

**Planning Board Meeting - Minutes  
Tuesday, March 16, 2010  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine  
7:00 PM**

**A. Call to Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Mr. Ward stated the Board has not met for the last two months due to inclement weather. He introduced April Caron the Board's new member.

Present: Bill Ward, Board Chair, Bob Vail, Vice-Chair, Bob Couillard, Chris Neagle, John Ferland, April Caron  
Absent: Bill Richards

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

**C. Approval of Minutes: December 15, 2009**

Mr. Neagle moved to approve the minutes of the December 15, 2009 meeting.

Mr. Couillard seconded.

VOTE: 5 in favor (Neagle,  
Ward, Couillard, Ferland)  
1 abstain (Caron)

**D. Consent Calendar / Deminimus Change Approvals: Jordan Farm Estates: to add a note to the plan re: future possible road connection, Tax Assessor Map R03, Lots 43A - 43I.**

Ms. Nixon presented background information as follows: The Town Council has accepted the subdivision road (Chet's Way) as a public road. During my review of the request, I found the note that was on the approved plan did not adequately explain the purpose of the area reserved for future connection to the adjacent parcel. The note added to the plan reads: ***The future road extension area is created for potential future use by the Town of Cumberland as a connection between the proposed street and the adjoining properties or streets. This area will not be utilized for construction or drainage purposes and no fill shall be placed without prior Town approval. The area is not to be used as a sole source of access / egress to the abutting property. The recording of this plan will be deemed a dedication to the Town of Cumberland.*** In addition, the plan shows an arrow to the location of the connector road with the words: ***50' wide possible future right of way. See note # 18.***

The Board will need to sign a revised Mylar this evening.

Mr. Neagle stated this is a good idea and he supports the note but there is no such term in or ordinance or in law as "deminimus" and feels it is misleading and suggested using a small change.

Mr. Neagle moved to approve the small change to the plan of Jordan Farm Estates adding the note *The future road extension area is created for potential future use by the Town of Cumberland as a connection between the proposed street and the adjoining properties or streets. This area will not be utilized for construction or drainage purposes and no fill shall be placed without prior Town approval. The area is not to be used as a sole source of access / egress to the abutting property. The recording of this plan will be deemed a dedication to the Town of Cumberland.* And the words: *50' wide possible future right of way. See note # 18.*

Mr. Vail seconded.

VOTE: Unanimous

***E. Hearings and Presentations:***

Mr. Ward stated the Board would move Item # 6 to # 4.

**1. Sketch Plan Review: 3-lot commercial subdivision at Gray Road, Tax Map U21, Lot 1, Andrew Hagerty, Owner, and Applicant; Al Palmer, P.E., and David Titcomb, PLS, Consultants.**

Ms. Nixon presented background information as follows: The land is currently vacant and the developer is proposing to create a commercial three lot subdivision that will have access from Route 100. She has met with the developer, Andrew Hagerty, and his consultants, David Titcomb, PLS and Al Palmer, P.E., and discussed how to best lay out the three lots. While this will be a minor subdivision and does not require the sketch plan review step, she suggested they come in this month to hear the Board's ideas and suggestions. There are wetlands in the front of the property where the 25' landscaped buffer is required.

Mr. Ward noted we have two former members of the Route 100 Committee on the Board: April Caron and Bob Couillard. In addition, Town Councilor Steve Moriarty is present in the audience.

Mr. David Titcomb, PLS reviewed the proposal as follows: The site is located on the westerly side of Gray Road approximately ½ mile northerly from the intersection at Skillin and Blackstrap Road, with westerly frontage along Old Gray Road. It is a vacant parcel with mixed growth and open space, sloping up from Gray Road. The parcel is three acres in size; wetlands encumber the frontage of the property.

The Hagerty parcel and the adjacent parcel owned by Michael and Hilda Record (Tax Map U20, Lot 66) were conveyed from the Estate of Beulah Grant to Roxanne and Philip Hall respectively in 2006; they subsequently conveyed the parcels to Hagerty and Record. Because both parcels were in common ownership in 2006 both lots are technically considered to be part of this subdivision. The Record parcel is not included in the design aspects of this subdivision and is therefore labeled as "Lot A"; then lots 1, 2 and 3, they will not include Lot A as a subdivision package.

Mr. Neagle asked if Lot A was owned by the applicant.

Mr. Titcomb stated no, Lot A was purchased by Michael Record.

Mr. Neagle stated it is great that the issue was raised, he doesn't think Lot A needs to be shown on the plan, however; we should have a note stating the creation of lots 1, 2, & 3 were a division of a larger parcel.

Mr. Titcomb continued, the three proposed lots will have frontage along Gray Road and access to the lots will be achieved from a common drive between Lots 1 and 2 with access easements across the lots. A portion of Lot 1 will be dedicated for use as a stormwater management area. The lots will be serviced by on-site septic systems and public water (it is his understanding the Town will extend the water line from the existing service at Forest Avenue). There will be no design criteria reviewed as there is no development proposed at this time. The lots will be marketed as vacant lots, subsequently at sale of the lots they will need to come back before the Board for site plan review. The detention pond on lot # 1 will be designed based upon anticipated impervious coverage of lots 1, 2, and 3.

Mr. Ward asked the Board for questions or comments.

Mr. Couillard stated he was pleased with one access for safety concerns, and asked if the chicken barn was on the property. He also asked about the look of the detention pond and would it flow down into the culvert.

Mr. Titcomb stated no, the chicken barn is not on the property, the stone wall is between the two properties, which have historically been separate. The detention pond is proposed for the lower southeast corner of lot one. Gorrill Palmer will do the engineering on the detention pond and the pre and post flows will be the same. This pond won't be a visual detriment to the site, there will be a berm along the bottom so the natural topography will act as the back side of the detention pond.

Mr. Couillard asked about the road location for access to the other two lots.

Mr. Titcomb reviewed the anticipated plan and easement adjacent to the wetlands and the easement to the back allowing a building to have first floor access on the Gray road side and second floor access at ground level in the back of the building. There would be parking in the front and back depending upon the building. They would like to propose there be an allowance for some parking in the front. If the use were to be a restaurant you wouldn't want people parking in back, however, with an office building parking in the back would be preferred. The plan is to have limited parking in the front.

Mr. Vail stated these will be relatively small lots, depending on the nature of the use at the next review he would like to see test pits, and septic designs as septic design will be critical depending on use. Certainly there is opportunity for a shared septic design.

Mr. Ferland stated he too served on the Route 100 Committee and has some general questions as he visualizes the property, as a point of fact this is the VCC zone, this is a cornerstone zone of the Route 100 corridor and is an important piece. He salutes the owner for looking to improve the property and bring it into the Route 100 vision. The pond is in the lower corner will it be visible from the road, is it in the wetland or created adjacent to the wetland how will it look?

Mr. Titcomb stated ironically you can't place a detention pond in the wetlands so it will be setback from the wetland and we can discuss buffers if necessary.

Mr. Ferland stated he is trying to visualize what it will look like; he has seen nice looking detention ponds and some that are not so nice. It seems the topography of the site lends itself to some interesting options. While we prefer parking in the rear he is open to parking in the front if it makes sense. He asked if the existence of the wetland and the tree buffer enhance what can be done with the landscape buffer or does it create issues.

Mr. Titcomb stated it creates some real landscape buffer issues, we have to disturb some of the wetlands to access the property which won't require any permits, but it will be difficult to do some buffering because of the wetlands. He doesn't know how the Board feels about leniency on that requirement, unfortunately you can't plant things in a wetland.

Mr. Ferland stated he will need to become more familiar with the site, and asked if the existence of wetlands creates a natural buffer and meets the intent of the Route 100 Standards.

Ms. Caron asked if there would be any curb cuts on Old Gray Road.

Mr. Titcomb stated no they are not proposing any access onto Old Gray Road.

Ms. Caron asked if the parking will be directed from Route 100 to the back of the building.

Mr. Titcomb stated yes.

Mr. Neagle stated he doesn't know the site, but the plan shows an easement to Old Gray Road and if he owned one of these sites are you saying you will prohibit anyone from access onto Old Gray Road.

Mr. Titcomb stated Old Gray Road is an unimproved road, it is gravel, and his understanding is it would create more of a traffic issue if people swung around and exited off from Old Gray Road.

Mr. Neagle stated that was the type of answer he was looking for, and if there will be no access that needs to be noted on the plan. On the issues of buffering and parking he doesn't think those issues are before the Board for subdivision. Those issues will create challenges for site plan applications. His understanding of the application is for permission to divide the property into three lots. It is premature to ask us for help with parking until we know a future use. It will simplify this process if it is just presented as a land subdivision. He encouraged the applicant to keep this review simple. The challenge regarding buffering, setbacks, etc. will be upon development of one the lots.

Mr. Ward stated he assumed the applicant had been given a copy of the Route 100 Standards.

Ms. Nixon stated yes, when she first met with the applicant and his representatives they debated on whether to bring in the application as a straight land subdivision or to include building envelopes, parking locations and so forth. The Design Standards encourage parking on the side or rear, with a goal to not have them lining up front and center. I met today with a landscape architect from SYTDesign whom we have asked to help the Town develop a prototype for the 25' landscape easement which will run along all of the properties along Route 100. The build out of the easement will be the Town's responsibility; we are just requesting that the applicant give us the right to do so, to develop the uniform corridor we hope to achieve. We not only have this application but we also have Mr. Record who owns the abutting property coming in for site plan. This plan was shown to the landscape architect today, and given the fact we can't touch the wetland, the landscape and pedestrian easement would need to be located behind the wetland. The question she has for the Board is are you comfortable with the sidewalk running behind the wetland.

Mr. Neagle asked if the buffer comes up in subdivision or site plan.

Ms. Nixon stated it comes up anytime a parcel is developed, so at site plan; in this case we have three lots created. We could delay this issue until we receive the first site plan. If we want to look at this conceptually as one parcel being split it might be helpful to get a sense on how we want to do that.

Mr. Neagle stated thank you that is very helpful, he will have to look at the property and see what the wetland looks like visually. He could be convinced the wetland is an adequate buffer and not take up 25 additional feet of a difficult site; however, if the Town wanted to put a sidewalk is there adequate room within Route 100 or we would get an easement within the wetland for which the Town might apply to build a sidewalk. It doesn't make sense to have a sidewalk that swings 50' into a site. He would like to explore not tying up too much of a developer's land for an arbitrary standard if we can achieve our goals,

Ms. Caron stated given the level of traffic on that road she would have no issue with the sidewalk cutting into the property, again without a negative impact to the developer. The state of road in that area is terrible, as far as uniformity of look we do not own the road.

Mr. Ferland stated Mr. Neagle has articulated the issues with the property, however, fundamentally if there is a feature of the property that is important environmentally and creates a permitting complexity and can be made part of a development plan so the site becomes attractive and meets the intent of what we are trying to do on Route 100 then he is open to going in that direction. He would like to use the existing natural features as much as possible to meet the criteria within the Ordinance.

Mr. Vail stated the third lot doesn't have much depth, it is less than an acre, it is something to say we want a sidewalk, but another thing to say we need 25' even if it makes the property unusable. We will have to review each instance and make sure we are not adversely impacting development.

Ms. Nixon stated we might want to think of having a site walk in the near future as we have two more parcels coming forward.

Mr. Couillard asked why a sidewalk couldn't be behind on the Old Gray Road, which give access to the houses on Old Gray Road, it is a quieter road than Route 100. He also suggested gated fire access onto Old Gray Road.

Mr. Ward stated the basis for his question is that the Route 100 Standards are fairly new, and we have had one applicant before the Board who stated they had not reviewed the Standards. He wants to make sure the applicants are very familiar with the standards adopted by the Council. Mr. Ward suggested if the applicant didn't have a copy of the standards he should obtain one, and contact Ms. Nixon with any questions. Thank you for your presentation. **The Board took no action.**

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**2. Public Hearing: Minor Site Plan Review: Riding Stable at 49 Whitney Road, Tax Assessor Map R08, Lot 55B, in the Rural Residential 2 (RR2) district; Owner and Applicant Stephen & Debbie Little (Bay View Farm)**

Ms. Nixon presented background information as follows: The applicant proposes to establish a riding stable on the site. There will be no new buildings constructed. An existing barn will be utilized. The applicant has received Board of Adjustment and Appeals approval as a special

exception use within the zone. Site plan review is required because the application establishes a new use.

Mr. Little stated he and Debbie have been Cumberland residents since 2002. Our children are in the 9<sup>th</sup> and 11<sup>th</sup> grades at Greely. They purchased the property at 49 Whitney Road in April 2009. It was finally a place where Debbie could have her horses at home. Debbie has been an instructor and horse trainer for over 30 years. She has worked for others and in 2007 made the switch back to self-employment. She travels to client's homes from New Hampshire to Westport Island assisting them and their horses.

With changes to my employment situation and now having a property that can support it, we decided to move forward with a life-long dream to operate a non-profit business, and give back to the larger community in which we live and work. In late November, Horse and Rider Connection was incorporated and currently our 501(c) (3) application is pending. We want to open our home and personal use horses to people in need. We are planning no additional buildings, additions, grading, or changes to the property. We received a special exception from the Board of Adjustment & Appeals and are before the Planning Board based on Ordinance criteria. "The mission of Horse and Rider Connection is to partner rescued horses with children, teens, and adults who face difficulties due to mental, emotional, or physical challenges. This partnership helps to forge better communication skills, increase self-confidence, and provides the opportunity for them to experience the unconditional love offered by horses".

Mr. Neagle asked the location of the barn on the site plan.

Mr. Little stated the garage is the barn.

Mr. Neagle asked if they would be riding on property other than their two acres and the maximum number of students at one time.

Mr. Little stated no, they would not be riding off site, and the most students might be 4 or 5, and by appointment only.

Mr. Neagle asked if there was adequate off street parking.

Mr. Little stated there is 3,360 sq. ft. of paved off street parking.

Mr. Neagle stated the application is nicely done, and he has no problem with the waiver requests. He asked if a limit on the number of students on site at one time would be a problem, and asked if twenty might be too many.

Mr. Little stated he was open to suggestions.

Ms. Little stated they do have a group van bring people from a group home.

Mr. Neagle asked about six students.

Ms. Little stated six is fine; however, the Center for Grieving Children brings a group, sometimes they do not ride the horses. She asked if they could limit a group to ten with only three horses.

Mr. Neagle suggested no more than twelve students and no more than four horses at one time.

Ms. Nixon stated page four of the application describes the level of use, and if it is expanded they could come back before the Board.

Mr. Ferland stated the Ordinance has a limit: "Section 402 Animals" requires one acre of containment area for the first horse and 10,000 square feet for each horse thereafter. To him the number of horses is not the issue; it is the number of people.

Mr. Neagle stated that is a great point.

Mr. Vail asked about a condition of approval limiting the approval to the Little's and not subsequent owners.

Mr. Neagle didn't agree; this is not a Home Occupation, and the use Riding Stable would continue with the property based on site plan approval of the proposal.

Mr. Couillard agreed with limiting the number of people to between 8 and 10.

Mr. Neagle suggested limiting the number of vehicles, with parking an issue, and suggested no more than six vehicles for the riding stable.

**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 the four waiver requests based on the fact the information was not needed to review this project.

1. 204.7.4.2: Surface water drainage and impact assessment on downstream properties;
2. 207.4.2.5: Landscape Plan ;
3. 207.4.2.6: Location, dimension and ground floor elevation of buildings;
4. 207.4.12: Stormwater calculations/ erosion & sedimentation control plan

Ms. Caron seconded.

VOTE: Unanimous

Mr. Neagle moved to waive the reading of the findings of fact and approve as drafted by the town planner.

Mr. Ferland seconded.

VOTE: Unanimous

Mr. Neagle moved to approve the site plan application on the basis of the materials submitted with the Standard Condition of Approval and a condition that there are no more six vehicles parking on the site beyond the vehicles used by occupants of the property.

Mr. Couillard seconded.

VOTE: 4 in favor (Neagle, Ward,  
Couillard, Vail)  
2 opposed (Caron, Ferland)

### ***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.

***There are no changes to the site.***

*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.

***There will be no changes to 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.

***There will be no changes to 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 existing circulation has been satisfactory and no changes will be made to the circulation pattern.***

*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 are no proposed parking area changes.***

*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 will be no changes to 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.

***There are no changes to the site.***

*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 are no changes to the site.***

*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.

***Water is provided from an on-site well.***

*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.

***Septic is provided from an on-site septic system.***

*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 additional service is required.***

*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 provided evidence of financial and technical capacity in the application packet.***

*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.***

*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.

***There are existing lights over the doorways for safety and security.***

*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 use is not visible from any other properties. No changes are made to the site. 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 exterior noise created 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 materials 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.

***The use is not visible from any other properties. No changes are made to the site.***

***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 will be no changes to the building and parking placement.***

*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 no more than six (6) vehicles be on site at one time, excluding vehicles used by occupants of the dwelling.

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**3. Public Hearing: Minor Site Plan Review: To construct a 20' x 20' addition to an existing 400 sq. ft. concrete block building for use as a local distribution hub at 197 Blanchard Road, (Cumberland Fairgrounds); Tax Assessor Map R07, Lot 8, in the Rural Residential 2 (RR2) and Fairground Overlay Districts, J.T. Hayman, Electrical Contractors, Representative.**

Mr. Ward stated Ms. Nixon has prepared a nice packet; he was concerned when he reviewed the outline with respect to a gas line. As it turns out he spoke with the applicant just prior to the meeting and he has made me aware there are a couple of gas lines. One is a propane tank gas line and the other is a natural gas line. When the presentation is made you will note both the propane line and tank will be moved and the natural gas line does not come into play.

Ms. Nixon stated she took a quick drive out to the site today, it is totally hidden from view, and she shared photos with the Board indicating the size of the building. At the last site plan the applicant was asked to buffer the building, the pine trees are losing their lower limbs, and we might want to enhance the landscaping with different evergreens.

Mr. Jeff Hayman, of J. T. Hayman Electric representing Time Warner cable stated this is his third project for Time Warner. The project is being done to provide redundancy and reliability to keep up with the demand.

Mr. Neagle had no questions.

Mr. Hayman stated he will replace the existing shrubs and there will be a total of eight shrubs.

Mr. Neagle suggested buffering be Frazer Fir or of Christmas tree type.

Ms. Caron had no questions.

Mr. Vail asked if there was a connection to natural gas.

Mr. Hayman stated no, the gas line is parallel with the CMP overhead lines.

Mr. Couillard asked about moving the fence.

Mr. Hayman stated yes, the fence will be moved and extended; there will be a double gate with a fire exit door.

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

Mr. Hayman stated the road or driveway has washed out and his contractors will repair the road and install a small culvert.

Mr. Neagle moved to grant the requested waivers on the basis that the information was not necessary to review the project.

Mr. Ferland seconded.

VOTE: Unanimous

**Waivers granted:**

1. **206.7.3.9: direction of existing surface water drainage across the site & off site**
2. **206.7.4.2: surface water drainage and impact assessment on downstream properties**
3. **206.7.4.12: stormwater calculations/ erosion & sedimentation control plan, etc.**

Mr. Neagle moved to adopt the findings of fact as drafted and to waive the reading.

Mr. Vail seconded.

VOTE: Unanimous

Mr. Neagle moved to approve the Minor Site Plan application for Time Warner Cable with the standard and two proposed conditions:

#### **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 existing buffer trees be replaced with new trees of a type that will sustain long term buffering by not losing their lower branches, e.g., Fraser Firs.
2. That road repairs as described at the presentation are completed.

Mr. Vail 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 small addition will not impact 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.

***There will be no changes to 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.

***There will be no changes to 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 existing circulation has been satisfactory and no changes will be made to the circulation pattern.***

*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 are no proposed parking lot changes.***

*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 will be no changes to 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 minimal additional impervious surface created by the roof of the small addition will not have any adverse impacts.***

*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.

***Appropriate erosion control measures will be outlined in the building permit application.***

*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.

***There is no water to the building; none is required.***

*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.

***There is no septic for the building; none is required.***

*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 additional service is required.***

*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 provided evidence of financial and technical capacity in the application packet.***

*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.***

*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.

***There is no lighting on the site or building.***

*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.

***Additional tree plantings are shown on the plan.***

*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 exterior noise created 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 materials 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.

***Additional tree plantings are shown on the plan.***

*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 will be no changes to the building and parking placement.***

*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.

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Mr. Ward stated the next agenda item would be # 6

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**4. Public Hearing: Minor subdivision amendment to Falls Brook Meadows, to remove Note # 4 on the plan dated 4/26/79: “The land (Lot 1A & 1B) is for single-family residences only and may not be subdivided”. Tax Assessor Map R04, Lot 31B, in the Rural Residential One (RR1) district, Edward Libby, Owner, Applicant.**

Ms. Nixon presented background information as follows: This item is a request from a property owner on Greely Road who would like the Board to remove a note from the subdivision plan approved in 1988 that does not allow his 10-acre lot to be further split. The owner does not want to split the lot at this time; only to have the note removed. In reviewing the minutes from the meeting in which the plan was approved there is not a clear explanation of why the restriction was placed on the plan, by reading between the lines it appears it was because of a concern about the ability of the soils to support another septic system. Given the new septic “technology” it would seem that it might be possible to provide septic for the additional lot, and it would be his responsibility to prove this at the time the lot is proposed to be split. At that time he would need to come back to the Board for a revision to the subdivision plan. The applicant spent some time going through our files and compiled a packet for your review. Ms. Nixon stated she consulted with the Town Attorney, Natalie Burns about this and Ms. Burns said the Board can deny the request and ask that the applicant submit a complete subdivision revision plan that shows the impact of the change. She pointed out that other property owners in the subdivision may have purchased thinking no further splits would occur, but the Board is also able to remove the note. This request is only to remove the note.

Mr. Ed Libby, of 145 Greely Road, applicant clarified that his request is to have the words removed on lot B only and not lot A. He purchased his property four years ago and was aware of the note on the plan. His property is located in the Rural Residential 1 (RR1) district which has a four acre minimum lot size. He was puzzled as to why the restriction had been imposed, and over the past few years has been unable to find any reasoning for it. Recently, Ms. Nixon assisted him in reviewing the minutes to the Planning Board meetings, which revealed no reason whatsoever for imposing this restriction on my property.

A few months ago he attended a meeting at the Town for large land owners. The purpose of the meeting was to inform residents of ways to reduce taxes through tree growth, open space, and farmland. At that meeting he became aware a recent of the recent Fiscal Impact Study conducted by the Town. In reviewing that study one of the things he learned was that the Town was looking to encourage single-family development without burdening the infrastructure with infill development. He thought his property might fit into that category. He read a sentence from the report: "In sum it is clear that the first policy Cumberland should enact to restore its fiscal and demographic balance is to remove all disincentives to construction of single-family homes." There is no more of a disincentive for single family homes then for the Planning Board to impose arbitrarily that the lot cannot be split. I have been in the real estate business since 1987 and during the mid 1980's there was a backlash on development. In 1986 the Town of Cumberland issued ninety housing permits; we haven't seen anything close to that before or since. As I reviewed the file and looked at specifics the people who owned my property were bringing their proposal to divide what was than an 18 acre lot into a 10 and 8 acre lot. There was a question procedurally because the town had enacted a moratorium on subdivisions 1988. The Board decided procedurally to move forward recognizing the applicant had created standing with the Board prior to the moratorium. I say this to give you a sense of what was going on at the time the note was placed on the plan. The paper work that the applicant presented to the Planning Board at the time, showed dog leg shaped lot with an existing house on 18 acres. The 8 acre parcel was a natural split and was identified at Lot 1A. The soils analysis showed marginal soils on Lot 1A, early in the process they were advised a septic variance might be required. The septic design was reviewed by the Department of Human Services who placed a restriction of no further division of the lot. This was recorded in the registry of deeds prior to Planning Board review. The application was specifically to create the 8.5 acre lot. There was no discussion on Lot 1B which is the lot with the existing house on ten acres. When the motion was made it included restrictions on Lots 1A and 1B. There was no review of Lot 1B, tonight I am asking that the Board remove the note with regards to Lot 1B, as he believes it was not the intent of the Planning Board to include Lot 1B, it was a mistake. He has no current plans to divide his lot but perhaps someday in the future he may come before the Board for division.

Mr. Neagle asked if there were currently five lots in the subdivision. If the Board removed the restriction to Lot 1B, when you decide to divide the lot you would still need to come before the Planning Board.

Mr. Ferland asked if it was a matter of principle that it seems unfair and arbitrary for the restriction.

Mr. Libby stated correct, he currently has absolutely no plans.

Mr. Ferland stated he feels like a character on the show *History Detectives*. You have done a great job putting together documentation. It is hard to speculate what might have happened 22 years ago.

Mr. Libby stated if you look at the paper trail which is all we have, the request was exclusively for the 8.5 acre lot, and there was never any request to review Lot 1B.

Mr. Ferland stated he is interested in a resolution, but not sure how to get there, he understands why you would want to get rid of the note, however, at this time there is no foul, no harm. When and if you decide to further divide the property you could come before the Board with details and soils information. There is legal advice to wait and come in with a complete plan, he is sensitive to the issue that neighbors might have purchased in the subdivision with a security there would be no further division of the lots.

Mr. Libby stated he had talked with his neighbors and is not aware of any issues. He does not want to create a lot at this time doing so would increase his taxes. To him the arbitrariness of this and financial impact is real. If I decide to sell my property and a buyer is looking at similar properties this restriction could devalue his property; this is a financial burden. I would like to be on an even playing field with my neighbors.

Ms. Caron asked if it said Lot 1A and Lot 1B could never be subdivided.

Mr. Libby stated no, Lot 1 came in for a division to create Lot 1A, and the soils system required them to not further subdivide Lot 1A, and this restriction was added at the Planning Board.

Mr. Neagle reviewed the plan with Ms. Caron, originally there was lot 1 which consists of what is now Lot 1A and 1B and Lot 3 which has not been further divided, and Lot 2 was subsequently divided into two lots.

Mr. Vail stated if any of the past 22 years is a reflection of his desire to serve, he thinks he will be around twenty-two years from now. He was on the Board at the time and remembers the scenario a little differently. He will vigorously oppose this application for removal of the restriction. This application has far reaching consequences for this community. We are asking to remove a deed restriction that was placed on a lot, when we do that there are ramifications. The Board has acted in the past on other applications as an example on Tuttle Road, where Meredith Burgess lives. The developer had three lots in the subdivision and didn't include this lot in the subdivision. He basically said if I don't get a revision, I will wait five years and then put the lot on the market because it is not part of the subdivision The Board chose at the time to review the lot and have restrictions on setbacks and wetland impacts; this has always been a marginal lot. When lots are created, Pinewood Drive is another good example; there was a house with a double lot with a nicely manicured lot. When the owner sold his original subdivision lot there was a feeling of animosity amongst neighbors. This lot was a lot of record that had been purchased by one owner. Crestwood Road had the same scenario where a purchaser had bought two lots of record and one was sold and another house was built on the lot. I live in a six lot subdivision and three of the lots have deed restrictions to allow no further division; these lots are also in excess of the district minimum. People buy into a subdivision with restrictions expecting lot lines have been determined. He is strongly opposed and this type of thing can be very divisive to neighborhoods. His recollection is different and the Board is being asked to set precedents that have ramifications far out this piece of land.

Mr. Couillard stated he is looking at the Greely Road end of the property which shows 560 feet of frontage is that correct.

Mr. Libby stated yes.

Mr. Couillard asked where his home was located.

Mr. Libby stated it is half way back into the lot.

Mr. Couillard asked if he split the lot where would the division be, noting a concern of wetlands.

Mr. Libby stated he hasn't thought about where and how and has no specifics, he is just asking that the restriction be removed.

**The public portion of the meeting was opened.**

Mr. Kenneth Blanchard of 147 Greely Road stated he was here tonight not to be an obstructionist; he asked for a map of the property, stating Mr. Libby has done more research than he. This land was originally part of his Dad's farm. When the Hemmingway's bought Mr. Libby's property did they purchase two lots.

Mr. Libby stated no it was one lot.

Mr. Blanchard continued with a brief history of his father dividing the land. He asked where another house might be situated, and stated if the family was agreeable with the split he could agree with it.

Mr. Alan Blanchard of 169 Greely Road stated he would feel better with the proposal if there was a plan for the division. He does have a concern anytime a restriction is removed without a plan and would encourage the Board to leave the note on the plan until if and when there is a plan for the property.

**The public portion of the meeting was closed.**

Mr. Neagle asked if the annotations in the minutes were the applicant's comments.

Mr. Libby stated yes.

Mr. Neagle stated we are talking about something not important, you have no plans to subdivide, and if and when you have plans you will have to return to the Planning Board. It will be no more difficult to review a proposed split of the property with or without the note on the plan. We have heard from Town Attorney about potential concerns regarding neighbors. There might be unintended consequences from a tax prospective on a lot that can be subdivided.

Ms. Caron agreed Mr. Libby was aware of the restriction when he purchased the property, and to prevent any unease to the neighbors, she would want to wait for a full application. There is nothing to prevent Mr. Libby from returning to the Planning Board when he has a plan.

Mr. Libby stated the only difference is potential marketability of the property, if two similar houses were on the market someone might choose one with potential of an additional lot.

Mr. Ferland agreed with Mr. Neagle's justification to wait until there was a plan.

Mr. Vail stated when Planning Boards places notes on a subdivision plan it is because the Planning Board doesn't see the deeds. If the applicant comes back for review of a plan the reason

the Planning Board imposed the restriction might come to light. He will move to deny the request due to potential ramifications and potential precedent.

Mr. Neagle stated there would be no precedent set if the Planning Board voted to remove the note and no implications beyond Greely Road and Hillside Ave.

Mr. Couillard agreed with the concern of the unknown potential affect to the entire subdivision. He can't vote for this at this time; and asked about input from other neighbors.

Mr. Ward stated this is a public hearing and all abutters have been notified. The Board has said from right to left the note doesn't affect anything, and may have potential tax implications if removed. He asked the Board for a motion.

Mr. Vail moved to deny the request of Edward Libby to remove the note "The Land Lot 1B is for single-family residences only and may not be subdivided" on Lot #1B of Falls Brook Meadows subdivision, Tax Assessor Map R04, Lot 31B.

Mr. Couillard seconded.

VOTE: 5 in favor (Caron, Ferland,

Ward, Couillard, Vail)

1 opposed (Neagle)

**The Board took a fifteen minute recess at 9:15 p.m.**

**The Board resumed its meeting at 9:30 p.m.**

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**5. Public Hearing: Recommendation to the Town Council on rezoning the portion of Map R07, Lot 53, currently in the Rural Residential 2 (RR2) district to Industrial zone.**

Ms. Nixon presented background information as follows: David Chase, owner of the parcel, would like to have the portion of his parcel that is in the RR2 district rezoned to Industrial. Mr. Chase asks this because approximately 15 - 20% of the property is in the Rural Residential 2 district; which doesn't work very well for a common scheme of development. Ms. Nixon stated in addition having the entire parcel zoned Industrial would solve the problem of his inability to comply with the side setback requirement that applies when an industrial use abuts a non-industrial district. There is an existing building on the parcel that is positioned right on the property line. Because his land straddles the two-zoning districts, he must comply with the setback requirement.

There is a small lot on the corner of Blackstrap and Upper Methodist road that is a single family residence. I met with Mr. Sloat, the owner, and told him what this proposal would mean for him and asked if he would like his parcel included in the rezoning. He did not want to be rezoned and he does not object to this zone change and may in fact at a later date ask that his property be rezoned.

Mr. Ward asked for comments from the Board members.

Mr. Neagle stated this was a good idea.

Mr. Ferland had no questions, stating it seems logical to have the parcel all in one zone.

Mr. Vail and Mr. Couillard and Ms. Caron agreed.

**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 recommend to the Town Council rezoning the portion of Tax Assessor Map R07, Lot 53 currently in the Rural Residential 2 (RR2) district to the Industrial (I) district.

Mr. Vail seconded.

VOTE: UNANIMOUS

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**6. Workshop: Re: Buffering of Industrial / Residential areas in the Industrial Zone.**

Ms. Nixon presented background information as follows: At the December meeting, the Planning Board supported adding and deleting several uses from the Industrial District in West Cumberland. In addition to modifying the list of uses, there was a change to the side setback provision. The side setback language that existed prior to your action that night was: **Side: 20 feet; with a combined width of 50 feet, but neither side shall be less than 100 feet if it adjoins a residential district.** The draft language provided and approved that night was: **Side: 15 feet; Note: where a proposed non-residential use will abut an existing residential zone, the side setback shall be 75'; of which 15' will be a landscaped buffer, consisting of vegetation, fencing or a landscaped berm or a combination of the three.**

At the conclusion of that meeting Rob and Rick Storey approached me to explain they had concerns about this new requirement because in their situation, their property line is within the slope of the pit banking and that to landscape for screening would mean that new trees would need to be over 80' tall to provide screening from the top of the slope. I informed them there would be a "reasonableness" factor applied by the Planning Board, but that is a valid concern and I would consider how to address it. The proposal before you is to make the following change: **Side: 15 feet; Note: where a proposed non-residential use will abut an existing residential zone, the side setback shall be 75' of which 25' will be a landscaped buffer consisting of vegetation, fencing or a landscaped berm or a combination of the three. Provided that within the 15 foot setback, a buffer consisting of vegetation and/or fencing is installed and maintained by the owner.**

Mr. Shane stated the buffering requirement creates a practical difficulty to enforce as the majority of the lots in the VMDR zone already are in the pit or on the edge. To buffer in the gravel pit makes no sense and how would you accomplish this. It sounded like a good idea, however, the property lines are twenty to thirty feet below the top of the banking. The Town is the only useable pit; the buffering is problematic and what purpose would it serve.

The Board discussed the example of Foxes Gore subdivision on Goose Pond Road where the developer installed a berm with trees for buffering from the salvage yard.

Mr. Ward asked if there was any flat land.

Mr. Shane stated all the gravel pits have a 35' slope.

Mr. Ward suggested we refer to a given slope number where the buffering wouldn't apply.

Mr. Neagle moved to recommend to the Town Council the following draft zoning amendment for Section 204.14.4.3 Industrial zone. **Side: 15 feet; Note: where a proposed non-residential use will abut an existing residential zone, the side setback shall be 75' of which 25' will be a landscaped**

buffer consisting of vegetation, fencing or a landscaped berm or a combination of the three. Provided that within the 15 foot setback a buffer consisting of vegetation and / or fencing is installed and maintained by the owner. The Planning Board can waive the landscape buffer when topography of the site makes the buffering useless.

Ms. Caron seconded.

VOTE: UNANIMOUS

**F. Administrative Matters:**

1. Ms. Nixon stated the Board needs to sign the mylar for Jordan Farm.
2. Central Main Power's proposed substation at Raven Farm on Greely Road was at the Board of Appeals last week. CMP requested their application be tabled. The abutters did not think CMP had done a good job communicating with the abutters. We are proposing a joint site walk with the Board of Appeals and will keep you informed on a date and time.
3. Site Walk for properties on Route 100 - we will look at the calendar and inform the Board of a date.
4. Atlantic Regional Federal Credit Union has been sent out to bid, the approved plan failed to show compressor locations. They will determine locations and come to the Board for site plan amendment in April.

**G. Adjournment:**

Mr. Vail moved to adjourn at 10:00 p.m.

Mr. Ferland seconded.

VOTE: UNANIMOUS

The meeting was adjourned at 10:00 p.m.

A TRUE COPY ATTEST:

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William P. Ward, Board Chair

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Pam Bosarge, Board Clerk