

**PLANNING BOARD MEETING
MINUTES
TOWN OF CUMBERLAND
Cumberland Town Hall - 290 Tuttle Road
Cumberland, Maine 04021
Tuesday, September 20, 2011
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, Peter Bingham, Gerry Boivin, Ronald Dillon, April Caron, John Ferland arrived at 7:25 p.m.

Excused: Peter Sherr

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

C. *Approval of Minutes of August 16, 2011 meeting*

Mr. Dillon moved to approve the August 16, 2011 minutes as presented.

Ms. Caron seconded

VOTE: 4 in favor

1 Abstain - Bingham

D. *Hearings and Presentations:*

- 1. *Public Hearing: Major Subdivision –Final Plan Review: Phase I of Village Green Subdivision; for 58 lots as allowed in the Contract Zoning Agreement with Bateman Partners, LLC; at the Doane Property, Tax Map U10, Lot 7B in the Village Mixed Use Zone (VMUZ). Bateman Partners, LLC, Applicant; Joseph LaVerrier, P.E., DeLuca Hoffman Engineers, Representative.***

Ms. Nixon presented background information as follows: All comments from the Town Engineer, Planner, and the Conservation Committee have been addressed. The applicant had hoped to receive written verification of permits from MDEP prior to this meeting; however they have only received verbal indication of approval. The Planning Board can waive the Subdivision Ordinance requirements that all outside agency approvals are received and allow this as a condition of approval. Al Palmer, Peer Review Engineer has added three additional conditions of approval.

HISTORY:

- March 15, 2011: Favorable recommendation to Town Council to approve the proposed contract zone agreement.
- May 17, 2011: Sketch Plan Review.
- June 2, 2011: Site walk with Planning Board and neighbors.
- June 21, 2011: Public Hearing; tabled by Planning Board.
- July 19, 2011: Public Hearing; tabled by Planning Board
- August 16, 2011: Public Hearing: Preliminary Approval granted by Board.

DESCRIPTION:

Parcel size:	40.69 (includes 1.48 acres in Wyman Way right-of-way to Main Street)
Net Residential Density:	Contract Zoned for maximum of 59 <u>58</u> lots. NRA calculation shows that 181 residential units (each @ 5,000 sq. ft.) would be allowed.
Number of Lots/Dwelling Units:	58
Zoning:	Village Mixed Use (VMU) with contract zoning overlay.
Development Type:	Residential (a mix of single and duplex units with each on their own lot)
Min. Lot Size:	5,000 sq. ft. per dwelling unit (attached or detached)
Lot frontage:	75' for residential; 150' for commercial.
Water	Portland Water District. Capacity to serve letter dated 3/30/11 on file.
Sewer:	Portland Water District. Capacity to serve letter dated 3/31/11 on file. 59 sewer user units have been reserved from the Town and will be purchased prior to final plan submission.
Open Space:	Lot 60: .66 acres; Lot 61: 9.93 acres; Lot 62: 2.76 acres. Total: 13.35 acres. Land and trails to be owned and maintained by Homeowners Association with public access easement.
Buffer:	A minimum 50' buffer shall be maintained along the exterior of the VGRMP parcel (excluding Wyman Way right of way) and abutting residential development. The 50' buffer shall not be required to adjacent land owned by the Town.
Utilities:	Public water and sewer. The Portland Water District will be responsible for all public sanitary sewer and water distribution utility infrastructure systems. All utilities will be underground.
Street Lighting:	Only light poles are proposed; they will be located at the intersection of the roads within the subdivision and will be energy efficient LED cut-off fixtures. No lights are proposed outside the subdivision boundaries on Wyman Way or Drowne Road.
Roads:	There will be 1 public road section, 3 private road sections and 1 private drive section. The public <u>road</u> will be 22' wide with curbing and a 6' grass esplanade and a 6' paved sidewalk on one side of the street. (No esplanade along existing Wyman Way section of road). The private <u>roads</u> will be 22' wide with curbing and a 4' grass esplanade and a 5' paved sidewalk on one side of the street. The private <u>drive</u> (that serves Lots 7-14) will be 18' wide with no esplanade or sidewalk. The Town of Cumberland will be responsible for all <u>public</u> roadways and associated storm drain systems upon acceptance of road. The future Homeowner's Association will be created for ownership and maintenance of all private roads, private utility infrastructure improvements, open space, and trails.

Sidewalks:	6' wide sidewalk with 6' wide grass esplanade on one side of street
Trails:	Yes.
Wetland Impact:	Approximately 14,900 sq. ft. impact.
Vernal Pools:	None identified.
Site Prep:	No shallow bedrock was encountered in test pits or borings. Blasting is not anticipated.
Fire Protection:	Public water. Hydrants located by Fire Chief at 600' to 800' intervals along the roadways. As per the Fire Protection Ordinance, sprinklers are not required.

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”.

OUTSTANDING WAIVER REQUESTS:

From Section 4.4 D 2 (a): *Written approval shall be secured by the Maine Department of Environmental Protection, if the proposed subdivision is subject to review by said Department.*

From Section 7.2 A: Review and Approval by other agencies. *Where review and approval of any subdivision or site plan by any other governmental agency is required, such approval shall be submitted to the Planning Board in writing prior to the submission of the Final Plan.*

The following waivers were approved by the Planning Board at its August 16, 2011 meeting.

1. Existing Physical Features (trees 10” diameter or more and stone walls): Reason for request: Due to the overall size of the parcel and extensive areas of existing forest vegetation, the existing conditions plan depict general areas of forest vegetation; however, all individual trees over 10” diameter as well as stone walls are not specifically shown on the Existing Conditions Plan (Sheet C-3.1 of the plan set.)

2. Section 9.5, B, 1 (Design Standards) of the Subdivision Ordinance requires a minimum of 4’ of cover for all storm drain pipe in paved areas. The storm drain system was reviewed and revised where possible to provide at least 4’ of cover over proposed storm drain pipes in paved areas. In a limited number of locations, storm drains will cross over the proposed 8” water main with as little as 3’ of cover in order to provide adequate separation between the water main and storm drain. In order to provide 4’ of cover in these isolated locations, these storm drains would need to be lowered by approximately 2.5’ to cross below the water main. This would, in turn, drive the remaining storm drain system unnecessarily deep, which was not the desire of the Town or the Town’s engineering peer review consultant (Gorrill-Palmer).

For this reason, the applicant is requesting a waiver from the standard at the locations where the above described condition exists. Our office has reviewed the isolated areas where the storm drain will have less than 4’ of cover with Al Palmer of Gorrill-Palmer Engineering Consultants. Al has indicated agreement with our current storm drain design as submitted.

Outside Agency Approvals Required:

- MDEP Site Location of Development Permit: **PENDING**
- NPDES Maine Construction General Permit: **PENDING**
- MDEP Stormwater Permit: **PENDING**
- NRPA Tier I Wetlands Alteration Permit: **PENDING**
- NRPA Permit-by-Rule (for 3 stream crossings): **PENDING**

- Maine Army Corps of Engineers (Section 404 Wetlands Permit): **PENDING**
- MDOT Entrance Permit - **Pending**

PLANNING BOARD COMMENTS/QUESTIONS FROM JULY MEETING:

1. Legal Documents (*Condition of Approval*)
2. Conservation Commission Comments: Response? (*Included in new packet*)
3. Sheet C-10 to be revised and submitted. (*Included in new plan set*)

PLANNING DIRECTOR'S COMMENTS/DISCUSSION ITEMS:

All comments have been addressed or placed as conditions of approval.

DEPARTMENT HEAD REVIEWS:

Dan Small, Fire Chief:

- 1) The proposed locations of the fire hydrants meet the requirements of the Town's Fire Protection Ordinance.
- 2) Residential key boxes, approved by the fire department, are recommended at each residence but are not required. **Applicant states that key boxes will not be provided.**
- 3) The dead end public and private ways within this project should accommodate both fire trucks and ambulances turning around. This does not apply to the congregated driveways. **Applicant states that there are no dead-end public roads within the development. A tee turnaround has been designed for the terminus end of the private road that extends back towards Amanda's Way. This turnaround has been designed to accommodate turning movements associated with the ladder fire engine.**

William Longley, Code Enforcement Officer: No comments at this time. Plan appears to meet terms of the contract zoning agreement.

Joe Charron, Police Chief: No comments

Chris Bolduc, Public Services Director: No comments.

Town Engineer Review (Al Palmer, P.E.): August 8, 2011

(NOTE: RESPONSE FROM DESIGN ENGINEER, JOE LAVERRIERE, IN PACKET.)

Gorrill-Palmer Consulting Engineers, Inc. has completed a peer review of the Preliminary Subdivision application for the referenced project. The current information from the applicant is presented in a package dated August 1, 2011 as prepared by DeLuca-Hoffman Associates, Inc. We have maintained our numbering system from our July 13th comments for those comments that are still applicable, and have continued that list for new comments. We have the following comments based on our review of the material:

1. The Plans submitted for Final Subdivision Approval shall reflect the ground survey currently underway.
4. Due to the proximity of the proposed homes to the steep slopes, our office recommends a condition of approval that as part of any future building permit submittal for Lots 15, 16, 18 through 22, 26 through 32, 44 and 45, that individual lot grading plans at a scale not to exceed 1"=20' be provided, along with site specific erosion control measures.
5. Significant amount of borrow material will be required to prepare Lots 1 through 6, and 7 through 14 for construction. We would recommend that the Town require a condition of final approval that the placement of this borrow material be required to be completed prior to paving of any roadway within this project to minimize damage to the pavement. We would recommend that a Borrow Specification be shown on the plans.
8. Drawing C-4.0 - The Plans submitted for Final Subdivision Approval shall include:
 - a. The Subdivision Plan stamped/signed by a Professional Land Surveyor,

11. Drawing P-1 – We would recommend a condition of approval that prior to construction, designs of the retaining wall shall be submitted, stamped by a Professional Engineer along with a Global Stability Analysis.
17. Drawing P-1 – The catch basin which was added at the intersection of Wyman Way and Route 9 (CB #46) should be revised to be a 4' diameter basin, not a 2' square basin.

Mr. Joe Laverriere, representative reviewed the comments from the Peer Review Engineer and the Conservation Committee. The applicant has agreed with all outstanding comments.

Mr. Dillon asked about the 30' width requirement for a private road and Sheet C-4.4.1 states 18'.

Mr. Laverriere stated the requirement is a 30' wide right of way, and 18' paved surface.

Mr. Dillon asked about waste pickup on a private road.

Mr. Shane stated the association will write a letter to Pine Tree Waste requesting trash pickup.

Mr. Dillon stated Sheet C-5.0 shows the pedestrian crossing signs and asked why they are not on both the private and public roads.

Mr. Laverriere stated the private drive will have very little traffic the main road will have the majority of vehicles.

Mr. Dillon asked about the review of the private road maintenance agreement.

Ms. Nixon stated this is covered as a condition of approval.

Mr. Neagle stated the Planning Board should see legal documents.

The public portion of the meeting was opened.

Mr. Birthisel of 232 Main Street asked about trash pickup at Wyman Way. He stated currently the school bus stops at Wyman Way and asked if the bus would go down the proposed private ways.

Mr. Neagle stated the streets are adequate for bus and truck passage. He was not sure, trash could be addressed when houses are occupied.

The public portion of the meeting was closed.

The Board reviewed the two waiver requests.

- **Section 4.4D2(a):** Written approval shall be secured by the Maine Department of Environmental Protection, if the proposed subdivision is subject to review by said Department.
- **Section 7.2A:** Review and Approval by other agencies. Where review and approval of any subdivision or site plan by any other governmental agency is required, such approval shall be submitted to the Planning Board in writing prior to the submission of the Final Plan.

Mr. Bingham moved to grant the two waiver requests.

Mr. Dillon seconded.

VOTE: Unanimous 5-0

The Board reviewed the proposed findings of fact.

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 project will be on public sewer therefore the soils do not need to support waste disposal. The applicant has provided a soils report prepared by Albert Frick Associates, Inc. describing the soils as they relate to the design for the proposed drainage system. The MDEP has not yet issued a Site Location of Development permit which includes a review of the erosion control plans.

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. There is a letter on file from the Portland Water District dated 3/30/11 that states that there is an adequate supply of clean and healthful water to serve the needs of the proposed subdivision.

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

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

The proposed subdivision will utilize public water. There is a letter on file from the Portland Water District dated 3/30/11 that states that there is an adequate supply of water to serve the needs of the proposed 12 lot mixed use subdivision without creating a burden on the existing water supply.

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 erosion control plan has been reviewed by the Town Engineer who has made a recommendation that will be incorporated into the final plan. MDEP approval is still outstanding.

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;

There is a traffic study on file dated April, 2011 which has been reviewed and approved by the MDOT and Tom Gorrill, the Town's peer review traffic engineer.

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. Al Palmer, P.E., the Town's sewer peer review engineer, has reviewed and approved the proposed sewer plans.

There is a letter on file dated 7/27/11 from the Town Manager, Bill Shane, stating that the town has agreed to accept the flow of at least 16,000 gallons per day to its municipal sewer system from this project.

Sewer user permits have not yet been purchased by the owner. This will be done prior to pre-construction meeting.

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 183 cubic yards 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;

Letters on file dated 10/25/05 and 4/14/11 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area.

Letters on file dated 10/12/05 and 6/8/11 from the Department of Inland Fisheries and Wildlife states that there are no known significant wildlife habitat or threatened or endangered species in the vicinity of the project.

A letter on file dated 4/28/11 from the Maine Historic Preservation Commission states that this project will have no effect on historic resources.

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

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

The plans have been reviewed by the Town's peer review engineers and town staff. All outstanding comments will be addressed for pre-construction meeting.

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

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

Technical capacity is evidenced by expert engineering, surveyors, soils evaluators, traffic engineers, and landscape architects.

A letter dated 8/1/11 from Norway Savings Bank states that “the developers have the financial capacity, management skills, and marketing finesse to successfully develop this site and complete the project on time and on budget.”

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 man-made pond on the site is not by State definition a great pond or lake regulated by the State.

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 affects the quality or quantity of ground water;

The project will be served by public sewer. There are no proposed activities that would adversely affect the quality or quantity of ground water.

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

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

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 dated May 11, 2011 prepared by Delucca-Hoffman Associates 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.

Wetlands on the parcel were identified by Boyle associates. There are no natural vernal pools on the site. The project requires a NRPA permit from MDEP and the US Army Corp of Engineers for the proposed wetland and stream impacts associated with construction. 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]

One perennial and three intermittent MDEP jurisdictional streams are located within the westerly portion of the site. The 5,976 square feet of impacts associated with the stream

crossings are permitted through the NRPA Permit-by-Rule process which has been undertaken.

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is not located in the Aquifer Protection District.

Ms. Caron moved to adopt the findings of fact.

Mr. Bingham seconded.

VOTE: Unanimous 6-0

Mr. Bingham moved to grant Major Subdivision Approval to Phase I of Village Green Subdivision; for 58 lots as allowed in the Contract Zoning Agreement with Bateman Partners, LLC; at the Doane Property, Tax Map U10, Lot 7B in the Village Mixed Use Zone (VMUZ); Bateman Partners, LLC, Applicant; Joseph Laverriere, P.E., DeLuca Hoffman Engineers, Representative. The approval is subject to the standard and proposed conditions and the Standard Limitation of Approval.

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 minor changes as so determined by the Town

PROPOSED CONDITIONS OF APPROVAL

1. All outstanding approvals from DEP and Army Corps of Engineers are submitted to the Town Planner prior to release of the plat for recording.
2. Legal documents to be reviewed and approved by Town Attorney prior to release of the plat for recording.
3. Statement of values for required improvements for all lots to be submitted prior to releasing the plat for recording.
4. A pre-construction conference is required prior to the start of work.
5. A performance guarantee in a form acceptable to the Town Manager shall be provided prior to the pre-construction conference.
6. Due to the proximity of the proposed homes to the steep slopes, individual lot grading plans along with site specific erosion control measures, at a scale not to exceed 1" = 20' shall be submitted as a part of any future building permit submittal for Lots 15, 16, 18 through 22, 26 through 32, 44 and 45.
7. Borrow material required to prepare Lots 1 through 14 for construction shall be completed prior to paving of any roadway within this project to minimize damage to the pavement.
8. Prior to construction, designs of the retaining walls on Wyman Way shall be submitted, stamped by a professional Engineer along with a Global Stability Analysis.
9. Prior to construction, the Plans shall be revised to eliminate any intrusion into the 50' natural buffer to the rear of Lots 47-50.
10. Prior to construction, the plans shall be revised to depict details for the riprap slope on the "Private Road Bradbury Way", between lots 45 & 46.

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2. ***Sketch Plan Review: Drowne Road School Apartments for up to 40 apartments at 12 Drowne Road, a portion of Tax Assessor Map R03, Lot 51A, Bateman Partners, LLC, Applicant: Town of Cumberland, Owner.***

Mr. Joseph Laverriere presented an overview as follows: The proposed development includes 38 senior housing apartments (55 and older) located within the existing Drowne Road School Building and a three story building expansion that is to be constructed off the southern end of the existing building. The middle floor level of the expansion will match the floor elevation of the existing building. The lower floor within the expansion will feature walk-out apartments as the existing grade falls away towards the southeast.

The mix of one and two bedroom apartments will be as follows:

	Renovated Existing Building	Building Expansion	Total
1-Bedroom Apartments	11	1	12
2-Bedroom Apartments	3	23	26
Total # of Apartments	14	24	38

The Zoning Ordinance requires one parking space per residential unit, or 38 total units for the proposed project. The existing parking lot at the northern end of the site will remain and will be partially restriped to provide handicap accessible parking for residents entering the northern end of the building. A total of 37 spaces will be provided in the northern parking area. The existing parking lot at the southern side will be reconfigured to include 23 spaces as well as a circular drop-off area at the new facility's main entrance. Additionally, 17 on-street parking spaces will be created along the site's Drowne Road frontage.

There will be in total 77 parking spaces provided for the project, which exceeds the number required by the ordinance by 39 spaces. The applicant understands that the existing lot at the northern end of the site is currently used as parking for the little league fields, and an effort was made to provide enough excess parking so this use may continue on the site.

The project will be serviced by existing utilities including public water and sewer with overhead electrical, cable, and telecom services. Wastewater from the lower level of the proposed building expansion is expected to be pumped to the existing 8" gravity sewer in Drowne Road.

The applicant is proposing to maintain the three existing points of site access. The southern driveway will provide access to the building's main entrance and southern parking lot, and the northern two driveways will continue to provide access to the northern parking lot. This concept may conflict with Section 8.2.8 of the Town's Site Plan Review Ordinance.

Tonight at the sketch plan review the applicant is seeking feedback from the Planning Board on the number and location of driveways, and if a formal waiver request will be necessary during the site plan review process.

Mr. Bingham asked if the height of the three story building would be below the 35' height limit of the Ordinance.

Mr. Laverriere stated yes.

Ms. Caron stated from her experience people in the 55+ age range may have two cars and asked if there would be any undercover parking. She stated the plan may have parking issues with the little league fields and the tenants.

Mr. Laverriere stated there is no planned undercover parking.

Ms. Nixon stated there has been discussions regarding connecting a path to the existing Town Hall parking for the little league.

Mr. Boivin voiced concern of snow removal and storage and limited parking space.

Mr. Dillon asked if the building criteria would be different for residents who were 45+ and not 55+.

Mr. Nathan Bateman stated the criteria of the project will conform to the Maine State Housing Authority guidelines for structure, and rental and management programs, and ADA compliance.

Mr. Ferland stated he would like an analysis of traffic flow for Drowne Road and Tuttle Road intersections and the Doane property. The traffic on Drowne Road will change with the development of 58 lots.

Mr. Neagle agreed with the parking concerns and suggested starting new with the parking lot and designating parking for the little league. He asked if there were any plans to offer health care at the facility.

Mr. Bateman stated no, these will be independent living apartments however; there will be space for a visiting nurse, but not as part of the rental structure.

Mr. Dillon asked if Cumberland had any plans for public transportation such as buses.

Ms. Nixon stated the residents would have access to RTP.

Mr. Boivin asked about the front elevation.

Mr. Bateman stated the front will remain similar as existing with the addition of dormers.

Mr. Neagle agreed with the concern of parking on Drowne Road.

The public portion of the meeting was opened.

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

The Board took no action, and noted the concern of adequate parking and on-street parking.

3. Public Hearing: To recommend to the Town Council draft recommendations for re-zoning of the Drowne Road School property from Rural Residential 1 (RR1) to the

Village Mixed Use Zone (VMUZ), a portion of Tax Map R03, Lot 51A, Owner, Town of Cumberland.

Mr. Shane, Town Manager presented information as follows: The Town Council is requesting that the Planning Board forward input and recommendations for the rezoning of the Drowne Road School from RR1 to VMUZ for the purposes of converting the Drowne Road School into an affordable 38-unit senior housing project. The Code Enforcement Officer, Bill Longley is comfortable treating this as a multiplex. If, however, the Planning Board feels the project resembles more closely a residential care facility as defined in Section 432 of the Ordinance then additional acreage is necessary to meet the open space requirement. In the RR1 district the Town would need to dedicate 40 acres of land with the lease to the Bateman Partners (density per acre for multiplex is one acre per unit). Under the VMUZ zoning, a multiplex of 38 units requires 2,500 sq. ft. per unit or 2.2 acres. Additional acreage was added for ancillary items and then the total area dedicated was more than doubled in the event of classification as a residential care facility that would require open space. The revitalization and reuse plan for the Drowne Road School is on a tight time schedule. Pending Planning Board approval in October, the Bateman's hope to have an extremely competitive application for funding into MSHA in early November. They hope to receive funding approval by the end of the year and begin construction by spring 2012. With the MSHA funding for this 38-unit senior housing project, the Bateman's are anticipating renting 1 and 2 bedroom apartments for \$683 to \$984 per month. The Town's current senior housing waiting list is approximately 150 for our 30-unit housing complex; this will be welcome news to many seniors in our community.

Mr. Neagle read the Residential Care definition stating he felt personally the proposal would fit the description of a multiplex.

Ms. Caron asked if the Board should as a group agree with the use as a multiplex.

Mr. Bingham asked if we had received a legal opinion on the definition of the use from the Town Attorney.

Mr. Shane stated by Ordinance the Code Enforcement Officer determines the use and staff and town attorney concur.

Mr. Neagle asked about the need to amend the MDEP permit.

Mr. Bateman stated no, they are proposing to use existing parking and not require any additional wetland impact.

Mr. Shane stated we have discussed have a defined path to the Town Hall parking for the little league.

The public portion of the meeting was opened, there were no public comments. The public portion of the meeting was closed.

Mr. Bingham moved to send a favorable recommendation to the Town Council for draft re-zoning of the Drowne Road School property from Rural Residential 1 (RR1) to the Village Mixed Use Zone (VMUZ), a portion of Tax Assessor Map R03, Lot 51A, Owner, Town of Cumberland.

Mr. Dillon seconded.

VOTE: Unanimous 6-0

- 4. Public Hearing: Major Subdivision and Major Site Plan Review:** For a mixed use development at 371 Tuttle Road, Tax Assessor Map U11, Lot 4, Rebecca Williams, Applicant; Al Palmer, P.E., Gorrill-Palmer Consulting Engineers, Representative.

Ms. Nixon presented background information as follows: The owner of the parcel is Rebecca Williams, dba/Tuttle Road Associates, LLC of 329 Greely Road, North Yarmouth, ME 04097. The applicant has a purchase and sale agreement to purchase 371 Tuttle Road as shown on Tax Assessor Map U 11, Lot 4. The applicant proposes to redevelop the parcel by converting the first floor of an existing colonial style building into a 35 seat café on the first floor that includes a 250 sq. ft. market area. The second floor will consist of 740 sq. ft. of office space. An existing barn structure will be removed and replaced with a new structure that is similar in style and appearance. This building will have 5 two-story apartment rental units in it. The applicant is represented by Al Palmer, P.E., of Gorrill Palmer Consulting Engineers, Inc. This application is for major site plan review and major subdivision review. This project could be granted both preliminary and final subdivision approval as well as major site plan approval if the Board is comfortable with the proposed conditions of approval.

HISTORY:

- August 16, 2011: Sketch Plan Review
- August 24, 2011: Planning Board Site Walk

DESCRIPTION:

Proposed Uses: 35 seat café open for breakfast and lunch; 21 seasonal outdoor seats
740 sq. ft. office space
5 two-story apartment units.
250 sq. ft. market area within the café.

Parcel size: 1.3 acres
Frontage: 238'

Number of Dwelling Units: 5
Number of Units (total) 7

Parking: Café & office: Paved; 20 spaces
Apartments: Gravel: 13 spaces

Zoning: Town Center District (TCD)

Min. Lot Size: 5,000 sq. ft. per dwelling unit (attached or detached)

Water: Portland Water District. Capacity to serve letter dated 3/30/11 on file.

Sewer: Portland Water District. Capacity to serve letter: Pending

Electrical: Underground from street.

Open Space: N/A

Street Lighting: N/A

Traffic: MDOT Traffic Movement Permit not required. MDOT Entrance Permit required – Pending.

Access: 24' wide two way circulation drive.

Trails: N/A

Wetland Impact: None

Floodplain: Zone C – FIRM #230162 0015 B

Stormwater: Infiltration and catch basin with 2 perforated outlet pipes.

Vernal Pools: None identified.

Fire Protection: Public water

Days/Hours of Operation: Café/Market will be open 7 days a week from 6:30 a.m. to 6:30 p.m.
Occasional evening hours for local gatherings such as book clubs.

WAIVER REQUESTS: (See Peer Review Engineer's comments on requested waivers below in Section VII)

Major Site Plan Requirement Waivers

The Applicant respectively requests the following waivers from the ordinance requirements:

High Intensity Soil Survey – A waiver is requested for the High Intensity Soil Survey for this project, due to the small scale of this project and the fact the site will be served by public water and sewer. As requested at the Site Walk by the Engineer that would be Peer Reviewing the Application, a test pit was conducted in the southeast corner of the site which confirmed that the subsurface soils are a sandy gravel, consistent with the medium intensity soil survey. A copy of the on-site soils exploration are included in Attachment 8.

Hydro Geologic Evaluation – A waiver is requested for the Hydro Geologic Evaluation for this project, due to the small scale of this project and the fact the site will be served by public water and sewer.

Traffic Study – A waiver is requested for a formal Traffic Study, as the increase in AM and PM peak hour traffic generation for the proposed site are 27 and 23 trips respectively as noted in a subsequent section of this letter. As noted previously, the renovation/construction of the structures (the elements that generate traffic) is only 410 square feet of area, which does not by itself require Major Site Plan Review, and therefore would not have normally required a formal Traffic Study. Major Site Plan review is a required due to the increase in impervious area, for which the major concern would appear to be stormwater related, not traffic. A Stormwater Analysis has been submitted to address the increase in impervious area. A comparison of traffic generation has been provided below, and an Application for change in use of the existing driveway has been submitted to Maine DOT.

Market Study - The Town Center District specifically identified multiplex residential housing and café's as uses lacking in the area, and desired by a significant component of Cumberland residences. To require an Applicant to conduct a Market Study to confirm these obvious facts would appear to be a cost that does not appear warranted, and therefore creates a hardship.

PLANNING DIRECTOR'S COMMENTS/DISCUSSION ITEMS:

1. **MDOT Entrance Permit Pending (Proposed Condition of Approval)**
2. **Lighting: Additional lighting information will be provided at the meeting.**
3. **Ability to Serve letters (water, sewer, CMP) (Proposed Condition of Approval)**
4. **Historic Commission Letter (Proposed Condition of Approval)**
5. **Inland Fisheries & Wildlife Letter (Proposed Condition of Approval)**
6. **Is a sprinkler system required for either structure?**

DEPARTMENT HEAD REVIEWS:

William Longley, Code Enforcement Officer: Conversion will require State of Maine Fire Marshall's review for construction permit and accessibility. 5 townhouses per IRC 2009 will require NFPA 13 sprinklers per section R313.1

Joe Charron, Police Chief: No comments

Chris Bolduc, Rescue Chief: No comments

Dan Small, Fire Chief:

- 1) The café and office space shall be equipped with a fire alarm system that is monitored by an approved fire alarm company. The system shall have a remote annunciator panel located at the main entrance 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 system is silenced. The alarm system shall identify the exact location of each individual initiation device with plain text at the fire alarm panel. ***It is***

recommended that the five apartment unit smoke, heat, and carbon monoxide detectors be connected to the monitored alarm system.

2) The café/office space shall be equipped with a hinged key box approved by the fire department that is located at the main entrance. ***It is recommended that each of the apartments have individual key boxes installed but they are not required.***

3) The building shall meet the requirements of the National Fire Protection Association's codes and standards as adopted by the State of Maine to include, but not be limited to: Life Safety Code, kitchen fire protection systems and applicable fuel storage/operating codes.

4) Access to the building shall be adequate enough to accommodate fire department vehicles.

TOWN MANAGER'S RESPONSE LETTER

In response to your letter, dated August 30th, here is the requested information:

Sewer Capacity:

The Town has adequate capacity to handle the wastewater flows from this property and will reserve 2,265 gallons of capacity for your project. The connection permits will be charged at a lump sum of \$20,000 with an additional \$50 per unit for inspection and permit processing fees. There will be seven individual user accounts established with this project, which will be billed by the Portland Water District upon occupancy of the unit or within 18 months of approved plumbing permit being issued whichever comes first.

Present Monthly Sewer Fees- billed by Portland Water District:

One Avg. Sewer Unit is measured at 150 gpd and is the *minimum* charge

Cafe

$740/150 = 5$ units per month \times \$33.80 per unit = \$169/month

$740 \text{ gpd} \times 3 \text{ days per month} = 22,200 \text{ gpm} = 2968 \text{ CF or } 30 \text{ HCF per month}$

$30 \text{ HCF} \times \$4.70/\text{HCF} = \$141.00 \text{ use charge}$

Total Charge = \$141 + \$169 = \$310 per month Avg. monthly sewer charge

I would be willing to evaluate the flow at 6 month and 12 months and adjust thereafter and allow for an initial fee of 2.5 Units + \$84.50 plus 15 HCF \times \$4.70 = \$70.50 for a total charge of \$155 per month. The projected flow appears to be very conservative.

Apartments & Office:

I would assume minimum fees = \$33.80 + HCF (could range from 2-6) \times \$4.70 = \$44 - \$60 per month depending upon usage for each unit.

No easement will be required from the Town, as this will be considered a private service from the sewer main to the residential and commercial units. **The sewer line and water main must be installed and any trenches paved prior to May 15, 2012 as Tuttle Road will be paved that month.**

Tuttle Road is a state road and utility location and road opening permits must be filed with MDOT.

Other Fees:

- Impact Fees for residential units - \$1.36 / s.f. after the first 500 square feet- No Fee for Commercial Units
- Growth Permits- \$100 per new residential unit
- Local fees for building, electrical plumbing, etc.

- Solid waste- Commercial must have dumpster- Residential “pay per bag” curbside program
- Should have something from Fire Marshall’s office related to the project

CUMBERLAND CONSERVATION COMMISSION: No Comments

TOWN ENGINEER’S REVIEW: Mark Bergeron, P.E., Sevee and Maher Engineers.

WAIVER COMMENTS

1. The Major Site Plan Submission Checklist indicates that a waiver request has been made for the following items, with SME’s response following each request:
 - a. High intensity soil survey – SME supports this waiver request, as a soil test pit was provided in the stormwater infiltration basin, and the project will be served by public water and sewer facilities.
 - b. Hydrogeologic Evaluation – SME supports this waiver request since the project will be served by public water and sewer facilities.
 - c. Traffic Study – SME believes that this project could impact the traffic on Tuttle Road and possibly the Route 9 intersection during the morning peak hour of traffic. SME recommends that the applicant provide additional information regarding:
 - i. Turn movements in and out of the project during peak morning and evening hours
 - ii. The rationale for using the existing driveway entrance closest to the Route 9 intersection versus the entrance located further to the east.
 - d. Market Study – SME has no opinion on this waiver and defers discussion to the Town Planner and the Planning Board.

Please note that the Design Engineer, Al Palmer, has responded to these comments. They are listed, as a group, below the Town Engineers comments.

PLAN COMMENTS

Existing Conditions Survey:

1. The applicant should identify on the plan the location of the existing septic system. Will the septic system (if any) and the dug well be abandoned as part of the project?
2. A “6-inch vertical plastic pipe perforated” is located in the southwest corner of the property. The applicant should identify where this pipe discharges to, as stormwater is being diverted to it in the developed condition.
3. The applicant should identify on this plan or other plans which large trees are to be preserved or removed.
4. Will the existing gravel drive on the east side of the parcel be removed?

Subdivision Plan:

1. What is the purpose of the 8’ x 18’ gravel area behind the three parking spaces in the northwest corner of the site?

Site Utility Plan, Drawing C101:

1. The applicant should verify the wastewater design flows for the 5-unit apartment building. Table 4A of the Maine Subsurface Wastewater Disposal Rules indicates the design flow for a two bedroom dwelling unit is 180 gallons per day (gpd). For five units this would total 900 gpd, not the 500 gpd listed in the calculations.
2. A Pipe Trench details for the water and sewer pipe should be included.

3. SME recommends that the domestic water services to Tuttle Road be relocated to avoid removing the existing 36" tree. SME believes that a curb stop should be installed on the 2-inch water service to the apartment building.
4. Will the café require a grease trap?
5. SME recommends that a minimum of 10 feet be held between the water and sewer services for the 5-unit apartment building.
6. Please clarify the parking information shown in the Site Data table on this sheet and the table found on the second page of the application letter.
7. Snow storage areas are indicated for the north-most parking area. Please describe anticipated snow removal and storage for the south-most parking area adjacent to the proposed café.
8. Snow plowing of the gravel area north of the apartments will likely create accumulations of gravel and sand in these areas. Please describe the measures/maintenance that will be required to keep sand and gravel from accumulating in the proposed infiltration system.
9. The applicant should briefly discuss the solid waste disposal plan for the project; specifically, what size dumpsters and trash trucks will be utilized given the arch in the apartment building.
10. The Fire Department should comment on the adequacy of the access through the arch to the rear parking area.
11. The apartment building architectural drawings indicate that a foundation drain will be constructed. This drawing should indicate to where these foundations will connect.
12. Page 4 of the cover letter indicates that a walkway will be provided from Tuttle Road to the parking lot and the main café entrance. No new walks are indicated from Tuttle Road. The applicant should clarify that the existing walkway from Tuttle Road will be utilized to the 'front' door of the existing building, and not the main entrance of the café on the west side of the building.

Grading, Drainage, and Erosion Control Plan, Drawing C102:

1. The proposed grading contours (elevations 188 and 189) should be corrected between the paved parking area and the café.
2. SME recommends that the silt fence extend further into the tree line to the north and to near the sidewalk on Tuttle Road.
3. SME recommends that the location of all borings and test pits performed for the project be shown on this drawing.

Grading, Drainage, and Erosion Control Plan, Drawing C102:

1. SME recommends that details of the infiltration system be provided on this drawing (i.e., pipe backfill size and material, pipe perforation schedule, etc.)
- 2.

STORMWATER MANAGEMENT COMMENTS:

SME has reviewed the stormwater management narrative and has the following comments relating to this document.

1. There is a spare watershed boundary line on Figure WS2 that should be deleted.
2. There is conflicting information as to the level of groundwater near the proposed infiltration system in Subcatchment 1. The Soil Investigation indicates that there was no mottling of the soil in the test pit area, however Drawing C102 Grading and Drainage Note 3 indicates that the contractor shall anticipate that groundwater will be encountered during construction. Please clarify.
3. Soil infiltration rates are important because there are decreasing peak stormwater flows within Subcatchment 1. Please provide calculations showing how the resultant infiltration rate of 0.17 cubic feet per second was established.
4. Given the large amount of impervious area created in Subcatchment 1, SME recommends revising the stormwater calculations to include independently routing the proposed gravel parking area north of the apartments to the infiltration system.
5. The stormwater model indicates that stormwater will be flowing out of the infiltration basin onto the abutting property in 25-year storm events. The applicant should address how those impacts to the abutting property will be minimized.
6. Does the storm drain system associated with Subcatchment 3 have adequate capacity to convey the increased flows anticipated by the proposed development?
7. Does the 6-inch vertical plastic pipe in Subcatchment 4 have adequate capacity to convey the anticipated peak flows?

SME recommends that the ability-to-serve letters and the MDOT entrance permit be reviewed before final project approval is granted for any changes that could affect the project design.

Ms. Rebecca Williams, applicant reviewed the project stating the existing barn structure will be removed and replaced with a similar structure that will have five two story apartments. The new structure will have similar footprint and will look like the carriage house. The existing colonial building will be converted to a 35 seat café with office space on the second floor. I have reviewed the Comprehensive Plan and the proposal is consistent with developing a walkable and livable downtown area. The Comprehensive plan defines residents desire to shop, live and dine within the community. The vehicular parking and access will remain. We are awaiting a DOT entrance permit to allow a right in and right out access at the existing driveway closest to the signalized intersection.

Ms. Caron asked about fencing for the dumpster.

Ms. Williams stated it would be fenced.

Mr. Dillon asked if there would be enough parking and asked about the retail products.

Ms. Williams stated coffee, bread, cheese, items that will be served in the café.

Mr. Dillon asked about business in the office space.

Ms. Williams stated the office space will be one unit.

Mr. Dillon asked about snow removal.

Mr. Doug Reynolds, P.E., Gorrill-Palmer Engineers stated the snow will be plowed into one of the parking spots and removed if necessary.

Mr. Bingham asked the plan if DOT denies the right turn access.

Ms. Nixon stated this is a key point and in discussions with Al Palmer any three of the options would work and not change the configuration of the project.

Mr. Boivin asked about the lighting plan; the hours of operation are 6:30 a.m. to 6:00 p.m. would the lights be on timers.

Ms. Williams stated the lights would be on approximately a half hour after closing.

Mr. Boivin asked if the dumpster would be screened with arborvites and a fence.

Mr. Reynolds stated yes.

Mr. Ferland stated at the sketch plan review there were concerns of the arch limiting circulation of vehicles and snow storage.

Ms. Williams stated the arch is not a limiting factor.

Mr. Dillon asked if there will be lighting in the parking area of the residences.

Ms. Williams stated there will be wall mounted lights above the doors on the back of the building.

Mr. Dillon asked if the shaded areas on the plan were the parking spaces and how they would delineate where to park.

Mr. Reynolds stated there will be a wheel stop in front of the parking spots, the gravel won't be marked or stripped.

Ms. Caron asked about the design of the directional signs for right turn only and do not enter; stating she hoped it would be fitting with the aesthetics of the building.

Mr. Neagle stated the subdivision plan should not show existing improvements that will be removed. The gravel drive is not clear, the plan should denote parking clearer. He asked about noise on the patio or outdoor seating, which should also be denoted clearer on the plan.

Ms. Williams stated the noise would be conversations which should not disturb abutters or exceed decibel levels at the boundary lines.

Ms. Caron asked if there were concerns of removing the arch.

Ms. Williams stated those concerns have been addressed.

The public portion of the meeting was opened.

Ms. Erin Wyatt of 363 Tuttle Road stated she co-owned the field behind the property and voiced concern of misuse and abuse of the property by people using the property as a cut through from the school. She requested that the applicant define the applicant's backyard with a non-white fence. And requested that the existing trees not be disturbed.

Mr. Reynolds, representative stated the property has a significant buffer of trees and a fence has not been considered.

The public portion of the meeting was closed.

The Board reviewed the requested waivers.

**High Intensity Soil Survey
Hydro Geologic Evaluation
Traffic Study
Market Study – Town Center District**

Mr. Bingham moved to grant the three requested waivers.

Mr. Boivin seconded.

VOTE: Unanimous 6-0

The Board reviewed the site plan proposed findings of fact .

Mr. Bingham moved to approve the proposed findings of fact as presented for the Site Plan Review.

Mr. Ferland seconded.

VOTE: 5 in favor (Boivin, Caron,
Ferland, Bingham, Dillon)
1 opposed (Neagle)

The Board reviewed the proposed findings of fact for the Town Center Design Standards.

Mr. Bingham moved to approve the findings of fact for the Town Center Design Standards.

Mr. Boivin seconded.

VOTE: Unanimous 6-0

Mr. Bingham moved to approve the findings of fact for the major subdivision.

Mr. Boivin seconded.

VOTE: Unanimous 6-0

Mr. Ferland moved to approve the request for Major Subdivision and Major Site Plan approval for a mixed use development at 371 Tuttle Road, Tax Assessor Map U11, Lot 4, Rebecca Williams, Applicant; Al Palmer, P.E., Gorril-Palmer Consulting Engineers, Representative. The approval is conditioned upon the standard and proposed conditions of approval and limitation of approval.

Ms. Caron seconded.

VOTE: 5 in favor (Boivin, Caron,
Ferland, Bingham, Dillon)
1 opposed (Neagle)

MAJOR SITE PLAN 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.

.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 proposed development will occur in essentially the same areas as the existing development thereby preserving existing vegetation. The site will be served by public water and sewer.

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

.2 Traffic Access and Parking

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

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

- .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.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .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 accessways must not exceed sixty (60) feet.

The accessway location has not been approved by MDOT. There are three potential options at this point: 1) MDOT approves current request by the applicant for a “right in, right out” in the current location; 2) MDOT approves that entrance as “exit only” or,

3) MDOT does not permit the use of that entrance at all. Regardless of which option is approved, the circulation plan shown for the remainder of the site will not change from that shown on the plan. With acceptance of the proposed condition of approval, the Board allows the project to be approved with any of the three options that is ultimately selected by the DOT.

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

.3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

The project has not yet received an entrance permit. As stated above, this is listed as a condition of approval.

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

.4 Internal Vehicular Circulation

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

- .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.
- .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).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .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 plans have been reviewed and approved by the Town's peer review engineer. All of the above standards have been met.

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

.5 Parking Layout and Design

Off street parking must conform to the following standards:

- .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.
- .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.
- .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

- .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.
- .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.
- .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.

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

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

.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.

The site will utilize an existing sidewalk along Tuttle Road. There will be a walkway to the front door from the sidewalk.

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

.7 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.

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

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

- .8 Erosion Control
 - .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.
 - .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 project will utilize BMP (Best Management Practices) for erosion control. The erosion control plan has been reviewed and approved by the Town Engineer and there are outstanding issues.

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

.9 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.

The project will be served by public water. An ability to serve letter from the PWD is required is a proposed condition of approval.

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

.10 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.

The project will utilize public sewer. The Town Manager has allocated the required number of sewer user permits.

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

.11 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.

The utilities will be placed underground.

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

.12 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 utilize public sewer.

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

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .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.

- .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.

The project will utilize public sewer. There will be no storage of fuel, chemicals, or other hazardous materials.

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

- .14 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.

Technical capacity is evidenced by use of a professional engineer and architect.

Financial capacity is evidenced by a letter dated 9/2/11 from TD Bank states that the LLC has the financial capacity and ability to conduct the project as planned.

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

- .15 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.

As part of the original subdivision approval, the following letters were provided by the applicant:

A proposed condition of approval is the submission of letters from the Department of Conservation, Inland Fisheries and Wildlife and the Maine Historic Preservation Commission.

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

- .16 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 provisions.

The site is not located within the 100 year floodway of any river or stream.

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

- .17 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.

The application includes a Site Lighting Plan that shows there will be no pole fixture lighting on the site. All lighting will be mounted on buildings to illuminate only the specific areas where lighting is needed to provide for safety (at all apartment door entrances and near the entrance and patio area of the front building.

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

.18 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.

The perimeter of the site is vegetated with a mix of deciduous and non deciduous trees. The dumpster will be screened by 5 arborvitae that will be 4' to 5' in height at the time of planting.

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

.19 Noise

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

Of the various uses, only one (café w/seasonal outdoor seating) will have the potential to generate noise that could affect neighboring properties. Given that the café will only serve breakfast and lunch, the potential for there to be a nuisance to neighboring properties is greatly reduced, if not eliminated.

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

.20 Storage of Materials

- .1 Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.
- .2 All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.
- .3 Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

There will be no outdoor storage of materials. The dumpster is located in the rear corner of the parcel and will be fenced.

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

.21 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 applicant has submitted a proposed landscaping plan that shows plantings around the front building and in other areas around the site that will benefit from additional plantings.

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

.22 Building and Parking Placement

- .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.
- .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.

The building and parking placement will be essentially the same as currently exists on the site.

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

.23 Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance once the applicant has met the design requirements of the Town's Fire Protection Ordinance.

The Fire Chief has reviewed the plans and made recommendations for the project. They are listed as a condition of approval as are approval from any State and Federal agencies relating to fire protection.

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

.24 Aquifer Protection (if applicable)

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 parcel is located in the Aquifer Protection Area. The proposed uses will not adversely affect the aquifer.

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

.25 Route 100 Design Standards (if applicable)

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.

N/A (Parcel does not front on Route 100)

.26 Route 1 Design Guidelines (if applicable)

All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines.

N/A (Parcel does not front on Route 100)

TOWN CENTER DISTRICT DESIGN AND PERFORMANCE STANDARDS:

Town Center District Standards

- 1.1 Master Planning – Even though the project is located on a small lot, a master plan has been prepared for the site, which includes the café and office space within the main building and the proposed apartment units within the new building.
- 1.2 Professional Design – Gorrill-Palmer Consulting Engineers, Inc. has been retained by the Applicant to design and permit the project. Additional consultants are listed within Attachment 2.
- 1.3 Vehicular Access –
 - 1.3.1 Curb Cuts –The existing curb cut on the northerly side of the building will remain as access to the parking to serve the building as part of the permitting process, an application for a Driveway Entrance Permit from the Maine DOT has been submitted. A copy of the application is included in Attachment 10
 - 1.3.2 Site Circulation – Site traffic will enter the site via the curb cut on the north side of the building. The internal driveway will circulate around the building and through an archway within the new apartment building, similar to the existing archway, to access the parking to the northeast of the apartments. The rear parking and access drive will remain gravel, with the only new pavement being the new parking spaces located on the north side of the farmhouse.
- 1.4 Building Placement –
 - 1.4.1 Location of Building Onsite - As the front existing building (farmhouse) will be redeveloped, the placement of this building has been established. The new apartment building at the rear will be located generally in the same location as the existing barn. It will be shifted back slightly to provide parking and access, while maintaining the existing vegetation at the rear of the site.

- 1.4.2 Building Entrances – The main entrance for the café will be located adjacent to the north side parking area. This location faces Main Street and will provide for an inviting entrance to passing pedestrians.
 - 1.4.3 Lot Standards – The location of the existing and proposed building, as well as parking will be within the required setbacks established for the zone with the exception of a portion of the existing parking. The existing parking along the northerly property line is within the pavement setback and is assumed to be grandfathered. These standards are depicted on the attached plan.
- 1.5 Parking –
- 1.5.1 Landscaping – Barry J. Hosmer is the landscape architect on this project and has designed a landscape plan consistent with the intentions of the Town Center District Design Standards. There are several very large mature deciduous trees onsite that will be preserved.
 - 1.5.2 Snow Storage – There are a number of areas at the rear of the site, which will allow for adequate snow storage. Areas have been depicted on the Site and Utility Plan.
 - 1.5.3 Impervious Surfaces – As mentioned above the rear parking and access will remain gravel, with the only new pavement being on the north side of the building for the parking.
- 1.6 Service Areas – Due to the scale of the project, the service area for the project will be limited to the main access points. Deliveries will be limited to smaller vehicles. A dumpster pad has been shown in the rear parking area, and the access drive has been designed to allow for the turning of the service vehicles.
- 1.7 Open Space – As part of the proposal, walkways will be provided from Tuttle Road to the parking lot and the main café/office entrance. There will not be significant changes to the south side of the building, which will maintain existing landscaping and buffering. An outdoor patio with seating for the café is proposed on this side of the building for use as open space.
- 1.8 Buffering to Adjacent Uses – Vegetative buffering exists on the south and rear property lines to the abutting uses. These buffers would remain as part of the project. The abutting use to the north is a small cemetery, which shouldn't require significant buffering.
- 1.9 Erosion, Sedimentation and Stormwater Management – Erosion control practices and methods have been incorporated in the design plans. A Stormwater Analysis has been completed and is included within Attachment 8 of this package. Post Development peak flows have been addressed by directing flows to a depression in the southeast corner of the site. This area will include a catch basin and perforated pipe which will allow infiltration of stormwater into the sandy soils on the site.
- 1.10 Utilities – Based on discussions with the Town, it is our understanding that sewer service will be extended to this property to eliminate the need for on-site subsurface wastewater disposal. Water service will continue to be provided from an existing Portland Water District water main in Tuttle Road. The nearest public hydrant is located on Tuttle Road at the entrance/exit to high school complex, approximately 750 feet from the existing structure. Electric, telephone, and cable service will be provided underground from an existing service

pole along Tuttle Road. Ability to serve letters have been sent to the appropriate entities. Copies of the letters are included in Attachment 7.

MAJOR SUBDIVISION REVIEW:

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 proposed indoor uses will not cause pollution.

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 that states there is an adequate supply of clean and healthful water to serve the needs of the proposed subdivision is a proposed condition of approval.

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;

A letter from the Portland Water District that states there is an adequate supply of clean and healthful water to serve the needs of

the proposed development without creating a burden on the existing water supply.

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 erosion control plan has been reviewed by the Town Engineer who has made a recommendation that will be incorporated into the final plan.

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;

Receipt of an entrance permit from MDOT is a proposed condition of approval.

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

7. 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. There is a letter on file from the Town Manager, Bill Shane, stating that the town has agreed to accept the flow to its municipal sewer system from this project.

Sewer user permits have not yet been purchased by the owner. This will be done prior to the preconstruction conference.

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 café will use an on-site dumpster.

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

9. 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 proposed condition of approval is the submission of letters from the Department of Conservation, Inland Fisheries and Wildlife and the Maine Historic Preservation Commission.

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 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 expert engineering, surveyors, soils evaluators, traffic engineers, and landscape architects.

Financial capacity is evidenced by a letter dated 9/2/11 from TD Bank states that the LLC has the financial capacity and ability to conduct the project as planned.

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;

Not applicable.

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 sewer. There are no proposed activities that would adversely affect the quality or quantity of ground water.

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

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

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

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

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

A stormwater management plan was reviewed and 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.

A soils report was submitted and based on that and a site survey; there are no wetlands on the site.

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

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

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

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is located in the Aquifer Protection District. There is no use proposed which could adversely affect the aquifer.

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), six (6) month 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.

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.

Proposed Conditions of Approval:

1. That a preconstruction conference be held prior to the start of construction.
 2. That all outstanding fees be paid to the Town prior to the preconstruction conference.
 3. That all fire protection measures required by local, state, and federal agencies be complied with prior to the issuance of the building permit.
 4. The sewer line and water main must be installed and any trenches paved prior to May 15, 2012 as Tuttle Road will be paved that month.
 5. That the capacity to serve letter from the Portland Water District be provided prior to the preconstruction conference.
 6. That the MDOT Entrance Permit be submitted prior to the pre-construction conference.
 7. That the letters from the Department of Conservation, Inland Fisheries and Wildlife and the Maine Historic Preservation Commission be submitted prior to the pre-construction conference.
 8. The seventeen (17) outstanding issues raised by the Town Engineer be resolved prior to the pre-construction conference.
 9. That all existing vegetation be generally maintained and replaced with compatible species except those disturbed by construction.
 10. Sewer user units to be purchased according to the letter from the Town Manager / Sewer Superintendent, William Shane.
 11. The sign be revised prior to signing to delete existing conditions not consistent with the new plan; demarcation be shown between gravel and paved areas; the patio area is clearly labeled.
 12. Residential trash is to be placed curbside at the east side of the gravel entrance.
-

The Board took a ten minute recess at 9:35 p.m.

The Board resumed at 9:45 p.m.

5. **Public Hearing: Minor Site Plan Review:** For a portion of Segment 19 (Project Area # 1) of the Maine Power Reliability Program for construction of Section 3020, a new 345 kV transmission line Section 102, within CMP's existing and re-configured transmission corridors, in the Rural Residential 2 (RR2) district; various Tax Map and Lot numbers, owned by Central Maine Power; Sean Donohue, CSS, CWS, LSE, of TRC Representative.

Mr. Bingham and Mr. Boivin were recused by the Board due to conflicts.

Ms. Nixon presented background information as follows: The applicant is requesting review of the one section of the new 345 kV transmission line that was not granted approval at the July 19, 2011 meeting. That section is called Area # 1 and is in the vicinity of two properties at the end of Acorn Drive.

In July the Planning Board approved the entire project except for this one section and asked that CMP work with a direct abutter, the Briggs, to come up with a solution to the concerns expressed by Mr. Briggs at the meeting.

At this time it appears that the Briggs are satisfied with the proposed changes and CMP is now requesting approval for this remaining section of the transmission line project.

Mr. Sean Donohue, of TRC stated at the July 2011 Planning Board meeting the Board issued condition # 12 requesting that CMP resolve issues with the Briggs and Lapping properties abutting Project Area # 1. The ombudsman Leah Sprague spoke with Mr. Lapping regarding buffering between his property and the transmission corridor. After Ms. Sprague provided an explanation of the proposed transmission corridor construction, and pointed out that at least 120 feet of forested buffer would remain intact (approximately 45 feet within the CMP corridor and 75 feet within the Lapping property). Mr. Lapping stated he was satisfied that his property would be sufficiently buffered from the proposed Segment 19 construction.

On August 4, 2011 Mr. McMullin and Mr. DeWan, met with Mr. Briggs at his property to evaluate potential visual impacts to his property and buffering options. Mr. DeWan also photographed the site to complete visual simulations and a landscaping buffer plan. Mr. DeWan's resulting visual simulations and landscaping buffer plan, completed on August 22, 2011, have been provided. It has been submitted to the Ombudsman, who forwarded it to the Briggs family for review. Mr. Briggs and Mr. Lapping have both approved the landscaping buffer for Segment 19 construction.

Mr. Terry DeWan, Landscape Architect from DeWan Associates reviewed the Briggs buffering plan stating that with special engineering they were able to eliminate entering the 45' buffer of Briggs property, and additional buffering will be added.

Mr. Neagle asked if Mr. Briggs had approved the plan.

Mr. DeWan stated yes.

The public portion of the meeting was opened.

Mr. Steve Briggs of 13 Acorn Lane stated he was happy with the buffering plan and agreed with Mr. DeWan.

The public portion of the meeting was closed.

The Board reviewed the amended findings of fact.

Mr. Dillon moved to approve the amended findings of fact which include .18 Buffering of Adjacent Uses and .21 Landscaping in accordance with the highlighted changes.

Ms. Caron seconded.

VOTE: Unanimous 4-0

Mr. Ferland moved to approve the Minor Site Plan for a portion of Segment 19 (Project Area # 1) of the Maine Power Reliability Program for construction of Section 3020, a new 345kV transmission line Section 102, within CMP's existing and re-configured transmission corridors, in the Rural Residential 2 (RR2) district; various Tax Map and Lot numbers, owned by Central Maine Power. The approval is subject to the standard and proposed conditions of approval.

Ms. Caron seconded.

VOTE: Unanimous 4-0

SITE PLAN APPROVAL STANDARDS AND CRITERIA

Sec. 206.8 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.

.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 project area in Cumberland will be co-located with and alongside the existing CMP corridor. The proposed improvements will require widening CMP's transmission corridor within CMP's existing property, and at two locations, onto new property. CMP has worked with project abutters to revise the original plan to incorporate forested buffers between the proposed improvements and abutting residences. A 25 to 80 foot wide forested buffer will be maintained between the corridor and the existing abutting residences. A landscaped buffer will also be constructed on the northwest side of Hillside Avenue. The location of the poles and temporary construction access ways have been sited to avoid impacts to wetlands and streams where possible and to minimize any impacts that are required. These impacts have been reviewed by the MDEP and ACOE to ensure that impacts have been minimized and mitigated appropriately. No floodplains, significant wildlife habitats, rare species, unique natural communities, and natural areas are documented with the project area. One aquifer protection area designated by the Town of Cumberland is crossed by the project. Construction activities will be monitored by the MPRP Environmental Inspector and the MPRP Third Party Environmental Inspector to ensure that natural resources are protected appropriately.

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

.2 Traffic Access and Parking

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

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

- .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.
- .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.
- .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.
- .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.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .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 accessways must not exceed sixty (60) feet.

Not applicable. There will be no new roads, driveways, or parking areas associated with the transmission lines other than the temporary CMP –maintained access points and ways needed for construction.

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

.3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

Not applicable. There will be no new roads or driveways associated with the project, other than temporary CMP access points and ways needed for construction. The Board finds the standards of this section have been met.

.4 Internal Vehicular Circulation

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

- .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.
- .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).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .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.

Not applicable. There will be no new permanent roads or driveways within the transmission corridor.

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

.5 Parking Layout and Design

Off street parking must conform to the following standards:

- .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.
- .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.
- .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

N/A

- .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.

N/A

- .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.

N/A

- .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.

N/A

**There will be no parking areas associated with the transmission corridor.
The Board finds the standards of this section have been met.**

.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.

**Not applicable. While CMP does permit public access within its transmission line corridors, there are no formal plans for maintained pedestrian walkways.
The Board finds the standards of this section have been met.**

.7 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.

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

- .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.
- .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.
- .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.
- .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.
- .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.
- .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 pre and post construction land contours and the direction of surface drainage will not be changed as a result of the project. There will be very minimal (.0002 percent of the 96 acre parcel) increase in impervious surface created. MDEP has determined that stormwater management plans are not needed for transmission line portion of the MPRP.

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

.8 Erosion Control

- .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.
- .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.

Construction of the project will be in accordance with CMP's Environmental Guidelines for Construction and Maintenance Activities on Transmission Line and Substation Projects. These guidelines have been approved for use by the MDEP and ACOE and are a requirement of both approvals. The implementation of these guidelines will be supervised by the MPRP Environmental Inspector and the MPRP Third Party Environmental Inspector.

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

.9 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.

Not applicable. There is no water required for this project.

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

.10 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.

Not applicable. There is no need for sewage disposal with this project.

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

.11 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.

Not applicable. While this is a utility project, no utilities are needed to serve the lines or proposed as part of the project.

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

.12 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.

No wells or other groundwater withdrawal facilities that could potentially interfere with adjacent water supplies are proposed as part of the project. No on-site wastewater disposal systems that could potentially pollute adjacent water supplies

are proposed. The proposed transmission lines and support structures do not pose a threat to the quality or quantity of groundwater.

During construction of the MPRP transmission lines, it is possible that blasting will be necessary to install the transmission line structures. When necessary, the extent of blasting is more limited and the charge size is generally smaller than that used for construction of buildings, parking lots, and other larger infrastructure.

Nonetheless, prior to any blasting activities related to the construction of the proposed transmission lines, pre-blast surveys will be performed to identify the presence and condition of wells within 500 feet of the blast area. Blasting precautions will be the contractual responsibility of the contractor.

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

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .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.
- .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.

The infrastructure proposed as part of Section 3020 and Section 102 (transmission lines, hardware, poles, and, at two locations, foundations) does not pose a threat to water quality. Herbicides are utilized to maintain vegetation within the transmission corridor, and are discussed with respect to water quality below. Oil-based materials will be used within the transmission corridor with construction equipment. The management and use of oil-based products during construction is also discussed below.

Herbicides and Transmission Corridor Vegetation Management

CMP manages the vegetation in its corridors to ensure the safe and reliable operation of the transmission system. Trees and tall-growing shrubs are removed from within the corridor and the corridor edges are trimmed usually on a four-year cycle. Within the corridor, CMP's practices allow for the growth of dense, low vegetation to stabilize the soil, protect streams and wetlands, provide habitat for birds and wildlife, and discourage inappropriate or destructive activities. CMP uses mechanical cutting or hand cutting to clear the trees from corridors and along corridor edges. In addition, limited herbicide applications are used to control re-sprouting and some tall-growing shrubs.

Hardwood species are cut in the spring and early summer and the stumps are treated with herbicides to prevent re-sprouting. The herbicides used are registered by the Maine Board of Pesticide Control and approved by the U.S. Environmental Protection

Agency. They are applied directly to each stump by trained individuals carrying backpack sprayers. The crew foreman and another crewmember of each herbicide application crew must have a Maine Pesticide Applicator license. By Maine law, all herbicide applicators must be continually supervised on-site by someone possessing a Maine Pesticide license. Herbicides are not used within 25 feet of streams or open water. CMP does not use herbicides within 100 feet of identified wells or drinking water sources. In addition, CMP offers landowners (where CMP's transmission corridor rights are held by easement) and abutting landowners a "Vegetation Management Agreement," if they object to the use of herbicide on the transmission corridor. Landowners have the option of agreeing to maintain, at their cost and to CMP's specifications, the vegetation in the corridor.

Herbicides are also used as a low-volume spray on foliage to control tall-growing shrubs. This technique uses 3-5 gallon, non-motorized backpack sprayers to selectively apply the herbicides to certain shrub species (alder, buckthorn, etc.) to maintain open access to the corridor. Foliar spraying is stopped when wind speeds are capable of carrying the spray mixture off the corridor. Spray pressure will be kept as low as possible to reduce drift. Maine drift regulations prohibit spraying when the wind speed is over 15 mph. All herbicide applications will be stopped during rainfall or when rain is imminent. CMP avoids using foliar herbicide applications near yards, gardens, pools, and where humans or animals are congregating. These situations will require manual cutting and stump treatments where appropriate. CMP sends a letter in January to each town where foliar herbicide work is planned for the up-coming year.

Oil and Hazardous Materials

The methods, plans, and procedures to prevent water quality degradation during construction, operation, and maintenance of the proposed transmission lines are incorporated in CMP's Environmental Control Requirements for Contractors and Subcontractors - Oil and Hazardous Materials (see Section 11.0). These procedures establish a set of minimum requirements for spill prevention and response. The procedures incorporated into the plan have proven successful for preventing spills and for addressing spills if they occur. During construction the MPRP Environmental Inspectors will ensure that all personnel working on the site follow these procedures. Employees operating construction vehicles will be trained to promptly contain, report, and clean up any spill in accordance with standard procedures. To reduce the risk of water quality degradation from a potential spill during construction, no fuel storage, vehicle/equipment parking and maintenance, and refueling activity may occur within 100 feet of a protected wetland and within 200 feet of a private water supply without special exception approval from the MDEP.

No oil-based or hazardous materials will be stored in the transmission corridor after construction. In addition, during routine operations, CMP employees follow the procedures outlined in CMP's Spill Management and Prevention section of its Environmental Procedures Manual for response to any spills of oil, gasoline, hydraulic oil, or other similar substance. These procedures are similar to those outlined in Section 11.0 for contractors, and cover reporting, immediate response, cleanup, and documentation.

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

.14 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.

CMP will be financially responsible for the project. CMP is a subsidiary of Energy East Corporation and has access to equity capital through a large energy company, Iberdrola; a 2008 Annual Report is available upon request.

Technical expertise was provided by TRC Engineers, Bracket and Drake, LLS, Terrence DeWan, RLA, Power Engineers, Inc., Burns and McDonnell, and CMP.

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

.15 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.

During the period 2008-2011, CMP has engaged in extensive consultation with the Maine Historic Preservation Commission (MHPC) regarding the investigation of pre-contact archeological, post-contact archeological, and historic architectural resources within the MPRP area of potential effect (APE) that are listed on or eligible for listing on the National Register of Historic Places (NRHP).

As a result of these surveys, the MHPC has determined that there are no eligible or potentially eligible pre-contact or post-contact archaeological sites in Cumberland or Yarmouth that would be adversely impacted by MPRP. The MHPC also has determined that there are no eligible or potentially eligible historic architectural structures in Cumberland or Yarmouth that would be adversely impacted by MPRP.

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

.16 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 provisions.

The site is not located within the 100 year floodway of any river or stream.

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

.17 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.

Not applicable. No exterior lighting is needed or proposed.

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

.18 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.

Following weeks of meetings, the Briggs are now satisfied with the proposed buffering plan.

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

.19 Noise

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

The project will not create noise that is a nuisance to neighboring properties. In general, transmission lines may produce a slight hissing, crackling sound that results from the partial electrical breakdown of the air around the conductors during certain weather events. Audible noise (AN) from electrical transmission lines is based on conductor (wire) size selection. Conductor size selection is based on consideration of electrical capacity requirements, support structure configuration, and other factors. CMP has selected conductors that are designed to be noise free under dry conditions. During very humid or stormy weather, the conductors will emit only a slight crackling sound. During these weather conditions, the AN produced by the conductors will be of a relatively low decibel, of irregular frequency and infrequent in occurrence, and generally will not be apparent beyond the limits of the transmission line corridor.

As with any construction project, construction activities will generate some noise. Construction will generally occur between the hours of 7 a.m. and 7 p.m., Monday through Friday with no holidays. Construction related noise would be temporary.

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

.20 Storage of Materials

- .1 Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.
- .2 All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

- .3 Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

Not applicable. After construction is completed no materials will be stored in the transmission corridor, and no storage areas are proposed in the transmission corridor.

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

.21 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.

A revised landscaping plan in the vicinity of the Briggs' property has been proposed by CMP and approved by the Briggs.

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

.22 Building and Parking Placement

- .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.
- .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.

Not applicable. No buildings or parking areas are necessary or proposed.

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

.23 Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a "Certificate of Compliance once the applicant has met the design requirements of the Town's Fire Protection Ordinance.

An emergency response plan has been developed by the applicant and approved by the Fire Chief.

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

.24 Aquifer Protection (if applicable)

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 transmission corridor does cross an Aquifer Protection Area to the northeast of Mere Wind Drive. Approximately 3.5 acres of the project is in the Aquifer Protection Area. None of the activities specified in Section 303.2 of the Cumberland Zoning Ordinance as being regulated within Aquifer Protection Areas are proposed as part of the project. Small amounts of petroleum based projects and other hazardous materials for equipment operation may be used or stored within the transmission corridor during project construction but these materials will be stored and managed in accordance with the “Environmental Control Requirements for Contractor and Subcontractors of Central Maine Power Company – Oil and Hazardous Material. No bulk fuel storage will occur within the transmission corridor.

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

.25 Route 100 Design Standards (if applicable)

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.
N/A

.26 Route 1 Design Guidelines (if applicable)

All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines.
N/A

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), six (6) month 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.

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.

PROPOSED CONDITIONS OF APPROVAL

1. That the hours of work be limited to 7:00 am to 7:00 p.m., Monday through Friday, with no holiday work.

2. That an estimate of values be provided by the applicant and reviewed and approved by the Town Engineer prior to the pre-construction meeting.
 3. That a performance guarantee be provided to the Town prior to the preconstruction conference.
 4. That a pre-construction meeting be held prior to the start of construction
 5. That a building permit be issued prior to the start of construction, if required by the Code Enforcement Officer.
 6. That all clearing limits be flagged prior to the start of construction.
 7. That all wells depicted on the final plan undergo pre and post construction water quantity and quality testing.
 8. That a blasting permit be obtained from the Code Enforcement Officer prior to the start of construction.
 9. That all recommendations of the Fire Chief be complied with.
 10. That all fees be paid prior to the issuance of a building permit.
 11. That a Certificate of Public Convenience and Necessity will be issued by the PUC for the angle structure 320-94 on parcel R6A, Lot 17 before any work on that property commences.
 12. There shall be no clearing in the vicinity of Project Area # 1 until further review by the Planning Board.
 13. That a construction bond be provided to cover any road repair costs on Hillside and Greely Road as a result of this project. The bond shall be in an amount acceptable to the Town Manager.
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6. ***Public Hearing: Amendment to minor Site Plan Approval:*** For a portion of Segment 19 (Hillside Ave.) of the Maine Power Reliability Program for construction of Section 3020, a new 345 kV transmission line Section 102, within CMP's existing and re-configured transmission corridors, in the Rural Residential 2 (RR2) district; various Tax Map and Lot numbers, owned by Central Maine Power; Sean Donohue, CSS, CWS, LSE, of TRC, Representative.

Ms. Nixon presented background information as follows: the applicant is requesting an amendment to the plan that was approved in July. The amendment is for a shift in the location of the transmission line in the area of Hillside Avenue. Following the July meeting, residents of that area were dismayed to see the approved location of the line would greatly impact the visual enjoyment of their properties; they had not realized that the new line would not be in the same corridor as currently exists, but rather would cut over to a property that CMP had purchased. I have worked with the abutters and directed them to seek a change to the plan by contacting the Ombudsman. The PUC Ombudsman has met with these individuals and they have all agreed to a revised plan.

Mr. Donohue stated the concerns of abutters has been addressed the design has been changed. One 345 kV transmission line structure (3020-121) has been removed from the project scope Cumberland. Under the proposed change, structure 3020-121 will be shifted approximately 250 feet to the north into Yarmouth. A corresponding shift in the location of three other Section 3020 structures in Yarmouth is also proposed, (these are not under Cumberland's scope of review).

The design change will shift the alignment of the transmission corridor angle on the north side of Hillside Avenue such that clearing will be reduced along Hillside Avenue on the property formerly owned by Janice Tooker. The result is a significant reduction in the project's visual impact in the Hillside Avenue vicinity.

Mr. DeWan gave a visual presentation of the proposed changes.

Mr. Neagle asked if the cutting was being reduced significantly in Cumberland and not increasing the cutting in Yarmouth.

Mr. DeWan stated that is correct.

Ms. Caron asked why the strip that currently has two lines within it, can't be used for this new line, if the two lines are to be taken down.

Mr. Donohue stated those two lines will remain and are being re-built onto another structure and there will be three lines.

The public portion of the meeting was opened.

Mr. Peter Kline of 47 Hillside stated he fully supports the revision and thanked the ombudsman and CMP for their support, which leaves him with potentially another neighbor.

Mr. Jim Ashe of 41 Hillside stated he was appreciative of CMP and Leah Sprague the ombudsmun, they listened to abutters concerns and made changes to the plan to alleviate concerns of abutters.

Mr. Jeff Young of 111 Greely Road, stated he didn't know exactly whee this is located in respect to his homesite.

Mr. Alan Blanchard of 169 Greely Road stated he owns about 65 acres of land on Greely Road and some of their land is in Cumberland and some in Yarmouth. We have two concerns, there experience has been one of miscommunication; they found out about this impact to the property at the Yarmouth Planning Board meeting which was held on August 24, 2011. We are in a spot where this mowhawk proposed would mean their entire back parcel of about 1,000 feet would be clear cut within six inches of the property line. When we discovered this at the Yarmouth meeting; we weren't in town during the July meeting. Our request is to get relief similar to the residents of Hillside. They have met with Burns McDonnell who might be able to mitigate their situation. I think good communication back and forth is a key to success, we would feel better if were part of the process from the beginning. We weren't included in the Ombudsmun work in Yarmouth, and haven't had the opportunity to voice their concerns. Mr. Blanchard stated he would like some buffer on his property. He requested that even though the parcel of his land affected is in Yarmouth that the Planning Board table until his issue is settled.

Mr. Neagle stated the Board is only considering a change near Hillside, and asked if that change affects his property.

Mr. Blanchard stated no, and they are very supportive of the changes at Hillside.

Mr. Neagle stated this project adjacent to your property was approved in July; they have come back to us this evening with a specific change that doesn't affect your property. We do not have a request in front of the Board that would allow us to approve or disapprove the project near your property. This was approved in July and we can't address it, if the applicant wants to amend the approval the Board would entertain that request.

Mr. Blanchard stated he felt his issue was failure of notice.

Mr. Neagle stated if he didn't get notice of the public hearing he apologized a public hearing was held in July; and the Board doesn't have the right to do anything, as it is not on our agenda.

Mr. Young asked the rules of notice.

Ms. Bosarge stated statute requires abutters within 200 feet.

The public portion of the meeting was closed.

Mr. Dillon moved to approve the amended findings of fact numbers .18 Buffering of Adjacent Uses and .21 Landscaping and to approve the amendment to the minor site plan amendment for a portion of Segment 19 (Hillside Avenue) of the Maine Power Reliability Program for construction of Section 3020, a new 345 kV transmission line Section 102, owner Central Maine Power. This approval is subject to the amended findings of fact and the standard and proposed conditions of approval of the July 17, 2011 Planning Board meeting.

Ms. Caron seconded.

VOTE: Unanimous 4 -0

.18 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.

The amended plan reflects modifications to the location of the poles and lines and additional buffering.

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

.21 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.

A revised landscaping plan in the vicinity of Hillside Avenue area has been proposed by CMP and approved by the abutters.

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

Ms. Caron thanked the all the residents for their input during this long project, stating it is good to hear positive feedback.

Mr. Neagle polled the Board at 10:15 p.m. to see if they were willing to proceed until the agenda was completed. The Planning Board Ordinance states the Planning Board will not entertain a new item after 10:00 p.m.

All Board members were willing to proceed and hear the next agenda item.

7. Public Hearing: Minor subdivision Review: West Cumberland Business Park, a 4-lot commercial subdivision at 77 Blackstrap Road, Tax Assessor Map R07, Lot 53 in the Industrial (I) zone; Jeff Read, P.E., Pinkham & Greer Consulting Engineers, Representative, BR Property, LLC, Owner.

Ms. Nixon presented background information as follows: The applicant and owner is BR Properties of Falmouth, Maine. The applicant is represented by Jeff Read, P.E., Pinkham, and Greer Consulting Engineers. The parcel, an existing gravel pit, is 41.04 acres in size. It is located at 77 Blackstrap Road as shown on Tax Assessor Map R 07, Lot 53 in the Industrial District. The applicant is proposing to split the parcel into four lots for commercial development.

HISTORY:

February 15, 2011: The Planning Board was presented with a conceptual plan for general comments.

March 2, 2011: The Planning Board conducted a site walk of the property.

April 13, 2011: Tabled by applicant prior to meeting.

DESCRIPTION:

Parcel size: 41.04 Acres
Zoning: Industrial (I)
Min. Lot Size: 40,000 square feet
Lot frontage: 100'
Setbacks: Front = 45', Rear = 50', Side 15'
Water: Private Wells
Fire Protection: Dry hydrant to be installed
Septic/Sewer: One existing system on Lot 1. New shared system proposed for Lots 2, 3, & 4.
Wetlands: The site is a gravel pit with no discernable wetland areas.
Road: Private. Paved driveway into site and paved aprons into lot driveways
Outside Agency Permits: MDEP Stormwater Permit. On file.

DEPARTMENT HEAD REVIEWS:

Code Enforcement Officer, Bill Longley: 911 addressing should be done with the Town Assessor...name of Road or Box #, etc.

Police Chief Joseph Charron: If planned buildings will contain items that are commonly targets of theft, we would like them to have alarms. If not, adequate lighting to deter thefts/burglaries and for responding officer safety. Will entrance gate be locked after hours?

Public Service Director, Chris Bolduc: Recommend road naming with signage for the road. Add sign that identifies businesses within the subdivision.

Fire/EMS Chief Dan Small: April 5, 2011:

- 1) Buildings should be equipped with fire alarm systems that are monitored by approved fire alarm companies. Systems should have a remote annunciator panel located at the main entrance 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 system is silenced. The alarm system shall identify the exact location of each individual initiation device with plain text at the fire alarm panel.
- 2) Buildings shall be equipped with a hinged key box approved by the fire department.
- 3) 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.
- 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. Drawings shall be submitted that outline, at a minimum: secondary containment, normal and emergency venting, signage, tank and equipment protection. The fuel dispensing and storage system shall

be permitted by the Department of Environmental Protection and the State of Maine Fire Marshal's Office.

5) Access to buildings shall be adequate enough to accommodate fire department vehicles.

6) The dry hydrant system shall meet the provisions as identified in the Town of Cumberland's Fire Protection Ordinance. The riser for the hydrant shall be no more than 6 inch diameter. Engineered drawings shall be provided that identify the ordinance standards in addition to the following: minimum storage capacities of the water storage system during worst drought conditions shall not be less than 120,000 gallons, shall identify that during worst drought conditions the maximum height between the level of the water and the center point of the hydrant connection shall not exceed 15 feet, access to the hydrant shall be maintained at all times of the year, and the access point shall accommodate fire department vehicles performing entry and exiting of tank vehicle shuttle operations (cul de sac style design).

Town Manager, Bill Shane: No issues with subdivision, but for site plan, concerns about hours of operation, dust, noise, well and septic.

TOWN PLANNER'S REVIEW (9/14/11): No further comments.

**PEER REVIEW ENGINEER: Mark Bergeron, Sevee and Maher Engineers,
9/13/11 Review Letter:**

As requested, this project is being reviewed as a minor subdivision (four lots or less) as outlined in Appendix C of the "Subdivision Ordinance", most recently amended, and adopted on August 14, 2006. Note that a review of the site plan portion of the project under the Site Plan Ordinance has not been included in this letter.

In general, the applicant has supplied a revised set of engineering drawings and supporting documents that are appropriate for this type of project. After review of the submission materials, we have the following comments:

GENERAL COMMENTS

1. Will there be year-round access for the Fire Department to the dry hydrant? Will an easement be needed across Lot 2 to the Town of Cumberland?
There will be year-round access for the fire department to the dry hydrant. Previous review comments issued by the fire department did not include requirement of an access easement.

PLAN COMMENTS

Subdivision Plan, Drawing C1.1:

2. See the response below to the list of waiver requests.
3. The abutter on north side of property should be identified on the plans.
The abutter is the Maine Turnpike Authority. A contiguous symbol will be added for clarity.
4. There are three minor metes and bounds on the subdivision plan near the Sloat abutter that do not match the information shown on the boundary survey plan. The subdivision plan should be updated before it is signed by the Planning Board.
Corrections have been completed and are included on the attached plan.
5. SME recommends that a note be added to this drawing noting that any changes to the impervious areas shown on the plans would require a modification to the MEDEP Stormwater Management permit.
A note has been added.

Existing Conditions Plan, Drawing C1.2:

No comments.

Site Plan, Drawing C1.3:

1. Delete general note #2 regarding the above ground fuel storage tank.
The note has been deleted.
2. List the elevation of the proposed riprap spillway on the detention area at the southern end of the parcel.
A spot grade has been added.
3. SME assumes that additional driveway and grading details around the buildings on Lots 2, 3, and 4 will be furnished as part of a future site plan application. As such, these details have not been reviewed as part of this subdivision application.
No comments.

Details, Drawing C2.1:

No comments.

Details, Drawing C2.2:

No comments.

Wet Pond & Site Entrance Details, Drawing C2.3:

1. The fire chief should comment on and approve the pond and dry hydrant section.
2. SME recommends anti-seep collars or other appropriate measures be utilized on the 18-inch culvert outlet of the pond at the southeast corner of site.
The recommendation is noted.

STORMWATER MANAGEMENT COMMENTS:

A revised Stormwater Management Report dated April 14, 2011 was e-mailed to SME on September 12, 2011 at our request since it reflects the current design for the project. SME offers the following comments:

1. The applicant should provide additional justification of using Hydrologic Soil Group C soils for curve numbers while using 15 inches per hour infiltration rates in the infiltration and detention ponds.
We believe modeling the property using Group C soils provided the most accurate, realistic results for the site based on visual observation of the pit floor during high groundwater/high intensity rainfall events. Most of the ground surface has been disturbed and does not exhibit qualities typical of the set soil type. We initially modeled the site as a Type A and found the results to be inconsistent with observed physical conditions. The Type A soil model produced artificially low runoff results. We opted for the more conservative model to effectively manage stormwater on the property and protect downstream abutters.

The infiltration rate of 15 inches per hour was calculated based on Sweet Associates' below grade soil permeabilities for nearby monitor well locations, as outlined in their Hydrogeological Study of the parcel.

LIST OF WAIVER REQUESTS:

As requested, the applicant submitted further descriptions of the reasons for the waiver requests. SME's response to the six waiver requests are as follows:

- Waiver 1 – Lighting Photometric Plan: SME supports this waiver request based on the information provided by the applicant;
- Waiver 2 – Nitrate Plumes and Abutter Well Locations: SME supports this waiver request for the subdivision approval process, but strongly recommends that these issues be reviewed in depth as part of the Site Plan approval process;
- Waiver 3 – Market Study: SME has no opinion on this waiver and defers discussion to the Town Planner and the Planning Board;
- Waiver 4 – Two-Foot Contours: SME supports this waiver request based on the information provided by the applicant;
- Waiver 5 – Underground Utilities: SME supports this waiver request based on the information provided by the applicant; and
- Waiver 6 – Drawing Scale: SME supports this waiver request based on the size of the project.

Requested waivers for the site plan application for the redevelopment of the existing gravel pit at 77 Blackstrap Road include the following:

Waiver 1 – Lighting Photometric Plan – No new pole mounted site lighting proposed. Any exterior building lighting will be shielded, wall mounted fixtures and have no impact to abutters.

Waiver 2 – Nitrate Plumes and Abutter Well Locations – The nature of groundwater on this site and the potential for well contamination are addressed in the Hydrogeological Investigation and Contamination Assessment prepared by Sweet Associates and included in the application packet.

Waiver 3 – Market Study – This has no relevance to the proposed development.

Waiver 4 – 2 foot contours – We believe the 5 foot contours outlined on the drawings provide an adequate level of detail for the existing site and proposed development.

Waiver 5 - Underground Utilities – We believe overhead electric/cable/telephone services are appropriate for this site, given the nature of this site and the proximity of groundwater in relation to the existing ground surface at the bottom of the gravel pit.

Waiver 6 – Drawing Scale – The site is large and the required scale will not allow the property to be plotted on a 24"x36" sheet.

In closing, SME would like to note that we have not completed a hydrogeological review of the project as part of this Minor Subdivision Application review. However, the project is located on a mapped high-yield sand and gravel aquifer that is an important resource to the Town. SME understands that a hydrogeological review will be done as part of the Town Site Plan approval process. Preliminary issues that have been identified include 1) floor drains in the existing and proposed buildings, 2) on-site chemical storage, 3) historic site groundwater solvent contamination, 4) amount of groundwater separation, 5) amount of impervious area, and 6) stormwater runoff quality.

Mr. Jeff Read, P.E., of Pinkham Greer Consulting Engineers reviewed the proposal stating the plans have been updated to reflect previous staff comments. Additional plan revisions include reconstruction of the site entrance and removal of the proposed fuel station and reconfiguration of the boundary lines to extend to Blackstrap Road. The existing intersection with Blackstrap Road will be updated to commercial access design standards to enhance safe, efficient traffic movement to and from the property. The existing sign

and island will get moved and the utility pole will be relocated to create a 90 degree intersection with Blackstrap Road. We propose to name the property access “Industrial Way” to help site visitors, public safety officials and first responders identify future business locations.

Our client intends to develop three of the new lots with buildings for leased contractor space. We anticipate each structure will consist of a 4,800 sq. ft. garage/storage space with a small attached office. Proposed utilities will include new overhead electric and telephone service, private wells and an on-site subsurface wastewater disposal system. The wastewater disposal system will include a common septic tank, pump station, and traditional stone disposal bed shared by the three new structures.

Mr. Neagle thanked Mr. Reed for the revised lot lines on the plan.

Mr. Bingham stated his concerns regarding water and septic have been addressed.

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

Mr. Bingham moved to grant the requested waiver requests.

Mr. Ferland seconded.

VOTE: Unanimous 6 - 0

- Waiver 1 – Lighting Photometric Plan: SME supports this waiver request based on the information provided by the applicant;
- Waiver 2 – Nitrate Plumes and Abutter Well Locations: SME supports this waiver request for the subdivision approval process, but strongly recommends that these issues be reviewed in depth as part of the Site Plan approval process;
- Waiver 3 – Market Study: SME has no opinion on this waiver and defers discussion to the Town Planner and the Planning Board;
- Waiver 4 – Two-Foot Contours: SME supports this waiver request based on the information provided by the applicant;
- Waiver 5 – Underground Utilities: SME supports this waiver request based on the information provided by the applicant; and
- Waiver 6 – Drawing Scale: SME supports this waiver request based on the size of the project.

Mr. Bingham moved to adopt the findings of fact as presented.

Ms. Caron seconded.

VOTE: Unanimous 6 – 0

Mr. Bingham moved to approve the 4-lot minor commercial subdivision West Cumberland Business Park at 77 Blackstrap Road, Tax Assessor Map R07, Lot 53 in the Industrial (I) zone; owned by BR Property, LLC; with the standard and proposed conditions of approval and the limitation of approval.

Mr. Dillon seconded.

VOTE: Unanimous 6 – 0

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;

According to Flood Insurance Rate Map 230162 0010B, the property is located in Zone C: Area of minimal flooding.

The test pit information for subsurface wastewater disposal has been reviewed and found satisfactory.

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 application indicates new wells will be drilled for Lots 2, 3, 4. Lot 1 has an existing well. There is more than sufficient supply of groundwater in the area due to the large aquifer under the site.

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;

Private well water will be used.

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

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

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

A traffic generation report was provided which states that the project will generate less than 100 passenger car equivalents (PCE) trips during the peak hour of traffic generation.

An MDOT Traffic Movement Permit application is not required.

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 shared subsurface wastewater disposal system 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;

The application states that waste generated by the businesses will be collected and stored, removed from site and properly disposed of as necessary by individual tenants.

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; **The site is a gravel pit with one existing building. The addition of 3 new buildings will not adversely affect the scenic or natural beauty of the area. No natural resources were identified on 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 plan has been reviewed and approved by the Town Planner, Department Heads, and Town Engineer and found to be in conformance with the Town of Cumberland's Zoning and Subdivision Ordinances.

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

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

Technical capacity is evidenced by the use of technical consultants.

The applicant has agreed to provide a bond to the town to cover the cost of required improvements.

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 above standards do not apply to this site.

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 plans for subdividing of the 41 acre parcel into four commercial lots demonstrate that the project will not adversely affect the quality or quantity of groundwater.

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

2. 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 0010B, 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 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.
There are no identified wetlands on the site.
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 MDEP classified rivers, streams or brooks on the property.
Based on the information provided the standards of this section have been met.

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.

RECOMMENDED CONDITIONS OF APPROVAL:

1. That all fees be paid as required.
2. That a performance guarantee in a form acceptable to the Town Manager be provided prior to releasing the plat for recording.

E. Administrative Matters – None

F. Adjournment: The meeting was adjourned by the Chair at 10:30 p.m.

A TRUE COPY ATTEST:

Christopher S. Neagle, Board Chair

Pam Bosarge, Board Clerk