

**MINUTES
PLANNING BOARD MEETING
TOWN OF CUMBERLAND
Cumberland Town Hall - 290 Tuttle Road
Cumberland, Maine 04021
Tuesday, July 19, 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: Gerry Boivin, Ronald Dillon, John Ferland, Chris Neagle, Peter Bingham, Peter Sherr

Excused: April Caron

Staff Present: Carla Nixon, Town Planner & Brenda Moore, Executive Assistant

C. *Approval of Minutes of June 21, 2011 meeting*

Mr. Bingham moved to approve the June 21, 2011 minutes as presented.

Mr. Dillon seconded. VOTE: Unanimous 6-0

D. *Consent Calendar / Minor Change Approvals: None*

E. *Hearings and Presentations:*

1. *Public Hearing: Major Subdivision Review: Phase I of Village Green Subdivision; Cumberland, for 59 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 (VMU). Bateman Partners, LLC, Applicant/Owner; Joseph LaVerrier, P.E., Delucca Hoffman Engineers, Representative.*

Mr. Sherr disclosed his company, Ransom Environmental, is doing some environmental work for the Bateman Partners in Biddeford. He did not feel this would affect his ability to review this project.

Mr. Neagle asked if the Board had any concerns, there were no concerns. Mr. Neagle thanked Mr. Sherr for his disclosure.

Ms. Nixon presented background information as follows: The applicant is Village Green, LLC. The applicant has an option dated 3/14/11 to purchase 40.69 acres of undeveloped land located between the ends of Drowne Road and Wyman Way as shown on Tax Assessor Map U-10, Lot 7B. The land is owned by the Town of Cumberland; it was purchased in September, 2000 from members of the Doane family. The applicant proposes to construct 59 dwelling units as permitted through a contract zone agreement with the Town Council dated April 11, 2011. This project is the first phase of the Village Green Master Development Plan, which includes three phases of development. Provisions have been made to the stormwater management design to allow future phases to meet applicable state and local requirements, however at this time the applicant is currently seeking approval only for the first phase of the Master Plan.

The applicant is represented by Joe Laverriere, P.E., of Deluca-Hoffman Associates.

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.

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 lots. NRA calculation shows that 181 residential units (each @ 5,000 sq. ft.) would be allowed.
Number of Lots/Dwelling Units:	59 as per contract zone agreement
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. <i>The Town Manager has indicated the Town would consider accepting the open space in order to enhance the connection of public land and walking trails throughout the town.</i>
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:	<p>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).</p> <p>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.</p> <p>The private <u>drive</u> (that serves Lots 7-14) will be 18' wide with no esplanade or sidewalk.</p> <p>The Town of Cumberland will be responsible for all <u>public</u> roadways and associated storm drain systems. The future Homeowner's Association will be created for ownership and maintenance of all private roads, private utility infrastructure improvements.</p>
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 Request:	<i>1. Existing Physical Features (trees 10" diameter or more and stone walls):</i> 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.)

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**
- Cumberland County Soils and Water Conservation Service: **PENDING**
- MDOT Entrance Permits: ?
- MDOT Traffic Movement Permit: ?

PLANNING DIRECTOR'S COMMENTS/DISCUSSION ITEMS:

1. Need evidence of ownership of sewer user permits for final plan submission.
2. Address peer review comments for final plan submission.
3. Submit all outstanding outside agency approvals for final plan submission.
4. Legal documents to be reviewed and approved by Town Attorney prior to final plan submission.
5. Statement of values for required improvements for all lots to be submitted for final plan approval. A bond, letter of credit, or cash escrow account, as per Section 4.4 E2 of the Subdivision Ordinance will be required prior to final plan approval.
6. Commitment letter from lending institution prior to final plan approval.
7. Approval letter from Portland Water District for final plan submission.
8. Traffic impact.
9. Stormwater impact.

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. Application appears to meet terms of the contract zoning agreement.

Joe Charron, Police Chief: No comments

Chris Bolduc, Public Services Director: No comments.

PEER REVIEWS:

Alton Palmer, P.E., Gorrill Palmer Consulting Engineers: July 13, 2011 Review

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 July 5, 2011 as prepared by DeLuca-Hoffman Associates, Inc. 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.
2. As part of the Final Subdivision Submittal, the Boyle Associates report documenting the wetlands delineation in comparison to the High Intensity Soil Survey shall be submitted.
3. Please provide an update on the status of permitting for Wetland "I"?
4. Due to the proximity of the proposed homes to the steep slopes, our office recommends 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.
6. The Design Engineer shall review the Drainage System to insure compliance with Section 9.5, B, 7 of the Subdivision Ordinance requiring a minimum of 4' of cover for all storm drain pipe in paved areas.
7. The Plans submitted for Final Subdivision Approval shall incorporate the underground electrical/telephone/cable service onto Drawings P-1 through P-7.
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,
 - b. Drainage Easements for all pipes, rip rap aprons, etc. which are located outside of a public or private right of way.
9. Drawing C10.0 and 10.1 – Depth of 6" UD shall be noted.
10. Drawing C10.3 – Depending on the answer to the question above, the material shown on the underdrain detail between the aggregate subbase course gravel and the crushed stone shall be revised. The use of "Backfill with Select Free-Draining Material" is not acceptable. The material shall be specified using Maine DOT Standard Specifications nomenclature for aggregate to insure that a material is provided that allows the subbase gravel to drain to the crushed stone.
11. Drawing P-1 – The Plans submitted for Final Subdivision Approval shall:
 - a. include an intersection grading plan at Route 9 at a scale not to exceed 1"=10',
 - b. Include evidence of Title, Right, or Interest to install the rip rap apron at approximately Sta 4+50, Rt, and details for the type of retaining walls to be provided.
 - c. Prior to construction, designs of the retaining wall shall be submitted, stamped by a Professional Engineer along with a Global Stability Analysis.
 - d. Guardrail is only shown along a portion of the "fill" wall from Sta 5+25 to 6+40. Why doesn't the guardrail extend the full length of the wall.
 - e. Review ditch lining for Sta 0+50 to 3+00 in light of Subdivision Ordinance Section 9.5,C,3.
12. Drawing P-3 – The Plans submitted for Final Subdivision Approval shall include a review of the ditch lining for Sta 23+25 to Sta 26+00 in light of Subdivision Ordinance Section 9.5,C,3
13. Drawing P-4 - The Plans submitted for Final Subdivision Approval shall:

- a. Clarify where the Outlet Control Structure for the existing pond shall be installed.
 - b. Clarify the invert for the piping exiting the existing pond. The plan shows elevation 84.00', while the Stormwater Report indicates elevation 81.00'.
- 14. Drawing P-5 - The Plans submitted for Final Subdivision Approval shall revise the grading entering the salt shed area. The elevation of Drowne Road along the entrance to the salt shed is proposed to be lifted on the order of 2', which increases the driveway slope as proposed. We would recommend that the proposed grading be extended further into the salt shed area to reduce the driveway slope.
- 15. Drawing P-6 – How do the 2 stream crossings meet the Permit By Rule Stream Crossings when:
 - a. Both locations appear to exceed the 75' length of culvert,
 - b. Includes a manhole in the middle of the culvert at Sta 52+25
- 16. Drawing P-7 - The Plans submitted for Final Subdivision Approval should consider gravity sewer service to Lot 2, 8, and 13. It does not appear that these lots need to have a pumped gravity service.

Mr. Dillon asked about the procedure for Town acceptance of roads.

Ms. Nixon stated there are two types of roads: private and public. When a development is proposed, the developer can propose it to be accepted by Town Council as a public road. The requirement is that the road be built to subdivision standards and once 75% of the lots are sold, the Town Council will entertain a request to have the road accepted as a public road. If the road is accepted it then becomes the Town's responsibility for maintenance. The Town Council is under no obligation to accept a road as a public road. In the past there was a certain cache to having a development on a private road and maintained by the Homeowner's Association, but now the trend is to having the roads accepted by the Town so that there is less expense for the homeowner.

Mr. Dillon asked who has the responsibility for trail maintenance.

Ms. Nixon stated the Homeowners' Association will maintain the trails. She has had conversations with the Town Manager whether the Council desires to maintain or own the open space.

Mr. Neagle asked if the applicant was expecting final approval this evening.

Ms. Nixon stated no, the Ordinance does not allow final approval until outside agency approvals have been obtained.

Mr. Joseph Laverriere, P.E., of Deluca Hoffman Associates reviewed the proposed project stating the materials submitted on July 5, 2011 responded to a handful of comments from the staff, fire chief and some initial comments from Al Palmer. There is a summary in the packet that addresses those comments, if there are individual items of concern I will be happy to address those in more detail. A brief highlight of the changes include the moving of the pump station from Lot 17 to reduce the depth of the sewer main within a portion of the project, the sewerage pump station has been relocated approximately 300 feet in a westerly direction along Drowne Road. This places the pump station at a more optimal location from a gravity sewer design perspective. The new pump station location is within the previously identified Lot 15. As a result, the subdivision plan has been revised to reconfigure Lots 15 through 17 along Drowne Road to allow for the relocation of the pump station and maintain the same number of house lots as previously proposed. The storm drain system design along Drowne Road has been revised to eliminate the shallow swale along the northerly side of the road. The revised design includes a curb along the northerly side of the road with closed storm drain system located along curb line. A detailed summary of the staff review comments and responses are included in your packets.

As discussed with the Planning Board during the June 21st meeting, the Overall Site Layout Plan has been revised to incorporate the traffic calming measures along Drowne Road and Wyman Way as well as the additional pedestrian walking trail connection between Lots 34 and 35. Also appended to this submission are the Site Lighting and Electrical Plans prepared by Bartlett Design. Today we met with DEP and they stated we should have our approvals next month. We are hoping to be on the August agenda. If we could receive preliminary and final approval at the same meeting that would be great.

Mr. Neagle stated he didn't think we could do preliminary and final approval at one meeting.

Mr. Bingham asked if it is required to have a formal bank letter of approval prior to final approval of the project.

Ms. Nixon stated the Ordinance does state a letter from a bank or proof of financial capacity is required. It is typically in the form of a commitment letter from a bank. The letter we have from Norway Savings states the Bateman's are good customers and they are interested in financing the project. Due to the current economic climate, banks are less likely to commit to projects until projects are approved. This creates a conflict with how our ordinance is now written. The Board could consider requiring the commitment letter as a condition of approval.

Mr. Neagle stated the standard to meet is to show financial and technical capacity. In his experience we have almost never done this as a condition of approval.

Mr. Nathan Bateman, of Bateman Partners, LLC stated they do numerous projects throughout the State and the letter the Board has received from Norway Savings is the same type of letter they get for all of their projects. Banks are not willing to give a commitment letter until we have approvals in hand; which is standard practice.

Mr. Dillon asked for clarification on peer review comments and the effect on the plans.

Ms. Nixon stated either the design engineer concurs with the peer review engineer's comment on a particular design issue or the two engineers come to a compromise solution.

Mr. Dillon asked about # 5 in Al Palmer's review.

Mr. Laverriere stated the comments in Ms. Nixon's memo have just been received and haven't been responded to yet.

Mr. Dillon asked again about public trails and parking for users who do not reside in the subdivision.

Mr. Laverriere stated we did talk about creating some spaces at Drowne Road. In Phase 2 there are plans for parking along Drowne Road.

Mr. Bateman stated they have met with the Moonlight Riders Snowmobile Club in reference to future trails. There could be trail parking in the location of a future utility stub.

Mr. Dillon stated Drawing C-6.0 shows all the signs and there are two streets which do not have dead end signs.

Mr. Bateman reviewed the location of the signs; there will be no signs on the private drives.

Mr. Ferland stated we have a public road, three private roads and a private drive; but he couldn't find a definition in the ordinance for a private drive or private road. What is the difference between a private drive and private way?

Mr. Laverriere stated under the contract zone we created the definition of private drive. The town has a standard for public and private roads. A private drive will serve no more than six housing units.

Mr. Boivin asked about the noise impact to the residents with the pump station, is it a lift pump or a sewerage system.

Mr. Laverriere stated the pump station doesn't really make a lot of noise, it is designed to Portland Water District standards, they require a standby generator which is the largest potential for noise. The generators have silencers but they will exercise those on a weekly basis.

Mr. Boivin asked about the E-100 electric plan plus the detail section E-101, the transformers have the feeder circuits coming off the poles from Drowne Road. The transformer pad details don't show any protection for the pads; I assume they are going to be set back. Do these follow the CMP handbook?

Mr. Laverriere stated he would talk with Larry Bartlett; everything will be reviewed by CMP but as the transformers are located within the front corner of the lot.

Mr. Bateman stated they typically hide the transformers with shrubbery.

Mr. Boivin asked about the depth of feeder cables and asked about markings.

Mr. Sherr asked if Frick and Boyle Associates had concurred on the wetlands.

Mr. Laverriere stated yes that will be included in the next submission to the town.

Mr. Neagle commented that he had requested a time on how long it would take to drive from distance A to B if following the speed limits. He would like to see that information. He stated he thinks it is best if the common land is owned by the homeowners' association; that would be his recommendation. He asked if Portland Water District maintains the pump if it fails.

Mr. Laverriere stated Portland Water District will be responsible for the pump station.

Mr. Neagle asked who would own the land with the pump station.

Mr. Laverriere stated Portland Water District will control the land either by fee or easement.

Mr. Neagle asked to see a design for the pump station.

Mr. Neagle stated with respect to the lights at the end of the driveways, will homeowners' be required to have a light at each driveway? Will there be a wattage requirement? That is a lot of light and energy for 59 lots. What is the reason for this requirement?

Mr. Bateman stated from the Tidewater project had specs for granite posts with 75 watt light fixtures connected to the homeowners' electrical panels. The homeowner controls when they are on and off but it was to compliment the full lighting plan.

Mr. Neagle asked if the homeowner was required to turn on the light.

Mr. Bateman stated the homeowner is not required to have the light on, most have them on timers. Mr. Neagle stated through his experience it is not common for people who do not live in the neighborhood to use trails. He is pleased to see proposed parking for trail use.

Mr. Bateman stated they thought that at the trail head location for Phase II and III it would be easy to move up to permanent parking.

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

Mr. Bingham moved to table the application pending receipt of additional information.

Mr. Sherr seconded.

VOTE: 6-0 Unanimous

2. Public Hearing: Minor Site Plan Review for Site Preparation Activity off from Gray Road at Tax Assessor Map U19, Lot 22 and a portion of 22A; Cumberland Conservation Company, LLC, Owner; Stephen Mohr, ASLA, Mohr & Seredin Landscape Architects, Inc., Representative.

Ms. Nixon presented information as follows. The applicant and owner is Rodney Coleman of R.E. Coleman Excavating, dba as Cumberland Conservation Company, LLC. The applicant is represented by Stephen Mohr of Mohr and Seredin Landscape Architects. The property under review consists of two adjacent lots (Tax Map U-19, Lots 22 and 22A) that have a combined area of 14.4 acres. This application is for Minor Site Plan Review for site preparation activity that involves the incremental filling and grading of 8.5 acres of the two lots. The land is a former gravel pit. The owner intends to restore a portion of the site into useable lots. The proposed site activities include grading, drive construction, and erosion and sedimentation controls. There will be no buildings, parking, landscaping, lighting, utilities, or other site appurtenances at this time, however a schematic site plan for possible future development has been provided. In addition, the site will be used to support other construction operations for the company. The storage of construction equipment and materials and associated uses such as processing of materials including loading, unloading, screening, and load-out of materials will continue during and after the requested site preparation activities have taken place. These activities will be located beyond the 500' setback from Route 100 (as required by Section 204.9.1.28 and .29)

HISTORY:

- March 2, 2011: Site walk with Planning Board and neighbors.
- March 15, 2011: Favorable recommendation by Planning Board to Town Council to amend zoning district to add 2 new uses that would permit this project::
 - .28 *Aggregate processing less rock crushing on the westerly side of Route 100, and on the southerly side of Blackstrap Road, with a 500' setback from Route 100; [Amended, effective 4/11/11]*
 - .29 *Construction Operations on the westerly side of Route 100, and on the southerly side of Blackstrap Road, with a 500' setback from Route 100; [Amended, effective 4/11/11]*

DESCRIPTION:

Parcel size: 14.4 acres total; 8.5 acres will be filled and graded.

Zoning: Village Center Commercial (VCC - as amended above)

Access: Existing drive from Route 100 within a 60' wide right of way; there will be no improvements made to that section. The applicant is discussing the idea of placing a gate within

the ROW to limit access to those with rights in the ROW (the Copp Brothers Real Estate and Town of Cumberland. There will be no use of the Spring Road entrance; large boulders will be placed at the end of Spring Road at the entrance to the site.

Traffic: Applicant states <40 to 48 average daily trips during the site preparation activities. The applicant states the average trip ends will be 48, but the maximum peak is estimated at 120.

Hours of Operation: 7:00 a.m. to 7:00 p.m. Monday through Friday and Saturday from 7 a.m. to 3 p.m. No work on Sundays or holidays.

Wetlands: None mapped. Application states site is a gravel pit.

Buffering/Landscaping: None proposed.

Route 100 Design Standards: Not applicable since there is no parcel frontage on Route 100.

Utilities: None proposed at this time.

Signage: None proposed

Lighting: No building proposed at this time and there is no lighting proposed at this Time.

Fire Protection: There is a fire hydrant within 1000' as per Fire Protection Ordinance and the West Cumberland Fire Station within 1000'.

OUTSIDE AGENCY APPROVALS REQUIRED:

- MDEP General Construction Permit (for site preparation activities): Application to be submitted after local approval is granted. (Proposed condition of approval)
- MDOT Entrance Permit. The Town will be facilitating and securing the permits as required by MDOT for the deeded shared ROW accessing the West Cumberland Athletic Complex and other properties using the ROW. (This is a proposed condition of approval.)

PLANNING DIRECTOR'S REVIEW 7-13-11: All comments have been addressed in the supplemental materials submitted July 12, 2011.

TOWN ENGINEER'S REVIEW: Mark Bergeron, Sevee and Maher Consulting Engineers: All previous comments have been adequately addressed.

CUMBERLAND CONSERVATION COMMISSION COMMENTS;

Comments from July meeting (as provided by Town Manager to the Planner):

The West Cumberland pit re-grading plan – recommend no fueling on the floor of the pit (elevation 240 presently) and no onsite fuel storage unless properly designed and approved by a hydro geologist which may require any fueling or tanks to be elevated well above the existing 240' elevation to protect the aquifer. DUST CONTROL should be a condition of approval and provisions for a watering truck onsite or a dust control plan should be considered particularly during the filling process.

This has been added as a note on the plan.

All struck through comments (below) from the C.C.'s June review have been addressed by the applicant.

~~Items requiring further study and review:~~

~~2. There is no time limit on the use of an extended gravel road to the site for filling. This could be a continuous fill operation for an extended time.~~

~~3. There is mention of "processing" in the application. Does that mean additional removal of gravel or a loaming/screening operation or something else?~~

~~4. Until the topology of the site is known and understood, the impact on water flows in the area cannot be understood.~~

~~5. Vernal pools have not been addressed in the application and need to be understood.~~

~~Items requiring definition: extent and type of fill and grading of gravel pit; stock pile materials; any mining planned or allowed; screening allowed but no crushing; dumping and loading of trucks. Concern: 2 lots with second lot closer to groundwater. Proposed build out plan required, Parking space plan for number of vehicles—storage, employees and work vehicles, hours of operation, truck traffic volume, Lot definition: size/use? Where vehicles filled on property? Fuel storage?~~

DEPARTMENT HEAD REVIEWS:

- **Dan Small, Fire Chief: Note:** The standard comments provided by the Fire Chief are not applicable as there is no building being proposed.
- **William Longley, Code Enforcement Officer:** No comments.
- **Alyssa Daniels: Economic Development Director:** No comments or concerns.
- **Joe Charron, Police Chief:** No comments
- **Chris Bolduc, Operations Director:** No comments

Note: The Planning Board may waive any of the submission requirements based upon a written request by the applicant. A waiver may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria.

REQUESTED WAIVERS:

1. Buffering

The construction operation area will be located 500' from Gray Road and 250' LF from the back property lines of the lots that line Gray Road. The pit floor is lower than the existing residential lots and the site will remain lower in elevation than the abutting residential lots once the site preparation activities have been completed. There is a mature stand of coniferous trees with the understory growth located along the common property line. No clear views to the pit site are available to the easterly abutters at Gray Road. Views into the site can be seen from the southerly abutter (Martelle) who has given Mr. Coleman a written email stating that he enjoys the northerly views over the pit and does not want vegetative buffering added to screen his views at this time. We respectfully request that additional buffering be waived at this time.

2. Landscaping

No building is proposed at this time therefore we respectfully request that landscaping be waived as part of this application.

3. Stormwater Analysis

The site is currently disturbed and was recently an active gravel pit. The proposed activities will not change the rate or quantity of the groundwater of runoff while the activities are in progress. Once site preparation activities are complete and the surfaces stabilized the stormwater runoff will be identical to, or less than, current runoff levels. A waiver for stormwater analysis is requested.

The Town Engineer has reviewed the proposed stormwater plan and is satisfied that information provided by the applicant is sufficient for the purpose of determining stormwater impacts from the project.

4. Well Identification

Per the owner, there are no wells on the property. There is an abandoned well previously serving the businesses within the existing Gray Road development adjacent to the northerly unnamed ROW. Other wells within 200' of the site have not been physically located in the field but may exist on the lots owned by Martelle and homes on Gray Road that did not connect to the recently installed water main extension. The closest well is on the Martell lot and is shown on the site plan. We respectfully request that the well identification requirement be waived since no activities that include large-scale groundwater pollutants are proposed as part of the site preparation or construction operation at the site. The site will be filled providing a deeper base depth to the aquifer in this location.

Mr. Stephen Mohr, representative stated the Coleman's purchased this property four years ago. Mr. Coleman was working this pit and was stopped by the Town due to some Ordinance conflicts. These conflicts were corrected with zoning amendments to allow Aggregate Processing and Construction Operations as permitted uses in the Village Center Commercial (VCC) district. We have been working with the staff on technical issues, specifically with Ms. Nixon in regards to peer review; with the Town Manager in terms of entrance permits and Mr. Longley with code interpretation.

Cumberland Conservation is seeking to fill the former gravel pit which was worked for approximately seventeen years by the Copp family, and to also use the parcel for their construction operations. From the site walk, Board members are aware of the steep faces and side slopes that occur through much of that pit, and the fact there is topsoil and other construction materials stockpiled. The proposed grading plan is to grade and fill the pit from side to side sloping it towards the shallow end. The construction operations will be located outside of the 500' setback from Route 100. It will be used for stockpile of materials, for storage of construction materials. The intent is to show that in the future, Coleman Construction may have their business and building at the site. This approval is not sought tonight; the application is for grading and filling operations. In terms of the actual specifics of the application we have gone through with staff and identified the fill, the grades, grading area, stormwater, and stormwater impoundment. The entire pit bottom slopes to the bottom corner, as we grade and fill in the site it will continue to flow to that area. There is currently about 2.5 acres of storage on the site and with the adjacent property there is about five acres of storage. We are losing about nine-tenths of an acre with grade and fill. We have adequate area to deal with stormwater on site and the net effect on the site will be a decrease of stormwater runoff on site. As each area is finished and stabilized it will be seeded with a conservation mix, until it is finish graded and stabilized it will be covered with an erosion control mix for each winter. Then there is a permanent erosion control berm around the whole toe of the slope to deal with erosion issues on the lower side. The hours of operation will be 7:00 a.m. to 7:00 p.m. Monday through Friday; 7:00 a.m. to 3:00 p.m. on Saturdays with no Sunday or Holiday work. In terms of the wood processing and clearing the only wood processing that will happen on site will be the scrub growth that exists on the property side towards the turnpike. The remainder of that buffer will remain intact. We have asked for a series of waivers for: buffering, landscaping, stormwater, and lighting. Mr. Coleman is present for any questions.

Mr. Neagle asked if the plan with circles and squares is what will happen on the site.

Mr. Mohr stated that is correct, we tried to identify where the material would be located; we plan to honor the buffer.

Mr. Neagle asked for clarification of ten foot wide mulch or stump grinding; is that flush to the ground or a berm.

Mr. Mohr stated it is flush to the ground and is around the perimeter to prevent any runoff from the work area to the surrounding site.

Mr. Dillon asked for explanation on screening and load out of materials continuing after the site preparations take place to get a sense of the business.

Mr. Mohr stated there will be a time period when grading is finished and R. E. Coleman will still be screening loam and continuing their construction operations at the site. There will be some on-going construction activity within the areas shown.

Mr. Dillon asked the number of vehicles that would service the site, more or less than 100 per day.

Mr. Mohr stated on a typical average day somewhere between 40 and 48 trip ends; a trip end is one trip in and one trip out. We do anticipate during peak periods there could be 100 trip ends.

Mr. Dillon asked if the current fill being placed on the site would support a septic system for a potential future building.

Mr. Mohr stated the fill would not qualify under state plumbing code as suitable soils for a sub-surface disposal system. We would have to make the connection to municipal sewer.

Ms. Nixon stated there probably wouldn't be sewer in the location during our lifetime. Mr. Longley the Code Enforcement Officer indicated a septic system could be done with suitable material that met State Plumbing Code. I wouldn't want the Board to think the building could only be built if there was sewer. There is no plan for sewer in the area.

Mr. Sherr asked about types of storage of materials will there be any storage or processing of salt on this property.

Mr. Mohr stated we haven't talked about that, Mr. Coleman agreed there is no proposed salt storage.

Mr. Sherr stated salt storage could have an impact on groundwater.

Mr. Bingham stated when we had the public hearing on the zone amendment the neighbors had questions about equipment stored at the top of the hill. He clarified equipment storage would be located in the bottom area next to the pit.

Mr. Mohr stated that is correct.

The public portion of the meeting was opened.

Mr. Bob Couillard of Lower Methodist Road asked where the lower area of the pit is with the pond. There is a pond that has developed into a wetland. I have seen a family of geese and fox in the area. Mr. Couillard voiced concern for the brook that feeds several wells in the neighborhood.

Mr. Mohr reviewed the location of the brook; Mr. Martelle has allowed a culvert to become blocked and it has backed up. The area is not a wetland, it is a dug pit, our fill will be kept out of the impoundment area.

Mr. Couillard asked about the trails, stating that walkers, snowmobilers, and bikers use the path.

Mr. Mohr stated he had no knowledge of the trails.

The public portion of the meeting was closed.

Mr. Bingham moved to grant the four requested waivers related to (1) buffering ;(2) landscaping; (3) stormwater analysis and (4) well identification based on the circumstance of the application.

Mr. Ferland seconded.

VOTE: 6-0 Unanimous

The Board reviewed the proposed findings of fact.

Mr. Dillon asked about the requirement of meeting the Design Standards of Route 100.

Ms. Nixon stated she thought the intent of the standards would apply if a property fronted on Route 100. I think we are safe to say the standards are not applicable because no building is being proposed at this time.

Mr. Neagle stated the finding should read there is no building being proposed at this time. He also stated the standard condition of approval should be included in the approval, which states this approval is based on testimony and submitted material.

Mr. Bingham moved to approve the findings of fact as amended and Minor Site Plan Approval for Site Plan Preparation Activity subject to the standard and proposed conditions of approval for property located at Tax Assessor Map U19, Lot 22 and a portion of 22A: Cumberland Conservation Company, LLC, Owner; Stephen Mohr, ASLA, Mohr & Seredin Landscape Architects, Inc., Representative.

Mr. Sherr seconded.

VOTE: 6-0 Unanimous

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 plans for the filling and grading of the former gravel pit will provide a variety of environmental benefit by increasing cover over the sand and gravel aquifer and lessening the steep side slopes. No construction of a building proposed. The Town Engineer and Town Planner have reviewed and approved the proposed plan.

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 applicant will utilize an existing entrance that is sufficiently sized for the proposed use. The access plans have been reviewed A condition of approval is the submission of an MDOT Entrance Permit.

Based on the information provided, 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.

A condition of approval if that an MDOT Entrance permit be submitted prior to the preconstruction conference.

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.

There is no “road network” within the site due to the nature of the project.

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 above standards are not applicable to this project. There are no paved parking areas or spaces proposed at this time.

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 above standards are not applicable to this project. There will be no pedestrian circulation associated with this project.

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.

A waiver from the stormwater management plan requirement was requested. The Town Engineer requested additional information and is now satisfied with the plan as currently proposed.

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.

Erosion control measures and details have been placed on the project drawings and meet the requirements of the Maine Erosion and Sediment Control handbook. This erosion control plan has been reviewed and approved by the Town Engineer.

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.

No water is required for this project. The above requirement is not applicable to 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.

There will not be a septic system on site as there will be no building at this time. A temporary sanitary facility (port-o-let) will be installed during active working months in an area on the site that is screened from the view of the athletic fields due to the lower elevation in the pit.

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.

There are no utilities proposed. The above requirements are not applicable to this 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.

There are no water or waste facilities proposed for this project.

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.

There will be no fuel, chemical, or industrial waste will be stored at the site. The storage of biodegradable raw materials such as wood chips, mulch, stumps, brush, or bark will be limited to designated areas where the piles are places on a receiving pad constructed of gravel. The activities that will occur on site consist of grading, filling, screening, preparation and processing and storage of earth materials that have been delivered to the site.

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 the use of a landscape architect.

There are no financial requirements for this project to begin operation; however the applicant will provide a bond or escrow account be provided in the amount of \$5,000 to cover the cost of erosion control and construction entrance stabilization measures.

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.

The site is a former gravel pit. The applicant conducted a review of available information that indicated that no wetland, floodplain, significant wildlife habitat, fisheries, scenic areas, habitat for rare or endangered plan and animals are present on the site.

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.

According to FEMA Floodplain Map # 23016200 15 B, the parcel is located in Zone C, area of minimal flooding.

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.

There is no lighting proposed as part of this site plan. Work will be done during daylight hours.

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.

A waiver has been requested from the buffering requirement. The Town Engineer requested additional information which supports the waiver request.

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.

A condition of approval will limit hours of construction work to between 7:00 a.m. to 7:00 p.m. Monday through Friday and Saturday from 7 a.m. to 3 p.m. No work on Sundays or holidays.

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.

The site will be used to support construction operations of the applicant's business and as such there will be storage of construction equipment and materials, and associated uses such as processing of material including loading, unloading, screening and load-out of materials both during and after the site preparation activities have been completed.

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 waiver from the requirement for a landscape plan has been requested as there is no building proposed at this time.

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 to 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.

There will be no buildings or parking areas constructed on the site as part of this project.

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.

There is a fire hydrant and fire station within 1000' of the site.

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. Based on information provided in the application and notes on the plan, no fuel storage will be on the site and only inert materials will be brought to the site. This information has been reviewed by the Town Planner and Town Engineer. The proposed plan 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

.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

Section 10. 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 minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

CONDITIONS OF APPROVAL

1. This approval is for the site filling and grading work as described in the application packet dated 5/31/11, supplemental submission 6/28/11 and supplemental information and comments and plans dated and revised through 7/12/11. Any cutting and splitting of firewood will be from logs hauled in from off-site and not from trees harvested from the subject parcel. The removal of scrub shrub and small poplar trees in the area of site preparation activities is appropriate.
2. That a preconstruction conference be held prior to the start of construction.
3. That all outstanding fees be paid to the Town prior to the preconstruction conference.
4. That a bond or escrow account be provided in the amount of \$5,000 to cover the cost of erosion control and construction entrance stabilization measures.
5. That a copy of the MDEP General Construction Permit be submitted to the Code Enforcement Officer prior to the start of operations.
6. That the MDOT Entrance Permit be submitted to the Code Enforcement Officer prior to the preconstruction conference.
7. That no salt storage be allowed on the property.

3. *Public Hearing: Minor Site Plan Review: For Segment 19 of the Maine Power Reliability Program for construction of Section 3020, a new 345 kV transmission line within and reconstruction of Section 102, an existing 34.5 kV transmission line, within CMP's existing transmission corridors, within the Rural Residential 2 (RR2) district; various Tax Map and Lot numbers, owned by Central Maine Power; Sean Donahue, CSS, CWS, LSE, of TRC Representative, Central Maine Power Company, Owner.*

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

Ms. Nixon presented background information as follows: The applicant is Central Maine Power. Sean Donohue., Environmental Scientist with TRC Engineers, Inc. of South Portland, Maine is the representative.

The applicant is requesting review of the proposed construction of a new 345 kV transmission line and the rebuilding of an existing 34.5 kV transmission line within and adjacent to an existing CMP transmission corridor. In addition to the construction and reconstruction of transmission lines, work will include associated tree removal and clearing within CMP's existing transmission corridor, and within new property acquired by CMP for corridor expansion, and construction of a landscaping buffer within the within the expanded transmission corridor at the Hillside Avenue crossing. The corridor crosses within the Cumberland municipal boundary at four locations.

The project will have less than 4,000 square feet of impervious surface area, hence the classification as minor site plan review.

The project will commence in August/September (once approved by the Planning Board) and will continue for approximately six months to completion in spring, 2012.

PROJECT DESCRIPTION:

- Zoning: Rural Residential 1 (RR1) and Rural Residential 2 (RR2)
- Frontage: N/A
- Setbacks: N/A
- Classification of Use: Above ground utility lines not located within public ways. This is a permitted use in both zoning districts.
- Roadway: N/A
- Water: N/A
- Sewer/Septic: N/A
- Utilities: N/A
- Trails: None proposed. CMP does permit access on its transmission line corridors.
- Landscape Plan: Terrance DeWan Associates. A roadside landscaping buffer will be installed in the transmission corridor at the Hillside Avenue crossing in order to buffer down-corridor views of the lines from the road.
- Hours of Construction: 7 a.m. to 7 p.m. Monday through Friday with no holidays.
- Construction Access: From 2 points: From Raven Farm Substation and from Hillside Avenue.
- **Outside Agency Approvals:**

MDEP General Construction: The Maine Department of Environmental Protection (MDEP) reviewed the MPRP Site Location of Development Law (Site Law) Application, and issued a permit on April 5, 2010. Review under the Maine Construction General Permit was incorporated as part of the MDEP Site Law review process, and the necessary Maine Construction General Permit approval was obtained with the issuance of the DEP permit on April 5, 2010. An electronic copy of the MPRP MDEP permit has been previously provided to the Town of Cumberland on a compact disc.

MDEP SLODA and NRPA: Issued April 5, 2010

Army Corp of Engineers – Clean Water Act Section 404 Permit: Issued July 22, 2010

MDOT Entrance Permit: It will be the responsibility of the construction contractor to verify whether a driveway entrance permit is needed from the Maine Department of Transportation (MDOT), and to obtain these permits as needed. Driveway entrance permits are generally required where temporary construction access ways connect with roads maintained by MDOT. In the Town of Cumberland, all of the temporary access way connections appear to be to town-maintained roads, so it is possible that a MDOT entrance permit will not be necessary for the proposed Segment 19 work in the Town of Cumberland.

Maine Public Utilities Commission: Certificate of Public Convenience and Necessity from the MPUC Docket No. 2008-255

REQUESTED WAIVERS: None requested.

PROJECT HISTORY: None

IV. DEPARTMENT HEAD REVIEWS:

Police Chief Charron: No Comments

Public Services Director Chris Bolduc: No comments

Bill Longley, CEO: No comments.

Fire Chief Small: A MPRP representative left a telephone message with Fire Chief Small on Monday July 11, 2011. Follow up emails with project information and mappings were submitted to Fire Chief Small on Tuesday July 12, 2011 to obtain comments on the MPRP. The Fire Chief's comments regarding these inquiries and the MPRP application will be provided when they are available.

Planner's Comments: All previous comments have been addressed.

Conservation Commission Comments:

CMP Transmission lines- Has there been any mitigation by CMP for impacts to wetlands and vernal pools in the Cumberland corridor? And if possible was the mitigation in Cumberland or elsewhere? What was the type and amount of in-kind restoration for impacted Cumberland wetlands and vernal pools?

CMP Response: Wetland impacts related to the proposed Segment 19 construction in Cumberland include removal of trees within forested wetlands (e.g. conversion to scrub-shrub wetlands), use of temporary access ways across wetlands, and a very limited amount of permanent fill related to pole placements within wetlands. No vernal pools will be impacted within the Segment 19 transmission corridor in Cumberland. The proposed MPRP impacts to wetlands, waterbodies, and associated wildlife habitats have been reviewed by the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers.

With regard to mitigation of wetland and other protected natural resource impacts, extensive measures have been incorporated into the project. Before considering mitigation however, it is first important to recognize that impacts to protected natural resources were minimized by co-locating with existing transmission corridor whenever possible. The location of each transmission line H-frame or monopole was also carefully evaluated for environmental impacts. In addition, temporary access ways have been sited to avoid protected natural resources where possible. During construction, a number of procedures will be implemented to mitigate unavoidable impacts to protected natural resources (e.g. use of construction mats in wetlands, and implementation of the project's erosion and sediment control plan).

Due to the nature and scope of the MPRP, it is not possible to avoid all impacts to protected natural resources and wildlife habitat. Therefore, in addition to the impact minimization and construction mitigation measures, a comprehensive compensatory mitigation plan has also been developed based on a regional evaluation of project impacts. The MPRP Compensatory Mitigation Plan (Compensation Plan) is based on agency consultation requirements that are not fully addressed through CMP's avoidance and mitigation measures. CMP's guiding principles in developing the Plan have been:

(1) Through extensive consultation with state and federal agencies, to understand the applicable state and federal compensation formulas/ratios;

(2) To identify opportunities that clearly meets the spirit and substance of these formulas/ratios;

(3) To meet and exceed the compensation required through restoration, enhancement, and preservation projects, and in-lieu fee.

The MPRP Compensation Plan is comprehensive, robust, multi-faceted, and will enable CMP to achieve the regulatory goal of no-net-loss of wetland, wildlife habitat, and other protected natural resource functions and values. Based on extensive federal and state agency consultation and guidance, the Compensation Plan includes restoration, enhancement, preservation, and in-lieu fee compensation components. Specifically this includes:

- A total of 3,645 acres of land preservation and enhancement at 13 sites located in southern and central Maine;
- 3,865 linear feet of degraded stream channel restoration;
- Approximately \$1,563,500 in “In-Lieu Fee” payments for unavoidable resource impacts;
- 1,356 acres of land for preservation within the Kennebec Gorge.

Although the MPRP encompasses a large geographic area, its alterations to protected natural resources are relatively small, discrete and distributed throughout the project area. These impact areas are typically a minor footprint within the overall individual resource. However, the Compensation Plan provides similar functions and values for the altered portions of the resources on large land parcels. The cumulative environmental benefits of preservation on these larger parcels outweigh detriment caused by the smaller, isolated impact areas at any individual locale. Accordingly, wildlife habitat and other environmental impacts have been fully addressed by the comprehensive and integrated Compensation Plan that has been developed for the MPRP.

Although no specific MPRP compensatory mitigation sites are located in Cumberland, impacts to wetlands and protected natural resources within the municipality have been evaluated within the context of other regional project impacts and addressed accordingly within the MPRP Compensation Plan. The MPRP Compensation Plan has been accepted and approved by the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers. The MPRP Compensation Plan is included as part of the MPRP Natural Resources Protection Act Application, a hardcopy of which has previously been provided to the Town of Cumberland.

Mr. Sherr asked about extended hours during the project.

Ms. Nixon stated with the Raven Farm substation there were limited hours of weekend work.

Mr. Sean Donahue, of TRC Solutions representing CMP began his presentation and introduced the other members of the team present: Marc Geaumont – Central Maine Power; Steve Walker – Power Engineers; Terry DeWan – DeWan Landscape Architects; and Andrew McMullin – Burns & McDonnell, and Leah Sprague the PUC Ombudsman.

Mr. Donahue presented a PowerPoint overview of the proposed Segment 19 transmission corridor.

- Proposed MPRP Facilities

Transmission Lines

- Realign/rebuild portions of existing 34.5 kV lines
- Construct new 345 kV line (Sec. 3020) within CMP segment 19 Corridor
- Design / Stakeholder Interaction

June 10, 2010

PUC Issues (Certificate of Public Convenience and Necessity) CPCN* for the MPRP

- CPCN orders CMP to consult with Segment 19 abutters and interveners via PUC Ombudsman
- Design / Stakeholder Interaction – June 2010
 - Ombudsman mediates extensive consultations
- Design / Stakeholder Interaction – April 8, 2010
 - PUC Issues CPCN approving Seg. 19 (revised)
 - Design a product of abutter / intervener preferences
 - Transmission lines moved further from homes
 - Clearing limits reduced for visual buffers
 - Corridor alignment shifted

There is one outstanding issue that PUC is continuing to evaluate.

- Design / Stakeholder Interaction – Summer 2011
 - PUC to Issue CPCN for one segment 19 structure in Cumberland

Mr. Donohue stated in Cumberland there are four distinct project areas:

- Area # 1 – NE of Acorn Lane
- Area # 2 – N of Mere Wind Drive
- Area # 3 – NW of Hillside Avenue: CMP has an option to purchase the Tooker property.
- Area # 4 – Vicinity of Raven Farm Substation

Mr. Donohue reviewed the existing conditions and proposed rebuild / construction; highlighting the changes in design from the earlier design.

Mr. Donahue outlined the construction sequence and details of construction as follows:

1. Tree Removal / Maintenance: August – September 2011
2. Temporary Accessways: October – November 2011
3. Remove Existing Section 102: November, December 2011, and January 2012.
4. T-Line Construction: January – March 2012
5. Site Restoration: January – March 2012
6. Buffer Planting: April – May, 2012
- 7.

The construction access will be from the existing construction access at the Raven Farm Substation.

The proposed hours of construction are from 7:00 a.m. to 7:00 p.m. Monday through Friday.

Mr. Neagle asked if they were proposing any additional work times outside of the normal days similar to the substation.

Mr. Donohue stated no, they will not work weekends or holidays.

Mr. Donohue continued to review the proposed project.

- Construction Communications
 - Key Municipal Officials
 - Notification 2-weeks prior to start
 - Direct mailings and email
 - Regular conference calls
 - Face – to face briefings upon request
- Landowners
 - Door-to-door notification 2 weeks prior

- Direct mailings for key activities
- Email notifications will be available
- Face – to – face briefings upon request
- MPRP Public Contacts
 - Hotline Number 1-866-914-1944 – Calls returned within 24 hours (usually far less)
 - Website: www.maine-power.com – Updated weekly for construction activities

The public portion of the meeting was opened.

Mr. Neagle read into the record letters from Mark Lapping of 12 Acorn Lane and Cathy and Steve Briggs of 13 Acorn Lane. Mr. Lapping asked for assurances there would be no aerial spraying that might affect his organic garden, and having snowmobiles and ATVs closer to his residence would have an impact on his lifestyle. It would be helpful if CMP would plant rapidly growing conifers to mitigate this program. This buffer would act to muffle sounds and create a barrier against possible intrusions to my land. (Mr. Lapping's entire letter is in the file).

Mr. Neagle asked the policy of spraying.

Mr. Donohue stated spraying is done by manual backpack spraying. It is target to stump sprouts or areas of clusters of taller shrubs.

Mr. Sherr asked if the spraying was regulated by the PUC.

Mr. Donohue stated yes, they need to comply with all the required standards.

Mr. Sherr asked if CMP might limit spraying to abutters.

Mr. Donohue stated an abutter would need to approach CMP with the request of no spraying; the abutter then would need to take on the burden of maintaining that section of corridor from capable species.

Mr. Neagle read the Brigg's letter into the record. The Brigg's are the abutters with the corner dispute. The Brigg's letter voiced concern of a buffer of only 35' because of need for guide-wire space. We have asked to have the pole moved, but have been denied. A re-location of the pole would require moving of other poles which have already been approved by the PUC. We had a site visit last week, and no solutions or alternatives have been received. We feel this transmission line will negatively impact the value of our property at 13 Acorn Lane. (The complete letter is in the file).

Mr. Briggs of 13 Acorn Lane stated his biggest concern is for the pole to be moved away from his house. CMP has not been able to come up with an alternative location for the pole.

Mr. Neagle asked if the Brigg's were currently engaged with the PUC to address this issue.

Mr. Briggs stated yes, I understand they own the corridor, I would just like the pole relocated.

Mr. Neagle asked if there were any other options such as supplemental plantings.

Mr. Briggs stated a 12' tree would not grow fast enough to mitigate.

Mr. McMullin of Burns and McDonald stated the trees would be 12' to 14' similar to the trees planted at the berm to buffer the Burr property. The trees proposed for Mr. Briggs' property would be 10' to 12' to infill and create a buffer for the Briggs.

Mr. Briggs stated everyone else will have the forty-five foot buffer and at the curve of our property we will have the thirty-five foot buffer. We would like the forty-five foot buffer as everyone else.

Mr. Neagle stated we can't dictate the distance of a buffer, but the Board can work to have an adequate planting buffer. Mr. DeWan is good at providing buffers to hide unsightly items.

Mr. Shane, Town Manager started what is perplexing to him, if you look at the Tooker parcel and the Acorn Lane parcel the Tooker property has some benefit for construction of the infrastructure, I think the Briggs' make a reasonable request. They understand they don't own the property but are asking if the pole reconfiguration could be at least considered. This would prevent them from looking at a massive structure 35' from the property line. I think the Briggs' are being reasonable and I am a little disappointed again, because the reaction to date properties not as close to the corridor have been purchased from CMP. The Briggs are not looking to have a payday, they are asking for quiet enjoyment of their property. The corridor was reconfigured because of the interveners in Yarmouth and it looks like Cumberland has to take the brunt of the intervention. I am hoping the PUC Ombudsman can work with the Briggs; their request is reasonable.... to basically move the corridor back. I would also like to know where the access roads are located for this corridor. An earlier design had the access road along the property lines, and not between the lines. Another condition of approval I would like to see the Planning Board consider is the use of the roads in Cumberland. There is a half mile on Hillside and Greely Road that has taken a beating due to this project. It is bonded and we would like to continue that bonding and responsibility as a condition of approval with this project. Shaw Brothers has been great, they have been excellent to work with; we have had issues with parking on the roads by sub-contractors, deliveries earlier in the morning. We really want to enforce the 7:00 a.m. to 7:00 p.m. work schedule to prevent dispatch of police. We do not want vehicles to show up before the gates open. Mr. McMullin has been excellent to work with; any to calls to Drew McMullin have been answered and resolved within twenty minutes. To date they have delivered on the communication; we post all correspondence and inspections on the website and they have also notified abutters. I am disappointed with the lack of resolution on Acorn Lane. It would be worth checking to see if the Briggs could receive more buffer, it is a reasonable request.

Ms. Leah Sprague, PUC Ombudsman stated this is a new process with the PUC. I have been working since September 2010 and most of my attention has been focused on Section 3020 in Yarmouth, Cumberland, and North Yarmouth. I want to clarify this property on Acorn Lane was originally submitted to PUC with zero buffering to the property line, fifty feet from the Briggs' house. We amended the submission to the PUC to provide the buffer with the 45' buffer at a cost of \$50,000. The PUC rejected that request stating it was too costly. The difficulty with resolution is they are at a corner that requires an angle structure; we have tried several different ways to resolve this. An ideal solution would be a steel structure that would not require guide wires but the estimated costs are \$75,000 to \$150,000 dollars. The PUC rejected at \$50,000 proposal on April 8, 2011 we don't feel we can go back to them with \$150,000 proposals. What we have been trying to minimize the guying by placing wood poles for the angle structure and seeing if it could be moved in either direction. The problem with moving it in either direction to the south or north is that it impacts other abutters. If it is moved to Lapping's property it will be much more visible. We are trying very hard to reach a resolution. There have been good faith negotiations through this process, it has been delayed through no action of her or the Briggs.

Mr. Neagle stated thank you, he is sure the PUC is working hard to resolve the issue. The Planning Board is not restrained by the PUC; we must follow the Town's Ordinances and that is what we will apply.

Mr. Neagle asked if it would be possible to increase the 35' to 45' by re-designing the access road.

Mr. Donohue stated no, the access ways don't come over in that area. The reason for additional clearing is for the guide wire.

Mr. Neagle asked what would happen if the entire line was moved 10' towards Yarmouth.

Mr. Steve Walker of Power Engineers pushing things 10' closer to Yarmouth would require 10' of acquisition. We are maximizing the use of the existing corridor.

Mr. Neagle asked if the Yarmouth side of the corridor would be clear cut.

Mr. Walker stated it would be side trimmed to the edge of the right-of-way. As part of the process we have suggested modified structure types to maximize the buffer.

Mr. Neagle stated you have requested from PUC different structures and they stated it was too expensive.

Mr. Sherr asked the cost of an additional structure and would that allow enough buffering from the residences.

Mr. Walker stated due to the angle the structure has to be there, we can't move wires in thin air.

Mr. Sherr asked if the angle could be moved to the corner of Acorn Lane.

Mr. Walker stated that was the \$50,000 proposal that was rejected.

Mr. Chung of 49 Hillside Avenue asked about the angle of the line at the Tooker property. Are there any studies on health risk impacts of the electromagnetic fields with the high power lines, 345 kV is an increase in kilowatts.

Mr. McMullin stated the location of the line was negotiated through the ombudsman process. This was requested to maximize the buffer between the 345kV and the 34.5 kV. They advised us to transition this as quickly as possible at Hillside Avenue. The engineering was done to meet the abutter's preference. The people involved in these discussions involved the people in Oakwood and Apple Wood neighborhoods. Ms. Tooker was involved directly in this process. CMP is purchasing the Tooker property. The overall cost of engineering this change was close to 1.8 million and he does not have the current cost. That cost is for the entire corridor.

Mr. Neagle asked the how much the design and engineering cost was to redesign the Tooker segment.

Mr. McMullin stated there is confidentiality because the land hasn't yet been purchased.

Mr. Neagle stated his understanding was that the engineers are willing to spend money to make design changes in discussions with the abutters, but it depends on whether the PUC will authorize spending it.

Mr. McMullin stated yes that is correct.

Mr. Donohue of CMP responded to the question of health risks. CMP has had written testimony on that topic. We would be happy to provide a copy to the Town for reference. This evening I have fact sheets published by the World Health Organization on the topic of electromagnetic fields and affect on human health based on a comprehensive literature review. I also have a fact sheet compiled by CMP which refers the reader to additional information from the National Institute of Environmental Health Sciences and the World Health Organization. Generally speaking over the last several decades there have been studies done on electromagnetic fields and human health and in 1999 the National Environmental Institute for Health Sciences Agency evaluated the topic. This review was also updated by the World Health Organization in 2007. Dr. William Bailey took the information that had been published since 2007 and updated the information. The conclusion currently states there is no cause or relationship between any disease and human health. I can provide the fact sheets this evening, and can also provide Dr. Bailey's testimony.

Mr. Neagle stated the Board doesn't need to see the information; but Mr. Chung may want access to the information.

The public portion of the meeting was closed.

Mr. Ferland stated there was a second issue raised by Mr. Lapping, it was additional plantings that would buffer near the corridor line to minimize increased use in the winter by recreational vehicles.

Mr. McMullin stated the snowmobile use has been prohibited in that area by CMP. There was a license that goes to the Department of Conservation in CMP for the use of corridors for snowmobiling. Due to abutter complaints in that area that snowmobile license was revoked.

Mr. Neagle asked what if any supplemental plantings will be near the Lapping property.

Mr. McMullin stated they have not offered anything to Mr. Lapping; both I and Leah Sprague have reached out independently to Mr. Lapping in the past. He has not brought forth the buffering issue to anyone until today. This is a new issue to use.

Mr. Neagle stated his understanding is that you are willing to enter into discussions with Mr. Lapping.

Mr. McMullin stated yes, our observations today shows he has about 160' of buffer from his house, we don't know where additional buffering would be placed but would be more than willing to talk with him.

Mr. Neagle reviewed the Ordinance standard requiring buffering in regards to the Briggs property. I think the buffering is adequate, PUC would not allow additional costs.

Mr. Ferland stated a larger buffer has been proposed to the Briggs family and Mr. DeWan is still working on the proposal to share with the Briggs. I am not comfortable with saying the standard has been met until the proposal has been agreed upon.

Mr. Dillon asked if we approved project areas # 2, 3, & 4 and left project # 1 for next time is that an advantage.

Mr. Neagle asked Mr. McMullin for comment on approving a portion of the project.

Mr. McMullin stated it would allow our contractor's to begin the mobilization process to evaluate what is necessary to begin construction. It would be advantageous for us to consider work in the areas of fewer disputes, as the Briggs location is part of the review in North Yarmouth.

Mr. Sherr agreed with Mr. Ferland as we have exhausted all options for buffering on Segment # 1 at the Briggs property. And also note the use of Town roads and continue bonding as a condition of approval.

Mr. Neagle asked Mr. Shane if his recommendation was that CMP be prohibited from using Hillside Avenue in Cumberland.

Mr. Shane stated just that a construction bond be in place for repair or damages to the road similar to what was done for the Raven Substation.

Mr. Ferland moved to adopt the findings of fact as amended.

Mr. Sherr seconded. VOTE: Unanimous 4 in favor (Sherr, Neagle, Dillon, Ferland)
2 – Recused (Bingham, Boivin)

Mr. Ferland moved to approve the Minor Site Plan application for Segment # 19 of the Maine Power Reliability Program for construction of 3020 a new 345 kV transmission line and reconstruction of Sec. # 102 an existing 34.5 kV transmission line within CMP's existing transmission corridors within the Rural Residential 2 district, various Tax Map and Lot numbers subject to our Standard Limitation of approval, Standard Conditions including changing demimus to minor and the proposed conditions of approval as amended.

Mr. Dillon seconded.

VOTE: Unanimous 4 in favor (Sherr, Neagle, Dillon, Ferland)

STANDARD CONDITION OF APPROVAL:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board 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 of any existing vegetation in the area of Project Area # 1 on the Cumberland side until the Planning Board review and approve the Lapping and Briggs scenario.
 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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4. *Public Hearing:* To recommend to the Town Council draft zoning amendments to the Office Commercial South (OC-S) district Section: 204.8.1.15 of the zoning ordinance to delete the permitted use of Retail Store. This amendment will affect only the 8 lots not included at Cumberland Foreside Village which have a Contract Zone Agreement.

Mr. Moriarty gave an overview of the proposal to the Board as follows: In the winter and spring of last year the Town administration reviewed the permitted and special exception uses within town. Many of the special exception uses were moved to permitted uses to alleviate the need for duplicate approvals. On May 18, 2010 the Planning Board and the Board recommended to shift certain special exception uses to permitted uses. The use of Retail Store and Associated Retail was listed as if they were shifted from special exception use. It appears to be a clerical error, there were no Board discussions. The Board voted comprehensively and inadvertently created two new uses: Retail Store and Associated Retail uses in the Office Commercial South district. The Town Council also didn't notice the recommendation of two new permitted uses in the Office Commercial South district. The Council also voted to approve these changes in June of 2010. This spring it came to my attention during discussions of uses for Cumberland Foreside Village. The Council passed a ninety day moratorium on June 6, 2011 to prohibit any new applications for retail stores or associated retail uses. This would allow the Ordinance Committee time to review the uses. The Ordinance Committee recommended that Retail Store be eliminated as a permitted use in the Office Commercial South district. This would only apply to eight lots in the district, not the lots in the Cumberland Foreside Village which is governed by contract zone. Associated Retail is listed as a subordinate use; an example used by Mr. Shane would be a small pharmacy in a medical office. Associated Retail does not need to be abolished, that is an issue for the Board to consider.

Mr. Neagle stated there are only eight lots affected. Looking at this map, the white lots are those affected, but not the yellow lots that belong to Chase (Cumberland Foreside Village). Mr. Neagle stated he doesn't know what is wrong with retail use on Route One in Cumberland.

Mr. Moriarty stated in the recent past we have considered adding retail uses and offices in other areas of town specifically, Route 100 and the Doane property, and most recently a small segment of Main Street. In each and every case there was extensive neighborhood notice and public involvement. There was none of that in this case because the text was added inadvertently.

Mr. Neagle asked what is wrong with retail, other than the process.

Mr. Moriarty stated nothing, other than the need for input from residents.

Mr. Bingham stated he felt the objective of the Town in that area is for development of businesses, not retail or fast food restaurants. And the highest and best use of the property as well as generating tax revenue to the town is in commercial use. He agrees from his involvement in the Comprehensive Plan that neighbors support the change.

Mr. Sherr asked what the Comprehensive Plan states for this area.

Mr. Bingham stated the Comprehensive Plan in general is to develop more commercial tax base to alleviate the burden from residents.

Ms. Nixon clarified that the term for the use under discussion is “retail” and that does not include restaurants.

Mr. Dillon stated as the Planning Board if we decide retail use is supported by Comprehensive Plan we could make that recommendation to the Council.

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

Mr. Bingham moved to recommend to the Town Council draft zoning amendments to the Office Commercial south (OCS) district; Section 204.8.1.15 of the zoning ordinance to delete the permitted use of Retail Store.

Mr. Dillon seconded.

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

F. Administrative Matters:

Mr. Dillon made several recommendations regarding mistakes in the Ordinance. What do we do as a Board member?

Mr. Neagle stated the appropriate way to handle this is to talk with town staff and Town Manager and Council Liaison Mr. Moriarty.

G. Adjournment:

Mr. Ferland moved to adjourn.

Mr. Bingham seconded.

VOTE: Unanimous

The meeting was adjourned at 10:46 p.m.

A True Copy Attest:

Christopher S. Neagle, Board Chair

Pam Bosarge, Board Clerk