

Town of Windham

Planning Department
8 School Road
Windham, ME 04062

voice 207.894.5960

fax 207.892.1916

MEMO

DATE: November 5, 2020

TO: Windham Planning Board
FROM: Jennifer Curtis, Planner
Cc: Amanda Lessard, Planning Director
Dustin Roma, P.E., DM Roma Consulting Engineers
Development Review Team

RE: 20-26 – Belvedere Commons (AKA Robie Holdings Condos (Kettle Estates, Phase II) –
Subdivision Amendment, Phase 2. Planning Board Meeting: November 9, 2020

Overview –

The applicant is proposing an amendment to the Belvedere Commons subdivision project located on Belvedere Drive and Briarwood Lane. The currently approved subdivision consists of 14 condo units and a duplex, and approximately 625 feet of Belvedere Drive. This second phase is proposed to consist of an additional 30 units on either side of the remainder of the planned length of Belvedere Drive (approximately an additional 1,200 feet), and around a cul-de-sac to be extended from Dusty Rhoades Lane, the road that serves the Kettle Estates Subdivision, a 42 unit/21 duplex subdivision approved by the Planning Board on February 12, 2018.

This additional 30-units being proposed as an amendment was considered as Phase 2 for preliminary plan review at the meeting on November 25, 2019. The proposal received preliminary subdivision plan approval, along with Phase 1, at that meeting. The Phase 1 portion, which also received final approval, is what could be completed prior to the overall project receiving a Site Location of Development Act (SLDA) permit from DEP, due to its overall size and scope. The common-scheme project has since received a SLDA permit, which was submitted with this application.

What was previously Phase 2, is now being proposed as an amendment to Phase 1 due to §914.A.6.(b), which stipulates that: “The Board shall grant final approval of lots in subsequent phases only upon satisfactory completion of all requirements pertaining to previous phases.” Phase 1 is not complete. In order to add to the existing project without completing the first phase, the applicant is now proposing what was Phase 2, as an amendment to Phase 1.

In total, the project would be 46-unit development consisting of a 44-unit condo development off of Belvedere Drive, plus one lot with a duplex, located off Briarwood Lane. The 18.14 acre parcel is located on the northwestern half of a reclaimed gravel pit.

The applicant presented the Sketch plan to the Planning Board on September 9, 2019, and a Preliminary Major Subdivision Plan on October 28, 2019, when a site walk, and public hearing were held.

Due to the requirements of §913.B.2, where the proposed revision involves the creation of additional lots or dwelling units, the procedures for Preliminary Plan approval shall be followed. The project will need an updated preliminary review approval. Changes to municipal ordinances or regulations which may impact the proposed development include the Municipal Office and Public Safety impact fees and the Growth Management Ordinance (Chapter 116).

Public concerns about the project have centered around the density of the development, additional traffic to be generated by the development, and the proximity of building limits to existing structures and each other. The Planning Board noted that the proposed residential density seemed higher than what is around it but was allowed by ordinance.

Underlined text in the memo below shows new information included with the submission and new staff comments from the memo dated November 22, 2019.

Tax Map: 19, Lot: 8-2-2, Zone: Medium Density Residential (RM).

SUBDIVISION REVIEW

Staff Comments:

1. Waivers:

a) §910.C.1.c.1 – High Intensity Soils Survey, Submission requirement.

The applicant is requesting a waiver, stating that the soils on the project site are generally a homogenous Windsor/Hinkley Loamy sand that has been used for gravel and that information gained from a high intensity soil survey will not be different or more beneficial than the medium intensity map data.

Staff recommended that where the hydrogeologic assessment was performed and that it concluded that the development will meet the Town requirements for groundwater quality, the High Intensity Soils Survey may be waived.

The waiver was granted at the November 25, 2019 meeting.

b) §910.C.1.c.3 – Hydrogeologic assessment:, Submission requirement.

Request withdrawn.

c) §911.J.6 – DEP Section 4E Flooding Standard of Chapter 500

The applicant is requesting a waiver, stating that the project is eligible, because it is treating stormwater from the entire site by use of buffers

The waiver is allowed by the following circumstances:” For a project that does not require a DEP SLDA Permit, the Planning Board, upon a request by the Applicant, may waive the Flooding Standard in the event that greater than 75% of the impervious and developed areas (as defined in Section 3 of DEP Chapter 500) for both the lots and infrastructure are treated through the use of buffers in accordance with DEP Chapter 500 Stormwater Management”

Staff recommended approval of the waiver, as the stormwater management plan meets the criteria for a waiver in 911.J.6. and the intent of the standard.

The waiver was granted at the November 25, 2019 meeting.

2. Complete Preliminary Phase 2, and Final Phase 2 Major Subdivision Amendment Application:
Staff find the application complete

MOTION: The application for 20-26, Preliminary and Final Plan for Major Subdivision Amendment of Belvedere Commons, formerly referenced as Phase 2 of Preliminary Plan in application 19-19, 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.

3. Public Hearing: A public hearing was held at the Planning Board meeting on October 28, 2019. The Board should decide if they want to hold another one for this amendment.

4. Site Walk: A site walk was held at 4PM on October 28, 2019.

Findings of Fact and conclusions for the

Windham Planning Board,

MOTION: 20-26, Preliminary and Final Plan of Major Subdivision Amendment for Belvedere Commons, formerly referenced as Phase 2 of Preliminary Plan in application 19-19, (AKA Robie Holdings Condos) on Tax Map: 19, Lot: 8-2-2 is to be (approved with conditions/denied) with the following findings of fact and conclusions.

FINDINGS OF FACT

POLLUTION

- No portion of this subdivision is within the mapped 100 year floodplain.
- The plan notes that there are no wetlands on the property.
- A portion of this subdivision is located over a significant sand and gravel aquifer. A hydrogeologic assessment must be submitted as part of the Preliminary Plan as 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.
- The applicant is requesting a waiver request from the hydrogeologic assessment submission requirement.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, recommended that where the property is located over a significant sand and gravel aquifer, a hydrogeologic assessment should be performed

- A hydrogeologic assessment performed by Mark Cenci of Geologic, Inc. dated November 4, 2019 was submitted. It states that for each leach field the 10 mg/liter NO₃-N plumes are calculated to be 150 feet in length.
- Staff noted that the Nitrate Plan dated 11-4-19 shows that one of the nitrate plumes extends over the property boundary onto the parcel at Map 19, Lot 8C.
- Dustin Roma, PE, submitted a revised Nitrate Plume Plan on November 20, showing a revised leach field location.
- Town Engineer, Mark Arienti, P.E., reviewed the revised Nitrate Plume Plan and commented that moving the leach field makes sense, but the Town should make sure to have the revised analysis for the new plume location. The applicant submitted an updated nitrate plume plan dated November 20, 2019, depicting all leach fields in compliance with the ordinance.
- The amendment application submitted October 19, 2020 included an updated Nitrate Plume Plan with test -pit locations, locations of proposed leachfields (nearly identical to as show on the November 20, 2019 plan), and showing nitrate plume locations and well exclusion areas. The 10mg/ml nitrate plume locations all are within the property boundary.
- See Sewerage for information on septic disposal systems

WATER

- All dwelling units will be served by public water in a proposed new water main located in the subdivision street.
- A written statement from the Portland Water District indicating that there is adequate water supply to service the subdivision must be submitted with the Preliminary Plan.
- The Preliminary Plan Submission included documentation of email correspondence on October 7, 2019, notifying Portland Water District of the planned development, including estimated water needs, and requesting follow-up that would ultimately result in an Ability to Serve Letter.
- An Ability to Serve letter from the Portland Water District must be submitted with the final plan.
- An Ability to Serve letter dated November 5, 2019 was included with the supplemental submission on November 12, 2019.
- There is an existing fire hydrant is located at the intersection of Briarwood and Underwood Lanes.
- A fire hydrant will be located near the mid-point of the new subdivision street and will be shown on the Preliminary Plan. The Preliminary Plan Submitted October 7, 2019 does not show the hydrants. The hydrants should be shown on the Plan.
- A new private hydrant to be installed, is shown near unit 12, just past road station 5+00.

SOIL EROSION & STORMWATER MANAGEMENT

- A soil erosion and sediment control plan must be submitted as part of the Preliminary Plan.
- The applicant must submit a stormwater management plan that meets the water quality and quantity standards as well as the flooding standard of Section 3 DEP Chapter 500
- Stormwater Management as part of the preliminary plan.
- As part of the Preliminary Plan submission dated October 7, 2019, the applicant submitted stormwater management plans. The stormwater management report documents that the project will result in 10.76 acres of total developed area. Proposed treatment measures consist of subsurface storm drain collection system to capture and convey site runoff, which will be discharged into either of two stone-bermed level spreaders. The level spreaders will distribute

the flow into forested buffers. Stormwater from the roofs of the buildings will drain to roofline drip-edges.

- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: The Applicant has stated that since the project will create less than 3 acres of impervious area and less than 20 acres of developed area it is not required by the MDEP to meet the Flooding Standard. However, Section 911.J of Windham's Subdivision Standard requires all subdivisions, regardless of size, to submit a stormwater management plan that complies with Section 4E Flooding Standard of the DEP Chapter 500 Stormwater Management. Section 911.j does, however, allow an applicant for a project that does not require a DEP Site Location of Development (SLDA) Permit to request the Planning Board to waive the Flooding Standard in the event that greater than 75% of the impervious and developed areas for both the lots and infrastructure are treated through the use of buffers in accordance with DEP Chapter 500 Stormwater Management. A formal waiver application should be submitted to support the applicants request to avoid meeting the flooding standard.
- The applicant submitted a waiver request for the flooding standard in a response to comments on October 23, 2019.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: Forested Buffer #2 appears to receive stormwater drainage from Belvedere Drive at approximately STA 7+00 to the Cul-de-Sac and the connection to Dusty Rhoades Lane. A 15" culvert with a slope of 15.4% discharges to what appears to be a plunge pool and then a 90 degree turn into a level spreader that feeds the buffer. An analysis should be provided to document that the design will adequately support the anticipated flow. For
- this buffer, please also confirm the calculation of the required berm length. Attachment 2 of the application indicates a tributary landscaped area of 209,445 SF, but from the
- Stormwater Treatment Table appears to shows 202,195 SF of new area and 39,618 SF of existing area for a total of 241,813 SF.
- In a response to comments dated October 23, 2019, Dustin Roma, P.E. submitted revised calculations revising buffer width, and riprap sizing calculations. He noted that the outlet to the culvert was raised to provide less slope on the pipe, and to provide a more natural flow path from the pipe outlet to the level spreader swale. Mark had no further comment.
- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: Please provide flow lines on the Stormwater Treatment Plan (sheet SWT-1) to better illustrate drainage paths and also please clarify what the diagonal hatch is meant to show.
- In an October 23, 2019 response to comments, flow lines were added to the plan. Mark had no further comment.
- A DEP Stormwater permit is required for this project. The permit must be submitted as part of the Final Plan.
- A SLDA permit could be required if DEP determines that this project is a common scheme of development with Kettle Estates.
- The applicant informed staff in conversation that they intend to seek a SLDA permit prior to the Phase 2 final approval.
- The application for an amendment included a DEP Site Location of Development Act permit dated October 9, 2020.
- In an email dated October 28, 2020, Mark Arienti, P.E. Town Engineer, commented: Finding 10.B and Conditions 5 states that prior to the start of construction, the location of stormwater treatment buffers must be permanently marked on the ground. Note #14 on the subdivision plan notes indicates temporary marking of stormwater buffers before construction, which is

not consistent with the SLDA.

- The Town received a copy DEP Stormwater Permit by Rule #69049, which specifies the project scope as a 14 unit condo project with 607 feet of road and a hammerhead turnaround; accepted by DEP on November 8, 2019.
- This project is in the NPDES (National Pollutant Discharge Elimination System) urbanized 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 of stormwater infrastructure maintenance if the area of development is greater than one (1) acre. The stormwater management report documents that the project will result in 10.76 acres of total developed area. See Condition #2.
- A hydrogeologic assessment shall be submitted with the Preliminary Plan (see Findings under A. Pollution)
- The area of gravel excavation should be quantified and may require Site Plan review.
- In the Preliminary Plan application submitted on October 7, 2019, the applicant noted that the finish grades reflect an export of approximately 50,000 cubic yards of gravel material. The applicant has indicated that the planned excavation and grading is only being undertaken as part of and subordinate to the construction of the subdivision project; the 4 to 8 feet of cut will enable the dwellings to be constructed with foundation footings on natural grade, rather than fill, which would have to be added to areas that had been mined for gravel by the previous owner. In conversation with staff, the applicant stated they are willing to undertake the excavation and grading portion of the project as part of the Phase 2 subdivision development, within the same time period. The applicant further stated that in their assessment, the impact of the excavation and grading portion of the subdivision development would be perceived by nearby residents as substantially similar to the rest of the project. Staff find that the excavation is only being undertaken as part of and subordinate to the construction of the subdivision project, and therefore qualifies per 603.A.4. of the Mineral Extraction Ordinance to be exempt from the requirement at 601.A, and does not require Site Plan review in addition to Subdivision review.
- The amendment application dated October 19, 2020 included a draft easement benefiting Belvedere Commons Condominium, which would provide access over Kettle Estates property for maintenance of stormwater facilities.

TRAFFIC

- The site is accessed off Briarwood Lane, a public street, and Dusty Rhoades Lane, a private road, constructed to the Major Private Road standard as part of the Kettle Estate Subdivision.
- As part of the Kettle Estates Subdivision, an easement was granted to this property to travel over Dusty Rhoades Lane, to Acorn Lane, a public street.
- Per Section 911.M.5.a.6 (pg 9-58) access drive standards for condominium subdivisions shall meet the major private road standard (right-of-way width is not applicable).
- In the Preliminary Plan submission on October 7, 2019, the applicant submitted a detail of Typical Roadway Section of Belvedere Drive. It is depicted as having a 24' paved surface (two 10' lanes, and two 2' paved shoulders), with a 2' grassed shoulder on one side, and a 5' sidewalk on the other
- Section 911 M. (7) (page 9-62) requires a minimum of two connections to an existing public street for a residential subdivision street serving 31 or more units.
- At the Development Team meeting Fire Chief Brent Libby asked about the ability for emergency services to utilize the Kettle Estates hammerhead turnaround if winter maintenance

for this development and Kettle Estates is managed separately.

- The road should match Dusty Rhoades section of Kettle Estates, which is approved as a paved road meeting the Major Private Road standard, with a (5) foot wide sidewalk on one side of the road.
- In the Preliminary Plan submission on October 7, 2019, the applicant submitted a detail of Typical Roadway Section of Dusty Rhoades Lane, which would create a “T” intersection with Belvedere Drive, and end in a cul-de-sac. A typical roadway section of Dusty Rhoades Lane is depicted as having a 28’ paved surface (two 12’ travel lanes and two 2’ paved shoulders), with a 2’ grassed shoulder on one side, and a 5’ sidewalk on the other side. The total width of paved sections would match; however, the proposed extension would not include the 6’ wide esplanade between the paved surface and sidewalk that the existing Dusty Rhoades Lane has.
- Section 911.M.3.d states that streetlights may be required at intersections with existing public streets. The Town of Windham Streetlight Policy, adopted June 25, 2013, states that streetlights should be at intersection with private roads that serve more than 10 units, therefore a new streetlight is required at the intersection with Briarwood Lane is required
- A streetlight is shown on a utility pole to be installed at the intersection with Briarwood Lane on sheet PP-1 dated 11-4-19.
- A traffic impact analysis is required for subdivisions involving 28 or more parking spaces, or that are projected to generate more than 140 vehicle trips per day and should be submitted with the Preliminary Plan.
- The Preliminary Plan Submission on October 7, 2019 notes that a vehicle traffic analysis is being prepared and will include counts at the intersection of Briarwood Lane and Varney Mill Road and will incorporate the trips expected to be generated from the full buildout.
- The application states that vehicle sight distance at the proposed intersection of Belvedere Drive and Briarwood Lane is at the mid-point of the outside of the roadway curve and provides ample sight distance in both directions. The applicant should quantify the distances and note them on the Final Plan, to demonstrate compliance with the ordinance
- A Traffic Impact Study for Proposed Belvedere Commons Subdivision, prepared by William Bray, was submitted with a November 12, 2019. It includes a Traffic Accident Summary of nearby major intersections, including Falmouth Road at Varney Mill Road and a mobility analysis. It concludes that peak hour traffic generated by the proposed residential subdivision has negligible impact on traffic operations at the Varney Mill Road/Briarwood Lane/Dyer Place and Varney Mill Road/Forbes Lane intersections.
- The Traffic Impact Study states that 200’ of unobstructed sight line is required at the intersection with Briarwood, based on the 25 mph speed limit, and there is a clear line of sight in excess of 350 feet in both directions from the proposed centerline of the subdivision street where it will connect to Briarwood.
- The project may be subject to the North Route 302 Road Improvements Impact Fee (Section 1204). A traffic analysis shall be conducted in order to determine the traffic impact and requisite impact fee total, as measured by additional vehicle trips to be generated by a development project that pass through the North Route 302 Capital Improvement District in the peak commuter hour.
- The Traffic Impact Study does not include an assessment of additional vehicle trips to be generated by the development which will pass through the North Route 302 Capital Improvement District in the peak commuter hour. The project shall be assessed the fee per dwelling unit for fee area 2, as shown on Table 1. North Route 302 Road Improvement Impact Fee at 1204.L.

- In an email dated October 16, 2019, Mark Arienti, P.E. Town Engineer, commented: There should be a crosswalk shown on the plan between the sidewalk at the end of Belvedere Drive over to the Sidewalk on The Dusty Rhoades Extension. Provide curb tip down and crosswalk details and call out on plans.
- A crosswalk is shown on plan sheet PP-2 dated 11-4-19. It includes a curb tip down and call out on plan and sidewalk ramp and crosswalk detail.

SEWERAGE

- The development will be served by several community subsurface wastewater disposal systems.
- Soil test pit analysis which indicates soils that will support a septic system for this use must be included with the final plan submission. Test pit locations must be shown on the plan.
- The Preliminary Plan submission on October 7, 2019 included locations of test pits on the plan, and test pit analysis prepared by a Maine Licensed Site Evaluator, Alexander
- Finamore, LSE #391. The analysis concluded that all of the test pits contained suitable soils to support a 'First Time System' according to the Maine Subsurface Wastewater Disposal Rules.
- Leach field locations are shown on the final plan set.
- See Pollution for findings based on the hydrogeologic analysis.
- The applicant submitted HHE and preliminary HHE forms for the septic systems that will be used by the additional 30 units proposed by the amendment. All systems are non-engineered, and typically 3 duplex units will share a leach field. The forms were dated September 15, 2020 and were prepared by Site Evaluator Norman "Bud" Harris (#348) of Harris Septic Solutions, Inc.
- See Pollution for findings based on the hydrogeologic analysis, including nitrate plume plan.

SOLID WASTE

- Residents of the single family dwellings and the duplex will participate in the Town's pay-per-bag garbage program.
- Development of these lots should not produce an undue burden on the Town's ability to collect and dispose of solid waste.

AESTHETICS

- The site is located on one half of a reclaimed gravel pit, which appears to be grown up with brush and scrub. The old pit is completely surrounded by residential neighborhoods.
- Street trees should be shown on the site plan. The Preliminary Plan submitted on October 7, 2019 shows vegetation clearing limits and notes that it should be maintained for five years from the date of Planning Board approval. Planting details should be included on the Final Plan.
- Tree and shrub installation details are included in the November 4, 2019 submission.
- Buffers for neighboring properties should be shown on the Preliminary Plan.
- The applicant may propose a private park, for residents of the subdivision, to be considered for acceptance in lieu of the recreation impact fee.
- At the September 9, 2019 Planning Board meeting, the Planning Board said they would like to know how close the new houses would be to neighboring properties. The Preliminary Plan submission on October 7, 2019 does not indicate limited building envelopes within the unit boundaries. A 10' setback is shown on the plan.
- Areas designated for common land or access to common land should be noted on the site plan.

- The November 4, 2019 submission includes notes on the limits of common elements.
- The Amended Subdivision Plan dated October 16, 2020 includes proposed clearing limits, limits of common elements, easement areas. Property boundary monuments are not shown at all property boundary corners.
- The Plans and Profiles of Belvedere drive, and Dusty Rhoades Lane (PP-1, PP-2, and PP-3) dated October 16, 2020 all depict street trees at 50' intervals).

CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan: The plan does meet the goals of the 2017 Comprehensive Plan. The property is located in the Residential Grown Area shown on the Future Land Use Map.
- Land Use Ordinance:
 - The proposal meets the net residential density requirements and the setback requirements of the RM district.
- Subdivision Ordinance
 - Street trees are required and must conform with § 911 E.1.(b).
 - Street trees that conform with § 911 E.1.(b). are shown on the Plan and Profile sheets of the November 4, 2019 submission.
 - A landscaping plan must be submitted with the Preliminary Plan.
 - A landscaping plan is included with the November 4, 2019 submission.
 - Standard notes and the standard condition of approval must be shown on the plans.
 - Digital transfer of the subdivision plan data must be submitted with the Final Plan submission for inclusion with the Town's GIS.
 - Condominium Association Documents shall 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, open space and stormwater infrastructure.
 - The supplemental submission on November 12, 2019 includes draft Declaration of Condominium documents which include the required elements. An updated version referencing the additional stormwater easement, SLDA permit, road names, and all other updated information, should be submitted.
 - Section 912.G states that If a plan has received a phased approval, the first phase shall be recorded within three (3) years of the original approval and subsequent phases shall be recorded within five (5) years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.
 - Section 914.A.6. states that the Board may approve plans to develop a Major Subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee.
- Others: Chapter 144 Post-Construction Stormwater Ordinance: The site is in the NPDES MS4 area as well as the Pleasant River watershed (the Town's high priority watershed). See Condition of Approval #2.

FINANCIAL AND TECHNICAL CAPACITY

- Evidence of financial capacity must be provided as part of the Preliminary Plan submission.
- The Preliminary Plan application submission on October 7, 2019 includes estimated construction costs, totaling \$600,000 (six-hundred thousand dollars).
- The applicant submitted a Certificate of indicating that Robie Holdings LLC is a corporation in Good Standing from the Maine Secretary of State's Office.
- Evidence of technical capacity must be provided as part of the Preliminary Plan submission.
- The Preliminary Plan submission on October 7, 2019 was signed and stamped by State of Maine licensed professional engineers. The applicant has managed recent subdivision developments in the Town of Windham.

RIVER, STREAM OR BROOK IMPACTS

- The property is located in the Pleasant River and Collins Pond watersheds.
- The applicant should demonstrate that the project will not adversely impact any river, stream, or brook.
- See Findings of Fact under Pollution, and Soil Erosion.

CONCLUSIONS (N/A)

1. The proposed subdivision **will not** result in undue water or air pollution.
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply.
4. The proposed subdivision **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 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** provide for adequate sewage waste disposal.
7. The proposed subdivision **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed subdivision **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** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **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 not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed subdivision **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands within the proposed subdivision **have** been identified on the plan.

15. Any river, stream, or brook within or abutting the subdivision **has** been identified on any maps submitted as part of the application.
16. The proposed subdivision **will** 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. N/A~~
18. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
- ~~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. N/A~~
20. Timber on the parcel being subdivided **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 October 16, 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 Subdivision 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. Prior to the issuance of permits for buildings in Phase 2, a permanent easement shall be recorded over Kettle Estates subdivision to allow for the use of the access road to access the forested buffers and level spreader stormwater management elements for maintenance purposes. Easement language shall be approved by Planning Staff prior to recording.