

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, September 16, 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, Gerry Boivin, Jeff Davis, Joshua Saunders
Absent: Teri Maloney-Kelly, Peter Sherr
Staff: Carla Nixon, Town Planner, Pam Bosarge, Administrative Assistant

C. **Approval of Minutes of the August 19, 2014 meeting.**

Mr. Ferland moved to approve the minutes of August 19, 2014.

Mr. Neagle seconded.

VOTE: 2 in favor

3 abstain (Boivin, Davis, Saunders)

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

E. **Minor Change Approvals: None**

F. **Hearings and Presentations:**

1. **Public Hearing: Major Subdivision Amendment, Old Colony Estates, Phase III; Old Colony Lane; Tax Assessor Map R07, Lot 71, in the Rural Residential 2 (RR2) district. Owner / Applicant: Normand Berube Builders; Representative: Shawn M. Frank, P.E., Sebago Technics.**

Ms. Nixon presented background information as follows: This is an amendment to an approved subdivision, Old Colony Estates, located off Blackstrap Road near the Falmouth town line. This project was developed in three phases: Phase 1 contained 11 lots, Phase 2 contained 4 lots and this third and final phase will add 4 more lots by extending Old Colony Lane by 200' and constructing a cul-de-sac.

The area of the parcel now proposed for development is shown on Tax Assessor Map R07, Lot 71.

The applicant is Normand Berube Builders, Inc. of Saco, Maine. The applicant is represented by Shawn Frank, P.E., Sebago Technics, Inc.

HISTORY:

May, 2003:	Sketch plan for 19 lot subdivision submitted to Board.
June 17, 2003:	Sketch plan review
July 7, 2003:	Site walk held.
July 15, 2003:	Board tabled sketch plan pending further feasibility assessment by applicant (Road entrance/DOT issue)
March 17, 2004:	Sketch plan review

April 2004: Site walk held prior to the meeting at which the application was deemed complete.

May 18, 2004: Preliminary plan review tabled at applicant's request.

June 15, 2004: Preliminary plan review, tabled by Board.

July 20, 2004: Preliminary plan review, tabled by Board.

August 17, 2004: Board grants Preliminary Approval.

October, 2004: Board grants Final Approval for 11 lots.

October 18, 2011: Board approves amended subdivision plan to add 4 lots (Phase 2)

April 15, 2014: Sketch Plan Review for amendment to add 4 lots as the final phase of the project.

PROJECT DESCRIPTION:

- Zoning: RR2m (Rural residential 2, manufactured housing overlay)
- Subdivision Style: Clustered
- Min. Lot Size: 2 ac. (87,120 sf) Traditional or 1.38 ac. (60,000 sf) Clustered
- Lot frontage: 200' traditional or 100' if clustered
- Setbacks: Front = 50', Rear = 75', Side 30' (combined = 75').
- Roadway: Two existing subdivision roads have been accepted as public roads. The intention is to extend Old Colony Lane by 200' and present that to the Town Council for acceptance when construction is completed.
- Total Parcel Area: 51.30 acres
- Wetland Impact: 3,073 sf
- Road Width: 20'
- Shoulders: 4' gravel
- Sidewalk: 4' esplanade with 4' sidewalk on one side of road
- Water: Private well on each lot.
- Sewer: Individual private septic systems.
- Utilities: The applicant is proposing underground utilities (telephone & electric)
- Lighting: To be determined
- Min. Open Space:

Traditional subdivision:	10% of gross lot area x 51.9 ac. = 5.19
Dispersed/Clustered:	25% of gross lot area x 51.9 ac. = 12.97
Open space provided:	Required: 8.66 acres
	Provided: 9.11 acres
- **Net Residential Acreage:**

<i>51.91 acres gross site</i>
<i>-5.22 acres for wetlands</i>
<i>-7.79 acres for roadway (15% of gross)</i>
<i>-0 acres of steep slopes</i>
= 38.90 acres Net Residential Acreage
- Max. # Of Lots: The maximum number of lots is calculated by dividing the net residential density (38.90 acres) by the minimum lot size of the underlying zone (2 ac.), which yields a maximum of 19.45 lots.

11 lots were approved initially, 4 lots were approved in Phase 2, and an additional 4 lots are now proposed for a total of 19 lots.

Outside Agency Approvals:

- Amended DEP Stormwater permit dated 8-25-14 for the 4 final lots.

- DEP Stormwater permit dated 1/14/05 for the four lots proposed in Phase 2.
- Maine Construction General Permit:
- MDOT Entrance Permit (Received 1/04; revised dated 6/29/04)

PLANNER'S COMMENTS:

1. Provide evidence of financial capacity. Response: Forthcoming
2. There is a light fixture detail in the plans, however I do not see pole lights in the legend, so not sure where they will be located.
 - Describe number and location of street lights that will be in the entire subdivision. Response: 4 lights, last one being added in the cul de sac.
 - Will these lights be the HOA's responsibility when/if the town accepts this last stretch of road? No response
 - They do not appear to be CMP fixtures; are they? Response: yes.
3. Is a revised entrance permit from DOT needed for the additional lots? Response: all set.
4. Is the only trail in the entire subdivision the one that is shown to start at the end of the cul de sac and extend to the town line? Will the HOA or developer be responsible for constructing this trail?
5. How are clearing limits delineated? They will need to be flagged prior to the preconstruction conference.
6. Dead-end Road Length (2,067' proposed; 2000' limit per section 250-32)

DEPARTMENT HEAD REVIEWS:

- **Joseph Charron, Police Chief:** No comments.
- **Chris Bolduc, Public Services Director:** No comments.
- **William Longley, CEO:** No comments.
- **William Shane, Town Manager:**
 1. ~~May want to look at drainage with S.T.~~
 2. ~~Road cross-section incorrect paving specifies binder must be 3/4" or 19 mm~~
 3. ~~Concerns about sidewalk design; not working well in other subdivisions.~~
 4. ~~Need Sevee and Maher to check radius of circle to allow emergency vehicles and plow truck to get around without backing up.~~

Dan Small, Fire Chief: After reviewing the application for this subdivision the fire protection requirements as outlined in section 6 of the "General Notes" on sheet 2 of 7, as listed below, are approved

Fire Protection Requirements:

- A) *All dwellings in this subdivision shall include an automatic fire protection sprinkler system conforming to applicable National Fire Protection Association (NFPA) standards and approved by the Cumberland Fire Chief.*
- B) *An outside flashing light, that is interconnected with the smoke detectors, should be located in an area easily visible from the driveway of each unit.*

C) *The location and style of street numbers shall be approved by the fire department.*

TOWN ENGINEER'S REVIEW: Dan Diffen, P.E., Sevee and Maher Engineers:

As requested, Sevee & Maher Engineers, Inc. (SME) has conducted a peer review of the amended subdivision application for Phase 3 of the Old Colony Estates Subdivision. The application materials received by SME were prepared by Sebago Technics, Inc. (Sebago) and consist of an "APPLICATION FOR SECOND AMENDED SUBDIVISION PHASE 3" package, dated August 26, 2014 and a drawing set dated August 26, 2014. SME also received a copy of Maine Department of Environmental Protection's approval of the Amended Stormwater Management Permit dated August 26, 2014.

Section 250-32 – Design and construction standards

- D. Dead-end streets. Subsection 250-32.D. (3) (a) specifies a maximum length of dead-end streets of 2,000 feet measured from the center line of the feeder street to the center of the turnaround radius. It appears from the stationing on Sheet 3 of 7, GRADING AND UTILITY PLAN that the extension of Old Colony Road would exceed the 2,000-foot maximum length.
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Mr. Paul Ostrowski, P.E. from Sebago Technics represented the applicant in place of Shawn Frank, P.E. Mr. Ostrowski reviewed the proposed subdivision amendments stating this will be Phase III which will have four lots. The total subdivision project has 19 lots. The first phase of development consisted of 11 single family lots and was approved in January 2005. The second phase of the subdivision consisting of four single family lots was approved in 2012.

The third phase consists of extending Old Colony Lane approximately 200 linear feet and constructing a cul-de-sac which will allow for the removal of the existing hammerhead. The lots will be served by underground electric, individual on-site sewage disposal systems and individual wells. The construction of the roadway will be identical to the existing road consisting of a wide paved shoulder for pedestrian use. It is the intent to complete the construction and petition the Town to accept the roadway and access easement as well as to convey the open space to the Homeowners 'Association. A fifty foot wide public easement is provided from the terminus of the cul-de-sac to the right of way of Poplar Ridge in Falmouth for pedestrian access. The fifty foot easement is depicted in the subdivision plan to be conveyed to the town and a note has been added to explicitly state that the deeds of conveyance for lots 18 and 19 include the easement.

The stormwater will be treated via stormwater buffers and an amendment to the Stormwater Permit has been submitted to MDEP. The property is located in the Forest Lake Watershed, there will be .3 acres increase in impervious surface and .5 acres in lot development there will be 2,200 sq. ft. of wetland impact which meets the MDEP standards.

Mr. Davis asked for clarification on the property line for lots 18 & 19.

Mr. Ostrowski stated the foot path straddles the lot lines.

Mr. Neagle asked if it was depicted with the dashes and dot lines with no dimensions.

Mr. Ostrowski stated yes there are no dimensions, we can add them if needed.

Mr. Neagle asked if this pedestrian path connects to a physical path in Falmouth.

Mr. Ostrowski stated he was not sure what was in Falmouth, the pedestrian path is a 50' right of way for future road connectivity.

Mr. Neagle asked for clarification on ownership of the open space.

Mr. Ostrowski stated the homeowners' Association is already set up and the additional Phase III 5.93 acres of open space will be deeded to the Association.

Mr. Saunders asked about the wetland impact.

Mr. Ostrowski stated there will be 22,000 square feet of wetland impact less than 43,000 square feet.

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 Planner's Comments:

Mr. Neagle asked if the lighting had been resolved.

Mr. Ostrowski stated the initial plan has four lights as part of the roadway system. They will be Town & Country standard CMP – CFL lights.

The Board reviewed the waiver requests.

Mr. Boivin moved to approve the three waiver requests.

Waivers granted:

1. Traffic Information
2. Trees over 10" in diameter
3. To allow maximum length of dead end road to exceed (by 67') the 2000' limit

Mr. Ferland seconded.

VOTE: 5-0 Unanimous

The Board reviewed the proposed Findings of Fact:

Mr. Saunders moved to approve the Findings of Fact as amended.

Mr. Ferland seconded.

Vote: 5-0 Unanimous

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:

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

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

- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

The parcel is not located in a 100-year floodplain.. The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted as part of the Phase 1 development; the report was reviewed and approved by the (former) town engineer, Tom Saucier as well as the current town engineer, Dan Diffin. The addition of 4 lots and extension of the road by 200' will not cause undue water or air pollution.

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

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

The proposed third phase will utilize private drilled wells. Information on adequacy for both domestic use and fire protection needs was evidenced by the groundwater report dated 4/26/04 from Dick Sweet Associates. There have not been any reports of insufficient water for the existing 15 lots.

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

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

The standards of this section do not apply.

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

Stormwater runoff from the road extension and lots will be treated via stormwater buffers and an amendment to the DEP Stormwater permit is on file. The plan has been reviewed and approved by the Town Engineer.

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

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

The applicant has provided an entrance permit dated 6/29/04 from MDOT for the full build-out of the project. A traffic study was not required for either of the two previous phases.

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

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

The subdivision will not be on public sewer. There are passing test pits on each of the proposed lots.

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

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

The addition of four homes will not cause an unreasonable burden on the municipality's ability to dispose of solid waste. Curbside pickup is provided by the Town.

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

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

The previous plan packet included letters from State agencies indicating there will be no adverse effect on historic properties, fish and wildlife or other natural features.

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

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

Based on the plans submitted and reviewed, the proposed subdivision conforms to all local land use requirements.

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

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

Technical capacity has been evidenced by the use of professional engineers, soils scientists and surveyors. Financial capacity has been provided.

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

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

The property is located in two watersheds, the Forest Lake Watershed and the Piscataqua River Watershed. The new lots proposed are located in the Piscataqua River watershed. There is no proposed development in the Forest Lake Watershed. Wetland areas have been mapped on the plans and construction will avoid these locations.

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

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

The groundwater impact study prepared by Sweet Associates (dated 4/26/04) and reviewed by Tom Saucier, Town Engineer as part of the first phase of the project, contains information indicating that full build-out will not adversely affect the quantity or quality of groundwater.

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

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

Based on a review of the FEMA Maps, no portion of the site is located in flood zone.

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

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

The applicant has provided a Stormwater Management Report dated August 2014 that has been reviewed and approved by the Town's peer review engineer and MDEP.

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

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

Freshwater wetlands on the site were delineated and flagged in the field in accordance with U.S. Army Corps of Engineers methodology by Sebago Technics, Inc. Less than 4300 square feet of wetlands will be impacted by the development. The wetland areas are shown on the plan set. The new facilities will be constructed in upland areas of the site.

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

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

As per the memo from Gary Fullerton, C.S.S., of Sebago Technics, the existing drainage swales on the property do not meet the DEP criteria for definition of "stream".

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is located in the Aquifer Protection district. A positive find by the Board is required.

The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted during review of the first phase of the project. The creation of four additional house lots will not adversely affect the aquifer.

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

Mr. Boivin moved to approve the Major Subdivision Amendment for Old Colony Estates Phase III; Old Colony Lane, Tax Assessor Map R07, Lot 71 in the Rural Residential 2 (RR2) district; Owner / Applicant Normand Berube Builders; Representative, Shawn M. Frank, P. E., Sebago Technics. The approval is subject to the Standard Condition of Approval and the five proposed conditions deleting the original number three and adding a new number five.

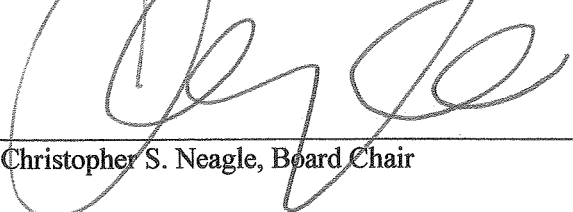
Mr. Saunders seconded.

VOTE: 5-0 Unanimous

G. *Administrative Matters: None*

H. *Adjournment:* Mr. Neagle adjourned the meeting at 7:25 p.m.

A TRUE COPY ATTEST:


Christopher S. Neagle, Board Chair


Pam Bosarge, Board Clerk