



**TOWN OF NORTH CASTLE
WESTCHESTER COUNTY
17 Bedford Road
Armonk, New York 10504-1898**

PLANNING BOARD
Christopher Carthy, Chair

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R E S O L U T I O N

Action: Final Conservation Subdivision Plat Approval, Steep Slope Permit and Tree Removal Permit
Application Name: Hidden Oak Subdivision - McKenna
Owner/Applicant: McKenna Custom Homes Inc.
Designation: 107.01-1-32
Zone: R-2A (Residential, 2 Acre Minimum Lot Size) District
Acreage: 7.69 acres
Location: Hidden Oak Road
Date of Approval: June 8, 2020
Expiration Date: December 5, 2020 (180 Days)

WHEREAS, applications dated February 25, 2020 for final subdivision plat, tree removal and steep slopes permit approvals were submitted to the Planning Board; and

WHEREAS, the application consists of the following drawings:

- Plan entitled "Preliminary Plat," dated October 6, 2016, prepared by Welsh Engineering & Land Surveying, P.C.
- Plan labeled "CS-1," entitled "Cover Sheet," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-1," entitled "Subdivision Layout Plan," dated July 15, 2014, last revised March 3, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-2," entitled "Grading & Utilities Plan," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-3.1," entitled "Phase 1: Erosion & Sediment Control Plan/Tree Removal and Protection Plan," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-3.2," entitled "Phase 2: Erosion & Sediment Control Plan/Tree Removal and Protection Plan," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-4," entitled "Slopes Map," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled "S-5," entitled "Landscape Plan," dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.

- Plan labeled “DE-1,” entitled “Construction Details/Subdivision Road Profile,” dated July 15, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled “DE-2,” entitled “Construction Details,” dated May 30, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled “DE-3,” entitled “Subdivision Road and Driveway Profiles,” dated November 17, 2014, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled “DE-4,” entitled “Construction Details/Erosion Control Notes,” dated April 9, 2015, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled “DE-5,” entitled “Construction Details/Maintenance Plan,” dated August 25, 2015, last revised March 20, 2020, prepared by ALP Engineering & Landscape Architecture, PLLC and Evans Associates, Environmental Consulting, Inc.
- Plan labeled “IPP-1,” entitled “Integrated Plot Plan,” dated May 15, 2013, last revised September 6, 2016, prepared by Campbell Engineering.
- Plan labeled “D-1,” entitled “3 Lot Subdivision Site Plan Profiles & Details,” dated August 29, 2015, last revised August 3, 2016, prepared by Campbell Engineering.
- Plan labeled “D-2,” entitled “3 Lot Subdivision Site Plan Details,” dated January 9, 2016, last revised August 3, 2016, prepared by Campbell Engineering.

WHEREAS, the subject application involves an application for final conservation subdivision approval of a three lot residential subdivision in the R-2A Zoning District; and

WHEREAS, the site is currently a 7.69 acre vacant lot; and

WHEREAS, the Applicant has previously submitted a three lot conventional subdivision conforming with all requirements of the Town Code; and

WHEREAS, pursuant to Section 355-31 of the Town Code the Planning Board has elected to approve a conservation subdivision for the subject lot; and

WHEREAS, the Applicant has previously submitted a conventional subdivision IPP demonstrating that three lots could be developed on this parcel with the construction of a road meeting Town Road standards; and

WHEREAS, the number of building lots permitted under the conservation subdivision does not exceed the number which could be approved under a conventional subdivision; and

WHEREAS, pursuant to Section 355-31.D(3), all lots within the conservation subdivision will comply with the R-1A Zoning District requirements; and

WHEREAS, pursuant to Section 355-31.F of the Town Code, the conservation subdivision contains land proposed to be encumbered by a conservation easement having meaningful scenic, ecological and environmental and/or recreational characteristics; and

WHEREAS, the subdivision will create Lot 1 of approximately 1.863 net acres, Lot 2 of approximately 1.869 net acres and Lot 3 of approximately 2.004 net acres; and

WHEREAS, all three proposed lots will be accessed via individual driveways onto a new extension of Hidden Oak Road; and

WHEREAS, the Applicant intends to dedicate the Hidden Oak Road extension to the Town of North Castle; and

WHEREAS, the site plan was forwarded to the Chief of Police, Fire Inspector and the Armonk Fire Chief on September 9, 2014 so that they may make any pertinent recommendations to the Planning Board including, but not limited to, emergency vehicle access or any other issue deemed important to providing emergency services; and

WHEREAS, the subdivision is proposed to be served with an extension of the water main located in Hidden Oak Road; and

WHEREAS, the Sewer and Water Department confirmed that the property is currently included in Water District #5; and

WHEREAS, the lots will be provided with individual on-site septic systems; and

WHEREAS, the Applicant has performed a Phase 1A Literature Review and Sensitivity Analysis and a Phase 1B Archaeological Field Reconnaissance Survey; and

WHEREAS, the archeological field tests did not reveal any prehistoric or historic cultural material; and

WHEREAS, 359 Town-regulated trees, 13 of which are Town-regulated Significant Trees are proposed to be removed for the proposed subdivision; and

WHEREAS, 6,649 square feet of Town-regulated steep slope disturbance is proposed; and

WHEREAS, no Town-regulated wetland or wetland buffer disturbance is proposed; and

WHEREAS, the applicant submitted a Short Environmental Assessment Form (EAF) in connection with the application dated September 23, 2016; and

WHEREAS, the Proposed Action would be classified as an Unlisted Action pursuant to the State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Planning Board determined to conduct an uncoordinated SEQRA review; and

WHEREAS, the Planning Board adopted a Negative Declaration on June 8, 2020; and

WHEREAS, a duly advertised public hearing on the preliminary subdivision plat application was conducted on June 8, 2020 at which time all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, pursuant to Section 275-15.E of the Town Code, when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under the provisions of the Town Code and modified in accordance with the requirements of such approval if applicable, the Planning Board may waive the requirement for such a public hearing; and

WHEREAS, the Planning Board has evaluated the proposed total site disturbance, amount of clearing and amount of tree removal; and

WHEREAS, the Planning Board has inspected the site and is familiar with the nature of the site and the surrounding area; and

WHEREAS, the Planning Board has determined that the proposed addition of two (2) new single-family lots will contribute to the existing unmet need for additional park and recreational facilities in the Town, which need cannot be met on the subject property in accordance with the provisions of Section 275-27.A(4) of the Town of North Castle Town Code given its size and characteristics, and on that basis, has determined that the best interests of the Town and future residents of the proposed subdivision will be better served by requiring a cash payment to be earmarked for park, playground and/or other recreational purposes; and

WHEREAS, the Planning Board has received and considered comments from the public, Town Attorney, Town Engineer and Town Planner; and

WHEREAS, the requirements of the Land Subdivision Regulations, the Zoning Ordinance and the *1996 Town of North Castle Comprehensive Update* have been met by the application; and

WHEREAS, under the Town Law the approval of said subdivision plat by this Planning Board does not affect the power of the Town to change zoning regulations, nor act as an assurance of the granting of any building permits; and

WHEREAS, the Applicant received preliminary subdivision plat approval on June 8, 2020;

NOW THEREFORE BE IT RESOLVED, that the Planning Board based upon its review of the full environmental record finds that the proposed action will not result in any significant adverse environmental impacts and hereby reconfirms the Negative Declaration adopted on June 8, 2020; and

BE IT FURTHER RESOLVED, that pursuant to the authority granted by Section 275-15.E of the Town of North Castle Town Code, the Planning Board hereby waives the public hearing on the final plat; and

BE IT FURTHER RESOLVED, that the final subdivision plat, tree removal permit and steep slope permit approvals, as described herein is conditionally approved, subject to compliance with the following conditions and modifications; and

BE IT FURTHER RESOLVED, that this final subdivision plat approval shall expire 180 days from the date of this resolution unless a written request for an extension of final subdivision plat is granted by the Planning Board; and

BE IT FURTHER RESOLVED, that if all conditions of approval are not fully complied with within the above time limits, said plat shall be disapproved.

Conditions to be Completed Before the Final Plat is Signed

(The Planning Board Secretary's initial and date shall be placed in the space below to indicate that the condition has been satisfied.)

- _____ 1. Submission of the previously submitted conventional subdivision layout to the satisfaction of the Planning Department.
- _____ 2. Submission of the previously submitted document entitled "Draft Hidden Oak Subdivision Phase 1A Literature Review & Sensitivity Analysis & Phase 1B Archaeological Field Reconnaissance Survey," dated December 2014, prepared by CITY/SCAPE: Cultural Resource Consultants to the satisfaction of the Planning Department.
- _____ 3. Submission of the approved document entitled "Stormwater Pollution Prevention Plan Report," prepared by Evans Associates Environmental Consulting, Inc. to the satisfaction of the Town Engineer.
- _____ 4. The applicant shall be required to submit a conservation easement, in recordable form satisfactory to the Town Attorney and meeting the requirements of Section 355-31.F(1)&(2) and of the Town Code, concerning the preservation of the land within the proposed conservation easement and uses permitted within the conserved land area.
- _____ 5. Payment of all applicable fees, including any outstanding consulting fees.
- _____ 6. The applicant shall furnish the necessary documentation confirming that all taxes assessed against the property have been paid.
- _____ 7. The plat shall be referred to the Tax Assessor for review and for the assignment of the new tax lot numbers. The plat shall be revised per the Assessor as required and all new tax lot numbers shall be placed on the subdivision plat.

- _____8. The applicant shall be required to submit an agreement, in recordable form satisfactory to the Town Attorney, concerning the construction, maintenance and inspection of the features of the stormwater management plan. Such agreement shall specify that a homeowners association (or the individual property owners) shall be responsible in perpetuity for maintenance of the stormwater management and conveyance system to the satisfaction of the Town Engineer. Such responsibility shall be shared equally by the homeowners in the subdivision.
- _____9. The applicant shall submit permanent utility easements, in recordable form satisfactory to the Town Attorney, for the common stormwater management systems and pipe conveyances for the following:
 - The facilities on the small parcel belonging to Lot 1 (SWMF-1.1 and the level spreader) that collects/treats runoff from the road;
 - The facility and piping on Lot 3 (SWMF-1.2) that collects/treats runoff from the road;
 - The stormwater basin on Lot 3;
 - The pipe connection across Lot 3 serving the stormwater facilities on Lot 2.
- _____10. The applicant shall submit a permanent easement agreement, in recordable form satisfactory to the Town Attorney, providing for access by a homeowner's association (or the individual property owners) and/or the Town of North Castle, if necessary, to perform maintenance of the features of the stormwater management system and conveyance.
- _____11. The Applicant shall secure approval and endorsement of the plat by the Westchester County Department of Health. All plans submitted to the Westchester County Department of Health for review and approval shall reflect the identification of all wetland boundaries and their respective surrounding regulated areas. A copy of the integrated plot plan containing the endorsement of the Westchester County Department of Health shall be submitted to the Town Engineer prior to the signing of the final linen.
- _____12. The applicant shall provide approvals from the WCHD for the subdivision, proposed on-site wastewater treatment systems and extension of the public water main to the satisfaction of the Town Engineer.
- _____13. The applicant shall produce a Final Subdivision Plat in accordance with the provisions of Section 275-33 of the North Castle Land Subdivision Regulations, and Final Construction Plans in accordance with 275-16 of the Town Land Subdivision Regulations.

- _____ 14. Submission to the Planning Board of a suitable legal agreement, in form satisfactory to the Town Attorney, assuring the Town that the applicant will deposit cash or file a surety bond or other security acceptable to the Town Board (such as a Letter of Credit) for construction and maintenance of the road until such time as the road is dedicated to the Town of North Castle, the amount of said bond or other security to be determined by the Town Board. Such bond shall be released after dedication of the road to the satisfaction of the Town.

In the event that the issuer of the bond or other security furnished to the Town hereunder becomes insolvent or, for any reason, disaffirms the validity of such security, the applicant shall notify the Town Board immediately and replace the invalid security with a new bond or other security acceptable to the Town Board within thirty (30) days thereafter. The existence of a valid bond, letter of credit or other security shall be a condition precedent to the validity of any permits issued or to be issued in connection with this subdivision.

- _____ 15. Submission to the Planning Board of a suitable legal agreement, in form satisfactory to the Town Attorney, assuring the Town that the applicant will deposit cash or file a surety bond or other security acceptable to the Town Board (such as a Letter of Credit) for construction and maintenance of the common stormwater infrastructure, the amount of said bond or other security to be determined by the Town Board. Such bond shall be released after construction of the stormwater infrastructure to the satisfaction of the Town.

In the event that the issuer of the bond or other security furnished to the Town hereunder becomes insolvent or, for any reason, disaffirms the validity of such security, the applicant shall notify the Town Board immediately and replace the invalid security with a new bond or other security acceptable to the Town Board within thirty (30) days thereafter. The existence of a valid bond, letter of credit or other security shall be a condition precedent to the validity of any permits issued or to be issued in connection with this subdivision.

- _____ 16. The applicant shall submit payment of the recreation fee in the amount of ten-thousand dollars (\$10,000) for each new building lot, for a total of \$20,000 as stated in Section 275-17 of the Town Code.
- _____ 17. The final plat shall be accompanied by a detailed quantity cost estimate for all improvements proposed in the subdivision, including, but not limited to, the road and stormwater facilities, with the quantities certified to by the applicant's engineer.
- _____ 18. The Applicant shall include a formal offer of cession to the public of all streets, parks, easements or recreation areas, as set forth in substance in Section 278 of the Town Law.

- _____19. The deeds, easements, offer of dedication, and pre-paid title insurance policy naming the Town of North Castle as insured by an approved title company licensed to do business in the State of New York, of any and all lands reserved in fee for roads, drainage, flood control, park or recreational purposes shall be tendered to the Town. The form and content of all such documents, easements and instruments of conveyance shall be subject to the approval of the Town Attorney.
- _____20. The Applicant shall furnish the necessary documentation confirming that the plat can be filed immediately, that there are not liens on the plat whatsoever, or any other impediments to the filing of the Plat with the County Clerk.
- _____21. The Applicant shall submit documentation indicating that the New York City Department of Environmental Protection (NYCDEP) has issued all required permits to the satisfaction of the Town Engineer.

Other Conditions:

1. All references to "the Applicant" shall include the Applicant's successors and assigns.
2. Prior to the start of construction and throughout the construction period, area of disturbance lines shall be clearly delineated in the field by installing snow fence or another demarcation acceptable to the Town Engineer around the entire proposed construction area. Except as necessary to provide mitigation plantings, no encroachment beyond these limits by workers or machinery shall be permitted.
3. The Applicant shall obtain curb cut permits for any work on a Town Road.

Applicant, agreed and understood as to contents and conditions, including
expiration, contained herein

Date

Mckenna Custom Homes Inc.

NORTH CASTLE PLANNING OFFICE, as to approval by the North
Castle Planning Board

Date

Valerie Desimone, Planning Board Secretary
Certified as Approved by the North Castle Planning Board

KELLARD SESSIONS CONSULTING P.C.
As to Drainage and Engineering Matters

Date

Joseph M. Cermele, P.E.
Consulting Town Engineer

STEPHENS BARONI REILLY & LEWIS LLP
As to Form and Sufficiency

Date

Roland A. Baroni, Jr. Esq., Town Counsel

NORTH CASTLE PLANNING BOARD

Date

Christopher Carthy, Chair