



**Beacon Falls Planning & Zoning Commission
10 Maple Avenue
Beacon Falls, CT 06403**

**BEACON FALLS PLANNING & ZONING COMMISSION
Special Meeting
December 1, 2021
MEETING MINUTES
(Subject to revision)**

1. Call to Order / Pledge of Allegiance

Chairman Donald Molleur called the meeting to order at 5:32 P.M.

Members Present: Donald Molleur (DM), Michael Pratt (MP), Michael Rupsis (MR), Harry Roscoe (HR), Marc Bronn (MB)

Members Absent: Howard Leeper (HL), Jack Burns (JB), Cody Brennan (CB), Robert Starkey (RS)

Others Present: Town Planners Keith Rosenfeld (KR) and Savannah-Nicole Villalba (SN), Michael Mormile (ZEO), Town Attorney Vincent Marino (VM)

2. Application PZC-06252021-2-TA/Hopp Brook Village – Commission discussion and possible action

DM: Do the Commissioners or staff have any questions or concerns about this application?

MR: I have a few issues, as far as road widths and fire safety and parking. I can see with the proposal; I believe the roads are 25 feet wide. If we were to have an incident, say fire, and people parked on the roads, we are going to have an issue. I'm a fireman in town. This is a big concern of mine. Additional parking inside the development, but it seems not where houses can park in front, esp. with that road being only 25ft wide.

MP: Same issue with Road width, as a fireman I am concerned. Also, concerned that nothing set to say when water tank is going to be done. Nowhere in writing as to size of tank, projected fire protection. With homes being built with no tank there, what kind of protection do you get?

MB: My concern is the septic system – a lot of systems in a small area. I'm not sure there is enough room for redundancy if one two or three systems fail.

HR: My concern – There are a lot of unanswered questions – the septic – two different answers. Other concerns are the traffic on the road coming out there. With the accidents we've had, the additional number of homes going up there, it is going to create a burden. Construction equipment coming in and out will create an issue. Third is access to Miller Road, nothing has been answered. I don't believe there is an access and haven't seen letters to the contrary.

DM entered the Resolution for Hopp Brook Development LLC/Decision Concerning Application No. PZC-06252021-2-TA into the record.

KR: I would like to suggest additional conditions be placed upon the record:

- the applicant should remove any reference to a particular parcel, and/or property described by Schedule A. Understanding that this will allow for zoning amendment to act for the better health and welfare of the community.

- We suggest an effective date of December 31, 2021, be assigned to this amendment if Commission approves.

Motion to modify and approve Application PZC-06252021-2-TA (Text Amendment), effective December 31, 2021, with the following conditions and requirements:

1.The text amendment references other developments and municipalities. These typographical errors must be corrected to properly reflect the town of Beacon Falls, the Beacon Falls Planning and Zoning Commission and the proposed development.

2.The proposed southern accessway that utilizes the paper road known as Miller Road must establish a public street that meets the Town of Beacon Falls' Road Standards. The accessway on Parcel 2 must be built to driveway standards. The text amendment should be modified to require that detailed design of proposed access road to/from Miller Road showing adjacent property lines and standing landmarks be provided with the site plan.

3.The proposed text amendment produces tight parking conditions and tight turning radius on the site that creates health and safety hazards in cases of emergencies. The proposed plan shows that there are literally no places on the Property for parking of extra vehicles per household or extra visitor, delivery, and maintenance parking, except along the primary access road. The guests of future residents will potentially either have to walk a significant distance or park their vehicles in a manner that may create obstacles and congestion on the proposed narrow interior private streets. These concerns can be addressed by modifying the proposed text amendment to require that the proposed development meet the driveway standards in the zoning regulations.

4.The proposed text amendment should be modified to reduce the density of the development to 0.5 to 1 dwelling unit per acre depending on soil analyses of the previous aforementioned studies and plans.

5.The proposed text amendment should be modified to require that written approval of the design and location of proposed Mantis Septic System from Naugatuck Valley Health Department and/or the Department of Energy and Environmental Protection.

6.The proposed text amendment should be modified to require the production of a written agreement between Aquarion Water Company and the Applicant for construction of the proposed water tank that includes design standards and specifications.

7.The proposed text amendment should be modified to require that trees with a diameter of 10 inches or greater remain in place and are not disturbed.

8.The proposed text amendment should be modified to require the plans to show planting design and species type to be approved by Town Engineer and Planning and Zoning Commission.

9.The proposed text amendment should be modified to require the Applicant to illustrate the proximity of the water shed area to the proposed development.

10. The proposed text amendment should be modified to require the Applicant to provide documentation that the required PSI levels can be achieved before the start of construction.

11. The proposed text amendment should be modified to include the following:

- ARTICLE V SECTION 51: SITE PLANS
- ARTICLE V SECTION 52: SPECIAL EXCEPTIONS
- ARTICLE V SECTION 54: SOIL EROSION AND SEDIMENT CONTROL
- ARTICLE VI SECTION 61: PERFORMANCE STANDARDS

12. The proposed text amendment will be modified to eliminate any reference to either the property identified by Schedule A and/or any other specific property found in the Town of Beacon Falls.

13. The proposed text amendment will have an effective date of December 31, 2021.

Motion made by Michael Pratt/Seconded by Harry Roscoe VOTE:

Donald Molleur	<u>Aye</u>	Nay	Abstain	Absent
Jack Burns	Aye	Nay	Abstain	<u>Absent</u>
Harry Roscoe	<u>Aye</u>	Nay	Abstain	Absent
Cody Brennan	Aye	Nay	Abstain	<u>Absent</u>
Michael Rupsis	<u>Aye</u>	Nay	Abstain	Absent
Marc Bronn	<u>Aye</u>	Nay	Abstain	Absent
Robert Starkey	Aye	Nay	Abstain	<u>Absent</u>
Michael Pratt	<u>Aye</u>	Nay	Abstain	Absent
Howard Leeper	Aye	Nay	Abstain	<u>Absent</u>

Motion carried.

3. Application PZC-06252021-1-ZC /Hopp Brook Village – Commission discussion and possible action

DM: Any comments or discussion on this application?

KR: You want to review the elements of the plan as it relates to soils, and how the zone change can be affected by such.

SN: The zone change, is a request to land the text amendment in that location. If you have any concerns about the nature of that site, please bring those forward.

DM: We've gone through this thing in the public hearing. We are going back to Miller Road, the Mantis Systems, which was talked about during the text amendment, the traffic. To me there are a lot of concerns that have not been addressed.

DM entered the Resolution for Hopp Brook Development LLC/Decision Concerning Application No. PZC-06252021-1-ZC into the record.

Motion to deny Application PZC-06252021-1-ZC. Motion made by Harry Roscoe /Seconded by Michael Rupsis VOTE:

Donald Molleur	<u>Aye</u>	Nay	Abstain	Absent
Jack Burns	Aye	Nay	Abstain	<u>Absent</u>
Harry Roscoe	<u>Aye</u>	Nay	Abstain	Absent

Cody Brennan	Aye	Nay	Abstain	<u>Absent</u>
Michael Rupsis	<u>Aye</u>	Nay	Abstain	Absent
Marc Bronn	<u>Aye</u>	Nay	Abstain	Absent
Robert Starkey	Aye	Nay	Abstain	<u>Absent</u>
Michael Pratt	<u>Aye</u>	Nay	Abstain	Absent
Howard Leeper	Aye	Nay	Abstain	<u>Absent</u>

Motion carried.

4. Adjournment

Motion to adjourn meeting at 5:46 pm. Motion made by Michael Rupsis. Seconded by Michael Pratt. VOTE:

Donald Molleur	<u>Aye</u>	Nay	Abstain	Absent
Jack Burns	Aye	Nay	Abstain	<u>Absent</u>
Harry Roscoe	<u>Aye</u>	Nay	Abstain	Absent
Cody Brennan	Aye	Nay	Abstain	<u>Absent</u>
Michael Rupsis	<u>Aye</u>	Nay	Abstain	Absent
Marc Bronn	<u>Aye</u>	Nay	Abstain	Absent
Robert Starkey	Aye	Nay	Abstain	<u>Absent</u>
Michael Pratt	<u>Aye</u>	Nay	Abstain	Absent
Howard Leeper	Aye	Nay	Abstain	<u>Absent</u>

Motion carried.

Respectfully submitted,
 Lisa Daigle
 Clerk, Planning & Zoning Commission

TOWN OF BEACON FALLS
Planning & Zoning Commission
DECISION CONCERNING
APPLICATION NO. PZC-06252021-2-TA

Application decision date: December 1, 2021

Public Hearings held on August 26, 2021 and September 29, 2021

RESOLUTION FOR HOPP BROOKS DEVELOPMENT, LLC

At the Beacon Falls Planning and Zoning Commission meeting held on December 1, 2021 it was moved by Michael Pratt and seconded by Harry Roscoe to adopt the following resolution.

R E S O L U T I O N

1. Whereas, on June 25, 2021, Hopp Brook Developers, LLC ("Applicant") filed a Petition to amend the Zoning Regulations for the proposed Hopp Brook Village District, application no.: PZC-06252021-2-TA (hereinafter referred to as the "Application").

2. Whereas, the Application is filed pursuant to Conn. Gen. Stat. §8-30g, as an affordable housing set-aside development.

3. Whereas, the Applicant is seeking a text amendment to add a new Article II, Section 25, entitled the "Hopp Brook Village District." to construct 109 single-family homes to sell as a set-aside development pursuant to Conn. Gen. Stat. §8-30g, et al, as part of a homeowners' association which will have responsibility to maintain proposed

private roads and retention/detention ponds. The Applicant proposes to designate thirty (30%) percent of the dwelling units as affordable units in accordance with the statute.

4. Whereas, the proposed site consists of 59.465 acres of undeveloped land (the "Property") and is located on the eastern side of the town of Beacon Falls (the "Town"). The Property borders Oakwood Drive to its north, the town line with the Town of Bethany and approximately 418.50 acres of undeveloped property owned by the RWA to its east, an undeveloped parcel consisting of 78.6 acres to its west owned by Beacon Height, Inc., and an undeveloped parcel consisting of 76.17 acres to its south, which is owned by the Applicant (the "Parcel 2") (hereinafter the Property and Parcel 2 are collectively defined as the "Development Site").

5. Whereas, the Applicant has taken a position that the local zoning regulations are not applicable and thus the proposed plans do not comply with any elements of permitted developments within the existing zone.

6. Whereas, the Applicant submitted an Affordability Plan pursuant to Conn. Gen. Stat. §8-30g, identifying 15% of the dwelling units as affordable that will be offered to families whose income is less than or equal to 60% of the area or statewide median incomes, whichever is less, and 15% of the dwelling units will be affordable and will be offered to families whose income is less than or equal to 80% of the area or statewide median incomes, whichever is less.

7. Whereas, the Affordability Plan appears to be consistent with the §8-30g statutory requirements.

8. Whereas, the Applicant has designated J&L Enterprises LLC as the entity that will be responsible for the duration of any affordability restrictions, for the

administration of the affordability plan and its compliance with the income limits and sale price or rental restrictions of this chapter. Its agent is proposed to be Attorney Stephen Bellis.

9. Whereas, this project is considered an Affordable Housing Set-aside Development which means it is a development where not less than 30% of the dwelling units will be conveyed by deed containing covenants or restrictions which shall require that, for at least 40 years after the initial occupation of the development, such dwelling units will be sold or rented at, or below, prices which are 30% or less of their annual income, where such income is less than or equal to 80% of the state or area median income, whichever is less. The Applicant has provided an affirmative fair housing marketing plan.

9. Whereas, the Applicant has provided a sample calculation of the maximum sales prices or rents of the intended affordable dwelling units.

10. Whereas, the Applicant has provided a description of the projected sequence in which, the affordable dwelling units will be built and offered for occupancy and the general location of such units within the proposed development.

11. Whereas, a public hearing was held on August 26, 2021 and September 29, 2021 to receive public comment.

12. Whereas, The Planning & Zoning Commission met on December 1, 2021 and made the following findings:

A. The Application, as presented, is not consistent with the growth patterns set forth in the Beacon Falls Plan of Conservation and Development ("BF POCD"). It has been noted that the steep topography of Beacon Falls has limited

growth and development over the years and has been a factor in the continued concentration of development activity within the core area along the Naugatuck River. *See BF POCD at 12.*

B. The Application is not consistent with the growth management strategy recommended in the BF POCD. The BF POCD recommends that developers consider the reduction of maximum density in the rural outlying areas of the Town. *See BF POCD at 81.*

C. The Application fails to provide for sanitary sewer service. The Applicant previously received an approval for an amendment to the BF POCD from a Rural designation (no-sewers) to a Sewer Service Area for the Property and Parcel 2. The Sanitary Sewer Service section of the BF POCD reads that, "the public sewer system of a community is a major determinant of the location and intensity of growth and development, as well as health concerns. The presence of a public sanitary sewer facilitates higher density development, while the lack of sewer service to a property generally limits the development potential to relatively low density uses, such as single-family houses on lots with a minimum size of at least one-acre." *See BF POCD at 66.*

i. The Applicant's reasoning for the change in the designation to Sewer Service Area was to hook up a sewer system to the Chatfield Farms pump station, stating for the record, "the plan to build "homes" with public water and sewers makes the most sense since lots are near the closed landfill."

ii. It is essential that the "landfill" parcel is not impacted by the septic systems that are proposed with the Application.

D. A major issue facing water service in Beacon Falls is maintaining adequate pressure because of the topography of the Town. The Department of Public Health requires that public water systems offer water pressure between 25 and 135 PSI. Most of higher elevations in Town are not serviced by public water. However, there has been significant development activity in the southeastern section of Town which is creating issues with water pressure. The Skokorat pump station needs to be upgraded. Water pressure on Blackberry Hill needs to be improved. As a condition of any approval, the Applicant must provide documentation that the required PSI levels can be achieved before any permits are issued.

E. There is insufficient evidence to conclude that there is adequate capacity for water and sewer services. As a condition of any approval, The Applicant is required to submit documentation from the appropriate agencies demonstrating adequate capacity to the zoning department.

F. The Application is not consistent with the land use goals or density recommendations stated in the BF POCD. *See BF POCD at 76 and 77.*

G. The Central Naugatuck Valley Regional Plan of Conservation and Development ("CNVRPCD") provides at Figure 5.1 that Natural Resource Constraints and Areas Sensitive to Development Central Naugatuck Valley Region Plan shows that the Property contains both severe and prohibitive designations. This means that there are severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation or where it is most important to conserve natural resources and functions. The proposed development in the Application should be reduced in density to conform with these designations.

H. Based upon the evidence and testimony presented to it, the Commission finds that there is a substantial public interest in the preservation of life and property by minimizing the threat from fire and similar catastrophes. The need to protect the lives and property of the residents of the Town and the requirement to provide adequate means to accomplish such need clearly outweighs the need for affordable housing. With limited means for ingress/egress, should the main entrance be obstructed, it would be difficult to ensure effective fire and emergency service response.

I. The Commission believes that its concerns related to the Applicant's proposed text amendment can be resolved by the below stated modifications (conditions). These modifications (conditions) will not have a substantial adverse impact on the viability of the affordable housing development or on the degree of affordability of the affordable dwelling units. These modifications necessary to protect the substantial public interests in the health, safety, and welfare of the community, that clearly outweigh the need for affordable housing, which public interests can only be protected by the reasonable changes to the affordable housing development contained herein. The proposed conditions are related to the lots referenced in the proposed text amendment.

THEREFORE, for the reasons stated above, which the Commission adopts as a collective basis for its action the following:

Motion to approve zone text amendment Application No. PZC-06252021-2-TA, with the following modifications and requirements:

1. The text amendment references other developments and municipalities. These typographical errors must be corrected to properly reflect the town of Beacon Falls, the Beacon Falls Planning and Zoning Commission and the proposed development.

2. The proposed southern accessway that utilizes the paper road known as Miller Road must establish a public street that meets the Town of Beacon Falls' Road Standards. The accessway on Parcel 2 must be built to driveway standards. The text amendment should be modified to require that detailed design of proposed access road to/from Miller Road showing adjacent property lines and standing landmarks be provided with the site plan.

3. The proposed text amendment produces tight parking conditions and tight turning radius on the site that creates health and safety hazards in cases of emergencies. The proposed plan shows that there are literally no places on the Property for parking of extra vehicles per household or extra visitor, delivery, and maintenance parking, except along the primary access road. The guests of future residents will potentially either have to walk a significant distance or park their vehicles in a manner that may create obstacles and congestion on the proposed narrow interior private streets. These concerns can be addressed by modifying the proposed text amendment to require that the proposed development meet the driveway standards in the zoning regulations.

4. The proposed text amendment should be modified to reduce the density of the development to 0.5 to 1 dwelling unit per acre depending on soil analyses of the previous aforementioned studies and plans.

5. The proposed text amendment should be modified to require that written approval of the design and location of proposed Mantis Septic System from Naugatuck Valley Health Department and/or the Department of Energy and Environmental Protection.

6. The proposed text amendment should be modified to require the production of a written agreement between Aquarion Water Company and the Applicant for construction of the proposed water tank that includes design standards and specifications.

7. The proposed text amendment should be modified to require that trees with a diameter of 10 inches or greater remain in place and are not disturbed.

8. The proposed text amendment should be modified to require the plans to show planting design and species type to be approved by Town Engineer and Planning and Zoning Commission.

9. The proposed text amendment should be modified to require the Applicant to illustrate the proximity of the water shed area to the proposed development.

10. The proposed text amendment should be modified to require the Applicant to provide documentation that the required PSI levels can be achieved before the start of construction.

11. The proposed text amendment should be modified to include the following:

- a. ARTICLE V SECTION 51: SITE PLANS
- b. ARTICLE V SECTION 52: SPECIAL EXCEPTIONS

- c. ARTICLE V SECTION 54: SOIL EROSION AND SEDIMENT CONTROL
- d. ARTICLE VI SECTION 61: PERFORMANCE STANDARDS

Vote:

AYES 5

NAYS 0

ABSTENTIONS 0

Public Notice Publication Date: 12/5/2021

TOWN OF BEACON FALLS
Planning & Zoning Commission

DECISION CONCERNING
APPLICATION NO. PZC-06252021-1-ZC

Application decision date: December 1, 2021

Public held on August 26, 2021 and September 26, 2021

RESOLUTION FOR HOPP BROOKS DEVELOPMENT, LLC

At the Beacon Falls Planning and Zoning Commission Special Meeting held on December 1, 2021, it was moved by Harry Roscoe and seconded by Michael Rupsis to adopt the following resolution.

R E S O L U T I O N

1. Whereas, on June 25, 2021, Hopp Brook Developers, LLC ("Applicant") filed an application for a zone change, application no.: PZC 06252021-1-ZC (hereinafter referred to as the "Application").

2. Whereas, the Application is filed pursuant to Conn. Gen. Stat. §8-30g, as an affordable housing set-aside development.

3. Whereas, the proposed site consists of 59.465 acres of undeveloped land (the "Property") and is located on the eastern side of the town of Beacon Falls (the "Town). The Property borders Oakwood Drive to its north, the town line with the Town of Bethany and approximately 418.50 acres of undeveloped property owned by the RWA to its east, an undeveloped parcel consisting of 78.6 acres to its west owned by

Beacon Height, Inc., and an undeveloped parcel consisting of 76.17 acres to its south, which is owned by the Applicant (the "Parcel 2") (hereinafter the Property and Parcel 2 are collectively defined as the "Development Site").

4. Whereas, approximately sixty-eight (68%) of the Development Site is within the watershed of Hopp Brook, which is a reserve public water supply source for the RWA. A tributary to Hopp Brook and associated wetlands is located on the southern portion of the Development Site

5. Whereas, the Central Naugatuck Valley Regional Plan of Conservation and Development ("CNVRPCD") provides, in part, at section 5.1 that "environmental constraints are an important criterion for future land use. They provide a method for setting parameters for the intensity of development — areas with more severe constraints should be developed at lower intensities. Table 5-1 summarizes the natural resources that most affect conservation and development efforts and the rationale for their consideration in the Plan;" and that "while these resources influence development patterns and densities, development can also adversely affect sensitive natural resources. The impact of land uses on public water supply watersheds, areas of high groundwater availability, and areas of excessively drained soils (all potentially subject to contamination) need to be considered."

6. Whereas, the Natural Resource Constraints and Areas Sensitive to Development Central Naugatuck Valley Region Plan show that the Property contains both severe and prohibitive designations.

7. Whereas, the CNVRPCD defines a severe designation as property "having some severe or very severe limitations on development which may be difficult to

overcome with environmental planning and mitigation. Presents many opportunities to conserve important natural resources and functions,” with an important conservation opportunity designation.

8. Whereas, the CNVRPCD defines a prohibitive designation as “Having severe or very severe limitations on development. Represent areas where it is most important to conserve natural resources and function,” with a significant conservation opportunity.

9. Whereas, the Property’s severe and prohibitive designations means that there are severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation or where it is most important to conserve natural resources and functions.

10. Whereas, the Applicant seeks to construct 109 single-family homes to sell as a set-aside development pursuant to Conn. Gen. Stat. §8-30g, *et al*, as part of a homeowners’ association which will have responsibility to maintain proposed private roads and retention/detention ponds. The Applicant proposes to designate thirty (30%) percent of the dwelling units as affordable units in accordance with the statute.

11. Whereas, the proposed development will occur on approximately 40 acres of the Property.

12. Whereas, the Applicant seeks a zone change of the Property from R-1 to its new proposed zone referenced as the Hopp Brook Village District (“HBVD”). The proposed text amendment would limit the HPVD to only the Property.

13. Whereas, on July 15, 2021, at duly notice public meeting, the Planning and Zoning Commission for the Town of Beacon Falls (the "Commission") received the Applications.

14. Whereas, a public hearing on the Applications was opened on August 26, 2021 and continued to and concluded on September 29, 2021.

Whereas, The Planning & Zoning Commission met on December 1, 2021 and made the following findings:

A. The Application, as presented, is not consistent with the growth patterns set forth in the Beacon Falls Plan of Conservation and Development ("BF POCD"). It has been noted that the steep topography of Beacon Falls has limited growth and development over the years and has been a factor in the continued concentration of development activity within the core area along the Naugatuck River. *See BF POCD at 12.*

B. The Application is not consistent with the growth management strategy recommended in the BF POCD. The BF POCD recommends that developers consider the reduction of maximum density in the rural outlying areas of the Town. *See BF POCD at 81.*

C. During the public hearing, the Applicant advised this Commission that it did not submit the Application to the Wetland's Commission. The Applicant's position is that the Wetland's Commission already reviewed and approved the proposed development as part of a prior application, but since the proposed development is the same, further review by the Wetland's Commission is not necessary. Accordingly, the Commission finds that the Application was not submitted to the Wetland's Commission.

Before proceeding any further, the Commission will address whether the Applicant's failure to submit the Application to the Wetland's Commission prior to or contemporaneously with the filing of the Application affects this Commission's authority to render a decision.

D. The Applicant's failure to file the Application with the Wetlands Commission prior to filing the Application with this Commission affects this Commission's authority to render a decision.

The Applicant claims that review by the wetland commission is not necessary because the proposed activities in the Application are identical to the proposed activities previously approved by the wetlands commission. This Commission believes that there may be meaningful differences between the two plans, most notably is the size of the proposed development site. Without some statement from the wetlands commission stating that further review is not necessary, there is nothing in the record to assist this Commission to determine if the Applicant's assertion is correct. It is within the jurisdiction and authority of the wetlands commission to determine if the two plans will result in identical impacts to the wetlands and watercourses, not the Applicant's. The Applicant is not in a position, nor does it have the statutory right, to make that decision unilaterally.

The Development Site is located within or in immediate proximity to the public watershed. The potential impact of the Applicant's proposal to this indispensable and irreplaceable fragile resource is of a quintessential environmental concern to this Commission. The Commission received correspondence from the RWA advising it that approximately sixty-eight (68%) of the Development Site is within the watershed of Hopp Brook, which is a reserve public water supply source for the RWA. See RWA

letter. A tributary to Hopp Brook and associated wetlands is located on the southern portion of the Development Site. Id.

The Commission does not believe that it is in receipt of a report from the Wetlands Commission as required by statute. The Commission finds that the Applicant's failure to file an application with the wetlands commission no later than the day that it filed an application with this Commission deprives it of the authority to render a decision on the pending application. For the reasons stated herein, the Commission finds that the record does not support the Applicant's position that it was not required to submit its affordable housing set aside development plan to the Wetlands Commission.

1. The Applicant provided this Commission with a wetlands approval that relates to a different application.

The Applicant submitted the Application with a wetland approval dated December 11, 2009 and April 14, 2021. See Application at response 10. See further Application at Exhibits 5 and 6. The legislature has recognized the important public interest in wetland and watercourse protection, as well as in the public watershed, by restricting this Commission's ability to render a decision until after the wetlands agency has submitted its final decision. See Conn. Gen. Stat. §§8-3 (g), 8-3c (b), and 8-26(e). For the following reasons, this Commission finds that the application reviewed by the wetlands commission was not the same as the Application.

a. The size of the proposed development site referenced in the Application differs from the size of the development site considered by the wetlands commission.

i. The wetland commission's approval dated December 11, 2019 refers to a parcel consisting of 135 acres. The Application concerns a parcel that is 59.465 acres. Although the Applicant advised this Commission that it owned Parcel 2 and that its

proposal included constructing a private driveway on Parcel 2, the Applicant advised this Commission during the public hearing that Parcel 2 was not a part of the Application and that it may, or may not, develop Parcel at some future date.

ii. The Applicant submitted a statement of use and a proposed text amendment with the Application. In its statement of use, the Applicant refers to a parcel that is either 40 or 59 acres, not 135 acres.

iii. In its proposed text amendment, at proposed text section 32.4, the Applicant's proposed text provides:

An HBVD shall be located only on approximately 40 acres of the following parcel of land off Oakwood Drive, including Assessor Map 012-002-0027, more particularly described in Schedule A attached hereto. Said zone is shown on the site plan and a legal description of the zone is attached as Schedule A.

Parcel 012-002-0027 is a 40-acre parcel, although the property description submitted by the Application with its Application describes the subject parcel as containing 59.465 acres. *See Application, Exhibit 1, Property Description – Lot 1, Bear Hill Road and Oakwood Drive, Beacon Falls, Connecticut.* Regardless of this discrepancy, the size of the development site in the Application is significantly smaller than the size of the development site considered by the wetlands commission.

b. *The plan reviewed by the wetlands commission lacked a southern access and used the proposed Miller Road access for emergency purposes only in lieu of the emergency access proposed to this Commission.*

i. The wetland commission's letter dated April 14, 2021 refers to the application that was pending before it as "an amended application, revised to include Miller Road emergency access and other modifications within the proposed

development, for Hopp Brook Estates, a 135 acres (109 unit) Residential development .

...” The letter contains the wetland’s commission’s approval with conditions.

ii. One of the conditions of approval provided,

[t]he plan to have emergency access/egress via Miller Road **is instead of** the previous plan to have such access via the landfill site. **At the public hearing, the applicant offered to confirm in writing that Miller Road is in lieu of, not in addition to the landfill access.** Thus, as a condition of this approval, the applicant must confirm in writing that the reference to **the landfill site adjacent to the property** available for use as emergency access/egress for residents, Section 35 of the Conditions of Approval dated December 11, 2019 for Wetlands application #A-2019-315 and Storm Water application #-SW-2019-017, **is no longer in effect.**

The Applicant told the wetland’s commission that Miller Road will be used for emergency access purposes in lieu of the landfill site (the property owned by Beacon Heights, Inc.). This statement is inconsistent with the representations made in the Application and to the Commission during the public hearing.

iii. Unlike the plan reviewed by the wetland’s commission, the plan submitted to this Commission included emergency access through the property owned by Beacon Heights, Inc.

iv. Unlike the plan reviewed by the wetlands commission, the plan submitted to this Commission included Miller Road as a secondary access for general use, not solely as emergency access. The increased traffic that would be using a secondary access may result in increased pollutants into the wetlands that was not likely considered by the wetlands commission.

- c. ***The evidence in the record supports the conclusion that the Application is different from the application reviewed by the wetlands commission.***

These inconsistencies belie the Applicant's position that the Wetlands Commission had already approved its development proposal obviating the need to submit the pending application to the wetland commission for review. The Commission also finds notable that the wetland approvals do not refer to the Applicant's proposal as an affordable housing set-aside development.

The Applicant filed an application for a text amendment and an application for a zone change. This Commission advised the Applicant during the public hearing that it believed that the Applicant needed to submit its application for wetland review. The Applicant immediately dismissed the Commission's concern and stated that it was not necessary to do so because it already had received wetland approval.

There is no evidence in the record to support the conclusion that the Applicant filed the Application with the wetland commission. The Applicant changed the size of the development site from 135 acres to 40 acres, a reduction of more than two-thirds. Both proposals, however, seek to develop 109 single family dwellings. The impact created by density of identical size on a substantially smaller development site may be meaningful

The Applicant added southern access from Miller Road for general use by the future residents rather than maintain it for emergency purposes only. This change is significant. This Commission has no way to know if the wetlands commission considered the impact that increased pollutants generated by traffic over the south

access road has to this environmentally sensitive area; or whether it creates a risk to the public water supply.

This Commission does not know whether the change in the size of the development site and road network affects the analysis concerning the proposed development's impact to wetlands and watercourses; and it is not this Commission's role to make those findings. It is not for this Commission to assume, determine or guess. Rather, this Commission is entitled to know based on the report that it should have received following the wetland commission's review. The Applicant's refusal to obtain input from the wetlands commission has hampered this Commission's ability to act. See Coal. to Save Easton v. Easton Plan. & Zoning Comm'n, No.

LNDCV176078400S, 2019 WL 7865144, at *7 (Conn. Super. Ct. Oct. 3, 2019).

"Failure to file an application with an agency could be grounds for a zoning commission to deny an application." Carr v. Planning & Zoning Commission, 273 Conn. 573, 590 (2005). "Our Supreme Court has held that the commission may deny an affordable housing application that fails to have an application pending with a wetlands commission on the day of the application to the commission." Hickory St. Partners, LLC v. Town of Suffield Plan. & Zoning Comm'n, No. LNDCV206124377S, 2021 WL 3487736, at *3 (Conn. Super. Ct. Apr. 14, 2021), *citing* Carr v. Planning & Zoning Commission, 273 Conn. 573, 590 (2005); *See further* Rogalis, LLC v. Town of Stratford Zoning Commission, CV-19-6110947-S, at 19, J.D. of Hartford at Hartford (Sep. 29, 2021, Farley, J).

In accordance with the holding of the Connecticut Supreme Court, as applied by the courts of the Superior Court, the Commission denies the pending application without

prejudice based on the Applicant's failure to file an application with the wetlands commission no later than the day that it filed the Application. The Commission invites the Applicant to resubmit its proposal after it has filed the required application with the wetlands commission, or after it has sought and obtained a statement from the wetland review indicating that further review is not necessary.

Although the Commission believes that it lacks the authority to render a decision, the Commission will, nevertheless, state its other reasons for denial for the benefit of the Applicant's resubmission; or, if a reviewing Court disagrees with the Commission's position relating to its authority.

E. The Commission's further findings.

- 1. There are substantial public interest concerns that are site-specific that cannot be protected through reasonable plan-specific changes to the proposal.**

The Applicant files the Application seeking a zone change to permit the development of 109 single family dwellings as an affordable housing set aside development on 40 acres. *See Application, Statement of Use.* The Development Site is located within or in immediate proximity to the public watershed. The potential endangerment to this indispensable and irreplaceable fragile resource is both a site-specific issue and one which is implicated by development with or without reasonable changes.

The CNVRPCD provides, in part, at section 5.1 that "environmental constraints are an important criterion for future land use. They provide a method for setting parameters for the intensity of development — areas with more severe constraints should be developed at lower intensities. Table 5-1 summarizes the natural resources that most

affect conservation and development efforts and the rationale for their consideration in the Plan;" and that "while these resources influence development patterns and densities, development can also adversely affect sensitive natural resources. The impact of land uses on public water supply watersheds, areas of high groundwater availability, and areas of excessively drained soils (all potentially subject to contamination) need to be considered." Furthermore, the Natural Resource Constraints and Areas Sensitive to Development Central Naugatuck Valley Region Plan show that the Property contains both severe and prohibitive designations.

The CNVRPCD defines a severe designation as property "having some severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation. Presents many opportunities to conserve important natural resources and functions," with an important conservation opportunity designation. The CNVRPCD defines a prohibitive designation as "Having severe or very severe limitations on development. Represent areas where it is most important to conserve natural resources and function," with a significant conservation opportunity.

The Property's severe and prohibitive designations means that there are severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation or where it is most important to conserve natural resources and functions.

Additionally, the Commission received correspondence from the RWA advising it that approximately sixty-eight (68%) of the Development Site is within the watershed of Hopp Brook, which is a reserve public water supply source for the RWA. See *Public*

Hearing Exhibit, RWA letter. A tributary to Hopp Brook and associated wetlands is located on the southern portion of the Development Site. Id.

The RWA raised concerns to the impact of increased allowed development density on the water quality of the reserve public water supply source. Id. According to the RWA, “higher residential density will typically generate higher volumes of wastewater and increase the generation and concentration of storm water runoff.” Id. The RWA cited to the CT DEEP report, Carrying Capacity of Public Water Supply Watersheds: A Literature Review of Impacts on Water Quality From Residential Development, to support its concern. The report of the Connecticut Department of Energy & Environmental Protection (“DEEP”) found that a maximum density of one dwelling per two acres will provide adequate protection of water quality providing that pollution measures outlined in the report are utilized.

DEEP’s report is bolstered by the Report for the Blue-Ribbon Commission on Housing, on the Land Required to Support Residential Development in Connecticut (the “Blue-Ribbon Report”). The RWA’s submission included reference to the Blue-Ribbon Report which recommended a minimum lot size of two acres, exclusive of wetlands, within a public water supply watershed for the protection of public health and the environment.

The Applicant proposes to construct 109 single family dwellings on 40 acres, or approximately 2.7 dwelling units per acre. According to the report issued by DEEP, as well as the Blue-Ribbon Report, the maximum density on the Property, in order to provide adequate protection of water quality, should be no more than 20 dwelling units; or, one dwelling unit for every two acres on the Property. According to the land use

intensity guidelines established in the CNVRPCD, the maximum density (units/acre) on developments being serviced by onsite septic systems with public water on property designated "severe" is 0.67 units per acre; and no development on property designated as prohibitive.

The Applicant's proposal seeks to increase density by almost three to four times the recommended density for property within a watershed. The findings of the BF POCD, the CNVRPCD, DEEP, the Blue-Ribbon Report and the NH Soil Survey, the maximum density of any development on the Property should range between 0.5 to 1.0 dwelling unit per acre depending on site-specific environmental and natural resource constraints.

The RWA also raised concern that the majority of the septic effluent will be directed to the public water supply watershed portion of the Property. The RWA further raised concern that three of the proposed four storm water basins are located within the public water supply watershed portion of the Property.

The Applicant countered these concerns by simply stating that the RWA was wrong. The Applicant then pointed to its conceptual site plan and stated that the septic systems were out of the watershed area. The Applicant's maps, however, fail to delineate the boundary of the public watershed. To remedy this oversight, the Applicant's engineer drew lines on a map of the Development Site purporting to show the location of the public watershed. The Applicant's engineer performed this act during the public hearing in front of the Commission without reference to any tool beyond his hand and the ink of his pen. *See Exhibit ____*. The Commission rejects the accuracy of the Applicant's engineer's proffer in its entirety and is troubled by the failure of the

Applicant and its professionals to take this process seriously. The Town Attorney questioned the Applicant's engineer on the location of the public watershed, and in response the engineer testified that all land on the planet is watershed.

The Applicant's engineer also attempted to refute the RWA's concerns relating to the septic systems by advising the Commission that the health department will review and approve all septic systems. The Town Attorney repeatedly asked the engineer to point to something in the record that would support his assertion that 109 septic systems installed within or in the immediate vicinity of the watershed would not pollute the public water supply. The Applicant's engineer failed to point to anything in the record to support his contention.

Moreover, the Applicant failed to respond to the issues raised by the Beacon Falls Town Planner / Senior Regional Municipal Planner and the Regional Municipal Planner (hereafter collectively referred to as "Staff"). In their memo dated September 29, 2021, Staff highlighted that the Property contains soils that are designated as "severe" by the CNVRPCD. A severe designation means that the Property has "some severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation. Presents many opportunities to conserve important natural resources and functions," with an important conservation opportunity designation; and, that that there are severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation or where it is most important to conserve natural resources and functions.

Referencing the New Haven Soil Survey (1979) (the "NH Soil Survey"), Staff further highlighted that the predominant soils on the Property are (1) WyB, Woodbridge

Fine Sandy Loam (2 to 8% Slopes), very stony; (2) CnD, Charton Chatfield Complex (15-45% slopes), very rocky; and, (3) HSE Hollis-Chatfield Outcrop Complex (15-45% slopes).

When addressing WyB soils, the NH Soil Survey provides that “waste disposal systems, such as an onsite septic system will generally not function satisfactorily with only normal design and installation because of the slowly permeable substratum and the seasonal high-water table”. NH Soil Survey at 86.

The NH Soil Survey provides that CnD soil “has poor potential for community development because of the steepness of slopes and stoniness. **Waste disposal systems such as onsite septic systems require very careful** and often unusual **design and installation to insure** that they function satisfactorily and **effluent does not seep to the surface downslope**. This usually adds considerable expense to the cost of the disposal system. During periods of construction, intensive conservation measures are often needed to prevent excessive runoff and erosion.” (Emphasis added). Id. at 17-18.

The NH Soil survey provides that HSE soils have “poor potential for community development. It is limited mainly by the shallowness to bed-rock, steep slopes, and rock outcrops. Excavation is difficult and requires blasting in many places. This map unit has poor potential for waste disposal systems. Septic systems generally require very unusual design and installation, and **there is a hazard that they may fail or that effluent may seep into cracks in the bedrock and pollute ground water, which is a source of drinking water in many places**.” (Emphasis added). Id. at 30.

Immediately prior to the conclusion of the public hearing, the Commission requested the Applicant to provide it with an extension of time so that the Commission could receive additional evidence to address its concerns. The Applicant did not agree to provide the Commission with an extension of time or to submit any additional evidence. Prior to adjourning, the Town Attorney asked the Applicant to reconsider its position so that it could provide the Commission with evidence to address the environmental concerns. The Applicant again refused to extend any additional time or submit any additional evidence to the Commission.

The Commission supports the strong public policy favoring affordable housing. In the Plan of Conservation and Development prepared by this Commission, this Commission identified properties in Town most suitable for affordable housing. See *Plan of Conservation and Development, Town of Beacon Falls at section 10.4.2*. To promote and encourage the development of affordable housing, this Commission created an Incentive Housing Zone. Id.

The Commission is also cognizant of the important public policy to protect the state's natural resources. The Commission has identified the protection of the public water supply as being of substantial public interest. Since this substantial public interest is site-specific, "then by definition there can be no such reasonable changes to the affordable housing development that will protect the identified interest." Christian Activities Council, Congregational v. Town Council of Town of Glastonbury, 249 Conn. 566, 600 (1999).

This affordable housing application highlights the sometimes-competing public policies of developing and maintaining affordable housing and preserving and protecting

Connecticut's fragile natural resources. This Commission is very much aware that the Town's current percentage of affordable housing units is quite low. This fact, however, does not compel this Commission to approve a proposed affordable housing development on a site that is mostly within a public watershed and is almost three times greater than the density recommend by DEEP and the Blue-Ribbon Report thereby endangering the public water supply. In this case, the public policy of encouraging the development of affordable housing must yield to the unique and important environmental setting of the Property sought to be developed. See Landmark Dev. Grp. v. E. Lyme Zoning Comm'n, No. CV054002278, 2008 WL 544646, at *1 (Conn. Super. Ct. Feb. 2, 2008).

2. **This Commission's decision is necessary to protect health and safety because the limited access to the Property from within the Town and the failure of the Applicant to provide viable secondary and emergency accesses is a substantial public interest that outweighs the need for affordable housing and such public interest cannot be protected by reasonable changes to the affordable housing development based on the record before this Commission.**

The Property is in a largely underdeveloped area of the Town. The only present access to the Property is by connection to Oakwood Drive, an existing public road that terminates as a cul-de-sac. The Commission received many concerns related to the ability of fire, police and ambulance to access the proposed site in an emergency situation as well as residents being able to exit the proposed development site in the event of an emergency.

The traffic authority submitted its report stating the following:

The location of the development site provides limited access to it and raises emergency access and public safety concerns. The only proposed access to the development site from within the town is from Oakwood Drive. Oakwood Drive is a cul de

sac that connects to Blackberry Hill Road. These local roads provide the only public way to gain access to the development site from the north. In the event of an emergency, emergency response may be delayed as a result of this limited access. Additional viable access points to the development site should be required to limit the risk to the public's health, safety and welfare.

See Report of Traffic Authority at p. 1, sec. 1. The Commission shares the Traffic Authority's concerns and shall consider the viability of the proposed secondary and emergency access points.

- a. **The Northern Access is the only current access to the Property and is insufficient, by itself, to meet the traffic and emergency access needs of the proposed set aside development.**

The Property is accessed from its north off an existing cul-de-sac known as Oakwood Drive. Oakwood Drive is approximately 1,330 feet in length and connects to a public road known as Blackberry Hill Road. Oakwood Drive terminates to the north when it intersects Blackberry Hill Road.

Blackberry Hill Road is approximately 3,710 feet in length between Oakwood Drive and Skokorat Road. In this area of town, there is no other street that intersects Blackberry Hill Road between Oakwood Drive and Skokorat Road. Blackberry Hill Road extends eastward from Oakwood Drive, approximately 900 feet, into the Town of Bethany.

At the present time, Blackberry Hill Road and Oakwood Drive provide the only roads through which fire, public safety, ambulance and other emergency vehicles can access the Property from within the Town. Access to the Property is extremely limited.

b. *The Record does not persuade this Commission that either the southern or emergency accesses are viable.*

Both the proposed southern access and the proposed emergency access are problematic. There is no evidence in the record that supports the Applicant's statement that it can simply connect into the public right of way in the Town of Bethany or extend an emergency road over its adjoiner's property. For the following reasons, the Commission does not find that the southern and emergency accesses proposed by the Applicant are viable.

i. *The proposed southern access*

The Applicant proposes to construct a private driveway, approximately 1,200 feet in length and 24 feet in width commencing at the southern boundary of the Property and continuing to the southern boundary of Parcel 2 to provide a secondary access to the Property from the south. The terminus of the private drive is proposed to connect into existing undeveloped public right of way or paper road, known as Miller Road.

The Applicant proposes to construct Miller Road beginning at the southwestern corner-boundary of Parcel 2 and extending southward over three parcels owned by (013-001-0012) the Revocable Trust of Shirley T. Lautz, (013-001-0011) Randy Bruce and Patricia A. Bruce; and (013-001-0010) Birmingham Utilities, Inc., nka the RWA. The Applicant proposes to connect this newly developed portion of Miller Road in Town to what it claims is an existing developed public right of way in the Town of Bethany. The Applicant claims that it has the absolute right to connect into Miller Road in the Town of Bethany.

The Commission heard from members of the public that Miller Road does not terminate in the Town of Bethany at the town line, but rather approximately fifty feet

before the town line. The Commission's general knowledge of the subject area, coupled with the statements from the public raises doubt to the Commission that the Applicant has an automatic, absolute right to connect to Miller Road without first obtaining approvals from the Town of Bethany. This doubt raises concern as to the viability of the proposed southern secondary access to the Property.

The Applicant was asked to submit into this record anything to support its position that it did not need any approvals from the Town of Bethany to connect into what the Applicant claims is a developed Miller Road terminating at the town line. The Applicant's engineer testified that Miller Road was a developed public road in the Town of Bethany that terminates at the town line and pointed the Commission to a map that he prepared depicting Miller Road terminating at the town line. The Commission does not find the Applicant's engineer credible and finds the map self-serving.

The Applicant's argument that it does not need any approvals from the Town of Bethany ignores the conditions of approval established by the wetlands commission. The wetlands commission required the Applicant to "obtain from the Town of Bethany written permission to accept water discharge off of Miller Road into the Town of Bethany." *See Application at Exhibit 6, Conditions of Approval No. 2.* Rather than hold firm to its position, particularly in light of the condition established by the wetlands commission, the Applicant could have assisted this Commission and avoided this concern, by obtaining the written permission from the Town of Bethany that it is obligated to get. The Applicant's failure to do so, raises serious concerns with this Commission as to the viability of the proposed southern access.

ii. ***The proposed emergency access***

The proposed emergency access to the Property is located through the undeveloped parcel to its west owned by Beacon Heights, Inc., consisting of 78.6 acres. There is no evidence in the record establishing whether the Applicant obtained permission from Beacon Heights, Inc. to construct an emergency access road on its property. The Commission has no information to determine whether the construction of an emergency access road from the Property over the property of Beacon Heights, Inc. is feasible, or where it would connect to a public road. A simple letter from an authorized agent of Beacon Heights, Inc. would have sufficed. The Commission has no information concerning who would maintain the emergency access road, including keeping it clear of debris and snow.

At the public hearing before the wetlands commission, the Applicant advised the wetlands commission that it was adding Miller Road to its plan for emergency access **"in lieu of, not in addition to"** the landfill access." See *Application, Exhibit 6*. The landfill property referred to in the approval of the wetlands commission is the property owned by Beacon Heights, Inc.

In the Application and at the public hearing before this Commission, the Applicant apparently changed its plans again. The Commission is troubled by the inconsistent statements made by the Applicant concerning emergency access to the Property. These inconsistent statements coupled with the Applicant's failure to provide any evidence to support its representations to the Commission, cause this Commission to question the Applicant's credibility and causes the Commission to doubt the viability of the proposed emergency access.

c. ***The Applicant's failure to demonstrate the viability of the secondary and emergency access is fatal to the Application***

Secondary access and emergency access to the Development Site are critical to protect the health, safety and welfare of the future residents of the proposed development, the existing residents of the Town, the general public and the emergency responders. At the present time, the Property can only be accessed by emergency responders from within the town through Blackberry Hill Road and Oakwood Drive. In the event of an emergency, this limited access can easily become blocked and/or congested creating a great concern to the Commission for the public's health, safety and welfare. The only evidence in the record before this Commission that the southern access and emergency access are viable is the Applicant's conclusory statements and naked assertions.

The Commission finds that there is a substantial public interest in the preservation of life and property by minimizing the threat from fire and similar catastrophes. The need to protect the lives and property of the residents of the Town and the requirement to provide adequate means to accomplish such need clearly outweighs the need for affordable housing. With limited means for ingress/egress, should the main entrance be obstructed, it would be difficult to ensure effective fire and emergency service response.

Based on this record, the Commission finds that the Applicant has not demonstrated that it has viable access from the south or viable emergency access. The failure to provide viable secondary and emergency access is fatal to the Application. The concerns for the public health, safety and welfare are too great and the access to

the Development site is too limited for this Commission to simply rely on the Applicant's questionable representations.

3. **The reliance on septic systems within or in the immediate proximity of the public watershed creates a substantial public interest that may be able to be addressed by connecting a proposed development to the public sewer system.**

Based on the density limitations established by the BF POCD, *see BF POCD at 77*, the CNVRPCD, *see CNVRPCD at 32*, DEEP, the Blue-Ribbon Report and the NH Soil Survey, the Commission remains uncertain as to whether any affordable housing project is feasible on the Property. However, the Commission is of the opinion that any development of the proposed density on the Property, which is located in an environmentally sensitive area, requires connection to the public sewer system.

The Commission is puzzled as to why the Applicant would submit a copy of a petition that seeks to amend the Sewer Service Area map to include the Development Site with its Application, but not propose to connect its proposal to the sewer system. *See Application at Exhibit 4*. There is a substantial public interest in providing adequate sewer service to the Property to service the proposed development in lieu of the proposed septic systems.

The Applicant previously received an approval for an amendment to the BF POCD from a Rural designation (no-sewers) to a Sewer Service Area for the Property and Parcel 2. The Sanitary Sewer Service section of the BF POCD reads that, "the public sewer system of a community is a major determinant of the location and intensity of growth and development, as well as health concerns. The presence of a public sanitary sewer facilitates higher density development, while the lack of sewer service to a property

generally limits the development potential to relatively low density uses, such as single-family houses on lots with a minimum size of at least one-acre.” *See BF POCD at 66.*

The Commission has significant concerns that the soils on the Property will not support the Applicant’s proposed onsite septic systems. As referenced by Staff and addressed above, the soils on the Property are problematic. The CNVRPCD has designated the soils on the Property as “severe,” which means that there are “some severe or very severe limitations on development which may be difficult to overcome with environmental planning and mitigation.”

It bears repeating that the NH Soil Survey raises significant concerns that waste disposal systems, such as an onsite septic system:

1. will generally not function satisfactorily with only normal design and installation,
2. require very careful and often unusual design and installation to insure that they function satisfactorily and effluent does not seep to the surface downslope,
3. have poor potential for community development, and
4. that there is a hazard that the onsite septic systems may fail or that effluent may seep into cracks in the bedrock and pollute ground water, which is a source of drinking water in many places.

NH Soil Survey at 86, 17-18, and 30.

There is a substantial public interest in protecting the public water supply. The Commission’s decision is necessary to protect that substantial public interest and the public’s interest in health and safety that clearly outweigh the need for affordable

housing, and which interests cannot be protected by reasonable changes to the affordable housing development.

4. There is a substantial public interest in the safety of the internal roadways for pedestrians, traffic and for access by emergency services including fire and ambulance.

The Commission finds that the tight parking conditions coupled with the tight turning radius on the site creates health and safety hazards in cases of emergencies.

The proposed plan shows that there are literally no places on the Property for parking of extra vehicles per household or extra visitor, delivery, and maintenance parking, except along the primary access road. The guests of future residents will potentially either have to walk a significant distance or park their vehicles in a manner that may create obstacles and congestion on the proposed narrow interior private streets.

Any overflow parking on interior roadways will impede the access by emergency vehicles on the proposed interior roads; this problem is worsened by the turn radius that does not accommodate emergency vehicles, buses or delivery vans when parking is at its worst. The Commission finds that the public interest in safety of the internal roadways and access by emergency services, including fire and ambulance, is a substantial public safety interest concern that outweighs the need for affordable housing where emergency access for fire trucks and ambulances is subject to obstruction due to parking on roadways because of inadequate parking coupled with the density of the community.

VII. Conclusion

Based on the evidence in the record, the Commission's decision is necessary to protect substantial public interests in health and safety that clearly outweigh the need for affordable housing, and which interests cannot be protected by reasonable changes to the affordable housing development.

Dated: December 1, 2021 in the Town of Beacon Falls

Donald Molleur, TPZ Chairman

Vote:

AYES _____5_____

NAYS _____0_____

ABSTENTIONS _____0_____

Public Notice Publication Date: _____12/5/2021_____