total daily trips would increase about 20% on weekends.*

*The Board commented:*

- *The access from Route 302 was 20 feet wide. That wasn't much room for a turning car with a trailer, or a box truck. Additionally, there was a phone pole at the edge of the driveway.*
- *The landscaping looked good.*
- *The Board's concerns had been addressed well; that was appreciated.*

*Michael Devoid made a motion that the final site plan application for project 20-29 Stark Self-Storage was found complete in regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Kaitlyn Tuttle.*

*Roll Call*

*Michael Devoid- In favor    Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor    Rick Yost – In favor*

*Vote: All in favor.*

*Michael Devoid made a motion that the Site Plan application for 20-29 Stark Self-Storage on Tax Map: 25; Lots: 9A-3A1, 9A-3B2 was to be approved with conditions with the following findings of fact and conclusions.*

*FINDINGS OF FACT*

*Utilization of the Site*

- *The site is currently undeveloped and recently graded as part of the site stabilization plan approved as the CRR Amended Site Plan approved by the Planning Board on May 11, 2020.*
- *The project is located on a 1.69 acre parcel, to be created from the merger of two existing lots of less than one acre each. A condition of approval on the 2011 amended subdivision plan states that Lots 3.1 and 3.2 must be combined prior to the issuance of building permits.*
- *A Natural Resources Protection Act Permit #L-28066-TB-A-N (after-the-fact) was issued by the Maine Department of Environmental Protection on February 11, 2019 for approximately 7,729 square feet of total wetland impacts on the property. The proposed self-storage facility does not propose any additional wetland impacts.*

#### *Vehicular and Pedestrian Traffic*

- *The subject parcel has 340 feet frontage on Route 302 and an easement for access from Self Storage Drive.*
- *A 20 foot gated entrance to the property is proposed from Route 302. A driveway entrance permit from Public Works will be required prior to the issuance of building permits, as there is no established entrance at that location.*
- *The posted speed limit on Route 302 at the project location is 50 mph. Table 1 in Appendix B lists the minimum sight distance at 495 feet.*
- *Sight distances for the entrance are shown on the final plan dated February 12, 2021. The sight distance is noted as 500+ feet looking right and 800+ feet looking left.*
- *No minimum number of parking spaces are required. The applicant should demonstrate that the number of spaces provided onsite will meet the needs of the anticipated uses on the property. Section 812.C.(1)(d) requires 30% of the parking spaces to be 10'x20'*
- *The February 12, 2021 final plan shows eight (8) any parking spaces, and 3 spaces are 10x20.*
- *A traffic impact study is not required as the project will not generate fifty (50) or more trips during the a.m. or p.m. peak hour.*
- *The February 15, 2021 submission states that the ITE Trip Generation Manual estimates that the 21,200 SF mini-warehouse project will generate 3 trips in the AM peak hour and 4 trips in the PM peak hour. The total average daily trips are approximately 32 trips. The project does not require a traffic movement permit from the Maine Department of Transportation.*
- *The applicant must provide the Saturday peak hour and daily trips.*
- *In a response to comments dated February 15, 2021, the applicant re-stated that "Vehicle generation for self-storage use of this size is relatively minimal. The Institute of Transportation Engineers Trip Generation Manual (10th edition) estimates that a 21,200 square foot "mini-warehousing facility" will generate approximately three (3) AM peak hour trip ends and four (4) PM peak hour trip ends. The total average daily trips are approximately 32 trips." The applicant should clarify if that applies to Saturdays.*
- *Turning movements for fire trucks around the perimeter of the site were included in the February 15, 2021 submission. The path of the truck cab extends over the paved driveway around the north end of Building 1. Snow storage that would impede fire truck access should not be permitted in these locations.*

#### *Sewage Disposal, Water Quality and Groundwater Impacts*

- *No wastewater will be generated by this use, as no restroom facilities are proposed.*

#### *Stormwater Management*

- *Per Section 812.E., a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management.*
- *This project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit by Rule. The permit must be submitted as part of the Final Plan.*
- *The Final Plan submission dated January 19, 2020 included a Stormwater Management Report that proposed a filter based to collect stormwater runoff from the majority of the site.*
- *In an email dated February 1, 2021, Mark Arienti, P.E. stated that a Flooding Standard analysis should be performed as part of the Stormwater Report and questioned what will happen with the existing 15 inch culvert in the drainage swale on the west side where the underdrain filter basin is proposed.*

- The applicant submitted a response to comment dated February 15, 2021 that included a revised Stormwater Management Report. The plan proposes to treat the 1.46 acres of total developed area/0.88 acres of total impervious surface with one (1) underdrain filter basin and a roofline drip edge.
- The applicant submitted a stormwater Permit-By-Rule application to DEP on February 22, 2021, and provided the Town with a copy. The application described the project as including a filter basin and roofline drip edge.
- DEP reviewed the PBR and commented on February 28, 2021 that work under this PBR will not impact any additional wetlands.
- Mark Arienti, P.E., Town Engineer, reviewed the PBR and requested in an email on March 11, 2021 that the applicant show the disturbed area that is to be returned to Meadow.
- On March 16, 2021, the applicant responded by identifying the type of shading that demarcates the area to be returned as shading, as shown on the Grading and Utility Plan (labeled "2H:1V slope, install erosion control blanket. Area to be maintained as meadow after construction").

#### *Erosion Control*

- A soil erosion and sediment control plan must be submitted with the final plan set. This may take the form of a printed best management practices plan rather than on-the-ground designation of erosion control measures.
- A soil erosion and sediment control plan is included in the Final Plan submission dated January 19, 2021. The plan shows the locations of silt fences, hay bales, a catch basin, and a stabilized construction entrance. The notes include inspections and maintenance, post-construction, and housekeeping provisions.
- In an email dated February 1, 2021, Mark Arienti, P.E. requested that a silt fence or erosion control mulch berm to protect the wetlands on the south and north sides of the site during construction should be shown on the plan and requested clarification how the parking lot will be constructed without filling some of the wetlands.
- The applicant submitted a response to comment and a revised soil and sediment control plan dated February 12, 2021.
- In a response to comments dated February 15, 2021, the applicant stated that "As indicated on the revised design plans, any wetlands located downhill of construction activity will be protected with either silt fence or erosion control mix berm including the remaining wetlands to the east of the project and the revegetated wetlands to the south."

#### *Utilities*

- No water service is proposed for this use.
- An existing fire hydrant is located on Roosevelt Trail north of the intersection with Pope Road, approximately 830 feet from the nearest corner of the subject parcel.
- Chapter 95 Fire Protection and Life Safety Code requires all new buildings at least 7,500 gross square feet of enclosed area served by public water or within 1,000 linear feet of a hydrant serviced by the Portland Water District be required to have an approved automatic fire sprinkler system.
- At the Development Team Meeting on December 7, 2020, Deputy Fire Chief John Wescott stated that the building could be separated by firewalls, however sprinkler systems may be required by the building code depending on the materials stored.
- Utility lines must be placed underground.
- The Final Plan submitted on January 19, 2021 shows all utilities being installed underground.

#### *Technical and Financial Capacity*

- The January 19, 2021 final plan submission included estimated costs of development and letter dated February 11, 2019 from People's United Bank as evidence of financial capacity to complete the project as proposed. The applicant has recently successfully completed a similar self-storage facility in Windham.
- The applicant has provided information on the licensed professionals working on this project as evidence of technical capacity.

#### *Landscape Plan*

- A landscaping plan must be submitted as part of the final plan set.
- A 20 foot landscaped buffer must be provided on the frontages for Route 302 and the existing paved driveway right-of-way.
- The CRR Amended Site Plan approved by the Planning Board on May 11, 2020 included substantial landscaping on the property
- The Final Plan submitted January 19, 2021 shows the locations and types of plants to be used in landscaping. Six (6) red maples are proposed along the frontage of the property within the landscaped buffer strip. Twelve (12) dwarf fountain grass are proposed around the base of the proposed sign.
- In an email dated February 1, 2021, Mark Arienti, P.E. questioned if the recent new plantings placed along the edge of the site adjacent to Route 302 as part of the previous site plan approval would be retained.
- The applicant submitted a response to comment on February 15, 2021 and stated that with the installation of the drainage swale along the northern edge of pavement and the installation of the sign they anticipate that some of the landscaping will need to be replaced with the proposed landscaping design shown on the plans. If any of the original planting can be salvaged, it will be in addition to what is proposed.
- The Final Plan dated February 23, 2021 includes a variety of trees and shrubs along the frontage of Roosevelt Trail, and three trees at the northwest corner of the site.

#### *Conformity with Local Plans and Ordinances*

##### *Land Use*

- The project meets the minimum lot size, frontage, and setbacks for C-3 zoning district.
- Warehousing, Public, is a permitted use in the C-3 district.
- There are no district boundaries adjacent to the project area.
- Design Standards, Section 813. The project must meet the design standards of the C-1 zoning district.
  - o The Final Plan dated January 19, 2021 includes a detailed account of how the project will meet the District Design Guidelines, both those required in C-3 and 8 optional standards. The applicant did not submit proposed building elevations but instead submitted photos of the buildings recently constructed by the applicant at 4 Outpost Drive
    - The narrative states the buildings will have 5/12 pitched roofs. The photographs show a cupola on the rooftop and a partial stone façade on the gable end of the buildings.
    - The building do not comply with the facade standard (horizontal facades greater than 50 feet shall incorporate wall plan projections or recesses). The applicant is requesting a waiver from this standard.
    - A waiver from the wall plane projection and recesses standard was approved by the Board on February 22, 2021, with the understanding that the applicant would provide a sufficient landscape buffer screen in the front setback area, to break up the view of the

building.

- The applicant is proposing a sign similar to their other Windham facility and a photograph was included in the final plan submission.
- A detail of the sliding gate should be submitted.
- In a response to comments dated February 15, 2021 the applicant stated that the facility is intended to be coordinated with the other facility in Windham, south of Fosters Corner.
- Snow storage areas are shown on the final plan dated February 12, 2021.
- The development is subject to the following Section 1200 Impacts Fees, to be paid at with the issuance of a building permit: Public Safety Impact Fee, Municipal Office Impact Fee.
- Per Section 814.E, As-Built Plans are required for any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area. A set of construction plans, both paper and electronic copies, including any revision to the GIS information required in Section 811, shall be submitted to the Planning Department prior to the issuance of a Certificate of Occupancy for the project. See Condition of Approval #2.

#### Comprehensive Plan

- This project meets the goals and objectives of the 2017 Comprehensive Plan.

Others:

#### Impacts to Adjacent/Neighboring Properties

- Site lighting must be shown on the Final Plan, and details of fixtures must be included in the submission.
- The January 19, 2021 final plan states that the buildings will include security lighting over the doorway and no pole mounted lights are proposed. A cut sheet for the wall mounted fixture was included in the submission.
- No dumpster is provided for users of the self-storage facility. The January 19, 2021 final plan submission states that no solid wastes are expected to be generated.
- The updated Final Plan dated February 23, 2021 includes three trees to be planted on the corner of the property facing the nearest house on Wanderers Way.

#### CONCLUSIONS

1. The plan for development reflects the natural capacities of the site to support development.
2. Buildings, lots, and support facilities will be clustered in those portions of the site that have the most suitable conditions for development.
3. 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.
4. The proposed site plan has sufficient water available for the reasonably foreseeable needs of the site plan.
5. The proposed site plan 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.
6. The proposed use and layout 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.
7. The proposed site plan will provide for adequate sewage waste disposal.
8. The proposed site plan conforms to a duly adopted site plan regulation or ordinance,

comprehensive plan, development plan, or land use plan.

9. The developer has adequate financial capacity to meet the standards of this section.
10. The proposed site plan will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
11. The proposed site plan will provide for adequate storm water management.
12. 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.
13. On-site landscaping does provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated November 23, 2020, as amended February 23, 2021, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 814.G. of the Land Use Ordinance.
2. A set of construction plans, both paper and electronic copies, including any revision to the GIS information required in Section 811, shall be submitted to the Planning Department prior to the issuance of a Certificate of Occupancy for the project.

Seconded by Kaitlyn Tuttle.

Roll Call

Michael Devoid- In favor      Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor      Rick Yost – In favor

Vote: All in favor.

- 8      [PB 21-015](#)      20-27 Chamberlain Estates. Major subdivision preliminary plan review. Robie Holdings, LLC to request review of a 3-lot subdivision, including 40 residential apartments in 20 duplex buildings, to be accessed from Manchester Drive. The subject property is located on Manchester Drive and Basin Road and identified on Tax Map: 18A, Lot: 48 D, Zone: Commercial 2 (C-2).

- Attachments:**    [20-27 Chamberlain Estates Prelim 3-19-21.pdf](#)  
                           [11 - Details 03-19-2021.pdf](#)  
                           [Chamberlain Response to Comments 03-01-2021.pdf](#)  
                           [Chamberlain Response to Comments 02-22-2021.pdf](#)  
                           [Peer Review MA 2-21-21.pdf](#)  
                           [Goode, James 2-23-21\\_1.pdf](#)  
                           [Goode, James 2-23-21\\_2.pdf](#)

Public comment had been received, alleging a conflict of interest in considering the application for Board member Colin Swan. He verified that he could vote impartially; had

*no financial gain in the project; and was friendly with many businesspeople in town, including the developer.*

*The Board voted regarding conflict of interest. A vote in favor would allow him to continue review of the application.*

*Roll Call*

<i>Michael Devoid- Abstained</i>	<i>Colin Swan – In favor</i>
<i>Keith Elder- In favor</i>	<i>Kaitlyn Tuttle - In favor</i>
<i>Marge Govoni – In favor</i>	<i>Rick Yost – In favor</i>

*Vote: Five in favor. No one opposed. One abstained.*

*Dustin Roma, a civil engineer with DM Roma Consulting Engineers, was present representing the applicant. He explained the outstanding items for the subdivision:*

- The application represented a new concept for a commercial thoroughfare. The proposed road standards met the needs of what was to be accomplished.*
  - o The pavement had been revised to the ordinance requirement of 22 feet wide.*
  - o Along the road, where there would be no on-street parking, from the curb and going up to the building face or lawn area would be first a six foot wide grass esplanade where street trees would be planted; then a five foot wide sidewalk.*
  - o Along the road where there would be on-street parking, the five foot sidewalk would be immediately adjacent to the curb; then there would be the esplanade with street trees between the sidewalk and the building face, or lawn area.*
  - o They requested a waiver of the street standard for road cross section details for:*
    - Curbing material – To be concrete instead of granite*
    - Turning radius – Larger than the required 12 feet*
    - Acceptance of the esplanade space – As a planter type with grass and trees*
    - A sidewalk on one side of the road, rather than on both sides*
- Final septic designs would be completed.*
- They were waiting for DEP approval.*
- A right-of-way for possible future connection to Basin Road was included on the plan.*
- Public water would come from the connection on Chamberlain Drive. They were working with Portland Water District (PWD) regarding a plan for a loop connection to the water line on Basin Road.*
- They were obtaining legal review of the easements over the existing Chamberlain Drive in anticipation of public street conveyance.*

*The Board commented:*

- The proposed road/esplanade/sidewalk seemed like the best option.*
- Would there be a hydrant on Basin Road, at the juncture to the development?*
- There was some concern regarding installation of the waterline on Basin Road.*
  - o It should be on the side of Basin Road, so the roadway was not disturbed. It would also result in the road being wider than it was now, which was good.*
  - o The waterline should be installed at a different level than the other utility lines.*
  - o How long would the extension be?*
  - o Could the applicant put a hydrant in at the end of their line to Basin Road, so it was in place whenever PWD did the waterline extension?*
- Was the 22 foot road width only where there was no on-street parking?*
- What kind of street trees would be planted?*
- Should the Board make a recommendation to Town Council regarding standards for residential roads in commercial districts?*
- Granite curbing looked better and held up better, didn't like doing away with it.*

- *Not comfortable with the “We’ll see as we go” expectations.*
- *Would like better clarification that the town can accept the current part of Chamberlain Drive.*
- *Had the applicant contacted Lowe’s regarding the easements?*
- *Was the right-of-way to Basin Road only on paper?*
- *It seemed that most of the residents on Basin Road were not interested in access.*
- *Would the waiver for the type of curbing give the town a reason not to accept the road?*

*Michael Devoid made a motion that the Board grant a waiver of the Appendix B Commercial Street Standards as noted in the staff memo to the Planning Board, dated March 19, 2021.*

*Seconded by Colin Swan.*

*Roll Call*

*Michael Devoid- In favor    Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor    Rick Yost – Opposed*

*Vote: Vote: Five in favor. No one opposed. One abstained.*

*Michael Devoid made a motion that the application for project 20-27 Chamberlain Estates Preliminary Subdivision was found complete with regard to the submission requirements based on the application checklist, but the Planning Board retained the right to request more information where review criteria were not fully addressed.*

*Seconded by Colin Swan.*

*Roll Call*

*Michael Devoid- In favor    Colin Swan – In favor  
 Keith Elder- In favor        Kaitlyn Tuttle - In favor  
 Marge Govoni – In favor    Rick Yost – In favor*

*Vote: All in favor.*

*Michael Devoid made a motion that the Preliminary Subdivision application for 20-27 Chamberlain Estates on Tax Map:18A; Lot: 48-D was to be approved with conditions with the following findings of fact and conclusions.*

**FINDINGS OF FACT**

**A. POLLUTION**

- *A portion of this subdivision is located over a significant sand and gravel aquifer.*
- *No portion of the lot is in the mapped floodplain area*
- *A hydrogeologic assessment must be submitted as part of the Preliminary Plan when the subdivision is not served by public sewer and the subdivision has an average density of more than one dwelling unit per 100,000 square feet.*
- *See findings of fact (FOF) under SEWERAGE and SOIL EROSION AND STORMWATER MANAGEMENT.*

**B.WATER**

- *The subdivision is proposed to be served by public water, in compliance with § 911.B.1.(a)*
- *The preliminary plan must include a statement from the PWD indicating there is adequate supply and pressure for the subdivision.*
- *The Preliminary Plan includes a series of email exchanges between the applicant and PWD, indicating that the PWD is aware of the proposed project, but not yet confirming they will be able to provide adequate supply and pressure.*
- *The final plan must include an ability to serve letter from PWD.*
- *There are existing hydrants on Manchester Drive, opposite the proposed southern entrance, and by the access road to the adjacent Lowes property. Both existing hydrants are shown on the Preliminary Plan.*
- *The Fire Department recommends that new residential homes be equipped with sprinkler systems when located more than 1,000 from a PWD hydrant. A proposed hydrant is shown on the preliminary plan sheet PP-2 dated February 12, 2021 across from Units 27-28.*

### C.SOIL EROSION AND STORMWATER MANAGEMENT

- *A 42" diameter storm drain constructed as part of Walmart's stormwater infrastructure is located in a 30 foot drainage easement that crosses the property from Manchester Drive to the detention basin on Basin Road. The easement area is shown on the plan.*
- *An erosion and sedimentation control plan prepared in accordance with MDEP Stormwater Law Chapter 500 Basic Standards, and the MDEP Maine Erosion and Sediment Control Best Management Practices, must be included with the preliminary plan.*
- *The Preliminary Plan includes on Sheet D-1 Erosion and Sedimentation Control Notes, that includes sections on Pollution prevention, Temporary Stabilization BMPs, Sediment Barrier BMPs, Storm Drain inlet protection, Stabilized Construction Entrance/Exit, a variety of maintenance notes, Winter Erosion and Sediment Control notes, and Housekeeping notes.*
- *A stormwater management plan which complies with the requirements of Maine DEP Chapter 500 Stormwater Management, prepared by a Maine Licensed Professional Engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the MDEP must be included with the preliminary plan.*
- *If this project requires a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, it must be submitted with the Final Plan.*
- *This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized area as designated by the Environmental Protection Agency for the Town of Windham. As a result, there will be additional construction inspection requirements and ongoing requirements for reporting of stormwater infrastructure maintenance if the area of development is greater than one (1) acre. See Condition of Approval #2.*
- *In accordance with §910.C.(6), where the proposed subdivision is at least in part located in the direct watershed of a great pond, the preliminary plan shall include a watershed drainage divide, and depending on which watersheds the proposed development lies in, a phosphorus impact analysis and control plan, and long-term maintenance plan.*
- *A stormwater management plan has been submitted as part of the January 19, 2021 Preliminary Plan submission. The project proposes to treat the 7.45 acres of total developed area (2.54 acres of impervious area) with a grassed underdrained soil filter basin, a stone bermed level lip spreader discharging to a forested buffer and roofline drip edges on each of the 20 duplex buildings. The applicant will be responsible for the*

*maintenance of the stormwater facilities.*

- *In an email dated February 4, 2021 Mark Arienti, P.E., Town Engineer had a number of comments related to stormwater infrastructure sizing and locations, and stormwater storage capacity.*
- *Note 11 on the preliminary plan states that the forested stormwater buffer shall remain in its natural state, with no removal of vegetation or natural duff layer except for the removal of dead trees. The buffer shall be permanently marked in the field prior to site disturbance.*
- *Note 12 on the preliminary plan states that all buildings will require the installation of a roofline drip edge filter for stormwater treatment. The roof drip edge detail is shown on Sheet D-3.*
- *The applicant responded to comments in an email on February 12, 2021. Mark Arienti, P.E., Town Engineer, reviewed the response and further commented in an email dated February 21, 2021, accepting most of the responses, but noting that he remained concerned about the proximity of the subsurface wastewater disposal fields to the detention pond on the property and to the proposed filter basin. He noted a hydrogeologic assessment could document their possible impact.*

#### *D. TRAFFIC*

- *The property has 460 ft of frontage on Manchester Drive, a paved public street, and 580 ft of frontage on Basin Road, a gravel private road.*
- *The subdivision lots will have frontage on Manchester Drive and 1,700 feet of new roads, to be constructed internally.*
- *Manchester Drive is a Controlled Access Street and in accordance with Section 500 all curb cuts must be spaced at least 300 linear feet from the nearest curb cut on said controlled access street. Proposed Lot 1 will not be permitted a curb cut on Manchester Drive. The Preliminary Plan shows a curb cut for Lot 1 on Dovak Way.*
- *The sketch plan submission proposes to construct a residential street, with expanded width. Where the project is for a commercial development, the primary roads should be built to the commercial street standard and include on-street parking. Perpendicular parking would be consistent with the intent of the ordinance but would require a waiver from the street standard.*
- *The Commercial Street standard, intended as the standard for new streets in this area of the 21st Century Downtown Plan, requires sidewalks and on-street parking on both sides of the street.*
- *The proposed connection to the private access drive on the adjacent Lowes property to the north, does not meet the requirement of two (2) connections to an existing public street for a development with 31 or more units. (§911.M.5.(b)(7)) A waiver request must be submitted. A waiver request form was not included in the preliminary plan submission.*
- *The ordinance does not have a minimum number of spaces required but the applicant shall demonstrate that the number of spaces provided onsite will meet the needs of the proposed uses.*
- *The preliminary plan shows 64 parking spaces: 18 on-street parallel parking spaces, a parking lot with 10 parking spaces and 18 driveways, each accommodating 2 parking spaces.*
- *The preliminary plan shows ten (10) driveway curb cuts on Lot 2 and thirteen (13) driveway curb cuts (5 shared entrances for 10 driveways) and 1 parking lot curb cut on Lot 3. The applicant has requested a waiver from the curb cut standards of Section 522 which limits a parcel to one (1) curb cut on the same street.*
- *For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a Maine Licensed Professional Engineer with experience in traffic engineering, shall be submitted with the preliminary plan, in accordance with § 910. C.1.5.*

- *The Preliminary Plan includes a Traffic Assessment for Manchester Drive Residential Development, dated December 17, 2020, and prepared by William Bray, P.E. of Traffic Solutions. The report states that 14 trips during the morning peak hour and eight trips in the evening peak hour will exit the site and 4 AM and 14 PM [peak hour] trips will enter the site.*
- *If the project generates over 100 peak hour trips and requires a Traffic Movement Permit from the Maine Department of Transportation, it must be submitted with Final Plan.*
- *The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour. The traffic assessment does not include analysis of the North Route 302 traffic impact – it should be included in the Final Plan.*
- *Where a proposed development abuts unplatted land, or a future development phase of the same development, the Board may require the dedication of a right-of-way equal to the right-of-way width of the internal subdivision street to provide continuation of the road where future development is possible.*
- *At the Development Review Team Meeting on November 12, 2020, it was discussed that a connection to Basin Road might be beneficial.*
- *No connection or ROW to Basin Road is shown in the Preliminary Plan. One of the intents of the 21st Century Downtown Plan was to increase connectivity throughout the area.*
- *Streets shall be named, signed, and addressed in accordance with the Code of the Town of Windham Chapter 221, “Street Naming and Addressing.”*
- *Sidewalks on the new subdivision streets are required, as the subdivision is less than 1,000 feet from a convenience store. (§911.M.5.(b)(6)).As described in 1202.C. of the Land Use Ordinance, the project is subject to the North Windham Sidewalk Impact Fee for the frontage of Manchester Drive that does not have an existing sidewalk.*
- *The Planning Board may require the construction of sidewalks on existing roads on which the property is being subdivided fronts if a connection to an existing sidewalk can be made (§911.M.5.(b)(6)). The Board should determine if the applicant should construct a sidewalk along the frontage of Manchester Drive or the Lowe’s access drive along the frontage of Lot 1.*
- *At the December 14, 2020 meeting the applicant stated that they propose a 24’ wide road with sidewalks on both sides.*
- *The Preliminary Plan should show details for the system of pedestrian ways.*
- *The Preliminary Plan does not show the verge areas, as described in the Commercial Street standard for thoroughfares. Sidewalks are only provided on one side of the street. Details for sidewalk tip-downs should be included.*
- *Sheet D-2 of the Preliminary Plan set dated February 12, 2021 shows the typical roadway section. Chamberlain Drive serving Units 7-40 is shown to have 10 foot travel lanes, 2 foot paved shoulders, and a 5 foot sidewalk on one side. Dovak Way and Chamberlain Drive serving Units 1-6 is shown to have a 10 foot travel lane with a 2 foot paved shoulder, a 12 foot travel lane with an 8 foot paved parking lane, and a 5 foot sidewalk and a 5 foot landscaped shoulder. The sections do not comply with the Commercial Street Thoroughfare Standard of a maximum 11 ft traffic lane width, pavement width that only includes traffic and parking lanes, and granite curbs. The applicant has not submitted a waiver request form.*
- *The Preliminary Plan only depicts a sidewalk along Lot 1 on the outer side of the loop road, and the north side of Dovak Way.*
- *The Commercial Street standard states that the thoroughfare may drop one or both parking lanes for portions of its length as long as the resulting space is given to the*

adjacent margin assembly. The Preliminary Plans submitted February 12, 2021 do not reflect that requirement.

- S911.M.1(a): The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets.
- Sight distances for access to external streets should be shown on the preliminary plan.
- A note on the Preliminary Plan states that TrafficSolutions, LLC measured the sight distance at Dovak Way and Manchester Drive and found it to be in excess of 400'. The traffic assessment states that the DOT requirement for sight distance in a 35mph zone is 305'.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. The Town of Windham Streetlight Policy, adopted June 25, 2013, requires streetlights at the intersection of a public street and the subdivision road serving 10 or more lots.
- The Preliminary Plan shows streetlights Dovak Way at the Manchester Drive and Chamberlain Drive intersections and on Chamberlain Drive at the end of the Lowe's access drive, at the parking area near Unit 38, and at the curb cut between units 34 and 35. A detail of the streetlight pole and fixture should be included in the plan set.
- In an email dated February 4, 2021 Mark Arienti, P.E., Town Engineer asked if the radii at the intersection of Dovak Way and Chamberlain Way adequate to allow emergency vehicle access.
- The applicant submitted a turning movement diagram in the February 12, 2021 response to comments.
- At the February 22, 2021 meeting the Board voted to approve the access through the shared driveway with Lowes as a second access to a public street. A maintenance agreement should be included in the Final Plan application, which recognize the needs of a residential neighborhood.
- At the February 22 meeting the Board determined that a right of way for a secondary access to Basin Road should be provided.
- At the February 22 meeting the Board determined that a connecting sidewalk should be installed on the subdivision side of the Lowes access drive, to Manchester Drive.
- On March 19, the applicant submitted a revised detailed cross-section for the proposed street, meeting the lane and margin width standards, using slipform concrete curbing, and incorporating an esplanade as a planter type. It is not clear if the areas where on-street parking will not be provided will have the resultant space given to margin assembly, as required by the standards. An updated Subdivision Plan or Road Profiles should show it. The cross-sections depict sidewalks only on one side of the street. The applicant has submitted a waiver request of the Appendix B commercial street standards for the Board to consider at the March 22, 2021 meeting.

#### E. SEWERAGE

- Lots will be served by private subsurface wastewater disposal (septic) systems.
- The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules
- The applicant submitted a letter from Albert Frick Associates, Inc. dated November 1, 2019, with an assessment of suitability for 100,000 gallons of wastewater per day at the project site, with associated test pit map and soil logs. The letter states that the soil is suitable, as defined by the State of Maine Subsurface Wastewater Disposal Rules.
- The preliminary plan must include a hydrogeologic assessment in accordance with §910.C.1.(c)(3)
- The applicant has requested a waiver from the hydrogeologic assessment

submission requirement. The waiver was granted at the February 22, 2021 meeting.

#### F.SOLID WASTE

- The preliminary plan should indicate how the project will dispose of solid waste.
- The Preliminary Plan application states that the lots will utilize the Town's curbside trash collection program to dispose of solid wastes.

#### G.AESTHETICS, CULTURAL AND NATURAL VALUES

- The preliminary plan should indicate whether there are documented rare botanical features, historic sites, or significant wildlife habitat documented on the site
- On March 1, 2021, the applicant submitted a letter from Maine Historic Preservation Commission, dated December 14, 2020, stating that there are no National Register eligible properties on or adjacent to the parcels, and the project area is not considered sensitive for archeological resources.
- The Preliminary Plan includes a letter from Maine Department of Inland Fisheries and Wildlife indicating there are no known presence of Significant Wildlife Habitat on the project site, but they recommend a survey for vernal pools up to 250' beyond the property boundary to verify there are no vernal pools.
- The Preliminary Plan did not include a submission on botanical features of historic sites documented on site.
- Limits of tree clearing should be shown on the plan.
- Limits of tree clearing are shown on the Preliminary Plan.
- Street trees are required at least every fifty (50) feet (§ 911.E.1.b).
- A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- Note #10 on the Preliminary Plan includes that clearing limits shall be maintained for five years

#### H.CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
  - The plan does meet the goals of the 2017 Comprehensive Plan.
  - The project is located in the North Windham Growth Area.
- Land Use Ordinance:
  - There is no minimum lot size for commercial lots in the C-2 zoning district (C-2). Lots 2 and 3 meet the 40,000 sf minimum lot size for lots with dwellings.
  - Dwelling, two-family are permitted uses in C-2. No uses are currently proposed for Lot 1.
  - The zoning district boundary should be shown on the preliminary plan and is not shown on the revised preliminary plan dated February 12, 2021.
  - The proposed lots will meet the frontage requirement of 150 feet for C-2.
  - Net residential density calculations are shown on the plan
  - Minimum 10' side and rear setbacks are shown on the plan
  - The façade of all buildings must be oriented parallel to a front lot line. Multi-building development may orient individual buildings to different front lot lines.
  - C-2 District Block Standards apply. The standards require that blocks should be generally rectangular in shape. Block perimeters shall be demonstrated to meet the block standards on the preliminary plan.
  - Section 522 states that a parcel shall be limited to one (1) curb cut on the same street. The applicant has requested a waiver from the curb cut standards. The waiver was

approved at the February 22, 2021 meeting.

- No parking shall be located within a structure's front setback area. When parking is located at the side of a building, the parking area shall not extend closer to the street than the front façade of the building.
- The space between the parking lot and the street shall be landscaped according to an overall plan for the property. The Site and Landscaping Plan shows street trees at the edge of the right-of-way and no additional landscaping in the front setback.
- The development is subject to the following Section 1200 Impacts Fees, to be paid at with the issuance of a building permit: North Windham Sidewalk Impact Fee, Recreation Impact Fee, North Route 302 Road Improvements Impact Fee, Open Space Impact Fee, Public Safety Impact Fee, Municipal Office Impact Fee.
- The applicant should consult with the local postmaster as to appropriate mailbox locations and types and if a group mailbox is required it should be shown on the Final Plan.
  
- Subdivision Ordinance
- The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.
- The final plan must include street names approved by the Town.
- Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.
- Homeowner association documents should be provided with the Final Plan submission and must specify the rights and responsibilities of each lot owner with respect to the maintenance, repair, and plowing of the subdivision streets, open space, and stormwater infrastructure.
- The subdivision plan must show the entire parcel including all contiguous land in common ownership within the last five years, as required by 30-A MRSA Section 4401. The Preliminary Plan does not show the land in common ownership in the last 5 years.
  
- Others:
- Chapter 221 Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan. The Preliminary Plan shows the street names Chamberlain Drive and Dovak Way approved by The Town Addressing Officer on January 19, 2021.
- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area. See COA #2.
- Chapter 116 Growth Management Ordinance: Growth permits are required prior to the issuance of a building permit for the construction, creation, or placement of each new dwelling unit within the Town of Windham. At the Town Council meeting on February 9, the Council approved the allocation of 20 growth permits from the reserve pool for this subdivision.

#### *I. FINANCIAL AND TECHNICAL CAPACITY*

- Evidence of financial capacity must be provided as part of the Preliminary Plan submission.
- The applicant submitted an itemized construction cost breakdown with the Preliminary Plan application, totaling \$525,000.
- The applicant submitted a letter from Gorham Savings Bank stating that the applicant has sufficient financial capacity to complete the project.
- Evidence of technical capacity must be provided as part of the Preliminary Plan submission.
- The applicant has retained the services of qualified, licensed professionals to conduct investigations, and Dustin Roma, a Maine Licensed Professional Engineer, to

*prepare the subdivision plan and application.*

#### J. RIVER, STREAM OR BROOK IMPACTS

- *This project is located within the Presumpscot River watershed and is just over 1,000 feet from Sebago Lake Basin.*
- *The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.*

#### CONCLUSIONS

1. *The proposed subdivision will not result in undue water or air pollution.*
2. *The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the site plan.*
3. *The proposed subdivision will not cause an unreasonable burden on an existing water supply.*
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 subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.*
6. *The proposed subdivision will provide for adequate sewage waste disposal.*
7. *The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.*
8. *The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*
9. *The proposed subdivision conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.*
10. *The developer has adequate financial and technical capacity to meet the standards of this section.*
11. *The proposed subdivision is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. *The proposed subdivision will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.*
13. *The proposed subdivision is not situated entirely or partially within a floodplain.*
14. *All freshwater wetlands within the proposed subdivision have been identified on the plan.*
15. *Any river, stream, or brook within or abutting the subdivision has been identified on any maps submitted as part of the application.*
16. *The proposed subdivision will provide for adequate storm water management.*
17. *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, section 480-B, none of the lots created within the subdivision have/do not have a lot depth to shore frontage ratio greater than 5 to 1. (N/A)*
18. *The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.*
19. *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)

20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated November 2, 2020, as amended March 1, 2021, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board or the Town Planner in accordance with Section 913 of the Subdivision Ordinance.

2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 142. Any person owning, operating, leasing, or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by May 1st of each year.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor	Colin Swan – In favor
Keith Elder- In favor	Kaitlyn Tuttle - In favor
Marge Govoni – In favor	Rick Yost – In favor

Vote: All in favor.

**Other Business**

**9 Adjournment**

Michael Devoid made a motion to adjourn.

Seconded by Colin Swan.

Roll Call

Michael Devoid- In favor	Colin Swan – In favor
Keith Elder- In favor	Kaitlyn Tuttle - In favor
Marge Govoni – In favor	Rick Yost – In favor

Vote: All in favor.