



**Town of Windham**  
**Planning Department**  
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## MEMO

DATE: August 23, 2021

TO: Windham Town Council

THROUGH: Barry Tibbetts, Town Manager

FROM: Amanda Lessard, Planning Director; Gretchen Anderson, Environmental & Sustainability Coordinator;  
and Linda Brooks, Parks & Recreation Director

CC: Mark Curtis, Gorham Sand & Gravel  
Parks & Recreation Advisory Committee  
Natural Resources Advisory Committee

RE: River Road Subdivision Open Space

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STJ, Inc is offering an easement to the Town for public access over the 4.03 acres of Common Open Space in the River Road Subdivision shown on the attached approved subdivision plan. The Open Space will be owned by the Abenaki Drive Homeowners Association after conveyance from STJ, Inc. The public would be able to use the Open Space for low intensity recreational uses and there is no obligation for the Town to improve, maintain or manage the Open Space. The Common Open Space parcel is subject to the express covenants and restrictions set forth in the attached Declaration of Covenants, Easements and Restrictions Affecting River Road Subdivision which specifies that the Common Open Space shall be preserved, maintained and conserved in its natural unimproved state for low intensity recreation and conservation purposes.

Following through with recommendations in Windham's [Open Space Master Plan](#) adopted in February 2021, the Town Council recently amended the charges of the Natural Resources Advisory Committee (NRAC) and Parks & Recreation Advisory Committee (PRAC) to direct them to collaborate to make recommendations to the Town Council to acquire land by purchase, gift, foreclosure, condemnation, and/or conservation easement. A NRAC/PRAC joint meeting was held on August 4, 2021. The committees evaluated the River Road Subdivision Open Space using the Property Acquisition Prioritization Evaluation Form from Appendix A of the Open Space Plan. The property was rated a low priority; the property is a poor match for the community's priorities and does not align with the Town's goals and criteria listed in the evaluation form.

# Windham Open Space and Recreation Property Acquisition Prioritization Evaluation Form

Property Information			
Address:		Parcel Size:	
Owner:		Current Use:	
Zoning:		Parcel #:	
Structures:			

Prioritization Evaluation Criteria	
<b>Criteria Met</b>	<b><i>Open Space and Recreation Criteria</i></b>
	Property would provide public access to a major water body in Windham (ie. Little Sebago Lake, Sebago Lake, Highland Lake).
	Property provides open space and/or recreational access to underserved areas of the Community.
	Property is adjacent to existing town-owned open space or recreational facilities.
	Property provides recreational opportunities for multiple-user groups.
	Property provides additional connection to local or regional assets or destinations.
	Property is located within an activity zone or rural preservation area (as designated in the Open Space and Recreation Master Plan).
	Property has high scenic value or contributes to rural character in Windham.
	Preservation of this property would improve water quality in the applicable watershed.
	Property would provide important habitat for endangered or at risk species.
	<b><i>Total # of criteria met</i></b>

Property Prioritization Results			
	High	5 + criteria met	The property should be further evaluated for potential acquisition due to strong alignment with the Town of Windham's Open Space and Recreation Master Plan acquisition guide.
	Medium	3-4 criteria met	The property may fulfill a community need and may be further evaluated based on financial circumstances (ie. property can be acquired under market value).
	Low	0-2 criteria met	The property is a poor match for the community's priorities and does not align with the Town's goals and criteria listed above.

**First Amendment to  
Declaration of Covenants, Easements and Restrictions  
Affecting  
River Road Subdivision**

**Town of Windham, County of Cumberland  
and State of Maine**

THIS FIRST AMENDMENT is made by STJ, Inc. (sometimes known as S.T.J., Inc.) to the Declaration of Covenants, Easements and Restrictions Affecting River Road Subdivision dated September 5, 2018 and recorded in the Cumberland County Registry of Deeds in Book 35123, Page 1 (the "Declaration of Covenants" hereinafter).

WHEREAS STJ, Inc., the original Declarant, was and continues to be, the sole owner of the real property to which such Declaration of Covenants applies, being the lots, open spaces, roads and ways in River Road Subdivision as originally shown on the approved subdivision plan entitled "Subdivision Plan, River Road Subdivision, Windham, Maine", for record owner River Road Housing, LLC, 105 Standish Neck Road, Standish, Maine 04084, prepared by DM Roma Consulting Engineers dated December 4, 2017, revised through December 4, 2017, as approved by the Windham Planning Board, and as recorded in Cumberland County Registry of Deeds in Plan Book 218, Page 52, as now amended and as now shown on the approved amended subdivision plan entitled "Amended Subdivision Plan, River Road Subdivision, Windham, Maine", for record owner STJ, Inc., 939 Parker Farm Road, Buxton, Maine 04093, prepared by DM Roma Consulting Engineers dated May 14, 2018, revised through May 14, 2018, as approved by the Windham Planning Board on May 14, 2018, and as recorded in Cumberland County Registry of Deeds in Plan Book 218, Page 244; and

WHEREAS STJ, Inc., the Declarant, desires to hereby correct a certain error in the Declaration of Covenants as recorded;

NOW, THEREFORE the Declarant STJ, Inc. hereby amends and modifies the Declaration as follows:

The provision entitled "Section 3. Common Open Space" of Article V, Easements, is removed and replaced with the following language:

**3. Common Open Space. All of the numbered lots on the Plan shall benefit from shared rights of pedestrian access over and across, and shared use, of the Common Open Space for low intensity recreation and conservation purposes, in accordance with the restrictions provided herein. The Common Open Space is the 4.03 acre area shown on the**

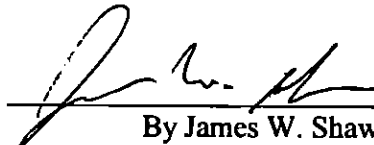
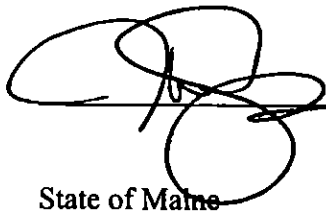
Plan and designated as Common Open Space Reserved for Recreation and/or Conservation Purposes. The Common Open Space shall be owned by the Abenaki Drive Homeowners Association after conveyance from the Declarant or Developer.

The Common Open Space shall be preserved, maintained and conserved in its natural unimproved state for shared low intensity recreational and conservation use by the owners of lots in River Road Subdivision, and for such use by the public. No residential, commercial or industrial construction, and no improvements, structures, or physical facilities of any kind, temporary, portable or otherwise, shall be permitted or placed upon the Common Open Space lot, excepting drainage structures and informal unpaved paths. The Common Open Space shall not be used for future building lots, and may not be further subdivided. Only low intensity recreational uses, such as walking, hiking, cross-country skiing, picnicking, mountain-biking, and similar low-impact uses shall be permitted on the Common Open Space. The use of motorized vehicles, including all-terrain vehicles, motorcycles, other motorized recreational vehicles shall be prohibited on the Common Open Space area. During the winter months, provided there is adequate snow coverage, the non-destructive operation of snowmobiles shall be permitted on the Common Open Space Area.

All other provisions of the Declaration of Covenants remain in place, unchanged and in full force and affect.

Dated this January 23, 2019.

STJ, Inc.

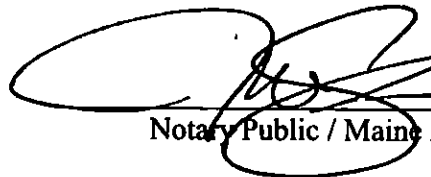
  
By James W. Shaw, Vice President

State of Maine  
County of Cumberland, ss.

January 23, 2019

Then personally appeared the above named James W. Shaw, duly authorized Vice President of **STJ, Inc.** and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said corporation.

My commission expires:

  
Notary Public / Maine Attorney at Law

**John W. Sawyer - Attorney at Law**  
~~Maine Bar No. 2806~~

With all powers of a notary public  
per Title 4 MRSA Section 1058  
NO SEAL REQUIRED

Printed Name