

**PLANNING BOARD MEETING
MINUTES
TOWN OF CUMBERLAND
Cumberland Town Hall - 290 Tuttle Road
Cumberland, Maine 04021
Tuesday, November 20, 2012
7:00 p.m.**

- A. *Call to Order***
- B. *Roll Call***
- C. *Approval of Minutes of October 16, 2012 meeting***

Mr. Bingham moved to approve the minutes of October 16, 2012 as presented.

Ms. Caron seconded.

VOTE: 5 in favor (Neagle, Bingham,
Boivin, Caron, Sherr)

2 abstain (Ferland, Dillon)

- D. *Staff Site Plan Approvals: Rosa Way Stables, 30 Rosa Way, Graphx Signs 260 Middle Road***

Ms. Nixon stated there are no site improvements associated with this application, it simply permits the offering of riding lessons within an existing barn.

Graphx Signs will be re-constructing a new shop and office area.

- E. *Minor Change Approvals: Emerald Commons – Grading Field Change as Required by MDEP***

- F. *Hearings and Presentations:***

Mr. Neagle stated that Agenda Item # 4 on the agenda would be heard as # 1.

- 1. *Public Hearing: Extension Major Site Plan for two (2) six (6) month extensions of approval for Central Maine Power Raven Farm Substation at 37 Greely Road, Tax Assessor Map R02, Lots 34B, 34C, 34E, 34D and a portion of 38E and 38F in the Rural Residential 2 (RR2) district; Andrew McMullin, Community Relations Manager, Burns & McDonnell, Representative, Central Maine Power Company, Owner.***

Mr. Bingham and Mr. Boivin were recused due to conflicts.

Mr. McMullin reviewed the status of completed work and work yet to be complete at the Raven Farm Substation as follows:

Completed Work

- Substation is “mechanically complete” with all electrical elements in place.
- Large buffer along Greely Road is complete and plantings finished.
- Transmission lines nearly complete (covered under June 2011 permit).
- Inspection of site consistent and meeting permit requirements.
- Abutter issues being resolved.

Work to be completed

- Testing and commissioning of electrical equipment.
- Greely Road minor buffering (former 21 Greely Road house lot and the former Raven home driveway, which was the original access to site).
- Burr family buffering (berm is in place now and Phase I of plantings completed to family’s satisfaction).

- Transmission construction of two poles (covered under June 2011 transmission permit approval)

Mr. McMullin continued explaining the aspects of testing and commissioning and completion of Greely Road and Burr family buffers as follows:

Testing and Commissioning

- Quiet work within the control house and substation yard
- Limited technical crews finishing computer, safety and communications work
- Some aerial equipment to connect the transmission lines

Completion of Greely Road and Burr family buffers

- Recommended planting times are between April 15 and July 1
- Designs are in place according to Planning Board approval
- Work will be with small crews and quiet

Mr. McMullin reviewed the Permit requirements for Raven Farm Substation as follows:

- Continue the current work hours (7 a.m. to 7 p. m., Monday through Friday, no weekends or holidays)
- Continue the current travel path restrictions (access only from the Greely and Middle roads, no right turns leaving substation onto Greely Road)
- Continue to update community and abutters of work progress
- Continue access to site for third-party inspection of work by town

Mr. McMullin stated the abutter concerns voiced in an email from Curtis Ingraham have been addressed.

Mr. Ferland asked for clarification of the request was it for two six month extensions, or one six month extension.

Mr. McMullin stated they intend to be finished within the one six month extension, and if are delayed they would come back to the board.

Mr. Dillon asked what caused delays in the project.

Mr. McMullin stated ISO New England's schedule of taking lines in and out of service; and permits for the transmission lines in other communities slowed the work.

Mr. Dillon asked about breaker test and back up alarms.

Mr. McMullin stated yes, breaker tests will have a onetime noise which will sound like a gun shot.

The public portion of the meeting was opened.

Ms. Nixon referenced e-mails from Curtis Ingraham of 55 Greely Road. The e-mail concerns were addressed by Mr. McMullin. The e-mails and responses will be entered as part of the permanent record.

The public portion of the meeting was closed.

Mr. Dillon moved to grant a one (1) six (6) month extension of approval for Central Maine Power Raven Farm Substation at 37 Greely Road, Tax Assessor Map R02, Lots 34B, 34C, 34E, 34D and a portion of 38E and 38F in the Rural Residential 2 (RR2) district; Andrew McMullin, Community Relations Manager, Burns & McDonnell, Representative, Central Maine Power Company, Owner.

2. Public Hearing: Major Subdivision Review for Morrison's Hill Subdivision for 18-single family house lots at Gray Road, Tax Assessor Map U18, Lot 6 in the Village Office Commercial I (VOCI) district; as allowed by contract zone. Walnut Hill Investment, Inc., Owner, Al Palmer, P.E., Gorrill-Palmer Consulting Engineers, Representative.

Ms. Caron asked to be recused as she is a direct abutter to the proposed Morrison's Hill Subdivision and lives across the street to Castlerock. Ms. Caron was recused and excused from the meeting at 7:20 p.m.

Mr. Sherr stated his firm is the peer review engineer; he has not discussed the project and felt it wouldn't affect his ability to review the project.

Mr. Neagle confirmed that Mr. Sherr had no contact with the Peer Review Engineer.

Mr. Neagle stated at 8:00 a.m. on November 17th the Board conducted site walks for Morrison's Hill and Castle Rock.

Ms. Nixon stated the Board had just received handouts depicting an aerial shot of Route 100 as re-designed per the DOT permit requirements; and a letter from Peter Martelle a direct abutter.

Ms. Nixon presented background information as follows:

The applicant is Walnut Hill Investments, Inc. The applicant is proposing to develop a 16.46 acre site into 18 single family house lots, one of which will be retained by the current owner. A contract zoning agreement has been approved by the Town Council that allows for increased density. The contract zoning agreement also states that the purchase price shall not exceed \$225,000 and that purchasers must occupy the home as their principal residence. There are restrictions on resale for the first 2 years. The property is located on Route 100 in the Village Office Commercial 1 (VOC 1) zoning district, as shown on Tax Assessor's Map U-18, Lot 6. There is approximately 982 feet of frontage along Route 100.

The applicant has a purchase and sale agreement dated April 19, 2012 that expires on October 15, 2012. An extension to the contract has been provided.

The applicant is represented by Al Palmer, P.E., of Gorrill Palmer Consulting Engineers, Inc.

This is the second review of this project. A site walk was held on Saturday, November 17, 2012.

DESCRIPTION:

Parcel size:	16.46 acres
Net Residential Density:	Contract Zoned for maximum 18 lots.
Number of Lots/Dwelling Units:	18 (17 lots to be sold; 1 to be retained by the owner)
Zoning:	Village Office Commercial (VOC1) with contract zoning overlay.
Development Type:	Residential detached single family dwelling units.
Min. Lot Size:	20,000 sq. ft. per dwelling unit
Lot frontage:	75'
Lot Setbacks:	Front: 25'; Rear: 75'; side: 10'.
Water	Portland Water District. Capacity to serve letter not yet received.
Sewer:	Private Septic Systems
Open Space:	Square footage not provided, but is shown on plan.

Buffer:	A minimum 50' buffer around the perimeter of the subdivision.
Utilities:	Public water and private septic. All utilities will be underground. A capacity to serve letter has been received from Central Maine Power.
Street Lighting:	None proposed.
Roads:	Bud's Trail will be a public road pending Town Council acceptance, the other Road ROW: 50'; pavement width: 22'; 4' gravel shoulder on one side; 5' sidewalk on other side with 4' esplanade.
Sidewalks:	5' wide sidewalk with 4' wide grass esplanade on one side of street
Wetland Impact:	Approximately 1,374 sf.
Vernal Pools:	None identified.
Fire Protection:	Hydrants.

APPROVED WAIVER REQUESTS:

Note: Section 15.1 of the Subdivision Ordinance allows for waivers when "an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds makes a particular standard inapplicable".

1. **Existing Physical Features (trees 10" diameter or more and stone walls):** Requested due to majority of the development are being within the open field portion of the site.
2. **High Intensity Soil Survey:** Due to the small scale of this project and the fact that the project will be served by public water. Test pits have been conducted on all lots to determine suitability for on-site septic systems and a hydro-geologic study has been conducted for the project.

OUTSIDE AGENCY APPROVALS:

- MDEP Stormwater Permit: **PENDING**
- US Army Corp of Engineers: Category 1 Permit: **PENDING**
- MDOT Entrance Permit: **PENDING**
- Inland Fisheries and Wildlife: **On File.**
- Maine Historic Preservation Commission: **PENDING**
- Maine Natural Areas Program: **PENDING**

PLANNING DIRECTOR'S COMMENTS/DISCUSSION ITEMS:

- Does the 9/25/12 letter from People's United Bank provide sufficient evidence of Financial Capacity to Board? – *Letter submitted is sufficient*
- MDOT Entrance Permit Outstanding.
- Letter from Portland Water District indicating capacity to serve.
- MDEP Approval outstanding.
- Letter from Historic Preservation Commission. - *Received*
- Provide amount of open space provided. *To be added to the plan.*
- Town Engineer's Comment: **Stormwater Management Report**
Lot 10 house/septic system separation is shown less than the 20 foot minimum.
This will be revised with next submittal; the building will be shifted to meet the setbacks.

DEPARTMENT HEAD REVIEWS:

William Longley, Code Enforcement Officer: No comments at this time.

Joe Charron, Police Chief: No comments
Chris Bolduc, Public Services Director: No comments.
Dan Small, Fire Chief: Plan reviewed with Developer; is acceptable.

Town Engineer Review (Stephen Bradstreet, P.E., Ransom Engineering): November 5, 2012

Ransom Consulting, Inc. (Ransom) has reviewed the revised submission prepared by Gorrill-Palmer Consulting Engineers, Inc. dated October 30, 2012. Ransom has reviewed the submission in response to their October 9 & 10, 2012 comment letters and has the remaining comments. Our comments are as follows and follow the format of Gorrill-Palmer's October 30, 2012 letter.

Stormwater Management Report

2. Lot 10 house/septic system separation is shown less than the 20 foot minimum.

General

1. All outstanding permits and letters from review agencies need to be submitted once received.

This concludes our review of this submission package. I trust these comments assist the Town in their review of the submitted documents.

III. Cumberland Lands and Conservation Commission:

Morrison's Hill Subdivision – November Review:

The Open Space plan is not documented as such on Sheet C100. It is un-buildable wetlands. There is no provision for public parking at the so-called Open Space.

Mr. Al Palmer P.E., of Gorrill-Palmer Consulting Engineers stated he was present with Mr. Ben Grover a principle of the company. Mr. Palmer stated at the last meeting the DOT had made comments regarding entrance onto Route 100. The DOT is requesting a two-way center turning lane. The center turn lane would be used for all left turns into the proposed development and would also be able be used for all left turn movements whether north or southbound; including Mill Road and residents that have direct driveways off from Route 100. This center line would continue north to Preston Way.

Mr. Palmer continued stating since the last meeting we had the site walk; we have submitted our application to the Maine Department of Environmental Protection (MDEP) and received comments today. The Stormwater Permit minor comments will be responded to next week with a copy to Ms. Nixon. We anticipate by next meeting having the DEP Permit for Stormwater as well as the final MDOT entrance permit. As reviewed in Ms. Nixon's memorandum we are seeking preliminary approval tonight with the outstanding items complete prior to submitting for final approval.

Mr. Ferland asked about the outstanding items.

Mr. Palmer reviewed the Planner's outstanding items comments as follows:

- Does the 9/25/12 letter from People's United Bank provide sufficient evidence of Financial Capacity to Board- *Letter submitted is sufficient*
- MDOT Entrance Permit Outstanding. *The re-stripping plan has been submitted.*
- Letter from Portland Water District indicating capacity to serve. – *Letter needed prior to final approval, we have received comments on design plans.*

- MDEP Approval outstanding. *Received comments today and will re-submit next week, with the shift of the driveway and elimination of wetland fills we do not need an Army Corps Permit.*
- Letter from Historic Preservation Commission. *Letters were submitted from the Maine Historic Preservation Commission and a letter from the Department of Conservation. Provide amount of open space provided.*
- Town Engineer's Comment: **Stormwater Management Report**
Lot 10 house/septic system separation is shown less than the 20 foot minimum. *This will be revised with the next submittal.*

Mr. Dillon asked if the new driveway location provided the 500' sight distance required.

Mr. Palmer stated yes.

The public portion of the meeting was opened.

Mr. Peter Martelle of 12 Spring Road stated he abuts the property; he had three requests:

- He asked if the building envelope on Lot # 4 could be moved to lot # 30; lot # 4 seems very crowded and if that space were to left as open space I think that would help lessen the impact the project would have on their overall view of the area.
- To put a note on the plan to allow for future road connection to the Martelle property, and to extend the road to the edge of the property line, by doing so this may make future road access easier.
- The third request is in reference to the section of land from where the road ends to approximately where the trees will be left, past lot # 4. He requested the addition of a berm within this 50' buffer zone with thickly planted trees and bushes along the top and side with the overall height being around 40'. If this could be accomplished with just trees and shrubs, that too would be fine. This additional buffering would help shield some of the headlight traffic and give some privacy to both his property and the future homeowner's yards; and may help retain the value of his property.

Mr. Palmer stated due to wetland constraints and the stormwater pond it would not be possible to re-locate lot # 4 to the area of lot # 30. The applicant is willing to discuss with Mr. Martelle the possibility of a berm, but it couldn't be built in the future roadway connection location.

Mr. Ferland asked about the snowmobile trail.

Mr. Palmer stated this will be re-located and continue to connect with the Castle Rock plan, and will be shown on the final plan submission.

Mr. Dillon asked the logic in the 8' side setbacks, with 25' total.

Mr. Palmer stated the lots have seventy-five foot frontage and a fifty foot buildable envelope, and the 25' setback with a minimum of 8' gives more space for homeowner's to have access to the backyard.

Mr. Sherr stated if there is 8feet on one side the other side will have a setback of 17 feet.

Mr. Dillon stated lot # 8 looks narrower than the others, does that still have room for a garage.

Mr. Dillon also asked about permitted accessory uses on the properties.

Mr. Palmer stated the contract zone is very specific on what is permitted on these lots. An accessory structure would be allowed as long as it meets the setbacks.

Ms. Nixon stated page 9 of the Contract Zone lists driveways and sheds.

The public portion of the meeting was closed.

Mr. Sherr stated there is a typo on the side setbacks under the description it is shown as 10 feet and it should be 25 foot combined with a minimum of 8 feet. Under the contract zone amendments Exhibit C there is a typo where the 25' combined and 8' minimum should be corrected.

Mr. Neagle stated it sounds like the contract needs a minor amendment.

The Board reviewed the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1

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

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

The applicant has provided a soils report prepared by Richard Sweet Associates, Inc. describing the soils as they relate to the design for the proposed septic systems. There are passing test pit locations for each of the proposed lots. A 75' setback from a stream located on the site has been shown on the plan.

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 public water. A letter from the Portland Water District stating that there is an adequate supply of clean and healthful water to serve the needs of the proposed subdivision has not yet been received.

Based on the information provided the standards of this section have NOT 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 utilize public water. A letter from the Portland Water District stating that there is an adequate supply of clean and healthful water to serve the needs of the proposed subdivision has not yet been received.

Based on the information provided the standards of this section have NOT 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;

An erosion and sedimentation control plan was provided. The Town Engineer has reviewed and approved the plans.

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

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

The applicant has received a waiver from the traffic study requirement citing low peak hour trip volume. The applicant states that 180 peak hour trip ends will be generated by the project. An MDOT Entrance Permit is required and has not yet been received.

Based on the information provided, the standards of this section have NOT 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 utilize private septic systems. Sweet Associates has located passing test pit locations for each of the proposed lots.

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

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

The Town provides curbside pickup of household trash. The Town is currently under contract with Pine Tree Waste for the collection and hauling of residential solid waste with disposal at Eco-Maine. The amount of household trash estimated to be generated by the new homes is 742 pounds per month.

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;

A letter is on file from Department of Conservation stating that there are no rare or botanical features documented specifically within the project area.

A letter is on file from the 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 on file from the Maine Historic Preservation Commission stating 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 by the Town's peer review engineers and town staff. All outstanding comments will be addressed for final plan review.

Based on the information provided, the standards of this section have NOT 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 professional engineers, surveyors, and soils evaluators.

A letter dated 9/25/12 from People's United Bank states that "both A.H.Grover, Inc/ and the partners of Walnut Hill Investments, LLC have the financial ability and credit worthiness to complete the Morrison's Hill Neighborhood subdivision".

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

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

The parcel does not appear to fit into any of the above protected areas.

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 proposed 18 lot residential subdivision will not adversely affect the quality or quantity of groundwater.

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

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

The parcel is located in Zone C- Area of Minimal Flooding as depicted on FIRM #230162 0015B.

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 dated September 2012 was prepared by Gorrill Palmer Consulting Engineers. The plan has been reviewed and approved by the Town 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.

Wetland areas are shown on the plan. There is a total impact of 1,374 sf. There are no natural vernal pools on the site. The applicant has designed the project so as 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]

A brook called "Small Brook" is shown on the plan. The required 75' MDEP setback has been provided.

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

The small portion of land in the northeasterly area of the parcel appears to be located in the Aquifer Protection District. This area is within the 50' perimeter buffer of the subdivision. There are passing test pit locations for each parcel, so the 18 lot residential subdivision should not adversely affect the aquifer.

Mr. Bingham moved to approve the findings of fact as amended.

Mr. Boivin seconded.

VOTE: Unanimous 6-0

Mr. Bingham moved to grant Preliminary Major Subdivision approval for Morrison's Hill Subdivision for 18 single-family house lots at Gray Road, Tax Assessor Map U18, Lot 6 in the Village Office Commercial I (VOCI) district; as allowed by contract zone; subject to four recommended conditions of approval and the Standard Conditions, Limitation of Approvals; Walnut Hill Investment, Inc., Owner, Al Palmer, P.E. Gorrill-Palmer Consulting Engineers, Representative.

Mr. Dillon seconded.

VOTE: Unanimous 6 – 0

Standard Conditions 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 de minimus 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.

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.

Recommended Conditions of Approval

1. All outstanding issues where standards have not been met.
2. The proposed re-location of the Snowmobile trail to be shown on the plan.
3. The buffering along the Martelle property be addressed and shown on the plan.
4. The proposed right-of-way to the Martelle property is shown on the plan and a note is added to the plan.

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3. **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 is the second preliminary review for this proposed ten (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 six (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. Six of the new lots will have frontage on the existing road, Maeve's Way and 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

September 18, 2012: Preliminary Plan Review; tabled following public hearing.

October 16, 2012: Planning Board Site Walk.

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)

Trails: A trail location is shown, but will not be constructed by R & N Woods Enterprises. It is limited to foot traffic. Is it open to the public?

Utilities: Underground electric, telephone, and cable from Route 88. Letters needed.

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:** Revised permit not required for additional lots. (Applicant needs to submit evidence that original permit for 6 lots is still valid for the additional 10 lots.)

- **DEP Stormwater Permit:** Outstanding.
- **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**

TOWN ENGINEER'S REVIEW – Al Palmer, Gorrill-Palmer Engineers. November 14, 2012:

Gorrill-Palmer Consulting Engineers, Inc. has completed a peer review of the Preliminary Major Subdivision application for the referenced project. The current information from the applicant is presented in a package dated October 26, 2012 as prepared by DeWan & Associates and Sebago Technics. We have the following comments based on our review of the material:

- Prior to final approval, the Applicant's Engineer shall meet with the Town regarding potential standardization of the details for the low pressure sewer system.
- 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.
- Prior to final approval, the Typical Road Section on Sheet 8 of 8 shall be modified to include:
- 2" of Hot Bituminous Pavement – Grade B versus the 1-1/2" currently shown
- Addition of the Labeling and Dimensioning of the Gravel Section for the Sidewalk, as well as the Pavement Section for the Sidewalk.
- The Applicant's Engineer shall review the need for an underdrain for the box cut on the sidewalk side of the road section.

LANDS AND CONSERVATION COMMISSION

I did a cursory review of the subject subdivision and it appears the developer has addressed most issues of concern to our committee fairly well.

There are lots of forested buffers for various reasons proposed on the site. As most buyers never see the development plans I think accidental and intentional cutting of the buffers will continue to be an enforcement problem. I think they will have to be marked as well as included as restrictions in the deeds so subsequent buyers will be aware of the restrictions.

It is not clear to me if the road will be private or public. The plan says private while the application says only the roads and sidewalks will be public. While it would be a cost savings if the Town does not have to maintain a private road the public will not retain any walking rights if privately held.

If Cumberland Foreside needs more housing this site offers the advantages of very little natural resources impact, having public water and sewer, being located near existing school bus routes, maintaining a high percentage of open space, does not require a new entrance onto Route 88, and is located in an area that is heavily developed.

Mr. Terry DeWan, MLLA, Representative stated he was present with Tom Farmer, Sean Frank and Nate Hucklebower. Mr. DeWan provided an overview of the project; there has been a site walk with neighbors in attendance. The existing Maeve's Way plan has six lots, most of them are built upon or under construction, and Lot # 6 is currently under construction. Lot # 1 has a red line drawn through it; there will be a modification of lot # 1.

This is a 23 acre piece of property on the north side of Maeve's Way. Mr. DeWan reviewed the location of the open space, wetlands, vernal pool, and variable sedge. The vernal pool will have a 250' buffer, and the variable sedge will be protected. The stormwater will be managed with no cut buffers. These features in total Seventy-two percent of the property is protected land as stormwater no cut buffers, the 75' no cut cluster buffer, vernal pool, variable sedge and common open space.

Mr. Neagle stated when he looked at these plans he thinks the graphics on the buffers need work. In the areas where there is just a 75' setback buffer because of the cluster provision; it is not clear; he would like some shading to clarify buffers on the plan.

Mr. DeWan continued with the review of the building envelopes for each of the lots and presented a power point presentation of a build out scenario. The detention pond on the back of the property was required by DEP and not the town. Sean Frank met with Al Palmer to review the pond. It was decided that the back detention pond was not needed. Mr. DeWan reviewed the landscape plan; Ms. Nixon asked why there weren't trees around the entire circle. The intent is to leave as many trees undisturbed as possible, and the added street trees and plantings around the detention pond. Mr. DeWan reviewed the existing trail which is to be re-located. There is an existing sidewalk along Maeve's Way and they are proposing a new sidewalk along Nicola's Way. The blow down area was reviewed and the issues with lot # 9 and the abutter Mrs. Goodbody's attorney have come to a resolution. Mrs. Goodbody's requests as stated will be incorporated into the plan.

1) The Subdivision Plan (rev-dated 10/26/2012) notes that the 75' buffer setback shall be marked with a 3/8" Rebar with Cap Marked "Buffer Limit" at all angle and curve transitions along the buffer limits. The rebar will be witnessed with a post and small metal sign stating "75' Buffer Setback - Restricted Clearing per Town Ordinance"; at least along the limits of Barbara Goodbody's property.

2) Additional trees will be planted within the 75' buffer setback on Lots 8 & 9 along Barbara Goodbody's property to increase the buffer density and provide visual screening. Tree types, locations and density as recommended by Applicant's Landscape Architect.

3) The development of Lot 9 will include a shallow swale or low berm just south of or potentially within the 75' buffer setback to direct any stormwater runoff from the developed lot toward the existing wetland swale (to the west). Construction of a berm or swale within the 75' buffer setback would be acceptable to Barbara Goodbody so long as it is acceptable under Town Ordinance, at least 50' away from the property line, and so long as the construction of such feature does not impact existing, established trees.

Mr. DeWan continued stated the there would be an amendment to Lot # 1 of Phase I, the 1.67 acre lot will be reduced to 1.51 acres for access to Lots # 7 & 8 Phase II. The applicant will provide for the next meeting the following:

- DEP Stormwater Permit
- Letter on variable sedge – in packet
- Financial Capacity Letter
- Any changes to the plan discussed this evening, and any comments from the Town's peer review.

We anticipate having all outstanding materials submitted by the end of December for the January 2013 meeting.

Mr. Neagle stated it is easier to read a plan with a shade, dot or symbol and a legend on the side. The plan will be cleaner and less intimidating if there is less text on the lots.

The public portion of the meeting was opened.

Mr. John St.Onge of 25 Stony Ridge Road stated he didn't have any issues with the current proposal, but he was requesting greater shielding and buffering from the hammer head lot. At the original approval they requested shielding. When people turn into the hammerhead lot the lights shine into our house. At the time they did install trees, they were too few, and sparse and some died. We had a meeting at our house in June with Nicola and Horace Horton. We actually requested a fence, and they said they would do a better job with the trees. We haven't heard from anyone.

Mr. Neagle stated the Board is not considering lot # 6, and asked if the applicant still owned lot # 6; or if it is no longer owned by the developer.

Mr. Hucklebower stated the lot has been sold. It might be in a situation where additional trees could be added; he thought the area had the required number of trees required.

Mr. St.Onge stated he was disappointed.

Mr. Hucklebower stated he would discuss this issue with the developer.

Mr. Neagle encouraged the St.Onge's to communicate with the developer's attorney for resolution.

Mr. Nixon stated the plan requires a 75' buffer; she looked at the site years ago, but is willing to re-visit and check to see if the buffer was planted in accordance with the approved landscape plan for Phase 1.

The public portion of the meeting was closed.

The Board reviewed the Planner's comments as follows:

PLANNER'S COMMENTS/QUESTIONS:

1. Draft Homeowners Association Document needs to be submitted, reviewed, and approved by the Town Attorney. ***Received – needs to be reviewed by the Town Attorney.***
2. The landscaping plan shows 4 maple trees to be located along the northwesterly side of Nicola's Way. Is there a reason why the trees do not extend around the entire semi-circle road?
3. 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. ***This has been met.***
4. 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:
5. 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 will submit a release form to allow the town's waste hauler to provide curbside trash and recycling service.***

6. Will the existing trail and new trail connection be available for public use? ***The historical use will remain; and it is intended to be a local use. It will be shown on the plan.***
7. Who will maintain the buffer areas and trail? ***The Homeowners Association.***
8. 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. ***This will be submitted for final approval.***
9. Evidence of Financial Capacity required. ***This will be submitted for final approval.***
10. 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. Hydro geologic due to sewer connection and the fact that a high intensity soils report was provided.

Mr. Bingham moved to grant the waiver of a Hydro geologic study as the property will be connected to sewer and a high intensity soils report was provided.

Mr. Sherr seconded.

VOTE: Unanimous

The Board reviewed the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1

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

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

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.

2. 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 dated 9/17/12 from the Portland Water District is on file 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.

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 utilize public water. A letter dated 9/17/12 from the Portland Water District is on file stating that there is an adequate supply of clean and healthful water for additional 10 lots.

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;

The plan has been reviewed and approved by the Town Engineer. The MDEP is reviewing the plans at this time.

Based on the information provided the standards of this section have NOT been met.

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

The Applicant has provided trip generation numbers that have been reviewed and agreed to by the Town Engineer. A MDOT Entrance Permit was received for the original subdivision.

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 utilize public sewer. A letter from the Portland Water District dated 9/17/12 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.

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 existing Maeve's Way is a private road. The applicant will grant a public easement to the Town 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.

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;

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.

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 Engineer and Town Staff. There are still outstanding issues that need to be addressed for final approval.

Based on the information provided the standards of this section have NOT 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 use of professional engineers, licensed landscape architects, licensed soils evaluators, and licensed land surveyors.

Financial capacity evidence has not yet been provided.

Based on the information provided the standards of this section have NOT 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;

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

The Board finds 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 public sewer. A letter dated 9/17/12 is on file from the PWD.

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;

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 prepared by Sebago Technics has been submitted. It has been reviewed by the Town Engineer. It is currently being reviewed by the MDEP.

Based on the information provided the standards of this section have NOT 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 were delineated by Gary Fullerton, CSS, LSE on April 2, 2012. There are two areas of wetlands and one vernal pool on the site. The protection meets current Natural Protection Act standards.

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 site.

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

Mr. Bingham moved to approve the findings of fact as amended.

Mr. Sherr seconded.

VOTE: Unanimous

Mr. Bingham moved to grant Preliminary Major Subdivision approval subject to the Standard Conditions of Approval, Limitation of Approval and the five Recommended Conditions of Approval for 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.

Mr. Sherr seconded.

VOTE: Unanimous

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 de minimus 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.

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.

RECOMMENDED CONDITIONS OF PRELIMINARY APPROVAL:

1. That all outstanding items described in the findings be provided in the final submission packet.
2. The Homeowner's Documents be reviewed and approved by the Town Attorney.
3. The depiction of the buffers on the plan is clarified for clearer understanding.
4. That the three conditions of the Goodbody agreement be shown and noted on the plan.
5. That the Town Engineer's comments be addressed.

The Board took a five minute recess at 8:55 p.m. The meeting resumed at 9:00 p.m.

- 4. Public Hearing: Major Subdivision Amendment for Castle Rock Subdivision** for development of 17 single-family affordable housing units, at Tax Assessor Map R07C, Lot 1A – lots 1-9 in the Village Office Commercial I (VOCI) district; as allowed by contract zone. Owner Telos Capital, LLC, Representative, Scott Decker, P.E., SYTDesign Consultants.

Mr. Bingham disclosed he is a friend of Scott Decker and Scott Lalumiere; and they are both in the Lion's Club. Mr. Bingham stated he felt he could be impartial in the review of the project.

Mr. Neagle stated that the Board conducted a site walk on Saturday, November 17th. This is the first preliminary review for the project.

Ms. Nixon presented background information as follows: The owner and applicant is Telos Capital, LLC of 84 Middle Street, Portland, Maine.

Scott Decker, P.E., of SYTDesign Consultants is the representative.

The parcel is located in VOC1 zoning district but the development is governed by the provisions of a Contract Zoning Agreement dated November 1, 2012.

The application is a request to amend an approved 9 lot commercial subdivision to allow for the construction of 17 residential house lots. The prices for the homes shall not exceed \$225,000 and there are design restrictions specified in the contract zoning agreement.

The property is shown as Lot 1A on Tax Assessor Map R07 and is 28.8 acres in size.

The access road and utilities are installed. Final paving and the re-habilitation of a detention basin are still required.

The MDOT has issued an entrance permit for the access road.

The subdivision will utilize public water and on-site septic.

HISTORY:

August 21, 2012: Sketch Plan Review and Rezoning Recommendation to Town Council.

November 17, 2012: Site Walk by Planning Board

DESCRIPTION:

Parcel size:	28.8 acres
Number of Lots:	17
Zoning:	VOC 1 w/Contract Zone
Development Type:	Clustered
Min. Lot Size:	20,000 sf
Lot frontage:	75'
Setbacks:	<i>Front = 25', Rear = 75', Side 25' (combined) 8' minimum</i>
Water and Sewer:	Public water; private septic.
Open Space:	10.52 acres. Will be deeded to the Town of Cumberland and will be open to public for general recreational use.
Trails:	Land is open. Contract Zoning Agreement states that the developer shall make every effort to preserve pedestrian and snowmobile access.
Buffering:	A 50' buffer along the southerly VOC1 property boundary with current Zoning Maps R7C Lot 1A-2 and R7C Lot 1 A-3 shall be designated as a no cut buffer area.
Utilities:	Underground electric, telephone, and cable from Route 100
Road:	A 700' (apx.) road with a cul-de-sac turn-around. 22' wide paved traveled way with a 4' paved shoulder on one side and a 6' gravel shoulder on the other side. Proposed to be a public road.
Sidewalks:	4' paved shoulder on one side

OUTSIDE AGENCY APPROVALS:

MDEP: Applicant has not yet determined if there are any requirements.

MDOT: Has entrance permit been revised based on the amended plan. This is not addressed in the Traffic Assessment Report.

Portland Water District: Capacity to serve letter outstanding.

CMP: Capacity to serve letter outstanding.

WAIVER REQUEST: Section 7.15 of the Subdivision Ordinance requires that a developer shall submit plans for sewage disposal designed by a professional engineer and/or licensed site evaluator. The applicant requests a waiver from this requirement. Justification is that there are passing test pits for each lot ensuring that wastewater disposal systems can be constructed for each lot. Due to uncertainty of where a prospective homeowner will want to place the system, a waiver is being requested.

PLANNER'S COMMENTS:

NOTE: The CZA is included in the packet the Planning Dept has prepared. It was not executed in time for the applicant to provide it in their submission materials.

1. Right, Title, or Interest?
2. Section 2 – Project Description –makes references to the Rural Residential Zone 1 (RR1) and the Affordable Housing District. The property is located in the VOC 1 district and is subject to a contract zoning agreement with the Town for density and design requirements. The plan should be revised to show that the entire parcel is within the VOC 1 zoning district. There is no Affordable Housing District in the Town.
3. Homeowners Association Draft Covenants should be submitted to the Town for review by the Town Attorney.
4. Appendix A, Stormwater Facilities Maintenance, needs to be approved by the Town Engineer and Town Manager.
5. Provide evidence that the Town Council has accepted the 8.62 acre open space parcel.

TOWN ENGINEER'S REVIEW: Steven Bradstreet, Ransom Consulting, Inc.

Ransom Consulting, Inc. (Ransom) has reviewed the Subdivision application submission prepared by SYTDesign Consultants dated October 2012. Ransom has reviewed the submission as a Major Subdivision in accordance with the Town's Chapter 250-Subdivision of Land Ordinance and the Contract Zone Agreement (unexecuted). Our comments are as follows and follow the format of submission requirements in the checklist and the consultant's tabbed submission.

Application Checklist

1. The application states that no waivers are requested yet Tab 18 asks for as waiver of the design of individual septic systems. Sweet Associates report indicates that all lots have been tested and are suitable for septic fields in the location of those test pits.
2. The subdivision plans does not show dimensions and bearings of the new lot lines.
3. The width of the existing streets and right of ways are not shown.
4. The locations of the existing utilities are shown but the sizes of the storm drain are not shown.
5. While no construction is planned for new lot layout it should be noted that additional road work will be required that will necessitate catch basin and storm drain protection. Also the applicant has noted the failure of the two ponds that will require maintenance in order for proper operation. The required maintenance will require additional erosion protection.
6. The lots have not been dimensioned and accurate lot areas have not been provided.
7. The subdivision plan does not show locations of permanent markers.

8. The application is primarily for recreation of new lots for a residential subdivision. The road and associated utilities have been constructed and the need for design plans is not warranted. Waivers should be requested of these submission items.

CUMBERLAND LANDS AND CONSERVATION COMMISSION:

Castle Rock Subdivision

Section 4 Contract Zoning Agreement

- The Comprehensive Plan of 2009 specified this area as VOC1 and RR1 with the intent to provide a business friendly area in Cumberland along a state highway slated for growth.
- Small homes at low cost with price ranges with architecture commensurate on lots which are half of the allowed density were not part of the 2009 Plan.
- Dense housing away from schools and town center was specifically rejected by the 2009 Comprehensive Plan.
- The “Aesthetic, Cultural and Natural Values” of the property was reviewed in 2006 for business zoning not residential.

Section 6

- The developer must absolutely preserve pedestrian and snowmobile access.

Section 11

- Standards for erosion, sediment control and Storm water Management was approved for VOC1 and RR1 zoning, not for the current proposed CZA residential application with more impervious surfaces from the residential roads.

DEPARTMENT HEAD REVIEWS:

William Longley, CEO: No comments.

Joseph Charron, Police Chief: No comments

Dan Small, Fire Chief:

- 1) The buildings shall be equipped with fire alarm systems that are monitored by an approved fire alarm company. The systems shall have remote annunciator panels located at the main entrances that can be silenced with the push of one button from this location. The strobe or other visual alarm signaling devices shall remain active when the systems are silenced. The alarm systems shall identify the exact location of each individual initiation device with plain text at the fire alarm panels.
- 2) The buildings shall be equipped with hinged key boxes approved by the fire department. The key boxes shall be electronically connected to the fire alarm systems to show a trouble signal whenever the box is in the open position.
- 3) The buildings shall meet the requirements of the National Fire Protection Association Life Safety Code. These requirements cannot be determined until a complete set of building drawings are reviewed for each building. For this type of building the requirements typically address, but may not be limited to: building exiting, emergency lighting, and fire extinguishers.
- 4) Any fuel storage shall meet the appropriate standard of the National Fire Protection Association. Attention to building and property line set back requirements should be included as part of the site plan review.
- 5) Fire hydrant(s) shall be installed prior to issuing any building permits.
- 6) Fire protection sprinkler systems shall meet the requirements of the National Fire Protection Association. The fire department connections shall be equipped with 4” locking couplings that are located in areas that are approved by the fire department. The sprinkler systems shall send a water flow signal to the fire alarm panel whenever water is moving throughout the system.

- 7) Access to the buildings shall be adequate enough to accommodate fire department vehicles.

Mr. Scott Decker, P.E., of SYTDesign stated he was present with Peter Biegel, Landscape Architect, and Todd Settle, Applicant.

Mr. Decker presented an overview of the project as follows: Castle Rock Homes Residential Affordable Housing development is a 17-lot subdivision at the 28.8 acre site of the previously approved 9-lot Castle Rock Business subdivision located off Route 100/26, just south of Mill Road in Cumberland. The business park was approved by the Cumberland Planning Board in 2006; however, no lots have been sold within the park. The Applicant proposes to amend the subdivision plan to reconfigure the lot lines to obtain 17-lots of affordable residential housing with each lot having a minimum lot frontage of 75 feet and area of 20,000 square feet. A contract zone has been created to allow reduced space and bulk criteria for the project. The Applicant received a Contract Zoning Agreement from the Cumberland Town Council at the August 13, 2012 Town Council meeting. The infrastructure is developed as a result of the commercial approval. There is a 30' utility and pedestrian just off the cul-de-sac. There are two detention basins that are in place and functioning but need to be cleaned out. The Contract zone requires houses to be 1200 sq. ft. to 1450 sq. ft. The setbacks will be 25 feet front, side 25 foot with a minimum of 8 feet, and the rear 75 feet. There is a 50' no cut buffer strip around the south side of the property. The lots will have septic systems except Lots # 9, 16, & 17; these lots have an easement to the open space area for septic systems. The Applicant is requesting a waiver of Section 7.15 of the Subdivision Ordinance which requires that a developer shall submit plans for sewage disposal designed by a professional engineer and / or licensed site evaluator. The applicant requests a waiver with the justification there are passing test pits for each lot ensuring that wastewater disposal systems can be constructed for each lot. Due to uncertainty of where a prospective homeowner will want to place the system, a waiver is being requested. The snowmobile trail will be shown on the plans.

Mr. Peter Biegel, Landscape Architect stated at the site walk the tree plantings were discussed. The darker shaded trees on the plan are existing trees that were installed with the road. Several of these trees are questionable; a licensed arborist will assess the existing trees at leaf out. If any trees need to be removed it will be replaced. The trees with yellow on the plan are proposed to fill in the pockets. There are a few trees that will be relocated with driveway entrances. The number of trees shown now will be the same number when the project is complete, they will either be relocated or replaced. Another point made at the site walk was should there be some street tree planting. We have added three street trees; we are proposing there be a note on the plan that each lot owner selects a medium to large deciduous tree along the back of their property.

Mr. Neagle asked who would cover the cost of the tree; stating this may put an increased burden on keeping the homes affordable.

Mr. Biegel stated that he has used variable sizes of trees in past projects; his experience is that the smaller trees are more adaptable. This may be part of the problem with some of the trees that were planted and now appear to be failing.

Mr. Neagle stated the subdivision plan shows small lots he would suggest that the subdivision lots be larger and the neighboring property be a smaller scale. The re-located snowmobile trail should be shown and labeled.

Mr. Bingham asked about the neighbor at the site walk named Lynda Jensen who asked about buffering.

Mr. Decker stated Mr. Settle had talked with her and she had no problems with buffering.

Mr. Dillon asked about lighting.

Mr. Biegel stated the original subdivision had a couple of lights. We will retain the light at the entrance; there will be no additional lighting. We will negotiate with CMP and the Town to whatever light or fixture is acceptable.

Mr. Dillon asked if the Homeowners' Association would restrict the lights on the house on the hill.

Mr. Biegel stated no we have no restrictions.

Mr. Boivin asked if this was proposed as a public road.

Mr. Biegel stated yes.

Mr. Neagle asked if there would be Homeowners' Association to maintain the detention pond, and the trees in Castle Rock Drive.

Mr. Biegel stated some of the trees are on the lots; the trees in the right of way will be cared for by the Association.

The public portion of the meeting was opened.

Mr. Tyler Nash of 14 Wilson Road a direct abutter to lots 2 and 3 stated he also attended the site walk, his concerns are:

- The snowmobile trail is not marked on the plan.
- The 75foot setback from the stream is shown, however there is no 50' buffer noted on the plan which is to be pinned on the property. This was discussed on August 28th.

Mr. Neagle stated a large portion of those lots are wetlands.

Mr. Nash continued that the 50' buffer still needed to be marked.

Mr. Neagle stated the 50' is entirely in the wetland so it can't be cleared.

Mr. Nash stated there are areas that aren't in the wetland area.

Mr. Nash continued asking for additional screening in the open space beside the detention pond and lot # 2. His concern is sweeping headlights from the driveways. This has been a rural area and this will be a vast change.

Mr. Neagle encouraged Mr. Nash and the engineers to continue to communicate.

Mr. Nash stated he also was concerned about the plantings that were not well kept; it doesn't seem like many of the trees are healthy. He would like to see a program after approval to see that the trees are healthy.

Mr. Neagle stated once a project has been approved the Town has authority to make sure the trees in the landscape plan are planted and maintained.

The public portion of the meeting was closed.

The Board reviewed the waiver request as follows:

- **Section 7.15 of the Subdivision Ordinance to provide plans for sewage disposal for each lot.** Mr. Decker explained this was request to allow homeowner's to place their houses and design the individual septic systems based on soils and house locations.

Mr. Bingham moved to grant the waiver request of Section 7.15 of the Subdivision Ordinance.

Mr. Ferland seconded.

VOTE: Unanimous 6 - 0

The Board reviewed the proposed findings of fact as follows:

PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:

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

1. **Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of the land above sea level and its relation to the flood plains;
- B. The nature of soils and subsoil and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

The subdivision will utilize septic systems; test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.

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 Town and the Portland Water District have reviewed the plans and are prepared to serve the subdivision once water is available in that location. The water supply will be in place prior to the issuance of any building permits.

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;

As stated above, the Town and the PWD are prepared to provide public water to the subdivision once the water line is extended to the area.

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;

An erosion and sedimentation control plan was prepared by SYTDesign Engineers and has been reviewed and approved by the Town Engineer.

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

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

The applicant has provided for an amended MDOT Entrance Permit.

Based on the information provided the standards of this section have NOT 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;

Test pit locations are shown on the plan. A high intensity soil survey was conducted by Mark Hampton, Certified Soils Scientist.

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;

A letter from a Pine Tree Waste is on file.

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;

Letters are in file from the Dept. of Inland Fisheries and Wildlife and the State Historic Preservation Commission indicating that there are no significant wildlife habitat or historic sites on the property.

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 plan has been reviewed by the Town Engineer. The Town Engineer's comments will be addressed for final submission.

Based on the information provided the standards of this section have NOT been met.

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

A commitment letter from Milk Street Capital is on file.

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;

Wetlands delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. There is no adverse impact on the small wetland area on the site.

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 public water. There is a letter on file from the Portland Water District dated November 14, 2012 stating that the project will not 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;

According to the National Flood Insurance Program, the property is located in Floodplain Overlay C-areas of minimal flooding. No special precautions are necessary in Zone C.

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 Report was prepared by SYTDesign Consultants and reviewed and approved by the Town 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 delineation and high intensity soils mapping has been done by Mark Hampton Associates, Inc. Wetland impact is limited to less than 1/10th of an acre.

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]

A stream was identified and shown on the plan with the appropriate 75' buffer.

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

17. Aquifer Protection: If the site is located within the Town Aquifer Protection Area a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

The site is located in the Aquifer Protection District, but the findings relative to suitable soils for septic systems allows a positive finding that the plan will not adversely affect the aquifer.

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

Mr. Bingham moved to approve the findings of fact as amended.

Mr. Dillon seconded.

VOTE: Unanimous 6-0

Mr. Bingham moved to grant Preliminary Major Subdivision Amendment to Castle Rock Subdivision for development of 17 – single family affordable housing units; subject to the Standard Conditions of Approval, the Limitation of Approval and the eight (8) recommended conditions of approval for property at Tax Assessor Map R07C, Lot 1A – lots 1-9, in the Village Office Commercial I (VOCI) district; as allowed by contract zone; Owner Telos Capital, LLC; Representative, Scott Decker, P.E., SYTDesign Consultants.

Mr. Ferland seconded.

VOTE: Unanimous 6-0

STANDARD CONDITIONS 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 de minimus 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.

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.

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.

RECOMMENDED CONDITIONS OF APPROVAL:

1. That the plan be re-drawn to make it easier to read; decrease the area and size of the Wilson Road lots and increase lots in Castle Rock.
2. Confirm that the land to be deeded to the Town has / or will be deeded to the Town.
3. That the Applicant's proposal regarding checking the existing trees next spring and replaced if needed be added to the final conditions of approval.
4. That the snowmobile trail be marked on the plan.
5. That the buffering concerns by Mr. Tyler Nash be addressed.
6. That the outstanding comments from the Town Engineer be addressed.
7. That all of the outstanding findings of fact be addressed.
8. That all the Planner's comments, except # 2 and # 6, are addressed.

The Planning Board reviewed items # 5 & 6 as one agenda item.

5. Public Hearing: To recommend to the Town Council draft amendments to Chapter 229 Site Plan Review §229-2B Classification Levels.

An Accessory Dwelling Unit as permitted in Section 315-45A

6. Public Hearing: To recommend to the Town Council draft amendments to Chapter 229 Site Plan Review §229-2B Classifications Levels.

Site preparation activities greater than 5 acres Planning Board review

Ms. Nixon provided background information as follows: There are two agenda items that cover three minor amendments to the Site Plan Ordinance.

1. The Accessory Dwelling Unit language that was approved last month is being added to the chart that depicts the level of review required for various site plan projects. As shown on the attached chart, accessory dwelling units will be reviewed by the Town Planner as a Minor Staff Review. All requirements of the Site Plan ordinance will be addressed in the review, but the submission requirements are less, and decisions will be made within 10 days of the submission of the application thereby reducing time and expense to applicants.
2. We are changing the term “Always Required” to a simple X mark on the chart. We have found the term “Always Required” to be confusing to people.
3. We are distinguishing between smaller and larger site preparation activities. Less than 5 acres of disturbance are handled as Minor Staff Review; those greater than 5 acres will go to the Planning Board.

Ms. Nixon continued stating these are housekeeping items.

The public portion of the meeting was opened.

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

Mr. Ferland moved to recommend to the Town Council draft amendments to Chapter 229 Site Plan Review §229-2B Classifications Levels An Accessory Dwelling Unit as permitted in Section 315-45A;
And to Chapter 229 Site Plan Review §229-2B Classification Levels – Site preparation activities greater than 5 acres Planning Board review.

Mr. Dillon seconded.

VOTE: Unanimous 6-0

Type of Activity	Minor Staff Review Required Subject to § <u>229-1C</u>	Major Staff Review Required Subject to § <u>229-1C</u>	Planning Board Site Plan Review Required
The construction of a new structure (other than single-family and duplex) that contains:	Less than 1,000 square feet	Between 1,000 and 3,000 square feet	Over 3,000 square feet
The expansion of a	Less than	Between	Over 3,000

Type of Activity	Minor Staff Review Required Subject to § 229-1C	Major Staff Review Required Subject to § 229-1C	Planning Board Site Plan Review Required
nonresidential building or structure, including accessory buildings, that increases the total floor area by: the total area, in square feet, of all floors of a building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements	1,000 square feet	1,000 and 3,000 square feet	square feet
An Accessory Dwelling Unit as permitted in Section 315-45A.	X		
Construction, alteration, or expansion of a residential building to include one accessory dwelling unit.			
The construction of an impervious surface such as a support pad or paved or gravel parking area:	Less than 1,000 square feet	Between 1,000 and 3,000 square feet	Over 3,000 square feet
The conversion of existing approved buildings or structures from one approved use to another without enlargement of gross floor area or increase in required parking	Always Required X		
Site preparation activities of up to 1 acre of disturbed area,	Always Required		Greater than 5 acres

Type of Activity	Minor Staff Review Required Subject to § <u>229-1C</u>	Major Staff Review Required Subject to § <u>229-1C</u>	Planning Board Site Plan Review Required
including clearing, grubbing, grading and the construction or reconstruction of driveways and entrances, including the installation of driveway culverts	Less than 5 acres		

G. *Administrative Matters: None*

H. *Adjournment:* Chairman Neagle adjourned the meeting at 10:00 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Board Clerk