

ARTICLE 2. To vote by ballot on the following amendments to the Windham Zoning Ordinance and Zoning District Map as proposed by the Planning Board.

Planning Board Amendment #1: Open Space Residential Overlay District

Amend the provisions of Section 611 of the Windham Zoning Ordinance relating to the Open Space Residential Overlay District as follows:

- A. Amend Section 611.2.2 by deleting the same and replacing it with the following:

611.2.2 Maintain or decrease existing residential densities allowing the same or fewer homes per development as would be permitted in a conventional subdivision (complying with zoning provisions such as, but not limited to, those governing lot design, wetland setbacks, road length, and all other applicable regulations);

- B. Amend Section 611.2.6 by deleting the word “traditional” and replacing it with the word “conventional”.

- C. Amend Section 611.3 by the addition of the following new definition to be inserted in alphabetical placement:

Conventional Subdivision: A subdivision of land, other than a condominium subdivision, intended for single-family residential construction on fee simple lots, laid out in conformance with applicable dimensional requirements of the Windham Zoning Ordinance and Land Use Regulations as well as Design Standards for residential streets and lots specified in Sections 602 and 605 respectively of the Windham Subdivision Regulations.

- D. Amend Section 611.3 by the addition of the following new definition to be inserted in alphabetical placement:

Yield Plan: A layout that demonstrates the number of potential single-family lots that would be obtained in a conventional subdivision employing only such waivers

or variances which would likely meet the specific criteria for such waivers or variances.

- E. Amend Section 611.5 by deleting said section and replacing it with the words “Intentionally omitted”
- F. Amend Sections 611.6.6, 611.6.7.3 and 611.6.7.4 by deleting in each said section the word “subdivision” and replacing the same with the phrase “Open Space Subdivision”

The Planning Board voted to Recommend this Article on a vote of 7-0.

Planning Board Amendment #2: Market Square Overlay District

Amend provisions of Windham Zoning Ordinance to add provisions for the establishment of a new Market Square Overlay District as follows:

- A. Adopt the changes to the Windham Zoning Map by incorporation of the Market Square Overlay District Map dated October 2, 2015 posted in accordance with state law.
- B. Amend Section 301 to include the following new subsection:
 - 301.18** Market Square Overlay District
- C. Amend Section 302 by deleting the same and replacing it with the following:

302. Location of Districts:

Said Districts are hereby established as shown, located, defined and bounded on the latest approved map entitled, "Zoning District Map of the Town of Windham, New Hampshire" signed by the Planning Board and filed with the office of the Town Clerk; with the exception of the Wetland and Watershed Protection District, the Flood

Plain District, the Aquifer Protection District, the Housing for Older Persons District, the Open Space Residential Overlay District, the Route 28 Access Management Overlay District, the Cobbetts Pond and Canobie Lake Watershed Overlay Protection District, the Market Square Overlay District and the Workforce Housing Overlay District which are not defined by boundary lines on said map, but are districts determined by criteria set up under Sections 601, 607, 609, 610, 611, 615, 616, 619 and 620 respectively; which map, together with all explanatory matter thereon, is hereby incorporated in and made part of this Ordinance.

D. Insert the following new Section 620:

SECTION 620 MARKET SQUARE OVERLAY DISTRICT

620.1 PURPOSE AND LOCATION:

The Town of Windham has adopted the Market Square Overlay District to generate a walkable, mixed-use center that has retail, offices, restaurants, limited residential and public space uses that enhance the quality of community life in the Town.

620.1.1 Purpose

620.1.1.1 Promote the walkable, mixed use, downtown-like center that contains retail, office, restaurants, limited residential and public space components that enhance the quality of community life in Town.

620.1.1.2 To ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of Windham.

620.1.1.3 Minimize sprawl, promote pedestrian-friendly design and maintain efficient traffic circulation and safety.

620.1.2 Location

The Market Square Overlay District shall be an “overlay” district applicable to a qualifying parcel (or parcels) located within an area shown on the “Market Square Overlay District” map, dated October 2, 2015, and shall supersede the underlying

zoning use and dimensional requirements. However, the provisions outlined in the Cobbetts Pond and Canobie Lake Watershed Overlay Protection District and the Wetlands and Watershed Protection District apply.

All development applications which elect to utilize the Market Square Overlay District shall require a minimum of fifty (50) contiguous acres located within the area designated as eligible for utilization of the Overlay District provisions.

620.2 USES PERMITTED: Subject to Site Plan approval as provided by the Windham Site Plan Regulations and Design Review Regulations.

620.2.1 Retail Sales

620.2.2 Hotels & Inns

620.2.3 Restaurants, including outside dining areas

620.2.4 Offices

620.2.5 Personal Service Establishments

620.2.6 Theaters, bowling alleys, skating rinks, clubs, and museums

620.2.7 Telephone exchange buildings, radio stations, television stations, PWSF towers, PWSF mounts and Broadcast Antenna Structures, and other utility structures subject to the provisions of Section 701.3.

620.2.8 Banks and ATMs

620.2.9 Multi-unit housing structures for ownership or lease. Structures shall have at least three (3) and not more than twelve (12) residential units. All such units shall have not more than two (2) bedrooms. The total square footage dedicated to multi-family housing shall not exceed ten (10%) percent of the total occupiable square feet of the development application.

620.2.10 Assisted living facilities and adult day care facilities

620.2.11 Child day care and learning centers

620.2.12 Medical Clinics and offices

620.2.13 Health and fitness clubs

620.2.14 Outside activities and entertainment, such as farmers markets, concerts, festivals, etc. that are temporary in nature and is in accordance with Section 302.4 of the Site Plan Regulations.

620.2.15 Accessory buildings and uses

620.3 MIXED USE REQUIREMENTS

All applications for a development within the Market Square Overlay District will dedicate, as a minimum, the following percentage of the total, occupiable square footage to the following uses:

Retail	15%
Restaurant	15%
Office	7.5%
Residential	5%

620.4 DESIGN CRITERIA

620.4.1 There shall be seventy-five (75') of lot frontage required on a Class V or better road. For the purposes of this subsection, frontage along Interstate 93 shall not be counted.

620.4.2 There shall be no front, side or rear lot line setback requirements except that there shall be a 50-foot setback from the boundary of the overlay district project. The Planning Board shall consult with the Windham Fire Department and the Windham Police Department in determining the proper location, citing and separation of proposed structures so as to ensure that proper emergency access is incorporated into the design of the site.

620.4.3 The Applicant must demonstrate, to the satisfaction of the Planning Board, that there are adequate utilities, parking, water supply, and sewage disposal capacity – either on-site or available to the site – to safely support the use(s) proposed for the subject site.

620.4.3.1 Where an applicant is proposing or contemplating the use of cooperative agreements, easements, covenants, or other such legal contracts, copies of all such documents shall be submitted to the Planning Board for its review and approval. Any such documents shall also be reviewed by Town Counsel to ensure legal form, ownership, and enforceability.

620.4.3.2 All utilities shall be located underground, except where specifically exempted by the Planning Board.

620.4.4 Shared parking facilities and driveways shall be provided and the parking space requirements outlined in the Site Plan Regulations may be reduced where shared parking is designed to maximize complementary uses and it has been demonstrated to the Planning Board that sufficient parking will be available when it is needed.

620.4.5 Public and private roads and driveways within this district should be designed to include traffic calming techniques (e.g. speed reduction measures).

620.4.6 The mixed use of buildings is encouraged – for example retail uses on the first floor, and office uses on the second floor – provided the nature and operation of the uses are sufficiently complementary so as not to conflict.

620.4.7 Open squares or plazas, and pedestrian walkways, shall be provided for each central development area. An open common area for public use shall be a minimum of 10,000 contiguous square feet. The Planning Board shall require pedestrian and bicycle access and circulation as an integral element of the design of any site. Where deemed appropriate, the Planning Board may require the Applicant to provide for the extension of pedestrian/bicycle access ways to the property lines, and the interconnection of access ways with those on adjacent parcels.

620.4.8 No drive-thru facilities are allowed in the Market Square District.

620.4.9 Low impact development design will be utilized.

620.4.10 Signage for the development, including the height and location of wall signs, freestanding signs, and directional signs, shall be reviewed and approved by the Planning Board in accordance with the requirements outlined in the Design Regulations.

620.4.10.1 The provisions of Sections 706.3.2, 706.5, and 706.7 of the Sign Ordinance applies to the Market Square Overlay District.

620.4.11 Single Permitted Use Requirements. An application for a development within the Market Square Overlay District will adhere to the following limitations as they relate to single structure footprint and maximum tenant space occupiable square footage.

620.4.11.1 Limitations on Single Structure Footprint. No single structure located within the Market Square Overlay District will have a building footprint of more than 60,000 square feet.

620.4.11.2 Individual Tenant Space Maximum Occupiable Square Footage. All tenant space construction within the Market Square Overlay District will adhere to the following limitations on total occupiable square footage.

620.4.11.2.1 At least 75% of the development's total occupiable square footage will consist of tenant spaces that are each 10,000 occupiable square feet or less.

620.4.11.2.2 No more than 25% of the development's total occupiable square footage will consist of tenant spaces that are each between 10,001 and 20,000 occupiable square feet.

620.4.11.2.3 Under no circumstances may a single individual tenant space be greater than 20,000 occupiable square feet, other than the exceptions listed in 620.4.11.3.

620.4.11.3 Anchor Tenant Maximum Occupiable Square Footage. An application for a development within the Market Square Overlay District may contain single individual tenant spaces that are greater than 20,000 occupiable square feet under the following conditions:

620.4.11.3.1 An application containing greater than 200,000 square feet of total occupiable square feet of space may have one (1) single individual tenant space that is greater than 20,000 occupiable square feet, but in no event more than 40,000 occupiable square feet.

620.4.11.3.2 An application containing greater than 350,000 square feet of total occupiable square feet of space may have two (2) single individual tenant spaces that are greater than 20,000 occupiable square feet each, but in no event more than 40,000 occupiable square feet each.

620.4.11.3.3 Under no circumstances will any single individual tenant space within the Market Square Overlay District be greater than 40,000 occupiable square feet.

620.4.11.4 As used in the preceding subsections, the words “tenant space(s)” shall denote an area of a single occupant or single business entity and shall include space which is “owner occupied.”

- E. Amend Section 701.3 governing Height Regulations by adding after the words “Limited Industrial” the phrase

“Market Square Overlay District”.

- F. Amend Section 710.31.3 governing Height of Fences by adding after the words “Neighborhood Business” the phrase

“Market Square Overlay District”.

The Planning Board voted to Recommend this Article on a vote of 4-3.

Planning Board Amendment #3: Retail Uses in the Professional, Business and Technology District

Amend provisions of Section 614 of the Windham Zoning Ordinance relative to the Professional, Business and Technology District as follows:

- A. Amend Section 614.2.10 relative to permitted Retail uses in the Professional Business and Technology District by deleting the existing language and replacing it with the following:

614.2.10 Retail sales of merchandise, provided that:

614.2.10.1 The area dedicated to retail sales is limited to no more than 10% of Professional, Business and Technology District project's total occupiable square footage;

614.2.10.2 No single retail tenant space can be larger than 7,000 sq. ft.; and

614.2.10.3 No more than 50% of the retail tenant space can be located in that portion of the building which faces the lot frontage on the adjoining Class V or better street.

- B. Amend Section 614.3 Relative to the Development Standards in the Professional Business and Technology District by inserting the following new subsection:

614.3.5 Applications for the Professional, Business and Technology District will integrate all retail and restaurant uses throughout the plan in a manner that retains the look and feel of a professional, business and technology plan.

The Planning Board voted to Recommend this Article on a vote of 4-3.

Planning Board Amendment #4: Demolition Delay Ordinance

Amend the provisions Section 719 of the Windham Zoning Ordinance which relate to the Demolition Delay Ordinance by deletion of the same and replacement with the following:

719. Historic Building/Structure Demolition/Substantial Modification Delay Ordinance

719.1 Purpose and Authority

719.1.1 The purpose of this article is to:

1. Establish a process for preserving and protecting significant buildings or other structures within the Town of Windham (the “Town”) which constitute or reflect distinctive features of the cultural, political, architectural or social history of the Town;
2. To encourage owners of such buildings or other structures to seek out persons or groups of people who might be willing to purchase, preserve, rehabilitate or restore such buildings or other structures rather than demolishing or substantially renovating them; or, barring that,
3. To create a record, including a photo/video history of such buildings or other structures;
and
4. To provide a reasonable time period for public notice, public hearing and discussion by interested groups and individuals of means by which to preserve such buildings or other structures.

719.1.2 This Ordinance shall be adopted as an Innovative Land Use Control under the provisions of RSA 674:21

719.2 Definitions

Except as otherwise provided herein, the following definitions shall apply:

Building or other structure: any combination of materials forming a shelter for persons, animals or property.

Community Development Department (CDD): Includes any staff members working for or on behalf of the Department, including but not limited to the Building Inspector, Code Enforcement Officer, Community Planner, and Community Development Director.

Demolition: The act of pulling down, destroying, removing or razing any buildings or other structure or commencing the work of total or substantial destruction with the intent of completing the same.

Demolition Permit: A written application for the demolition of a building or structure and/or the approval of such, applied for and obtained through the CDD in accordance with the NH State Building Code

Historic District Commission: (HDC): The duly established and appointed Commission in the Town of Windham, which is authorized to assume the duties of a Heritage Commission, while continuing its responsibility to act as a HDC, in accordance with the 1998 Town Meeting vote.

Historic Building/Structure Sign: A Sign stored at the Community Development Department, which is to be posted on properties that are subject to the permitting provisions of Sections **719.4** and **719.6** of this Ordinance.

Historic Cultural Resource List: A list prepared by the HDC dated 2015, as may be updated, pursuant to **RSA 674:44-b (I) (a)**, of the Historic Sites and Structures in the Town of Windham, and is available on the Town Web Site or at the CDD.

Review Committee: A standing committee of the HDC comprised of five (5) members of the Commission and two (2) alternates appointed by the chair of the commission.

Substantially Renovate: To do work, to renovate, rehabilitate or modify a building or other structure such that its exterior appearance or architectural features are substantially replaced and would require a building permit or Planning Board approval.

719.3 Criteria

This Ordinance applies to:

1. Any building, which is or was a habitable residential or commercial structure, OR
2. A detached outbuilding, barn, garage or ancillary structure, AND
3. That was constructed prior to 1940,
4. Appears on the Historic Cultural Resource List dated 2015, as may be updated

719.4 Procedure – Building Permits

Except as provided in Section **719.7**, when an application for a demolition permit or a building permit involving substantial renovations is submitted for a property meeting the criteria outlined in Section **719.3**, the following procedure is to be followed:

719.4.1 Within 10 business days of receipt of an application, the CDD will provide in person with signed receipt or by certified mail, a copy of this Ordinance to the applicant and notification that a “Historic Building/Structure” Sign may be required to be posted on the property.

719.4.2 Within 10 business day of receipt of an application, the CDD will provide a copy of the application to the HDC Chair, as well as email and phone notice to the HDC Chair that such application has been applied for.

719.4.3 Within 30 calendar days of the HDC Chair being made aware of the application, the HDC must (1) determine if a public hearing is to be held and specify the date, time and location, or (2) if this Section of the Ordinance is to be waived. HDC Chair will provide notification of such decision to the CDD in writing and to the applicant by certified mail.

719.4.4 If a public hearing is to be conducted by the Review Committee on the submitted application, it must take place within 20 calendar days of notification as listed in Section **719.4.3**.

719.4.5 Within 5 business days of the CDD and applicant’s receipt of the HDC’s decision to hold a public hearing, as outlined in Section **719.4.3**, the applicant must erect the “Historic Building/Structure” Sign on the subject property; the sign shall remain on the site in a location at the front of the structure, that is unobstructed and clearly visible to the transient public until a permit is issued by the CDD or the application is withdrawn by the applicant.

719.4.6 Notice of the public hearing will be posted by the HDC as outlined in **NH RSA 675:7**

719.4.7 The applicant, or a representative of the applicant, proposing the demolition or substantial renovations, shall be invited to attend the public hearing to hear the concerns and/or alternatives that are proposed by the members of the public.

719.4.8 The Review Committee and the applicant or the applicant’s representative may

agree to hold a meeting within 10 business days after the public hearing to discuss alternatives to demolition/substantial renovation if the Review Committee determines that the proposal is potentially detrimental to the community.

719.5 Demolition/Substantial Renovations

719.5.1 If no alternatives to demolition/substantial renovations have been identified and agreed to by the applicant, after the public hearing provided for in Section **719.4.7** and/or the meeting provided for in Section **719.4.8**, the CDD may proceed to issue the permit.

719.5.2 After the permit has been issued and prior to demolition/substantial renovations, the applicant is encouraged to provide the HDC the opportunity to photographically document the building or structure. The HDC shall also encourage the applicant to salvage significant architectural features.

719.6 Procedure – Planning Board Applications

When an application for a Site Plan or Subdivision involving demolition, substantial renovations, or development of the property is submitted for a property meeting the criteria outlined in Section **719.3**, or the site is included on the Historic Cultural Resource List, the following procedure it to be followed:

719.6.1 The application will be provided to the HDC for review and comment by the CDD as part of its internal application review process.

719.6.2 As part of the CDD staff review of the application for TRC, a copy of this Ordinance will be provided to the applicant.

719.6.3 Ten calendar days prior to when the application has been scheduled for a Planning Board public hearing, notification will be provided to the HDC requesting comments for the Planning Board to consider.

719.6.4 Ten calendar days prior to the scheduled Planning Board public hearing on the application, the applicant must erect the “Historic Building/Structure” Sign, which is to be provided by Community Development Department staff, on the subject property in a location visible to the transient public.

The sign shall remain on the site until a notice of decision is issued by the Community Development Department on behalf of the Planning Board or the application

is withdrawn by the applicant.

719.7 Exceptions

719.7.1 Nothing in this Ordinance shall be construed to prevent immediate demolition where public safety is at stake and the building has been determined by the Building Inspector and/or Fire Inspector to be a public hazard and demolition is the only viable recourse.

719.7.2 The provisions of this Ordinance do not apply if an applicant previously received a permit under Section 719.5.1 or Planning Board approval under Section 719.6 and the applicant is seeking to renew or extend said permit or approval or to re-apply after the expiration of said permit or approval, provided the application is for the identical work previously permitted or approved.

719.7.3 The provisions of Section 719.4 do not apply if a permit is being requested for a building or structure that was part of an application under 719.6.

The Planning Board voted to Recommend this Article on a vote of 5-2.

Planning Board Amendment #5: Watershed Pervious Surfaces

Amend the provisions of Section 616 of the Windham Zoning Ordinance relating to Cobbetts Pond and Canobie Lake Watershed Overlay Protection District as follows:

Amend Section 616.4 by the addition of the following new definition to be inserted in alphabetical placement:

Artificial Pervious Surface: Any modified surface which can effectively absorb or allow for the infiltration of water into the underlying soil mass. Examples of Pervious Surfaces include: durable permeable pavements constructed of pervious concrete, porous asphalt, permeable pavers and a wide range of synthetic geotextile and geogrid type products which provide surfaces suitable for vehicular travel while allowing for unrestricted vertical passage of water to the underlying soil mass.

The Planning Board voted to Recommend this Article on a vote of 7-0.

Planning Board Amendment #6: Vernal Pools

Amend the provisions Section 716 of the Windham Zoning Ordinance which relate to Vernal Pool Protection by deletion of the same and replacement with the following:

716. Vernal Pool Habitat Protection

716.1 General

Vernal pools, and their adjacent uplands, provide valuable habitat for many species of wildlife in New Hampshire, while offering essential breeding areas for certain amphibians and invertebrates. Upland connections between pools that offer both migration and over-wintering habitat must be protected in order to sustain local amphibian populations.

716.2 Purpose

The purpose of this ordinance is to protect vernal pools and associated upland habitat areas, both of which comprise essential vernal pool habitat. An additional purpose is to provide adequate protection of related wetland functions, including water quality, flood storage, groundwater recharge, and habitat for other, facultative species of wildlife.

716.3 Definitions

Vernal Pool: A vernal pool is a naturally occurring or intentionally created landscape depression of at least 500 square feet lacking a permanent above ground outlet. These depressions fill with water with the rising water table of fall and winter or with the meltwater and runoff of winter and spring snow and rain. Many vernal pools are covered with ice in the winter months but contain open water for a period of at least 60 days in the spring and early summer. By late summer, a vernal pool is generally (but not always) dry. Because of its periodic drying, vernal pools do not support breeding populations of fish. These conditions favor “obligate” vernal pool species, which in New Hampshire includes fairy shrimp, the mole salamanders, and the wood frog. Vernal pools also support a number of “secondary” species

such as certain types of caddisflies (Trichoptera), dragonflies and damselflies (Odonata), beetles (Coleoptera), flies (Diptera), clam shrimp (Laevicaudata & Spinicaudata), pill clams (Sphaeriidae), spire-shaped snails (Physidae & Lymnaeidae), and flat-spined snails (Planorbidae).

Vernal Pool Habitat:

Vernal pool habitat shall include the vernal pool depression as described above, as well as the adjacent forested area within 100 feet of the mean annual high water level of the vernal pool OR the edge of the associated wetland, whichever is furthest. Note that the high water level may include isolated pockets of water adjacent to and hydrologically connected to the main breeding pool during times of average maximum inundation.

716.4 Vernal pools shall have a minimum protective buffer of 25 feet from the edge of the pool. There shall be no cutting of vegetation or surface alteration within this area or within the vernal pool itself.

716.5 Vernal Pool Determination

Vernal pools must contain the minimum physical criteria described in Section 716.3 and at least one obligate vernal pool amphibian species, or a minimum of three secondary vernal pool species. These characteristics must be documented by a Certified Wetland Scientist, a wildlife biologist, or other suitably trained professional. Further, Vernal Pool Habitat must be identified and mapped by a Certified Wetland Scientist in order to determine the beginning edge of the Primary Protective Buffer (see Section 716.6)

716.6 Vernal Pool Buffer Area Marking Requirements

716.6.1 Vernal Pool Buffer Area Marking Requirements.

Where any application receiving Planning Board approval contains property within a vernal pool/vernal pool buffer area, the vernal pool/vernal pool buffer boundaries on the affected portions of the property shall be marked. In determining whether such marking is reasonably necessary, the Planning Board shall consider the following factors:

- i. Whether the application requires actual work within the vernal pool buffer area.
- ii. Whether the application results in new development in close proximity to the vernal pool buffer area.
- iii. Whether the application results in new lot lines in close proximity to the vernal pool buffer area.

iv. Any other circumstance where the Planning Board sees just cause for such marking.

716.6.2 Vernal pool/vernal buffer boundary markers should be placed at fifty-foot +/- intervals along the vernal pool buffer boundary following its general contour, provided further that each marker is easily visible when approaching the vernal pool buffer.

716.6.3 Care shall be taken to insure that vernal pool buffer boundary markers are placed with the appropriate spacing at points closest to any proposed or existing structure located on the property.

716.6.4 The cost of the purchase of the vernal pool/vernal buffer boundary markers from the Community Development Department and the placement by a certified wetland scientist, surveyor, or other qualified professional, as determined by staff, shall be borne by the applicant/developer or their successors in interest.

The Planning Board voted to Recommend this Article on a vote of 7-0.

Planning Board Amendment #7: Expiration of Cobbetts Pond and Canobie Lake Watershed Overlay District Approvals

Amend the provisions of Section 616 of the Windham Zoning Ordinance relating to the Cobbetts Pond and Canobie Lake Watershed Overlay Protection District by addition of the following new Sections:

616.3.3 Conditional Approvals:

616.3.3.1 If/when the Planning Board approves a Major Watershed permit not associated with a Site Plan or Subdivision with conditions precedent to its final issuance, such conditions shall be satisfied within 120 days of the Board action.

616.3.3.2 The applicant may request an extension of time required to satisfy conditions precedent to final approval of such Major Watershed permit by written request (including the reasons therefore) with the Board no later than 14 days prior to the expiration of the 120-day period provided. The Planning Board shall vote on whether an extension is appropriate under the circumstances.

616.3.4 Expiration of Approvals: All Major and Minor Watershed Permits, not associated with a site plan or subdivision, expire one (1) year after the date of issuance if not exercised by the recipient.

The Planning Board voted to Recommend this Article on a vote of 7-0.

Planning Board Amendment #8: Wetland and Watershed Protection District Marking and Approvals

Amend the provisions of Section 601 the Windham Zoning Ordinance relative to the Wetland and Watershed Protection District as follows:

A. By deleting the following language in Section 601.4.8.:

“The following statement must be entered on the plans:

B. By addition of the following phrase at the opening of Section 601.4.8.1:

“Plans approved under this section shall contain the following notation on the plan:”

C. By renumbering the existing Subsection 601.4.8.4.3 as 601.4.8.4.4, and inserting the following new language as Section 601.4.8.4.3:

601.4.8.4.3 Markers shall be affixed to trees if possible. Where no tree of reasonable girth is present, markers shall be permanently affixed to hardscape, structure or non-biodegradable stakes that are driven a minimum of 24” into the ground.

D. By addition of the following new sections

601.4.8.5 Conditional Approvals:

601.4.8.5.1 If/when the Planning Board approves a WWPD special permit with conditions precedent to its final issuance, such conditions shall be satisfied within 120 days of the Board action.

601.4.8.5.2 The applicant may request an extension of time required to satisfy conditions precedent to final approval of a WWPD special permit by written request (including the reasons therefore) with the Board no later than 14 days prior to the expiration of the 120 day period provided. The Planning Board shall vote on whether an extension is appropriate under the circumstances.

601.4.8.6 Expiration of Approvals:

601.4.8.6.1 WWPD Special Permits expire one (1) year after the date of issuance if not exercised by the recipient.

601.4.8.6.2 The recipient may request an extension of time to complete work under the issued permit by a written request (including the reasons therefore) with the Board no later than 14 days prior to the expiration of the one year period provided.

The Planning Board shall vote on whether an extension is appropriate under the circumstances.

The Planning Board voted to Recommend this Article on a vote of 7-0.

Planning Board Amendment #9: Preexisting Nonconforming Signs

Amend provisions of Section 706 the Windham Zoning Ordinance regarding Preexisting Non-Conforming Signs as follows:

- A. Amend Section 706.3.1 by deleting the same and replacing it with the following:

706.3.1 All signs, except pre-existing non-conforming signs governed by Section 706.3.1.1 below, must conform to these regulations and the most recently adopted Building Code.

B. Amend Section 706.3.1.1 by deleting the same and replacing it with the following:

706.3.1.1 Any changes or modifications to a pre-existing non-conforming sign, except allowable maintenance activity under Section 706.7.1, shall require that the resulting sign meet these regulations, provided however, that changes in text, copy or style of the sign display area may be made if all the following criteria are met:

- 1) The associated use at the property has not changed as would require major site plan approval; and
- 2) The changes do not modify the character, nature or kind of sign; and
- 3) The changes do not result in a substantially different effect on abutting uses or the neighborhood; and
- 4) In the case of change to a sign previously approved by the Planning Board as part of site plan approval that included design guidelines, that the Planning Board or its designee has approved the proposed changes as consistent with the original site plan approval.

The Planning Board voted to Recommend this Article on a vote of 6-1.

Planning Board Amendment #10: Temporary Signs

Amend provisions of Section 706 the Windham Zoning Ordinance regarding Temporary Signs as follows:

A. Amend Section 706.6.2.4 by deleting the same and replacing it with the following:

706.6.2.4 Such signs shall not be displayed for more than 30 days per permit, valid for one (1) year of issuance. There must be a period of fourteen (14) days

between the end date of one temporary sign permit and the start date of another. The exceptions to this are seasonal agricultural signs which may be displayed for the duration of the season of the item advertised.

- B. Amend Section 706.6.3 by the addition of the following two (2) new sentences after the existing first sentence:

Any sign permitted under this section shall be a maximum of 24 sq. ft. in area and be displayed for not more than 30 days per event. These signs may be placed on Town owned property or within the Town right-of-way.

- C. Amend Section 706.6.4 by deleting the same and replacing it with the following:

706.6.4 Any Civic Organization, non-profit group, religious, educational, or other similar entity, may apply for a Temporary Sign Permit advertising an event or meeting, including the date of the event, for that group. Any sign permitted under this section shall be a maximum of 24 sq. ft. in area and be displayed for not more than 30 days per event. These signs may be placed on Town- owned property or within the Town right-of-way.

- D. Amend Section 706.7.8 by deletion of the number “32” in the opening line, and replacing the same with “24”.

The Planning Board voted to Recommend this Article on a vote of 6-1.

ARTICLE 3. To vote by ballot on the following amendments to the Windham Zoning Ordinance and Zoning District Map as submitted by Petition under RSA 675:4.

Citizen Petition #1: Impervious Surface of Lots

Amend the provisions of the Windham Zoning Ordinance in Section 616.6.4.2 relative to the Impervious Surface Area of Lots in the Cobbetts Pond and Canobie Lake Watershed Districts by insertion of the following sentence at the end of said Section:

“For the purposes of this Section, ‘impervious surface’ shall not include roofs where clean rainwater is transmitted to a recharge system meeting New Hampshire Department of Environmental Services requirements.”

The Planning Board voted to Disapprove this Article on a vote of 7-0.

Citizen Petition #2: Building Height in Gateway Commercial District

Amend the provisions of the Windham Zoning Ordinance in Section 701.1 relative to the height of buildings by deletion of the existing language and replacement with the following:

“The height of any occupiable space in any building shall not exceed thirty-five (35) feet except that in the Gateway Commercial District the occupiable space in a building containing a ‘Hotel/Inn’ may be forty-two (42) feet provided said building is located at least four hundred (400) feet from any residential structure. In no case shall the height in an airport approach zone established by the New Hampshire Aeronautic Commission exceed the height limit established by said commission.”

The Planning Board voted to Disapprove this Article on a vote of 7-0.