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## MEMO

DATE: August 17, 2021

TO: Windham Planning Board  
FROM: Steve Puleo, Town Planner  
Cc: Dustin Roma, DM Roma Consulting Engineers  
Baker Brook Farm Creamery, LLC, Applicant  
Development Review Team

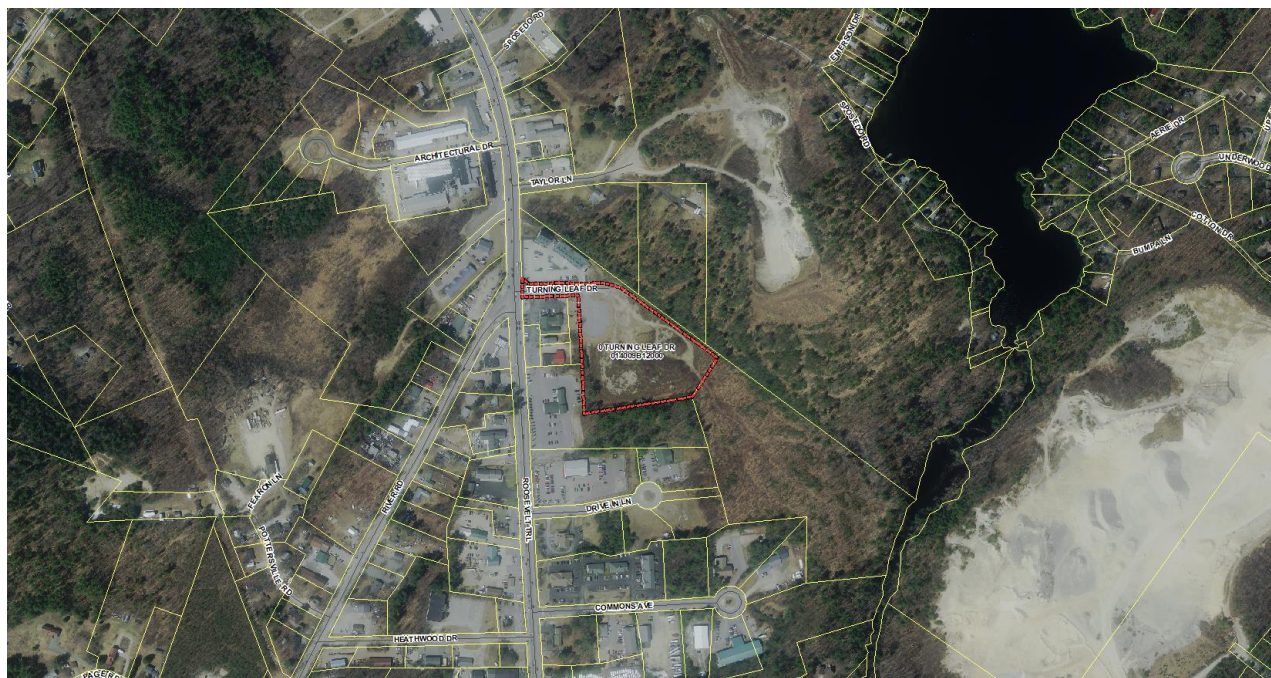
RE: 21-15: Turning Leaf Drive Commercial Development – Major Site Plan and Amended Subdivision - Sketch Plan Review. Baker Brook Farm Creamery, LLC  
Planning Board Meeting: August 23, 2021

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### Overview –

The application is a sketch review of the reconfiguration of Lot 12 A into two separate parcels divided by a new commercial road and the construction of two new commercial buildings. The applicant is proposing one of the new buildings will be a retail agricultural store and the other will be a creamery production facility and a retail ice cream shop. The two new buildings will provide drive-thru services, share the common existing parking area, and the combined loading/service areas. Access to the loading/service areas from the new commercial road. The property in question is located at the end of Turning Leaf Drive.

A Development Review Team met on August 12, 2021. Comments received during the meeting are reflected in the memo below.



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

Tax Map: 14, Lot 9 B12. Zone: Commercial I (C1).

### **SITE PLAN AND SUBDIVISION REVIEW**

Staff Comments:

1. Waivers: None requested
  - a. At the Development Review Team Meeting, the applicant stated that they would not need a waiver from the Planning Board.
  
1. Complete Application: *N/A with Sketch Plan*

~~**MOTION:** The major site plan and subdivision application for the Turning Leaf Commercial Development 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. 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.
  
3. Site Walk: A site walk has not been scheduled for this project. The Planning Board should determine if a site walk is necessary for this project.

Findings of Fact and conclusions for the

### **Windham Planning Board,**

~~**MOTION:** The major site plan and subdivision application for the Turning Leaf Commercial Development project on Tax Map: 14, Lot 9 B12 is to be **(approved with conditions/denied)** with the following findings of fact and conclusions:~~

### **FINDINGS OF FACT**

#### **811. - MAJOR SITE PLAN PERFORMANCE STANDARDS**

##### **812.A. - Utilization of the Site**

- The subject parcel is approximately 4.77 acres (207,781 SF). The site is improved with an existing 51-space paved parking lot.
- The existing parking area will be maintained and improved with ten (10) more parking spaces.
- The proposed two (2) new commercial buildings will be located next to the parking lot to allow customers to park and use the new building spaces. The 9,018 SF building, along the easterly property boundary, will be occupied by the Blue Seal retail store. A second 8,640 SF building, fronting along the Turning Leaf Drive, is proposed to be the location of Baker Brook Farm Creamery production facility and retail and ice cream shop.
- The site is part of the Shops at Sebago condominium complex and fronts along the existing Turning Leaf Drive.

- The site's existing condition is primarily a graded vacant parcel with a mineral extraction operation at the end of the gravel portion of Turning Leaf Drive.
- There are no wetlands identified on the property.

**812.B. - Vehicular Traffic; 812.C. - Parking and Loading; 812.D. - Pedestrian Traffic**

- The subject parcel is 5.91 area in size and includes Turning Leaf Drive Rights-of-Way (ROW). Turning Leaf Drive is a private way and is maintained by the Condominium Association.
- Turning Leaf Drive is paved from the intersection of Roosevelt Trail for approximately 660-feet, in which 80-feet of the paved road is fronting the driveway access area of the existing parking area, the remaining ROW is gravel.
- The Shop at Sebago received an amended site plan approval added 51 parking spaces to accommodate overflow parking requirements of the commercial condominium complex located at 4 Turning Leaf Drive. The Town of Windham's Farmer Market uses the existing parking area each Saturday through the summer months.
- The proposal will improve the Turning Leaf Drive gravel portion to Major Private street standards, matching the existing improved portion of Turning Leaf Drive. In 2006, the Planning Board approved an amended site plan for the Shops at Sebago to construct an overflow parking lot. The amendment showed an extension to the Turning Leaf Drive as part of the road layout and an illustration of the "Full Buildout" of the site.
- At the end of the improved Turn Leaf Drive, the sketch plan shows the construction of a "New Commercial Road." The proposed new road the split the parcel in two and providing road frontage for the two parcels.
- The "New Commercial Road" will be named for the final plan reviewed.
- The new road will be constructed to the Town's Major Private Street standard with on-street parking and a sidewalk. During the Development Review Meeting of August 12, 2021, the Public Works Director requested that a "Hammer-Head" around provides in the ROW of both Turning Leaf Drive and New Commercial Road. The applicant's engineers stated that an easement in the driveway of the Blue Seal delivery area for road snow storage. The Blue Seal operation will remove snow loaded in their driveway. Both
- The proposed construction of a new road would allow for a connection to the developed parcels to the south of the property to support the development of a street network, complying with the C-1 block standards.
- At the Development Review Team Meeting on August 12, 2021, Fire Chief Brent Libby requested a turn radius diagram for fire trucks circulation through the property and Fire Lane access for the final plan review.
- Development in the C-1 zoning district is subject to the Sidewalk Impact Fee (Section 1201).
- Sight distances for the entrance must be shown on the final plan review.
- Driveway entrances on adjacent abutting properties should be shown on the final plan review.
- The sketch plan shows 73 parking spaces, 60 parking spaces in the improved existing parking lot from Turn Leaf Drive and 13 on-street parking along the new commercial road. The ordinance does not have a minimum number of spaces required but the applicant shall demonstrate, for the final plan review, that the number of spaces provided onsite will meet the needs of the proposed uses. Section 812.C.(1)(d) requires 30% of the parking spaces to be 10'x20'.

- 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 a final plan review.
- The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). Traffic analysis shall be conducted to determine the traffic impact and the requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that passes through the North Route 302 Capital Improvement District in the peak commuter hour.
- The two (2) buildings are proposing to share a common parking area and a common loading and service area, accessed from the new commercial road.
- The Blue Seal building will be providing a 14-foot-wide covered drive-thru lane on the east of the building to allow customers to load their vehicle undercover. The access will be from the existing parking lot to a drive-thru lane and will continue around the southern portion of the building and site, exiting on the new commercial road.
- The Baker Brook Farm Creamery facility will be mainly a production facility with a sit-down ice-cream shop will small retail. The number of seats and retail area shall be reviewed with the final plan. The ice cream shop will drive-thru pick-up window. The access to the drive-thru lane will be from the new commercial road on the westerly side building and exiting on the extended Turning Leaf Drive.

**812.E. - Stormwater Management; 812.F. - Erosion Control**

- The property is located in the Little Sebago Flowage Watershed, and the Town Engineer stated at the Development Review Team meeting that the site is located Urbanize Area.
- The proposed site impervious area is approximately 2.6 acres requiring a Maine Department of Environmental Protection (DEP) Chapter 500 Stormwater Permit, which must be submitted with the final plan review.
- At the Development Review meeting, the applicant's engineer describes the stormwater management plan will be captured the runoff into a series of under-drained infiltration basin toa infiltration "hole," located behind the future Blue Seal building.
- Per Section 812.E., a stormwater plan needs to be submitted that meets the standards DEP Chapter 500 Stormwater Management and maintenance and inspection plans for the final plan review.
- Per Section 812.F.1., the applicant will be minimized impacts to the site to the fullest extent possible. The proposed site improvements will preserve the natural vegetation as much as possible.
- This project is in the NPDES (National Pollutant Discharge Elimination System) area as designated by the Environmental Protection Agency for the Town of Windham.
- As a result, there will be additional construction inspection requirements and ongoing requirements for reporting stormwater infrastructure maintenance as there is more than one (1) acre in the area of development proposed. See recommended Condition of Approval #2.
- The applicant will provide a plan for Erosion and Sedimentation Control practices during the site improvement construction activities that will meet the Basic Standards per Section 4(A) of the MeDEP Chapter 500 Stormwater Rules as outlined for the final plan review, per Section 812.F.2. and 2(a).

**812.G. - Water Supply Provisions; 812.H. - Sewage Disposal Provisions**

- The development proposal will utilize domestic Portland Water District (PWD) to supply both domestic and fire suppression service extensions.
- The two (2) commercial buildings will be serviced by on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal plan. The applicant will provide the location and meeting soil test pit requirements for the location of the subsurface system.
- The Deputy Chief stated that the nearest fire hydrant is adjacent to the existing driveway, within the Turning Leaf Drive ROW. The Development Review Team meeting requested the applicant install two fire hydrants, one at the end of Turning Leaf Drive and at the end of the new commercial road.
- Per the Fire Department requirements, the two (2) buildings will have a fire suppression system installed. The applicant will be providing an “Ability to Serve” as required for the final review, per Section 807.F.1.(e).

**812.I. - Utilities**

- The proposed commercial buildings will be connected via underground utility lines (electrical, telephone, and telecommunication services) from the Turning Leaf Drive.
- The project will be served by domestic water.
- Based Fire Chief's requirements and use, the applicant will install a sprinkler system and fully addressable alarm systems for both buildings.

**812.J. - Groundwater Impacts; 812.K. - Water Quality Protection**

- The development project and uses shall not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. The applicant shall demonstrate that the sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater disposal systems and that the groundwater at the property line will comply. The system information shall be review with the final plan review.
- The site is located in a Little Sebago Lake watershed, which is designated by MeDEP, as a "body of water at risk from development."

**812.L. – Hazardous, Special and Radioactive Materials**

- The proposed commercial uses are not anticipating handling, storing or using any material identified by the federal or state as hazardous, special, or radioactive. The applicant will provide a list of any materials that would fit in those categories for the final plan review.

**812.M. – Shoreland Relationship**

- The proposed development is not located in a shoreland zoning district.

**812.N. - Technical and Financial Capacity**

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

**812.O. – Solid Waste Management; 812. P. – Historical and Archaeological Resources;  
812.Q. - Floodplain Management**

- The construction debris associated with two buildings will include clean wood, material packaging, cardboard, etc. The applicant will provide the final construction material plan for final plan review.
- There are no known historic and archaeological resources onsite.
- The proposed buildings are not in the FEMA 100-year floodplain.

**812.R. – Exterior Lighting; 812.S. - Noise**

- A photometric plan will be provided in the final plan set, and details of fixtures cut sheets are in the application.
- The proposed commercial uses shall not exceed 65 dB between 7:00 AM to 10:00 PM and 55 dB between 10:01 PM to 6:59 AM.

**812.T. – Storage of Materials and Screening (Landscape Plan)**

- The final plan submission should include a landscape plan and planting schedule.
- The snow storage area must be identified on the final plan for review.

**813 Commercial District Design Standards for the Commercial 1 (C1)**

**813.A. - Architecture/Building (Required for Final Plan Review)**

- Per Section 813.A.1.a. for building style.
- Per Section 813.A.2.a. for the materials.
- Per Section 813.B.2.b. for awnings and canopies.
- Per Section 813.A.3.a. for Façade colours.
- Per Section 813.A.4.b. for non-traditional roof forms.
- Per Section 813.A.4.c. for flat roofs.
- Per Section 813.A.4.d. for parapets use.
- Per Section 813.A.4.e. for Roofing materials will not include high gloss roofing materials.
- Per Section 813.A.4.f. for Rooftop equipment will include new mechanical units and screening from view.
- Per Section 813.A.5a. for facades that face public streets.
- Per Section 813.A.5.b. for retail and foodservice facades, no blank facades facing the public roads or abutting properties are permitted.
- Per Section 813.A.5.c. for site plans and architectural elevations, the applicant is not proposing any exterior vending machines.
- Per Section 813.A.5.d. for windows, doors, ventilation fixtures, and other building openings will be trimmed to match the existing building openings.

- Per Section 813.A.5.e. for horizontal facades.
- Per Section 813.A.6.a. for phasing plans.
- Per Section 813.A.6.b. for freestanding structures.
- Per Section 813.A.7.a. for renovated buildings over 20,000 SF, the building entrance shall be clearly defined and highly visible.
- Per Section 813.A.7.b. for linear commercial building.
- Per Section 813.A.8.a. for Architectural detailing and trim, the proposed new details on the facades of the building are in proportion to the existing structure.

#### **813.B. - Site/Parking**

- Per Section 813.B.6.a. for Screening, Utility, and Service Areas.

#### **813.C. – Landscaping/Lighting**

- Per Section 813.C.3.a. for lighting coordinating with landscaping
- Per Section 813.C.5.a. for designated snow storage areas.

#### **813.D. – Bicycle/Pedestrian**

- Per Section 813. D.1. for continuous internal walkways.
- Per Section 813.D.2.a. for links to the community.
- Per Section 813.D.2.b. for internal pedestrian connections with abutting properties and within the parking lot.
- Per Section 813.D.4.a. for sidewalks and planted esplanades.
- Per Section 813.D.5.a. crosswalks for sidewalks intersecting commercial driveways or roads.
- Per Section 813.D.6.a. for bicycle parking and racks.

*(In addition to meeting all the Design Standard in the C1 zoning, the applicant must comply with a minimum of eight (8) other Design Standards.)*

#### **Conformity with Local Plans and Ordinances**

##### **1. Land Use**

- The Commercial I (C1) zoning district does not require a minimum lot size and 100' minimum lot frontage, between the frontage along the improved Turning Leaf Drive and construction of the new commercial road will exceed the minimum road frontage.
- Commercial buildings in C1 shall be oriented to the front door facing the front lot lines.

- The sketch plan application identifies two (2) commercial buildings on the split of Lot B12.
- The new lot shows a 20-foot maximum setback from Turning Leaf Drive and the new commercial road and are subject to the minimum side and rear 6-foot setback.
- The buildings shall only be occupied by uses that are permitted in the C1 District.
- The final plan review needs to demonstrate how the project will comply with the Commercial District Design Guidelines in Section 813.
- Building elevations and sign details shall be provided with the final plan submission

## 2. Comprehensive Plan

- This project meets the goals and objectives of the 2017 Comprehensive Plan. The proposed project is in the North Windham Growth Area.

## 3. Others:

- Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 urbanized area. See Condition of Approval #2.
- Chapter 221 Street Naming and Addressing: Street names approved by the Town Addressing Officer shall be shown on the final plan.

## Impacts on Adjacent/Neighboring Properties

- The sketch plan shows one proposed dumpster located on a paved pad with an enclosure, behind the future Blue Seal building.
- Site lighting must be shown on the final plan, and details of fixtures must be included in the submission.
- The site's side property line abuts The Joyful Noise Learning Center playground area and the rear property line abuts the undeveloped Norman-David auto sale and service center. The applicant should consider screening or landscaping along the property line. The buffer shall be shown on the final plan for review.

## 911 - MAJOR SUBDIVISION PERFORMANCE STANDARDS

### 911.A. – Basic Subdivision layout

- As note above the parcel is 5.91 acres in size. The C1 zoning does not have a minimum lot size each parcel shall have a 100-feet of road frontage as part of the amended subdivision proposal.
- The applicant is proposing to improve the Turning Leaf Drive in a 50-foot ROW and the construction of a "New Commercial Road" will split the parcel into the two lots. The proposed new road shows a 50-foot ROW.
- The proposed subdivision amendment will amend the Third Amended Subdivision Plan recorded CCRD Plan Book 213 Page 455 for Rich Family Limited Partnership property.
- The new commercial buildings will not result in undue air or water pollution.
- The applicant shall provide monuments at the corners and angle points of the two new parcels along both Turning Leaf Drive and the new commercial road ROWs.
- During the Development Review Team meeting, Fire Department would be involved with lot numbering for E-911 with the Addressing Officer. New map lot and addresses will be provided for the final plan review.



- At the Development Review Team meeting, the applicant stated all utilities will be located underground, per Section 911.A.2(a).

**911.B. – Sufficient Water**

- The applicant will coordinate with the Portland Water District to connect the new commercial building to domestic and fire suppression water supply lines, as note above, an “Ability to Serve” letter for the water supply is required for the final plan review.
- As note above in Section 812.G., the existing fire hydrant is located next to the driveway to the existing overflow parking lot.

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

- As mention in Section 812.C., the applicant will be required to provide and stormwater management and erosion control plans meeting DEP Chapter 500 Stormwater Rules.

**911.D. – Sewage Disposal**

- The final plan review must include a Soil Evaluation for a subsurface wastewater disposal system meeting the Maine Subsurface Wastewater Disposal Rules. The soil test pit must be shown on the final plan.
- A groundwater impact analysis is required for the final plan involving on-site sewage disposal facilities with a capacity of 2,000 gallons per day or more.

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

- The applicant will provide more information for the final plan review relating to the natural resource impacts for the final plan review.
- The site has no shoreline frontage.
- The applicant submitted a “Beginning with Habitat Map” showing the location of the subject property in relation to deer wintering areas and brook trout habitat. There is no deer wintering areas or brook trout habitat shown on the property.
- The applicant will provide a review of the site from the Maine Historic Preservation Commission as part of the final plan review.

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

Comprehensive Plan:

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

Land Use Ordinances:

- See above Section 812 for details of the zoning requirements.

Subdivision Ordinance

- Standard notes and the standard condition of approval must be shown on the plan.
- The Tax Map and Lot numbers provided by the Tax Assessor and must be shown on the final plan submission.
- Subdivision plan data shall be compatible with the Town GIS must be submitted as part of the final plan submission for review.

- The subdivision plan shows the entire parcel including all contiguous land in common ownership within the last five years, as required by 30-A MRS Section 4401.

**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**

- No impacts on groundwater are expected.

**911.I. – Floodplain Management**

- The subject property is not in a mapped FEMA Floodplain boundary.

**911. J. – Stormwater**

- The stormwater management plan shall comply with Chapter 500 Stormwater Rules and shall include a maintenance plan. The applicant shall provide a management plan for the final review as discussed in Section 812.E.

**911.K. – Conservation Subdivision**

- The project is not located in Farm or Farm Residential zoning Districts.

**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**

- For the final plan review, the applicant will provide a traffic study meeting the requirement in Section 811.B.
- The improvements of Turning Leaf Drive and the construction of the “New Commercial Road” shall comply with Section 911.M.5.(b)(6) and will be reviewed for the final plan submission. At the Development Review Team meeting of August 12, 2021, the Public Works Director state he would recommend the applicant offer the roadway as Town Road, if the existing paved area of Turning Leaf Drive, the extension of Turning Leaf Drive, and "New Commercial Road" meet the Town road standards.

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 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** the 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 groundwater.~~
11. ~~The proposed site plan **will/will not** 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/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 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, section 480 B, none of the lots created within the subdivision **has/do have** a lot of 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. ~~The 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 August 2, 2021, amended \_\_\_\_\_, 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 Staff Review Committee or the Town Planner in accordance with Section 814.G. and 913 in the Land Use Ordinance.

2. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, Chapter 144. 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 May 1st of each year.
3. [Other or unique conditions]