

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, July 30, 2015
7:00 p.m.**

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

Mr. Neagle called the meeting to order stating this meeting is a continuation of the July 21, 2015 meeting. He also referenced the letter from the Council regarding the number of votes required to pass an item. The Council voted to require a majority of the members voting and present and it did not take a vote of four members to pass an agenda item. The Planning Board must still convene with a quorum present.

B. Roll Call:

Present: Chris Neagle, Chair, Jeff Davis, Steve Moriarty, Joshua Saunders, Peter Sherr

Absent: Gerry Boivin, Vice-Chair, Teri Maloney-Kelly,

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

C. Approval of Minutes of the July 21, 2015 meeting.

Mr. Moriarty suggested an amendment to the minutes on page two to change from District Attorney to Attorney General.

Mr. Sherr moved to accept the minutes of July 21, 2015 as amended.

Mr. Saunders seconded.

VOTE: 4 in favor
1- Abstain (Moriarty)

D. Staff Site Plan Approvals: None

E. Minor Change Approvals: None

F. Public Hearings:

- 1. Public Hearing: Major Subdivision Review** Cumberland Foreside Village Housing a development to include 45 single family home lots as well as one additional lot for which is proposed site preparation only including blasting (for future 32 apartment units); for Cumberland Foreside Village, LLC, Tax Assessor Map R01, Lots 11-7, 11A and lot 12 in the Office David Chase, Cumberland Foreside Village, LLC, Owner, Applicant. Tom Greer, P.E. Pinkham & Greer Civil Engineers, Representative.

Mr. Neagle reviewed the history of the project as follows:

- Sketch Plan Review: December, 2014
- Site Plan Approval for Site Preparation Activity: 5-19-15
- Preliminary Plan Review (April 21, 2015)
- Site Walk (5/6/15)
- Preliminary Plan Review and Approval: 5/19/15

Ms. Nixon presented overview and 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 (shown as Lot 100 on the plan) has not yet been finalized. There has been discussion of constructing 32 apartment units for seniors. The applicant received Board approval for site preparation of Lot 46 at its May 19, 2015 meeting

The parcel is 27.34 acres in size. It consists of two lots as shown on Tax Assessor Map R 01, lots 11-7, 11 A and 12. One of the lots (R 01-11 A) 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 final subdivision approval at this meeting.

PROJECT DESCRIPTION:

- Zoning: OC-S with contract zoning overlay.
- Subdivision Style: Clustered
- Min. Lot Size: 5,000 sf. (Proposed lot sizes range from 5,914 sf to 8,625 sf.)
- Lot frontage: 50'
- Setbacks: Front: 15 ' ; Side: 9' ; Rear: 15'
- Roadway Road names need to be approved by Town's E-911 Addressing Agents
- Total Parcel Area: 27.34 acres
- Wetland Impact: 107,840 sf
- Road Width: See Waiver Requests Below
- Water: Portland Water District
- Sewer: Portland Water District
- Utilities: The applicant is proposing underground utilities (telephone & electric)
- Lighting: TBD
- Traffic Study: Dated 2/20/15. On file.

• Net Residential Acreage:	Gross site area:	<i>1,191,238 sf</i>
	Actual area for Roads & Pkg:	<i>139,210 sf</i>
	Sustained Slopes > 20%:	<i>319,810 sf</i>
	Wetlands:	<i><u>107,840 sf</u></i>
	Net Residential Acreage:	<i>566,860 sf</i>

124.8 lots permitted based on minimum lot size of 5,000 sf.

Outside Agency Approvals:

- Amended DEP Site Location of Development Permit – on file, dated June 25, 2015
- MDOT Entrance Permit – Letter dated 6/13/15 on file.

DEPARTMENT HEAD REVIEWS:

- **Joseph Charron, Police Chief:** No comments
- **William Longley, CEO:** No comments.

▪ **Dan Small, Fire Chief:**

- A) It is recommended **but not required** that residential key boxes, as approved by the fire department, be provided for each residence.
- B) Due to the close proximity of these buildings it is recommended **but not required in the present building code** that monitored fire alarm systems be provided in each residence.
- C) Due to the close proximity of these buildings it is recommended **but not required in the present building code** that residential fire sprinklers, as approved by the fire department, be provided for each residence.
- D) Street and intersection widths must be accessible for fire department vehicles to operate between on street parking, including during winter months. This is to include the road for the apartment buildings (Longview Lane as marked on the site plan).
- E) Street names will need to be reviewed by town staff due to conflicts with names of existing roads within the community.

WAIVER REQUESTS: *Waivers were approved at 5/19/15 meeting*

Waiver # 1 – Scale of Subdivision Plat.

Waiver # 2 – Locating trees larger than 10 inches in diameter.

Waiver # 3 – Classification of Streets: Reduce pavement widths from 30' to 28'

Waiver # 4 - Reduce Right-of-way width from 60' to 50'.

LANDS AND CONSERVATION COMMISSION:

Date: 4/3/2015

Re: Cumberland Foreside Village Housing (Comments Submitted for Preliminary Application)

The Cumberland Lands and Conservation Commission has reviewed the plan for the proposed major subdivision Preliminary Application. The following are our comments:

The subdivision maintenance responsibility is that of the homeowners association yet there is no officer identified who has that designated responsibility.

The storm water management system is to be maintained by a narrative provided by P&G but no date or permit number is listed or date to be provided. In the by-laws of the homeowners association, page 3, Article IV Sect 3 there is no narrative presented. There is also no compliance monitoring plan, nor an enforcement plan to encourage compliance.

Section 7 is a discussion of the storm water design and build process based upon a model for the overall project, not upon the individual phases, the variations between the build phases and the ability of the model to predict the results accurately. This could become problematic based on the extended and indeterminate periods of project development and completion.

Finally, by definition, the homeowners association will be formed at the time of the first sale but will not be in an organizational or monetary position to assume responsibility for the various tasks at hand. Provision needs to be made for an extended transition period.

TOWN PLANNER'S REVIEW: **All previous comments have been addressed.**

TOWN ENGINEER'S REVIEW: **Dan Diffin, P.E., Sevee and Maher Engineers: 7/13/15**

As requested, Sevee & Maher Engineers, Inc. (SME) has conducted a peer review of the Major Subdivision Application for final approval of the Cumberland Foreside Village off

U.S. Route One in Cumberland, Maine. The application materials were prepared by Pinkham & Greer Civil Engineers (P&G) and consist of a revised drawing set dated June 29, 2015 and copies of the Maine DOT and Maine DEP approvals. SME has also reviewed the comment response letter provided by P&G dated May 12, 2015 prepared in response to comments on the preliminary application package.

Our previous comments have been addressed and we have no additional comments on the submission.

Mr. Tom Greer, P.E., of Pinkham and Greer Consulting Engineers reviewed the project stating the plan is identical to the preliminary plan; we have received DEP and MDOT approvals. We have purchased the land from the Town and have held the pre-construction meeting. The cutting limits have been flagged and we agree with the proposed 8 conditions of approval; these have been added to the plan.

1. All fees shall be paid prior to pre-construction conference.
2. A preconstruction conference shall be held prior to the start of construction.
3. All clearing limits are to be staked and inspected by the Town Engineer prior to the preconstruction conference.
4. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
5. 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.
6. If residential housing is developed on land to the south than the roads will be connected to that development.
7. When lot 100 is proposed for development, the Board expects that secondary access will be developed from Route 1 to Lot 100.
8. All required MDEP and MDOT Permits will be granted.

The public portion of the meeting was opened.

Mr. Tom Foley of 29 Granite Ridge Road stated he was representing True Spring Farm Condominiums. The one concern is paving the road during construction so they are not looking at a construction road and is there a rendition of the entrance details for aesthetics similar to True Spring and Granite Ridge.

Mr. Greer stated pages C-2 & 223 & L1 show the landscape plan. The stone wall that was visible during the site walk will be used on either side of the driveway. He also reviewed the plantings to be used.

Mr. Moriarty asked if the road would be paved during construction.

Mr. Greer stated they will have a binding coat on the road.

The public portion of the meeting was closed.

Mr. Neagle referenced the e-mail from Ms. Maloney-Kelly stating she supports the request made by Tom Foley on behalf of that neighborhood.

Mr. Neagle stated this has been discussed and agreed upon by the developer and the abutter Mr. Foley.

The Board reviewed the findings of fact.

Mr. Sherr moved to approve the sixteen findings of fact as amended at tonight's meeting.

Mr. Saunders seconded.

VOTE: Unanimous 5-0

MAJOR SUBDIVISION REVIEW:

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. 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. When completed, it is anticipated to use 19,250 gallons of water per day. Water will be provided by the Portland Water District. There is a letter on file from PWD dated March 5, 2015 indicating that it will be capable of servicing this 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; there is a letter on file from PWD dated March 5, 2015 indicating that it will be capable of servicing this 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 erosion and sedimentation control plan were reviewed and approved by Maine DEP and the Town Engineer. There is an existing MDOT permit. Best Management Practices will be used during construction.

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;

A traffic study was performed by William Bray, P.E. An application for an amendment to the existing traffic movement permit was applied for and received.

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 subdivision will be served by public sewer. When completed, the proposed project is anticipated to discharge 19,250 gallons of wastewater per day to the Town of Cumberland's wastewater treatment facility. There is a letter on file from the Town Manager stating there is capacity for this project.

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;

When completed, the proposed project is anticipated to generate 80 tons of solid waste per year. All general solid wastes will be disposed of at Eco Maine. The anticipated 2,200 cubic yards of construction debris and demolition debris. All stumps and grubblings are will ground on site and used for erosion control. Construction and demolition debris will be disposed of at Eco Maine.

There is capacity at Eco Maine to dispose of the household waste and the cost for trash removal will be paid by the residents of the subdivision.

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 states 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 or other rare or endangered species. There will be a 75' No-Disturb landscape buffer maintained along the Rt. 1 frontage of the parcel. And there is a 100' wide vegetated Beautification Easement required by the State of Maine Highway Commission.

On the site walk held by the Planning Board it was noted that there are several sections of old stone walls. The applicant has expressed a commitment to relocate these walls as part of the project's entrance feature.

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 and found to be in conformance with all ordinances and plans, as modified by the Contract Zone Agreement.

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

Financial Capacity: The project is estimated to cost \$1,292,840. There is a letter dated March 6, 2014 from Gorham Savings indicating that it intends to provide financing for this project.

A performance guarantee in an amount acceptable to the Town Manager and Town Engineer will be required prior to beginning of construction.

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 45 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.

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; however there is a small stream or brook on the parcel. It is shown on the plan.

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 discussed the proposed conditions of approval and whether number 8 should be eliminated as the developer already has his DOT and MDOT permit.

Mr. Neagle stated if the project is built it will be assumed by a closing attorney that conditions 1, 2 & 3 happened. An outstanding DEP approval may be a concern.

The Board took a straw poll on whether to leave condition # 8 as stated: All required MDEP and MDOT Permits will be granted.

VOTE: 4 in favor of striking # 8

1 opposed (Moriarty)

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 preconstruction conference shall be held prior to the start of construction.
3. All clearing limits are to be staked and inspected by the Town Engineer prior to the preconstruction conference.
4. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
5. 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.
6. If residential housing is developed on land to the south then the roads will be connected to that development.
7. When Lot 100 is proposed for development, the Planning Board expects that secondary access will be developed from Route 1 to Lot 100.

Mr. Saunders moved to grant final major subdivision approval for Cumberland Foreside Village Housing for 45 single family lots and one lot for Site Preparation (for future 32 apartment units) 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. This approval granted based on the Findings of Fact; and subject to the Standard, Limitation and the seven (7) Conditions of Approval.

Mr. Sherr seconded.

VOTE: Unanimous

The Board took a five minute recess at 7:45 p.m. to sign the Mylar.

The Board resumed at 7:50 p.m.

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- 2. Public Hearing: §229 - Site Plan Review and §215-72 Telecommunications facilities of the Cumberland Code.** To review an application to construct a 100' telecommunications tower and equipment shelter at 60 Val Halla Road. Kelly Boden, Representative for Verizon Wireless, Applicant. Town of Cumberland, Owner.

Mr. Sherr disclosed his Brother-in law works for the firm Verrill-Dana; he has had no discussions with him and does not think this will affect his ability to be impartial for this application.

Mr. Neagle stated he once worked at Verrill Dana but has not been there for 11 years.

Ms. Nixon presented background information as follows: This is an application for a new wireless telecommunications facility that will be located on land owned by the Town at Val Halla. The Applicant provided a very complete application and all requirements have been met. In addition, I visited the site twice, once with the applicant, to understand exactly where the leased area is located and also where the pole and equipment shelter will be located. Because there is a need to remove several trees which serve as a buffer to the existing driving range, I suggested, and the Applicant agreed, to plant arborvitaes outside the fenced sideline to the driving range.

The applicant is Verizon Wireless. The Applicant's agent is Kelly Boden, of Verrill Dana, LLP. The Hudson Design Group of North Andover, Massachusetts prepared the site plan.

The request is for Planning Board Site Plan Review for the installation of a 100' tall monopole tower and an 11' x 26' (286 sf) equipment shelter. The applicant is leasing a portion of the property shown on Tax Assessor Map R04, Lot 41 that is owned by the Town of Cumberland. The Applicant has submitted a lease agreement, dated 9/25/15 for 2,400 sf. (40' x 60') and a non-exclusive right for ingress from Val Halla Road to the Land Space and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under or along a ten (10) foot wide right of way from Val Halla Road (with extension to an existing transformer) from Val Halla Road to the Land Space. The agreement is for a 5 year period with four additional 5 year terms.

All utilities will be installed underground. There is no need for water or sewer.

This project is eligible for Major Staff Review under Section 229-2 B (Classification Levels) of the Site Plan Ordinance that states: *The construction of a new structure that contains less than 1,000 sf. and The construction of an impervious surface such as a support pad or paved or gravel parking area and site preparation activities of up to 1 acre of disturbed are, including clearing, grubbing, grading and the construction or reconstruction of driveways and entrances, including driveway culverts. Although this project is eligible for Major Staff Review, as stated in Section 229-1 C Review and Approval Authority, the Town Planner is authorized to "refer a staff review project to the Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources". Given the proposed installation of a 100' telecommunications tower in the center of town, the Planner believes a public hearing and review by the Planning Board is warranted.*

The proposed use is classified as an *Accessory structure of a public utility, subject to Site Plan Review.*

Mr. Neagle asked if the Board of Trustees for Val Halla agreed with the tower.

Mr. Chip Fredette, representing Verizon Wireless thanked the Board for holding this special meeting. He stated he was present with Kelly Boden of Verrill Dana, LLP. Mr. Fredette stated this tower would enhance existing LGE-4G coverage which is lacking in Cumberland. The Engineer designs a search ring for co-location and possible locations. The surrounding towers were not options for co-location. The location at Val Halla was our only option to serve the needs. Verizon has leased a 40' x 60' area behind the maintenance building. There will be an 8' fence around the tower and a 12' x 26' equipment shelter building which will house controls and the backup generator will be run on propane. A balloon test was floated and a view shed analysis was conducted. The engineer drove all public roads to confirm levels of visibility.

Mr. Fredette reviewed the visible sites.

Mr. Neagle thanked Mr. Fredette for his interesting explanation of the process of locating towers.

Mr. Neagle asked Mr. Shane if the Val Halla Trustees had reviewed and approved the proposal.

Mr. Shane stated yes, this has been in the last two budgets.

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

Mr. Neagle thanked the applicant for a complete application.

The Board reviewed the proposed findings of fact:

SECTION 229, SECTION 10: SITE PLAN 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.

10. 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 construction of a 286 sf equipment shelter and the construction of a monopole tower will not adversely affect any sensitive natural areas. All environmental precautions will be taken at the construction site and erosion control measures will be taken.

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

10. B Traffic, Circulation and Parking

10.2.1 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient.

10.2.1.1 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.

10.2.1.2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

10.2.1.3 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.

10.2.1.4 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.

10.2.1.5 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.

10.2.1.6 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.

10.2.1.7 Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

10.2.1.8 The following criteria must be used to limit the number of driveways serving a proposed project:

- a. 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.
- b. 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 access ways must not exceed sixty (60) feet.

10.2.2 Access way Location and Spacing

Access ways must meet the following standards:

10.2.2.1 Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized 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 access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

10.2.2.2 Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

10.2.3 Internal Vehicular Circulation

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

10.2.3.1 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.

10.2.3.2 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).

10.2.3.3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

10.2.3.4 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.

10.2.4 Parking Layout and Design

Off street parking must conform to the following standards:

10.2.4.1 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.

10.2.4.2 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.

10.2.4.3 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

10.2.4.4 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.

10.2.4.5 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.

10.2.4.6 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.

10.2.5 Building and Parking Placement

10.2.5.1 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.

10.2.5.2 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.

10.2.6 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.

Vehicle access will be via an existing access road. There are no changes proposed that would affect traffic, circulation and/or parking. There will be one monthly visit by a technician. The new building and monopole will have no effect on traffic or pedestrian circulation.

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

10. C Stormwater Management and Erosion Control

10.3.1 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.

10.3.1.1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

10.3.1.2 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.

10.3.1.3 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.

10.3.1.4 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.

10.3.1.5 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.

10.3.1.6 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.

10.3.1.7 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.

10.3.2 Erosion Control

10.3.2.1 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.

10.3.2.2 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.

The lot coverage of the proposed facility will not result in any significant new impervious surfaces or stormwater runoff. The facility will be accessed by an existing driveway. BMP standards for erosion control will be utilized.

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

10.4 Water, Sewer, Utilities and Fire Protection

10.4.1 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.

10.4.2 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.

10.4.3 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.

There are existing utilities (water, sewer, electric) on site that will be extended to the new facility. There is no need for water or sewer service.

10.4.4 Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance" once the applicant has met the design requirement of the Town's Fire Protection Ordinance.

The proposed facility will not require a water supply or sewage disposal. All electric and telephone utilities will be installed underground. The building will have a fire suppression system and an alarm system.

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

10.5 Water Protection

10.5.1 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.

10.5.2 Water Quality

All aspects of the project must be designed so that:

10.5.2.1 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.

10.5.2.2 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.

10.5.3 Aquifer Protection

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

The facility will not generate any wastewater or any waste of any kind. The lot coverage proposed will not result in any significant new impervious surfaces or stormwater runoff. No hazardous materials will be used or stored on the site. There will be no extraction of groundwater.

The project parcel is not located within the Town's Aquifer Protection Area; however it is adjacent to it. The above finding of fact shows there will be no adverse impact to the groundwater supply in the area.

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

10. 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 property is located in the Floodplain Overlay Zone C—areas of minimal flooding. No special precautions are necessary in Zone C.

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

10. 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.

The applicant is not aware of any areas of archaeological or historical significance within the project area. There are no apparent historic or archaeological resources in the area of the site where the small equipment shelter and monopole will be constructed.

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

10. 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.

There will be a small, down-directional, motion-activated light over the door of the equipment shelter.

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

10. I Buffering and Landscaping

10.9.1 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.

The leased area will be cleared of all vegetation. All structures will be placed within an 8' tall wooden fence. The Applicant has agreed to place ten 6' tall arborvitaes along the boundary with the driving range.

10.9.2 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 Applicant has agreed to place ten 6' tall arborvitaes and an 8' high wooden fence along the boundary with the driving range.

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

10. J Noise

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

A generator and HVAC units will be installed. The generator will only operate during power outages. Generator testing will occur for approximately 20 minutes each week and will be scheduled at a time agreeable to the Town of Cumberland.

The generator will be placed inside the equipment shelter and during operations will not result in any significant sound outside of the shelter. Were the generator to be placed outside on pavement, it would emit 63 dB at 23'.

There will be two HVAC units installed, however one is a back-up and only a single unit will be operating at any time. The closest property line is just less than 20'. The sound at the closest property line will be 60 dB. Each unit is 39 ½ inches wide by 17 ¼ inches deep and 71 ½ inches tall.

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

10. K Storage of Materials

10.11.1 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.

10.11.2 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.

10.11.3 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 exterior storage of materials and no hazardous materials will be stored on-site.

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

10. 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 application includes information showing evidence of technical and financial capacity.

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

10. M Design and Performance Standards

10.13.1 Route 100 Design Standards

All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ Districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals. ***Not Applicable***

10.13.2 Route 1 Design Guidelines

All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines. ***Not Applicable***

10.13.3 Town Center District Performance Standards

All development in the Town Center District is encouraged to be consistent with the Town Center Performance Standards. ***Not Applicable***

10.13.4 Village Mixed Use Performance Standards

All development in the Village Mixed Use Zone is encouraged to be consistent with the VMUZ Performance Standards. ***Not Applicable***

SECTION 433.4 SPACE AND BULK STANDARDS

a. Tower Height

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

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

The Tower will be 100' tall.

b. Antennas

(1) Height

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

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

Antennas will not be higher than the 100' Tower.

(2) Mounting and dimensions

The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

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

N/A

c. Lot Area

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

d. Setbacks

- (1) All wireless communications towers shall be setback from any lot lines a distance equal to at least 125% of the tower height.
- (2) Equipment facilities shall meet the required District setbacks.
- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.
- (5) There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

Setback requirements have been met. The tower is 247' away from the closest property line and all associated structures comply with setback requirements.

4. CO-LOCATION REQUIREMENTS

a. On existing towers

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

existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

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

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

(d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

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

Appendix F states there are no structures within the search are, including alternative tower structures or existing towers that can accommodate the proposed facility in a manner that will satisfy coverage objectives.

b. Construction of new towers

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

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

N/A

5. INTEREST OF TELECOMMUNICATION ENTITY

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

Verizon Wireless intends to construct the proposed facility for its own use.

6. DESIGN STANDARDS

a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.

The facility will be painted a flat gray color.

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

The equipment facility is located adjacent to the tower. Power will be via underground conduits.

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

This shelter is a one story structure and will be painted a flat gray color.

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

There are no lights proposed.

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

N/A

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

N/A

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

The facility will have 8' high fencing surrounding it.

b. Antenna arrays

Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the

structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

None proposed.

7. LOCATION

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

The tower will be 100' tall and will have a minimal visual impact due to the higher height of the surrounding tree canopy.

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

The facility will be constructed in a previously developed area within the golf course. There are no apparent rare, threatened or endangered plant or animal species.

8. ADDITIONAL STANDARDS AND CRITERIA

- a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
- b. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

The above standards have been met. The tower is only 100' in height, lower than surrounding trees. The equipment shelter will be fenced and arborvitaes planted where an existing tree line will be removed along the existing driving range.

Based on Board discussion and review of the proposed findings of fact for Section 229, §229, §10: Site Plan Approval Standards and Criteria and Section 433.4 Space and Bulk Standards the following motion was made.

Mr. Saunders moved to approve the findings of fact and space and bulk standards as amended.

Mr. Moriarty seconded.

VOTE: Unanimous 5-0

Based on Board discussion and review of the Standard, and Limitation and the three proposed conditions of approval the following motion was made.

Mr. Sherr moved to grant Site Plan and Telecommunications Facilities approval subject to the Standard, Limitation and three conditions of approval: for Verizon Wireless to construct a monopole tower and equipment shelter at 60 Val Halla Road, Tax Assessor Map R04, Lot 41 in the Medium Density Residential (MDR) district.

Mr. Moriarty seconded.

VOTE: Unanimous 5-0

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) 1 year 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 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. The applicant has agreed to place ten, 6' tall arborvitae plants and an 8' tall wooden fence along the northeasterly property line to provide a buffer from the existing driving range where the existing trees will need to be removed for construction of the facility. The location of these plants will be determined at the time of planting by the Town Planner and the Applicant, on-site.
2. Generator testing will occur for approximately 20 minutes each week and will be scheduled for mid-morning during a weekday, or another time agreed to by the Town.
3. Final foundation designs will be developed post approval. Approval of the design by the Town will be required prior to issuance of the building permit.

G. Administrative Matters:

Mr. Neagle stated there was a recommendation the Board made at the May 19, 2015 meeting regarding Outdoor Seating. I think what was reported to the Council was that we agreed it did not require any additional parking review. Mr. Sherr has said that is not what he voted on.

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.

Mr. Neagle thought what was conveyed to the Council was we agreed it did not require any additional parking. Mr. Sherr has asked more than once to discuss what was voted. I believe there was confusion with the motion.

Mr. Sherr stated we struck the parking requirement language with the intent that whatever ordinance was in place at the time required x number of parking for x seating would still be in play. Regardless of how many seats were allowed between outdoor and indoor; parking would still be required.

Mr. Saunders stated we weren't going to modify the seating requirement.

Mr. Sherr stated the parking requirement would remain based on the number of seats period, regardless whether it was indoor or outdoor. My intent was that it would still require parking.

Mr. Neagle stated he is looking at the minutes from the meeting. Peter's motion struck that clause as the motion was written. My understanding is we sent a recommendation on to the Town Council which may or may not have reflected the majority sentiment. My understanding was the Council adopted the language with the wording not to require any additional parking.

Below is Mr. Sherr's motion on May 19, 2015.

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)

Mr. Davis stated we decided to allow outdoor seating and it would not be counted in the total seating numbers but it would require additional parking.

Mr. Shane stated that is incorrect, the Council was made full aware of your recommendation which was to include review for additional parking. The Council chose not to accept that recommendation.

Mr. Neagle stated it appears the minutes are correct and it was one of the rare times the Council decided not accept our recommendation.

Mr. Sherr misunderstood; he thought Council had not heard what the Board recommended at the meeting.

Mr. Neagle stated the Council heard our motion and the Council made their own decision.

Mr. Sherr stated based on the testimony from the Town Manager he is all set.

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

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Clerk to the Board