

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

**A.     *Call to Order***

**B.     *Roll Call:***

***Present:*** Chris Neagle, Chair, John Ferland, Vice Chair, Peter Bingham, Jerry Boivin, Ron Dillon, Peter Sherr

***Absent:*** April Caron

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

**C.     *Election of Chair and Vice-Chair***

Mr. Bingham nominated Mr. Neagle as Chair.

Mr. Dillon seconded.

VOTE: 5-1

1- Abstain (Neagle)

Mr. Sherr nominated Mr. Ferland as Vice-Chair.

Mr. Bingham seconded.

VOTE: 5-1

1 – Abstain (Ferland)

**D.     *Approval of Minutes of December 18, 2012 meeting:***

Mr. Bingham moved to approve the minutes of December 18, 2012 as presented.

Mr. Sherr seconded

VOTE: 5- 2

2 – Abstain (Boivin, Dillon)

**E.     *Staff Site Plan Approvals:***

- 1.     *AT & T Mobility – Equipment Modification 282 Main St., Cumberland Congregational Church, Tax Assessor Map U14, Lots 47 & 48, in the Low Density Residential District (LDR).***
- 2.     *AT & T Mobility- Equipment Modification to the Range Way Tower, at 159 Range Way, Tax Assessor Map R03B, Lot 19 in the Rural Residential 2 (RR2) district.***

Ms. Nixon reviewed the antenna and equipment upgrades at the Range Way tower and the steeple tower at the Congregational Church. These upgrades have no impact on surrounding properties in the community.

**F.     *Minor Change Approvals: None***

**G.     *Hearings and Presentations:***

- 1.     *Public Hearing: Major Subdivision Amendment: R & N Woods Subdivision, Phase I, to reduce the size of Lot 1 from 1.67 acres to 1.5 acres; Tax Assessor Map U02, Lot 5, 52 Foreside Road; Applicant Munjoy Hill EPM, LLC, Representative Terrence J. DeWan & Associates.***

Ms. Nixon presented background information as follows: The applicant/owner is Munjoy Hill EPM, LLC. The request is for an amendment to Lot 1 in Phase 1 of the R & N Woods subdivision. The amendment will reduce the size of the original lot from 1.67 acres to 1.5 acres. The .17 triangle of land will be used in Phase 2 to gain road frontage for (proposed) Lot 7 & Lot 8. The existing parcel is shown

on Tax Map U-2, Lot 5. It is located in the Limited Density Residential (LDR) district and is owned by Jeffrey Kral who has agreed to the transfer. A purchase and sale agreement dated 8/9/12 has been provided. The agreement expires on July 25, 2013. Terrance DeWan is the representative.

Mr. Tom Farmer, of Terry DeWan Associates, Representative, reviewed the area to be transferred from Lot # 1 of Phase I stating that lot # 1 will still meet lot requirements. This amendment allows for a shorter road for Phase II.

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

Mr. Bingham moved to waive the reading of the findings of fact.

Mr. Dillon seconded.

VOTE: Unanimous

Mr. Bingham moved to grant a Major Subdivision Amendment for Lot # 1 of R & N Woods, Phase I, subject to the Standard Conditions, Limitation of Approval, and proposed conditions of approval.

Mr. Dillon seconded.

VOTE: Unanimous

**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 parcel is developed with a house and barn. It is served by public water and sewer. There are no streams on the parcel.

***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 public water. A letter dated 10/12/05 from the Portland Water District is on file stating that there is an adequate supply of clean and healthful water for this project.***

***The resizing of Lot 1 will not affect the quantity of water available for the subdivision.***

***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 public water. A letter dated 10/12/05 from the Portland Water District is on file stating that there is an adequate supply of clean and healthful water for this project. 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 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 lot size amendment will not affect the traffic count provided in the trip generation report provided for subdivision approval.***

***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 public sewer. A letter from the Portland Water District is on file. This lot resizing will not affect sewer disposal.***

***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;

***A letter dated 12/28/05 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.***

***The lot size amendment will not impact any sensitive areas.***

***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 and approved by the Town Engineer 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 a Licensed Landscape Architect and a Professional Engineer.***

***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;

***There are no surface waters or outstanding river segments on this parcel.***

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

- L. 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 is served by public sewer. A letter is on file from the PWD. The lot line change 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- Areas 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 re-sizing 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.

Wetlands were delineated as part of the original subdivision approval and wetlands on the expanded lot have been delineated and will not be disturbed by this proposed change to Lot 1.

***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.***

## **5. 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, stormwater management, landscaping, erosion control, and monumentation. 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.

#### **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.

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

- I.* All fees must be paid prior to the release of the plan for recording.

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- 2. **Public Hearing: Major Subdivision Review: R & N Woods, Phase II, a ten-lot subdivision on the north side of Maeve's Way;** Tax Assessor Map U03, Lot 2C in the Low Density Residential (LDR) district; Owner, Munjoy Hill EPM, LLC, Representative, Tom Farmer, MLLA, Terrence J. DeWan & Associates.*

Ms. Nixon presented background information as follows: This application is for final subdivision review of a 10 lot subdivision located off Route 88 in Cumberland Foreside. The lots will utilize an existing road (Maeve's Way) that is part of a previously approved 6 lot subdivision called R & N Woods.

The owner is Ed Manganello. The applicant is Munjoy Hill EPM, LLC; this LLC is in the same ownership as R & N Enterprises, LLC; the developer of the previously approved 6 lot subdivision. 6 of the 10 new lots will have frontage on the existing road, Maeve's Way; a small "eyebrow" shaped road will be constructed that will provide necessary road frontage for the other 4 lots.

The property is located at 52 Foreside Road, Tax Assessor Map U03, Lot 2C in the Limited Density Residential (LDR) zoning district.

The applicant will be represented by Terrance DeWan, Licensed Landscape Architect; Sean Frank, P.E., of Sebago Technics is the design engineer.

#### **PROJECT HISTORY:**

March, 2006: R & N Woods Subdivision granted Planning Board approval.

May 15, 2012: Sketch Plan Review for proposed Phase 2.

September 18, 2012: Preliminary plan review; tabled following public hearing.

October 16, 2012: Planning Board site walk.

November 19, 2012: Planning Board grants preliminary plan approval.



## DESCRIPTION:

Parcel size:	22.94 acres
Number of Lots:	10 new lots in Phase 2 (12 permitted per NRA calculation) 6 lots were approved in Phase 1.
Zoning:	LDR
Development Type:	Cluster Subdivision
Min. Lot Size:	30,000 sf
Lot frontage:	75'
Setbacks:	Front = 50', Rear = 65' (only 60' shown), Side 30' (combined = 65').
Water and Sewer:	Portland Water District
Open Space:	9 Acres (40% of parcel; 25% required)
Utilities:	Underground electric, telephone, and cable from Route 88.
Road:	Both Maeve's Way and Nicola's Way will be private roads. There is an existing 1,840' private road from Route 88. An additional semi-circle road will be constructed to provide frontage for 4 of the new lots. The road will be 22' wide paved traveled way with 2' gravel shoulders on one side and curb on other with sidewalk, no esplanade. There is an existing hammerhead turn-a-round at end of Maeve's Way.
Street Lighting:	None proposed

## Outside Agency Approvals Required:

- **MDOT Entrance Permit:** A revised permit is not required for the additional lots; there is an email on file from MDOT attesting to this.
- **DEP Stormwater Permit:** On file. Dated December 19, 2012.
- **Portland Water District:** On File
- **Maine Dept. of Conservation:** Letter on file dated 9-26-12 outlining how the Variable Sedge will need be protected.

## DEPARTMENT HEAD REVIEWS:

**William Longley, CEO:** No comments.

**Police Chief Charron:** No comments.

### Fire Chief Small:

- 1) 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. **Recommendation Only**
- 2) Residential key boxes, approved by the fire department, should be located at each Residence. **Recommendation Only**

## PLANNER'S COMMENTS/QUESTIONS:

- ~~1. Draft Homeowners Association Document needs to be submitted, reviewed, and approved by the Town Attorney.~~
- ~~2. The MDOT Entrance Permit for Maeve's Way has been provided. The application cover letter states that a conversation with Anthony Fontaine of MDOT confirmed that the original permit was for six residential lots, which classifies the intersection as an entrance and therefore no further permitting is required. Written evidence of this is required.~~

~~3. Confirm understanding that both Maeve's Way and Nicola's Way will be private roads. P. 4 of the August 28 submission states that "with the exception of the roadways and sidewalks, no other lands are proposed for public use." See the following two comments:~~

~~4. The existing Maeve's Way is a private road. Trash is brought by homeowners to the intersection with Route 88. There are only 6 houses there currently. The concern is that with 16 homes, there will be too many containers out on the side of the road that could create a hazard on windy or snowy days. The Homeowners Association should consider contracting with a private waste hauler or submit Permission to Enter upon Private Road and Release form that will enable the Town's waste hauler to go into the subdivision to provide curbside trash and recycling service.~~

*The applicant has agreed to allow Town-contracted trash pickup on Maeve's Way. A signed form was included in the packet.*

5. Who will maintain the buffer areas and trail? *Homeowners Association*

~~6. A letter is required from the Town Manager stating that the required sewer user permits have been reserved by the Town. Applicant will need to pay for these permits prior to the preconstruction conference.~~

~~7. Evidence of Financial Capacity required.~~

~~8. Waiver is required for Hydro-geologic Study. Project will be served by public sewer and a high intensity soils report was provided.~~

#### **WAIVER REQUEST:**

1. Hydrogeological due to sewer connection and the fact that a high intensity soils report was provided. **Granted by Planning Board on 11/19/12**

#### **TOWN ENGINEER'S REVIEW: Al Palmer, P.E., Gorrill Palmer Engineers: email dated 1/3/13.**

We've reviewed the latest submittal, and offer the following comments:

- Prior to construction, the Applicant's Engineer shall meet with the Town regarding potential standardization of the details for the low pressure sewer system. (*Meeting scheduled for 1/9/13.*)
- ~~Prior to final approval, the edge of pavement radii for Nicola's Way at Maeve's Way shall be increased to 25' for ease of emergency vehicle access. While the December 17<sup>th</sup> letter from Sebago notes that the radii were revised, the December 18<sup>th</sup> plans (Sheet 5 of 8) still show/label the radii as 20'. A revised plan submitted last week addresses the comment with respect to the pavement radii.~~

Mr. Tom Farmer, M.L.L.A., of Terrence J. DeWan & Associates, Representative reviewed the changes since the applicant received preliminary approval in November, 2012 as follows:

- The Town Engineer's comments have been incorporated.
- Revisions to the Subdivision Recording Plat to better depict the perimeter buffer.

Mr. Neagle asked clarification on the variable sedge legend.

The Board discussed the clarity of the plan and legends. The Board determined the legends were adequate.

Mr. Farmer continued:

- MDEP has approved the Stormwater Application
- The Homeowners' Association documents and been reviewed and approved by the Town's Attorney.



- The applicant has contracted to have the Town's trash provider to pick up trash on Maeve's Way; the trash receptacles will not be curbside at Foreside Road.
- The applicant has come to an agreement with Mrs. Goodbody regarding the buffering plan.

Mr. Neagle asked if there was a written agreement between the Applicant and Mrs. Goodbody.

Mr. Farmer stated there are three additional notes numbered 11, 12, and 13 as follows:

11) The 75 foot buffer limit markers set within lots 8 and 9 on the portion of the buffer abutting land now or formerly of Goodbody shall include a post and durable sign stating "75 Ft. Buffer Setback – Restricted Clearing per Town Ordinance".

12) Trees shall be planted in the buffer area adjacent to land now or formerly of Goodbody in accordance with a landscape plan included as part of the Final Subdivision Application, on file with the Town of Cumberland Planning Office.

13) A low earthen berm shall be installed near the edge of the buffer between Lot 9 and land now or formerly of Goodbody and installed in accordance with the Landscape Plan included as part of the Final Subdivision Application, on file with the Town of Cumberland Planning Office and in such a manner as to direct Stormwater Runoff from Lot 9 towards the wet area on the western edge of Lot 9. The exact location of the berm shall be determined in consultation with Terrence J. DeWan and Associates, 121 West Main Street, Yarmouth, Maine (207) 846-0757.

Mr. Farmer stated the improvements for the berm and planting of trees will be done by the developer during the construction of the infrastructure.

Mr. Nate Hucklebower, Esq., of Drummond and Drummond stated Mrs. Goodbody was represented by Council, and she is satisfied with notes on the plan. There will be signs staked along the no-cut buffer, if trees blow down, the buffer area is protected and marked. The stated concerns are legitimate but the issue has been addressed.

Mr. Farmer continued to review the Goodbody buffering on the landscape plan.

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

Mr. Bingham moved to approve the findings of fact, the standard conditions of approval and the limitation of approval.

Mr. Ferland seconded.

VOTE: Unanimous

**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;

A high intensity soils report was submitted by the applicant. The project will be on public sewer. There are no streams on the site.

***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 proposed subdivision will utilize public water currently located on Maeve's Way. A letter is on file from the Portland Water District stating that there is an adequate supply of clean and healthful water for the additional 10 lots.***

***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 public water. A letter from the Portland Water District is on file stating that there is an adequate supply of clean and healthful water for this project.***

***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;

***The plan has been reviewed and approved by the Town Engineer. The MDEP has issued a Stormwater permit.***

***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 Applicant has provided trip generation numbers that have been reviewed and agreed to by the Town Engineer. A MDOT Entrance Permit was received for the original subdivision. Evidence that this is acceptable for the additional 10 lots was provided by the applicant.**

***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 public sewer. A letter from the Portland Water District is on file.***

***The project will utilize public sewer. A letter from the Portland Water is on file. A condition of approval is that the required sewer user permits be purchased from 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 existing Maeve's Way is a private road. The applicant has submitted Permission to Enter upon Private Road and Release form that will enable the Town's waste hauler to go into the subdivision to provide curbside trash and recycling service.***

***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;
- A letter dated 8-6-12 from Maine Department of Conservation states that the western portion of the parcel supports an endangered plant, Variable Sedge. A plan to buffer and protect this area has been agreed to by the applicant.*
- A letter dated 8-3-12 from the Maine Department of Inland Fisheries and Wildlife states that there are no known significant wildlife habitats or threatened or endangered species in the vicinity of the project.*
- A letter dated 8-17-12 from the Maine Historic Preservation Commission has stated there are no National Register listed properties on or adjacent to the site.*
- 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 and approved by the Town Engineer and the Town Planner 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;
- Technical capacity is evidenced by the use of professional engineers, licensed landscape architects, licensed soils evaluators, and licensed land surveyors.*
- A letter dated 12/18/12 from Drummond and Drummond states that the developer has a private line of credit of \$2,000,000 available for this project. There are no contingencies or conditions on the borrowing of these funds.*
- 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 to the project as there are no such resources on the site.*
- Based on the information provided, the standards of this section have been met.*
- L. 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 public sewer. A letter is on file from the PWD.*
- 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- Areas 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;  
***A stormwater management plan was prepared by the applicant, reviewed, and approved by the Town Engineer and MDEP.***

***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.  
Wetland areas have been delineated on the site and shown on the plan. The Maine Department of Conservation has reviewed and approved the plans which show an area of open space that will protect the variable sledge and provide a vernal pool buffer.

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

## **10. 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, stormwater management, landscaping, erosion control, and monumentation. 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:** 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.

Mr. Bingham moved to grant Major Subdivision Approval for R & n Woods, Phase II, a ten-lot subdivision on the north side of Maeve's Way, subject to the two proposed conditions of approval; Tax Assessor Map U03, Lot 2C in the Low Density (LDR) district; Owner, Munjoy Hill EPM, LLC, Representative.

Mr. Dillon seconded.

VOTE: Unanimous

**PROPOSED CONDITIONS OF APPROVAL:**

1. All fees must be paid prior to the release of the plan for recording.

2. That the required sewer user permits be purchased from the Town prior to the preconstruction conference.

Mr. Ferland explained to the public that the Board has reviewed the project five times, and that is why there was not a lot of discussion this evening. The outstanding issues were addressed prior to the meeting.

3. **Public Hearing:** To Recommend to the Town Council draft amendments to the Subdivision Ordinance §250-6.D (3) 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 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.

Ms. Nixon stated these last two items are housekeeping ordinance changes. She has worked with Chairman Neagle on the language.

Mr. Neagle suggested the following wordsmith changes.

(3) 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, and all statements made by the applicant to the Planning Board, any variation from the plans, proposals and supporting documents, and statements 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

The Board discussed the wordsmith changes.

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

Mr. Sherr moved to recommend to the Town Council draft amendments to Section 250-6.D (3) of the Subdivision Ordinance as amended.

Mr. Bingham seconded.

VOTE: Unanimous

4. **Public Hearing:** To recommend to the Town Council draft amendments to the Site Plan Ordinance §229-10 – Approval Standards, §229-11 – Expiration of Approval and §229-12 Standard Condition of Approval to add language stating The Planning Board **(or Town Planner if Staff Review).**

The Board discussed the proposed language change and suggested the language add **(if Staff Review, the Town Planner or Staff Review Committee).**

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

Mr. Bingham moved to recommend to the Town Council draft amendments to the Site Plan Ordinance §229-10 – Approval Standards, §229-11 – Expiration of Approval and §229-12 – Standard Condition of Approval as amended **(if Staff Review, the Town Planner or Staff Review Committee).**

Mr. Sherr seconded.

VOTE: Unanimous

§ 229-10. Approval standards and criteria.



The following criteria shall be used by the Planning Board **(if Staff Review, the Town Planner or Staff Review Committee)** 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 **(if Staff Review, the Town Planner or Staff Review Committee)** determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant, who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

- A. Utilization of the site. 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.
- B. Traffic, circulation and parking.
- (1) Traffic access and parking. Vehicular access to and from the development must be safe and convenient.
- (a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (c) The grade of any proposed drive or street must be not more than +3% for a minimum of two car lengths, or 40 feet, from the intersection.
- (d) The intersection of any access/egress drive or proposed street must function:
- [1] At a Level of Service D, or better, following development if the project will generate 1,000 or more vehicle trips per twenty-four-hour period; or
- [2] At a level which will allow safe access into and out of the project if fewer than 1,000 trips are generated.
- (e) Where a lot has frontage on two 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.
- (f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (g) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (h) The following criteria must be used to limit the number of driveways serving a proposed project:
- [1] No use which generates fewer than 100 vehicle trips per day shall have more than one two-way driveway onto a single roadway. Such driveway must be no greater than 30 feet wide.
- [2] No use which generates 100 or more vehicle trips per day shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed 60 feet.
- (2) Accessway location and spacing. Accessways must meet the following standards:
- (a) Private entrances/exits must be located at least 50 feet from the closest unsignalized intersection and 150 feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- (b) Private accessways in or out of a development must be separated by a minimum of 75 feet where possible.
- (3) Internal vehicular circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- (a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- (b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage ("Fire Lane - No Parking").
- (c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all-season emergency access, snow storage, and delivery and collection services.
- (4) Parking layout and design. Off street parking must conform to the following standards:
  - (a) Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
  - (b) All parking spaces, access drives, and impervious surfaces must be located at least 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 15 feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding 24 feet in width.
  - (c) Parking stalls and aisle layout must conform to the following standards:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9' 0"	—	18' 0"	24' 0" 2-way
60°	8' 6"	10' 6"	18' 0"	16' 0" 1-way
45°	8' 6"	12' 9"	17' 6"	12' 0" 1-way
30°	8' 6"	17' 0"	17' 0"	12' 0" 1-way

- (d) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings, or other permanent indications and maintained as necessary.
- (e) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- (f) Provisions must be made to restrict the overhang of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
- (5) Building and parking placement.
  - (a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between the road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.
  - (b) 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 to 10 feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.
- (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.

C. Stormwater management and erosion control. *Editor's Note: See also Ch. 242, Stormwater Management.*

- (1) Stormwater management. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.
  - (a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
  - (b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
  - (c) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
  - (d) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
  - (e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
  - (f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
  - (g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source or a great pond.
- (2) Erosion control.
  - (a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling; excavation and earthmoving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
  - (b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

D. Water, sewer, and fire protection.

- (1) Water supply provisions. The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms to 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.
- (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.
- (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.

- (4) Fire protection. The Fire/EMS Chief or his/her designee shall review the site plan for conformance with Chapter **96**, Article II, Fire Protection, of this Code and may provide to the Planning Board **(if Staff Review, the Town Planner or Staff Review Committee)** a list of suggested conditions of approval.

E. Water protection.

- (1) Groundwater protection. The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 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.
- (2) Water quality. All aspects of the project must be designed so that:
- (a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- (b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal's office.
- (3) Aquifer protection. If the site is located within the Town Aquifer Protection Area, a positive finding by the Board **(if Staff Review, the Town Planner or Staff Review Committee)** that the proposed plan will not adversely affect the aquifer is required.

F. Floodplain management. If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use, and development of that portion of the site must be consistent with Chapter **105**, Floodplain Management, of this Code.

G. Historic and archaeological resources. If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

H. Exterior lighting. The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact on neighboring properties and rights-of way, and the unnecessary lighting of the night sky.

I. Buffering and landscaping.

- (1) Buffering of adjacent uses. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.
- (2) Landscaping. Landscaping must be provided as part of 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.

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

K. Storage of materials.

- (1) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential users and users of public streets.

- (2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.
- (3) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.
- L. Capacity of the applicant. The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this chapter and the approved plan.
- M. Design and performance standards. *Editor's Note: The Route 1 Design Guidelines, Route 100 Design Standards, and Town Center District Design Standards are included at the end of Ch. 315, Zoning.*
- (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 a determination of consistency, the Planning Board **(if Staff Review, the Town Planner or Staff Review Committee)** may utilize peer review analysis provided by qualified design professionals.
- (2) Route 1 Design Guidelines. All development in the Office Commercial North and Office Commercial South Districts is encouraged to be consistent with the Route 1 Design Guidelines.
- (3) Town Center District Performance Standards. All development in the Town Center District is encouraged to be consistent with the Town Center District Performance Standards.
- (4) Village Mixed-Use Performance Standards. All development in the Village Mixed-Use Zone (VMUZ) is encouraged to be consistent with the VMUZ Performance Standards.

#### § 229-11. Expiration of approval.

Construction of the improvements covered by any site plan approval must be substantially commenced within 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 **(if Staff Review, the Town Planner or Staff Review Committee)**. The Planning Board **(if Staff Review, the Town Planner or Staff Review Committee)** may grant up to two one-year extensions to the period 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.

#### § 229-12. 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 **(if Staff Review, the Town Planner or Staff Review Committee)** prior to implementation. This condition shall be included on all site plans.

#### § 229-13. Submission of as-built plans.

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

#### § 229-14. Appeals.

If the applicant is dissatisfied with the decision of the Town Planner, he/she may request to have the application reviewed by the Planning Board, which shall conduct a de novo review of the application. The appeal shall be in writing and shall list the specific provision(s) of this chapter upon which the appeal

is based. Site plan decisions of the Planning Board are appealed to the Cumberland County Superior Court.

§ 229-15. Conflicting provisions.

Where a provision of this chapter appears to be in conflict with any provision of any other ordinance, rule, regulation, restriction, or statute, that provision which imposes the greater restriction and/or provides for the lesser density of land use shall have precedence.

***H. Administrative Matters:***

The Board discussed having the Standard and Limitation of Approvals the same in both the Site Plan and Subdivision Ordinances.

Mr. Neagle reminded the Board that the February meeting will be a week earlier; it will be the second Tuesday on February 12, 2012 at 7:00 p.m.

***I. Adjournment:***

Mr. Ferland moved to adjourn at 8:15 p.m.

Mr. Dillon seconded.

VOTE: Unanimous

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Board Clerk