



NEW HAMPSHIRE  
DEPARTMENT OF  
**Environmental  
Services**

Wetland Rules  
Residential, Commercial & Industrial  
Development  
October 16, 2019  
Seta A. Detzel



# Agenda: Residential, Commercial & Industrial Devt.

1. Project-Specific Requirements

2. Avoidance & Minimization

3. Classification and “Aggregation” Rule

4. Beyond Chapter 524 – Useful Topics

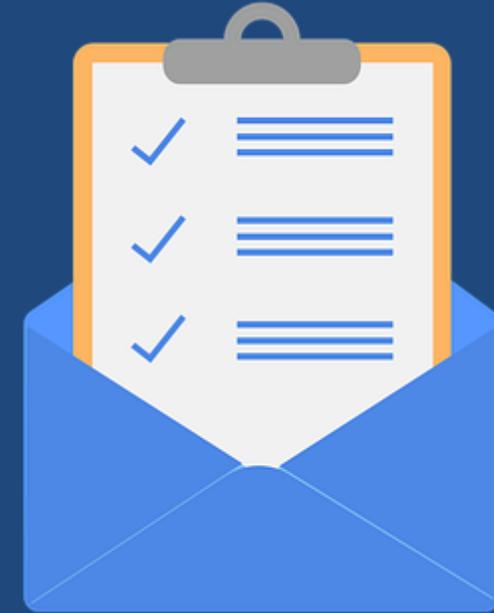
# New: Chapter 500

## Project-Specific Requirements

Consistent sub-headings for each project type

- Applicability
- Approval Criteria
- Application Requirements
- Design Requirements
- Construction Requirements
- Project Classification

Project-Specific  
Criteria  
Worksheets



**Residential, Commercial, Industrial**



**Env-Wt 524**

# Applicability: Residential, Commercial & Industrial Devt.

## Examples

### (Env-Wt 524.01)

**Includes “Associated Roadways”  
For Minimum, Minor or Major Applications  
Non-tidal Wetlands**

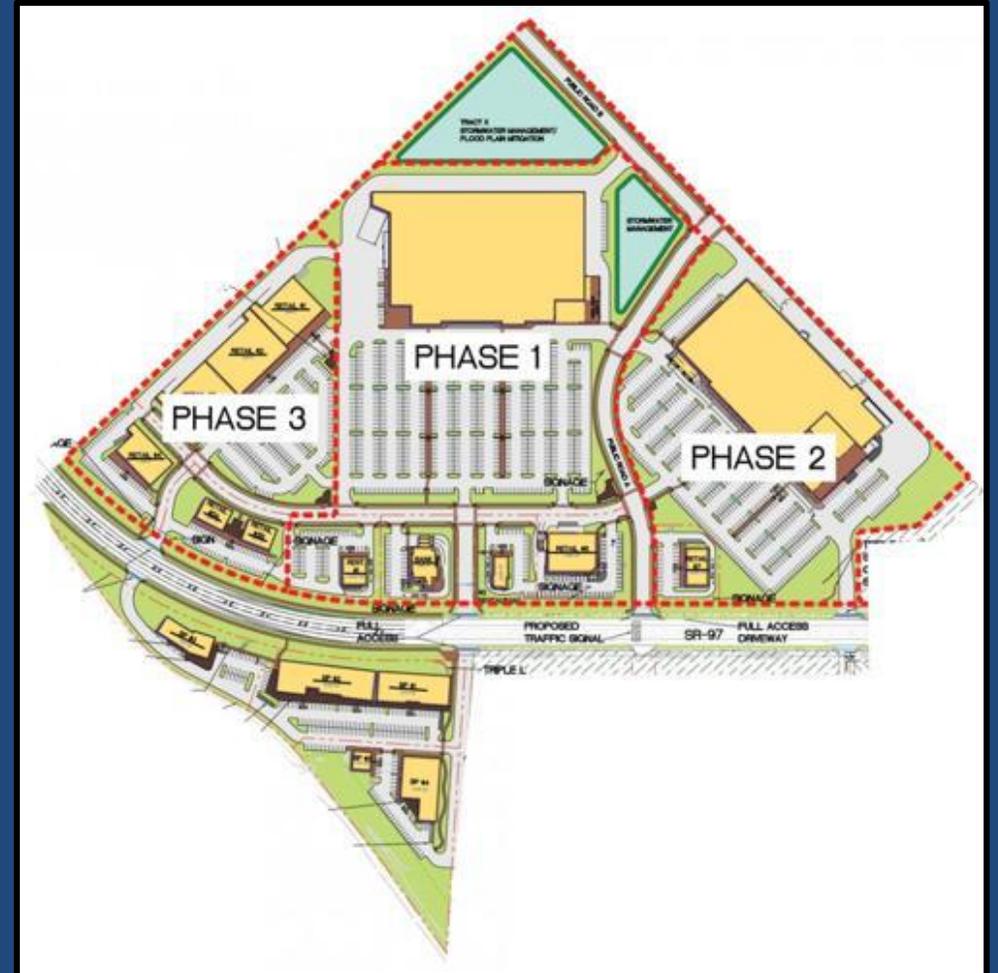
EXAMPLES

- Athletic Fields
- Bus Stations
- Auto Dealerships
- Convenience Stores
- Condominiums
- Commercial subdivisions
- Gas stations
- Golf courses
- Sand/gravel pits
- Hospitals
- Parking lots
- Residential subdivisions
- Single family residences
- Storage facilities
- Storage yards

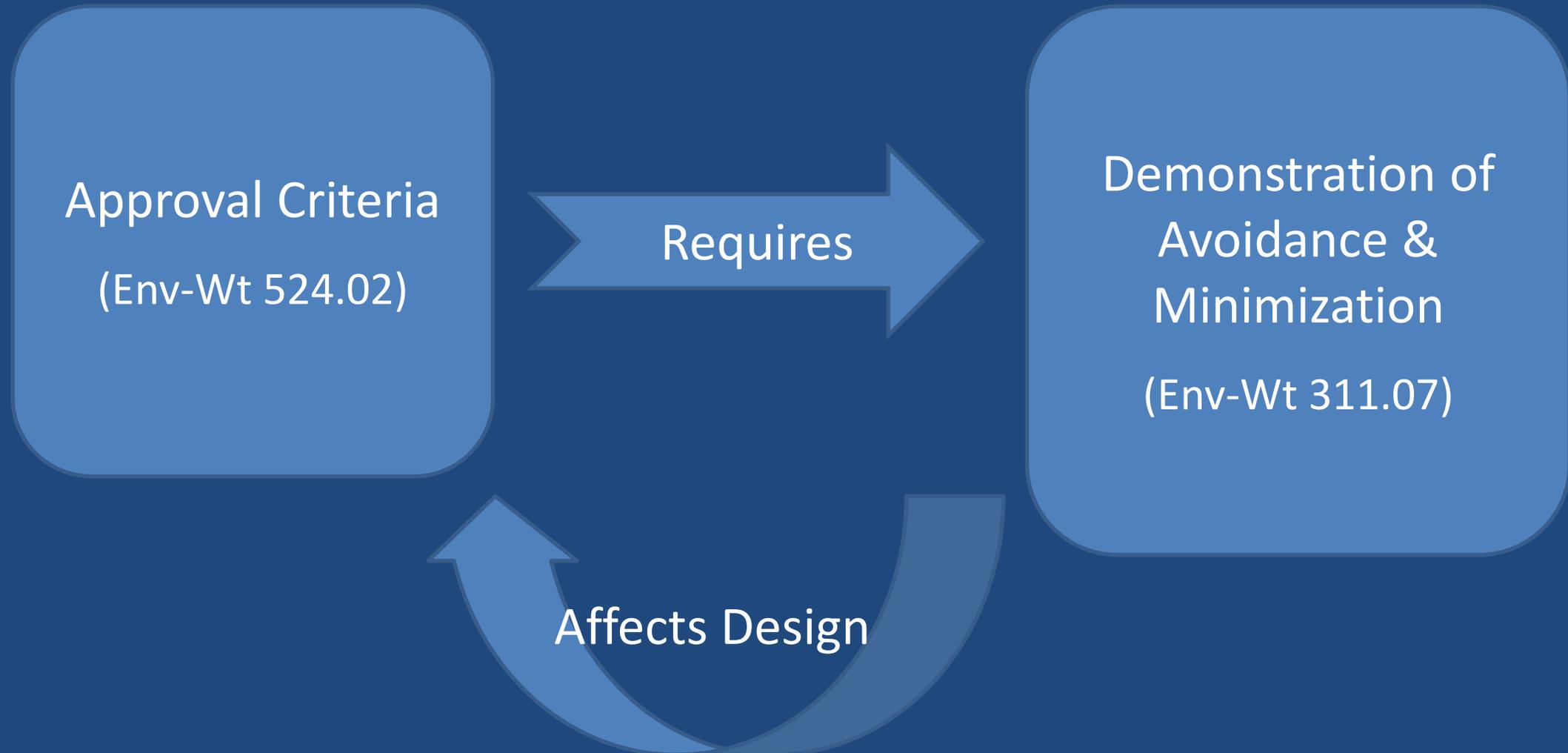
# Approval Criteria: Residential, Commercial & Industrial Devt. (Env-Wt 524.02)

For all Residential, Commercial and Industrial Developments:

1. Off-Site Alternatives Analysis for  $> 1$  ac. Impact
2. Compliance with Section 524
3. Mitigation for a new development in PRA
4. **Avoidance & Minimization per 313.03**



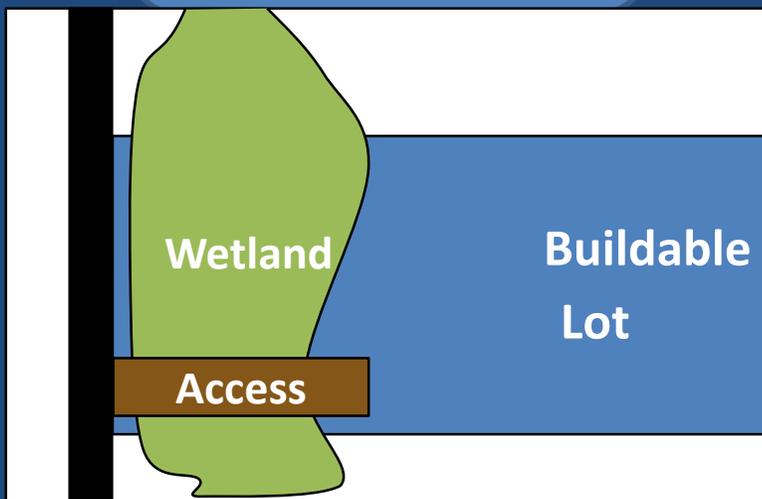
# Relation between Project Requirements and Avoidance and Minimization



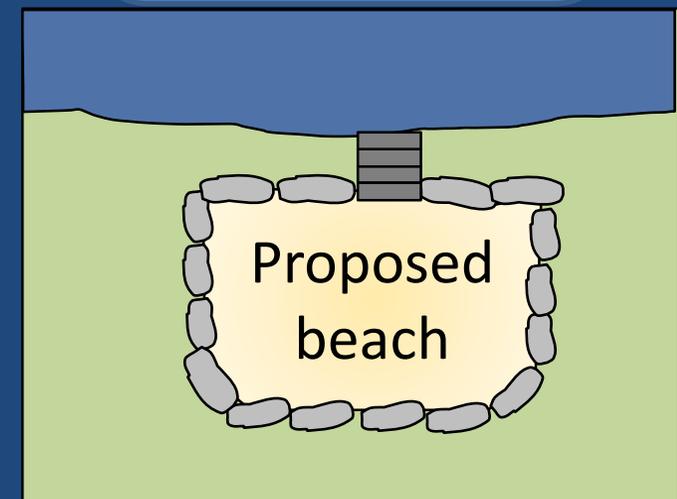
# Demonstration of Avoidance and Minimization (1) (Env-Wt 311.07(b))

What is the Project's Primary Purpose?

1. Access to reach buildable lot



2. Construct a water access structure



# Demonstration of Avoidance and Minimization (2) (Env-Wt 311.07(b))

For all Residential, Commercial and Industrial Developments:

- Any Size, and
- Any Resource Type
- Unless it qualifies as SPN or PBN



# Demonstration of Avoidance and Minimization (3) [Env-Wt 311.07(b) and Env-Wt 524.02(b)]

For Commercial/Industrial Developments:

- Impacts to Create Buildable Lot
- Impacts > One Acre
- Impacts to PRAs



# Wetlands Best Management Practice Techniques For Avoidance and Minimization

## Available Guidance and Tools for Demonstrating Avoidance & Minimization

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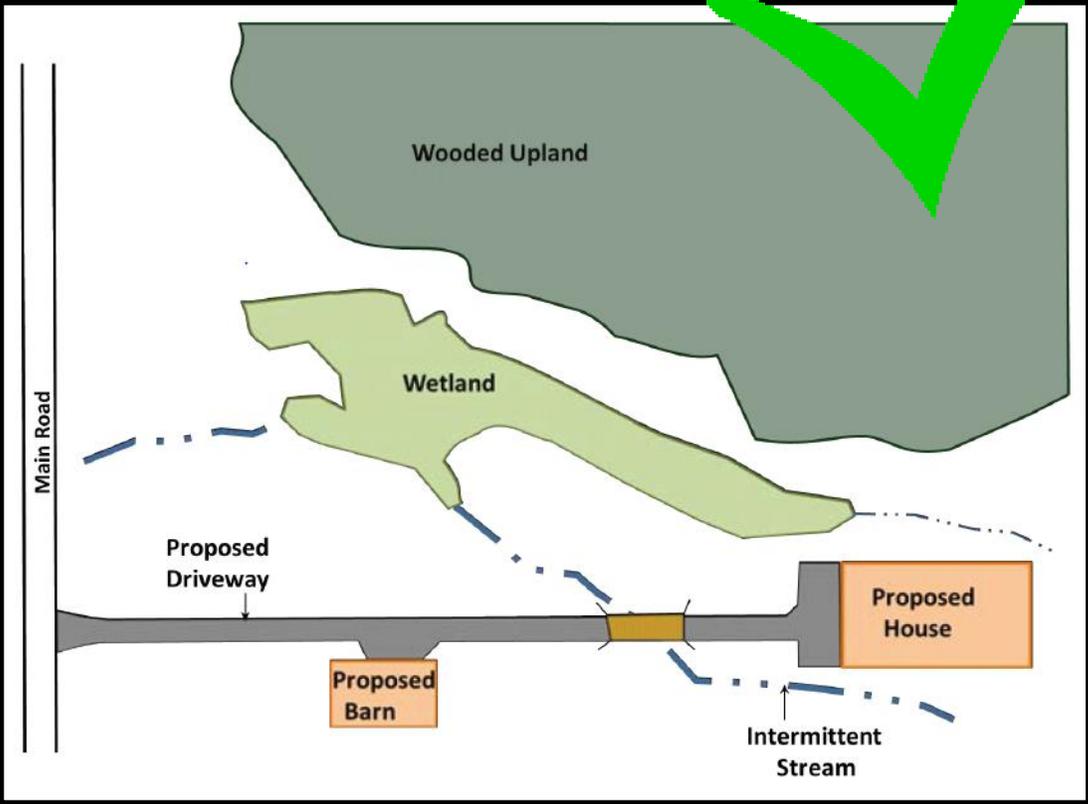
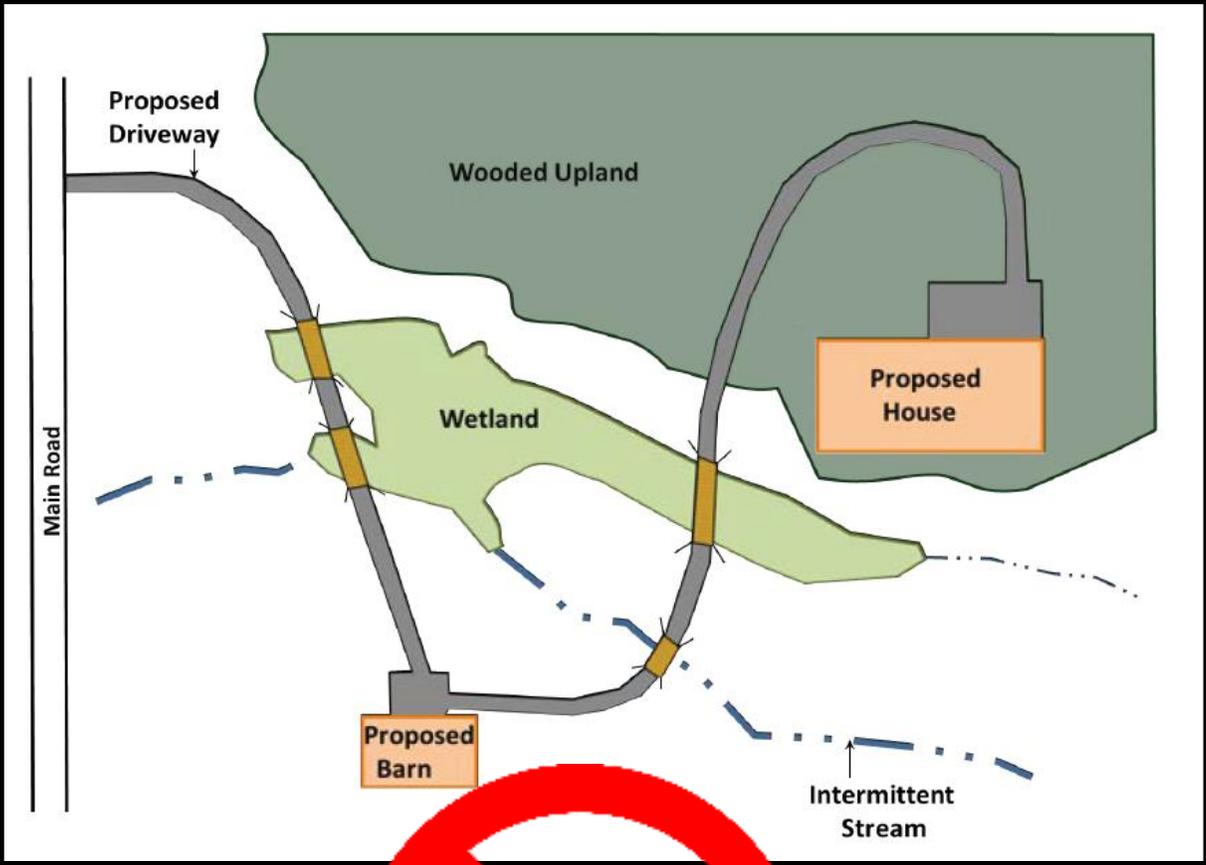
**Submit**

A Written  
Narrative

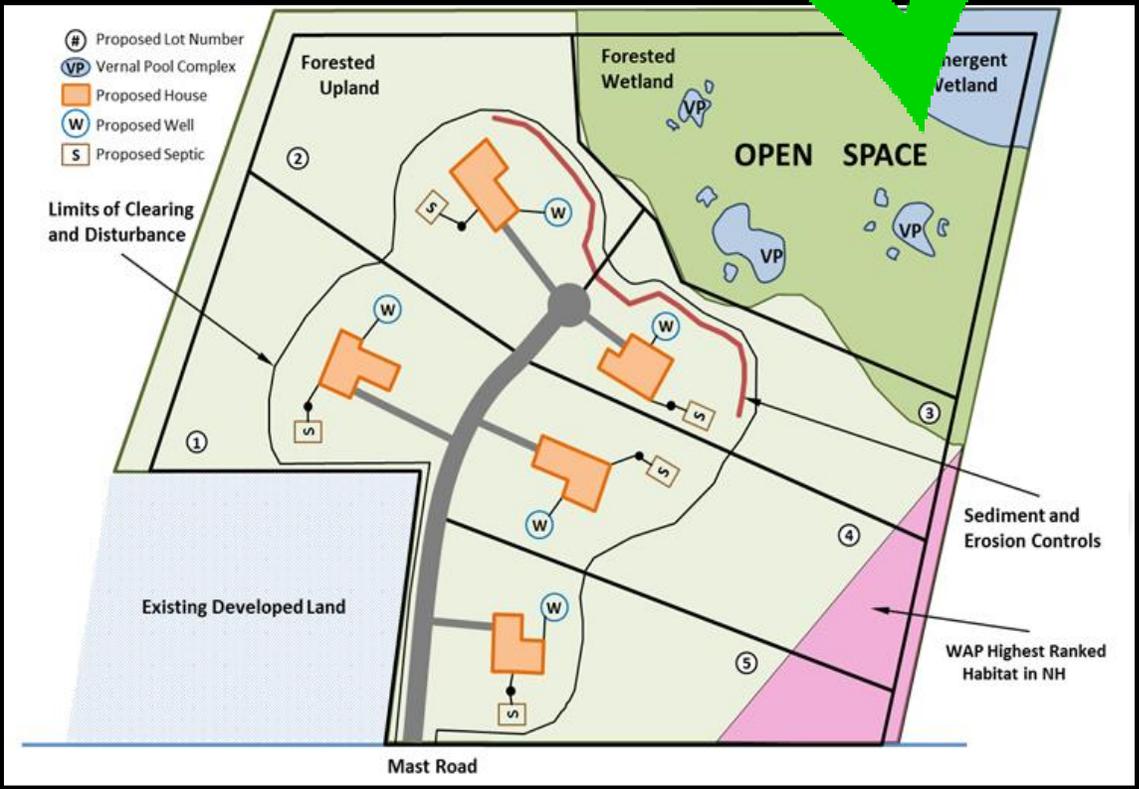
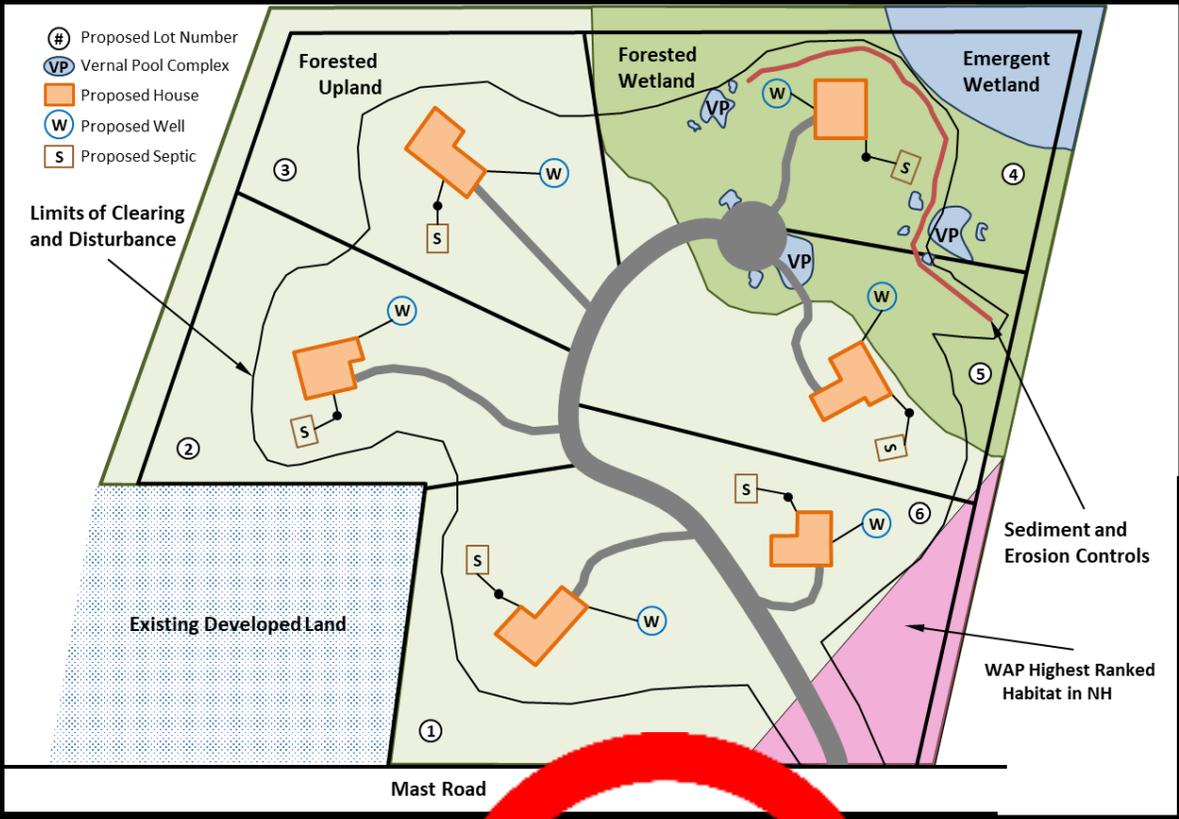
**Or**

Avoidance and  
Minimization  
Checklist

# Residential Driveway Original and Revised Plan



# Subdivision Original and Revised Plan



# Approval Criteria: Residential, Commercial & Industrial Devt. (Env-Wt 524.02(d))

Projects in Priority Resource Areas require Compensatory Mitigation



1. Protected Species/Habitat
2. Bogs
3. **NEW** Floodplain wetlands contiguous to Tier 3 + watercourse
4. Prime Wetlands/Buffers
5. Sand Dunes, tidal wetlands/waters, undeveloped tidal buffer zones

# Application Requirements: General (Env-Wt 524.03)

If the project includes components that are subject to multiple project-specific requirements in chapter 500, a narrative statement and plan that describes:

- a. How each project-specific component meets the requirements of the applicable part; and
- b. How the project as a whole impacts jurisdictional areas.

<b>Aquatic Vegetation Control</b>	<b>Construction of Water Access Structures</b>	<b>Docking Structures</b>	<b>Bank Stabilization</b>	<b>Forestry</b>
<b>Dug-In Basins &amp; Boathouses</b>	<b>Intake &amp; Outflow Structures</b>	<b>Trails Pathways &amp; Boardwalks</b>	<b>Water Related Non-Docking Structures</b>	<b>Utility</b>
<b>Agricultural</b>	<b>Non-Tidal Dredging</b>	<b>Restoration &amp; Enhancement</b>	<b>Dams</b>	<b>Public Highways</b>

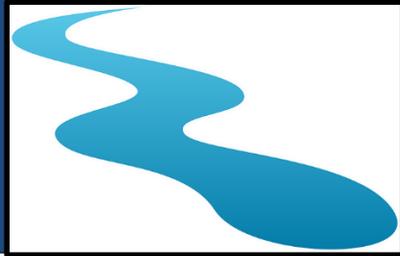
# Application Requirements: Subdivisions (Env-Wt 524.03)

- Existing subdivision criteria maintained.
- Plans prepared and stamped by a NH **land surveyor**.
- **New** Federal Wetland Classifications required for **Minor and Major** projects.



# Design Requirements: Residential, Commercial, Industrial (1)

## (Env-Wt 524.04)



Maintain / restore hydrologic conn. to adjacent resources.



Protect drinking water supplies, SWPAs and fisheries.



No SW / water quality treatment in wetlands.



Maintain wetland-dependent wildlife habitat.

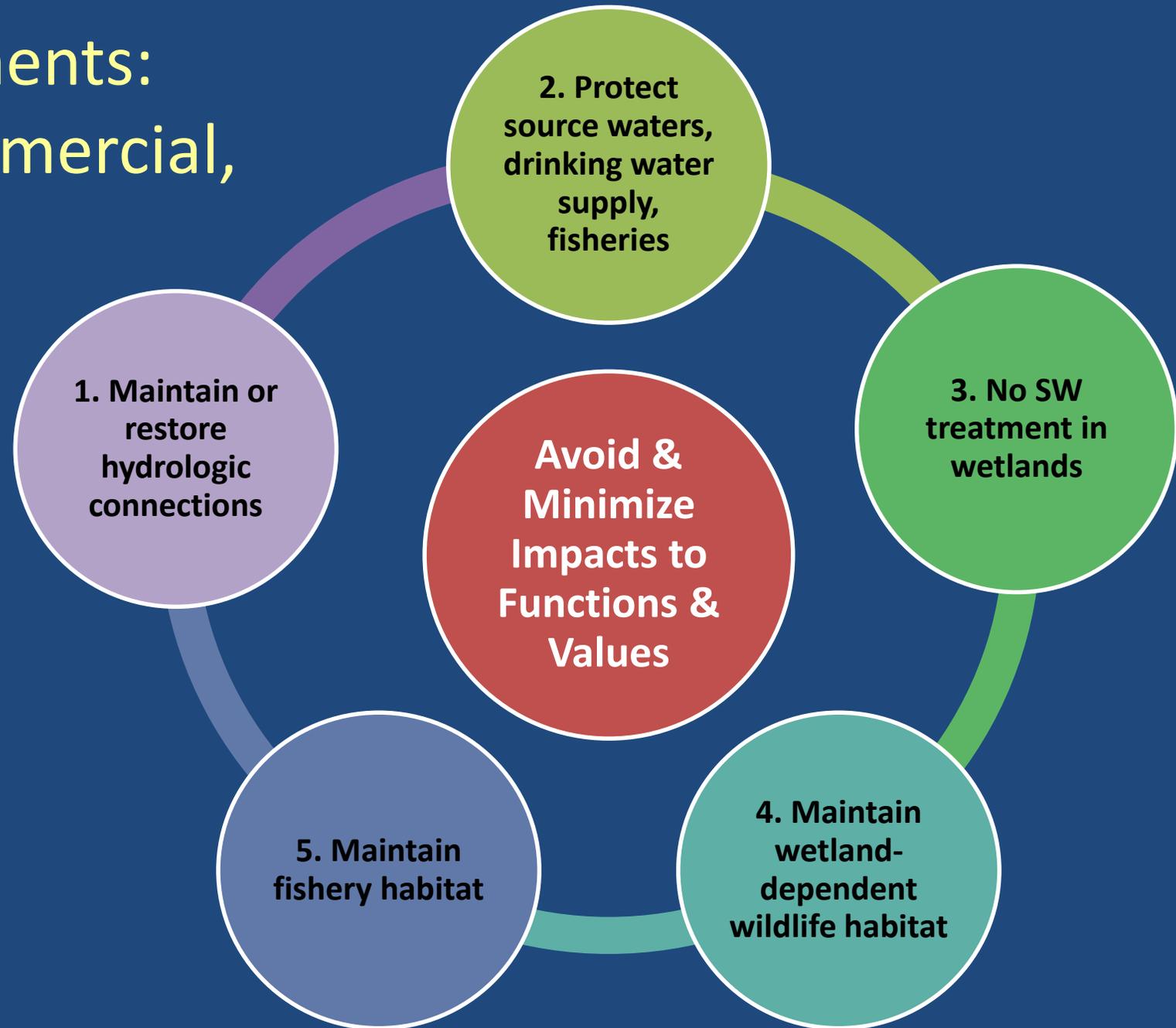


Maintain spawning, feeding, cover habitat and fish passage.



Comply with relevant sections of Administrative Rules.

# Design Requirements: Residential, Commercial, Industrial (2) (Env-Wt 524.04)



# Construction Requirements: Pre-Construction Notice Required (Env-Wt 524.05)

- File a construction notice at least 48 hours *prior to starting work*.
- Electronic notification process being developed.



# “Aggregation” Defined (Env-Wt 408.03 and 408.04)



**Within 5 years**

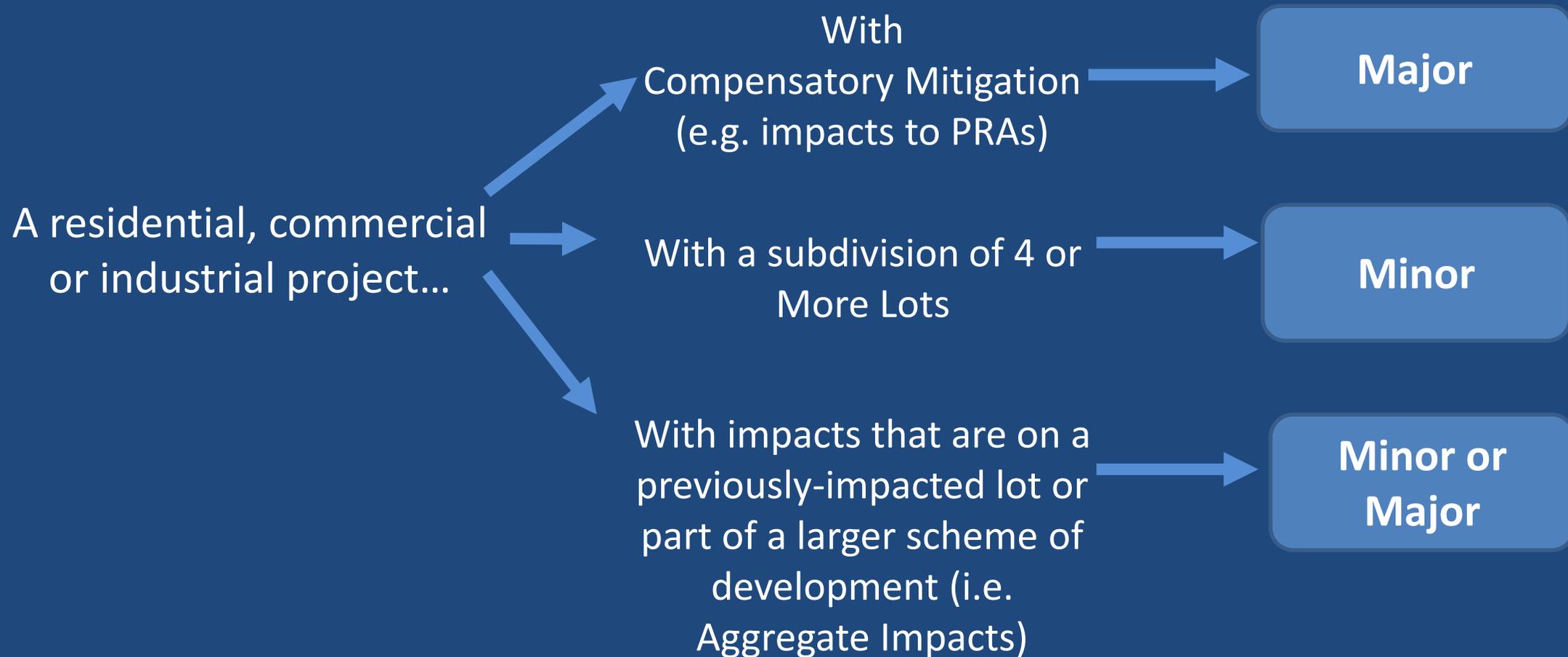
Consistent  
Scheme of  
Development

- On abutting properties, or
- The same overall scheme of development, or
- Consistent parts of a whole

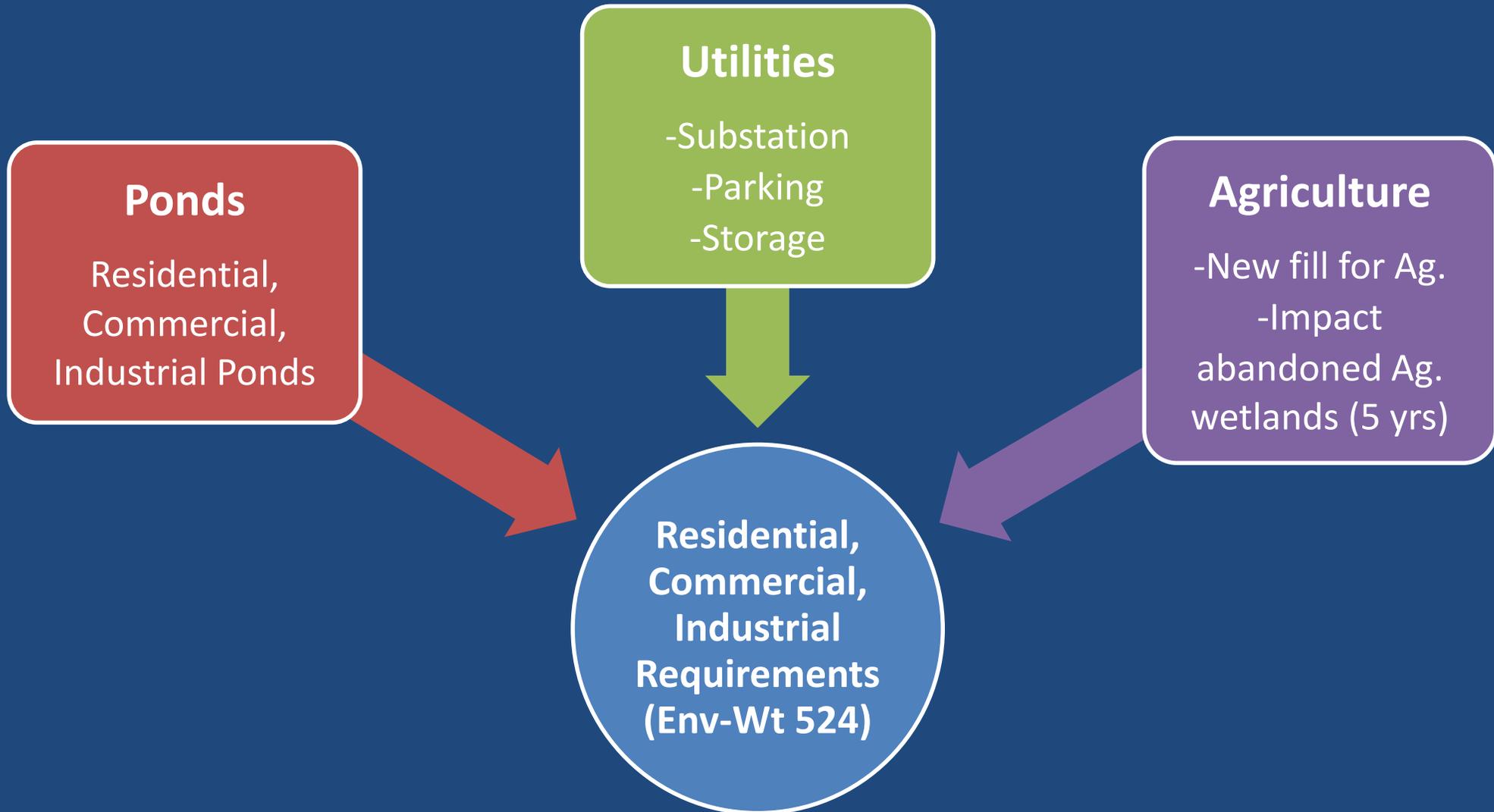
Same  
Property

- Applies to lots that have been subdivided since the impacts took place

# Classification: Residential, Commercial & Industrial Devt. (Env-Wt 524.06)



# Select Project Types & Env-Wt 524



# Abutters, Notifications & Setbacks (1)

Changes to abutter setback and notification requirements.

## References

“Abutting Property” Def.

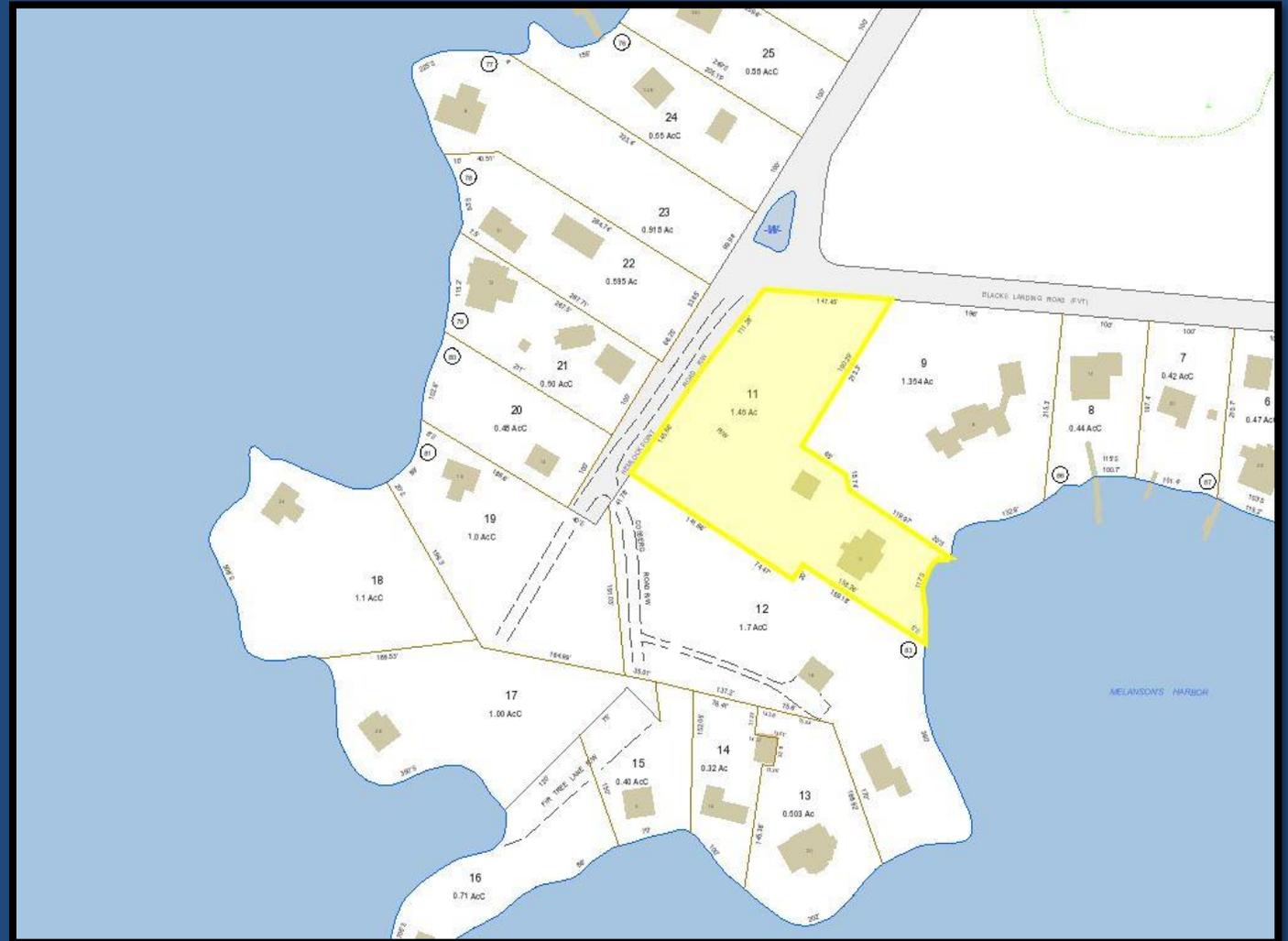
Env-Wt 102.04

Abutter Notification

Env-Wt 306.06

Property Line Setbacks

Env-Wt 307.13





# Abutters, Notifications & Setbacks (3)

## NEW

1. Jurisdictional impacts limited to **10 feet** from abutters
2. Impacts within 10 feet require **written consent** (Exceptions: Bank Stabilization & Stream Crossings by Public Agencies)
3. DES may increase setback to **>10 feet, if:**
  1. Danger to Waterfront
  2. Navigation Hazard
  3. Interferes with Abutter Use



# What about driveways?

- Meet criteria in Env-Wt 524
  - Avoid and minimize impacts
  - On-site alternatives analysis
- Based on area thresholds  
(See Table 407-1)
  - <3K SF in Wetland = Minimum
  - <50 LF in Watercourse = Minimum
  - Tier 1 Stream X-ing = Minimum



# Residential, Commercial & Industrial Devt. Review

1. Project-Specific  
Requirements

2. Avoidance &  
Minimization

3. Classification and  
“Aggregation” Rule

4. Beyond Chapter  
524 – Useful Topics



Any Questions?

Feedback on  
Information Needs  
Welcome!

