

**PLANNING BOARD MEETING  
MINUTES  
TOWN OF CUMBERLAND  
Cumberland Town Hall - 290 Tuttle Road  
Cumberland, Maine 04021  
Tuesday, September 18, 2012  
7:00 p.m.**

**A. *Call to Order***

Chairman Neagle called the meeting to order at 7:00 p.m.

**B. *Roll Call***

**Members Present:** Chris Neagle, Chair, John Ferland, Vice-Chair, Peter Bingham, Gerry Boivin, April Caron, Ronald Dillon, Peter Sherr.

**Members Absent:**

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

**C. *Approval of Minutes of July 17, 2012 & August 21, 2012 – Meeting minutes***

Mr. Bingham moved to approve the minutes of July 17, 2012 and August 21, 2012 as presented.

Ms. Caron seconded.

VOTE: Unanimous

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

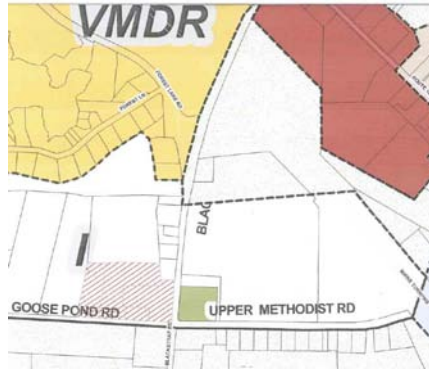
**E. *Minor Change Approvals: Site plan for Exactitude, 12 Sky View Drive, Cumberland Foreside Village, Tax Map R01, Lot 11-1 in the Office Commercial South (OCS) district.***

Ms. Nixon reviewed the minor changes:

1. To delete the guardrail along the under drained soil filter and replacing it with boulders.
2. Revising the landscaping to coordinate with the plantings that David Chase will be installing along the road.

**F. *Hearings and Presentations:***

1. ***Public Hearing: To recommend to the Town Council a draft zoning map amendment to rezone parcels at Tax Map R07, Lots 44, 45, 45A and 45B at Goose Pond Road from the Industrial Zone to Rural Residential 2 (RR2) district; Owners: Mark & Brenda Kuntz, Representative: David St.Clair Jr., P.L.S., St. Clair Associates.***



Mr. Bingham stated he has known Mr. Kuntz for many years and they served together on the Town Council; he didn't feel his friendship would affect his ability for judgment.

Ms. Nixon presented background as follows: This request is to re-zone four parcels from the Industrial zone to the Rural Residential 2 district. These parcels adjoin residential properties. This request is the first to use the newly-drafted zone change request process; she referred the Board to the checklist form in their packets. This request is consistent with the Comprehensive Plan.

Mr. David St. Clair, of St. Clair Associates, Representative reviewed the request; currently there are three residences on the property and this change would allow construction of a new single family dwelling. The Ordinance Committee conducted a site walk and concurred with the re-zoning request; at a recent Council Workshop, the applicants had an opportunity to share their history of the parcel and specifics of the requested zone change. During the Council meeting, members of the Council voted to refer the matter to the Planning Board for further consideration.

Mr. Neagle asked for clarification on which property is shown in green on the map.

Mr. St.Clair stated it is the Church / Cemetery property.

Mr. Ferland asked how long the properties had been zoned Industrial.

Mr. St. Clair stated a long time.

Mr. Ferland asked what the property uses were immediately adjacent to the lots.

Mr. St. Clair reviewed the adjoining properties; the Storey pit, Maine D.O.T. pit, and the Town of Cumberland's pit; Mr. Morgan's property is vacant land and the property along Blackstrap Road is residential.

Ms. Caron asked if Cumberland Salvage was further to the south. She also asked if staff was in favor of this use, considering protection of the aquifer in the area. She noted that if the property were used as commercial an applicant would need to comply with the aquifer protection ordinance.

Ms. Nixon stated yes that is correct.

**The public portion of the meeting was opened.**

Mr. Neagle read into the record an e-mail from Bob Couillard of 55 Lower Methodist Road. Mr. Couillard stated he thought this change would be good for the area and improve that area of Town.

**The public portion of the meeting was closed.**

Mr. Bingham moved to send a positive recommendation to the Town Council for draft zoning map amendments to rezone parcels at Tax Map R07, Lots 44, 45, 45A and 45B on Goose Pond Road from Industrial to the Rural Residential 2 (RR2) district.

Ms. Caron seconded.

Discussion: Mr. Neagle stated he is also in favor of the change given the proximity of the aquifer.

VOTE: Unanimous

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- 2. Public Hearing: Major Site Plan Review and Subdivision Amendment Review: Emerald Commons**, at Gray Road, Tax Assessor Map U21, Lot 1 in the Village Office Commercial I (VOCI) district; to construct two multiplex residential buildings consisting of six units, and to amend the subdivision plan from three lots to one lot; Owner, Andrew Hagerty; Representative Al Palmer, P.E., Gorrill-Palmer Consulting Engineers, Inc.

Ms. Nixon presented background information as follows: You may recall a few months ago that the Board recommended to the Council a zoning map amendment to move several lots from the Village Center Commercial (VCC) district to Village Office Commercial I (VOCI) district. The reason for the change was to permit multiplex developments in this northerly section of Route 100. This application takes advantage of that change. The applicant is Andrew Hagerty of Falmouth, Maine. The applicant is represented by Al Palmer, P.E. The parcel is a 3.12 vacant piece of land located on Gray Road as shown on Tax Assessor Map U21, Lot 1, in the Village Office Commercial (VOC 1). The application is for approval of a proposed multiplex residential development consisting of two buildings, each containing 3 residential units. This requires an amendment to the approved three lot commercial subdivision approved in 2010. The project also requires site plan approval by the Planning Board as there will be over 3,000 sf of new structure; there will be a total of 4,125 sf constructed.

The Route 100 Design Standards apply to this project.

**HISTORY:**

March 16, 2010: The Planning Board was presented with a conceptual plan for general comments.

April 12, 2010: The Planning Board conducted a site walk of the property.

April 17, 2010: Planning Board granted final approval for a three lot commercial subdivision.

**DESCRIPTION:**

Parcel size: 3.12 Acres  
Zoning: Village Office Commercial (VOC 1)  
Min. Lot Size: 8,000 sf/per bedroom  
NRA: 99,095 sf for 12 bedrooms  
Lot frontage: 525'  
Setbacks: Front = 50', Rear = 50', Side 20'  
Parking: 17 spaces  
Entrance: 24' wide by 215' long, paved access road.  
Water: There is public water at the site.  
Septic/Sewer: The applicant has shown passing test pit locations for private septic systems.  
Wetlands: Wetland delineation was conducted by Eugenie F. Moore. Wetland area is 1.38 acres in size. Potential wetlands impact is minimal based on shared driveways for lots 2 and 3 utilizing an existing logging road and the fact that there is no access road. No permits are required.  
Fire Protection: Sprinklers in buildings; public water (hydrants) on Route 100.

**DEPARTMENT HEAD REVIEWS:**

**Code Enforcement Officer, Bill Longley:** Reviewed, no comment.

**Police Chief Joseph Charron:** Reviewed, no comment.

**Fire/EMS Chief Dan 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**
- 3) A vehicle turn around area that accommodates emergency vehicles at all times of year shall be installed to prevent an ambulance or other type of emergency vehicle from having to back through the subdivision and/or onto Route 100.

**Lands and Conservation Commission:** Letter in packet.

**Planner's Comments: with Applicant's response.**

1. What is the proposed street name? (use Street Name Approval Form) Will it be public or private?

**Response:** The proposed name is shown on plan sheet C101 and is Emerald Drive. The access is a private driveway. Andrew Hagerty discussed the name, which was on the approved 2010 subdivision, with Bill Healey who verbally approved the name after checking with the appropriate entities.

2. A byway (a sidewalk or paved shoulder within the subdivision is required)  
If a waiver from this provision is requested, it must be in writing to the Board along with a reason for the waiver to be granted.

**Response:** This response is a request for a waiver from the requirement in Section 8.1 F of the Subdivision Ordinance that byways shall be provided along all roads within a proposed development.

Due to the commercial nature of the rental units and the low volume of traffic, the access to the site is assumed to be a driveway. Pedestrians walking toward Route 100 are anticipated to use the edge of the access drive as a walkway. There are no existing sidewalks along the frontage of the site or within the vicinity of the site.

3. Revised plan sheets that have been changed in response to Town Engineer's comments must be provided to the Board.

**Response:** The revised plans are attached to this letter.

4. What type of fuel will be used to heat the buildings? Are there above ground tanks required? If so, show location on plans.

**Response:** Propane will be used to heat the buildings. Above ground tank locations have been added to the plans.

**The following is a response to the comment by the Fire/EMS Chief Dan Small.**

**Comment:**

1. *A vehicle turn around area that accommodates emergency vehicles at all times of year shall be installed to prevent an ambulance or other type of emergency vehicle from having to back through the subdivision and/or onto Route 100.*

**Response:** A turnaround area has been added to the plans. The area will be striped and signed to designate it as an emergency vehicle turning area. The site is required to have 15 parking spaces and is provided with 17 outdoor spaces as well as 6 garage spaces, therefore the likelihood of having all of the outdoor spaces filled is small.

**Town Engineer's Review (Dan Diffen, P.E., Sevee & Maher Engineers):**

***NOTE: On Thursday, September 13<sup>th</sup>, the Town Engineer confirmed via email to me that all his concerns have been addressed by the applicant's engineer. Below were his initial review comments and the response from the applicant's engineer.***

This letter is in response to peer review comments from Daniel Diffin of Sevee & Maher Engineers, dated September 6, 2012 for the above referenced project.

For ease of review each comment as been repeated followed by our response.

**Amended Subdivision Application**

**Comment:**

1. *SME did not receive a Planning Board Subdivision Review Application in the packet.*

**Response:** The subdivision amendment was referenced in the cover letter of the application. Since the amendment is a change from an approved three lot commercial subdivision to a single lot residential multiplex, which is an allowed use in the VOC 1 zone, a separate subdivision application was not prepared.

**Comment:**

*There are several letters from other agencies that are not yet included in the packet. The Applicant has sent requests to the following agencies, but is waiting on a response:*

*Maine Natural Areas Program (MNAP) Maine Department of Inland Fisheries and Wildlife (ME IF&W)*

*Maine Historic Preservation Commission (MHPC) (Proposed Condition of Approval)*

*Portland Water District*

**Response:** Response letters from the MNAP and ME IF&W are attached to this letter and indicate that there are no significant natural areas on site. Response letters from the Portland Water District and CMP are also attached and indicate that the two utilities have the ability to serve the project. We are still waiting for a response from the MHPC which will be forwarded to the Town upon receipt.

**Comment:**

3. *The addresses on the two structures, labeled as #5 and #6 Emerald Drive appear to indicate that additional development of the site is possible. However, the net residential acreage on the Subdivision Plan indicates that the site cannot accommodate additional units. SME recommends the Applicant comment on the numbering of the buildings and the potential for future development of the site.*

**Response:** The addresses have been assigned by the Tax Assessor based upon the respective buildings location on the site driveway. No future development is possible based on current zoning.

**Site Plan Review Application**

**Comment:**

1. *Section 10.1 – Utilization of the Site:*

- A. *Findings from the responses of the MNAP, ME IF&W, and MHPC should be presented to demonstrate that environmentally or historically sensitive areas will not be disturbed as a result of this development.*
- B. *SME recommends that the Applicant add a clearing limit line to the drawings to show the extent of impact that the new stormwater ponds will have on existing wooded areas. It appears that a significant portion of the existing wooded areas to the south of the access drive will be removed.*

**Response:** A. See response to Comment 2 above.

- B. A clearing limit has been added to plan sheet C102 which is attached to this letter.

**Comment:**

2. *Section 10.3 – Stormwater Management and Erosion Control*

- A. *Subcatchment 2AS is not labeled on the Post Development Watershed Map.*
- B. *SME recommends the Applicant's Engineer provide additional review of subcatchment 2AS. It appears a longer Tc path may result from starting the sheet flow on the flatter portion of the property to the west of the parking lot or on the upgradient portion of 2AS to the north of 3S.*
- C. *The grades indicate that the runoff from the parking area will drain over a portion of Emerald Drive. SME recommends that the runoff from the proposed parking area be directed off the pavement into a stable channel prior to Emerald Drive.*
- D. *SME recommends additional detail on the swale between the Utility/Storage Room and the landscape berm to demonstrate the distance is adequate to convey runoff from spring melt of the snow storage area west of the parking lot.*
- E. *SME recommends silt fence be provided along the wetland limits in areas adjacent to construction activity.*

**Response:** A. The Post Development Watershed Map has been revised and is attached to this letter.

B. Two additional Tc paths were investigated and are shown on the marked up Post Development Watershed map attached to this letter. The Tc flowpath designated as the South Tc increases the time of concentration from the original 11.5 minutes to 12.7 minutes. The increase in Tc results in no change to the 2-year peak flow at POI 1 and a 0.01 cfs increase in the 25 year peak flow to POI 1. Given the many variables present in the analysis, this increase is believed insignificant. The Hydrocad files depicting this change are attached to this letter. The Tc flowpath designated as the North Tc increases the time of concentration from the original 11.5 minutes to 17 minutes. The North Tc is longer than the original, but since the majority of the contributing watershed is defined by the 11.5 minute to 12.7 minute Tc, this longer Tc is believed not to be representative of the watershed. Although it is not believed to be representative of the watershed Tc, the North Tc results in no change to the peak flow at POI 1 for both the 2- and 25- year storm.

C. The grading has been revised to direct the runoff to a ditch along the access drive. The 25 year flow to the ditch is 1.12 cfs which results in a ditch velocity of 2.87 ft/s. A sod lining of the ditch will stabilize the ditch bottom for this velocity.

D. Spot grades have been added to the swale which will allow runoff to pass between the building and the berm.

E. Silt fence has been added and is shown on the revised sheet C102.

**Comment:**

3. *Section 10.13.1 – Route 100 Design Standards:*

A. *Section 1.7.2 – Open Space - Landscaping. It appears that the construction of the stormwater ponds will impact the existing trees within the 75-foot buffer off of Route 100. The Applicant proposes to address this with two landscaping areas to the east of the buildings.*

**Response:** No response necessary.

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**WAIVER REQUEST:** Request for a waiver from the requirement in Section 8.1 F of the Subdivision Ordinance that byways shall be provided along all roads within a proposed development. Due to the commercial nature of the rental units and the low volume of traffic, the access to the site is assumed to be a driveway. Pedestrians walking toward Route 100 are anticipated to use the edge of the access drive as a walkway. There are no existing sidewalks along the frontage of the site or within the vicinity of the site.

Mr. Al Palmer, P.E., Gorrill-Palmer, Representative stated he was present with the applicant Andrew Hagerty. Mr. Palmer reviewed the previously approved subdivision layout. The current proposal is for one lot with two (2) – three (3) unit apartment buildings. The buildings will be located on the southerly portion of the lot. There is an existing driveway. The buildings will be two story units the first level will be a garage with living space and the second level will be have bedrooms and living space. The design allows for 17-parking spaces, at grade garage door level. The building elevations are included in the packet. At the request of the Fire Chief we have added dedicated spaces for emergency vehicles. The site is vegetated with fields; the applicant is proposing to add a berm and vegetation along the Old Gray Road property line. The abutter to the south is The Board Barn. The proposed buildings will be 240 feet from the property line. The lot is Tax Map U21, Lot 1 which benefited from a zone amendment from VCC to VOCI to allow multiplex buildings. The net residential density is calculated at the maximum number of bedrooms for the property. The project will have public water and be sprinkled for fire protection. The Peer review Engineer comments have been satisfied. There will be two separate leach field systems, one

for each building. The trash will be stored in large trash bins in the garages and the tenants will take their trash bins to the end of the road for pick up by the Town's contracted trash service.

Mr. Neagle asked if the residents would take the trash to the turn around.

Mr. Palmer stated Pine Tree Waste will assess whether to drive into the project or pick up trash at the street.

Mr. Ferland asked about snow storage and removal.

Mr. Palmer stated as the road is plowed the snow will wing to either side and be pushed straight back. He continued stating the units will be served by propane; there will be a shed structure at the end of the building to house lawnmowers and maintenance equipment.

Mr. Sherr asked about the waiver request.

Mr. Palmer stated it is for a sidewalk; currently there is no pedestrian way along Route 100 and the Town has a 25' easement for any future sidewalk. This development will have low volume traffic and we don't think there is a need for a sidewalk.

Mr. Boivin asked about the utility services.

Mr. Palmer stated the utilities will be underground to the buildings; there will be a new riser pole at the right of way.

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

Mr. Neagle referenced an e-mail request from James Banfield of 242 Gray Road the abutter to the north requesting addition of non-deciduous trees for buffering. The Board discussed the need for this additional buffering and after considering the amount of existing vegetation on the parcels and the distance from the abutting home to the new homes, determined additional buffering is not required.

Mr. Palmer stated at the original commercial subdivision there was a boundary dispute and Mr. Hagerty conveyed a 20' piece of land to Mr. Banfield; there is existing mature vegetation at the boundary.

The Board agreed Mr. Banfield's boundary appeared to have adequate boundary vegetation.

The Board discussed the sidewalk waiver request stating if there was a sidewalk it would be to a dead end, and it is unlikely there will be a sidewalk in the area within the near future.

Ms. Caron voiced concern during the winter and children walking to the bus.

Mr. Neagle agreed, stating children are waiting for the bus during the same time as commuter traffic.

Mr. Palmer stated with 6 units there would be six trip ends at peak hour.

Mr. Neagle asked the width of the paved surface.

Mr. Palmer stated 24' and narrows to 20' then widens back to 24' as it approaches the parking area.

Mr. Sherr suggested keeping the road 24' and having a striped byway on one side.

Mr. Palmer agreed that would be a good compromise, and agreed to have the road be 24' wide with a striped byway on the southern side.

The Board reviewed the proposed findings of fact.

Mr. Bingham moved to adopt the findings of fact as prepared and amended.

Mr. Sherr seconded.

VOTE: Unanimous

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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

***The parcel is not located in a 100-year floodplain. The test pit information for subsurface wastewater disposal has been reviewed and found satisfactory. The nitrate plumes have been reviewed and found acceptable.***

***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;  
***Water will be public. There is a letter on file from the PWD indicating there is sufficient water for the needs of the subdivision.***

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

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

***The Town of Cumberland and the Portland Water District have indicated that this project will not cause an unreasonable burden on the existing water supply.***

***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 site is generally flat with well-drained sandy soils. A stormwater management plan has been prepared by Gorrill Palmer Engineers and approved by the town's peer review 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 six unit residential development will generate minimal traffic compared to the approved three lot commercial subdivision. All parking is in conformance with local ordinance requirements. An entrance permit from MDOT dated 5/3/10 is on file. The accessway was constructed following the 2010 subdivision approval.***  
***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 applicant has provided test pit data that indicates the subsurface wastewater disposal systems will be serviceable. The project will not utilize the public sewer system.***  
***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;  
***There will be no dumpster. Trash will be stored inside units and placed out for collection by the Town's solid waste company which has the capacity to dispose of the solid waste generated by the project.***  
***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;  
***While this is currently an undeveloped parcel, it is located in an area zoned for commercial development. There are trees along the front, sides and rear of the parcel, most of which will remain post construction. There is only one entrance to the site so the visibility of the new buildings will be partially shielded.***  
***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 is in conformance with the Town of Cumberland's Zoning, Site Plan and Subdivision Ordinances and also the Route 100 Design Standards.***  
***Based on the information provided the standards of this section have been met.***
10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;  
***The applicant has provided a letter dated 8/28/12 from Biddeford Savings stating that preliminary approval has been granted for the construction of the buildings. A performance guarantee will be provided prior to the preconstruction conference.***  
***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 have been identified along the Route 100 road frontage. The proposed lots and building locations will not adversely affect the wetland areas.***  
***Based on the information provided the standards of this section have been met.***
1. 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 development will not adversely affect the quality or quantity of groundwater due to the low intensity of use and the fact that the development will utilize public 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's Flood Insurance Rate Map #230162 0015B, 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;  
***The applicant has provided a "Stormwater Management Report" that has been reviewed and approved by the Town's peer review.***  
***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 have been identified on the map, and building envelopes and driveways have been drawn to avoid impacting them. The proposals are in compliance with all Town and State regulations.***  
***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]  
***No rivers, streams, or brooks have been found on the site.***  
***Based on the information provided the standards of this section have been met.***

## **Site Plan Ordinance: Findings of Fact**

## **APPROVAL STANDARDS AND CRITERIA**

The following criteria shall be used by the Planning Board 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 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.

## **10.1 Utilization of the Site**

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.

**The development is situated so as to avoid environmentally sensitive areas such as wetlands. There are no wildlife habitats or fisheries or rare and endangered plants and animals. Total impervious area will be 0.36 acres.**

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

## **10.2 Traffic, Circulation and Parking**

### **10.2.1 Traffic Access and Parking**

Vehicular access to and from the development must be safe and convenient.

**10.2.1.1** 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.

**10.2.1.2** Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

**10.2.1.3** The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

**10.2.1.4** The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

**10.2.1.5** Where a lot has frontage on two (2) 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.

**10.2.1.6** 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.

**10.2.1.7** Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

**10.2.1.8** The following criteria must be used to limit the number of driveways serving a proposed project:

- a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

**The above standards have been met. The plan has been reviewed and approved by the Town Engineer.**

### **10.2.2 Access way Location and Spacing**

Access ways must meet the following standards:

**10.2.2.1** Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

**10.2.2.2** Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**The above standards have been met. The plan has been reviewed and approved by the Town Engineer.**

### **10.2.3 Internal Vehicular Circulation**

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

**10.2.3.1** 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.

**10.2.3.2** 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).

**10.2.3.3** The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

**10.2.3.4** 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.

**The above standards have been met. The plan has been reviewed and approved by the Town Engineer.**

#### **10.2.4 Parking Layout and Design**

Off street parking must conform to the following standards:

**10.2.4.1** Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

**10.2.4.2** All parking spaces, access drives, and impervious surfaces must be located at least fifteen (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 fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

**10.2.4.3** 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

**10.2.4.4** 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.

**10.2.4.5** 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.

**10.2.4.6** 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.

**All the above standards have been met.**

### **10.2.5 Building and Parking Placement**

**10.2.5.1** 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 with the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

**Parking is located to the side of the buildings in front of the units.**

**10.2.5.2** 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 (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

**Planting beds are provided between the parking area and the buildings.**

### **10.2.6 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.

**There is an existing paved access drive from Route 100. A 4' wide paved byway will be striped on the south side of the access road. All the above standards have been met. The plan has been reviewed and approved by the Town Engineer. The Board finds the standards of this section have been met.**

### **10.3 Stormwater Management and Erosion Control**

#### **10.3.1 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.

**10.3.1.1** To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

**10.3.1.2** 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.

**10.3.1.3** 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.

**10.3.1.4** 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.

**10.3.1.5** 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.

**10.3.1.6** 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.

**10.3.1.7** 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.

**The stormwater plan has been reviewed and approved by the Town Engineer.**

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

#### **10.3.2 Erosion Control**

**10.3.2.1** 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 earth moving 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.

**10.3.2.2** 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.

**The erosion control plan has been reviewed and approved by the Town Engineer.**

### **10.4 Water, Sewer, and Fire Protection**

#### **10.4.1 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 with 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.

**There is a letter on file from the PWS indicating there is adequate capacity to serve.**

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

#### **10.4.2 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.

**Wastewater will be disposed of in two subsurface wastewater disposal fields designed to conform to the Subsurface Wastewater Disposal Rules. The HHE-200 is on file.**

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

#### 10.4.3 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.

**Electrical, telephone, and cable service will be underground from an existing pole located on the west side of Old Gray Road. An ability to serve letter from CMP is on file.**

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

#### 10.4.4 Fire Protection

The Fire Chief or his/her designee shall review the site plan for conformance with the Fire Protection Ordinance and may provide the Planning Board a list of suggested conditions of approval.

**The proposed water service will be provided by the Portland Water District. An Ability to serve letter is on file. An existing fire hydrant is located 230' north of the access drive. The buildings will have sprinklers.**

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

### 10.5 Water Protection

#### 10.5.1 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 two thousand (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.

**The project will not generate 2000 gallons per day.**

#### 10.5.2 Water Quality

All aspects of the project must be designed so that:

**10.5.2.1** 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, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters 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.

**10.5.2.2** 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 Marshall's Office.

**There will be no storage of fuels or chemicals.**

### **10.5.3 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 proposed residential development will not adversely affect the aquifer.**

### **10.6 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 the Town's Floodplain Management Ordinance.

**The site is not located in a floodplain.**

### **10.7 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.

**This is a vacant site, there appear to be no historic or archaeological resources, however a letter from the Maine Historic Preservation Commission has been received stating there is no historic or archaeological resources on site.**

### **10.8 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.

**Wall pack units are to be located at each unit entrance flush mounted under an entrance overhang. Fixtures are fully shielded.**

### **10.9 Buffering and Landscaping**

#### **10.9.1 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.

**Buffering will be provided by existing and proposed planting along the property lines.**

#### **10.9.2 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.

**The proposed landscaping plan provides for landscaped berms and foundation plantings. A 25' landscape easement to the Town is provided along the Route 100 property line.**

#### **10.10 Noise**

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

**The residential development is not anticipated to have noise levels which would be a nuisance to neighboring properties.**

#### **10.11 Storage of Materials**

**10.11.1** 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 uses and users of public streets.

**10.11.2** 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.

**10.11.3** 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.

**There will be no non-residential storage of materials.**

#### **10.12 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 ordinance and the approved plan.

**The applicant has utilized a professional engineer, surveyor, soils evaluator, and landscape architect.**

**Financial capacity is evidenced by a preliminary approval letter from Biddeford Savings. The applicant will need to provide a performance guarantee in an amount acceptable to the town engineer and town manager prior to the preconstruction conference.**

## **10.13 Design and Performance Standards**

### **10.13.1 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 determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals.

**The proposed buildings have been set back from Route 100. Existing and proposed vegetation/landscaping will provide a visual buffer to the Route 100 corridor. The buildings' architecture consists of gabled roofs and clapboard siding. There is ample open space and a 25' landscape easement along the Route 100 property line has been given to the Town for possible future sidewalk and/or landscaping. Lighting is minimal to provide for adequate safety of the residents. All fixtures are fully shielded.**

Mr. Sherr moved to approve the request for Major Site Plan and Subdivision Amendment Approval subject to the Limitation of Approval and the Standard and seven conditions of approval; for Emerald Commons at Tax Assessor Map U21, Lot 1 in the Village Office Commercial I (VOCI) district; to construct two multiplex residential buildings consisting of six units, and to amend the subdivision plan from three lots to one lot.

Mr. Bingham seconded.

VOTE: Unanimous

### **STANDARD CONDITIONS OF APPROVAL**

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted 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. That all fees be paid as required.
  2. That all clearing limits be flagged and approved by the Town Engineer prior to the start of construction.
  3. That a performance guarantee in an amount acceptable to the Town Engineer and Town Manager be provided prior to the preconstruction conference.
  4. That a preconstruction conference be held prior to the start of construction.
  5. The private road shall be 24' for its entire length with a 4' wide striped pedestrian / bike lane on the south side of the road.
  6. That a note be added to the plan stating this plan supersedes the previous plan recorded in Cumberland County Registry of Deeds Plan Book 210 page 178 which will be declared void.
  7. No large scale clearing of existing vegetation except as required for construction.
- 

The Board took a ten minute recess at 7:55 p.m. The Board resumed at 8:05 p.m.

- 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 application is for preliminary subdivision review of a new 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, and 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 10, 2012: Adjacent 22.94 acre parcel was purchased by the Applicant.

May 15, 2012: Sketch Plan Review

### DESCRIPTION:

Parcel size:	22.94 acres
Number of Lots:	10
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: R & N subdivision plan showed a trail was to have been constructed by developer **WAS IT?** CONNECTION? Will not be open to the general public, but open to abutters.

**Applicant Response:** I was not able to find any evidence of a new trail, although the plan said that no trees were to be cut and no fill (e.g., gravel or bark mulch) was to be placed in order to build the trail. We have not shown any connections. Don Cameron from the Dept of Conservation strongly suggested that we don't allow people to walk through the Variable Sedge areas. He also suggested that we include some special language in the Homeowners Assoc documents that limit what can be done in those areas and what uses are allowed. I see no reason why we can't propose a trail in the Open Space that connects to Maeve's Way down near the new eyebrow road.

Utilities: Underground electric, telephone and cable from Route 88. Letters needed.  
Street Lighting: None proposed  
Road: A 1900' (**1840' in new** application) private road from Route 88. 22' wide paved traveled way with 2' gravel shoulders on one side and curb on other with sidewalk, no esplanade. hammerhead turn-a-round.

**Applicant Response:** It is 1900' if you count the two ends of the hammerhead turnaround. Nicola's Way is the only new road and is 500' long.

Sidewalks: None proposed  
Waivers: Hydrogeologic due to sewer  
**Is this the only requested waiver?**

**Applicant Response:** Yes, unless we need one for the sidewalk on Nicola's Way. We looked at this as a stand-alone road, with only 4 lots that access it.

Outside Agency Approvals Required:

- MDOT Entrance Permit: **Revised???**

**Applicant Response:** As far as I know, we do not need to revise this. This permit is not related to volume. It's just for new entrances (curb cuts).

- DEP Stormwater Permit.
- Variable Sedge plan letter

## DEPARTMENT HEAD REVIEWS:

**William Longley, CEO:** No comments

**Police Chief Charron:** No comments

**Fire Chief Small:**

- 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**
- Residential key boxes, approved by the fire department, should be located at each residence. **Recommendation Only**

**LANDS AND CONSERVATION COMMISSION:** David Young

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.

**Planner's Comments (Note: Applicant's responses follow each comment:**

1. Renumber lots (1-16). **We agree and will renumber the lots for the next submission.**
2. Rename project: R & N Woods, Phase 2. **We agree and will rename the project for the next submission.**
3. Net Residential Acreage: Only actual amount for roads and parking need to be deducted. **We will revise for the next submission.**
4. Rear Setback is 65', not 60'. **We will revise for the next submission.**
5. We no longer require CCSWCD review. **Okay, thanks.**
6. Sidewalk? **We are not proposing a sidewalk on Nicola's Way. We would like to keep this road as narrow as possible, without curbing. We looked at this as a stand-alone road, with only 4 lots that access it and felt a sidewalk wasn't warranted.**
7. Landscaping Plan? **We will submit a Landscaping Plan in the next submission, mostly addressing the aesthetics of the stormwater basin(s).**
8. Lighting Plan? **We are not proposing street light.**

**TOWN ENGINEER'S REVIEW – Al Palmer, Gorrill-Palmer Engineers**

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 August 28, 2012 as prepared by DeWan & Associates and Sebago Technics. We have the following comments based on our review of the material:

- a. Relative to the Subdivision Plan (Sheet 2 of 6), we would note the following:
- b. A 75' Undisturbed Perimeter Buffer is proposed between the lots and Maeve's Way. This buffer will need to be modified to allow for construction of the driveways and utilities to access the lots. No restrictions are noted on the subdivision plan relative to the maximum allowed disturbance within the buffer to construct the driveways and utilities. We would recommend that maximum restrictions on clearing within the buffer adjacent to Maeve's Way be noted on the Subdivision Plan.
- c. We would recommend that the Impervious Areas and Landscape Areas for each lot that were noted in the Stormwater Plan be listed on the Subdivision Plan so that the buyers/owners are aware of the restrictions, and note that any increase in the thresholds requires approval from the Town and MDEP. A similar note was included on the original subdivision plan.
- d. We would recommend a note be added to the subdivision plan regarding the Stormwater Treatment Buffers and any activities, i.e. clearing of dead/dying vegetation that would be permitted within the buffers so that the buyers/owners are aware of the restrictions.

- e. We would recommend that all angle points for the Stormwater Treatment Buffers be “pinned” in the field, with a survey cap noting that it is a buffer.
- f. We would recommend that the Net Residential Density Calculations be shown on the plan.
- g. The Grading and Drainage Easement on the west side of Lot 6 should be shown on the plan.
- h. The following note should be added to the plan “The Town of Cumberland shall not be responsible for the maintenance, repair, plowing or similar services for the private way shown on this plan”.
- i. It appears that the driveway for Lot 1 and 2 will need to be constructed on a sideslope that exceeds 50% based on the topography. In addition the driveways may be up to 16’ difference in elevation depending upon final grading. We would recommend that grading plans be submitted for both lots to demonstrate feasibility of development of these lots and functionality of the stormwater buffers. We recommend that these plans be submitted prior to Final Approval for review.
- j. Maeve’s Way currently serves 6 lots. The addition of 10 lots will result in an average daily trips of approximately 160. This would require Maeve’s Way to meet the “Residential Access” standards of the Subdivision Ordinance. No information has been provided in the current application to demonstrate that Maeve’s Way meets these standards. The Applicant should provide a narrative regarding Maeve’s Way conformance with each requirement of the “Residential Access” standards, any non-conformities, and if so, proposed mitigation to address those non-conformities, or waiver requests including rationale for granting of the waiver.
- k. Our office has not received a copy of the original MaineDOT Driveway/Entrance Permit for Maeve’s Way. Typically, the MaineDOT Permit is conditioned upon a number of lots/units. With the expansion of the number of lots, a modification to the MaineDOT Permit may be required. We would recommend that the Applicant submit the original MaineDOT Permit to the Town for confirmation of the approved number of lots under that permit, as well as a Permit Modification, if necessary.
- l. Who is responsible for Maeve’s Way maintenance? The proposed road construction, as well as the lot construction, will result in a significant amount of construction traffic that could result in damage to Maeve’s Way. Should a bond or other form of surety be provided to allow for restoration of any damage?
- m. Relative to the Plan and Profile: Nicola’s Way (Sheet 4 of 6), we would note the following:
  - n. Nicola’s Way appears to have been designed to be substantially in accordance with the “Residential Private” standards of the Subdivision Ordinance which is appropriate. For the “Residential Private” roadways, Sidewalk or Freewalks are noted as “PB Option”. The Planning Board should determine whether Sidewalk or Freewalks will be required.
  - o. Nicola’s Way has been designed with a superelevated section, which does not appear to be consistent with the Subdivision Ordinance. The design should be revised to be consistent with the ordinance, or a waiver request should be submitted along with the rationale to support the request.
  - p. The size of the water main and services should be noted. Water main details should be provided.
  - q. Insufficient detail is provided for the sewer service to allow review. It appears that a low pressure force main is proposed, with service stubs to some of the lots. An overall utility plan should be provided (depicting all lots) showing the location of the sewer main, all stubs, all appurtenances such as cleanout manholes, as well as the location and manner in which the sewer main will be terminated. Details should be provided for all main and

- appurtenant construction. We would recommend that a “standard” service detail be provided for how the pumping would be accomplished on each lot.
- r. No information is provided regarding how electrical/cable/telephone service will be provided.
  - s. The ditch grading should be reviewed, as it doesn’t appear to be consistent with the typical section along the entire road length. See Station 1+20, Right for a location where the ditch grading appears incomplete.
  - t. Label the edge of pavement radii at Maeve’s Way
  - u. The distance to the nearest fire hydrant should be noted on the plan.
  - v. Sight distances at each intersection should be noted on the plan.
  - w. Stop bars and stop signs at each intersection should be noted on the plan.
  - x. Details should be provided for how the existing sidewalk will be terminated at each intersection.
  - y. The roadway slope does not meet the Ordinance requirement of less than 3% within 75 feet of the intersection from Station 0+00 to Station 0+53.6.
  - z. The 6” SD outletting the underdrain filter does not comply with the 12” minimum SD requirement of the Subdivision Ordinance.
  - aa. Relative to the Pre-Development Watershed Plan (Sheet 1 of 2), we would note the following:
    - bb. The time of concentration for Subcatchment 2 does not appear to be from the hydrologically most remote point. It would appear that the Pre-Development time of concentration for this subcatchment should be consistent with the starting point for Subcatchment 12 of the Post-Development Plan.
  - cc. Relative to the Post-Development Watershed Plan (Sheet 2 of 2), we would note the following:
    - dd. Watershed limits are not depicted. Upon receipt of a plan including the watershed limits, the areas and curve numbers can be confirmed. At this time, we are unable to verify the limits.
    - ee. The sheet flow component of the time of concentration for Subcatchment 12 does not appear to be reasonable as it is located in the middle of the building envelope for Lot 8.

**RESPONSE FROM DESIGN ENGINEER:** Richard Meek, P.E., Sebago Technics

This letter is provided in response to the review comments regarding the above referenced project as contained in an engineer peer review letter from Gorrill-Palmer Consulting Engineers, Inc. dated September 11, 2012. We will revise the plans in accordance with these response comments subsequent to preliminary review with the Planning Board. The following numbered responses correspond to numbered comments within Gorrill-Palmer’s letter:

1. Subdivision Plan (Sheet 2 of 6)
  - a. A note will be added to the Subdivision Plan which limits disturbance within the 75 foot undisturbed perimeter buffer between Lots 7, 8, 9, 10, 14, 15, 16 and Maeve’s Way for driveway and utility installation.
  - b. A table will be added to the Subdivision Plan containing the proposed lot development.
  - c. A note will be added to the Subdivision Plan regarding the stormwater treatment buffers.
  - d. The angle points of all buffers are proposed to be marked with capped rebar pins, labeled ‘buffer’.
  - e. The Net Residential Density Calculations will be added to the Subdivision Plan.
  - f. The proposed grading and drainage easement between Lots 12 and 13 will be labeled on the Subdivision Plan.
  - g. The recommended note will be added to the Subdivision Plan.
2. A grading plan depicting the feasibility of driveway access to Lots 7 and 8 will be provided.

3. A narrative regarding the conformance of Maeve's Way to the Residential Access standards is attached.
4. We discussed the MDOT Entrance Permit for Maeve's Way with Anthony Fontaine of the MDOT. As the original permit was for 6 residential lots, which classifies the intersection as an entrance, no further permitting is required.
5. Maeve's Way is maintained by the homeowners association, of which the developers are currently members.
6. Plan and Profile: Nicola's Way (Sheet 4 of 6)
  - a. Sidewalks are not proposed on Nicola's Way.
  - b. The super elevated road section is proposed to direct all of the runoff associated with Nicola's Way to the treatment basin. As it is a private way and not a public road, we believed that this was acceptable. If a waiver is required, we will request one.
  - c. The water main size and proposed services will be incorporated on the Plan and Profile and on an Overall Grading and Utility Plan. Details related to the proposed water will be added to the Detail Plan.
  - d. An Overall Grading and Utility Plan will be added, which depicts more detail of the proposed low pressure force main.
  - e. Proposed electrical, telephone and cable television services will be added to the Overall Grading and Utility Plan.
  - f. Ditching on the right hand side of Nicola's Way is unnecessary if the proposed super elevated road section is acceptable.
  - g. The proposed pavement radii will be labeled.
  - h. The existing hydrants are noted on the Existing Conditions Plan and will be added to the Overall Grading and Utility Plan.
  - i. Sight distances will be added to the Subdivision Plan.
  - j. Stop bars and stop signs will be added to the Plan and Profile: Nicola's Way.
  - k. Sidewalk ramp and crosswalk details will be added to the Detail Plan.
  - l. The proposed vertical curve (Sta. 0+50) will be relocated to ensure the maximum 3% grade is not exceeded within 75 feet of the intersection.
  - m. The 6" SD is a solid wall component of the underdrain associated with the underdrained grass filter. The primary outlet is a 12" culvert at approximately Sta. 2+60.
7. Pre-Development Watershed Plan
  - a. The time of concentration for Subcatchment 2 will be reviewed and adjusted accordingly.
8. Post-Development Watershed Plan
  - a. The subcatchment boundary line layer will be added to the printed plan.
  - b. The time of concentration for Subcatchment 12 will be reviewed and adjusted accordingly.

We are hopeful that this letter adequately addresses the engineering review comments with the understanding that we will coordinate plan revisions with staff subsequent to the preliminary review with the Planning Board. We look forward to meeting with the Planning Board at their next regularly

scheduled meeting to discuss this proposal in greater detail. In the interim, please call with any questions or if you require additional information. Thank you for your consideration.

Mr. Terry DeWan, MLLA, Terrance J. DeWan & Associates stated he was accompanied by Tom Farmer and Sean Frank, Civil Engineer from Sebago Technics. Mr. DeWan stated Maeve's Way II has been designed to fit harmoniously into the existing pattern of the 6-lot Maeve's Way subdivision, making for a new tighter knit neighborhood. While the new 10-lot subdivision is a cluster and the existing subdivision is a traditional design, the lot sizes are similar. The existing lots at Maeve's Way average 1.5 acres in size with no common open space. The lots at Maeve's Way II average 1.3 acres in size, and include over 9 acres (40%) open space. The existing road will be utilized for the majority of the lot frontage. A new 500' long eyebrow road (Nicola's Way) will provide frontage to four of the lots while adding diversity to the neighborhood.

Mr. Sean Frank, of Sebago Technics reviewed the stormwater plan as follows:

- A small detention basin with an underdrained grass filter has been designed and located in the open space inside Nicola's Way to treat stormwater from the new road. The outfall pipe from the basin will be located in an easement over Lots 6 and 7. Stormwater will flow north into another infiltration basin in the common open space to the north and eventually drain through a vegetated swale to a low point near the wetlands and vernal pool. Construction of this system will result in some temporary impact to the 250' vernal pool buffer and Variable Sedge. The Maine DEP allows a maximum of 25% of the 250' setback area to be disturbed. The proposed vegetated swale will impact about 1.2% of the total buffer, well below the 25% threshold. We are currently discussing options with Don Cameron, the botanist / ecologist with the Maine natural Areas Program, on how to best handle the Variable Sedge impacts. There may be potential to transplant and relocate some individual plants that would be affected by the stormwater work. The applicant may request a waiver for the larger pond in the back; this is required by the Town's Stormwater Ordinance but not the Maine DEP.

Mr. DeWan continued his overview of the project as follows:

- Frontage for Lots 1 and 2. The applicant has negotiated a purchase and sales agreement to acquire a small portion of Lot 1 in the existing Maeve's Way subdivision to provide frontage for Lots 1 and 2 of Maeve's Way II. This would eliminate the need to construct a 200' long dead end road as we showed on your sketch plan in May, reducing the impervious surfaces, potential blasting, and additional earthwork associated with road construction. The land to be conveyed is approximately 7,400 sq. ft., which would leave the existing Lot 1 with the minimum lot size of 1.5 acres. If the Board looks favorably on this proposed conveyance, the Application for Final Approval will include an amendment to the existing Maeve's Way subdivision, so that the two approvals can happen simultaneously.
- Variable Sedge. Based on letter from the Department of Conservation Maine Natural Areas Program and a site evaluation, we've identified the location of an endangered plant species known as Variable Sedge (*Carex polymorpha*). The limits of the Variable Sedge have been shown on the Preliminary Subdivision Plan. The stand is within the buffer zone of lots 7, 8 & 9 and 10 and the common open space
- Sidewalks: No sidewalks are proposed for Nicola's Way.

Mr. Bingham asked about open space and buffering issues with the Goodbody property.

Mr. DeWan stated there is a 75' buffer around the entire development.

Mr. Bingham asked about trails.

Mr. Tom Farmer of Terrance DeWan Associates stated he had researched the trails for the lot # 6 amendment, the previous plan had no maintenance or marking with mulch for any trails. There are no trails on Phase II land.

Ms. Nixon stated if there are trails in the area that are shown on the Greenbelt Map the Board may require the applicant to maintain them in their current location or relocate them.

Mr. Farmer stated it would be near impossible to blaze a trail with the Variable Sedge.

Mr. Bingham stated the trails on the previous subdivision are not within the purview of this project. He asked about the necessity of steep driveways on lot 1 & 2.

Mr. DeWan stated they have not had conversations with the Peer Review Engineer at this time.

**The public portion of the meeting was opened.**

Ms. Barbara Goodbody of 68 Foreside Road thanked the Board for the notice. She stated she also had Counsel present. She purchased the former Geiger House in 1973; there are paths which have been used continuously to Island Pond Road and the development on Route One. She voiced concern regarding the wet area and why they are proposing to build 10 houses in the Low Density Residential district. Her major concerns were safety issues on Route 88 which is a major walking, running and biking road, and impact on wildlife.

Ms. Shawna Mueller, Esq., Bernstein, Shur Attorneys representing Ms. Goodbody followed up with the following concerns:

- Traffic – Increased traffic on Maeve's Way and possibility of a traffic calming measure
- Green Belt Map and Pedestrian Safety: more recreational trails would not increase recreation uses on Route 88.
- Open Space: is it a wet area and will it be usable for recreation, and concern of increased run-off.
- Stormwater Management: They will continue to participate in the process.
- 75' Buffer: To be certain the deeds and plan provide adequate notice of no clearing.

Mr. Neagle stated State law requires that post-development stormwater rates not exceed pre-development at the property line. The Board has no say in the number of houses proposed for development, it appears that ten houses are fewer than the site could accommodate.

Mr. James Baldino of 70 Foreside Road asked for clarification on the buffers and open space.

Mr. Neagle stated there would be overlapping buffers; a 75' buffer around the property and additional no-clear buffers to maintain their natural state to manage stormwater.

Mr. DeWan stated the buffers will be pinned, so that homeowner's will be able to locate the no-disturbance areas.

Mr. Baldino asked for clarification on the stormwater detention ponds.

Mr. Frank stated the Town ordinance requires the second detention basin which would require clearing of trees; they are proposing to leave the area treed with a natural sheet flow runoff of the area.

Mrs. Gorman of 74 Foreside Road agreed it is treed where they might need to clear for a detention pond if required. She asked the square footage of the homes.

Mr. Neagle stated the size of the homes is not reviewed by the Planning Board.

Mr. Gorman voiced concerns of disturbing wildlife natural habitats and walking trails.

Mr. Neagle stated to his knowledge there are no mapped deer wintering areas, and the applicant is proposing larger than required open space.

Mrs. Goodbody restated her concern regarding trails and recreation and stormwater runoff increasing the wet area for breeding of insects.

Mr. Neagle stated the wetlands have been delineated on the plan and the stormwater will meet State and Town standards.

**The public portion of the meeting was closed.**

Mr. DeWan addressed some of the concerns stating when they first looked at the land for development the clients directed the designers to have minimal impact on neighbors. The large open space will preserve privacy.

Mr. Neagle thanked the public for their comments.

Mr. Bingham moved to table the application for major subdivision approval for 10-lot subdivision at R & N Woods Phase II, Tax Assessor Map U03, Lot 2C in the Low Density Residential (LDR) district.

Mr. Sherr seconded.

VOTE: Unanimous

**G. Administrative Matters:**

Mr. Neagle asked if there was need for a site walk.

The Board stated there would be a site walk prior to the next Planning Board Meeting on October 16, 2012. The time will be determined either 5:30 or 6:00 p.m. depending on availability of daylight.

**H. Adjournment:**

Ms. Caron moved to adjourn at 9:30 p.m.

Mr. Ferland seconded.

VOTE: Unanimous

The meeting was adjourned at 9:30 p.m.

A TRUE COPY ATTEST:

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Christopher S. Neagle, Board Chair

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Pam Bosarge, Board Clerk