



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

DATE: November 19, 2021

TO: Windham Planning Board  
FROM: Steve Puleo, Town Planner  
Cc: Jeff Amos, Terradyn Consultants, LLC  
Amanda Lessard, Planning Director  
Development Review Team

RE: 21-22: Amended Canada Hill Subdivision – Amended Major Subdivision Sketch Plan  
Planning Board Meeting: November 22, 2021

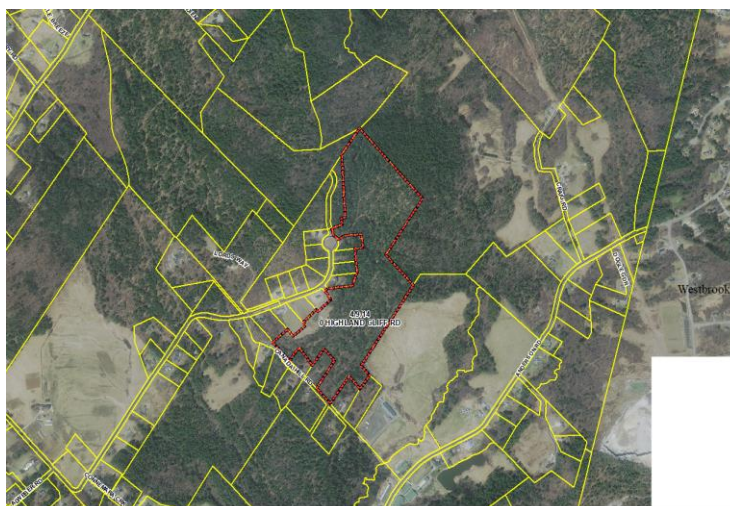
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### Overview –

The application is to create a fourteen (14) lot conservation subdivision on Lot 9-14 of the Canada Hill Subdivision. The lot is approximately 46.48-acres in size and was retained by Chase Custom Homes & Finance. The developer received a Planning Board approval for the Canada Hill subdivision on June 25, 2012. The amended subdivision will create fourteen (14) new residential lots, thirteen (13) new residential lots on a new road constructed between Canada Hill Road to Highland Cliff Road and one (1) residential lot on Highland Cliff Road and proposes 37.64 acres of open space.

The construction of original approval of the Canada Hill Subdivision has not yet been completed. The Town of Windham holds a performance guarantee for the construction of the required improvements of the approved subdivision.

The Planning Board reviewed an amended subdivision sketch plan for this property for a proposed 12-lot conservation subdivision at a meeting on March 8, 2021 and held a site walk on April 12, 2021. In accordance with Land Use Ordinance Section 907.B.2, where more than six (6) months have passed without the submission of a Preliminary Plan, the application has returned to the sketch plan review phase. A new sketch plan set was submitted October 25, 2021, which includes a Resource Inventory and Site Analysis Plan. On November 16, 2021 staff met with the subdivider and the applicant submitted a revised plan set in response to staff comments.



Aerial View of the subject parcel relative to surrounding properties and street network.

Tax Map: 4; Lot 9-14. Zoning District: Farm (F).

The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. Ordinance procedure requires the applicant to use the design process summarized below, which is described in detail in Section 911.K.3.(a):

- First, the Open Space areas shall be delineated on the sketch plan. It should include all primary conservation areas and some secondary conservation areas with the highest resource significance. The applicant has not yet delineated secondary conservation areas.
- Then, open space design considerations should include setbacks, the inclusion of the highest value natural resources, the context of the resources concerning neighboring properties, connectivity, size, and potential boundary markings
- Then, building sites shall be tentatively located, considering all prescribed setbacks, such as 100 feet from primary and 50 feet from secondary conservation areas; 100 feet from existing streets, and 50 feet from the external property perimeter.
- Then, the alignment of the streets and the creation of a trail system to complement the Open Space areas should promote connectivity of the open space and building sites.
- Then, based on the tentative building locations, the lot lines shall be drawn.

### **SUBDIVISION REVIEW**

Staff Comments:

1. Complete Application: *N/A with Sketch Plan*

~~**MOTION:** The Major Subdivision application for project 21-22 Amended Canada Hill Subdivision, is found complete with regard to the submission requirements based on the application checklist, but the Planning Board retains the right to request more information where review criteria are not fully addressed.~~

2. Title, Right or Interest: The applicant submitted deed information for the lot as proof of ownership of the subject property.
3. Waivers: The Planning Board cannot act on waivers or potential waiver requests at the Sketch/Preapplication review phase, however it is appropriate to discuss potential waiver requests to give the applicant guidance.

*Limitation of Subdivision Waivers. The granting of a submission requirement waiver or site waiver may not conflict with, nor negate, any State Statutory requirements for the subdivision of land. Per Section 908.B.2. The Board is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements. Per Section 908.C. The Planning Board may waive the requirements of Section 911 Performance and Design Standards, when the applicant demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in Section 908.C.2.]*

**a) Section 911.J. – Stormwater Flooding Standard**

*The applicant states that the project's stormwater management design providing water quality treatment measures to greater a minimum of 75% of the impervious area and 50% of the developed area of the roadway and 95% of the impervious area and 80% of the developed area for the non-linear portions of the project with MeDEP forested buffers that will remain undeveloped in perpetuity in accordance with MeDEP Chapter 500 requirements.*

4. Public Hearing: No public hearing has been scheduled for this project. The Planning Board must determine whether to hold a public hearing on the application.
5. Site Walk: The Planning Board held a site walk on April 12, 2021. The Planning Board should determine whether to hold an additional site walk.

Findings of Fact and conclusions for the

**Windham Planning Board,**

**MOTION:** ~~[The major subdivision and site plan application for the major site plan and first amended subdivision application for the 21-22 Amended Canada Hill Subdivision on Tax Map: 4, Lot 9-14 is to be (approved with conditions/denied) with the following findings of fact and conclusions.]~~

**FINDINGS OF FACT**

**911 - MAJOR SUBDIVISION PERFORMANCE STANDARDS**

**911.A. – Basic Subdivision layout**

**1. Lots:**

- The total land area of the conservation subdivision is 46.48 acres, the road area occupies 1.75 acres, there are 1.14 acres of steep slopes, the FEMA 100-year floodplain occupies 11.51 acres, and there are 2.00 acres of wetlands or very poorly drained soils.
- The net residential area is 29.80 acres, and the net residential density in the Farm District (F) is 60,000 SF per dwelling unit allowing a maximum number of dwelling units of 21.
- The applicant's sketch plan shows a fourteen (14)-lot subdivision with lots ranging from 30,020 SF to 61,015 SF.
- Deed restrictions or a note on the recording plan shall be provide prohibiting future divisions on the final plan for review.
- Lot numbers and addresses should appear on the final plan for review.

**2. Utilities:**

- The single-family will have private water wells and septic systems and test pits information shall be shown on the final plan for review.
- The size, type, and location of public utilities, such as storm drains, streetlights, electric lines, telephones lines, fire hydrants, etc. shall be provide on the final plan for review.
- All utilities shall be installed underground.

**3. Monuments:**

- Street line monuments shall be shown on the final plan for review.

**911.B. – Sufficient Water**

- All lots will be served by private wells. The Sketch Plan includes well and septic inclusion areas.
- At the Development Review Team meeting, the applicant was advised that the houses will need to have sprinklers installed, as they will be greater than 1,000 feet from a hydrant. A note requiring sprinklers in all houses should be included on the Preliminary Plan.
- The 2012 Canada Hill Subdivision approved plan included Condition of Approval #2 that the contractor must provide evidence of flow rates (gallons/minute) and the results of a water quality test prior to the issuance of a certificate of occupancy for each house in the subdivision. The preliminary plan submission should address the adequacy of the water supply and the ground water quantity standards of Section 911.H.2.
- Individual wells must meet the street setback requirements of Section 911.B.1.c.1.iii

**911.C. - Erosion Control and Impact on Water Bodies**

- 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.

**911.D. – Sewage Disposal**

- 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.

**911.E. – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas or Public Access to the Shoreline**

- The preliminary plan should indicate whether there are documented rare botanical features, historic sites, or significant wildlife habitat documented on the site
- The Sketch Plan notes that the wetlands delineation and vernal pool assessment was performed by Sebago Technics in 2011 and will be updated.
- The sketch plan application notes a proposed 9,359 SF of wetland impacts.
- The Final Plan submission must include a MaineDEP NRPA Tier 1 Wetland Alteration Permit will be required and Army Corps of Engineers (ACOE) Category 2 Maine General Permit.
- This subdivision is not located over a significant sand and gravel aquifer.

**911.F. – Conformance with Land Use Ordinances**

Comprehensive Plan:

- The plan does meet the goals of the 2017 Comprehensive Plan.

Land Use Ordinances:

- The minimum lot size of 30,000 SF for conservation subdivision lots in the F zoning district.
- Lots meet the lot frontage requirement of 100 feet for the F Zone.
- The net residential density requirement is 60,000 SF.
- The net residential density calculations are shown on the final subdivision recording plan.

- 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.

Subdivision Ordinance:

- The applicant should indicate how solid waste will be handled as part of the Preliminary Subdivision Plan review.
- The Tax Map and Lot numbers are shown on the amended final plan.
- The data of the amended subdivision plan shall be compatible with the Town's GIS system in a .DWG file format and provided with the final plan submission.
- The building setback requirements are shown on the final plan submission for all lots.
- 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.
- The Preliminary Subdivision plan should show all parcels in common ownership within the last 5 years.
- The Final Plan shall include a boundary survey, certified by a Maine Licensed Professional Surveyor.

Others:

- Chapter 221 Street Naming and Addressing: A street name approved by the Town Addressing Officer shall be shown on the Final Plan.
- 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.

**911.G. – Financial and Technical Capacity**

- Evidence of financial capacity must be provided as part of the Final Plan submission.
- Evidence of technical capacity must be provided as part of the Final Plan submission.

**911.H. – Impact on Ground Water Quality or Quantity**

- This subdivision is not located over a significant sand and gravel aquifer.
- All lots will be served by private wells. The Sketch Plan includes well and septic inclusion areas.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan application 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 2012 Canada Hill Subdivision approved plan included Condition of Approval #2 that the contractor must provide evidence of flow rates (gallons/minute) and the results of a water quality test prior to the issuance of a certificate of occupancy for each house in the subdivision.
- The preliminary plan submission should address the adequacy of the water supply and the ground water quantity standards of Section 911.H.2.

**911.I. – Floodplain Management**

- Zone A Floodplain is shown on the Sketch Plan. The applicant indicated in an email on February 16, 2021, that it was interpolated and is not the mapped floodplain as adopted by the Town, through its Floodplain ordinance. Where the term “floodplain” is used in the subdivision ordinance, it refers to the adopted mapped floodplain.

**911. J. – Stormwater**

- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
- §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 site location of development act or stormwater permit needs to be included with the Final Plan submission.

**911.K. – Conservation Subdivision**

- The project is in Farm (F) zoning District.
- The applicant should develop primary and secondary conservation areas in conformance with 911.K.3.(a)
- The Sketch Plan includes a Resource Inventory and Analysis Plan (C-1.0) that shows primary conservation areas, and a Net Residential Acreage and Open Space Plan (C1.1)
  - Impacts of the propose street plan on conservation lands appears to be minimized, with limited cut and fill required.
- 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.”
- Trails should be shown on the preliminary plan as required by §911.K.3.a.(4)(a)
- 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, plus half of the net residential area. Net residential area was given by the applicant as 40.48 acres, resulting in an open space requirement of 31.58 acres. The applicant is currently proposing 37.64 ac of open space.

**911. L. – Compliance with Timber Harvesting Rules**

- The applicant stated the subdivision will not involve timber harvesting activity. All being tree removed will be limited in scope and clearing will be minimized to the greatest extent practical.

**911.M. – Traffic Conditions and Street**

- The applicant is proposing a 1,660 foot long roadway that would run between Highland Cliff Road with Canada Hill Road. The road is proposed to be built to the Major Private Road standard.
- §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. The sketch plan proposes the subdivision street connect with the existing Canada Hill Road.

- In a Completeness Memo dated November 10, 2021 the Town Engineer and Public Works Director commented that Canada Hill Road is not a built road and is in poor condition. The developer should be required to improving/upgrading Canada Hill Road to accept the new traffic flow.
- Sight distances should be shown for both directions where new intersections are planned.
- The project will need permits from public works for new street connections.
- 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, states that streetlights should be at intersections of a Major Private Road (subdivision street) and a collector street (Highland Cliff Road/Canada Hill Rd). There is an existing street light on Highland Cliff Road, approximately 500 feet west of the newly proposed road intersection, at a location where Highland Cliff Road was extended as part of the Canada Hill Subdivision. There are no streetlights on Canada Hill Road.
- At the March 8, 2021 Planning Board meeting it was discussed that a light on Highland Cliff was appropriate. Staff also recommends a streetlight at the intersection of the new subdivision street and Canada Hill Road.
- Town-approved street names shall be shown on the Final Plan.
- §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 should provide a proposed road profile with the Preliminary Plan Submission
  - The applicant shall provide for the Preliminary Plan review traffic volume estimate as defined by the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers.
  - 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.
  - 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 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.
- 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).

## CONCLUSIONS (N/A)

1. ~~The plan for development reflects/does not reflect the natural capacities of the site to support development.~~
2. ~~Buildings, lots, and support facilities will/will not 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/will not~~ be maintained and protected to the maximum extent.
4. ~~The proposed site plan has/does not have~~ sufficient water available for the reasonably foreseeable needs of the site plan.
  5. ~~The proposed site plan will/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/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/will not~~ provide for adequate sewage waste disposal.
  8. ~~The proposed site plan conforms/does not conform~~ to a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
  9. ~~The developer has/does not have~~ adequate financial capacity to meet the standards of this section.
  10. ~~The proposed site plan will/will not~~ alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
  11. ~~The proposed site plan will/will not~~ 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/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/does not~~ provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.
  14. ~~All freshwater wetlands within the proposed subdivision have/have not~~ been identified on the plan.
  15. ~~Any river, stream, or brook within or abutting the subdivision has/has not~~ been identified on any maps submitted as part of the application.
  16. ~~The proposed subdivision will/will not~~ 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.
  18. ~~The long term cumulative effects of the proposed subdivision will/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.
  20. ~~Timber on the parcel being subdivided has/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 October 25, 2020 as amended November 16, 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 Land Use Ordinance.



2. The contractor must provide evidence of flow rates (gallons/minute) and the results of a water quality test prior to the issuance of a certificate of occupancy for each house in the subdivision.
3. Prior to any blasting, the applicant shall submit a detailed blasting plan to Planning Staff for review and receive approval of the extents of pre-blast survey work. The detailed blasting plan shall include a ledge profile created using a drill rig, an estimate of the quantity and duration of blasting required, extents of areas where blasting may occur, a pre-blast survey plan, the developer's abutter notification plan, and that blasting may only occur between the hours of 7AM and 5PM.