

**PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall
290 Tuttle Road, Cumberland, Maine 04021
Tuesday, June 18, 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, Jerry Boivin, Jeff Davis, Josh Saunders, Peter Sherr

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

Mr. Neagle welcomed Teri Maloney-Kelly as our new member to the Planning Board.

Ms. Maloney-Kelly stated she is pleased to be a member of the Planning Board and happy to serve the Town of Cumberland.

C. *Approval of Minutes of May 21, 2013 meeting*

Mr. Neagle revised his statement regarding Mr. Bingham on page 30 as follows: Mr. Neagle stated he wanted to close this meeting by thanking our esteemed member Peter Bingham who is very likely not going to be with us next month. As he understands it, Peter is running unopposed for a Town Council seat in the June election.

Mr. Ferland seconded.

VOTE: 6 in favor
(Neagle, Ferland, Boivin, Sherr, Davis,
Saunders)
1 abstain (Maloney-Kelly)

D. *Staff Site Plan Approvals: None*

E. *Minor Change Approvals: Maine Standards re-location of propane tanks. **Tabled***

F. *Hearings and Presentations:*

- 1. *Public Hearing: Major Subdivision Review, Cider Mill Subdivision a seven (7) lot subdivision located at orchard and Whitney Roads; Tax Assessor Map R08, Lot 55 in the Rural Residential 2 (RR2) district; Orchard View, LLC, Applicant, Terradyn Consultants, LLC, & Wayne Wood, Surveyor, Wayne Wood & Co. Representatives.***

Ms. Nixon presented background information as follows: This is the third time the applicant has been before the Board; last month the Board approved the two waiver requests. The Board tabled preliminary approval last month, all outstanding issues have been resolved and outside agency approvals have been received.

Mr. Wayne Wood, Representative reviewed the seven lot subdivision; stating each lot will have direct access from Whitney and Orchard Roads. Each lot will have private water and septic systems. The peer

review engineer's outstanding issues have been resolved; they are asking for final approval from the Board, and would be happy to answer any questions.

Mr. Neagle stated the plan looks great, he requested the contour lines be removed from the recording plat. It will be cleaner and easier for purchasers to read.

Mr. Neagle also asked that Note # 17 regarding the stormwater buffer and wetlands disturbance be clarified.

Mr. Wood stated the stormwater regulations are four pages, he would be happy to add language the Board requests.

Mr. Neagle stated the plan refers to the covenant and deed, but the stormwater regulations are not referenced in the covenants.

Mr. Neagle again disclosed he lives close to the property and stated it won't have any effect on his ability to be objective. He will recommend as a condition of approval an amendment to Note # 17 on the plan.

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 findings of fact.

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

Mr. Boivin seconded.

VOTE: Unanimous

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 250-1

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

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

The 8 lot residential subdivision will not result in undue water or air pollution. A soils report shows passing test pit locations on each of the proposed parcels.

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 subdivision will utilize private wells. There is a letter on file from Woodsome Well Drilling, Inc., that states there is sufficient water to serve the subdivision.

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

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

The proposed subdivision will not utilize public water.

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

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

Erosion control mechanisms for development of the lots are shown on Plan Sheet 3. The erosion control 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;

Due to the small number of lots and the location of the subdivision away from major road intersections, a traffic study was not required. The Applicant received a waiver from the Planning Board at the last meeting.

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 project will not utilize public sewer.

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 Town provides curbside pickup of household trash. The additional homes will not create a burden on the municipality's ability to dispose of solid waste.

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

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

Letter on file dated 5/15/13 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area.

Letter on file dated 5/16/13 from the Department of Inland Fisheries and Wildlife states that there are no known significant wildlife habitat or threatened or endangered species in the vicinity of the project.

A letter on file from the Maine Historic Preservation Commission states that this project will have no effect on historic resources.

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;

The plans have been reviewed and approved by the Town's peer review engineer and town staff.

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 is evidenced by the applicant's use of a professional engineer, surveyor, soils evaluator and letter from Sandy River, LLC dated June 14, 2013.

There are no subdivision public improvements associated with this project therefor there is no need for evidence of financial capacity.

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

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

None of the above features are present on this parcel.

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

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

The project will be served by private septic systems. A high intensity soil survey was conducted by Mark Hampton Associates. There are passing test pit locations on each parcel. There are no other proposed activities that would adversely affect the quality or quantity of ground water.

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

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

Based on a review of the Federal Insurance Rate Map 2301620010B, the parcel is located in Zone C- Areas of Minimal Flooding.

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

14. Storm water. The proposed subdivision will provide for adequate storm water management;
A stormwater management plan was prepared by Jeff Amos, P.E., of Terradyn Consultants. It was reviewed and approved by the Town's peer review engineer.

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

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

Wetlands on the parcel were identified by Mark Hampton Associates. There are no natural vernal pools on the site. The applicant has designed the project to minimize the amount of impact to wetland areas.

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

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

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

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

The parcel is not located in the Aquifer Protection District.

Discussion:

Mr. Saunders asked about the revised language for the Limitation of Approval.

Ms. Nixon stated this language was adopted for the Site Plan Ordinance at the Town Council on Monday, June 17, 2013.

The Board reviewed the Limitation and Standard Conditions of Approval. The standard Condition was amended as adopted by Town Council on February 25, 2013.

Mr. Ferland moved to grant final and preliminary major subdivision approval for Cider Mill Subdivision a seven (7) lot subdivision located at Orchard and Whitney Roads; Tax Assessor Map R08, Lot 55 in the Rural Residential 2 (RR2) district; Orchard View, LLC, Applicant, Terradyn Consultants, LLC, Representative; Owner, Kathleen Lolley. This approval is subject to the Standard Condition as amended and the four (4) proposed Conditions of Approval; and the two waivers granted at the May 21, 2013 Planning Board meeting.

Mr. Boivin seconded.

VOTE: Unanimous

STANDARD CONDITIONS OF APPROVAL:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant, and all statements made by the Applicant to the Planning Board. Any variation from the plans, proposals and supporting documents, except minor field 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.

RECOMMENDED CONDITIONS OF APPROVAL:

1. That all fees be paid prior to the release of the plat for recording.
2. That a performance guarantee in an amount and form acceptable to the Town Manager is provided prior to the preconstruction conference.
3. That a preconstruction conference, be held prior to release of the plat for recording.
4. The recording plan is to be revised to eliminate contour lines and to clarify language regarding protection of the stormwater buffer and wetlands.

G. Administrative Matters:

Mr. Neagle stated he would like to see the applicants give ledger 11" x 17" size drawings to the Board for review. He didn't think it was necessary to provide full size plan drawings.

Mr. Sherr agreed and suggested e-mailing electronic pdf copies to the Board members to review.

H. Adjournment: Mr. Neagle adjourned the meeting at 7:35 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Board Clerk