



## PLANNING BOARD MEMO • AFTER-THE-FACT MAJOR SUBDIVISION • PRELIMINARY PLAN REVIEW

DATE: July 15, 2024

TO: Windham Planning Board  
FROM: Steve Puleo, Planning Director  
Cc: Dustin Roma, DM Roma Consulting Engineers; Agent  
Peter Gilman, PTG Properties Inc.; Applicant  
Jasmine Lopez, Planning Intern  
  
RE: #24-13 – After-the-Fact Major Subdivision – Cross Ridge Subdivision – Lockland Drive and Flintlock Drive – Preliminary Plan Review – PTG Properties Inc.

### Planning Board Meeting: **July 22, 2024**

#### Overview –

The application is to create eight lots for single-family dwelling use. All lots will utilize existing private roadways for access, frontage and utilities. No new roadways or extensions are being proposed. Tax Map: 22; Lot: 20-5, 23-3, 23-3B, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12; Zone: Farm Residential (FR) zoning district and located in the Pleasant River watershed.

A Development Review Team meeting was held on June 18, 2024. The Planning Board will determine if a site walk is necessary. Comments received during the meeting are reflected in the memo below.



**ADMINISTRATIVE CONSENT AGREEMENT**

As provided in Exhibit B of the Administrative Consent Agreement, the Planning Director reviewed the applicant's application to ensure that the applicant met the required submitted materials list a.to s. and plans information outlined in t. See below:

a. Depiction and written description of two (2) fire cisterns as depicted on Exhibit A. Said cisterns shall have an aggregate capacity of at least 40,000 gallons.

**The applicant has provided the required information, see application.**

b. Erosion and sedimentation control plan for any proposed new land disturbances only.

**The applicant has provided the required information, see application.**

c. Plan for asphalt overlay paving as set forth on Exhibit A.

**The applicant has provided the required information, see planset detail sheet.**

d. Evidence of right, title and interest for all properties in the Development that are currently owned by Owners, including any deeds for road rights-of-way.

**The applicant has provided the required information, see application.**

e. Copies of all existing recorded deed restrictions, easements, right-of-way, other encumbrances, and/or road maintenance agreements.

**The applicant has provided the required information, see application.**

f. Narrative describing Owners' intended provisions for post-approval ownership and maintenance of roads, fire protection areas and other common areas within the Development.

**The applicant will provide a narrative for the Board's consideration.**

g. Drafts of any proposed easements to be placed on Development lots.

**The applicant is proposing a note restriction the number of lots to be developed with access through the R/W across lot 1 to a single family house on the Gray property.**

h. Copies of proposed covenants or deed restrictions intended to cover all lots or part of the lots or dwellings in the subdivision.

**The applicant has provided the required information, see application.**

i. Existing drainage and stormwater management plans and permits; depiction of existing and proposed stormwater controls on the plan submission.

**The applicant has provided the required information, see application.**

j. Erosion control plans for any areas to be newly disturbed or altered.

**The applicant has provided the required information, see plans.**

k. Location of existing and proposed cul de sacs, turnarounds and hammerheads; templates for any proposed hammerhead and truck turnaround areas.

**The applicant has provided the required information, see plans.**

l. Copies of DEP Order # L-21336-TB-A-N dated April 18, 2003, for wetland fill, and Order #L-21336-NJ-B-NIL-21336-TB-C-N dated January 6, 2011, including the applications filed with DEP for review, and any further applications, amendments or permits filed with or issued by DEP related to the Development.

**The applicant has provided the required information, see application.**

m. Information demonstrating financial capacity to perform all new work identified as part of plan.

**The applicant has provided the required information, see application.**

n. Confirmation that the proposed lot configurations satisfies the current dimensional standards for conventional lots in the Farm Residential Zone.

**The applicant has provided the required information, see plans.**

o. Confirmation by a land surveyor that all monumentation for the proposed numbered lots in the subdivision have been installed.

**The applicant has provided the required information, see application.**

p. Confirmation that stormwater management devices have been installed in accordance with MDEP Stormwater Permits.

**The applicant will provide a stamped engineer's report for the Board's consideration.**

q. The establishment, if agreed upon, of homeowners' associations to assume responsibility of stormwater maintenance and road maintenance, to the extent not established by existing instruments recorded in the Cumberland County Registry of Deeds.

**Upon approval, the applicant will try to establish Homeowner's Association (HOA) or a Road Association.**

r. Construction details for both water cisterns. The applicant shall install the cisterns and fill the cisterns one (1) time.

**The applicant will maintain the cisterns as outlined in Note #12.**

s. Cost estimate for the installation of the cisterns and the proposed pavement overlay. The Town shall review the cost estimate and set the required Performance Guarantee amount as part of the Final Plan review and prior to the Planning Board public hearing.

**The applicant will provide a narrative for the Board's consideration.**

t. Other plan information, only as required and necessary, as follows:

- i. Name of the subdivision.
- ii. Surveyor stamp.
- iii. Location Map.
- iv. Vicinity Plan.
- iii. Boundary survey of the effected lots.
- iv. Existing lot lines and approximate dimensions and the area of each lot.
- v. Typical cross section of roadways, sidewalks, stormwater structures, and installation of fire protection systems (i.e., Cisterns etc.).
- vi. Wetland areas.
- vii. Contours lines at 2-foot intervals.
- viii. Number of acres with the subdivision
- ix. Location of all rivers and/or stream and waterbodies.
- x. Zoning district(s)
- xi. Area flood-hazard areas

**The applicant has provided the required information, see plan(s).**

**Staff recommends the Board consider a waiver of [Att 120-2 Attachment 2 -Appendix B, Street Design and Construction Standards](#) for Cross Ridge Drive, Lockland Drive, Idlewood Drive, Winchester Drive, and Flintlock Drive. The applicant should provide a waiver request form with a narrative explaining why a waiver is necessary.**

**SITE PLAN REVIEW**

PLEASE NOTE: The staff memo is a reference guidance document, and suggested topics for board discussion are listed; ~~the strikethrough text is items for the final review; bold and italic text represent unaddressed existing and/or new staff comments; or plain underlined text are items that have been addressed by the applicant; and italic text is for information or previously reviewed and/or approved items.~~

Staff Comments:

1. Complete Application:

**MOTION:** [I move] the major site plan application for project #24-13 Cross Ridge Subdivision project is found complete in 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. Waivers:

*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 [§120-908B](#). The Director of Planning or designee may waive the submission requirements identified in [§120-910](#) (Submission requirements) as being eligible for a waiver if it is determined that the information is not required to determine compliance with the standards and criteria of this chapter or that the information relates to a standard that is not applicable to the application.*

a) **§120-910C(1)(j)(2) Test Pit Analysis for Septic Systems**

The applicant states that test pits were not required by the Consent Agreement, so they were not performed. The lots are of sufficient size with available upland to install septic systems on each of the proposed lots.

**The Planning Director has waived the Test Pit Analysis requirement in order to align with the Consent Agreement.**

b) **§120-910C(3)(a) High Intensity Soil Survey**

The applicant states that a High Intensity Soil Survey was not required by the Consent Agreement and is not necessary.

**The Planning Director has waived the High Intensity Soil Survey requirement in order to align with the Consent Agreement.**

c) **§120-910C(3)(b) Landscape Plan**

The applicant states that a landscaping plan was not required by the Consent Agreement and is not necessary.

**The Planning Director has waived the Landscaping Plan requirement in order to align with the Consent Agreement.**

d) **§120-910C(3)(c) Hydrological Assessment**

The applicant states that a hydrological assessment was not required by the Consent Agreement and is not necessary based on the scale of the development.

**The Planning Director has waived the Hydrological Assessment requirement in order to align with the Consent Agreement.**

*Waiver of subdivision performance standards. The Planning Board may waive the requirements of [§120-911](#), Performance and design standards, unless prohibited by Maine statutes, where it finds that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature. The applicant must demonstrate that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met and the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this chapter.*

e) **§120-911M(5)(3)(7) Street Connection Requirements**

The applicant states that there is no reasonable opportunity to make a second road connection to an existing public way.

**Planning Board should consider a waiver of the two connections due to the previously due the historical parcels division occur in the past and the applicant does not have control modify the street connections**

**MOTION: [I] move to approve the waiver request of §120-911M(5)(3)(7) Street Connection Requirements.**

3. Public Hearing: A public hearing will be held on July 22, 2024.
4. Site Walk: The Planning Board shall determine if a site walk is necessary.

**Findings of Fact, Conclusions, and Conditions of Approval for the Windham Planning Board:**

**MOTION: [I move] the major subdivision application for the #24-13 Cross Ridge Subdivision development identified on Tax Map: 22; Lot: 20-5, 23-3, 23-3B, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12; Zone: Farm Residential (FR) zoning district and located in the Pleasant River watershed is to be (approved with conditions/denied) with the following Findings of Fact, Conclusions, and Conditions of Approval.**

**FINDINGS OF FACT**

**Jurisdiction:** The Cross Ridge Subdivision project is classified as a Major Subdivision, which the Planning Board is authorized to review of the 26 acre property and act on by [§120-905A\(2\)](#) of the Town of Windham Land Use Ordinance.

**Title, Right, or Interest:** The applicant has submitted:

- Warranty Deed between Peter Gilman and Tammy and Anna Gilman, dated May 5, 2011, and recorded on May 5, 2011, at the Cumberland County Registry of Deeds in Book 28682 and Page 130;

- Warranty Deed between Peter Gilman and Tammy Gilman, dated May 5, 2011, and recorded on May 5, 2011, at Cumberland County Registry of Deeds in Book 28682 and Page 136,
- Warranty Deed between Peter Gilman and Tammy and Michael Gilman, dated May 5, 2011, and recorded on May 5, 2011, at Cumberland County Registry of Deeds in Book 28682 and Page 142,
- Warranty Deed between Peter Gilman and Tammy and Emily Gilman, dated May 5, 2011, and recorded on May 5, 2011, at Cumberland County Registry of Deeds in Book 28682 and Page 149,
- Warranty Deed between Peter Gilman and Tammy and Kyle Gilman, dated May 5, 2011, and recorded on May 5, 2011, at Cumberland County Registry of Deeds in Book 28682 and Page 152,
- Warranty Deed between Peter Gilman and Tammy and Michael Gilman, dated May 10, 2011, and recorded on May 10, 2011, at Cumberland County Registry of Deeds in Book 28692 and Page 282,
- Quitclaim Deed between Peter and Tammy Gilman and Jerry and Bethany Hunt, dated November 28, 2016, and recorded on November 28, 2016, at Cumberland County Registry of Deeds in Book 33746 and Page 332

#### ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, dated August 15, 2023, Tax Map 22, Lots 20-5, 23-3, 23-3B, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12 is located in the Farm Residential (FR) District.
- The detached single-family residences are permitted use in the Farm Residential (FR) zoning district [§120-407B](#).
- Per [§120-407E](#) Dimensional standards, the applicant is showing potential developed area for the construction of single-family houses.

#### ARTICLE 5 PERFORMANCE STANDARDS

##### **§120-541 – Net residential area of acreage**

B. The net residential area or acreage of a lot proposed for subdivision, as defined, shall be calculated by subtracting the eight (8) items listed in the subsection from the gross acreage of a lot and dividing the resulting net residential area of the parcel by the net residential density standard of the appropriate zoning district (see [Article 4](#), Zoning Districts). The eight (8) deductions shall be subtracted from the gross acreage of the lot.

#### §120-911 - SUBDIVISION PERFORMANCE STANDARDS

##### **§120-911A – Basic Subdivision layout**

(1) The property has 26 acres or 1,152,351 SF exceeding the minimum lot size in the Farm Residential (FR) zoning district, per [§120-407E\(1\)](#).

(a) The applicant provided a net residential density calculation by deducting 47,236 SF of road R/W, 138,450 SF for areas with very poorly drained soils (excluding Lot #3),

and 46,473 SF of areas within 100-year flood plains for the net area of 920,192 SF. The net residential density is 40,000 SF, equaling a maximum of 23 lots. Only 8 lots are proposed.

(b) The parcels all have frontage on either Flintlock Drive or Lockland Drive.

(2) No new utilities are being proposed. Existing lines will be utilized as they are currently.

(3) The applicant has shown the locations of the subdivision monuments on the preliminary plan review sheet 2.

#### **§120-911B – Sufficient water; water supply.**

(3) For final plan review, the applicant shall show private drinking well locations.

- Per §120-911B(3)(a)(3), “[W]ells shall not be constructed within 100 feet of the traveled way of any street if located downhill from the street, or within 50 feet of the traveled way of any street if located uphill of the street. This restriction shall be included as a deed restriction to the affected lots.” For the preliminary review the applicant’s Soils Scientist has provided abutting property well and septic locations in order to evaluate conditions for a hydrogeological/groundwater study.

(b) Lot design shall reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

#### **§120-911C - Erosion and Sedimentation Control**

(1) The applicant has provided a soil erosion and sediment control plan showing the use of erosion and sediment control best management practices (BMPs) at the construction site consistent with the minimum standards outlined in the Maine DEP Stormwater Rule Chapter 500 Appendix A – Erosion and Sediment Control, Appendix B – Inspections and Maintenance, Appendix C – Housekeeping. Erosion and Sedimentation Control. BMPs shall be designed, installed, and maintained in accordance with the standards contained in the latest revisions of the following Maine DEP documents.

(2) The applicant’s engineer has provided a statement from a Maine licensed professional civil engineer preventing soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.

(3) The applicant shall consider the topsoil as part of the subdivision is not to be removed from the site.

(4) Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board may require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

#### **§120-911E – Impact Natural Beauty, Aesthetics, Historic Sites, Wildlife Habit, Rare Natural Areas, or Public Access to the Shoreline**

(1) Based on an assessment done by the Maine Department of Environmental Protection (MDEP), the proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, or threatened or endangered plant habitat.

- (a) The applicant has provided a note not allowing the clearing of trees where tree cover is depicted on the plan for at least five years. Mandatory buffer for stormwater or other reasons shown on the plan shall not be cleared of vegetation unless the Planning Board grants an amendment to the subdivision or maintenance that does not alter the purpose for which the buffer was required.
  - (b) The applicant received a submission waiver from Planning Director to provide a landscape plan from street tree planting every 50-feet. If the applicant is not proposing to install street trees, the applicant should obtain a waiver of §120-911E(1)(b).
- (2) **For final plan review**, the applicant shall provide reservation or dedication and maintenance of open space, common land, facilities such as the stormwater management system, among others, and service in the form of homeowner's association (HOA) documentation.

#### **§120-911F – Conformance with Land Use Ordinances**

Comprehensive Plan:

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

Land Use Ordinance:

- There is a net residential density in the Farm Residential zoning district of 40,000 SF.

Subdivision Ordinance

- Standard notes, the standard conditions of approval, and approved waivers are shown on the plans.

#### **§120-911G – Financial and Technical Capacity**

- (1) For preliminary plan review, the applicant has estimated the cost of development at \$140,000.00 and has acknowledged that a performance guarantee equal to the amount of the required improvement plus contingency will be required prior to starting construction.
- (2) The applicant has contracted Dustin Roma from DM Roma Consulting Engineers to manage the permitting and design and Wayne Wood and Company for surveying needs.

#### **§120-911H – Impact on Ground Water Quality or Quantity**

- (1) **The applicant has provided evidence from the certified soil scientist** that the subdivision development will not increase any contaminant concentration in the groundwater and shall meet the State's drinking water standards. A hydrogeological evaluation shall be required to demonstrate nitrates as nitrogen meet the maximum contaminant level.
- (2) **For final review**, the applicant shall provide evidence the proposed subdivision shall not result in a lower water table.

#### **§120-911I – Floodplain Management**

- The subject property is partially within a mapped FEMA 100-year Floodplain boundary.

#### **§120-911J – Stormwater**

- A stormwater management plan has been provided for preliminary plan review.
- The responsibility of maintaining the stormwater management system will be the applicant until such time it could be assigned to the future Homeowner's Association (HOA), as per §120-911N. The applicant shall provide the maintenance schedule as part of the HOA documentation (see COA #4).

#### §120-911K – Conservation Subdivision

- The proposed subdivision falls within the Farm Residential (FR) zoning district and meets the required space requirements. The application is meeting the Administration Consent Agreement.

#### §120-911L – Compliance with Timber Harvesting Rules

- The applicant stated the subdivision will not involve timber harvesting activity.

#### §120-911M – Traffic Conditions and Street

- All lots will utilize existing private roadways for access, frontage, and utilities.
- No new roadways or extensions are proposed for the project.
- A homeowner's association shall maintain the roadways.

#### §120-911N – Maintenance of common elements.

- The applicant shall provide draft homeowner's association documentation or request for a waiver of the above section.

#### CONCLUSIONS (Final Plan Review)

1. The development plan **reflects** the natural capacities of the site to support development.
2. Buildings, lots, and support facilities **will** be clustered in those portions of the site that have the most suitable conditions for development.
3. Environmentally sensitive areas, including but not limited to wetlands; steep slopes; flood plains; significant wildlife habitats, fisheries, and scenic areas; habitat for rare and endangered plants and animals; unique natural communities and natural areas; and sand and gravel aquifers **will** be maintained and protected to the maximum extent.
4. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
5. 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.
6. The proposed use and layout **will not** be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved.
7. The proposed subdivision **will** provide adequate sewage waste disposal.
8. The proposed subdivision **conforms** to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan.
9. The developer **has** the adequate financial capacity to meet the standards of this section.
10. The proposed subdivision **will** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
11. The proposed subdivision **will** provide for adequate stormwater 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** 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** 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 stormwater 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, §480-B](#), none of the lots created within the subdivision **has** a lot-depth to shore frontage ratio greater than 5 to 1.

18. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

19. ~~For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will/will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.~~

20. ~~The timber on the parcel being subdivided has/has not been harvested in violation of rules adopted pursuant to [Title 12, §8869, sub§14](#).~~

#### CONDITIONS OF APPROVAL (REQUIRED)

1. Approval is dependent upon and limited to the proposals and plans contained in the applications dated March 4, 2024, May 1, 2024, and July 17, 2024, along with supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board. Any variation from such plans, proposals, supporting documents, and representations is subject to review and approval by the Planning Board or the Town Planner in accordance with [§120-913](#) of the Land Use Ordinance.
2. The signed subdivision recording plan shall be recorded three (3) years for the date of the final approval the Cumberland County Registry of Deeds (CCRD).
3. Prior to the pre-construction meeting, a Homeowner's Association Bylaws, Convents, and Documentation for the care and maintenance of the (private road) and/or open space areas shall be recorded in Cumberland County Registry of Deed (CCRD) and a copy of the recorded documentation shall be submitted to the Planning Department for verification.
4. The development is subject to the following [Article 12](#) Impact Fees: [Recreation Impact Fee](#), [Open Space Impact Fee](#), [Public Safety Impact Fee](#); and [Municipal Office Impact Fee](#). All fees will be determined and collected for any building permits, or any other permits necessary for the development, [§120-1201C](#).