

**Planning Board Meeting - Minutes
Tuesday, July 15, 2008
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine
7:00 PM**

A. Call to Order

The meeting was called to order at 7:08 p.m.

B. Roll Call

Present: Bill Ward, Board Chair, Bill Richards, Vice-Chair, Bob Couillard, Mark Robinson, Chris Neagle, Bob Vail, Pam Russell

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

C. Approval of Minutes of June 17, 2008.

Mr. Richards moved to approve the minutes of June 17, 2008 as presented.

Mr. Robinson seconded.

Vote: Unanimous

D. Consent Calendar / Deminimus Change Approvals: There were no Consent Calendar Items.

E. Public Hearings:

1. Public Hearing: Shoreland Zoning Permit: To construct a permanent embankment stair elevated on posts connected to a seasonally installed dock and gangway that provides tidal access to a float; at 7 Broad Cove Way, Tax Assessor Map U06B, Lot 20; in the LDR/SOD; Peter and Donna Verrill, Owners, Barney Baker, P.E., of Baker Design Consultants, Representative.

Ms. Nixon presented background information as follows: The Applicants, Peter and Donna Verrill, are seeking a Shoreland Zoning Permit to install a permanent embankment stair elevated on posts connected to a seasonally installed dock and gangway that will provide tidal access to a float.

The site is located at 7 Broad Cove Way; Map U06B, Lot 20 in the Limited Density Residential (LDR) zone. The applicants are represented by Barney Baker of Baker Design Consultants.

REQUIRED APPROVAL BY OTHER AGENCIES:

1. Army Corps of Engineers, PBR Maine Programmatic General Permit: On file-10/30/07. The amended permit has been received.
2. Maine Department of Environmental Protection, NRPA Permit by Rule: Dated 5/27/08. On file.
3. Town of Cumberland: The Cumberland Town Council issued a Wharfing Out permit at its 6/16/08 meeting. The Coastal Waters Commission has held a public hearing and a site walk and provided a positive recommendation to the Town Council.

4. Maine Department of Conservation: (submerged lands) – Not needed since work will be within the inter-tidal zone.

Mr. Baker was present with Peter Verrill, Owner, and Scott Dyer, of Custom Float Services. Mr. Baker reviewed the project: As shown on the drawings, the proposed work will provide stair access to the shorefront and a tidal waterfront landing. The stair is located on the embankment at an optimum location to provide waterfront access. An existing stair will be removed as part of the project. The waterfront access is comprised of seasonal structures that include removable dock units, an aluminum gangway, and a tidal float on skids. The 10' sections will span the salt marsh and the gangway will float on skids, this will allow access for kayaks and boating. The Coastal Waters Commission held a site walk and as a result there were a few changes submitted to DEP. The DEP permit has been received, and the Town Council issued its Wharfing Out Permit.

Ms. Russell asked what the structure would look like in the winter.

Mr. Baker stated everything but the stairs will be removed in the winter.

Mr. Vail asked why the posts on metal discs were not left year round.

Mr. Baker stated due to permitting in the area, to have as little impact as possible.

Mr. Vail stated he thought permanent posts would have less impact.

Mr. Couillard asked if they would need a crane to build the deck over the marsh.

Mr. Baker stated the deck will be made of a composite correct deck material.

Mr. Scott Dyer of Custom Float services stated there will be no heavy equipment used on site, the dock is a glorified lake dock built in panels. There will be three people with hand tools removing and installing the float.

Mr. Couillard asked where the seasonal pier and float will be stored, and if there were plans for water or electricity.

Mr. Dyer stated they will be located in an upland location.

Mr. Richards moved to approve the findings of fact as written.

Mr. Couillard seconded.

VOTE: Unanimous

The Board is asked to review the following findings of fact, and then make a ruling on the application. Upon positive findings for each requirement, the **Shoreland Zone Permit** can be granted.

Section 418 (pg. 115):

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with developed beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

Based on the submission of the applicant and review and approval of the plan by MDEP, the Army Corp of Engineers and the Cumberland Coastal Waters Commission, the Board finds that the above standards have been met.

Section 423.4 (pg. 125)

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 2. The location shall not interfere with developed beach areas.
 3. The facility shall be located so as to minimize adverse effects on fisheries.
 4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
 5. Not relevant.
 6. Not relevant.
 7. Not relevant.
- } Pertain to structures built upon wharves or piers.

Based on the submission of the applicant and review and approval of the plan by MDEP, the Army Corp of Engineers and the Cumberland Coastal Waters Commission, the Board finds that the above standards have been met.

Section 602.5.1.3.3 (pg. 171)

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater.
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shoreland vegetation;
6. Will conserve visual points of access to water as viewed from public facilities;
7. Will conserve actual points of public access to waters;
8. Will protect archaeological and historic resources as designated in the Comprehensive Plan;
9. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities Overlay District;
10. Will avoid problems associated with flood plain development and use;
11. Is in conformance with the provisions of this article, and;
12. Is not in a flood plain adjacent to tidal waters (Resource Protection/Flood Plain Overlay).

Based on the submission of the applicant and review and approval of the plan by MDEP, the Army Corp of Engineers and the Cumberland Coastal Waters Commission, the Board finds that the above standards have been met.

SECTION 424.3.5 – APPROVAL STANDARDS AND CRITERIA

The following standards shall apply to all piers, docks, wharves, floats, bridges, and other structures and uses extending over or beyond the normal high-water line of a water body, submerged lands or wetland:

- .1 Access from shore shall be developed on land and soils appropriate for such use and constructed so as to control erosion.
- .2 The location shall not unreasonably interfere with developed or natural beach areas.
- .3 The facility shall be located so as not to unduly interfere with fisheries.
- .4 The facility shall be no larger in dimension than necessary to carry on the proposed activity.
- .5 No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure without an application and approval justifying the functionally water dependant use of said addition.
- .6 No new structure shall be built on, over or abutting a pier, wharf, dock, bridge, float or other structure shall be converted to a residential dwelling unit or any use other than a functionally water dependant use in any district.
- .7 Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

Public and commercial facilities shall submit a lighting plan for review by the Planning Board for safety and compatibility with the proposed use.

All lighting shall be in conformance with all Federal, State, and local standards including Coast Guard Regulations for lighting of piers or wharves where applicable.

- .8 Except in the General Development District and Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock, bridge, float or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

- .9 Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling, and navigation. This may require accommodations such as steps or pier elevations that would allow passage over or beneath a structure.
- .10 Where a waterfront structure is proposed that will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town.

Based on the submission of the applicant and review and approval of the plan by MDEP, the Army Corp of Engineers and the Cumberland Coastal Waters Commission, the Board finds that the above standards have been met.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Neagle moved to approve with the standard and two proposed conditions the request to construct a permanent embankment stair elevated on posts connected to a seasonally installed dock and gangway that provides tidal access to a float at 7 Broad Cove Way, Tax Assessor Map U06B, Lot 20.

Mr. Richards seconded.

VOTE: Unanimous

Standard Conditions of Approval

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

Proposed Conditions of Approval

1. That the structure is constructed consistent with the submitted plans and that the conditions of approval listed in the Wharfing Out Permit issued by the Town Council are complied with prior to the issuance of a building permit.
2. That all fees be paid prior to receiving a building permit.

2. Public Hearing: Minor Site Plan Amendment and Section 433 Telecommunications Facilities Review for the installation of antennas and equipment at the Congregational Church at 282 Main Street, Tax Assessor Map U11, Lots 47 & 48 in the Medium Density Residential (MDR) district; New Cingular Wireless PCS, LLC: AT& T Mobility Corporation, Applicant, Congregational Church, Owner.

Ms. Nixon presented background information as follows: The applicant is New Cingular Wireless PCS, LLC. The agent and representative is Warren Kelleher of the Hudson Design Group of North Andover, MA. On 2/16/05, the applicant entered into a lease agreement with the church and subsequently received Planning Board approval for the installation of three antennas (concealed inside a new steeple) and two equipment cabinets located at the exterior corner of the church. This application is for an amendment to that approval to allow for the installation of one additional cabinet to be located adjacent to the existing cabinets.

The Cumberland Congregational Church is located at 286 Main Street as shown on Tax Map U-11, Lot 48 in the Medium Density Residential (MDR) zone.

The Planning Board is asked to conduct a minor site plan review under Section 206, and review for compliance with Section 433.1 Telecommunication Facilities. Tonight the Board will consider this application for approval.

HISTORY:

- Minor Site Plan Approval and Compliance with Section 433.1 Telecommunication Facilities: 2/16/05.

**Town of Cumberland
Section 206 – Site Plan Checklist**

The following is intended to provide a summary of the submission requirements for site plan review in the Town of Cumberland. For precise requirements, please refer to the Town of Cumberland Zoning Ordinance Section 206.7

Per Section 206.4 Classification of Project, Please note: The Town Planner will first determine if the project will be classified as a major or minor site plan. Classification will determine submission requirements. ***THIS IS A MINOR SITE PLAN.***

**SECTION 206.7.2 Site Plan Review Application Submission Requirements
*REQUIRED FOR MAJOR AND MINOR SITE PLANS***

1.	Site Plan Application Form Completed	Submitted
	1. Signed Application	Submitted
	2. location of all setbacks, yards and buffers	Submitted
	3. name and address of all property owners w/I 200 feet	Submitted
	4. location map showing location of project	Submitted
	<i>5. boundaries of all contiguous property under control of owner</i>	<i>Waiver request</i>
	6. tax map and lot numbers	Submitted
	7. deed, option to purchase or documentation of right, title or interest	Submitted
	8. name, registration number and seal of person who prepared plan	Submitted
	9. evidence of technical and financial capability to carry out project	Submitted

**SECTION 206.7.3 Existing Conditions
*REQUIRED FOR MAJOR AND MINOR SITE PLANS***

1.	zoning	Submitted
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2.	Boundary survey	Waiver request
3.	utilities, including sewer & water, culverts & drains, on-site sewage	Waiver request
4.	location, names, widths of existing public or private streets/ROW's	Submitted
5.	location, dimension of ground floor elevation of all existing buildings	Submitted
6.	location, dimension of existing driveways, parking, loading, walkways	Waiver request
7.	location of intersecting roads & driveways within 200 feet of the site	Waiver request
8.	location of drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, important or unique features, etc	Waiver request
9.	direction of existing surface water drainage across the site & off site	Waiver request
10.	location, front view, dimensions and lighting of existing signs	Waiver request
11.	location and dimensions of existing easements & copies of documents	Submitted
12.	location of nearest fire hydrant or water supply for fire protection	Waiver request

**SECTION 206.7.4 Proposed Development Activity
REQUIRED FOR MAJOR AND MINOR SITE PLANS**

.1	Narrative/how plan related to inventory & analysis	N/A
.2	Grading at 2' contours	Waiver request
.3	Utility plan	Yes
.4	estimated demand for water & sewage disposal/location/dimensions, etc	Waiver request
.5	surface water drainage and impact assessment on downstream properties	Waiver request
.6	handling solid waste, haz & special waste/including screening on-site	Waiver request
.7	driveway, parking & loading areas, location/dimension & materials along with changes in traffic flow onto or off site	Waiver request
.8	landscape plan	Submitted
.9	location, dimension and ground floor elevation of buildings	Submitted
.10	signs/location and method of securing	N/A
.11	location and type of exterior lighting	N/A
.12	location of all utilities including fire protection systems	Waiver request
.13	general description of proposed use or activity	Submitted
.14	traffic/peak hour and daily traffic generated by project	Waiver request
.15	stormwater calculations/erosion & sedimentation control plan, etc.	Waiver request

Ms. Russell asked to be recused from items # 2 & 3; due to a conflict of interest.

Mr. Neagle stated he was member of the Congregational church for twenty years and is no longer a member, and feels he can be unbiased.

Mr. Robinson agreed.

Mr. Frank Kelly, representative of SAI Contractors, AT& T Mobility, and USA Cingular reviewed the proposed project. The cabinet is needed to allow more information for third generation equipment. They will plant more arborvitae to have better screening for the cabinet. The elevation of the new cabinet will be smaller than the exiting cabinet.

Mr. Neagle stated this is an extremely minor amendment and the cabinet will be buffered with plantings, this was a well put together application.

Mr. Robinson stated it was one of the most complete applications he had reviewed, it was very well done.

The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Mr. Neagle moved to grant the waivers requested due to the unique circumstances of the project.

Mr. Robinson seconded.

VOTE: Unanimous

Waivers granted:

- 206.7.2.5:** Boundaries of all contiguous property under control of owner
- 206.7.3.2:** Boundary Survey
- 206.7.3.3:** Utilities, including sewer & water, culverts & drains, on-site sewage
- 206.7.3.6:** location, dimension of existing driveways, parking, loading, walkways
- 206.7.3.7:** location of intersecting roads & driveways within 200' of the site
- 206.7.3.8:** location of drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, important or unique features, etc.
- 206.7.3.9:** direction of existing surface water drainage across the site & off site
- 206.7.3.10:** location, front view, dimensions, and lighting of existing signs
- 206.7.3.12:** location of nearest fire hydrant or water supply for fire protection
- 206.7.4.2:** grading at 2' contours
- 206.7.4.4:** estimated demand for water & sewage disposal / location/ dimensions, etc.
- 206.7.4.5:** surface water drainage & impact assessment on downstream properties
- 206.7.4.6:** handling solid waste, haz & special waste/including screening on-site
- 206.7.4.7:** driveway, parking & loading areas, location / dimension & materials along with changes in traffic flow onto or off site
- 206.7.4.14:** traffic/peak hour and daily traffic generated by project
- 206.7.4.15:** stormwater calculations/erosion & sedimentation control plan, etc.

Mr. Neagle moved to adopt the findings of fact as written without reading them aloud.

Mr. Richards seconded.

VOTE: Unanimous

PROPOSED FINDINGS OF FACT

.1 Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The

development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The Applicant is proposing to add one additional cabinet between existing cabinets and the wall of the building where it will be virtually unnoticeable. There will be no impact on environmentally sensitive areas.

Based on these facts the standards of this section have been met.

.2 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

A waiver was requested since there will be no proposed changes to the access and parking.

Based on these facts the standards of this section have been met.

.3 Access way Location and Spacing

Access must meet the specific ordinance requirements.

There is no proposed change to the location and spacing of the site.

Based on these facts the standards of this section have been met.

.4 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

There is no proposed change to the layout of the site.

Based on these facts the standards of this section have been met.

.5 Parking Layout and Design

Off street parking must conform to the specific standards.

There is no demand for additional parking and no changes have been proposed.

Based on these facts the standards of this section have been met.

.6 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

There are no proposed changes to the site which would affect pedestrian circulation or safety.

Based on these facts the standards of this section have been met.

.7 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

A waiver was requested because there will be no additional impact on stormwater.

Based on these facts the standards of this section have been met.

.8 Erosion Control

.1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

.2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

There is very little site work proposed which would require erosion control measures to be taken. Two small equipment cabinets will be placed on a pre-cast concrete slab at the base of the building. A minimal amount of soil will be removed and/or brought to grade and prepare a base for the slab. Maine Erosion and Sedimentation control Best Management Practices will be applied as needed.

Based on these facts the standards of this section have been met.

.9 Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

A waiver was requested because there are no changes proposed for water supply.

Based on these facts the standards of this section have been met.

.10 Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

A waiver was requested because there are no changes in sewage disposal.

Based on these facts the standards of this section have been met.

.11 Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

The applicant has stated that any additional utilities required as part of the installation of the proposed equipment cabinet will be routed in the same manner as the existing utilities for the facility.

Based on these facts the standards of this section have been met.

.12 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must

demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

The proposed activity will use no water and generate no waste. It will not impact groundwater in any way.

Based on these facts the standards of this section have been met.

.13 Water Quality Protection

All aspects of the project must be designed so that:

.1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

The proposed plan complies with all of the above requirements.

Based on these facts the standards of this section have been met.

.14 Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

The Applicant has provided proof of technical and financial capacity. See Exhibit 15.

Based on these facts the standards of this section have been met.

.15 Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The NEPA Phase 1 environmental report illustrates that there will be no adverse impact on historic and archaeological resources.

Based on these facts the standards of this section have been met.

.16 Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

The property is not located in a floodplain as depicted on FEMA maps.

Based on these facts the standards of this section have been met.

.17 Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

No new exterior lighting is proposed.

Based on these facts the standards of this section have been met.

.18 Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

The only visible change to the site will be the installation of the additional equipment cabinet which will be screened by the planting of two additional arborvitae.

Based on these facts the standards of this section have been met.

.19 Noise

The development must control noise levels such that it will not create a nuisance for neighboring properties.

The only noise generated by the installation will come from a small fan inside each cabinet for cooling. The level of sound is equivalent to that produced by the fan on a personal computer.

Based on these facts the standards of this section have been met.

.20 Storage of Materials

.1 Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

.2 All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

.3 Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

No equipment or material will be stored on site.

Based on these facts the standards of this section have been met.

.21 Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

Arborvitae will be planted to screen the equipment cabinet.

Based on these facts the standards of this section have been met.

.22 Building and Parking Placement

.1 The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

.2 Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

There is no increase or change in location of the existing parking.

Based on these facts the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is not located in the Aquifer Protection district.

IV. SECTION 433.3 – SUBMISSION REQUIREMENTS

- (a) **A report from a Registered Professional engineer in the state of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number, type, and volume of antenna that it can accommodate and the basis for the calculations.**

Cingular requested a waiver because it felt that this section is pertinent only to new towers and that the proposal involves the installation of a single equipment cabinet on the ground.

- (b) *Written approval from all applicable state and federal agencies, including but not limited to the FAA and FCC including a description of any conditions or criteria for approval, or a statement from the agency that no approval is required.*

Tab 12 includes the required information.

A letter of intent that commits the tower owner and his successors in interest to: Respond in a timely manner to a request for co-location and negotiate in good faith.

These requirements apply to owners or developers of new tower structures. Applicant is not proposing to build or own a new structure, and thus requirements to provide for co-location are not applicable.

- (d) *Proof of financial capacity to build, maintain, and remove the proposed tower.*

Tab 15 is a 2002 historical financial data report for Cingular. It shows adequate financial capacity.

- (e) An inventory of all the provider's existing and approved towers, antennas or sites within the Town of Cumberland and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.

Radio frequency coverage map was provided with previous submission this proposal does not change the coverage range.

- (f) *Photos of the site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties*

Tab 10 shows site photographs.

- (g) *Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.*

The Applicant will plant additional arborvitae to screen the equipment cabinet.

- (h) *Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.*

Elevation drawings are shown in Tab 8.

- (i) *Detail of the method of attachment to a structure. If the facility will be attached to an existing structure, provide measurements and elevations of the structure.*

This information was provided in Tab 10.

- (j) *A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will change visually. The analyses should include before and after analyses of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically, those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in His review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area and identify and include feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.*

Exhibit 10 shows site photographs. The NEPA environmental analysis has provided information showing that the historical nature of the building will not be changed as a result of this proposal.

- (k) *Identify any other telecommunication facilities existing or proposed on the site.*

US Cellular has located equipment in the steeple and equipment in the basement.

- (l) *Details of all accessory structures including buildings, parking areas, utilities, gates access roads, etc.*

These are depicted on the plans.

- (m) *Structural Requirements:*

- (1) *Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.*
- (2) *The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/SIA/TIA 22 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.*
- (3) *For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower for antennas and their accompanying equipment.*

The plans and construction notes outline the above information. Installation and equipment will comply with EIA standards.

A. V. SECTION 433.4 SPACE AND BULK STANDARDS

- a. Tower Height

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"HC" Highway Commercial; "LB" Local Business, and "IB" Island Business:
175 feet

Existing Structure, not applicable

- b. Antennas

- (1) Height

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed the following maximum heights:

"RR1 & RR2" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential, "IR" Island Residential, "I" Industrial, "OC" Office Commercial; "RI" Rural Industrial;:
150 feet

N/A.

- (2) Mounting and dimensions
The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:
- (a) Whip antennas shall not exceed 20' in length for an individual antenna and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.
 - (b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24", with no single dish being more than 8" in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.
 - (c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length nor 2' in width.

N/A

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

N/A

d. Setbacks

- (1) All wireless communications towers shall be setback from any lot lines a distance equal to at least 125% of the tower height.
- (2) Equipment facilities shall meet the required District setbacks.
- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional

antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.

- (5) There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

N/A

4. CO-LOCATION REQUIREMENTS

a. On existing towers

- (1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/ or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence shall be documentation from a qualified and licensed professional engineer that:

- (a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

- (b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost:

- (c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment place or approved; or

- (d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.
- (2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
- (3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
- (4) The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Cumberland.

Applicant is not proposing a new tower. Above is not applicable.

b. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 433.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

Applicant is not proposing a new tower. Above is not applicable.

5. INTEREST OF TELECOMMUNICATION ENTITY

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities which are contracted to locate on the tower must join as applicants.

Applicant is licensed by the FCC to provide wireless services in Maine.

6. DESIGN STANDARDS

a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to,

having a galvanized finish, being painted "flat" blue gray or in a skytone above the top of surrounding trees and earthtone below treetop level.

- (2) Equipment facilities shall be adjacent to the tower base unless an alternate location will be less visually obtrusive or topographic considerations require an alternative location.

Plans show that the equipment facility will be at the rear of the church building and shielded from view.

- (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

The power equipment cabinets are the size of household refrigerators.

- (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

Not applicable.

- (5) Manually operated or motion detecting security lighting is permitted.

No lighting is required.

- (6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and / or community features).

This is an infill unit and will not affect the visual aesthetics.

- (7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility as needed, to reduce the potential for trespass and injury.

No new tower is proposed. Antennas and cables will be contained within the existing structure.

- b. Antenna arrays
Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

N/A

7. LOCATION

- a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

Not applicable.

- b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species.

Exhibit 15 of the application packet includes a NEPA environmental site assessment.

8. ADDITIONAL STANDARDS AND CRITERIA

- a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing, or other architectural screening.

N/A

- b. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

- c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

N/A

9. WAIVER PROVISION

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 433.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

Mr. Neagle moved to grant Minor Site Plan Amendment Approval and Section 433 Telecommunications Facilities Review Approval for the installation of antennas and equipment at the Congregational Church at 282 Main Street, Tax Assessor Map U11, Lots 47 & 48, in the MDR district; New Cingular Wireless PCS, LLC: AT & T Mobility Corporation, Applicant, Congregational Church, Owner.

Mr. Vail seconded.

VOTE: Unanimous

3. Public Hearing: Minor Site Plan Review: Cumberland Congregational Church for parking lot and building expansions to the existing church located at 282 Main Street, Tax Assessor Map U11, Lots 47 & 48 in the Medium Density Residential (MDR) district; Mark Bergeron, P.E., of Sevee & Maher Engineers, Representative; Congregational Church in Cumberland, Owner.

Mr. Ward stated there was a slight change to the agenda; the Board will not consider the parking lot this evening because there is lack of detail on the drainage.

Ms. Nixon stated Bob Simonds has asked for Board review and comments on the parking lot. Ms. Nixon suggested the Board handle the application in two parts:

1. Building Additions
2. Parking expansions

Ms. Nixon stated that she had discussed the parking plan concerns with Sally Bancroft and Ms. Bancroft agreed that the application could be reviewed in two parts since the Church is still raising funds for the parking lot work. Because of this, the Town Engineer did not review the stormwater plan in case the design changes after tonight's discussion.

Mr. Robinson stated the building addition and drainage are intertwined, the addition at the parish hall may affect drainage, he would like the applicant to submit a plan for comments; rather than the Board design the plan.

Mr. Vail asked why the building additions were before the Planning Board.

Ms. Nixon said that the Site Plan ordinance states that an expansion of a non-residential structure requires Planning Board approval.

Mr. Ward suggested the Board proceed with the building review and table the parking lot issue.

Mr. Neagle agreed.

Mr. Bergeron asked to have as much approved as possible, if only the building could be approved tonight they would like to receive input on the parking and would understand if there wasn't a decision on parking until next meeting.

Ms. Nixon stated Mr. Simonds has asked to allow a presentation to the Board prior to tabling the parking lot.

Mr. Bergeron reviewed the proposal as follows: The Church is proposing two building additions and other interior renovations to improve their facilities. A new entry will be constructed at the parish hall with wider stairs and more gathering area. The handicapped entrance will remain the same. A new storage addition is proposed for the south end of the parish hall to provide more storage and meeting space for youth groups. Additional parking spaces are proposed in front of the church, along with a reconfigured driveway to provide one-way flow through the site. The new parking layout aims to alleviate current parking issues the Church experiences as it regularly operates beyond their existing parking capacity, often times requiring vehicles to park along Main Street and Blanchard Road. There will be no net increase in stormwater. The extra run-off from

the 14' addition by the playground area will be almost incalculable. The soils are sandy and well drained. Two test pits have been dug to verify the soils.

Mr. Couillard asked about handicap accessibility.

Mr. Bergeron reviewed the handicap access.

Mr. Vail asked if the exit door at the rear addition will serve as an exit to the building.

Mr. Bergeron stated no, the addition will be on stilts for the main hall, the lower level will have an exit door, but will be used for storage.

Mr. Robinson asked if the Planner had received comments from other Department Head Reviews.

Ms. Nixon stated yes, the Police Chief comments were included in the packet, stating it should alleviate parking on Main Street.

Mr. Robinson stated he had no problems with the additions, his issue is with parking area and the drainage plan and is confident the Board and Applicant can arrive at a mutually agreeable plan; but the Board needs advice from the Town's engineer. He would like to see curb cuts kept to a minimum. Mr. Robinson also asked if the Financial Capacity Finding was met; this could be discussed later.

Mr. Richards stated he has no issue with the building additions; he would like to make sure the parking plan is consistent with the Ordinance and pay careful attention to aesthetics, the Board has the responsibility to review the application for Ordinance compliance.

Mr. Neagle agreed he had no issue with the building improvements. With respect to the parking lot he has driven in and out of the current situation which is lousy, it is a double wide entrance he would prefer two smaller curb cuts. He agreed the Board needed to hear a report from the Town's engineer on drainage; he didn't think the Board could approve the parking lot request this evening.

Mr. Vail agreed the additions were fine, and agreed he would like information from the Engineer for parking.

Mr. Ward stated the Board will review the application in two sections: Building Expansions and Parking.

The public portion of the meeting was opened.

Mr. Shane, Town Manager stated he understood that the parking lot improvements were not included in Phase I of the project. Site Plan approval is good for one year with two subsequent renewals, he thought the building additions were on the front burner of the Church's time frame and the parking would be discussed with the intent of giving feed back to the applicant.

Ms. Russell asked the size of the solar panels.

Mr. Simonds stated they are already in place.

Mr. Simonds stated the Church has an ongoing Capital Campaign; the Church has a total dollar amount for the project when pledges reach 60 to 70% of the entire project they will go to the bank for financing.

Mr. Neagle asked what percent the building cost was of the entire budget.

Mr. Simonds stated 60 to 70%.

Mr. Robinson stated Section 206.14 requires proof of the financial capacity; and the Board has to make a positive finding. He voiced concern of a precedent for future applications.

Mr. Neagle stated there is not a precedent with Planning Board reviews, every application is different. He has knowledge of how Church finances work, and is always amazed at the Church's ability to raise money when necessary. He is comfortable with the Church's financial capacity; they have pledges of 60 to 70% of the project.

Mr. Robinson stated pledges are not cash and there is no commitment from the bank to loan money. Is there an estimate of cost?

Mr. Ward stated he tended to lean toward Mr. Robinson's opinion, the Board is charged with adhering to the Ordinances.

Mr. Vail stated this is a private group of citizens funding an improvement which has no risk to the public or Planning Board and he is confident this concern will not hinder his making a favorable recommendation.

Mr. Couillard agreed he is not too worried about a Church.

Mr. Simonds stated this project includes interior renovations in addition to the parking and storage and entry additions. These two components that require site plan approval are a small part of the overall project. He understands the concerns, but feels the Church is meeting the intent of the Ordinance.

Mr. Robinson again stated the Board is charged with upholding the Ordinance.

Mr. Richards stated he is comfortable with the addition and that the Church has the capacity to fund the project.

The public portion of the meeting was closed.

Mr. Board discussed the Finding for Section 206.14 *Capacity of the Applicant*, and what constitutes support of "financial capacity".

Mr. Neagle suggested a condition that no permits are issued until a letter of financial capacity has been received.

Mr. Richards suggested a letter forthcoming with specificity to \$100,000.

Mr. Simonds stated he would ask the Treasurer to prepare a letter stating X dollar amount in pledges or money to cover the expenses.

Mr. Neagle moved to approve the Finding of Fact 206.14 as follows: *The Applicant has utilized the services of Sevee and Maher Engineers. The applicant has testified there are pledges to cover the cost of the two building additions. There is a letter on file from the Church Treasurer that further supports this finding. There are no public improvements associated with this project.*

Mr. Vail seconded.

VOTE: Unanimous

Ms. Nixon stated there is a waiver request for Section 206.7.2: Boundary Survey.

Mr. Neagle moved to grant the waiver request for Section 206.7.2 Boundary Survey.

Mr. Vail seconded.

VOTE: Unanimous

Mr. Neagle moved to adopt the remaining twenty-one Findings of Fact as written.

Mr. Robinson seconded.

VOTE: Unanimous

Mr. Neagle moved to approve the Minor Site Plan approval for the building additions only, not the parking lot or site plan changes subject to the standard and proposed conditions of approval for the Cumberland Congregational Church at 282 Main Street, Tax Assessor Map U11, Lots 47 & 48; in the Medium Density Residential (MDR) district; Mark Bergeron, P.E., of Sevee & Maher Engineers, Representative; Congregational Church in Cumberland, Owner.

Mr. Richards seconded.

VOTE: Unanimous

PROPOSED FINDINGS OF FACT

.1 Utilization of the Site

Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The additions to the existing building will not impact on environmentally sensitive areas.

Based on these facts the standards of this section have been met.

.2 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

The additions to the existing building will not impact traffic access and parking.

Based on these facts the standards of this section have been met.

.3 Access way Location and Spacing

Access must meet the specific ordinance requirements.

The additions to the existing building will not impact accessway location and spacing.

Based on these facts the standards of this section have been met.

.4 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

The additions to the existing building will not impact internal vehicular circulation.

Based on these facts the standards of this section have been met.

.5 Parking Layout and Design

Off street parking must conform to the specific standards.

There additions to the existing building will not impact parking layout and design.

Based on these facts the standards of this section have been met.

.6 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

The additions to the existing building will not impact pedestrian circulation.

Based on these facts the standards of this section have been met.

.7 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

The stormwater impact from the small additional impervious surfaces of the additions will not adversely affect abutting or downstream properties.

Based on these facts the standards of this section have been met.

.8 Erosion Control

.1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

.2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

Erosion control measures will be provided during construction and will remain in place until permanent stabilization is obtained.

Based on these facts the standards of this section have been met.

.9 Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the

proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

No change in water usage is expected as a result of this project.

Based on these facts the standards of this section have been met.

.10 Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

While the one existing bathroom in the parish hall is being split in to two ADA accessible bathrooms, no increase in septic flow is expected.

Based on these facts the standards of this section have been met.

.11 Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

There is existing electrical service to the building. No external changes are required for this project.

Based on these facts the standards of this section have been met.

.12 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

There will be no adverse impact on groundwater as a result of this project.

Based on these facts the standards of this section have been met.

.13 Water Quality Protection

All aspects of the project must be designed so that:

.1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

No toxic materials will be utilized, stored, or created on this site. The proposed plan complies with all of the above requirements.

Based on these facts the standards of this section have been met.

.14 Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

The Applicant has utilized the services of Sevee and Maher Engineers. The applicant has testified there are pledges to cover the cost of the two building additions. There is a letter on file from the Church Treasurer that further supports this finding. There are no public improvements associated with this project.

Based on these facts the standards of this section have been met.

.15 Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

Based on the fact that the site is currently developed and that only minor modifications to site are proposed, there will be no adverse impact on historic and archaeological resources. The building elevations show that the addition will be of a consistent architectural style as the parish hall.

Based on these facts the standards of this section have been met.

.16 Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use, and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

The property is not located in a floodplain as depicted on FEMA maps.

Based on these facts the standards of this section have been met.

.17 Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights - of way, and the unnecessary lighting of the night sky.

No changes to the exterior lighting are proposed.

Based on these facts the standards of this section have been met.

.18 Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

While no landscape plan was submitted, the two additions do not require buffering of adjacent uses.

Based on these facts the standards of this section have been met.

.19 Noise

The development must control noise levels such that it will not create a nuisance for neighboring properties.

There will be no increased noise as a result of this project.

Based on these facts the standards of this section have been met.

.20 Storage of Materials

.1 Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

.2 All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

.3 Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

No equipment or material will be stored on site.

Based on these facts the standards of this section have been met.

.21 Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

While no landscape plan was submitted, the two additions do not require additional landscaping to meet the above requirements.

Based on these facts the standards of this section have been met.

.22 Building and Parking Placement

.1 The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

.2 Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

The building and parking placement are existing. The proposal does not alter these features.

Based on these facts the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The site is located within the aquifer protection area; however there are no proposed uses that will adversely affect the aquifer.

206.9 Limitation of Approval

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

STANDARD CONDITION OF APPROVAL:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except de minimus changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

PROPOSED CONDITIONS OF APPROVAL:

1. That all fees be paid prior to the issuance of a building permit.

The Board continued to hear the second portion of application regarding expansions to the Cumberland Congregational Church parking lot; Tax Assessor Map U11, Lots 47 & 48.

Mr. Bergeron, representative, reviewed Sheet C-100 the existing parking conditions at the Congregational Church. Mr. Bergeron stated he had met with staff early in the project to review conceptual plans. Additional parking spaces are proposed in front of the church, along with a reconfigured driveway to provide one-way flow through the site. The new parking layout aims to alleviate current parking issues the Church experiences as it regularly operates beyond their existing parking capacity, often times requiring vehicles to park along Main Street and Blanchard Road. They have received their D.O.T. permit which moves the exit further from the intersection. There will be a net increase of 12 parking spaces for a total of 49 spaces. The large existing trees will be preserved. There will be a 16' wide one-way exit aisle. There will be buffering for the McGowan's house, which have a concern of drainage. The existing drainage pattern will be kept. There has been a question of a spillway during January when there is frozen ground, unfortunately there were not Engineer comments.

Ms. Nixon stated there is a concern regarding the loss of existing green space; she had met with the engineer and Mr. Bergeron. There are three possible plans.

Mr. Bergeron reviewed the three conceptual plans:

Layout 1	Total Parking spaces: 49
	Total Impervious area = 20,138 sq. ft. (.045 acres)
	Existing Impervious Area = 14,508 sq. ft. (0.33 acres)
	Difference of Impervious Area = 5,630 sq. ft. (0.13 acres)

Layout 2 Total Parking spaces: 39
Total Impervious area = 19,590 sq. ft. (0.45 acres)
Existing Impervious Area = 14,508 sq. ft. (0.33 acres)
Difference of Impervious Area = 5,082 sq. ft. (0.12 acres)

Layout 3 Total Parking spaces: 46
Total Impervious area = 20,326 sq. ft. (0.47 acres)
Existing Impervious Area = 14,508 sq. ft. (0.33 acres)
Difference of Impervious Area = 5,818 sq. ft. (0.13 acres)

Mr. Bergeron stated their plan was designed with the entry focal point of the hall and to preserve the view corridor.

Mr. Richards asked about snow storage and the impact to McGowan's. His greatest concern is the concern stated in McGowan's letter.

Mr. Bergeron stated the snow will be plowed to the center.

Mr. Robinson stated he would like the Engineer's to bring back a plan next month, he doesn't object to the plan.

Mr. Vail asked about Church growth and are there more vehicles than in the last 10-years.

Mr. Simonds stated the level has declined a little; the expansion is intended to give more space for events other than Sunday mornings.

Mr. Vail stated the snow should be plowed to the south to keep the center island clear.

Mr. Couillard voiced concern of tree health with the location of the new driveway on Plan # 1. He prefers Plan # 3 to preserve trees and stonewalls.

Mr. Bergeron thanked the Board for their information.

Mr. Ward stated as someone who has driven in and out of the current entrance on a rainy night it is dangerous, and he will look for the safest option.

The public portion of the meeting was opened.

Mr. Ward stated the McGowan's letter should be included in the minutes.

Ms. McGowan's letter:

To: Carla Nixon, Cumberland Town Planner
Members of Cumberland Planning Board

Because I may be unable to attend the 7/15/08 Public Hearing: Minor Site Plan Review: Cumberland Congregational Church for Parking Lot Expansion, I am sending my concerns via e-mail. I live adjacent to the Church at 280 Main Street. As my family of Collins descendents has lived at this location for five generations, we have a good longitudinal view of drainage problems from winter run off from the CCC's parking lot. We had always had a dry basement until the connector between the church and the parish hall was constructed restricting drainage downhill towards what was then the Redmen's Hall and is now Sevee & Maher Engineers, Inc. Snow subsequently was plowed toward our property over a paved lot without drainage which slopes toward our 280 Main Street property, thus causing water from melting snowpiles to flow toward

us. This water was a problem but was not critical until the parsonage, which was situated between our house and the parish hall, was sold by the church and relocated at 111 Blanchard Road. During the first winter after the removal of the parsonage, our cellar was flooded with approximately 18 inches of water. Water that had previously flowed into the parsonage basement and sump pumped out to the Main Street gutter, now flowed into our basement. Hall Thompson, a church deacon, visited and quickly consulted Ralph Oulton, who designed a depression so that water would flow toward Main Street without flowing toward our basement. We have had no problem with drainage since.

When I became aware of the CCC's plans for parking lot expansion, I called Peter Bingham, a church member, to learn the details. He referred me to Bob Simonds and Sally Bancroft with whom I spoke by phone on 4/6 making them aware of my concerns. Subsequently, a meeting on May 6 with Mark Bergeron of Sevee and & Maher Engineer, Inc., Bob Simonds, my husband, and myself was held on the proposed site. Mr. Bergeron reviewed his drainage plan, and we reiterated that rain when the ground is not frozen has not been a problem yet. The problem arises during a winter rain or thaw when a moderate amount of snow is on the frozen ground. My husband and I were not convinced that the proposed drainage would be adequate. Following the meeting, on May 7, we received an e-mail from Mark Bergeron sent to Sally Bancroft and copied to us which stated:

"Based on our meeting last night, we are going to shift the new parking to the south a bit, to save the large elm tree, and to eliminate the need for any stormwater infiltration near the McGowan's property. We will be grading the parking lot away from the McGowan's property, and creating one central infiltration area on the north side of the new parking. Snow will have to be plowed and stored in this infiltration area, and not near the McGowan's property line."

My husband and I are very concerned that adequate drainage be devised. In addition, the removal of trees, the removal of a stonewall, a drive proposed very close to our property line, and diminished green space in the village are also concerns; however, we are most concerned about damage to our property because of inadequate drainage.

Rachel B. McGowan
280 Main Street
Cumberland
207-829-5563

The public portion of the meeting was closed.

Mr. Neagle moved to table the application for Minor Site Plan approval for the Cumberland Congregational Church for parking lot expansions at 282 Main Street; Tax Assessor Map U11, Lots 47 & 48 in the MDR district.

Mr. Richards seconded.

VOTE: Unanimous

The Board took a five minute recess and resumed at 8:55 p.m.

4. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 204.20 of the Zoning Ordinance; Val Halla Golf and Recreation Center Overlay District to add Section: 204.20.4.

204.20.4

Buildings in existence as of the date of adoption of this section 204.20.4 on July __, 2008, shall meet the following lot size and setback requirements: [Amended, adopted __]

- .1 Front: 5 feet
- .2 Rear: 5 feet
- .3 Side 0 feet
- .4 Lot size: 20,000 square feet with sewer and 50 feet of frontage on a street, private way or existing driveway.
- .5 All new buildings exceeding 400 sq. ft. shall require Site Plan Review in accordance with Section 206.

Mr. Shane, Town Manager stated this is back from last month, when, as Mr. Neagle stated, minimum lot size language was missing. The minimum lot size for the duplex building has been amended to 20,000 sq. ft. That is the only change. The Town has a sale pending to the Maine Golf Association, and the Council is looking for a recommendation for its July 28th meeting.

Mr. Neagle moved to recommend to the Town Council draft zoning amendments to Section 204.20 of the Zoning Ordinance; Val Halla Golf and Recreation Center Overlay District to add Section: 204.20.4.

204.20.4 Buildings in existence as of the date of adoption of this section 204.20.4 on July ____, 2008, shall meet the following **lot size and setback** requirements: [Amended, adopted ____]

- .1 Front: 5 feet
- .2 Rear: 5 feet
- .3 Side 0 feet
- .4 Lot size: 20,000 square feet with sewer and 50 feet of frontage on a street, private way or existing driveway.
- .5 All new buildings exceeding 400 sq. ft. shall require Site Plan Review in accordance with Section 206.

Mr. Robinson seconded.

VOTE: Unanimous

5. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 206.8.5 of the Zoning Ordinance. To amend to add new Section 206.8.5.7 which will state:

The Planning Board may waive or modify requirements in Section 417 (Parking and Loading) of the Zoning Ordinance when it finds that the proposed development will not require the number of spaces established in that Section based upon the specific use or conditions of the site.

Mr. Robinson moved to recommend to the Town Council the draft zoning amendments to Section 206.8.5 of the Zoning Ordinance. To amend to add new Section 206.8.5.7 which will state:

The Planning Board may waive or modify requirements in Section 417 (Parking and Loading) of the Zoning Ordinance when it finds that the proposed development will not require the number of spaces established in that Section based upon the specific use or conditions of the site.

Mr. Neagle seconded.

VOTE: Unanimous

6. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 417.1 of the Zoning Ordinance. To amend Section 417.1 to read as follows (added language is underlined and italicized):

417.1 Parking: Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any use is established, except as otherwise approved by the Planning Board under Section 206.8.5.

Mr. Richards asked if a building received a waiver for parking would the waiver go with the change of title.

Mr. Neagle stated yes.

Mr. Richards asked what would change the waiver.

Ms. Nixon stated Section 206 Site Plan criteria would require Planning Board review with an expansion or change of use.

Mr. Neagle stated he was in favor of the amendment which he requested last month, but cautioned the Board should use it sparingly.

Mr. Neagle moved to recommend to the Town Council draft zoning amendments to Section 417.1 of the Zoning Ordinance. To amend Section 417.1 to read as follows (added language is underlined and italicized):

417.1 Parking: Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any use is established, except as otherwise approved by the Planning Board under Section 206.8.5.

Mr. Robinson seconded.

VOTE: Unanimous

7. Public Hearing: To recommend to the Town Council draft zoning amendments to Section 424.12 of the Zoning Ordinance.

Amend Section 424.12 to strike the last sentence: *Internally illuminated signs will only be allowed in the Highway Commercial, and Industrial.*

Add the following: *Internally illuminated signs are not permitted in any district.*

Amend Section 424.3.3: after HC District add *and the Village Center Commercial (VCC) District*

Mr. Neagle asked why they didn't want any illuminated signs in Town.

Mr. Robinson moved to recommend to the Town Council draft zoning amendments to Section 424.12 of the Zoning Ordinance.

Amend Section 424.12 to strike the last sentence: *Internally illuminated signs will only be allowed in the Highway Commercial, and Industrial.*

Add the following: *Internally illuminated signs are not permitted in any district.*

Amend Section 424.3.3: after HC District add and the Village Center Commercial (VCC) District

Ms. Russell seconded.

VOTE: Opposed Unanimous

The Board discussed internally illuminated signs, currently Food Stop and Hazelton's have illuminated signage.

Mr. Ward stated the Board may want to review the entire sign ordinance as he feels it is outdated.

Mr. Neagle moved to table the request.

Mr. Vail seconded.

VOTE: Unanimous

F. Administrative Matters:

Ms. Nixon stated the Board had requested a workshop regarding the Route 100 Design Standards and it should also include the Sign Ordinance.

Mr. Richards asked about the Comprehensive Plan Committee.

Ms. Nixon stated the Committee is in its third year of meeting and is anticipating public meetings in the fall and a draft by the holidays. The two groups should meet together.

G. Adjournment:

Mr. Robinson moved to adjourn.

Mr. Neagle seconded.

VOTE: Unanimous

The meeting was adjourned at 9:20 p.m.

A TRUE COPY ATTEST:

Pam Bosarge, Board Clerk

William P. Ward, Board Chair