



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Planning Board

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Monday, May 10, 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

#### 2 Roll Call and Declaration of Quorum

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

*Planning Director, Amanda Lessard, was also present.*

#### 3 [PB 21-026](#) Approval of Minutes: April 26, 2021

**Attachments:** [Minutes 4-26-21 - draft.pdf](#)

*Marge Govoni made a motion to approve the minutes from April 26, 2021.*

*Seconded by Colin Swan.*

*Roll Call*

*Keith Elder- In favor      Colin Swan – In favor  
Marge Govoni – In favor      Rick Yost – In favor*

*Vote: All in favor.*

#### **Continuing Business**

- 4 [PB 21-024](#) 20-27 Chamberlain Estates. Major subdivision final 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: 48D, Zone: Commercial 2 (C-2).

**Attachments:** [20-27 Chamberlain Estates Final 05-06-21.pdf](#)  
[Peer Review MA 5-6-21.pdf](#)  
[Chamberlain Estates compiled 5-6-2021.pdf](#)  
[Chamberlain Potential Sewer 05-05-21.pdf](#)  
[Chamberlain response to comments 05-05-21.pdf](#)  
[Peer Review MA 5-5-21.pdf](#)  
[Chamberlain Estates-Stormwater Management Report \(5-4-21\).pdf](#)  
[Chamberlain Estates-Stormwater Maps \(5-3-21\).pdf](#)  
[Chamberlain Estates - Stormwater Management Report \(5-3-21\).pdf](#)  
[Peer Review MA 5-3-21.pdf](#)  
[Elevations.pdf](#)  
[Robie Holdings LLC L29071AN.pdf](#)  
[Chamberlain Estates-Design Plans \(4-19-21\).pdf](#)  
[Chamberlain Estates-Design Plans \(4-5-21\).pdf](#)  
[Final Plan Application Chamberlain Estates 2021 4 5.pdf](#)  
[Chamberlain Estates Permitting Plans 2021 3 19.pdf](#)  
[Dunlop, Jeff 4-8-21.pdf](#)  
[16629 3 17 2005 LowesEasement.pdf](#)  
[Chamberlain-Road Maintenance Agreement Draft.pdf](#)

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

- *The plans had not changed substantially since the project had received preliminary approval.*
- *DEP had granted the stormwater.*
- *Portland Water District (PWD) had approved the water system design.*
- *Because DEP had some concern with stormwater draining through the site to an existing detention pond they would install a culvert under Basin Road and provide a ditch as an outlet for water that may back up extreme weather.*
- *Digital data had been submitted.*
- *The traffic impact had been determined and the impact fee calculated.*
- *They were confident in their legal ability to offer Dovak Way and Chamberlain Drive to the town for acceptance.*
- *There was ordinance language and a condition of approval regarding a requirement to connect to the sewer system when it was available. The infrastructure was not currently in place so there was a risk factor to including that condition of approval at this point.*

*Amanda Lessard explained:*

- *Town Council had amended the sewer ordinance to require connection of any building in the collection area to the planned sewer.*
- *The subdivision ordinance required PWD to approve construction plans for infrastructure. PWD did not want to do that because there was no certainty regarding the location and elevations of connection points.*
- *The town's attorney had recommended putting the condition of approval in place.*

*The Board commented:*

- *There was no sewer system now in place.*

- o *If there was one, would they have to connect to it, even though there would be a septic system?*
- o *What was the cost to connect to the sewer?*
- o *Was connection required for existing development?*
- *There should be a buffer along Basin Road.*
- *Would they be laying underground conduit so when Broadband was available it could be installed?*
- *What would the duplexes look like?*
- *Would they install a hydrant on Basin Road?*
- *What was the purpose of the double septic tanks?*

*Marge Govoni made a motion that the Final Plan application for project 20-27 Chamberlain Estates 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*

*Keith Elder- In favor            Colin Swan – In favor  
Marge Govoni – In favor    Rick Yost – In favor*

*Vote: All in favor.*

*Marge Govoni made a motion that the Final 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, and with a revision to Condition of Approval 4 to reflect determination of the traffic impact fee.*

*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.
- The final plan submission includes an "Ability to Serve" letter dated March 23, 2021 from Robert Bartels, PE at the Portland Water District, confirming service for the 8" ductile iron water main extension from Manchester Drive looping through to Basin Road.

### 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.
- The Final Plan application included Maine Department of Environmental Protection approved Stormwater Permit #L-29071-NJ-A-N dated April 28, 2021.
- In an email dated May 3, 2021 Town Engineer Mark Arienti, P.E., Town Engineer recommended including a DEP condition on the subdivision plan (See Condition of Approval #3) and requested and updated stormwater management plan and watershed map to reflect the change in the outlet to the new culvert on the south side of Basin Road.
- The applicant submitted updated stormwater maps and stormwater management report on May 3, 2021 and May 4, 2021.
- In an email dated May 4, 2021 Town Engineer Mark Arienti, P.E., Town Engineer questioned the increase in the post-development peak flow at study points 2 and 3.
- The applicant responded to comments on May 5, 2021 stating that the increase at Study Point 2 will infiltrate on site and will not increase flows on to abutting property.
- In an email dated May 6, 2021 Town Engineer Mark Arienti, P.E., Town Engineer stated that he agreed with the applicant's assumptions.

#### 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 18 trips during the morning peak hour and 22 trips in the evening peak hour.
- 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.
- The applicant discussed with staff that based on the Section 1200 assumptions for Collection Area 2 that 25%, or 6 of the peak hour trips could be assumed to travel through the Anglers Road intersection. The impact fee is calculated to be  $6 \times \$382.56 = \$2,331.36$  or  $\$116.57$  with each duplex building permit. See Condition of Approval #4.
- 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 May 3, 2021 Mark Arienti, P.E., Town Engineer stated that the streetlights within the subdivision should be the Holophane Memphis Pedestrian LED and the Charleston Aluminum Pole or equivalent as approved by the Town Engineer.
- 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.
- The applicant submitted a draft road maintenance agreement that states that the owner of each of the three lots shall jointly be responsible for one third (1/3) of the necessary cost of maintaining, repairing, and plowing of Chamberlain Drive and Dovak Way.
- 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. The applicant submitted updated subdivision plan and road profiles on March 22, 2021. The waiver was granted 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.
- The Town Council approved an amendment to the Sewers Ordinance Chapter 195 on April 13, 2021 that specifies the areas of a planned sewer system in North Windham that includes this subdivision. See proposed Condition of Approval #5.
- On May 5, 2021, the applicant submitted a conceptual plan a sewer collection system for the Chamberlain Estates project if sewer were available in Manchester Drive.

#### 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
- The Preliminary Plan includes a letter from Maine Department of Inland Fisheries and Wildlife dated December 31, 2020 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.
- 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.
- 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 are shown on the Final Plan.*
- *Subdivision plan data compatible with the Town GIS was submitted as part of the Final Plan submission.*
- *The applicant will be responsible for 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 Final Plan dated May 6, 2021 shows the land in common ownership in the last 5 years.*
- *Waivers of Subdivision Performance Standards granted by the Planning Board must be listed on the final plan in a separate location from either the plan's general notes or any conditions of approval.*

- *Others:*
- *Chapter 221 Street Naming and Addressing: 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 Condition of Approval #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*

- *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.*
- *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 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 1, 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 May 6, 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.*
3. *Prior to the start of construction, the applicant shall record a drainage easement from Jarod Robie for the stormwater structures located on the south side of Basin Road and obtain authorization from Portland Natural Gas Transmission System and CMP for installation of stormwater structures within their easements and shall provide evidence of such authorization to the MaineDEP and Planning Department for review.*
4. *Before building permits may be issued, the developer must pay the North Route 302 Road Improvement Impact Fee to the Town of Windham, as noted in the subdivision findings on traffic, calculated to be \$2,331.36, or \$116.57 with each duplex building permit.*
5. *Approval is subject to the requirements of the Sewers Ordinance, Chapter 195. Upon notification from the Superintendent that public sewer service is available in the sewer expansion area, all dwellings in the subdivision shall, at the owner's expense, connect any plumbing facilities directly with the public sewer in accordance with the provisions of this chapter within one hundred twenty (120) days after the date of notice by the Superintendent to do so. Plans approved by the Portland Water District for the public sewerage system to serve the subdivision shall be submitted to the Planning Department prior to the start of construction.*

Seconded by Colin Swan.

Roll Call

Keith Elder- In favor      Colin Swan – In favor  
Marge Govoni – In favor      Rick Yost – In favor

Vote: All in favor.

## **New Business**

- 5      [PB 21-025](#)      21-08 Gambo Road Marijuana Cultivation Facility. Major site plan sketch plan review. S&N Investments LLC to request review of a 7,488 sq ft Tier 3 Marijuana Cultivation Facility. The property in question is located at Gambo Road and identified on Tax Map: 41, Lot 4, Zone: Industrial (I).

**Attachments:**      [21-08 Gambo Cultivation\\_Memo\\_sketch 05-05-21.pdf](#)  
[Gambo Cultivation Sketch Plan Binder 04-19-2021.pdf](#)

*Nancy St. Clair, of St. Clair Associates, was present representing the applicant. She explained:*

- *They proposed to construct a 7,488 square foot, one storey building in an Industrial zone for a Tier 3 Marijuana Cultivation Facility.*
- *Access off of Gambo Road would be paved into a gravel drive and parking area with one ADA parking space.*
- *Rather than a dumpster, trash would be contained at the rear of the building in rollable totes and moved outside for collection.*
- *Fire Department access would be provided to the rear of the building via a 14 foot wide gravel pad.*
- *Hours of operation would be 7:30 am – 4:30 pm Monday thru Friday, and 9:00 am – 2:00 pm on Saturday.*
- *Lighting would be mounted on the building.*
- *There would be a security system.*

*Amanda Lessard explained:*

- *There were specific ordinance standards for the use regarding location and odor control.*
- *The adjacent Mountain Division Trail and Gambo Road soccer fields had been identified as drug free zones by the Town Council. The town's attorney had opined the application would not be a violation because the use was allowed by State law and the zoning district. The State's Office of Marijuana Policy had been contacted but had not yet responded.*

*The Board commented:*

- *Who would monitor odors at the property line? How would it be done?*
- *How much space was there at the end of the gravel pad for the Fire Department to turn around?*
- *Where was the building in relation to the soccer fields?*
- *It was nice that there would be no signage.*
- *It would be good if they could add some landscaping along the trail side of the project.*
- *It would be good to hear the State's opinion.*
- *There was some concern regarding the proximity to Gambo fields and the trail.*

- *Would there never be any sales for any reason?*
- *It would be good to have canopies or something to break up the sides of the building.*
- *It would be good if the building had a subdued color.*

*Marge Govoni made a motion to schedule a public hearing.*

*Seconded by Colin Swan.*

*Roll Call*

*Keith Elder- In favor      Colin Swan – In favor*  
*Marge Govoni – In favor      Rick Yost – In favor*

*Vote: All in favor.*

*Marge Govoni made a motion to schedule a site walk.*

*Seconded by Colin Swan.*

*Roll Call*

*Keith Elder- In favor      Colin Swan – In favor*  
*Marge Govoni – In favor      Rick Yost – In favor*

*Vote: All in favor.*

**Other Business**

**6 Adjournment**

*Marge Govoni made a motion to adjourn.*

*Seconded by Colin Swan.*

*Roll Call*

*Keith Elder- In favor      Colin Swan – In favor*  
*Marge Govoni – In favor      Rick Yost – In favor*

*Vote: All in favor.*