

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, October 15, 2013
7:00 p.m.**

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

B. *Roll Call:*

Present: Chris Neagle, Chair, John Ferland, Vice-Chair, Teri Maloney-Kelly, Gerry Boivin, Josh Saunders, Peter Sherr

Absent: Jeff Davis

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

C. *Approval of Minutes of September 17, 2013 meeting*

Mr. Saunders moved to approve the minutes as amended by Mr. Boivin.

Mr. Boivin seconded.

VOTE: 5 in favor- Saunders, Maloney-Kelly, Neagle,
Boivin
1 – Abstain (Ferland)

D. *Staff Site Plan Approvals: None*

E. *Minor Change Approvals: Cider Mill Subdivision*

Ms. Nixon explained that a title attorney had contacted her regarding a note on the Cider Mill subdivision plan. He was unable to give clear title and a closing was being held up due to misinterpretation of a note relating to stormwater buffers. The developer will be changing Note # 7 under Stormwater Buffer Restrictions from “*For more specific conditions and restrictions see Maine DEP Chapter 500 Stormwater Management, Appendix G or current equivalent*”; to “*The Town of Cumberland shall be solely responsible for the enforcement of all (Non-wetland) Stormwater Buffer areas as depicted on the Plan*”. This project was not subject to MDEP Site Location or Stormwater permitting. The note was placed on the plan by the applicant and his engineer to provide general guidance on how stormwater buffers should be maintained in order to function as designed.

F. *Hearings and Presentations:*

- 1. Public Hearing: Minor Subdivision Amendment to subdivision plan of Sturdivant Island, Tax Assessor Map 108, Lots 7 & 8 in the Island Residential (IR) district, to amend lot lines between lots 7 & 8 and to split the remainder of Lot # 8 into two parcels; Lot 8 & 8A, Gerard Grondin, Owner, Charles Brown, Jr., PLS, Sebago Technics, Representative.***

Ms. Nixon presented background information as follows: This is the second public hearing for an amendment to a subdivision plan or Sturdivant Island. Last month the Board questioned road frontage, dock easements and right title or interest. The applicant’s representative has provided this information.

Mr. Charles Brown, Jr., PLS, of Sebago Technics, Representative reviewed the updated plan as follows:

The amended plan has been updated to show a 33 foot wide by 150 foot long easement for a private way to provide frontage for both lots 8 and 8A. The existing path used for access has been added to the plan. The applicant's attorney has drafted the deeds to the land swap, along with a letter of agreement from both parties; the proposed dock easement over a portion of lot #8; and an access easement over lots 8 & 8A, for the benefit of the Grondin family.

Mr. Neagle thanked Mr. Brown for addressing issues raised at the last meeting. He stated he would suggest an additional condition that the dock easement is created when either of the lots is separately conveyed.

The Board reviewed the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Article 1, § 250-1: Purpose; approval criteria:

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:

- A. 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 lot line adjustment which will create one additional building lot on the island will not result in undue water or air pollution.

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

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

The parcel will utilize well water of which there is a sufficient supply on the island.

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

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

The parcel will utilize well water which will not create a burden on the existing water supply.

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

- D. 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;

This lot size change and split will not have any impact on soil erosion.

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

- E. 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 amendment will not cause unreasonable traffic or road congestion. .

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

- F. 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 is served by private septic systems. An HHE-200 is on file with the town.

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

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

The lot amendment will not affect solid waste capacity.

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

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

The lot size amendment will not impact any sensitive areas. Any work within the State-mandated shoreland zone will need to be in compliance with those regulations.

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

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

The plans have been reviewed by town staff and found to be in compliance with the ordinances.

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

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

The lot size amendment does not require the applicant to provide financial capacity information. Technical capacity is evidenced by the use of Sebago Technics for survey and plan work.

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

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

This section is not applicable.

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

The lot line revision and split will not affect the quality or quantity of groundwater.

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

- M. 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;

The parcel is located in Zone C- Area of Minimal Flooding.

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

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

The resizing of this lot will not affect stormwater management.

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

- O. 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. There are no identified wetlands on the parcel. The revision will not affect any protected wetland areas on the Island.

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

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

There are no rivers, streams or brooks on the site.

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

Mr. Sherr moved to approve the findings of fact.

Mr. Saunders seconded.

VOTE: 6-0 Unanimous

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

Mr. Saunders moved to grant the minor Subdivision amendment to the subdivision plan of Sturdivant Island, Tax Assessor Map I08, Lots 7 & 8 in the Island Residential (IR) district, to amend lot lines between lots 7 & 8 and to split the remainder of Lot # 8 into two parcels; Lot 8 & 8A, Gerard Grondin, Owner; Charles Brown Jr., PLS, Sebago Technics, Representative. This approval is subject to the findings of fact and the standard and proposed conditions of approval.

Mr. Boivin seconded.

VOTE: 6-0 Unanimous

STANDARD CONDITIONS OF APPROVAL:

250-D-6: Performance Guarantees:

Section 250-6 (a): The purpose of a performance guarantee is to secure the completion of all required improvements or the restoration of the site as the Town deems appropriate.

Section 250-6 (b): Prior to final plan approval, or as a condition of final approval, the applicant shall provide a construction schedule and cost estimate for all required improvements to the Town Planner. Required improvements include, but are not limited to, street and utility construction, storm water management, landscaping, erosion control, and documentation. The Town Planner shall submit the cost estimate to the Town Engineer and Town Manager for review and approval. Once the amount for the

performance guarantee is set, the applicant shall provide a performance guarantee in one of the following acceptable forms:

- [1] An escrow account funded by cash or certified check payable to the Town of Cumberland and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable to the Town Manager. Any interest earned on the escrowed funds shall be retained by the Town.
- [2] An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable to the Town Manager that provides at least 60 days' written notification of expiration. The terms and conditions shall include a maximum two-year time limit and an inflation clause.
- [3] Any other performance guarantee reviewed by the Town Attorney as to form that provided security in an amount substantially equivalent to an escrow account or an irrevocable letter of credit.

250-F-6: Final plan approval and filing:

Section 250-7F-2: The performance bond or irrevocable letter of credit, with the terms and conditions previously set by the Planning Board shall be filed with the Town Manager before the final plan is released for recording the developer at his/her own expense with the Cumberland County Registry of Deeds.

Section 250-7F-3: Approval of any subdivision plan not filed for recording within 90 days after final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan. The developer shall provide the Town Planner with the plan book number and page number upon recording of the subdivision plan.

Section 250-8: Plan revisions after approval: No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the final plan unless said plan is first resubmitted and the Planning Board approves any modifications. Any application that for subdivision approval that constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. Approved changes shall be endorsed on the revised final plan by the Planning Board, and the plan as modified should be recorded in the Cumberland County Registry of Deeds within 60 days after such approval. The developer shall provide the Town Planner with the plan book number and page number upon recording of the revised subdivision plan.

Section 250-10 A: All improvements required by §§250-16 and all quasi-public improvements required by the Planning Board for the approval of the plan shall be completed no later than two years after approval of the final plan (for phased plans, these time periods shall apply separately for each phase approved by the Planning Board); provided, however, that the Planning Board may grant an extension for a period not to exceed six months for good cause shown if such application is made prior to the two-year expiration date. Only such extension may be granted.

Section 250-10 B: Times for Commencement and completion of construction; preconstruction conference:

Once commenced, all such improvements shall be prosecuted diligently to completion. Construction time shall not exceed six months unless the Planning Board, upon written application and for good cause shown, shall extend the construction period. Prior to commencement of construction there shall be a mandatory preconstruction conference with the developer, his or her general contractor, the Code Enforcement Officer, the Town Planner and such other Town department heads as deemed appropriate by

the Town Planner to review the proposed construction activities to assure compliance with the requirements of this chapter and any special terms of the project's approval.

PROPOSED CONDITIONS OF APPROVAL:

1. All fees must be paid prior to the release of the plan for recording.
2. The common easement for lots 8 & 8A shall be created when either lot is separately conveyed by its owner.

G. Administrative Matters: Ms. Nixon stated Natalie Burns, Esq. Jensen Baird Gardner & Henry will provide training at the November 19, 2013 at 6:00 p.m.

H. Adjournment: Mr. Neagle adjourned the meeting at 7:15 p.m.

ATRU COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Clerk to the Board