

PLANNING BOARD MEMO • FINAL SUBDIVISION AND SITE PLAN

DATE: June 5, 2025

TO: Windham Planning Board
FROM: Amanda Lessard, Senior Planner/Project Manager
Cc: Steve Puleo, Town Planner
Craig Sweet, PE, Terradyn Consultants, LLC
Bejamin Chadonnet & Jerome Duval, 19 Roosevelt Trail, LLC

RE: #19-16: The Cove at Highland Lake – Second Amended Major Subdivision and Site Plan – First Light Drive - 19 Roosevelt Trail, LLC

Planning Board Meeting: June 9, 2025

Overview

The application is to amend the approval of The Cove at Highland Lake, a 60-unit retirement community, to add a condition of approval that in lieu of the furnishing of a performance guarantee no building permit will be issued for units 21-60 until all project improvements are complete. In accordance with [§120-914A\(1\)\(d\)](#) of the Land Use Ordinance, this is an option for a type of performance guarantee for a subdivision that is served by private streets. The suggested condition of approval is listed below. The subject property is identified as Tax Map: 7; Lot 66 Zoning District: found in Commercial III District (C-3) and the Retirement Community and Care Facility Overlay District (RCCFO) in the Highland Lake watershed.



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

Review History

The Cove at Highland Lake Retirement Community, previously known as Sunrise Cove, a major subdivision and site plan, was initially approved by the Planning Board on March 8, 2021. The Board approved an amendment to the plan on February 12, 2024 to transfer the ownership of the approval from Chase Custom Homes & Finance, Inc to 19 Roosevelt Trail, LLC. The plan was recorded on February 14, 2024, in Plan Book 224, Pages 47-48 at the Cumberland County Registry of Deeds.

On June 24, 2024, staff approved a minor change to the approved site plan in accordance with [§120-815F](#) of the Land Use Ordinance to update the unit and clubhouse floor plans and replace a golf cart parking area and pool with a tennis court.

The property is also subject to a Maine DEP Site Location of Development Act and Natural Resources Protection Act Permit #L-027306 held by 19 Roosevelt Trail LLC.

Planning Board Review Authority

The Planning Board's review authority is governed by [§120-913A](#), which stipulates that the Board must make findings of fact to determine whether the proposed revision meets the criteria outlined in [30-A M.R.S.A. §4404](#). Under [§120-913B\(2\)](#), the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. The application must include sufficient supporting information to demonstrate that the proposed revisions satisfy the standards of Article 9 and the relevant State subdivision statutes. The revised plan must clearly indicate it is a revision of the previously approved and recorded plan, as required by [§120-913B\(3\)](#).

Per [§120-913B\(4\)](#), the Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

AMENDED SUBDIVISION REVIEW

PLEASE NOTE: The staff memo is a reference guidance document, and suggested topics for board discussion are listed; ~~the strikethrough text is items that are no longer applicable since the last review;~~ plain underlined text are that are changes since the Planning Board memo dated February 5, 2024; and *italic text is for information or previously reviewed and/or approved items.*

Staff Comments:

1. Complete Application: *Amended Subdivision review.*

MOTION: The application for project #19-16 The Cove at Highland Lake 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: (N/A)

- *The applicant is not requesting any waivers as part of the amended plan application.*

3. Public Hearing: *The Board shall determine if a public hearing is necessary, or they may make a final decision.*
4. Site Walk: *A site walk is not required for amended subdivision and site plan process.*

Windham Planning Board decision.

MOTION: I move the second amended subdivision and site plan application for #19-16; The Cove at Highland Lake on Map 7, Lot 66, in zone Commercial III District (C-3) and the Retirement Community and Care Facility Overlay District (RCCFO) is **approved/denied** with the following facts, conclusions, and conditions of approval:

FINDINGS OF FACT

Jurisdiction: The Cove at Highland Lake development is classified as a subdivision and site plan application, which the Planning Board is authorized to review and act a revision or amendment to a subdivision plan which has been previously approved by and [§120-913A](#) and [§120-815H](#) of the Town of Windham Land Use Ordinance.

Title, Right, or Interest: The applicant has submitted a copy of a Quitclaim Deed Without Covenant from Chase Custom Homes and Finance, Inc. to 19 Roosevelt Trail, LLC dated December 14, 2023, which was recorded on December 15, 2023 at the Cumberland County Registry of Deeds in Book 40527 and Page 302.

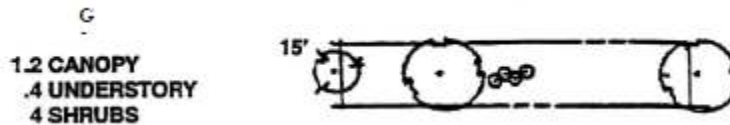
ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council on April 9, 2024, Tax Map 7, Lot 66 is located in the C-3 and RCCFO Districts.
- The previous existing use was discontinued. [Commercial Campground](#), which is permitted as conditional use in the C-3 district, in according to [§120-412C](#). A Retirement Community is a permitted use in the RCCFO District.
- The MeDEP Site Location of Development Act and Natural Resources Protection Act permits, L-27306-87-G-N and L-27306-TC-H-N, were issued on November 24, 2020 and transferred to the applicant. The development and is subject to the conditions of approval for the land use activities such as tree clearing, stream crossing, etc.
- The transfer of ownership included a permit from Army Corps of Engineers for 30 sf of temporary stream bed impact and 13,671 sf of permanent wetland impact.
- The applicant has applied for a new Maine Construction General Permit from Maine DEP as required by the Department's 2025 updated rule.

ARTICLE 5 PERFORMANCE STANDARDS

§120-511 – Buffer yards

C(3)(b) Commercial Districts (C-1, C-2, C-3, C-4, VC and WC Districts): use Buffer Yard G, see exhibit below.



§120-549 – Retirement community

- A. The approved development is for a 60-unit age-restricted retirement community, per 42 U.S.C. §3601 et seq.
- B. The applicant is requesting a transfer of ownership approval and has not proposed any changes, modifications, or alterations to the March 8, 2021, Board's major subdivision and site plan approval.

**THE FOLLOWING FINDINGS OF FACT ARE FROM THE AMENDED FINAL SUBDIVISION AND SITE PLAN
REVIEW OF RELATIVE CRITERIA IN:**

**§120-911 SUBDIVISION PERFORMANCE STANDARDS AND §120-812 SITE PLAN PERFORMANCE
STANDARDS.**

§120-911A – Basic Subdivision layout

- (1) The net residential area calculations are shown on the subdivision and site plan provided by the applicant.
- The parcel is 38.3 acres, or 1,668,348 SF, and the project meets the lot requirement of 200,000 SF.
 - The site has 503,786 SF of wetlands and must be deducted for the gross area of the parcel per §120-541 net residential area, leaving 1,163,875 SF.
 - The future six (6) residential units proposed to be built in the C-3 portion of the parcel require 60,000 SF per unit per §120-412E(2), using 360,000 SF of the site.
 - The portion of the site in the RCCFO is 803,875 SF. The 55+ retirement community requires 5,000 SF per unit for a net residential density of 160 dwelling units.
 - RCCFO District Standards, §120-420E. The project shall meet the standards of the district.
 - Buildings are designed so that the front faces the road.
 - Multifamily dwellings: The minimum setback from the external perimeter of the overall site shall vary depending on the height of the building. Building height: 0-35 feet; minimum setback: 100 feet; building height: 31-35 feet; minimum setback: 150 feet. There are no multi-unit buildings located within 100' of an abutting lot.
 - Retirement community dwellings shall be limited to three or fewer bedrooms per dwelling unit.
 - Submitted septic designs are for 2-bedroom units.

§120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

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

Subdivision Ordinance

- Standard notes and the standard conditions of approval must be shown on the plans (see the proposed Conditions of Approval).
- In accordance with §120-914A the applicant shall provide a performance guarantees for an amount adequate to cover 110% of the total construction costs of all required

improvements. [§120-914A\(1\)\(d\)](#) states that in lieu of the furnishing of a performance guarantee before the recording of the final plan, the Planning Board may accept the agreement of the subdivider that no lot or parcel of land shall be conveyed, and no building permit for any building or portion of the development shall be issued by the Code Enforcement Officer, until the completion of required improvements. Such agreement shall be acknowledged by a note on the final subdivision plan (see proposed Condition of Approval).

[§120-911G](#) – Financial and Technical Capacity

- A cost estimate produced by Terradyn Consultants, Inc., estimating the total cost of site work at \$1,600,000.00 and a letter dated January 11, 2024 from Partners Bank stating that the applicant has financial capacity to by acquiring a commercial construction loan from Partner Bank to purchase the land and construct the infrastructure approved at the March 8, 2021 meeting.
- As evidence of technical capacity, the applicant has provided the State of Maine Department of the Secretary of State's certificates of good standing. The original submission included the names and qualifications of the professionals preparing the plan materials, including Jeff Amos, P.E. of Terradyn Consultants, LLC; Mark Cenci, Site Evaluator & Wetland Delineator from Mark Cenci Geologic, Inc.; Surveyor Wayne T. Wood, Traffic Engineer William Bray, P.E., and Mark Hampton, CSS performing the High Intensity Soil Survey.

[§120-812](#) Site Plan Performance standards

- The March 8, 2021 approval included a Phase 2 for an additional 6 units in two mixed-use buildings. This Phase has not yet received final site plan approval. Per [§120-912G](#), if a plan has received a phased approval, the first phase shall be recorded within three years of the original approval and subsequent phases shall be recorded within five years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.
- Note 18 on the plan states that the Board shall grant final approval of lots or units in subsequent phases only upon satisfactory completion of all requirements pertaining to previous phases. Evidence of satisfactory completion shall be a report from the Code Enforcement Officer or consulting engineer retained by the Town of Windham.
- The applicant shall provide the following information for the future development in the Commercial III District (C-3) nonresidential portion of the development. The applicant shall make application and will address all relate site plan performance including the items below, but no limited to:
 - Identifying the proposed future nonresidential use, per [§120-412B](#).
 - A Traffic Impact Study identifying the commercial uses and providing evidence that the combined traffic generation will not have a negative impact on the road network in the area.
 - The applicant shall provide an explanation how the commercial buildings in the C-3 district will meet the Commercial District Design Standards, per [§120-813](#).

CONCLUSIONS

1. The subdivision and site plan for development **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 and site plan **has** sufficient water available for the reasonably foreseeable needs of the subdivision.
5. The proposed subdivision and site plan **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 and site plan **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** adequate financial capacity to meet the standards in the subdivision and site plan sections of the Land Use Ordinance.
10. The proposed subdivision and site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
11. The proposed location and height of buildings or structure walls and fences, parking, loading, and landscaping shall be such that it **will not** interfere with or discourage the appropriate development in the use of land adjacent to the proposed site or unreasonable affect its value.
12. On-site landscaping **does** provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.
13. All freshwater wetlands within the proposed subdivision **have** been identified in the plan.
14. Any river, stream, or brook within or abutting the subdivision **has** been identified on any maps submitted as part of the application.
15. The proposed subdivision and site plan **will** provide for adequate stormwater management.
- ~~16. 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/do not have** lot depth to shore frontage ratio greater than 5 to 1.~~
17. 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.
- ~~18. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision **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.~~
19. The timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, §8869, sub§14.

CONDITIONS OF APPROVAL

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated January 22, 2024 as amended May 29, 2025, and 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](#) and [120-815](#) of the Land Use Ordinance.

2. Approval is subject to the requirements of the [Post-Construction Stormwater Ordinance, Chapter 201](#). Any person owning, operating, leasing, or having control over stormwater management facilities required by the post-construction stormwater management plan must annually engage the services of a qualified third-party inspector who must certify compliance with the post-construction stormwater management plan on or by June 1st of each year.

~~3. Before the issuance of building permits is issued, the applicant shall provide to the Town Planner recorded and stamped Condominium Documentation and Bylaws for the development.~~

- ~~4.3.~~ In accordance with [§120-914B\(5\)](#) and [§120-815C\(1\)\(b\)](#) of the Land Use Ordinance, the Construction of improvements covered by this subdivision and site plan approval shall be completed within two years of the date upon which the performance guarantee is accepted by the Town Manager. The developer may request a one-year extension of the construction completion deadline prior to the expiration of the period. Such request shall be in writing and shall be made to the Planner. The Town Manager may require an update to the schedule of values and the amount of the guarantee when accepting an extension of the construction period. If construction has not been completed within the specified period, the Town shall, at the Town Manager's discretion, use the performance guarantee to either reclaim and stabilize or to complete the improvements as shown on the approved plan.

~~5.4. Upon the issuance of the Maine Department of Environmental Protection Transfer of Owner Site Location of Development Act permit for the development, it is required that the applicant record the permit at the Cumberland County Registry of Deeds. Additionally, the applicant must provide an electronic copy of the recorded and stamped permit as well.~~

4. In lieu of a performance guarantee for the construction of the project improvements required for the development of Units 21-60, no lot or parcel of land may be conveyed, and no building permit for Units 21-60 shall be issued by the Code Enforcement Officer until the completion of all streets, utilities and other required improvements in accordance with this plan and all applicable laws, ordinances and standards associated. If the applicant wishes to convey or obtain a building permit for Units 21-60 prior to all project improvements being completed in accordance with this plan and all applicable laws, ordinances and standards, a performance guarantee equal to the cost of the remaining improvements shall first be approved by the Town Manager, in consultation with the Planning Director, and submitted to the Town.