

Town of Windham

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MEMO

DATE: February 16, 2021

TO: Planning Board

FROM: Jennifer Curtis, Planner

Cc: Jeff Amos, Terradyn Consultants, LLC
Amanda Lessard, Planning Director
Development Review Team

RE: 20-30 Canada Hill Phase 2 Major Subdivision, Sketch Plan
Planning Board Meeting: February 22, 2021

Overview –

The applicant, Chase Custom Homes & Finance, is proposing an additional twelve (12) lots as a conservation subdivision on Lot 14 in the Canada Hill Subdivision. Lot 14 is a 51 acre property retained by the developers of the Canada Hill Subdivision, which was originally approved by the Planning Board on June 25, 2012, as a 14 lot subdivision. These 14 lots included 13 residential lots developed along an extension of Highland Cliff Road. This amended plan proposes a new road that would connect Highland Cliff Road to Canada Hill Road.

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.

This proposal is the second Conservation Subdivision to be proposed since the Land Use Ordinance was amended in June 2020. Ordinance procedure at §911.K.3.(a) requires the applicant to delineate secondary conservation areas. The applicant has done so, in consultation with staff. The applicant met with staff on February 2, 2021 and discussed conservation priorities and subdivision layout. An additional plan set submitted February 5, 2021, includes a Resource Inventory and Site Analysis Plan. The map includes primary and secondary conservation areas. The updated sketch plan includes proposed building windows with proposed well and septic inclusion areas, and proposed open space areas. Generally, staff find that what is proposed is a configuration of open space that meets the intent of the Conservation Subdivision ordinance. The Board may wish to discuss if priorities are correctly assessed, and if the layout could improve regarding any priorities that should be changed. Staff recommend that the Board should also consider whether the ordinance has been

correctly interpreted with regard to building window layouts, especially with regard to floodplain setbacks. The Board may have additional thoughts open space layout based on a site walk.

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

SUBDIVISION REVIEW

Staff Comments:

1. Waivers Requested:
No waivers requested
2. Complete Application: N/A with Sketch Plan.

~~**MOTION:** The Major Subdivision application for project 20-30 Canada Hill Subdivision Phase 2, 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.~~

3. Public Hearing: A public hearing has not yet been scheduled for this project. The Planning Board shall determine if a public hearing should be held on the Preliminary Plan application.
4. Site Walk: The Planning Board should determine when to hold a site walk.
5. Title, Right or Interest: The applicant submitted deed information for the lot as proof of ownership of the subject property.

Findings of Fact and conclusions for the

Windham Planning Board,

~~**MOTION:** The Major Subdivision Sketch Plan application for 20-30 Canada Hill Phase 2 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

A. POLLUTION

- 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.
- The Final Plan may require a NRPA permit for wetlands alteration
- This subdivision is not located over a significant sand and gravel aquifer.

- An Army Corps wetlands alteration permit needs to be included with the Final Plan submission.
- The Sketch Plan notes that the wetlands delineation and vernal pool assessment was performed by Sebago Technics in 2011 and will be updated.
- A hydrogeologic assessment must be submitted as part of the Preliminary Plan 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.

B. 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.

C. SOIL EROSION & SEDIMENTATION CONTROL & STORMWATER MANAGEMENT

- 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 stormwater permit needs to be included with the Final Plan submission.

D. TRAFFIC

- 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. Where the road would be connecting to public roads, it is required by Town of Windham performance standard at 555.C to meet applicable local street standards, and to be offered to the Town for public acceptance.
- §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. No right-of-way to the abutting property is shown on the sketch plan. *The Board should determine if one should be added, to allow for future extension of the street.*

- 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. Staff determined there are no street lights near the proposed intersection. The Planning Board should decide if it will be required. The Town of Windham Streetlight Policy, adopted June 25, 2013, states that streetlights should be at intersections of a public street (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. There are no street lights on 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 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).

E. SEWERAGE

- 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.

F. SOLID WASTE

- The applicant should indicate how solid waste will be handled.

G. AESTHETICS

- Aerial images indicate that the area proposed to be developed is mostly vegetated with trees.
- Limits of tree clearing should be shown on the plan. A note should be added to the plan stating that clearing of trees is not allowed in areas where tree cover is depicted on the plan for a period of at least five (5) years from the date of Planning Board approval.
- The Final Plan shall include a boundary survey, certified by a Maine Licensed Professional Surveyor.
- The plan shows all parcels in common ownership within the last 5 years.

- The Final Plan should include a letter from Maine Department of Inland Fisheries and Wildlife regarding the proposed development impact on significant wildlife habitat.
- The Final Plan should include a letter from the Maine Natural Areas Program regarding the impact of the proposed development on rare, threatened, or endangered botanical species.
- The Final Plan should include a letter from the Maine State Historic Preservation Office regarding the impact of the proposed development on historic and archeological resources.
- *The impacts of the development on wildlife, plants, and historic and cultural resources should be considered in the open space layout. It would benefit the applicant to identify any such resources early on in the planning process.*

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The plan is consistent with the goals of the 2017 Comprehensive Plan.
- Land Use Ordinances:
 - All proposed lots exceed the minimum lot size of 30,000 sf in the Farm District for Conservation subdivisions served by wells or private system.
 - Front, side and rear setbacks are shown on the Sketch Plan.
 - Net residential area was given by the applicant as 40.47 acres.
 - Net residential acreage, 51.0 ac (2,221,560 sf.) divided by the net residential density of 60,000 sf = 37.02 (37 lots allowable). The applicant is proposing 12 lots.
 - The applicant should consult with the local postmaster as to appropriate mailbox locations and types and if a group mailbox is required it should be shown on the Final Plan.
- Subdivision Ordinance
 - 911.K, Conservation Subdivisions:
 - 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 40.47 acres, resulting in an open space requirement of 30.77 acres. The applicant is currently proposing 36.00 ac of open space.
 - Standard notes and the standard condition of approval must be shown on the plans.
 - The Tax Map and Lot numbers provided by the Tax Assessor must be shown on the Final Plan.
 - Subdivision plan data compatible with the Town GIS must be submitted as part of the Final Plan submission.
 - 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.
 - Utilities shall be installed underground
 - 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.
- 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.

I. 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.

J. RIVER, STREAM OR BROOK IMPACTS

- The project is located in the Presumpscot River watershed.
- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.

CONCLUSIONS (N/A)

1. ~~The proposed subdivision will/will not result in undue water or air pollution.~~
2. ~~The proposed subdivision has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.~~
3. ~~The proposed subdivision will/will not cause an unreasonable burden on an existing water supply.~~

4. — The proposed subdivision ~~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.
5. — The proposed subdivision ~~will/will not~~ cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. — The proposed subdivision ~~will/will not~~ provide for adequate sewage waste disposal.
7. — The proposed subdivision ~~will/will not~~ cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. — The proposed subdivision ~~will/will not~~ have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. — The proposed subdivision ~~conforms/does not conform~~ with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. — The developer ~~has/does not have~~ adequate financial and technical capacity to meet the standards of this section.
11. — The proposed subdivision ~~is/is not~~ situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. — The proposed subdivision ~~will/will not~~ alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. — The proposed subdivision ~~is/is not~~ situated entirely or partially within a floodplain.
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 December 7, 2020 as amended February 5, 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.