

PLANNING BOARD MEMO • MAJOR SUBDIVISION • SKETCH PLAN REVIEW

DATE: April 9, 2026

TO: Windham Planning Board
FROM: Amanda Lessard, Assistant Town Manager
Cc: Steve Puleo, Planning Director
Craig Sweet P.E., Terradyn Consultants LLC
Michael Lewis, Frost Lane, LLC

RE: #26-02 Frost Lane Subdivision – Major Subdivision – Sketch Plan Review – Frost Lane –
Frost Lane, LLC
Planning Board Meeting: April 13, 2026

Overview:

The application is to develop a 5-lot conservation subdivision on 46.29 acres accessed via a 1,300 foot reconstructed and extended Frost Lane. Lots will be 0.46 to 0.86 acres, with the remaining 42.31 acres as open space. Lots will be served by public water, private subsurface wastewater disposal systems, and underground utilities. Subject property is identified as Tax Map: 13; Lot: 51; Zone: Farm Residential (FR) and Limited Residential (LR) Shoreland in the Highland Lake watershed.

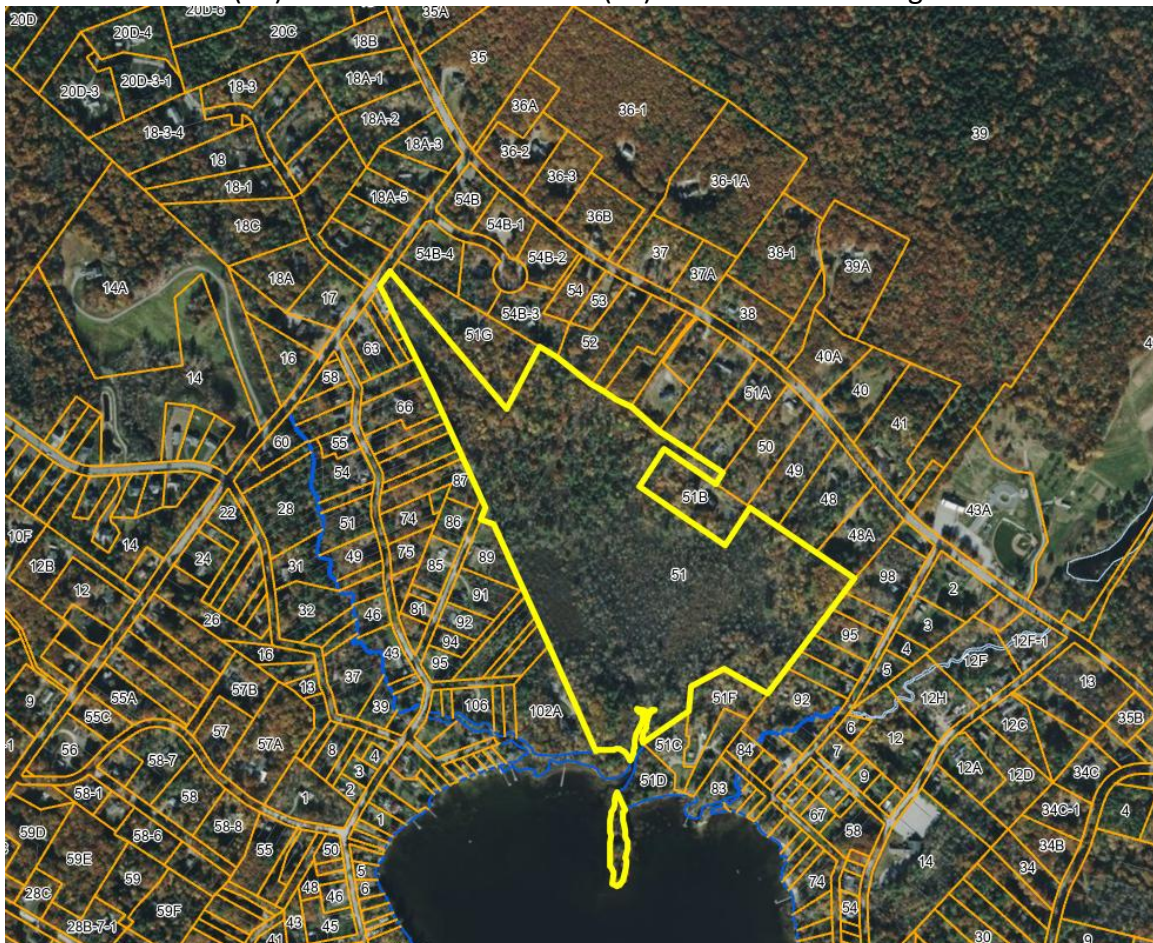


Figure 1: Aerial View of the subject parcel(s) relative to surrounding properties and street network

Review History:

A Development Review Team meeting was held on March 30, 2026. The memo reflects comments provided at the meeting from staff to the applicant.

The Board will review the submission to see if it provides a clear understanding of the site and identifies opportunities and constraints that will influence how it is used and developed. The ordinance procedure requires the applicant to use the design process outlined in [§120-911K\(3\)\(a\)](#):

- Subdivision plans should include delineations for open space areas. It should include all primary conservation areas as well as some secondary conservation areas with the most significant resource value. The applicant has yet to define secondary conservation areas.
- Open space design should consider setbacks, high-value natural resources, neighboring properties, connectivity, size, and boundary markings.
- Building sites should be tentatively located within prescribed setbacks, including 100 feet from primary and secondary conservation areas, 100 feet from existing streets, and 50 feet from the external property perimeter.
- To improve connectivity between open space areas and building sites, streets should be aligned, and a trail system created.
- The lot lines will then be drawn based on the proposed building sites.

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 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: *N/A with Sketch Plan*

MOTION: ~~[I move] the Major Subdivision application for project #26-02 Frost Lane Subdivision 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 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.

SUBMISSION REQUIREMENTS

The Planning Director, or designee, may waive any of the submission requirements of [§120-910](#) based upon a written request by the applicant that includes the reasons for which a waiver is sought. A waiver of any submission requirement may be granted only if the Planning Director, or

designee, finds that the information is not required to determine compliance with the standards and criteria of the Land Use Ordinance or that the information relates to a standard that is not applicable to the application. Per [§120-908B\(1\)](#) the Planning Director is not required to use any criteria in making its determination on the granting of a waiver of the submission requirements.

None Requested

PERFORMANCE STANDARDS

Per [§120-908C](#) the Planning Board may waive the requirements of [§120-911](#) Performance and Design Standards when the applicant demonstrates that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, and the public nullifying the intent and purpose of the land use ordinance. In granting site waivers, the Planning Board shall utilize the criteria in [§120-908C\(2\)](#).

a) [§120-911M\(5\)\(b\)\[5\]\[a\]\[i\]](#): Hammerhead turnaround

This is a request to waive the Land Use Ordinance (LUO)'s required hammerhead turnaround is required every 1,000 feet. The proposed roadway will be approximately 1,300 feet which would result in two hammerheads in relatively close together and the elimination of a hammerhead at 1,000 feet would help reduce the overall impervious area.

At the development team meeting, the Deputy Fire Chief supported the waiver request due to the need to only travel an additional 300 feet to change direction and that the subdivision will be served by public water and a fire hydrant will be installed on Frost Lane 1,000 feet from Albion Road.

b) [§120-911M\(5\)\(b\)\[5\]\[e\]\[vi\]](#): Driveway location off hammerhead

This is a request to waive the Land Use Ordinance (LUO)'s requirement that no driveway shall be located off of the turnaround side branch. The applicant proposes to construct the driveway off the turnaround branch of the hammerhead for Lot 3 in order to reduce possible impacts within the 75' stream setback and to reduce impervious area create on the lots.

At the development team meeting, the Deputy Fire Chief was not in favor a driveway located off the hammerhead.

c) [§120-911A\(2\)\(a\)](#): Underground utilities

This is a request to waive the Land Use Ordinance (LUO)'s requirement that utilities be installed underground. The applicant is requesting to leave the existing tow utility poles and approximately 425' of overhead electric that currently existing along Frost Lane serving the existing home. All newly installed utilities will be underground from the point of the existing services.

3. Public Hearing: The planning board shall determine whether to hold a public hearing on the preliminary and/or final plan.
4. Site Walk: The Planning Board shall determine whether to conduct a site walk.

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

MOTION: ~~[I move] the Major Subdivision application for project #26-02 Frost Lane Subdivision development identified on Tax Map: 13; Lot: 51 Zone: Farm Residential (FR) and Limited Residential (LR) Shoreland in the Highland Lake watershed is to be (approved with conditions/denied) with the following Findings of Fact, Conclusions, and Conditions of Approval.~~

FINDINGS OF FACT

Jurisdiction: The Frost Lane Subdivision project is classified as a Major Subdivision, which the Planning Board is authorized to review and act on by [§120-903](#) of the Town of Windham Land Use Ordinance.

Title, Right, or Interest: The applicant has submitted a copy of a Warranty Deed between John. P. Herzog and Frost Lane, LLC dated February 17, 2025 recorded on March 10, 2025, at the Cumberland County Registry of Deeds in Book 41319 and Page 199.

ARTICLE 4 ZONING DISTRICTS

- As shown on the Town of Windham [Land Use Map](#) approved by the Town Council, date January 27, 2028, Tax Map: 13; Lots: 51 is located in Farm Residential (FR) and Limited Residential (LR) shoreland zoning district governed by the provisions of [Chapter 185](#), Shoreland Zoning.
- The applicant's sketch plan shows a 5-lot subdivision with lots ranging in size from 0.46 to 0.86 acres, exceeding the minimum lot size for conservation subdivisions lots connected to public water in the Farm-Residential (FR) zoning district, per [§120-40E\(1\)\(b\)](#).

ARTICLE 5 PERFORMANCE STANDARDS

§120-511 – Buffer yards

[C\(3\)\(f\)](#) Buffers along streets. Farm and Farm Residential Districts: agriculture and forestry uses and lots created as part of a residential subdivision approved after July 9, 2020 are not subject to this standard.

§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).

§120-911 - SUBDIVISION PERFORMANCE STANDARDS

§120-911A – Basic Subdivision layout

- [\(1\)](#) The property has 46.29 acres is proposed to be divided into 5 lots ranging in size from 0.46 to 0.86 acres.

- (a) The applicant provided a net residential density calculation by deducting 46,174 SF of road R/W, 10,890 SF of steep slopes, and 1,535,926 SF of wetlands (also includes 100-year floodplain) for the net area of 9.18 acres. The net residential density in FR is 40,000 SF, equaling 9 lots/dwelling units.
- (b) The five (5) proposed single-family lots side lot lines are generally perpendicular to the proposed roadway.
- (e) For the final plan review, the applicant shall consult with the E-911 Addressing Officer to assign lot numbers.
- (2) For the preliminary plan review, the applicant shall show where the proposed utilities will be located and shall be installed underground.
- (3) For the preliminary plan review, the applicant shall show the location of the proposed subdivision monuments.

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

- (1) The subdivision will to the public water system located at Albion Road.
- (3) For the preliminary plan review, the applicant shall show water line and hydrant locations. At the Development Review Team meeting, the Deputy Fire Chief requested a hydrant located on Frost Lane 1,000 feet from Albion Road.
- For the final plan review, the applicant shall provide an “Ability to Serve” letter from the Portland Water District.

§120-911C - Erosion Control and sedimentation control

- The applicant provided a report of the wetlands depicted on the Frost Lane Subdivision dated December 18, 2023 prepared by Erik Lema of Basswood Environmental LLC with a finding that the wetland delineation by Mainely Soils LLC in May 2021 was accurate and unchanged. The subdivision sketch plan identifies 35.26 acres of wetlands on the property. The sketch plan anticipates altering 4,200 square feet of wetland for the development.
- The project will require Maine DEP NRPA PBR for two stream crossings, a US Army Corps wetland permit. These permit must be included for the final plan review.
- A Maine Construction General Permit for erosion controls for land disturbances over 1 acre is required prior to the start of construction.
- For the Preliminary Plan review, The amount of wetlands proposed to be altered for the development shall be noted on the plan.

 - (1) For the preliminary plan review, the applicant shall provide 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) For the preliminary plan review, the developer shall provide a statement for the Maine licensed professional civil engineer preventing soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.

- (3) For the preliminary plan review, 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.*

§120-911D – Sewage disposal

- (2) The preliminary plan review, the applicant shall submit evidence of site suitability for subsurface sewage disposal prepared State of Maine Subsurface Waste Disposal Rules. The applicant shall provide evidence that the septic disposal field will meet the State's drinking water standards.

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

- (1) The applicant is developing access from River.
 - (a) For preliminary plan review, the applicant shall provide 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) For preliminary plan review, the applicant must provide a landscape plan including a list of proposed plant species and their size at the time of installation and maturity, including the street tree plantings no more than 50 feet apart.
- (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 documentation.

§120-911F – Conformance with Land Use Ordinances

Comprehensive Plan:

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

Land Use Ordinance, Chapter 120:

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

Subdivision Ordinance, Chapter 120 Article 9:

- Standard notes, the standard conditions of approval, and approved waiver must be shown on the plans.
- For the final plan review, a digital transfer of the subdivision plan data must be submitted for inclusion with the Town's GIS.

Growth Management, [Chapter 101](#):

- Growth permits are required for the creation of each new single-family dwelling. Growth permits for dwelling units to be located in a proposed subdivision, may be applied for after the project receives preliminary subdivision approval from the Planning Board pursuant to Article 9 of Chapter 120, Land Use.

§120-911G – Financial and Technical Capacity

- (1) For preliminary plan review the applicant shall provide evidence of financial capacity and estimated cost of development.
- (2) For preliminary plan review the applicant shall provide evidence of technical ability and qualifications of contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

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

- (1) For preliminary plan review, the applicant shall provide evidence that the subdivision shall not increase any contaminant concentration in the groundwater and shall meet the State's drinking water standards.
- (2) For preliminary plan review, the applicant shall provide evidence the proposed subdivision shall not result in water table drawdowns beyond the subdivision boundaries.

§120-911I – Floodplain Management

- The subject property is within a mapped FEMA Floodplain boundary. The mapped floodplain is located adjacent to Highland Lake and is in the designated open space. The 20' wide walking easement is located within the floodplain. **The applicant should clarify if a trail is proposed to be developed to provide access to Highland Lake.**

§120-911J – Stormwater

- (1) Stormwater management for subdivisions shall incorporate appropriate treatment measures for water quantity and quality to meet the requirements specified below for development of the lots as well as the infrastructure to support the project. The application shall include, for each lot, maximum developed area, disturbed area, and impervious area, as those terms are defined in DEP Chapter 500, Stormwater Management.
 - (2) The applicant states that the amount of impervious and total disturbed area will require a Stormwater Permit from Maine DEP. For preliminary plan review, the applicant shall provide a stormwater management plan which complies with the requirements of Maine DEP Chapter 500, Stormwater Management.
 - The Town has delegated [DEP Stormwater Capacity](#). The Stormwater Permit will be reviewed concurrently with the subdivision application.
 - (6) For all subdivisions, regardless of size, a stormwater management plan shall be submitted that complies with Section 4E, Flooding Standard, of the DEP Chapter 500, Stormwater Management, as amended.
- The responsibility of maintaining the stormwater management system will be assigned to the future Homeowner's Association, as per [§120-911N](#). For final plan review, applicants must submit HOA documents such as a draft deed with covenants and restrictions, a bylaw, and a stormwater maintenance and inspection plan.
 - The site is located in the Town's Urbanized Area and regulated by the MS4 ([Municipal Separate Storm Sewer System](#)). The applicant states that the site disturbance is anticipated to be more than an acre and will be subjected to the annual maintenance and inspection report to the

Town required by the Post-Construction Stormwater Ordinance, [Chapter 201 Article II](#), see Condition of Approval #6.

- The site is located in the Highland watershed, a direct watershed of a lake most at risk from new development as designated in DEP Chapter 502, thus in accordance with [§120-907B\(4\)\(c\)\[4\]](#), Town's third-party consulting engineer firm will review the final plan to ensure compliance with performance standards contained in [§ 120-911C, D\(2\), H\(1\)](#), and [J](#). The review shall include attendance at any scheduled Planning Board site walk.

§120-911K – Conservation Subdivision

(1) The applicant is proposing to develop the conservation subdivision to set aside a significant portion of the site as open space by grouping the dwelling units closer with access to a minor local street with 50-foot rights-of-way (ROW). The applicant is proposing to reduce the lot size to approximately +30,000 SF with 100-feet of street frontage.

- Per [§120-911K\(3\)\(a\)\[2\]](#), the applicant has provided the site analysis plan as a base for an existing resource inventory of the primary conservation resource element on the site. The sketch plan shows the primary conservation resource as the wetlands, and floodplain and steep slopes adjacent to Highland Lake. The applicant has preserved the highest-value natural resource.
- The applicant has not identified any secondary conservation resource on the site analysis plan, per [§120-911K\(6\)\(c\)\[2\]](#).
- The plan **does not** show 100-foot building setbacks from primary conservation areas and 50-feet from secondary conservation areas, per [§120-911K\(3\)\(c\)](#), however the applicant has provided a building envelope dimension plan that identifies some, not all, setbacks from wetlands.
- The applicant is providing 42.31 acres of total open space on the 46.29-acre site in three areas.
 - The applicant proposes most of the reserved open space adjacent to the Highland Lake (12.51 AC), per [§120-911K\(3\)\(d\)](#).
 - The applicant is also providing two smaller open space areas: between Frost Lane extension and the abutting residential lot on Frost Lane, and the area adjacent to Albion Road that includes the required 100 ft street buffer. **The size of the open space areas should be labeled** to confirm that they exceed 10,000 square feet in area per [§120-911K\(3\)\(b\)\[4\]](#).
- Per [§120-911K\(3\)\(c\)\[3\]](#) the 50 foot buffer from the external perimeter of the property line on Lot 1 and Lot 5 is not part of the open space as the area is not a primary or secondary conservation area delineated in accordance with [§120-911K\(3\)\(a\)](#). For the final plan review, a note should be added to the plan requiring that the buffers shall be permanently marked prior to the start of construction. The applicant should also provide a draft of deed restrictions for buffer areas. See Condition of Approval #5.
- The use of the open space shall not be for commercial or private clubs, but to be used by the homeowner's association.

- For the preliminary plan review, a trail system shall be shown within the open space, per [§120-911K\(3\)\(e\)](#). A boardwalk trail is shown from the end of the Frost Lane to the existing 20' wide walking easement.

§120-911L – Compliance with Timber Harvesting Rules

- For preliminary plan review, the application should address how the subdivision will comply with timber harvesting rules.

§120-911M – Traffic Conditions and Street

- (1) The Applicant submitted information from the ITE Trip Generation Handbook that indicates that the 5 lot subdivision will generate 5 trips in the PM peak hour and 47 trips during a typical weekday. Since the expected traffic does not exceed 140 trips per day, a traffic impact analysis per [§120-910C\(3\)\(e\)](#) is not required.
- (2) The applicant will be required to obtain a street opening/entrance permit from the Department of Public Works.
- (3) The applicant is proposing to meet the Town's "Minor Private Street" standards found in [Appendix B](#).
 - The proposed plan is to reconstruct and extend Frost Lane 1,300 feet with a 50-foot-wide R/W and hammerhead turnaround at the end. For stormwater management purposes the road will be paved with curb.
 - The homeowner's association will maintain the road once the subdivision is completed.
- (4) The subdivision access shall meet the requirements of [Appendix B](#).
 - The street must exceed the required minimum 305 feet of sight distance for the 35 MPH posted speed.
- (5)(b)[5] [\[a\]](#) A hammerhead turnarounds shall be installed every 1,000 linear feet. The applicant has requested a waiver from this requirement.
- [\[e\]](#) No driveway shall be located at the end of the street or off of the turnaround side branch. The applicant has requested a waiver from this requirement for the Lot 3 driveway location.

§120-911N – Maintenance of common elements.

- For the final plan review, the applicant shall provide draft homeowners association documents for the Town Attorney's review and comment.

CONCLUSIONS

1. ~~The development plan 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 subdivision has/does not have sufficient water available for the reasonably foreseeable needs of the site plan.~~

5. ~~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.~~
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 subdivision **will/will not** provide adequate sewage waste disposal.~~
8. ~~The proposed subdivision **conforms/does not conform** to a duly adopted subdivision 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 subdivision **will/will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.~~
11. ~~The proposed subdivision **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, §480-B](#), none of the lots created within the subdivision **has/does 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. ~~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

1. Approval is dependent upon and limited to the proposals and plans contained in the application dated March 16, 2026 as amended [*the date of the final plan approval*] 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](#) of the Land Use Ordinance.

2. In accordance with [§120-914B\(5\)](#) of the Land Use Ordinance, the Construction of improvements covered by any subdivision 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 Manger's discretion, use the performance guarantee to either reclaim and stabilize or to complete the improvements as shown on the approved plan.
3. The development is subject to the following [Article 12 Impact Fees](#), to be paid with the issuance of building permits: [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, or any other permits necessary for the development, [§120-1201C](#).
4. In accordance with [§120-911N\(5\)](#) of the Land Use Ordinance, the homeowners' association documents shall be approved as to form by the Town Attorney and recorded in the Cumberland County Registry of Deeds within 90 days of the date that the subdivision plan is recorded in the Cumberland County Registry of Deeds. Evidence of such recording shall be provided to the Planning Department. No lots shall be sold in the subdivision prior to recording of such homeowners' association documents and all deeds shall reference the declaration establishing the homeowners' association.
5. Before issuing building permits for Lot 1 and Lot 5 the applicant or builder must have the town engineer verify that the 50-foot conservation subdivision exterior boundary buffer line is pinned, staked, or fenced in the field.
6. Approval is subject to the requirements of the Post-Construction Stormwater Ordinance, [Chapter 201 Article II](#). 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.