

**PLANNING BOARD MEETING  
TOWN OF CUMBERLAND  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine 04021  
Tuesday, April 26, 2016  
7:00 p.m.**

**A. Call to Order:** The meeting was called to order at 7:01 p.m.

**B. Roll Call:**

**Present:** Steve Moriarty, Chair; Gerry Boivin, Vice Chair; Peter Sherr, Teri Maloney-Kelly, John Berrett, Joshua Saunders

**Absent:** Jeff Davis

**Staff:** Carla Nixon, Town Planner; Connie Fulton, Administrative Assistant

**C. Approval of Minutes of January 19, 2016, February 16, 2016 and March 29, 2016 meetings**

The minutes for the above meetings were not available for approval.

**D. Staff Site Plan Approvals: None**

**E. Minor Change Approvals: None**

**F. Hearings and Presentations:**

- 1. Public Hearing: Site Plan Review for renewal of special permit for operation of the Town of Cumberland's gravel pit located at 48 Goose Pond Road as shown on Tax Assessor Map R7 – Lot 48. Town of Cumberland, Owner and Applicant; Doug Reynold, P.E., Gorrill Palmer, Representative.**

Chairman Moriarty introduced this site plan review with a brief summary of the 21-year history relating to permits (and approvals of annual or 3-year renewals of such permits) previously issued for Cumberland's existing gravel pit at 48 Goose Pond Road. This specific review seeks a one-year approval.

The Applicant's Representative, Doug Reynold, P.E., Gorrill Palmer Consulting Engineers, Inc., presented the approved plan from 1995. This plan showed an excavation limit of 5 acres. This limit is the amount upon which DEP notification is required. The current excavation has not reached the 5 acre limit. There is still approximately 40,000 cubic yards of material to be excavated before reaching that 5 acre number.

Upon Chairman Moriarty's request, Doug used the current plan/map to orient the general public to areas defined by dotted lines. The lines farthest from Goose Pond Road represent the limits of the previously approved gravel pit. The dotted lines closest to Goose Pond Road represent the boundary line to which expansion would be allowed under the current zoning. The area between both sets of dotted lines is the additional 125,000 cubic yards that is available on that property to be extracted in the future. Doug reiterated that there would be no work in that area without approval of the Board, nor would approval be sought before getting close to extracting the remaining 40,000 cubic yards from the 5 acre area, which is on the far right upper end of the plan.

John Berrett asked about the neighbors to the east and west of the parcel and if they were all gravel/sand pits.

Doug Reynold stated they were the State of Maine, the Leightons and the Storey Brothers, and that all abutters agreed in writing prior to original town approval to allow extraction all the way up to the property lines, because they all wanted it as well, and you don't want pyramids of good material left on the lines.

Vice-Chair Boivin asked if the abutters' names had been updated on the current plan to reflect the current owners or if they just carried over.

Doug Reynold stated that this plan was a current survey.

Chairman Moriarty asked if the Applicant was proposing any major new activities beyond those that have been done for the past 21 years.

Doug Reynold stated that Applicant was just renewing the permit. There hasn't been much activity at all over the past four or five years, but they want to start extracting materials from there.

Peter Sherr asked if the estimated usage of 5,000 cubic yards per year meant that the 40,000 cubic yards was anticipated to last 8 years, plus or minus, and if that meant the Applicant would just come back year after year for renewal until the 40,000 cubic yards was gone, or if there was anticipation for some other operations.

Doug Reynold stated at this time it is just anticipated that it would be the 5,000, but that if things change and they want to expand beyond that they would come right back for a site plan review and approval for extraction.

Joshua Saunders asked of Carla Nixon, Town Planner, whether the 5-year renewal stated on the application can be approved or does the Planning Board (essentially) have to re-start the process if there's a proposed condition of a one year approval also stated on the application.

Carla Nixon responded that the way the Applicant described it in their cover letter was, *At this time, the Town is seeking approval for the renewal of the special permit for the existing gravel pit.* So, on the agenda that's exactly how I described it—renewal of a special permit for the operation of the Town of Cumberland's gravel pit. And in looking at Section 315-49 (whether we call it a renewal or an approval), *for the renewal of this existing permit that has expired, but that has been granted, historically.* The Board may grant a one-year approval that would be annually renewable.

Joshua Saunders stated we are talking about one year, not five years.

Peter Sherr clarified that the request is for renewal of the special permit, but for one year.

Carla Nixon confirmed that was correct and added that after the Town asks for that for five years, then they can request a five-year permit.

Peter Sherr stated that he thought that clarified the questions he and Josh had, but since Applicant is only applying for one year the Board should just focus on that. Josh was in agreement.

Chairman Moriarty asked Doug Reynolds if there were any waivers requested.  
Doug Reynolds stated no.

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

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

The Board reviewed the proposed finding of fact as follows:

## **SITE PLAN REVIEW FINDINGS OF FACT**

### **SECTION 229-10: APPROVAL STANDARDS AND CRITERIA**

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

#### **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 has been previously permitted for use as a gravel pit, and the proposed use will comply with the permitted conditions.*

**Based on the above information, the 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.

## **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.

*The continued use of the site as a gravel pit will not have an adverse effect on the existing traffic conditions. No change is proposed for the existing site access.*

**Based on the above information, the 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.

## **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 stormwater runoff from the existing site will not be altered due to the proposed continued use of the site in compliance with the 1995 permit. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site.*

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

## **10.4 Water, Sewer, Utilities**

### **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.

### **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 continuation of the site as a gravel pit will not require the utilization of water or sewer service. There are no changes proposed that would necessitate a Certificate of Compliance from the Fire Chief.***

**Based on the above information, the 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 that the proposed plan will not adversely affect the aquifer is required.

*The site is located in an Aquifer Protection Area. There are no proposed changes to the excavation limit or the operation of the gravel pit that would adversely affect the aquifer.*

**Based on the above information, the 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 provisions.

*The site is not located within a floodplain.*

**Based on the above information, the 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.

*The site was permitted as a gravel pit in 1995. The proposed use will be in compliance with that permit and will not have an adverse impact to historic and archeological resources.*

**Based on the above information, the 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.

*No exterior lighting is proposed.*

**Based on the above information, the 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 proposed use will provide for a minimum 200' buffer from the Goose Pond Road right of way. The remaining three sides of the property abut existing gravel pits and therefore are not required to be buffered from the project site.*

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

## **10.0 Noise**

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

*The continued use of the site as a gravel pit will not result in adverse noise to surrounding properties above existing levels.*

**Based on the above information, the 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 is no proposed storage of materials on site. The excavation machinery will be screened from the Goose Pond Road right of way by a minimum of 200' buffer.*

**Based on the above information, the 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.

*Technical Ability: The Town of Cumberland has retained Gorrill Palmer to prepare plans and site permit applications, and Boundary Points Land Surveyors of Westbrook, Maine for survey services.*

*Financial Capacity: The Town of Cumberland has funds to provide for the continued use of the gravel pit.*

**Based on the above information, the 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.

*Not Applicable*

#### **10.13.2 Route 1 Design Standards**

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*

### **Zoning Ordinance – Section 315-49 Extraction of Earth Materials**

#### **10.13 Design and Performance Standards**

**The gravel pit use will comply with the Zoning Section 315-49 Extraction of Earth Materials standards as follows.**

- (1) The operation shall be shielded from surrounding property by an adequate buffer area of not less than 200 feet from the top of the final grade to the property line.

**A 200' buffer will be maintained on the southern boundary adjacent to Goose Pond Rd. Buffers will not be maintained on all other boundaries (see section 2 below).**

- (2) An applicant may specifically apply as a part of his application for the excavation and removal of lands for waiver of the requirement of the two-hundred-foot buffer strip when the protective barrier serves only to separate two existing gravel pits. If approved by the contract zone agreement, the Planning Board may only grant a waiver from this requirement if:
  - (a) The protective buffer zones exist only between two existing gravel pits;

- (b) The owners of the respective properties mutually and voluntarily consent to the removal of the buffer zone; and
- (c) The Planning Board finds that it shall not have a detrimental effect upon adjoining properties.

**Buffers on the east, west and north boundaries will be eliminated as they are all bordering existing and active gravel pits. Based on the initial Site Plan Review on May 16<sup>th</sup>, 1995, the owners have verbally agreed to eliminate the buffer. The existing gravel pit on the parcel has no buffer on these boundaries.**

- (3) Specific plans shall be established to avoid hazards from excessive slopes and/or standing water. In no case may soils be removed or excavated to closer than within five feet of the seasonal high water table as may be determined by a competent authority. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one foot vertical to three feet horizontal, except that where the required buffer area has been reduced to 100 feet the slope of the edge of the excavation area shall not exceed one foot vertical to four feet horizontal.

**Upon closure of the facility, the bottom most elevation of the pit will not be less than 5' above the existing seasonal water table. 3:1 slopes will be maintained on areas not currently being excavated.**

- (4) No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the contract zone agreement and the Planning Board as part of the site plan approval.

**Standing water will not be allowed to remain for longer than two weeks.**

- (5) In the case of any excavation to a depth of more than 20 feet below the surface, there shall be constructed a substantial fence with suitable gates completely enclosing the property or area in which the excavation is located. No portion of such fence shall be located closer than forty feet to the edge of such excavation. However, this condition shall not apply in the case of an excavation or removal of lands adding a slope of one foot vertical to greater than three feet horizontal.

**It is not anticipated that the gravel pit will have a depth of greater than 20 feet below the existing grade with a sideslope equal to or less than 3:1.**

- (6) No excavation shall be extended below the grade of adjacent streets unless a two-hundred-foot buffer strip shall be provided from the edge of the right-of-way.

**A 200' buffer is proposed from the edge of the right-of-way.**

- (7) Provision shall be made for the control of stormwater runoff to prevent on-site erosion and to ensure that stormwater runoff leaves the site at the same location and is not significantly increased.

**The stormwater runoff from the existing site will not be altered due to the proposed continued use of the site in compliance with the 1995 permit. The**

**maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site.**

- (8) Sufficient topsoil shall be retained on the site or otherwise provided sufficient to cover all disturbed areas with an average depth of not less than two inches. All disturbed areas resulting from the excavation and removal of lands or soils shall be graded and sloped to conform to the provisions of this chapter, reloaded and seeded with grasses indigenous to the area and such trees as the Planning Board as part of the site plan review and the contract zone agreement may require and otherwise restored to a natural condition. In the case of topsoil removal, the upper six inches of topsoil shall be stockpiled and restored to a depth of six inches throughout the site.

**Topsoil will be stockpiled from new areas of excavation. Sufficient topsoil to reclaim the site will be provided by the Town of Cumberland prior to cessation of excavation on-site.**

- (9) Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.  
**Town trucks are equipped with tarp covers to prevent contents from spilling or blowing.**
- (10) All access roads leading from the extraction site to public ways shall be treated with stone, calcium or other suitable materials to reduce mud and dust.

**The access road will be treated with stone, calcium or other suitable materials.**

Mr. Saunders moved to adopt the findings of fact as written.

Mr. Boivin seconded.

VOTE: Unanimous

The Board discussed and struck Sections 11 and 13 due to their inapplicability to this project.

#### **~~SECTION 11: 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.~~

#### **SECTION 12: STANDARD CONDITION OF APPROVAL**

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except 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.

### **~~SECTION 13: SUBMISSION OF AS-BUILT PLANS~~**

~~The developer of any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of improvements as actually constructed on the site shall submit as built plans. These plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.~~

Mr. Saunders moved to approve Site Plan Review for a one-year renewal of the special permit for operation of the Town of Cumberland's gravel pit located at 48 Goose Pond Road as shown on Tax Assessor Map R7 – Lot 48, subject to the standard condition of approval and the two proposed conditions of approval.

Mr. Berrett seconded.

VOTE: Unanimous

### **PROPOSED CONDITIONS OF APPROVAL:**

1. This approval is for a one year period and this annual permit must be renewed prior to March 15, 2017.
2. The extent of excavation is as shown on the approved plan and will not exceed 5 acres without additional Site Plan Approval.

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### ***2. Public Hearing: Site Plan Review for construction of a 20 vehicle parking lot at the Knight's Pond Reserve located on Greely Road Extension and as shown on Tax Assessor Map R06– Lot 32. Town of Cumberland, Owner and Applicant; Dan Diffen, P.E., Sevee Maher Engineers, Representative.***

Chairman Moriarty presented background information as follows:

The second agenda item involves the creation of a new parking lot for what is known as Knight's Pond Preserve, a large portion of land off Greely Road Extension, which the towns of North Yarmouth and Cumberland now own, with a conservation easement provided by the Chebeague and Cumberland Land Trust. There is no on-site parking, but now that it is town-owned property it is proposed that the town build a fairly modest-sized parking lot to make space available for 20 cars directly off Greely Road Extension and additional space for another 20 cars should the demand arise and the situation change.

In this instance, we have two engineers involved: Dan Diffen, P.E., of Sevee & Mahar Engineers, Inc. on behalf of the Town as the Applicant; and then on behalf of the Town's Planning Department we have Larry Bastian, P.E. of Gorrill Palmer Consulting Engineers. We have submissions and materials from both engineering firms, who'll be discussing those materials as we proceed. Chairman Moriarty asked if the Board had questions prior to hearing from the Applicant.

Mr. Saunders asked Carla Nixon, Town Planner, about the open items on the application's findings of fact.

Ms. Nixon stated that, as mentioned in her earlier memo to the Board, she didn't anticipate going through the findings tonight as the project is not ready for approval. The goal tonight would be to go through the outstanding issues that have been raised by the Town engineers, answer any questions the Board may have and hear any comments from the public. The Board would then table the item, schedule a site walk, and then those findings would be available next month.

Mr. Sherr asked if there would still be a public hearing this evening.

Ms. Nixon stated yes.

Chairman Moriarty stated there would be a public hearing. The Board would refrain from taking action until the May meeting, in a month's time, and in between do a site walk so people could get acquainted with the terrain and location. Chairman Moriarty then turned time over to Dan Diffin, P.E., of Sevee & Mahar Engineers.

Mr. Diffin gave an overview of the parking lot and presented the goal of minimizing the impacts to the forested area and protecting the great nature that exists. The parking lot would be placed in an area that was historically cleared, with some smaller vegetation growing in there, as opposed to the established forest adjacent. Avoiding impacts to the existing trail into the Preserve and removing the entrance/exit of the parking lot from such close proximity to the neighbor's yard were also factors which led to the final site plan. The intent tonight is to get familiar with the project, schedule a site walk and get some feedback on any significant challenges that should be considered before the May meeting. This plan is well outside the wetland setbacks for the stream and includes:

- An initial development of 20 parking spaces
- An area for an additional 20 spaces in the future (kept within maximum parameters of the Land Trust and Management Plan)
- A walkway from the 20-space lot to the existing trail
- Potential areas for snow storage
- Daylight hours/No nighttime use—there will be no lighting
- No water or sewer
- No wetlands permits needed as there are no wetlands identified on area where lot would be placed
- Stormwater concerns being addressed jointly with Town engineer
- No DEP Chapter 500 needed as not disturbing an acre
- No disturbing of the bats
- New location of entrance
- New culvert to accommodate flows coming down from the east (18" with stabilized entrance and exits)
- Meets requirements for sight line distances by almost double (300' required)
- Parking lot entrance 25' (with 15' radiuses) at lot opening, but widens to 40' where it meets Greely Road Extension



Chairman Moriarty asked about the police chief's recommendation for an emergency vehicle turn-around.

Mr. Diffin offered to provide some analysis on that recommendation with the final packet, as it would currently be a back in/back out turn-around.

Mr. Sherr asked about restrooms and trash collection.

Mr. Diffin stated no bathroom is planned. A carry-in/carry-out policy is in place for trash removal.

Mr. Berrett asked about handicapped parking size requirements.

Mr. Diffin stated that was one of the questions Ms. Nixon had that they will address with the final application.

Ms. Nixon asked about directional signage for Knight's Pond parking, as she felt the entrance location and the site was unclear when she'd travelled out to the site.

Mr. Diffin stated they would consider signage going forward.

Chairman Moriarty pointed out that the Cumberland Town Council approved the Knight's Pond Preserve Management Plan on the previous evening and that many of these questions and issues may be addressed in that Plan. He invited Penny Asherman to comment on those details during the public hearing period, if inclined.

Mr. Boivin asked what signage was anticipated for public notification regarding trash policies and hours of operation.

Mr. Diffin deferred to Town Manager, William Shane, for comments on appropriate signage, given the new Preserve Management Plan.

Manager Shane stated a desire for consistency in signage at all parks and mentioned a template that the Coastal Waters Committee has put together for all town lands that is more a kiosk, so people will go to a central station to look for the information, rules and maps about each site. We're looking at less signage, rather than more. Similar to Broad Cove, staying smaller and sizing as usage grows is ideal. Two towns are involved in this project. This is a joint project with the Town of North Yarmouth, and they are sharing 50/50 in the costs. Both Public Works Departments will be constructing the project this summer sometime and we're excited to get started.

Manager Shane expressed appreciation to the Land Trust for pulling together multiple people, as well as the State, and making this great project happen for both the towns of North Yarmouth and Cumberland. Manager Shane will come back in May with turn-around, bathroom, and signage plans. Manager Shane will take all information back to the Joint Standing Committee, which is a partnership between the two towns. Manager Shane sees starting small and coming

back to the Board in two or three years, if the level of usage and popularity requires expansion of the parking lot.

Vice-Chair Boivin asked about hours of operation and whether the entrance would be gated-off.

Manager Shane stated that hours of operation would be dawn to dusk, similar to all other town parks, and that something will have to be done at the entrance to keep cars out at night so that police resources don't have to be used to check parking lots at night.

Ms. Nixon asked about title/conveyance to the Town of Cumberland.

Manager Shane stated that Cumberland owns all the land in Cumberland, the Town of North Yarmouth owns all the land in North Yarmouth, and we have a conservation easement over the entire parcel by our (Chebeague & Cumberland) Land Trust as well as the Royal River Land Trust. That's how it's shared. They are the environmental police, if you will. They're working with us side-by-side. Penny Asherman was actively involved in working with the conservation easement, as well as the Joint Standing Committee in the development of the Management Plan. It's a great collaboration between multiple towns as well as non-profits.

Ms. Nixon asked about relocating the gate currently across the grass driveway/trail to where that grassed driveway intersects with Greely Rd. Extension.

Manager Shane stated he didn't believe that would be so, and that the grass driveway would probably be blocked additionally with posts (closer to the road) so that people wouldn't drive up it. The gate would remain because that driveway will still be convenient at times if it's necessary to access the dam for maintenance with heavy equipment, but 99% of the time it will be closed off to vehicles.

**Chairman Moriarty opened the hearing for public comment.**

Penny Asherman, President of the Chebeague and Cumberland Land Trust, was invited by Chairman Moriarty to answer any questions about how this all fits in with the overall Management Plan.

Penny Asherman related that the Land Trust was presented with the parking plan proposal by the Town at the CCLT Board of Directors meeting on March 16, 2016. It was approved, as presented, based on the condition that it met the requirements of the Planning Board, and that there would be a site walk when it was staked-out. The Trust was satisfied that the proposal met the requirements set out in the conservation easement signed with the Town. The Trust is in favor of having the parking lot in the location identified as meeting requirements in the conservation easement. Penny stated that it will be nice (and safer) to have people parking off the road, and I think the 20-car size seems to fit at this point.

Ms. Nixon asked Penny if she thought people who currently park at the end of Greely Road Extension would use the parking lot instead.

Penny stated a majority of people would use a primary point such as this lot to access the property. Even people who hike up the ridge and then back down to the pond would use the option, if it were available.

Chairman Moriarty stated the Management Plan adopted last night by the Council includes two sketches, one of which is the parking lot proposed in the plan and the other is the de-facto lot (end of Greely Road), and people may still use that for hiking, snowshoeing or cross country skiing.

Mr. Berrett asked Manager Shane whether the signage would include something beyond the kiosk to let people know they've arrived, perhaps on Greely Road.

Manager Shane stated that the public parking lot sign would be just after the grass drive, but before the lot entrance, perhaps an 18" x 24" size. For those unfamiliar with the area, there may be a sign 500' up the hill to let them know parking is just ahead for Knight's Pond.

Penny Asherman stated that the Land Trust would lean towards something more rustic, rather than bright and shiny, in terms of signs.

There were no further comments.

**Chairman Moriarty closed the public portion of the hearing.**

The Board continued with a discussion of items from the site plan review packet.

Two requested waivers were reviewed; for the Hydrogeologic Evaluation and a Market Study. It was determined they would not be applicable or required.

Chairman Moriarty reviewed Fire Chief Small's comments, which were as follows:

- 1) If the entrance to the parking lot will be secured by a chain or gate a key to the lock should be provided for medical or fire responses.
- 2) The parking area design should accommodate an ambulance being able to turn around.

Chairman Moriarty stated that in a lot this small an ambulance could back in and come out forward and that it may not be necessary to have a cul-de-sac arrangement for such a small area.

Vice-Chair Boivin asked what this area would be referred to and how Emergency Dispatch would know where to send EMTs?

Manager Shane stated that the parking lot would be assigned a street address.

Chairman Moriarty invited Carla Nixon, Town Planner, to review any items that remain unaddressed.

Ms. Nixon stated she'd work with Dan Diffin on the remaining items, but asked if the Board had a preference for wood or concrete for curb stops.

Chairman Moriarty asked if the spaces would be striped.

Dan Diffin stated there is not a plan for striping due to the type of material proposed for the lot, and that the curb stops would delineate where the spaces would be. They plan to come back with options for the final type of curb stop, though durability and longevity are issues.

Chairman Moriarty expressed again that there are two engineering firms involved, that Gorrill Palmer did peer review of this project, and that the major distinction between the two firms' positions involves which method of stormwater drainage is most appropriate, directing runoff into a swale that thereafter drains into Mill Brook or grading the site to discharge runoff as sheet flow into the adjacent wooded area. This issue will be worked out prior to the next meeting.

Discussion of items from the site plan review was concluded.

Vice-Chair Gerry Boivin moved to accept the requested waivers, as noted.

Mr. Saunders seconded.

VOTE: Unanimous

**REQUESTED WAIVERS:**

1. Hydrogeologic Evaluation: **Requested waiver due to the fact that there will be no subsurface wastewater disposal or other groundwater impacts as a result of this project.**
2. Market Study: **N/A**

The Board reached a consensus regarding the date for a Site Walk of the proposed Knight's Pond parking lot. The Site walk will be Thursday, May 5, 2016 at 5:30 P.M.

Mr. Saunders moved to table this agenda item to May 17, 2016.

Vice-Chair Boivin seconded.

VOTE: Unanimous

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3. ***Public Hearing: Recommendation to Town Council on Amendment to a contract zone agreement for Village Green subdivision to add 4 additional lots on a portion of Tax Assessor Map U10- Lot 1B.***

Phase 4 - Proposed for CZA Amendment April 2016



Chairman Moriarty provided informational background on the Village Green subdivision, which can be reached via Drowne Road or Wyman Way, and is currently under construction. It is a 59 lot subdivision approved several years ago by the Planning Board and the Town Council. Nathan Bateman, of Bateman Partners, is here tonight and his firm is involved with the project now, as it was in the beginning. Originally, the acreage was 40.7 and the proposal is to add a 5.72 acre parcel to the original contract zone area in an area which is currently zoned RR2. There was a neighborhood meeting on this topic within the past two weeks, which was fairly well attended. This item was actually on the Planning Board agenda September 15, 2015, for similar consideration, and the Board decided at that time to remove it or to table it. Included in our packets for tonight, at my request, are portions of the minutes from that meeting so that memories are refreshed regarding what was said then and what points were raised.

Peter Sherr stated he wished to disclose that members of his firm, Ransom Consulting Engineers, have done work with the Batemans in the past, though not specific to this project. Mr. Sherr stated he did not feel that would affect his opinions or recommendations to the Board tonight, but he wished to open that up to the Board.

Chairman Moriarty stated that Nathan Bateman spoke at the neighborhood meeting recently and invited Mr. Bateman to share details about how the proposed amendment has changed since last year.

Nathan Bateman, developer of Village Green, stated the subdivision is 85% complete. They are building their last approved road right now, which should be completed by June, with final paving.

During this process, they looked at increasing the size of this subdivision to help out abutters who were looking to subdivide property and to also alleviate an access issue for the abutters.

Originally, that plan showed a 6 lot subdivision coming in through Village Green Lot 58, with a utility easement. This plan limited any opportunity to build on Lot 58, effectively removing one house lot from production while creating 6 new ones, as well as providing access for the existing (Russell) house. At that meeting, the neighbors were very clear. They wanted the 6 lots reduced

to 4 lots, and they wanted the buffering increased on the northern side, which is the area between their neighborhood and this project.

The next plan (from several weeks ago) preserves Lot 58. It does not show house lots moved back to a 75' setback for the DEP request that's been made. It shows a 100' setback in keeping with the current zoning, but they've been requesting from the DEP a 75' setback so that road placement can be pulled back to the west an additional 25'.

The current plan includes the 75' setback and a shifting of the road, pending DEP approval. It includes a deed restricted cutting zone of 50', along with a 25' no build zone. Building envelopes are in the same location. Lot 58 is preserved with a 75' setback.

Chairman Moriarty asked if the 5.7 acre lot is entirely owned by the Russell family.

Mr. Bateman stated that's correct. It's a 5.6 acre lot.

Chairman Moriarty asked how much of that will be reserved to the Russell's themselves and how much will be devoted to the new house lots.

Mr. Bateman stated the Russell's will retain 2.57 acres, with the balance going to the 4 new lots.

Chairman Moriarty stated it's not quite 50/50, then, but weighted a little more to the new house lots.

Mr. Bateman replied yes. The line of demarcation is a defined streambed, as per the DEP, that truly bifurcates the lot and drives the whole plan.

Chairman Moriarty asked about the road that's currently under construction in the lower left of the plan. Is that Bradbury?

Mr. Bateman stated yes, that's Bradbury Way. It's a private road.

Chairman Moriarty asked if the new cul-de-sac, should there be one coming off it, would also be a private way as well.

Mr. Bateman stated yes.

Chairman Moriarty asked if Mr. Bateman had shifted the building envelopes 25' to the west, as requested two weeks ago?

Mr. Bateman stated yes, that's what this plan is showing. Everything has shifted 25'; showing a 75' setback off the streambed instead of 100', with everything shifting to the west.

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

Mr. David Finnegan of 17 Cumberland Common stated in general this version of the 4 pack plan is more palatable to the abutters than the earlier 6 pack. His questions included the following:

- Does this plan include the 25' shift to the west (towards the Russells home)?
- Will the two houses that abut the civic lot be 25' further away from the civic lot line?

Mr. Bateman stated the build-to line has shifted, giving those two lots a bigger back yard.

Mr. Finnegan asked again if the houses are still 15' from the civic lot or are they now 40'.

Mr. Bateman stated yes. They are still 15' from the civic lot. The lots to the left of the road shifted 25' closer to the Russell's house because the road placement has shifted, resulting in bigger windows (building envelopes) for the lots on the right side of the road.

Chairman Moriarty asked Mr. Bateman to clarify how the lots are currently numbered and if the building envelopes are in the same location as they were two weeks ago.

Carla Nixon asked if the rear setback (against the Civic Lot) had been increased for the two lots to the right of the road, and if not, do the building envelopes allow those houses to be built within 15' of civic lot.

Mr. Bateman stated yes, the building envelopes were not reduced on that side of the road. Everything was pushed further to the west.

Ms. Nixon asked if there was a reason the envelopes hadn't been shifted.

Mr. Bateman stated no, that they were trying to move the road and maximize lot size, and solve headlight issues by pushing the road closer to the Russell property.

Ms. Nixon asked about the acreage size listed in the contract zoning agreement. If 5.72 acres is the entire Russell property and 2.57 acres is the amount being kept by the Russells, then in the contract zoning agreement on page 1, the fourth "whereas" references *including additional residential lots on a 5.72 parcel of land*, but really it's 5.72 less the 2.57...

....unless the Russell property is coming into the contract zone

Ms. Nixon.....the Russell property is....so then, wouldn't it be 5 lots, with the Russell's being one of the lots, in the contract zone? You reference four.

Mr. Bateman stated we can certainly number that when we come back; that's a good catch. We just assumed it was an existing house and lot so we didn't.

Ms. Nixon stated they'll need that too when they come back to amend the subdivision plan. The Russell's property would be a Lot number.

Chairman Moriarty clarified, stating there is no action before the Board, nor are they considering the specifics of a subdivision application; there is none pending right now. The Board is simply

deciding whether or not to recommend to the Council, which is final authority, to expand the contract zone area to include this additional 5.72 acres. Now, should that happen, and should Mr. Bateman proceed forward, there would then be a subdivision plan which would come back to the Planning Board for full subdivision review and some of the details and terms of the layout would be part of that process. At this point this is, in some part, conceptual, but we certainly intend to hold you to your word, Nathan, in terms of the shifting of the road, the no-cut zone, the number of new lots, and so on.

Mr. Finnegan stated his final understanding from the neighborhood meeting was that the entire project would shift to the west, upon DEP approval of the 25' variance; or at least that the building envelopes would shift, if not the lots. Mr. Finnegan also stated there was another change from the meeting two weeks ago in the 75' no-cut zone that Mr. Finnegan was asking for clarification regarding.

Mr. Bateman stated a 75' deeded no-cut zone became a 50' no-cut buffer with the 25' additional being an area that was usable during construction for equipment.

Chairman Moriarty asked if the developer was willing to restore the other 25 feet to a vegetative state after construction so that we would once again have the 75' no-cut zone that we talked about two weeks ago.

Mr. Bateman stated yes. Part of that process is making sure there's a landscape buffer there and replanting trees. We could require that each of these lots in that area require a landscaping buffer plan in that 25 foot zone.

Mr. Finnegan stated this was the second thing that's changed in the two week period since the meeting. The 75 foot no cut zone discussed prompted my neighbor and I to go out and measure last week. Right about 75 feet there are some fantastic, huge, wonderful, buffering trees. They are decades-old. I'm not sure how many of those would be lost, nor how that would be measured, if the tree is 1 inch inside the zone. I was going to come tonight and ask for 80 feet as I'm sure that would save some great trees that would act as buffers and maintain the quality of life for the new neighbors as well as the abutting neighbors. That's complete 180 from where we were two weeks ago. Those two issues together make me very uncomfortable as an abutter.

Chairman Moriarty stated that as he recalled, two weeks ago, there were no promises about retention of trees.

Mr. Finnegan stated he recalled asking if there were trees that can be taped off and protect it was pointed out that's difficult to do. I was comfortable with 75 feet. I can guarantee with 50 feet those trees are gone. Maybe a site walk is required. I would ask for consideration on those two points, especially. I would also ask for a line of demarcation so that in future years the new neighbors wouldn't have to be policed as to where the no cut zone exists.

Mr. Finnegan also asked about the wetlands that run behind the buffering and then move along the civic lot. The drainage changing along the edge of the civic lot and the neighbors' areas, with construction, is a concern.



Chairman Moriarty stated that's part of the subdivision review process which is not really for tonight because we don't have a plan before us. We simply have a concept of adding to the size of the contract zone.

Mr. Finnegan stated he would like to take one more bite at the apple. He said Mr. Bateman had talked in the past about hitting the \$250,000-\$350,000 sweet spot on this project, which he talked about three or four years ago. My understanding is that all the homes are from \$400,000-\$600,000. Wouldn't it be nice if these four little homes could be right around the \$300,000 range? Maybe the Board would be sympathetic to that and maybe suggest a need in the town for more affordable housing for only four houses out of the 63. If they were smaller, it certainly would minimize the impact on the abutters.

Mr. Corey Zimmerman of 15 Cumberland Commons expressed his concerns that two weeks ago there was a 75-foot no-cut zone. He would like to ask for a walk-through so they didn't have to monitor which trees would come down. With the change of distance of buffer and the quality of life with their backyard being right there, the privacy would change without the big trees, there's not a lot back there; it's very wet.

Chairman Moriarty asked if most of those trees are within 75 feet or just beyond.

Mr. Zimmerman stated that he thought between 75 to 80 feet. The biggest tree was probably about 70 feet. There aren't that many that some of them are huge; without which I think we are going to be looking in the neighbors windows.

Chairman Moriarty asked Mr. Bateman if he knew where some of these trees were.

Mr. Bateman stated he didn't know but that from means and methods he can say that when improving lots like this you are going to impact root systems and the possibility of some of these trees falling on people's houses with wind load and canopy change. If you leave a big tree right on the border of where a house is going to be, that tree can end up on the house. It's simply means and methods. If I can have the 50 foot no cut zone I'll put pins in, it will be demarcated forever that you can't get in and do anything. In the other 25 feet we'll do a vegetative buffer, but there's only so much that works.

Chairman Moriarty asked when Mr. Bateman could foresee presenting a new subdivision plan, if the zone is expanded.

Mr. Bateman stated it would go to Town Council for zoning change which is a several meeting process, and if approved come back to the planning board for subdivision approval.

Chairman Moriarty asked if Mr. Bateman has a subdivision plan already in existence for the 5.7 acre piece. Do you have a presentation ready for that?

Mr. Bateman stated the plan would look very much like the one before them tonight, though more detailed and engineered, and will have DEP approval at that time. All of the comments discussed, that we're putting in our plan, except for things that I've explicitly said I couldn't do,

will be in there, if you so choose to move forward. We start spending money again once we know the concept is good and there's a chance of success.

Mr. Saunders asked if Mr. Bateman would agree to having a landscape plan between the 50 and 75 foot area be part of that subdivision plan approval.

Mr. Bateman stated he would agree. He's concerned about the big trees, with the change of wind load and opening up the canopy; with changing the grade and the topography, because that usually results in some trees coming down.

Mr. Saunders asked if once the building envelope has been prepared would Mr. Bateman be willing to restrict any future changes into that 25 foot landscape planned area.

Mr. Bateman stated he would agree on a landscape plan that's part of our improvement. He proposed a berm that would then have pine trees planted on top of it and they'd have the landscape designers come up with something in his plan, it would be something that the developer would do, not the homeowner.

Mr. Saunders asked if there would then be restrictions then placed on the homeowner, from going in there and cutting down or changing things.

Mr. Bateman stated yes, that it would be like any other subdivision landscaping plan; you could refer to an actual plan, then if something was removed it had to be replaced.

Mr. Sherr asked if there was any existing buffer decides that existing on the Russell property, specifically on the Commons.

Mr. Bateman stated yes.

Mr. Sherr asked if Mr. Bateman's proposed 50 foot no cut and then the additional 25 landscaped buffer would be in addition to some natural buffer that is already out there.

Mr. Bateman stated that is what it appears to be.

Karen Finnegan, who lives in the Commons, added that the buffer is old apple trees. It is wet back there; there's a lot of scrub and there's not a lot of height. The apple trees are no longer growing. There's no big tree growth when you're asking about that natural buffer.

Connie Russell, who is part of the Russell property, asked that it be kept in mind that, when discussing affordability, neighborhoods need to be comparable and since the Commons is now \$400,000 plus for many of the houses there, it would make sense that these new houses would be as well, along with the ones in Village Green. In terms of size, it looks like it's comparable. It looks like neighbors are closer to each other on the Commons than they will be to any of the new lots, so while I understand some of your concern about the buffer, it's concerning to me that we would start to nitpick about certain trees when, to be honest, we could cut them all tomorrow. It's our property. There are some old trees, but they're mostly pine, which are not going to be stable

with construction. We know that so we have to keep in mind what types of trees they are. There are some very pretty trees and we're glad that you've been able to appreciate them for years. Please keep in mind that, for the Finnegan's, their direct view is not of our trees back there. So I think Mr. Bateman has been very accommodating about minimizing lots and think about setbacks, I want to be careful that we're not micromanaging a piece of property that is going to be developed in a way that is relative to the property around it and the other new properties in the past. So I hope we can be reasonable in making this a manageable situation, knowing that change is hard, but we have to be realistic about what the limitations we have.

Chairman Moriarty asked Connie Russell about how they would access their home if this is added to the contract zone; if it would be via the private ways, such as Bradbury Way.

Connie Russell stated they would then have two access points to their property, Bradbury and Amanda.

Chairman Moriarty asked if they would still have Amanda Way, or if it would be blocked.

Connie Russell said they would still have use of it, though they would mainly use the newer access. There would be no tie-in to the new project with Amanda. It is separate access.

Chairman Moriarty offered comments on the affordability aspect of this project. While the properties may have been selling at a lower price a few years ago, that is not the case now and these four lots on top of the existing 58 or 59 probably won't make a lot of difference.

Mr. Bateman stated that they haven't changed the price on the lots, but that individuals have chosen what to upgrade in their houses.

Chairman Moriarty added that some of the builders had built homes without buyers attached.

Mr. Bateman stated that they had pre-approved house plans, but that some builders purchase a base plan and then upgrade to granite or hardwood. In terms of affordability, the lot costs have been maintained within the pricing structure.

Chairman Moriarty asked if the new road will the developer's responsibility.

Mr. Bateman stated yes, and that it will be 375 feet.

Mr. Finnegan asked that Lots 1 & 2 be shifted an additional 25', in accordance with the original stated plan in applying for the DEP waiver, which would mean 40' from the civic lot.

Karen Finnegan stated she is concerned that the new homes are so much bigger that they will loom over the neighbors, and asked that they please keep that in mind.

Chairman Moriarty asked if there would be any appreciable difference between the existing homes in Village Green and the new ones.

Mr. Bateman stated that they would be anywhere from 1600-3000 square foot homes. They would be the same, exact houses seen currently in Village Green.

Karen Finnegan stated that the way the plan is configured now and the placement of houses on the lot would have them looming if they were on the larger end of possible square footage.

Chairman Moriarty asked if Karen would prefer the cottage style.

Karen Finnegan stated she wasn't sure about style, just that a three story house is looming.

Chairman Moriarty asked if there were any other comments.

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

The Board took a recess and returned at 8:52 p.m.

The Board reviewed the contract zone expansion process and subdivision ordinance with the Town Planner and Town Manager.

Mr. Saunders moved to recommend to the Town Council an amendment to a Contract Zone Agreement for Village Green Subdivision to add 5 additional lots on a portion of Tax Assessor Map U10-Lot1B, with the additional recommendation that the contract zone include a 25 foot vegetative buffer to be part of a landscape plan to be approved by the Planning Board (in addition to the 50 foot no-cut buffer along the northern border of the property), and that the building envelopes for Lots 1 and 2 move 25 feet to the west in accordance with the pending road repositioning in the same amount and direction.

Mr. Sherr seconded.

VOTE: Unanimous

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***4. Public Hearing: Recommendation to Town Council re: Amendments to Section 315-61 (street construction) of the Zoning Ordinance.***

Manager Shane presented a unified standard for private roads that has been under revision through the Ordinance Committee of the Town Council. This was undertaken because standards for the multitude of private streets and ways existing in Cumberland are dictated by the number of houses on a street, not by the road width and weight needs of emergency vehicles. Ms. Nixon and Manager Shane presented this one set of standards for private roads to the Ordinance Committee, and they support this standard. This will be:

**An 18 foot gravel road with a 36 foot wide right-of-way with 5 foot easements on each side for future utilities and snow storage. A specified turn-around will be required at the end of each private road.**

The cross-section of the road in the packets is incorrect. This will be updated to show the 36 foot right of way, which it currently has, and the 5 foot sides. There will only be 9 foot travel lanes on either side of the center line. The 18 foot road seems to be the reasonable private road standard and is supported by the Fire Chief.

The proposal tonight is one standard for private roads, which will go back to the Council with the Board's recommendation next month and, if approved, will become the new standard for private roads and ways.

Mr. Saunders asked about the change in the minimum tangent between curves of reverse alignment in feet. It went from 50 to zero.

Manager Shane explained that change reflects the straightaway between two curves and was for streets with higher speeds. It works with the 18 foot roads so that emergency vehicles can maneuver around these private roads as well.

Mr. Sherr asked whether everything on the schematic in the packet is correct.

Manager Shane stated they'll be looking at the cross-section a little closer. The underdrain will show up in the subdivision standards. They impact the road bases. Private roads are not maintained by the Town and will never be maintained by the Town unless they're brought to the subdivision standards, so the underdrain is a little over the top in this case.

Mr. Sherr asked about gravel shoulders for safety reasons, stating they may provide a happy medium.

**The hearing was opened for public comments. There were no public comments.**

**The hearing was closed.**

Mr. Saunders moved to recommend to Town Council to approve the Amendments to Section 315-61 (street construction) of the Zoning Ordinance.

Mr. Berrett seconded.

VOTE: Unanimous

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~~5. *Stormwater Awareness Presentation by Laura Neleski.*~~ **TABLED TO 5/17/16 MEETING**

**G. *Administrative Matters/New Business***

A workshop for LED signs will take place on May 9, 2016 at 6:00 p.m. in the parking lot of Cumberland Town Hall at 290 Tuttle Road. This is a matter being looked at by the Ordinance

Committee. Manager Shane invited the Planning Board to attend and then discuss what the next steps may be. No ordinance language has been proposed at this time.

Mr. Sherr asked if this matter will come before the Planning Board to make a recommendation to the Council.

Manager Shane stated yes, and that this would affect the whole zone, not just individual businesses and organizations.

Mr. Sherr moved to adjourn.

Mr. Saunders seconded.

VOTE: Unanimous

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