

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, May 19, 2015
7:00 p.m.**

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

B. Roll Call:

Present: Chris Neagle, Chair, Gerry Boivin, Vice-Chair, Jeff Davis, Teri Maloney-Kelley, Steve Moriarty, Joshua Saunders, Peter Sherr

Absent:

Staff: Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

C. Approval of Minutes of the April 21, 2014 meeting.

Mr. Sherr moved to approve the minutes of April 21, 2015 as amended.

Ms. Teri Maloney-Kelley seconded.

VOTE: Unanimous 6-0
1- Abstain (Moriarty)

D. Staff Site Plan Approvals:

1. Accessory Dwelling Unit for Judith and Bruce Gagnon of 15 Lawn Avenue to build an attached 720 sf Accessory Dwelling Unit.
2. Accessory Dwelling Unit for Gerald Croce of 40 Forest Lane to build an 820 sf Accessory Dwelling Unit.

E. Minor Change Approvals: None

F. Public Hearings:

1. **Public Hearing: Major Preliminary Subdivision Review:** Cumberland Foreside Village Housing development: Phase I - 45 single family homes and Phase II - 32 unit apartments. Tax Assessor Map R01, Lots 11-7, 11A and lot 12 in the Office Commercial South (OCS) district with contract zone agreement. David Chase, Cumberland Foreside Village, LLC, Owner, Applicant. Tom Greer, P.E. Pinkham & Greer Civil Engineers, Representative.

Ms. Nixon presented background information as follows: The applicant is Cumberland Foreside Village, LLC. The application is for 46 lot major subdivision to be developed in two phases. Phase 1 will be the construction of the access road into the project from Route 1 and the subdivision road on which 45 single family homes will be constructed. The development plan for the second phase has not yet been finalized. There has been discussion of constructing 32 apartment units for seniors. The applicant is also requesting Board approval for site preparation of Lot 46.

The parcel is 27.34 acres in size. It consists of two lots as shown on Tax Assessor Map R01, lots 11-7, 11A and 12. One of the lots (R 01-11A) is currently owned by the Town of Cumberland; there is a Purchase and Sale Agreement dated 2/27/15 on file. The remainder of the land is owned by the applicant.

The underlying zone is Office Commercial South (OC-S) however there is a contract zoning agreement in place which allows for the development to occur as proposed.

The applicant is represented by Tom Greer, P.E., Pinkham and Greer Engineers. The applicant is requesting preliminary subdivision approval at this meeting.

Mr. Tom Greer, P.E. Pinkham and Greer Consulting Engineers, Representative stated he was present with David Chase, Owner, Applicant.

Mr. Greer thanked the Board for attending the site walk. He presented graphics and profiles showing the cuts and fills in the road. We have received a draft MDOT Permit which is being reviewed. The DEP Stormwater Permit comments have been addressed and are ready to re-submit after this evening's meeting. The applicant hopes to be back before the Board for the June meeting.

Mr. Greer summarized responses to the comments raised by the Town Engineer and the Board.

- Section 250-9 Public acceptance of the streets – A note will be added to the plan “The approval of this plan by the planning board does not constitute acceptance by the town of any street, easement, open space area, park, playground, or other recreation area thereon” **The intent is for the roads to be public ways.**
- Section 250-31 – General Street Standards – We request the Board grant a waiver to the classification of the streets. The two streets that have Lots 3 to 22 and 23 to 43 are marginally over the 200 trips per day standards. In interest of minimizing pavement, we request the Board consider reducing the pavement widths from 30 feet to 28 feet. We believe this is in keeping with other Town neighborhoods. The right of way will be reduced from 60 feet to 50 feet.
- B. Layout – A MDOT Entrance Permit is required. William Bray, P.E. is in the process of amending the Traffic movement Permit that will include the new location.
- D. Street signs and names – Traffic control consisting of stop signs and stop bars, sidewalk crossings and street names will be added to the plans.
- Section 250-032 – General Street Standards
- D. As noted we request a waiver from the standard to reduce the width of the pavement and right of way. Radii at the intersection will be confirmed on the drawings. The access drive for the apartment units will be private.
- Section 250-33 – Roadway construction materials
- D. The material depths have been revised to match the Ordinance. The sidewalks will have ADA ramps and detectable warning pads.
- Section 250-40 – Storm Drainage Design Standards.
- A. d. The inverts have been modified and the plunge pool revised. A detail has been provided for the retaining walls. The blasted rock from the site will be used for the retaining walls. The locations of Underdrain Soil Filters (UDSF) 1 and 7 allow for maintenance off the end of the road in the open space. Access to UDSF 3 is between lots 4 and 5, in the storm drain location.

- Section 250-45 – Soil Erosion
- C. An erosion control berm has been added as noted and mesh shown on the slopes. Riprap has been shown at the end of the road conveying water to the UDSF.
- Chapter 242: Stormwater Management
- B. A maintenance Plan will be provided and a Maintenance Agreement with the Town will be signed.

Board Comments:

A plan showing two entrances to Lot 5. The original approval showed the one in the middle of the lot, as temporary in the event the northerly one was added. The northerly one was shown to be future access. The current Plan is to permit the one in the middle of the lot with MDOT, as it provides the necessary separation distances from the current road and driveway for lots 3 and 4.

Portions of the rock wall noted during the site walk will be salvaged and used as an entrance feature. Mohr & Seredin will be developing that detail as part of the final plans.

The phasing of this project has been revised. It is our intent to construct all of the access necessary for lots 1 to 46. This will allow all of the blasting to occur over the next year and reduce the blasting required once the homes are constructed.

We also request the board approve the Site Preparation of lot 46. The development of this lot requires the removal of a significant amount of rock. The blasting of this site will minimize the blasting once homes are occupied. A drawing showing that work will be prepared for the final plans.

Mr. Neagle clarified that the grading and blasting for the future apartment lot will be done with this approval. Mr. Neagle stated he is comfortable with the plan for access for the current proposed use. He might suggest a condition of approval if the lot to the south is developed with residential housing that the access connects as presented.

Mr. Neagle asked if there would be blasting for the foundations.

Mr. Greer stated yes.

Mr. Neagle stated he would request a condition of approval that before foundations are constructed the home sites will be prepared using an engineered fill. The Applicant will fund an independent review and inspection of the home sites.

Mr. Greer stated he would add that note on the final plans.

Mr. Moriarty asked for clarification on lot 46 for the apartments is that a place holder.

Mr. Greer stated it was shown on the sketch plan for calculations for DEP and Stormwater.

Mr. Moriarty asked if the blasting in the area of the apartment would be sufficient for single family housing if it changed.

Mr. Greer stated yes.

The public portion of the meeting was opened.

Mr. Tom Foley of 29 Granite Ridge Road asked if David Chase would construct the road access and would the access road include underground utilities.

Mr. Chase stated yes.

Mr. Neagle referenced the emails from Ms. Coker dated April 16 and May 14 asking if her questions would get answered. Mr. Neagle stated the questions do not go to our review criteria. Applicants come with an engineered design and the Board reviews for accordance with the ordinance requirements.

The public portion of the meeting was closed.

The Board reviewed the waiver requests:

1. Scale of Subdivision Plat
2. Locating trees larger than 10 inches in diameter
3. Classification of Streets; Reduce pavement widths from 30' to 28' (This is for the two streets parallel to Route One and the small connector street at the south end)
4. Reduce Right of Way width from 60' to 50'

Mr. Sherr asked the proposed speed limit.

Mr. Greer stated 25 mph.

Mr. Neagle reviewed §250-19. Waivers and Modifications of the Subdivision Ordinance A. Hardships: Where the Planning Board finds that an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds make a particular standard inapplicable, it may waive these standards, provided that such waiver will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, this chapter or Chapter 315, Zoning, and that such waiver will not endanger public safety.

Mr. Moriarty asked if it was the intention of the applicant that these roads become public ways accepted by the Town.

Mr. Greer stated yes.

Ms. Nixon stated it is the prerogative of the Town Council to accept a road if it is built to standards. The Town would rather have less pavement and supports the request. The Ordinance Committee is working on revised standards for street design as the current pavement requirement is excessive.

The Board reviewed the proposed waiver requests and based on discussion the following motion was made.

Mr. Saunders moved to approve the four waiver requests due to special circumstances of the particular plan.

Mr. Sherr seconded.

VOTE: Unanimous

The Board reviewed the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 250-1

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoil and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;

Parcel is above sea level and not within a floodplain. There is public water and sewer. There is a small stream near Route One that will have a MDEP Stream Crossing Permit. Based on the information provided, the standards of this section have been met.

2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

The subdivision will be served by public water. The Portland Water District has written a letter stating adequate capacity is available to serve the project. Based on the information provided the standards of this section have been met.

3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

The proposed subdivision will utilize public water; Portland Water District has written a letter stating adequate capacity is available to serve the project. Based on the information provided, the standards of this section have been met.

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

The project is being reviewed by Maine DEP and the Town Engineer. Best Management Practices will be used during construction. Based on the information provided, the standards of this section will be met upon receipt of DEP approval.

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

A traffic study was performed by William Bray, P.E. An application for an amendment to the existing traffic movement permit has been submitted to MDOT. An MDOT Entrance Permit is required.

The Board finds the standards of this section will be met with the issuance of an MDOT Entrance Permit.

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

The subdivision will be served by public sewer. There is a letter on file from the Town Manager stating there is capacity for this project. There is also a letter from the Portland Water District stating the same.

Based on the information provided, the standards of this section have been met.

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

The 46 new homes will generate residential waste at a level that will not create a burden on the municipality's ability to dispose of solid waste.

Based on the information provided, the standards of this section have been met.

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

A letter dated 3/16/15 from Maine Historic Preservation Commission stating there are no evident historic features is on file. There is a letter from the department of Inland Fisheries and Wildlife stating there is no evidence of Cottontail habitat.

There will considerable blasting and re-grading needed on site for the construction of the roads and lots. Some site prep work has been approved prior to this application.

There will be a 75' No-Disturb landscape buffer maintained along the Rt. 1 frontage of the parcel.

Based on the information provided, the Board finds the standards of this section have been met.

9. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

The plans have been reviewed by the Town's peer review engineer and town staff.

Based on the information provided, the Board finds the standards of this section have been met.

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

Technical capacity is evidenced by the applicant's use of a professional engineer, surveyor and landscape architect.

A letter dated 3/6/15 from Gorham Savings is on file indicating support for the developer and willingness to work with him on the financing of the project.

Based on the information provided, the standards of this section have been met.

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

None of the above features are present on this parcel.

Based on the information provided, the standards of this section have been met.

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

The subdivision will be served by public sewer and water. There are no other proposed activities associated with the construction of 46 homes that would adversely affect the quality or quantity of ground water.

Based on the information provided, the standards of this section have been met.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

Based on a review of the Federal Insurance Rate Maps, the parcel is located in Zone C- Areas of Minimal Flooding.

Based on the information provided, the standards of this section have been met.

14. Storm water. The proposed subdivision will provide for adequate storm water management;

A stormwater management report was prepared by Thomas Greer, P.E. It was reviewed and approved by the Town's peer review engineer. A Stormwater permit will be issued by MDEP.

Based on the information provided, the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

Wetlands on the parcel were identified and mapped. There are no natural vernal pools on the site. The applicant has designed the project to minimize the amount of impact to wetland areas.

Based on the information provided, the standards of this section have been met.

16. River, stream or brook: Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]
There are no rivers, but there is one stream, that will have a DEP Stream Crossing Permit.
Based on the information provided, the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)
The parcel is not located in the Aquifer Protection District.

The Board reviewed the proposed findings of fact and based on discussion the following motion was made.

Mr. Saunders moved to approve the findings of fact as read and amended.

Mr. Moriarty seconded.

VOTE: Unanimous

Mr. Saunders moved to grant Preliminary Major Subdivision approval for Cumberland Foreside Village Housing a development to include 45 single family home lots as well as one additional lot for which is the proposed for site preparation only including blasting lot (for future 32 apartment units); for Cumberland Foreside Village, LLC, Tax Assessor Map R021, Lots 11-7, 11A and lot 12 in the Office Commercial South (OCS) district with contract zone agreement. This approval is subject to the Standard Condition of Approval, and ten (10) proposed conditions of approval as amended.

Mr. Moriarty 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 by the applicant. Any variation from the plans, proposals and supporting documents, except minor 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.

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.

RECOMMENDED CONDITIONS OF APPROVAL:

1. All fees shall be paid prior to pre-construction conference.

2. A Stormwater Maintenance Agreement for the stormwater management is required prior to the preconstruction conference.
 3. A performance guarantee in an amount acceptable to the Town Manager shall be provided prior to the preconstruction conference.
 4. A preconstruction conference shall be held prior to the start of construction.
 5. All clearing limits are to be staked and inspected by the Town Engineer prior to the preconstruction conference.
 6. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
 7. Before foundations are constructed the home sites will be prepared using an engineered fill. The Applicant will fund an independent review and inspection of the home sites.
 8. If residential housing is developed on land to the south than the roads will be connected to that development.
 9. When the Apartment site to the north is proposed the Planning Board currently expects secondary access developed to the north.
 10. All required MDEP and MDOT Permits will be granted.
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- 2. *Public Hearing: Major Site Plan Review for an expansion to Norton Financial Services for an addition of 3,710 sq. ft. to the footprint of the building and 10,715 sq. ft. parking*** and other impervious surface area at 275 U.S. Route One, Tax Assessor Map R02D, Lot 1-G in the Office Commercial North (OCN) district. BFTE Properties, LLC, Norton Insurance, Owner. Gawron Turgeon Architects and Vafiades Engineering, Representative.

Ms. Nixon stated this application is for an amendment to Norton Financial to construct an addition to the building and parking area. This is the second time before the Board; it was tabled at the March 17, 2015 meeting. The applicant is requesting approval tonight, the two outstanding state permits DEP and MDOT were received today.

Ms. Rachel Schnell, Landscape Architect from Gawron Turgeon stated she is present with Jason from Vafiades Engineering and Rick Doane, Owner. Ms. Schnell reviewed the additions to the building stating they are expanding a fitness center. She also reviewed the traffic circulation and snow storage for the parking expansion. The applicant receives approximately four visitors per day and doesn't have a need for three handicapped spaces.

Mr. Neagle asked if she was asking for a waiver from the parking standards based on square footage of the building.

Ms. Schnell stated there are currently 55 parking spaces and we are proposing 75; the ordinance requires 65 spaces we are adding 10 more than required. Ms. Schnell reviewed the two pods of parking one in front and one in back. The sidewalk will not be connected, because it will not be used. The back parking is for employees only with a private entry accessed by a key code.

Mr. Moriarty stated based on the proposed use for employees he didn't think connectivity of the sidewalks was necessary.

Mr. Sherr agreed based on the proposed use with a key code for employees, but felt if at some time in the future the entrance was used for public access they should come back before the Board for review.

Mr. Davis asked why there was no proposed handicapped parking for employees.

Ms. Schnell stated there is not a current need, and if at any time there was an employee with a disability a handicapped space would be created.

Mr. Doane stated he could make two spaces wider and not strip them, if there becomes a need for handicap parking.

Ms. Schnell stated the applicant is looking for approval tonight with receipt of the MDEP permit as a condition of approval. Ms. Schnell stated there will be no changes to the landscape or lighting plans.

Mr. Davis asked about plants in the snow storage area.

Ms. Schnell stated those were removed.

The public portion of the meeting was opened.

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

The Board reviewed and discussed the three waiver requests, and found based on the special nature of the project the following motion was made.

Mr. Sherr moved to grant the three waiver requests based on the special nature of the project.

Mr. Saunders seconded.

VOTE: Unanimous

1. Hydrogeologic Evaluation
2. Market Study
3. Location of proposed Recreation Areas (parks, playgrounds, other public areas.)

The Board reviewed the proposed findings of fact as follows:

Findings of Fact

Sec. 229-10 Approval Standards and Criteria

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. 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 purchased an adjacent lot for the expansion. Only a small area of which is being utilized. There are large areas of wetlands and a stream on the site. All disturbed areas are outside the wetland areas. The applicant has requested MDEP approval for a reduced stream setback. That approval has not yet been granted.

The Planning Board finds the standards of this section will be met with the issuance of a DEP Permit.

B. Traffic, Circulation and Parking

- (1) **Traffic Access and Parking:** Vehicular access to and from the development must be safe and convenient. *No changes proposed.*
 - (a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
 - (b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

An MDOT Entrance Permit and Traffic Movement Permit are being sent and not yet received.

- (c) The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (d) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (e) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians

hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

- (f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (g) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (h) The following criteria must be used to limit the number of driveways serving a proposed project:
 - 1. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

(2) Accessway Location and Spacing

Accessways must meet the following standards:

- a. Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- b. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

There are no proposed changes to the accessway from Route One; however there will be an increase in the number of vehicle trips related to the new employees.

(3) Internal Vehicular Circulation

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

- a. Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- b. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- c. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- d. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

The Board finds that the sidewalk connecting the two parking areas is not necessary for the proposed use.

(4) Parking Layout and Design

Off street parking must conform to the following standards:

- a. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- b. All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- c. Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

- d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- e. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- f. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

The driveway and parking areas were located and designed to provide safe circulation to the site while minimizing impacts to the surrounding land. Existing grades and vegetation will be maintained to the extent practicable.

(5) Building and Parking Placement

The site is constrained by topography, streams and wetlands. Building and parking placement are located in appropriate areas.

(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 Board finds the standards of this section will be met once the MDOT Permit is received.

C. Stormwater Management and Erosion Control

- (1) 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) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
 - (b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the

rate of flow from the site after development does not exceed the predevelopment rate.

- (c) The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- (d) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- (e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- (f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- (g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

The Town Engineer has reviewed the storm water management plan and recommended a condition of approval regarding maintenance. This has been listed as a condition of approval.

With the proposed condition of approval, the Planning Board finds the standards of this section have been met.

2. Erosion Control

- (a) 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.
- (b) 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.

Slope and wetland impacts were limited. Erosion control will be in conformance with the Maine Erosion and Sediment Control manual will be applied during construction.

The Planning Board finds the standards of this section have been met.

D. Water, Sewer and Fire Protection

(1) 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.

The project will utilize public water. Portland Water District has provided letters confirming capacity to serve.

The Planning Board finds the standards of this section have been met.

(2) Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in 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.

The project will utilize public sewer. Portland Water District has provided letters confirming capacity to serve.

The Planning Board finds the standards of this section have been met.

(3) 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.

All utilities needed for the expanded building and parking area will be underground.

The Planning Board finds the standards of this section have been met.

4. Fire Protection

The plans have been reviewed by the Fire Chief. He has made several recommendations which are listed as proposed conditions of approval.

The Planning Board finds the standards of this section have been met.

E. Water Protection

(1) 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 project is served by public water and sewer. The additional building and parking areas should have no adverse impact on the quality or quantity of groundwater.

The Planning Board finds the standards of this section have been met.

(2) Water Quality

All aspects of the project must be designed so that:

- a. 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.
- b. 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 substances described above will be stored or discharged in a way that could contaminate surface or groundwater.

The Planning Board finds the standards of this section have been met.

(3) Aquifer Protection (if applicable)

If the site is located within the Town Aquifer Protection Area a positive finding by the board that the proposed plan will not adversely affect the aquifer, is required.

The parcel is not located in the Aquifer Protection Area.

The Planning Board finds the standards of this section have been met.

F. 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 parcels are depicted on Floodplain map number 2301620016C, Zone C Area of Minimal Flooding; however the area adjacent to the stream is classified as Zone B – Area of Moderate Flood Hazard. There is no building or parking placement in this area.

The Planning Board finds the standards of this section have been met.

G. 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.

A letter from the Maine Historic Preservation Commission was provided at the time of subdivision approval.

The Planning Board finds the standards of this section have been met.

H. 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.

The photometric plan shows there will be no light trespass beyond the property lines.

The Planning Board finds the standards of this section have been met.

I. Buffering and Landscaping

(1) 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.

(2) Landscaping:

There are no proposed changes to the landscaping plan due to the minimal change in the amount of pavement.

The applicant has submitted a landscaping plan that utilizes the natural site vegetation and grading for buffering as well as additional plantings of trees and shrubs.

The Planning Board finds the standards of this section have been met.

J. Noise

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

The limited building and parking expansion will not create noise that would be a nuisance for neighboring properties.

The Planning Board finds the standards of this section have been met.

K. 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.

There will be no external storage of material. There will be no dumpster located on-site.

The Planning Board finds the standards of this section have been met.

L. 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 retained the services of a professional engineer, architect, landscape architect and surveyor.

There is a "letter of support" on file dated 2/17/15 from Bangor Savings Bank stating that would welcome the opportunity to be a resource to BFTE Properties for financing necessary in connection with this project. Given that there are no public improvements required for this project. This issue is not relevant.

The Planning Board finds the standards of this section have been met.

The Board reviewed the proposed findings of fact as follows and based on discussion and the finding that the Route One Design Guidelines are not standards and do not require findings the following motion was made.

Mr. Boivin moved to approve the findings of fact as amended.

Mr. Moriarty seconded.

VOTE: Unanimous

Mr. Saunders moved to grant Major Site Plan Approval for an expansion to Norton Insurance Services. This approval is granted based on the three waivers granted; the Findings of Fact, Limitation of Approval, Expiration of Approval, Standard Condition of Approval and the nine Conditions of Approval.

Mr. Sherr seconded.

VOTE: Unanimous

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

EXPIRATION OF APPROVAL:

Construction of the improvements covered by any site plan approval must be substantially commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced within 12 months of the date upon which approval was granted, the approval shall be null and void. If construction has not been substantially completed within 24 months of the date upon which approval was granted or within a time period as specified by the Planning Board, the approval shall be null and void. The applicant may request an extension of the deadline to commence or complete construction 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 one-year extensions to the period of 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 by the applicant. Any variation from the plans, proposals and supporting documents, except minor 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.

CONDITIONS OF APPROVAL

1. All fees shall be paid prior to pre-construction conference.
2. A Stormwater Maintenance Agreement for the stormwater management is required prior to the preconstruction conference.
3. A performance guarantee in an amount acceptable to the Town Manager shall be provided prior to the preconstruction conference.
4. A preconstruction conference shall be held prior to the start of construction.
5. All clearing limits are to be staked and inspected by the Town Engineer prior to the preconstruction conference.
6. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
7. A Fire Marshal's Permit must be obtained prior to submission of building permit application.

8. All required MDEP and MDOT permits to be issued prior to Pre-Construction Conference.
 9. This approval is limited to the current use of property and if that use changes substantially the Planning Board shall re-visit the need for a sidewalk connecting the parking areas.
-

3. Public Hearing: Major Subdivision Amendment for lots 5 & 6 of the Bernard Booker Subdivision, Tax Assessor Map R07, Lots 89 & 89J in the Rural Residential 2 (RR2) district. Owner, Applicant Rodney Boyington. Samantha J. Adams, Esq. Representative.

Ms. Nixon presented background information as follows: The Applicant is Rodney Boyington of 33 Long Hill Road, Gray, Maine. The applicant is the owner of a parcel of land in the Bernard Booker Subdivision. The subdivision was created in 1974. This parcel was labeled as Lot 5 on the original plan and was shown as being .88 acres in size. This was a conforming lot at the time. In September the owner applied for a building permit for Lot 5 and was informed that he needed to take some land from Lot 6 (which he also owns) to make lot 5 conforming in terms of lot size (2 acre minimum). This application for subdivision amendment allows for this.

This request is for major subdivision amendment approval to change the size of Lot 5 from .88 acres to 2.03 acres and to adjust the lot lines to accomplish this enlargement. The land is in the Rural Residential 2 zoning district which requires a 2 acre minimum lot size.

Waiver Requests: Note: Section 250-49 of the Subdivision Ordinance allows for waivers when “an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds makes a particular standard inapplicable”. These, if desired, need to be requested by the applicant, in writing: **NONE REQUESTED.**

Mr. Saunders asked for verification on the location of the subdivision.

Ms. Adams, Representative stated the house has been built and the owner is looking for an amendment to the subdivision plan to sell the house.

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

The Board reviewed the findings of fact: The proposal and based on discussion and review of the findings of fact the following motion was made.

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 250-1

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;

- B. The nature of soils and subsoil and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

Parcel is above sea level and not within a floodplain. Soils and passing test pits allow for effective subsurface waste disposal for Lots 5 and 6.

Based on the information provided, the standards of this section have been met.

2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

The subdivision is served by public water.

Based on the information provided, the standards of this section have been met.

3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

The lot line amendment will not impact public water resources.

Based on the information provided, the standards of this section have been met.

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

Maine DEP Best Management Practices will be followed for the construction of the driveway and house.

Based on the information provided, the standards of this section have been met.

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

An entrance permit dated 2-12-13 was granted by MDOT for a single family dwelling.

Based on the information provided, the Board finds the standards of this section have been met.

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

The existing and proposed lots all have passing septic test pits.

Based on the information provided, the standards of this section have been met.

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

The lot line amendment will not create a burden on the municipality's ability to dispose of solid waste.

Based on the information provided, the standards of this section have been met.

9. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

The lot line amendment will not have an adverse effect on aesthetic, cultural and natural values of the area.

Based on the information provided, the Board finds the standards of this section have been met.

9. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

Based upon a review by the Town Planner and Code Enforcement Officer, the plan is in conformance with local ordinances and plans.

Based on the information provided, the standards of this section have been met.

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

Technical capacity was evidenced by the use of a licensed soil evaluator and a licensed surveyor.

Financial Capacity: There are no subdivision public improvements required.

Based on the information provided, the standards of this section have been met.

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

This section is not applicable.

Based on the information provided, the standards of this section have been met.

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

The two lots will be serviced by private septic systems. There are passing test pit locations on each parcel. There are no other proposed activities that would adversely affect the quality or quantity of ground water.

Based on the information provided, the standards of this section have been met.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

Based on a review of the FEMA Flood Insurance Rate Map, the parcel is located in Zone C-Areas of Minimal Flooding.

Based on the information provided, the standards of this section have been met.

14. Storm water. The proposed subdivision will provide for adequate storm water management;

The lot line amendment does not require a stormwater management plan as the two lots are on over 20 acres of land.

Based on the information provided, the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

Based on a review of NRPA maps, Lot 6 has a small isolated wetland in the southwesterly are of the parcel.

Based on the information provided, the standards of this section have been met.

16. River, stream or brook: Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]

All rivers, streams or brooks on the parcel have been mapped.

Based on the information provided, the standards of this section have been met.

SECTION 300 – AQUIFER PROTECTION (if applicable)

The parcel is not located in the Aquifer Protection District.

Mr. Moriarty moved to approve the proposed findings of fact.

Mr. Sherr seconded.

VOTE: Unanimous

The Board reviewed the the proposal and based on discussion and review of the findings of fact the following motion was made.

Mr. Moriarty moved to grant Major Subdivision Amendment for lots 5 & 6 of the Bernard Booker Subdivision, Tax Assessor Map R07, Lot 89 & 89J in the Rural Residential 2 (RR2) district. Owner, Applicant Rodney Boyington, Samantha J. Adams, Esq. Representative. This approval is subject to the Findings of Fact, Standard Condition of Approval and the one (1) Recommended Condition of Approval.

Mr. Saunders seconded.

VOTE: Unanimous

The Board took a five minute recess at 9:00 p.m. The Board resumed at 9:05 p.m.

- 4. *Public Hearing: To recommend to the Town Council Draft Amendments to the Contract Zone for Cumberland Center Group, LLC, Osgood Village Condominiums to amend §II. Permitted Uses***

within the Contract Zone A) (2) Affordable Housing exclusively for occupancy as “~~low income~~” “affordable income” household, which shall have the same meaning as the Federal median income by family size for “~~low income~~” “affordable income” households.

Ms. Nixon presented background information as follows: This is a request from the Town Council for a recommendation on a proposed change to the existing contract zoning agreement between the Town and Osgood Village condominiums on Main Street (next to Louie’s Grille). This change allows for an increased income limit for future purchasers of the two affordable units that are required to be maintained as part of the “public purpose” for the contract zone agreement. With a recent sale, it was found that the definition previously used as “low income” which allowed for an income of up to \$43,200 and changed it to “Affordable” which allows an income of up to \$77,100.00

This is the same income limit as allowed for purchasers of homes in Small’s Brook Crossing, which are similarly priced when offered for sale. If the lower income level is kept, it is not possible for buyers to qualify for a mortgage to purchase a unit at Osgood Village.

Mr. Shane, Town Manager stated the Ordinance Committee approved changing the Osgood Village Income requirements for the two affordable units at Osgood Village on Main Street to the HUD Median Income Standard per the HUD FY2015 Income Limits Summary. This is a change to a Contract Zone agreement, which requires the Planning Board to hold a public hearing and make a recommendation to the Town Council.

The public portion of the meeting was opened.

Ms. Dawn Berman of 7 Village Way stated she is the owner of one of these units. She was not aware of the income restriction at the time of her purchase; she purchased the property 1 ½ years ago. The Low Income limit would not allow her to sell her property.

Mr. Moriarty asked if the unit had appreciated in value.

Ms. Berman stated yes.

The public portion of the meeting was closed.

Mr. Sherr moved to recommend to the Town Council draft amendments to draft zoning amendments to the Town Council as follows: To change the definition of Section II Permitted Uses within the Contract Zone (2) Affordable Housing from “low income” to “affordable income”.

Mr. Saunders seconded.

VOTE: Unanimous

(2) **Affordable Housing:** Two (2) dwelling units of the Project shall be designated and used exclusively for occupancy as “~~low income~~” “affordable income” household, which shall have the same meaning as the Federal median income by family size for “~~low income~~” “affordable income” households as published by the Department of Housing and Urban Development (“HUD”) for the applicable Metropolitan Statistical Area (“MSA”) of Portland – South Portland – Biddeford; and

5. **Public Hearing:** *To recommend to the Town Council draft amendments to the §315-21 F. (3) (d) of the Cumberland Code (d) Outdoor Seating* is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public right of way. Outdoor Seating shall not be counted toward the total seating referenced in F. (3) (a) and shall not require any additional parking. Outdoor Seating shall be permitted up to 16 seats unless the Planning Board finds the unique characteristics of the site allows for additional outdoor seating.

Ms. Nixon presented background information as follows: This is a request from the Town Council and Mr. Shane the Town Manager will present this item.

Mr. Shane reviewed the request stating this change was proposed to the Town Council in response to the owner of Louie's Grille, seasonal outdoor seating would be a patron's choice; it would be a short window during the summer months. It is proposed to have the up to 16 outdoor seating areas not be included in the total 2,500 square footage of the maximum for café's. The proposal would allow up to 16 outdoor seats would not be counted toward the total seating and shall not require any additional parking. The Town Center District location is a location where patrons could ride bicycles or walk. The Ordinance Committee met on site at Louie's Grille and the fence would be extended on the side opposite the condos.

Mr. Neagle stated he was having difficulty with the concept of no parking requirements and voiced concern for the abutters.

Mr. Moriarty stated his comments are not about either café, he is a patron of both; however several years ago he was the Council Liaison to the Main Street Advisory Committee. He stated he couldn't recount how the number 48 seats were derived but there were long deliberations and the overall cap was a reflection of the properties on Main Street. The lots are narrow and the use is mostly residential. He too has difficulty going from 48 seats to 64 without parking.

Mr. Boivin agreed with the concern of parking congestion.

Mr. Sherr agreed he was fine with the language except for no parking requirements.

The public portion of the meeting was opened.

Mr. Doug Currie of 321 Main Street stated he recognized this request was not about Louie's or Doc's he would concur this is a mixed zone issue and asked for consideration of residents who live close by this is a tight space. There is a lot happening on Main Street.

The public portion of the meeting was closed.

The Board discussed the proposed zone amendment and after deliberation and a straw vote regarding the requirement to count outdoor seating in the parking requirements the following motion was made.

Mr. Sherr moved to recommend to the Town Council draft zoning amendments to: §3121 B. (9) Cafes, maximum 2,500 square feet, with no drive-through and in accordance with §315-21 B. (9)

Cafes, maximum 2,500 square footage shall not include internal storage areas and outdoor seating areas. Square footage shall include bathrooms, prep areas, cooking area and dining area.

§315-21 F. (3) Café Standards. (d) Outdoor Seating is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public way. Outdoor Seating shall not be counted toward the total seating referenced in § F. 3 (a). Outdoor seating shall be permitted for up to 16 seats unless the Planning Board finds the unique characteristics of the site allows for additional outdoor seating.

Mr. Saunders seconded.

VOTE: 5 in favor
2 opposed (Moriarty, Neagle)

G. Administrative Matters- None

H. Adjournment: Chairman Neagle adjourned the meeting at 9:45 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Clerk to the Board