

**PLANNING BOARD MEETING  
TOWN OF CUMBERLAND  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine 04021  
Tuesday, November 18, 2014  
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, John Ferland, Vice-Chair, Teri Maloney-Kelly, Gerry Boivin, Peter Sherr

***Absent:*** Jeff Davis, Joshua Saunders,

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

**C.     *Approval of Minutes of the October 21, 2014 meeting.***

Mr. Boivin moved to approve the minutes of October 21, 2014 as amended.

Ms. Teri-Maloney-Kelly seconded.

VOTE: 5 in favor

**D.     *Staff Site Plan Approvals:***

- 1.   *Re-location of Twin Brook Storage Building from Tuttle Road side of the property to Greely Road side; 185 Tuttle Road, Tax Assessor Map R03, Lot 13 in the Rural Residential 1 (RR1) district. Owner, Town of Cumberland.***

Ms. Nixon stated the storage shed that was moved required no site work. The building is currently on skids and will remain on the metal skids.

- 2.   *Accessory Dwelling Unit for James Seely at 15 Jessie's Lane to add a 1,040 sq. ft. accessory dwelling apartment to an existing barn for a family to use; Tax Assessor Map R01, Lot 60C in the Rural Residential 2 (RR2) district.***

Ms. Nixon stated the existing finished space above the barn will be converted to an apartment for family to use when visiting for the holidays. The project meets the requirements for an accessory dwelling unit.

**E.     *Minor Change Approvals: None***

**F.     *Hearings and Presentations:***

Mr. Neagle took the items out of order as follows:

- 1.   *Public Hearing: Minor Site Plan Review for construction of a 3,925 square foot building at Main Line Fence, 268 Middle Road, Tax Assessor Map R02, Lot 42 in the Rural Industrial (RI) district. Representative: Bob Vail. Owner: Main Line Fence.***

Ms. Nixon presented background information as follows: The applicant is Main Line Fence. The owner is Ryan Cianchette. The applicant is proposing to remove an outdated metal building and replace it with a new, 1-story wood frame building. The building will be 4,224 (40' x 80') and will be used as unheated

fabrication space. The 2.75 acre parcel is located at 268 Middle Road and is shown on Tax Assessor Map R02, Lot 43 in the Rural Industrial (RI) zoning district

The project requires Planning Board Site Plan Review because it involves the construction of a new structure that is greater than 3,000 sf. The use is classified as light manufacturing; this is a permitted use in the Rural Industrial district.

This project involves the replacement of an existing structure with a new structure that is only 200 sf larger, therefore most of the proposed findings of fact reflect the minimal impact associated with this project.

**Aquifer Protection Area:** No.

**Zoning:** Rural Industrial (RI)

**Employees:** 10 employees (no change)

**Days & Hours of Operation:** 8 a.m. to 5 p.m., Monday through Friday

**Financing:** Private

**Outside Agency Approvals:** None

**REVIEW COMMENTS:** Due to the minor impact of the project, no reviews were done by the Town Engineer or Department heads.

Mr. Vail, representative stated he was present with Ryan Cianchette. Mr. Cianchette is a long time business owner for the last fifty years. There are four buildings on the property the center building is metal with no insulation. The business has changed over the years to 30% commercial.

Mr. Cianchette, owner stated he would like to build a more efficient building with added machinery and insulation to extend the use of the building. Currently the business slows down in November. The proposed new building with insulation and an additional 1,000 square feet will be more efficient and allow him purchase additional machinery.

Mr. Neagle asked for clarification on which building will be replaced.

Mr. Cianchette stated the one in the middle; the metal building was built in the 70's to be used as a cedar shop.

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

Mr. Ferland moved to approve the findings of fact as presented.

Ms. Maloney-Kelly seconded.

VOTE: Unanimous 5 – in favor

### **Findings of Fact:**

#### **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.

**There are no identified natural areas on the site. No trees will be removed. The new structure will replace an existing structure which is 200' sf smaller in size.**

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

B. Traffic, Circulation and Parking

(1) Traffic Access and Parking: Vehicular access to and from the development must be safe and convenient.

- (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.  
N/A
- (b) Points of access and egress must be located to avoid hazardous conflicts with  
N/A
- (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.  
N/A
- (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.  
N/A
- (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.  
N/A
- (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.  
N/A
- (g) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.  
N/A
- (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.

**An existing driveway from Middle Road will be utilized to access the site.**

(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.

**No changes proposed.**

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

**No changes proposed.**

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.

**No changes proposed.**

- 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).

**No changes proposed.**

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

**No changes proposed.**

- 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.

**No new roads proposed.**

(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.

**No additional parking is proposed or required; there will be no increase in the intensity of the use.**

(5) Building and Parking Placement

**The building is located in an appropriate area on the site.**

(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 new building is to be used for fabrication and replaces an existing building; there is no need to provide a pedestrian way.**

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.

**Due to the fact that there will be only a net increase of 200' of impervious surface, a stormwater management plan was not required.**

**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.

**The contractor will utilize Best Management Practices in the construction of the building.**

**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.

**There is public water on the site.**

**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.

**There is existing sewage disposal on site.**

**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.

**There are utilities on site, but they will not be connected to the new structure.**

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

4. Fire Protection

**The new structure will have fire and smoke alarms and there is a knox box on site.**

**The Planning Board finds this standard has 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 above is not applicable to this project.**



**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.

**The applicant states that there will be none of the above materials stored on site.**

**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 site is not located in an 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 property is not located in a flood hazard area.**

**The Town Planner 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.

**The site is already developed with a building that is being replaced. There are no apparent historic or archaeological resources on the site.**



**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.

**No lights are proposed.**

**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:**

Landscaping must be provided as part of the 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.

**There is no buffering or landscaping proposed as the project involves the replacement of one building with another that is in the middle of a connected group of buildings.**

**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 use involves the fabrication of fencing in an interior, insulated space. It is not expected that the use will create 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 is an existing dumpster 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.

**Technical Capacity:** The applicant has hired an experienced contractor, Bob Vail, to construct the building.

**Financial Capacity:** The cost will be covered by the applicant's business funds.

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

Mr. Ferland moved to approve the Minor Site Plan for construction of a 3,925 square foot building at Main Line Fence, 268, Middle Road, Tax Assessor Map R02, Lot 42 in the Rural Industrial (RI) district. This approval is subject to the Limitation of Approval, Standard Condition of Approval and the One Condition of Approval.

Mr. Boivin seconded.

VOTE: Unanimous – 5 in favor

**LIMITATION OF APPROVAL:**

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

**STANDARD CONDITION OF APPROVAL:**

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted 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. That a building permit be obtained prior to the start of construction.
2. ***Public Hearing: Major Site Plan Review for Liberty Farms, LLC Commercial Growers to construct two 150' x 30' greenhouses at 93 Lower Methodist Road, Tax Assessor Map U18, Lot 6C in the Rural Residential 2 (RR2) district. Applicant, Owner: Megan Williams Vietor, Liberty Farms, LLC.***

Ms. Nixon presented background information as follows: Megan Williams Vietor is the owner and applicant of Liberty Farms, LLC, which is a year-round wholesale commercial grower of organic produce. Ms. Williams Vietor resides and operates the business at 93 Lower Methodist Road, as shown on Tax Assessor Map U-18, Lot 6C. The 5 acre parcel is located in the Rural Residential 2 (RR 2) zoning district. The proposed use, agriculture, is a permitted use in the district. The applicant proposes to construct three structures on the property as part of Phase 1 of the development which will consist of two greenhouses and a washing station. There are three existing structures on the site: a single family home, a shed and a chicken coop. Phase 2 of the development will involve the construction of two additional greenhouses and a small barn.

This project requires Planning Board Review because it involves the construction of a new structure over 3,000 sf.

**TOWN PLANNER'S REVIEW:** All review comments were addressed by the applicant prior to completion of this review.

**DEPARTMENT HEAD REVIEWS:** No comments received.

**TOWN ENGINEER'S REVIEW:** The application was not sent out for peer review.

**WAIVER REQUEST:** The applicant requests a waiver from the requirement that utility lines be placed underground.

Ms. Vietor, Applicant stated she has resided in Cumberland for over ten years. Her goal is to farm the land. There will be no foundations installed. Her business goal is to supply fresh produce year round. She will have seasonal gardens growing on the adjoining land.

Ms. Maloney-Kelly stated she had a resident of Lower Methodist Road ask her questions about the application prior to seeing the agenda. She did not have any information and doesn't feel it will affect her ability to review the application.

Mr. Neagle asked for clarification on how far back the greenhouses will be placed from the road.

Ms. Vietor stated they will be in compliance with the setback requirements, forty-five to fifty feet.

Mr. Neagle stated he would recommend as a condition of approval that there be only one drive in and out of the site.

Mr. Ferland asked if the proposed lighting would have full cut application on the wall pack motion lights.

Ms. Nixon stated the fixture will be full cut off similar to the new lights on the bridge at Martin's point.

Ms. Maloney-Kelly asked if there would be fans for circulation and asked about noise.

Ms. Vietor stated there will be heaters with a fan during the winter; these will not be heard outside the greenhouses.

Mr. Neagle asked about buffering.

Ms. Vietor stated there are existing birch trees and additional buffering will be added along the Couillard's property.

Mr. Neagle stated as a condition of approval he would recommend the planting buffer, vegetation on the Couillard property to meet Couillard's satisfaction.

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

Mr. Bob Couillard of 55 Lower Methodist Road stated he had discussed the project with Ms. Vietor and he understood the following summarized the proposed project.

- The operation would be for wholesale distribution, and not open to the public.
- Motion sensor lights – He is alright with this proposed lighting.
- If business fails would the buildings be removed?
- Medical Marijuana is not planted in the greenhouses.
- The parking lot is to be located on the road side of the property.

Mr. Couillard stated he has no issues with the application if the above comments are correct.

Mr. Neagle stated the Planning Board does not intend to require the building to be removed. And the Planning Board cannot limit what can be grown in the greenhouses.

Mr. Ferland stated it is important to hear neighbor concerns, and thanked Mr. Couillard for the great job of talking with the applicant to understand the project.

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

Mr. Sherr moved to approve the waiver request to not require new utilities to be underground.

Mr. Ferland seconded.

VOTE: Unanimous – 5 in favor

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

Ms. Maloney-Kelly seconded.

VOTE: Unanimous – 5 in favor

**Findings of Fact:**

**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.

## **10.1 Utilization of the Site**

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

*The site is currently improved with a single family home, a shed and a chicken coop. The proposed agricultural use is appropriate for the site, as is the scale, location and type of construction of the new structures. There will be no excavation required as the greenhouses will not have foundations. The soil beneath the structures will be planted with produce. No environmentally sensitive areas will be affected by the development of this site as proposed. The Planning Board finds the standards of this section have been met.*

## **10.2 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.

*The submitted site plan and application shows that the proposed project complies with all the above criteria. The business will not be open to the public. A small gravel parking area will be constructed near the proposed greenhouse. There will be a maximum of 5 employees.*

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

#### **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.

*The submitted site plan and application shows that the proposed project complies with all the above criteria.*

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

#### **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.

*There are no internal roadways for this project. There will be a short gravel drive connecting the small parking area to the greenhouse for the transport of plants from the greenhouse to the washing station.*

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

#### **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.

***There is parking for 6 vehicles. There will be five employees. Additional parking is available at the house. The submitted site plan and application shows that the proposed project complies with all the above criteria.***

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

#### **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 to 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.

***The submitted site plan and application shows that the proposed project complies with all the above criteria.***

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

#### **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.

***There will be very little general pedestrian circulation as the business is not open to the public. The 5 employees will be able to get around the site safely. There are no street sidewalks to connect to. The submitted site plan and application shows that the proposed project complies with all the above criteria.***

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

## **10.3 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.

***Stormwater runoff will sheet flow off the greenhouse roofs; there will be no gutters channeling the water. There will be a drainage pipe that collects the water and directs it downhill to a stream.***

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

### **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.

*There will be no excavation for the structures. No trees will be removed. All provisions of the Maine Erosion and Sediment Control Handbook will be complied with.*

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

## **10.4 Water, Sewer, 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.

*There is an existing well that will be utilized, in addition to water collected in 6 rain barrels that will be used for irrigation. There is a sizeable aquifer in this area and water quantity is expected to be more than sufficient.*

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

### **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.

*The existing septic system is sized for a 4 bedroom home. There are only 2 occupants in the house. There is adequate capacity for the proposed use. An HHE-200 is on file.*

*The Town Planner finds the standards of this section have been met.*

### **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.

***Electrical lines will run overhead from an existing CMP pole approximately 20' to the greenhouses. A waiver has been granted.***

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

#### **10.4.4 Fire Protection**

The Fire Chief or his/her designee shall review the site plan for conformance with the Fire Protection Ordinance and may provide the Town Planner a list of suggested conditions of approval.

***The greenhouses will not be lived in. There is public water at the Morrison's Hill Subdivision next door.***

***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.

***The proposed use will not require 2,000 + gallons of water per day. The site is located over a sizeable aquifer, so water supply is not a concern.***

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

#### **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.

***There will be no storage of hazardous materials that would adversely affect the quality of groundwater. The only waste that the farm will create will be in the***

*form of organic waste that will be recycled into a composting system and used to replenish the soil for replanting of crops.*

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

**10.5.3 Aquifer Protection**

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 site is located in an aquifer protection area. The proposed use will not adversely affect the aquifer as it is a certified organic produce operation.*

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

**10.6 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 Ordinance.

*The site is located in an area of minimal flooding (Class C) as shown on the FEMA floodplain map #230162-0015 B.*

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

**10.7 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.

*There are no apparent historic or archaeological resources on the site. There will be no excavation. The submitted site plan and application shows that the proposed project complies with all the above criteria.*

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

**10.8 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 site plan shows wall pack lights over each door of the two greenhouses and 1 light on the side of the second greenhouse that will illuminate the area between the two greenhouses. They will be motion activated. A condition of approval is for the fixtures to be full cut-off style so that light is directed downward.*

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

**10.9 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.

**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 site is already developed with a single family house and there is landscaping in that area. There is an extensive buffer of mature pine and birch trees around the perimeter of the site. The greenhouses will not be visible to abutting property owners.*

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

**10.10 Noise**

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

*The applicant states that the proposed use will be clean and quiet and used as a wholesale location for growing and distribution. As such, use will not create a nuisance for neighboring properties.*

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

**10.11 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 storage areas or trash receptacles located outside on the site. The applicant does propose to place 6 rain barrels on the southerly side of the site to be used for crop watering. The submitted site plan and application shows that the proposed project complies with all the above criteria.*

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

**10.12 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 conducted extensive research in the organic gardening business. Her farm has been certified as organic by the Maine Organic Farmers and Gardeners Association.*

*The applicant is using private funds and is applying for small business loans to finance the operation.*

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

**10.13 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

**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.

**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.

**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.

*None of the above design or performance standards apply to this project.*

Mr. Boivin moved to approve the Minor Site Plan Application for Liberty Farms, LLC, Commercial Growers to construct two 150' x 30' greenhouses at 93 Lower Methodist Road, Tax Assessor Map U18, Lot 6C in the Rural Residential 2 (RR2) district. This approval is subject to the Limitation of Approval, Standard Condition of Approval and the five Conditions of Approval as amended.

Ms. Maloney-Kelly seconded.

VOTE: Unanimous 5- in favor

**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.

**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.

### **PROPOSED CONDITIONS OF APPROVAL**

1. A building permit is required.
2. Full cut-off style light fixtures are required.
3. Driveway access to be one point of vehicular access from Methodist Road to proposed parking lot and driveway.
4. Planting more buffer vegetation on the Couillard side of the property to meet the Couillard's satisfaction.
5. The structures will be located on site to meet appropriate setbacks within the Rural Residential 2 (RR2) zoning district.

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***3. Public Hearing: Preliminary & Final Major Subdivision Review for a 10-lot subdivision at 179 Foreside Road, a portion of Tax Map R01, Lot 2 in the Low Density Residential (LDR) district; Owner: Spears Hill, LLC. Applicant: 179 Foreside LLC. Applicant's Representative: Joe Laverriere, P.E., Fay, Spofford & Thorndike.***

Mr. Ferland stated he is an abutter to this property and asked to be recused as he did at the last meeting.

Mr. Sherr stated his firm has previously worked with members of the applicant's team. He has not worked on this project or had any conversations regarding the application and felt his previous relationship would not affect his ability to review the project.

Ms. Nixon presented background information as follows: The applicant is requesting both preliminary and final approval at this meeting. The project appears ready for these approvals, with the proposed conditions.

The applicant is 179 Foreside, LLC. The applicant has a purchase and sale agreement with the owner of the property, Spears Hill, LLC. The applicant is requesting Preliminary Plan Review of a proposed major subdivision. The 102.8 acre parcel is located at 179 Foreside Road as shown on Tax Assessor Map R-01, Lot 2 in the Low Density Residential (LDR) zoning district. Joseph LaVerriere, P.E. of Fay, Spofford and Thorndike is the design engineer; Nathan Bateman is the representative.

The proposed subdivision must adhere to all pertinent provisions of an existing conservation easement with the Chebeague and Cumberland Land Trust. The purpose of this easement is to protect the significant scenic, natural ecological, wildlife habitat and open space values of the property while permitting a total of 10 residential building lots within designated building areas on the site. Therefore, seven "new" single family house lots and three existing single-family homes will comprise the 10 lot subdivision.

### **PROJECT HISTORY:**

Sketch Plan Review: August 19, 2014. Board requested a copy of the conservation easement with the Chebeague and Cumberland Land Trust be included in the application. (Copy included in application packet).

Site Walk: September 10, 2014

Preliminary Plan Review: October 21, 2014: Tabled by Board

### **DESCRIPTION:**

Parcel size: 102.8 acres

Net Residential Density: 62.66 acres

Land to be retained by Owners: 8.81 acres (*see Planner's comments below re: labeling of lots*)

Total number of lots allowed per the conservation easement is 10, otherwise 31 lots would be allowed).

Proposed number of lots: 9

Zoning: Low Density Residential (LDR) (portions of the parcel are also located in the Limited Residential Shoreland Overlay District and Resource Protection Shoreland Overlay.

Development Type: Traditional Subdivision

Min. Lot Size: 1.5 acres (served by sewer)

Lot frontage: 150'

Setbacks: Front = 50', Rear = 65', Side 30' (combined = 65')

Water and Sewer: Portland Water District

Open Space: 38.5 acres

Trails: Are shown on Sheet C 5.0; they will be added to the recording plat.

Utilities: Underground electric, telephone and cable from Route 88

Street Lighting: A new street fixture will be added to the existing service pole at the entrance to the site.

Road: All roads have a 50' ROW. The entrance road from Rt. 88 into the subdivision is 20' wide with 2' gravel shoulders. The road that turns left at the stone pillars (Spears Hill Road) is 18' wide with 2' gravel shoulders. Beach Road is 18' wide with varying gravel shoulders ranging from 2' to 4'.

Sidewalks: There are gravel shoulders that vary in width from 2' to 4'.

Homeowners Association: Draft homeowners' documents are on file.

Right, Title and Interest: Option to Purchase (Attachment A)

Waivers: See below.

Outside Agency Approvals Required:

Agency	Type of Permit	Status
MDEP	Stormwater Permit	Pending
MDOT	Entrance Permit	On File
Maine Historic Preservation Commission		Letter dated 9-25-14 on file. Phase 1 prehistoric arch & historic arch.
Maine Natural Areas Program		On File
Maine Inland Fisheries & Wildlife		Letter dated 10-10-14 on file.
Penobscot Nation		No known resources

## REVIEW COMMENTS

- DEPARTMENT HEAD REVIEWS:**  
**William Longley, CEO:** No comments  
**Chris Bolduc, Operations Director:** No comments

**Police Chief Charron:** No comments

**Fire Chief Small:** Hydrant locations within the subdivision appear to be appropriate.

- 1) The location and style of street numbers shall be compliant with the Town of Cumberland's "Street Names and Property Numbers" ordinance.
- 2) It is recommended but not required that residential key boxes, as approved by the fire department, be provided for each residence.
- 3) It is recommended but not required that monitored fire alarm systems be provided in each residence.

**Comment dated 11-12-14: I have reviewed the resubmittal of the Spears Hill subdivision. The changes that were made by the developer, with Bill Shane's approval, don't appear to impact my original comments.**

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

**CUMBERLAND LANDS AND CONSERVATION COMMISSION REVIEW:**

(NOTE: No comments were received for the 10-21-14 meeting).

Comments for November 18, 2014 meeting, along with design engineer's responses are below:

#### **Waivers**

Road grades are excessive given that there are non-paved roadways.  
Side walk or walkway should be required for "Beach Road", since the parking lot is distant from the beach area.

#### **Technical Capacity**

Homeowner Association proposed to own and maintain all private roads, utility infrastructure and common open space.

- If not properly managed and funded, the road systems could wash out, potentially impacting shoreline eco-systems.

RESPONSE: The homeowner's association will be responsible for the maintenance of all private roadways, private utilities and common open space areas. The homeowner's association will retain the services of Phoenix Management (professional property Management Company) to manage and schedule the property management needs for the site, including funding requirements.

- What are the common open spaces and how identified on the layouts and how used. Are they open to the public?  
Response: Common open space areas are to be privately owned by the homeowner's association; however, public access trails are being provided that are maintained by the Chebeague and Cumberland Land Trust.

Fay, Spofford and Thorndike/ Deluca – Hoffman Associates has a long list of projects managed. Have there been any serious failures?

Response: Joe Laverriere, P.E. of FST has been project civil engineer for several projects development with Bateman Partners, LLC and there have been no failures on any of these projects.

## **Soils**

What is capacity of road and disturbed soils to handle run-off?

What can be expected for the long-term viability of forested and meadow buffers?

Response: Forested and meadow buffers areas are within defined stormwater and drainage easement areas. These easement areas will be maintained in their natural state.

Are there any back-up plans?

Response: No. None required.

## **Storm water Management Report**

Who will maintain the storm water controls and treatment system (on-site)?

Response: Buffers maintained through homeowners association, which is managed by a professional property management company

What is deemed to be the actual overflow impact and frequency? Is there a back-up plan for proper operation?

What if Summit Gas is unable to provide sufficient gas supplies?

Response: Underground natural gas will only be provided if Summit Gas is there.

## **Section 12.1**

What are the Chapter 500 standards that the existing developed area is not subject to?

Response: The existing development is exempt from Chapter 500.

What are the plans to control run-off to the ocean over and above normal conditions?

Response: The majority of the surface runoff is directed via sheet flow through natural buffers before discharging offsite. The design of the stormwater management system has been designed to meet the requirements of the State Stormwater Law.

## **Section 12.2**

What happens to the 5% of impervious area run-off and 20% of newly- developed area?

And what is the long-term impact?

Response: In accordance with the State Stormwater Law, a portion of the new impervious area and developed area are allowed to discharge without formal treatment. There is no long term stormwater impact associated with this discharge.

## **Section 12.4**

Will the areas not subject to Chapter 500 requirements now be included?

Response: No

## **Section 12.6**

What entity is responsible for upkeep and maintenance going forward?

Response: Homeowners Association.

**TOWN ENGINEER'S REVIEW: Dan Diffin, P.E., Sevee and Maher Engineers. November 10, 2014:**

As requested, Sevee & Maher Engineers, Inc. (SME) has conducted a peer review of the Final Plan Application for a Major Subdivision Review of the proposed Spears Hill Subdivision. SME completed a review of the preliminary plan application and submitted comments to the Town on October 7, 2014. These comments were addressed in a response letter from Fay, Spofford & Thorndike (FST) dated October 16, 2014. Recently submitted materials for the Final Plan Application consist of a bound application package and drawing set dated October 28, 2014 and the Stormwater Management Permit Application submitted to the Maine Department of Environmental Protection and dated October 24, 2014.

SME's review of the Final Plan Application included a site walk attended by SME, the Applicant, FST and Town Staff on October 24, 2014. During the site walk, Town staff was able to review the existing roadway alignments, widths, drainage conditions, and specific concerns were raised during the review of the Preliminary Plan Application. The specific concerns discussed on the site walk were:

1. Safety at intersection of Foreside Road (Route 88) and proposed Beach Drive.
2. Sight distances for a portion of Beach Drive between STA 2+00 and STA 8+00.
3. Proposed grading at the end of Beach Drive (around STA 20+00).
4. Road runoff along the north side of Beach Drive from STA 6+00 to STA 8+00.
5. Stormwater drainage around the two road intersections.

After the site walk, FST prepared the Final Plan Application and revised the drawings to address the concerns discussed. The revised application materials adequately address the concerns noted above for the waiver requests from the Town of Cumberland Street Design and Construction Standards.

In addition, SME has reviewed the submitted materials for conformance with a Final Application for a Major Subdivision as outlined in Chapter 250, Subdivision of Land of the Town of Cumberland Ordinances, most recently amended and adopted on January 12, 2011. The comments below relate to the appropriate Ordinance Sections.

**Section 250-40 – Storm Drainage Design Standards**

- A. It appears from the grading proposed that the cross-culvert near STA 10+20 does not have the minimum 24 inches of cover for roadway areas. The Applicant should confirm there is adequate cover.

**Design Engineer's Response:** FST to review and revise accordingly.

**REQUESTED WAIVERS**

***(Refer to Attachment G in the Application Binder for additional information)***

1. Plan Scale – **WAIVER GRANTED ON 10-21-14.**
2. Preservation of Natural and Historic Features- **WAIVER GRANTED ON 10-21-14.**

3. Road Design and Construction Standards – ***WAIVER REQUEST TABLED TO NOVEMBER 18<sup>TH</sup> PLANNING BOARD MEETING.***

Mr. Neagle stated he was disappointed with some of the submissions the following items didn't appear ready for final approval.

- Homeowners' Documents don't state that the homeowner's will maintain the road, stormwater and erosion control etc.
- No buffering plan for the Ferland property.
- CCLT-Easement rights; there is no document creating the public easement rights.
- Concern regarding road design for future public use.

Mr. Sherr stated the planting detail for the Ferland property was been submitted.

Mr. Neagle apologized to the applicant.

Mr. LaVerriere, of FST reviewed the layout of the plan stating:

- The house lots are in the same location.
- The applicant has been working with CCLT to provide expanded public access trails linking the existing public access trail along the site's Route 88 frontage to the waterfront parcel. This is shown on Exhibit A. The proposed public trail access along a trail that extends along the northerly boundary of the site with connection to Town Landing Road. From this point, the trail will continue in a southeasterly direction along the shoreline to connect to the waterfront parcel to be conveyed to the Town. CCLT will continue to manage and maintain the entire trail system in accordance with the provisions set forth in the existing conservation easement.

Mr. Neagle stated the Planning Board would need to see the document with the easement to the Land Trust.

Mr. Nathan Bateman stated the document has been executed and signed by the Land Trust, which was approved on November 14<sup>th</sup> and forwarded to the Town.

Mr. Neagle stated the agreement could be a condition of approval.

Mr. Nathan Bateman continued reviewing the road configurations and waiver requests.

Road way Segment 1: (First 200' from Foreside Road)

Sidewalk or Freewalk

Shoulder width from 4' to 2'

Minimum Pavement Crown – 1/4" per foot – requesting super elevated

Maximum Grade at intersection & within 75' of intersection – 3% to 6%

Roadway Segment 2A: (Beach Drive)

Pavement Width 18' to 15'

Sidewalk or Freewalk

Minimum Tangent between curves of reverse alignment - 50' to 15.6'

Minimum Pavement Crown -1/4" per foot – requesting super elevated

Roadway Segment 2B:

Sidewalk or Freewalk

Maximum Grade 10% - to 11%

Minimum Pavement Crown 1/4" requesting super elevated

Roadway Segment 2C:

- Sidewalk or Freewalk
- Minimum Pavement Crown requesting super elevated
- Pavement Width
- Roadway Segment 2D
  - Pavement Width 18' to 15'
  - Sidewalk or Freewalk
  - Minimum Pavement Crown – Requesting super elevated
  - Hot Bituminous Pavement – Reclaim Pavement
- Roadway Segment 3: Spears Hill Road
  - Pavement Width from 20' to 18'
  - Shoulder Width 4' to 2'
  - Sidewalk or Freewalk
  - Minimum Pavement Crown – Requesting super elevated
  - Maximum Grade at Intersection w/ 75' of Intersection 3% to 6%
  - Hot Bituminous Pavement – Reclaim Pavement

Mr. Neagle stated the road systems are great for lots in the subdivision but he didn't know if they were adequate for public beach front access. He doesn't think a 15' public road to a public beach is appropriate. He is still at a loss to handle the unknown short of re-designing everything.

Mr. Neagle stated the Board could impose a condition of approval such as when the Board approves development on the waterfront parcel the owner of the land or developer consider expansion of the road to accommodate expected use.

Mr. Bateman stated those are good points, we were optimistic assuming the referendum vote would pass. What are the roads going to serve and its purpose? The Town will come to the Planning Board and show a plan with parking, use etc. which has yet to be determined.

Mr. Neagle voiced concern of granting final approval, and when the Town comes before the board whose responsibility will it be to change the roads.

Mr. Bateman stated the town will own the fee in the road.

The Committee discussed future use of the road and the 15' width with no sidewalks.

Mr. David Bateman stated the Board hasn't had the opportunity to hear the Town's proposal for access, the traffic count you are envisioning is not what the Town has planned.

Mr. Neagle stated the Ocean Access Committee has not finished its work and they will send a report to the Council who will then send it to the Planning Board for approval. We don't know what the use will look like.

Mr. Nathan Bateman stated yes, it is the chicken and the egg, if the Town approaches something different it is not our battle for this application.

Mr. Sherr asked if there is a condition of approval that could be agreed upon to move this application forward; and if and when the Town comes forward with a proposal we can come to an agreement to upgrade the road if necessary for the proposed use. It could be widening, a sidewalk etc.

Ms. Nixon stated after the last meeting the Town Manager, Engineer, Town Engineer and Public Services met on site in the pouring rain to check stormwater and modifications. All agreed there was a concern to



pedestrian access to the beach from the proposed parking near Rt. 88. Staff worked with the issues brought up and this application is for the subdivision not the Town beach.

The Planning Board discussed the current application and potential for future road use for a public road.

Mr. Sherr asked again if there might be a condition of approval to reach an agreement.

Mr. Neagle stated maybe a condition of approval could be drafted for preliminary approval. The Homeowners' documents are not adequate.

Mr. Nathan Bateman stated the Homeowners' documents were drafted to blend the homeowners' rights with the Land Trust and are written with clear rights and limitations for the conservation easement.

Mr. Neagle asked who will maintain the private roads; he would like the documents to say that the Homeowners' Association will maintain the roads.

Mr. Sherr asked to hear from the Town Manager.

Mr. Shane clarified that the Town Staff did not assume standards could be waived, but did say they would work with the applicant. There is no way the Town can go forward if the widening of the road costs \$150,000 to \$200,000 it is not in the budget. The Ocean Access Committee hopes to be before the Planning Board in March for review of parking which is anticipated at the top of the hill. There will be a walking trail to the beach. This beach property will not be the same as Scarborough Beach. Specific items such as minimum road width of 20 feet may be a challenge to get approval from the CCLT and DEP Archaeological Studies.

Mr. Neagle stated we don't have the information on number of daily trips to review applicable standards.

The Planning Board discussed and reviewed the road waiver requests.

Mr. David Bateman stated he had heard the Board and respectfully asked them to take into consideration the incredible scenic value of the property. He asked that the Board be receptive to a solution as unique as this property. The goal is to maintain the scenic and ecologic properties of the property and to retain the estate properties. He suggested a sidewalk for pedestrian traffic to be grassed and set aside from the road.

Mr. Peter Anastos stated he understands the Board's concerns stating they thought they had completed the application as discussed at the October meeting. He suggested if the Board had the opportunity between now and next month to check out Madeline Point Road in Yarmouth it is a narrow road with no sidewalks and it is better than blasting out a wider road which would affect the aesthetics of the property.

Mr. Neagle stated the Town Council sets road standards and gives the Planning Board the ability to waive standards if deemed appropriate and safe.

Mr. Anastos stated the roads were designed for the subdivision and asked what width the Board felt the road to the beach should be, twenty feet.

Mr. Neagle stated Council standards are in the subdivision ordinance.

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

Mr. Sam York of Fox Run Road stated he is the Chair of Lands and Conservation Commission. He voiced the following concerns:

- Erosion control and the long term effect of the sheet flow on a non-crowned gravel road.
- Vernal pools on the property – A vernal pool study was done back in 2009.
- Who would be responsible for maintaining the catch basins etc.?

Mr. Neagle stated the Board relies on engineering staff to confirm if the design will work.

Mr. Neagle stated they could request a report on the status of vernal pools on the property for the next meeting. The Homeowners' Association will be responsible for erosion etc.

Mr. Shane, Town Manager stated the Town has heard loud and clear the task going forward. The vernal pool study inspected 260 vernal pools and there were thirty five potential significant vernal pools none were on this site. The road maintenance agreement is clear for the private road and the town will be responsible for the beach road. He agreed with grade issues at the entrance.

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

The Planning Board made the following comments:

- Homeowners' Association Documents to have specific language requiring the Homeowners' Association to maintain the road, stormwater and erosion control measures.
- Need written approval of the subdivision plan from the Cumberland & Chebeague Land Trust
- Need public easement documents granting trail easements to the Land Trust
- Road Waivers: The Planning Board discussed the requests for road width waivers. No vote was taken. Planning Board comments suggested that Beach Road should be at least 20 feet wide with sidewalks, and that the proposed grade of Segment 1 was unacceptable.
- Need copy of Town report stating there are no significant vernal pools on the property

Mr. Boivin moved to table the application for preliminary and final major subdivision for a 10-lot subdivision at 179 Foreside Road, Tax Map R01, Lot 2.

Ms. Maloney Kelly seconded.

VOTE: Unanimous

The Board took no action on the pending application.

**G. Administrative Matters: None**

**H. Adjournment:** Chairman Neagle adjourned the meeting at 9:20 p.m.

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Board Clerk