

Tax Assessor Map R01, Lots 11-2, 11-3, 11-4, 11-5, 11-7 and lot 12 in the Office Commercial South (OCS) district with contract zone agreement. David Chase, Cumberland Foreside Village, LLC, Owner, Applicant. Tom Greer, P.E. Pinkham & Greer Civil Engineers, Representative.

Ms. Nixon presented background as follows: The three agenda items tonight are all interrelated. The first is a sketch plan overview of a proposed major residential subdivision consisting of 49 single family lots and 4 (8 units each) apartment buildings for a total of 81 dwelling units. This project requires amendments to an existing contract zoning agreement between the Town and the developer (David Chase).

Mr. Chase presented an overview of the proposed Cumberland Foreside Housing as follows: The development will be accessed through the existing Town property. We currently have a purchase and sale agreement with the Town. This is the third design we originally had curves in the road, but had to change to rectangles due to road width requirements for safety vehicles. The project is proposed to be built out in three phases. The first phase is the road and the 22 lots to the left. The second would be the second block of lots 31 - 45. The third phase will be the multiplex dwellings which we intend to sell to a developer.

Mr. Chase continued stating the roads are intended to be public and maintained by the Town.

Mr. Moriarty asked for clarification on the location of the town lot.

Mr. Chase stated it is the green frontage along Route One.

Ms. Maloney-Kelly asked if this road currently exists.

Mr. Chase stated no, this will be a new road opposite True Spring Farms. Sky View Drive is located further south where Exactitude is located.

Mr. Sherr voiced concern regarding the side setback of 9 feet on each side asking if there would be any need for someone to access the back yard; access to the backyard would be difficult with such tight side setbacks.

Mr. Chase stated he is in the earthwork business and it is not uncommon in Portland to have a 5 foot setback. The proposed lots have backyards 80 feet deep and the garages will be set back 20 feet to allow a car to be parked off the road. There will only be about 20 feet to the rear property line; the lots will have approximately at 50' x 50' building window. The proposed garages will be one-car and at subdivision application we will have some examples of typical houses to be built. The houses are proposed for the \$275,000 to \$300,000 price range.

Mr. Moriarty asked how the lot size compares to Crossing Brook, Morrison's Hill and Village Green.

Mr. Shane stated they will be identical to the 5,000 square foot lots in Village Green; Crossing Brook has approximately 11,000 square foot lots. The lots at Castlerock and Morrison's Hill are 20,000 square feet to meet state plumbing code; the lots have no public sewer.

Mr. Boivin asked about the topography it appears to pitch in both directions.

Mr. Chase stated it slopes uphill with approximately a 3 percent pitch; there is another 25 acres of commercial property on the back side which will be buffered. Cumberland Foreside Village project

began around 2006 and it has been slow to develop commercially. Currently there is Exactitude off from Sky View Drive and Pack Edge, and a Doctor has purchased lot #2.

Mr. Boivin asked if the roads were designed to town standards for snow, safety and trash vehicles.

Mr. Chase stated yes.

Mr. Sherr stated the buffering between commercial and residential uses will be the responsibility of both developers, and asked if the next submittal will contain a buffering and landscape plan.

Mr. Chase stated yes, there will be a 25 foot vegetated or natural buffer around the property.

Mr. Moriarty asked if the project would trigger the DOT thresholds for a traffic light.

Mr. Chase stated he has hired a traffic engineer and he didn't know what would trigger the need for a traffic light; the project will have a traffic study as part of the submission.

The Board thanked Mr. Chase for his sketch plan review and looks forward to the next submittal. The Board took no action.

2. Public Hearing: To review and recommend to the Town Council, draft amendments to the Contract Zone agreement for lot standard changes, with David Chase for Cumberland Foreside Village LLC. Tax Assessor Map R01, Lots 11-2, 11-3, 11-4, 11-5, 11-7 and lot 12.

Ms. Nixon provided background information as follows: The Planning Board has been asked to review the draft amendments to the contract zone agreement. The black text is the existing contract zone in place; the red struck-through is to be removed, and red underlined is new language. The Board's job is to review this and make sure it is consistent with the Town's Comprehensive Plan and to review items such as side setbacks and road standards, etc.

Mr. Moriarty stated this might be obvious the current sketch plan calls for a possible 81 dwelling units but as I understand the current contract zone allows for 134 dwellings so we are well below what the current contract zone would permit.

Ms. Nixon stated that is correct it leaves open the possibility if there is never a demand for commercial development on the lot to the left they could construct more residential units. On page 3 B) we have changed the language to read up to 134 dwelling units on Lot 8 as shown on the plan. That does preclude it moving to the other side without amending the contract zone.

Mr. Sherr clarified the amendments and contract zone are for Lot 8, which was previously Lot 7.

Ms. Nixon stated Lot 8 is what this is addressing for housing purposes.

The Board reviewed the proposed Exhibit A showing the lot configurations.

Mr. Saunders stated the alpha numbering between page 3 and 4 need to be changed. Mr. Saunders asked if height restriction of 50' includes residential dwellings.

Mr. Shane stated there is no intention for houses to be 50' in height.

Mr. Chase, applicant stated he doesn't have anything to add, the height of 50' is not intended for residential houses, only 50' for commercial properties.

Mr. Sherr asked if he and his engineer are privy to all the amendments and in agreement with the changes.

Mr. Chase stated yes, absolutely he is very aware and supports the amendments, which meet his needs.

Mr. Moriarty asked the size of the entire contract zone, a change from 63.6 acres to almost 75 acres

Ms. Nixon stated the number has been amended to include the town lot.

Mr. Shane stated one of the comments we had was to put the total acreage on the exhibit 74.90 which is the entire project including the remaining lots. The developer has a purchase and sale with the town to purchase the town lot, pending the town obtaining an appraisal. The town was given the 9 acre parcel from Peter Kennedy in 2002 with the original contract zone agreement.

Ms. Nixon stated on page 5 the wording 9' on each side needs to be added back into the language.

Mr. Greer stated the fire department wanted a 20' side clearance. Mr. Greer stated the developer is moving forward with design in accordance with the contract zone, and the roads will conform to the road design standards.

The public portion of the meeting was opened.

Mr. Tom Foley of 29 True Spring Farm Condominiums association stated the proposal has been discussed at our Board and we support the project; and look forward to having neighbors across the street. We think the use will be good for us and good for the town and hope it goes forward. I have one request on behalf of True Spring Farm and that is that the hours of activity appear to 7:30 a.m. to 5:30 p.m. We would ask that no blasting occur before 8:00 a.m. and none after 5:00 p.m. My other comments are regarding the traffic situation. I understand there will be a traffic study and we have discussed the number of vehicles. I would like to point out that Route One south from Tuttle Road slopes down and crests at the SeaFax building towards the new proposed intersection which is less than 2/10 of a mile and depending on speed that is anywhere from 10 to 14 seconds. As you come over the hill you don't see any activity until you have traveled another 2 seconds. The safety factor with traffic from both developments is more important than the number of trip ends. It would be prudent to prevail upon the DOT the safety factors as this project goes forward.

Mr. Foley continued stating as a citizen of the Town of Cumberland regarding the contract zone there is a provision to include warehouses and distribution centers as new uses into the current Office Commercial zone. I appreciate the difficulty in developing commercial lots during the recession; however, business is now picking up. We have Pack Edge and lot 2 sold to a Doctor for his medical center. This leaves the front lots and the lot in the back; and from a tax revenue point and maximizing the potential for development of this prime land at the values of current businesses, to allow empty warehouses they would have less tax value, and less employment opportunity. I don't see those uses as a good use for these prime lots. I hope we would continue to encourage Mr. Chase to develop the lots similar to SeaFax, Exactitude, and Pack Edge.

The public portion of the meeting was closed.

Mr. Sherr stated the warehouse and distribution facilities are restricted to lot 8.

Mr. Greer clarified the area behind Exactitude, as the only lot that would allow those uses.

Ms. Nixon stated the language is not adding a new use, it is a clarification, the wording has been changed to match the definition in our Zoning Ordinance.

Mr. Moriarty asked what was being asked of the Planning Board tonight.

Mr. Sherr stated to send a recommendation to the Town Council.

Mr. Moriarty stated at a minimum we need a plan that matches what we are asked to approve.

Mr. Shane stated this plan is in your packet, which clearly shows Lot 7 and the newly configured Lot 8.

Mr. Greer reviewed the different plans, stating they will come back with a revised subdivision plan that will separate the housing parcel and leave the access land to the left with Sky View Drive for future commercial use. This will also come back in three phases. This will be clarified on the subdivision plan that will be presented. The housing could also go on Lot 7.

Ms. Nixon stated per this amendment housing cannot go on Lot 7 without a future amendment.

Ms. Nixon stated the map with the packet has the correct map, as it refers to the entire parcel and the map reflects the parcels as stated in the contract zone.

Mr. Saunders asked where the lot line was on Lot 7 when it reaches the cul-de-sac.

Mr. Greer stated it follows the property line and follows the road.

The Board reviewed the Contract Zone agreement page by page.

- Page 3 – Mr. Moriarty asked to clarify the 134 total residential units applies to the entire contract zone.

Mr. Greer stated it applies to all of the property except the lots with frontage on Route One.

Mr. Saunders stated the amendments tonight refer to Lot 8.

Mr. Greer reviewed the area that is included in Lot 8. The sketch plan didn't show the extra roughly 8 acres where housing could be expanded.

- Page 4 – subparagraphs need to be changed to reflect E, F, and G, H.
 - Page 5 – A) (1) bullet 2 to read Side yard setback not less than 9 feet each side
 - Page 6 – D) The height restriction on all non-residential structures and multiplex dwellings shall be 50 feet and the height restriction on all detached (single family) and duplex dwellings shall be 40 feet.
3. Page 7 – Ms. Nixon pointed out that the project wouldn't be able to obtain any more than 50% of the allowable growth permits in one year.

Mr. Sherr moved to recommend to the Town Council draft amendments to the Contract Zone agreement for lot standard changes with David Chace for Cumberland Foreside Village LLC as amended.

Mr. Moriarty seconded.

VOTE: Unanimous 6 – 0

- 3. Public Hearing: Minor Site Plan Review for Site Preparation of lots 2, 3, 4, 5 & 7 of Cumberland Foreside Village, LLC. Tax Assessor Map R01, Lots 11 - 2, 3,4,5,7 David Chase, Cumberland Foreside Village, LLC, Owner, Applicant. Tom Greer, P.E. Pinkham & Greer Civil Engineers, Representative.**

Ms. Nixon presented background information as follows: This is the third piece of the puzzle for this parcel we have been discussing this evening. This application is for minor site plan review for site preparation activities on Lots 7, 2, 3, 4 and 5 of Cumberland Foreside Village. This area is 44.8 acres in size. The work involves the clearing and grubbing of areas as shown on the plan, rock removal from Lot 7, and the construction of a gravel access road from Sky View Drive across lots 2, 3, 4 and 5. The front lots will be cleaned and trimmed of underbrush; however there shall be no clearing within the 75' landscape buffer along Route One. The purpose of this is to allow the developer to get the site prepared so when DEP approval and Planning Board approval has been received they can begin to construct the homes.

Mr. Tom Greer P.E., of Pinkham Greer Civil Engineers stated we are looking to do some site work in anticipation of the sketch plan. This site prep project was before you previously, we had a potential buyer for lot 2 so we stopped work. Mr. Greer reviewed the scope of work as follows:

- Clear and grub the areas shown as impact areas on sheet X1.1
- Remove rock on Lot 7 to the approximate contour line shown on the sheet X1.2 those will be adjusted as the housing project's design is completed.
- Construct a gravel road across Lots 2, 3, 4 and 5. (This is designed as a common drive for those lots to reduce curb cuts onto Route One.)
- The front of the lots will be cleared and trimmed of underbrush to open them up for viewing by buyers.

We would like to do this work during the winter so it can be done efficiently and when the neighbors are inside with the windows closed. We have added the conditions of approval on the plan in your package, when we get the final conditions of approval they will be added to the plan. The Town Engineer requested an erosion control plan and calculations for stormwater run-off we have completed those and they will go to him for review as soon as we receive approval. We feel this is a good step forward for the project and a good fit for the neighbors and asked if anyone had any questions.

Mr. Boivin stated the parcel layout plan in the packet looks different.

Mr. Greer stated the conditions of approval at the end of the Staff's notes have been updated and included in the plan. That will be updated with whatever the Board decides.

Mr. Sherr stated earlier we heard public comment regarding blasting times be between 8:00 and 5:00 p.m. is that alright.

Mr. Boivin asked if that would be Monday – Friday.

Mr. Moriarty asked if there was any blasting required for the access road or is it only for the upper lot.

Mr. Greer stated he didn't think so it is pretty flat, we would grub and chip stumps, part of the erosion control is to install a berm on the bottom side, with four temporary culverts.

Mr. Greer stated the intent is to make sure that the lots are connected, in case a buyer doesn't want to build the connection.

Mr. Moriarty asked if there would be a cul-de-sac at the end.

Mr. Greer stated ultimately this lot will have a driveway which might be built between lots 3 and 4 or 4 and 5, and some of the customers may take two lots or a lot and a portion of another, these lots were drawn as conceptual.

Mr. Moriarty asked if the access drive would be built to look like Sky View Drive.

Mr. Greer stated no, it may look like a road; it will probably be 24' wide with a lane in and a lane out, it will accommodate large vehicles, but will be a driveway to a commercial entity.

Mr. Moriarty asked if it would be a public road.

Mr. Greer stated no, it will be used by the business and the public but not a public road.

The public portion of the meeting was opened.

Mr. Tom Foley, True Spring Farm asked if the back road could connect to the housing development.

Mr. Greer stated it would be difficult with the wetland and stormwater, one of the keys is to keep the neighborhood all residential.

Mr. Foley again voiced concern of safety and the intersection, with the site distance and hill.

Mr. Shane stated the DOT permits were permitted with the original subdivision approval. We will be meeting on February 10, 2015 with DOT to discuss what will trigger a center turn lane from SeaFax to Johnson Road. This is budgeted to happen this summer if Council approves. The trip count to date does not trigger the number required for a traffic light. A traffic light won't be installed until traffic warrants a device

Mr. Greer stated once the infrastructure is in place, a flashing light might be installed sooner, the Legislature mandated to not reduce existing infrastructure, and traffic lights reduce the capacity.

The public portion of the meeting was closed.

Mr. Moriarty stated as I understand it the current plan allows for a driveway between lots four and five.

Mr. Greer stated no, it does not.

Mr. Moriarty asked if allows for a driveway at some other point, and where would that be.

Mr. Greer reviewed the plan showing Sky View drive and lot one and two, the wetland ended up being across from this driveway is where lots three and four get their access. Originally the subdivision was approved with a 60 wide access at the edge of the town lot. That was intended to be an access between lots five and the town lot.

Mr. Moriarty stated we know we have Sky View Drive as an existing road, discussed the new subdivision road and the driveway between lots three and four creating two new curb cuts on Route One. What is to prevent these driveways becoming used as an alternative to the lots on Sky View Drive?

Mr. Greer this access road across the middle is to encourage access to all of those commercial lots where it was most convenient.

Mr. Moriarty asked if it is a given there will be a driveway, or does it depend on the client.

Mr. Greer stated that is correct it goes back to what DOT will approve, once we file a new permit for a driveway across from True Spring it is likely there will be a separation distance required between the two driveways.

Mr. Moriarty asked depending on the clients is it possible there will be no driveway at all.

Mr. Greer stated it is not likely they will all come out on Sky View Drive. Bill Bray is the traffic engineer who might be better at explaining this, because there is an existing driveway we won't

be allowed to offset the intersection; we will be required to line up or be a long ways away. The logical place is at the intersection; it was originally located to allow the town lot and lot 5 to share access.

Mr. Moriarty stated we can't anticipate the need of the future commercial purchasers but the proposed back access road strikes me as perfectly good access to these four lots.

Mr. Greer stated you are not a business owner; purchasers want to locate on Route One because of direct access to Route One.

The Board reviewed the proposed findings:

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

Mr. Davis seconded.

VOTE: Unanimous 6 – 0

SECTION 229:10: 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.

A. 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 work proposed is in accordance with the approved subdivision plan. There is an MDEP permit on file for work on the sky View Drive property.

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

B. Traffic, Circulation and Parking

(1) Traffic Access and Parking. Vehicular access to and from the development must be safe and convenient.

(a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

- (b)** Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (c)** The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (d)** 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.
- (e)** 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.
- (f)** Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (g)** Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (h)** The following criteria must be used to limit the number of driveways serving a proposed project:
 - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
 - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

There is no parking proposed as part of this site preparation project.

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

(2) Access way Location and Spacing

Access ways must meet the following standards:

- (a)** Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- (b)** Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

The proposed access ways meet the requirements of the ordinance. This project involves the construction of a gravel internal connector road across the rear of Lots, 2, 3, 4 and 5.

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

(3) Internal Vehicular Circulation

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

(a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.

(b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

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

(d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

This project proposed will create a gravel access road in the rear of the lots that front on Route 1 in accordance with the approved subdivision plan. The submitted site plan and application shows that the proposed project complies with all the above criteria.

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

(4) Parking Layout and Design

Off street parking must conform to the following standards:

(a) 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.

(b) 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.

(c) Parking stalls and aisle layout must conform to the following standards.

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

(d)In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(e)Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

(f) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

There is no parking required or proposed for this site preparation application.

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

(5) Building and Parking Placement

(a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

(b)Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

There are no buildings or parking placement concerns as part of this site preparation application.

The Planning 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.

There is no need to provide pedestrian ways within this development as part of the site preparation activities.

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

C. Stormwater Management and Erosion Control

(1) Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

(a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

(b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(c) The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of Shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.

(d) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

(e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

(f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be

required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

The Town Engineer has requested information showing that the stormwater runoff from the site will be managed so that it exits the site at the same location, and calculations that there is not a significant change in flow. This has been addressed as a condition of approval.

With the proposed condition of approval, the Planning Board finds the standards of this section have been met.

(2) Erosion Control

- (a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling; excavation and 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.
- (b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

The Town Engineer has reviewed the plans and made the following two comments:

- 1) The plans provided do not indicate the location of the existing or proposed erosion control measures. SME recommends that erosion control measures be included on the plans and approved prior to soil disturbance at the site.***
- 2) There will be an intermediate phase between the site preparation and the final build-out on the property. SME recommends the Applicant provide information on the proposed site restoration (i.e. loam and seed, etc.) for the disturbed area on Lot 7 in accordance with the Town Zoning Ordinance Section 315-49.C(8).***

With the proposed condition of approval, the Planning Board finds the standards of this section have been met.

D. Water, Sewer, and Fire Protection

(1) Water Supply Provisions

The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

There is public water available. There will be no need to connect to the public water supply as part of this site preparation project.

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

(2) Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

There is no need for sewage disposal for this application.

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

(3) Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

There is no need for utility connection for this site preparation project.

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

(4) Fire Protection

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

There is a fire hydrant located approximately 300' from the site. The site preparation project is in compliance with the Fire Protection Ordinance.

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

E. Water Protection

(1) Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

The area is served by public water and sewer. The proposed site prep work will not adversely impact the quality or quantity of groundwater.

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

(2) Water Quality

All aspects of the project must be designed so that:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, 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.

(b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

There will be no storage of hazardous materials that would adversely affect the quality of groundwater.

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

(3) Aquifer Protection

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

The site is not located in an aquifer protection area.

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

F. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain Management Ordinance.

The site is located in an area of minimal flooding (Class C) as shown on the FEMA floodplain map.

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

G. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for

protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

A letter from the Maine Dept. of Historical Preservation was provided during the subdivision review process that showed there were no historic or archaeological resources on the site.

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

H. Exterior Lighting

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

There will be no need for exterior lighting and a condition of approval precludes the use of lighting for this site preparation project.

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

I. Buffering and Landscaping

(1) Buffering of Adjacent Uses

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

(2) Landscaping

Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

There will be no need for buffering or landscaping for this site preparation project. The 75' Route One buffer will not be infringed upon, nor will there be any clearing to the rear of the site. Any tree clearing will be within the approved project area. A condition of approval is that the Town Engineer inspects the clearing limits prior to the preconstruction conference.

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

J. Noise

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

There will be noise associated with the site preparation activities. The proposed hours of construction, which are listed as a condition of approval, will limit the impact of this on abutting properties.

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

K. Storage of Materials

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

(2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

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

There will be storage of equipment during the site preparation project. Heavy equipment and piles of rock will be stored and then transported from the site via trucks.

The area of work will be buffered by an existing stand of trees on three sides of the area being prepared.

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

L. Capacity of the Applicant

The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

The applicant has conducted several other projects of this nature and scope in the town of Cumberland. All projects have been satisfactorily completed. The applicant will use cash on hand to fund this work. Chase Excavating has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan. Further, the applicant will be required to provide a performance guarantee in an amount acceptable to the Town Manager and Town Engineer; this is a condition of approval.

Board finds the standards of this section have been met.

M. Design and Performance Standards

(1) Route 100 Design Standards (Not 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

(2) Route 1 Design Guidelines (Not Applicable*)

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

**While the parcel is located within an approved subdivision that has frontage on Route 1, the area being worked on does not front on Route 1 and there is no construction of buildings or parking that would require review under the provisions of the Route 1 Design Guidelines.*

(3) Town Center District Performance Standards (Not applicable)

All development in the Town Center District is encouraged to be consistent with the Town Center Performance Standards.

Not Applicable.

(4) Village Mixed Use Performance Standards

All development in the Village Mixed Use Zone is encouraged to be consistent with the VMUZ Performance Standards.

Not applicable.

Mr. Sherr moved to grant minor site plan approval for Site Preparation of lots 2, 3, 4, 5 & 7 of Cumberland Foreside Village, LLC, Tax Assessor Map R01, Lots 11 – 2, 3, 4, 5, 7. This approval is subject to the limitation of approval as per the Contract Zone Agreement and the Standard and Conditions of approval as amended.

Mr. Davis seconded.

VOTE: Unanimous 6 - 0

LIMITATION OF APPROVAL AS PER CONTRACT ZONE AGREEMENT

G) Site preparation activities including grading and aggregate processing, as defined in Section 315-4 of the Cumberland Code, which substantially alter terrain and site character shall be permitted subject to the requirements set forth herein. Site preparation activities shall be permitted by the Developer and/or his subcontractor and shall include aggregate processing of materials on site, but shall not be permitted unless in preparation of the site for proposed or approved development. The foregoing activities shall be performed in accordance with Maine Department of Environmental Protection requirements for ledge removal and materials processing, regardless of whether such use actually requires a permit from the Maine Department of Environmental Protection. If a permit from the Maine Department of Environmental Protection is not required for the use, the Town shall have the authority to enforce these requirements. Any such activities and any other site work proposed on the site, including development permitted under the terms of this Agreement shall be subject to review and approval by the Planning Board and shall be completed pursuant to all applicable sections of the Cumberland Code including, but not limited to, Sections 315-48 and 315-49. All site preparation activities must be completed within one year of approval unless an extension is requested by the Developer from the Planning Board prior to the expiration date. The Planning Board is authorized to extend the project

completion not more than two times for a period of up to six months each time. The Planning Board shall deny a request for extension if the site preparation activities are not at least 35% completed within one year from the date of approval and if an application for site plan and/or subdivision including the area for which site preparation activity was permitted has not been approved.

SECTION 229-12: STANDARD CONDITION OF APPROVAL:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant.

CONDITIONS OF PLANNING BOARD APPROVAL:

1. As per Section 229-13 of the Cumberland Code (Site Plan Ordinance)
Submission of as-built plans: The developer of any project involving the construction of more than 20,000 square feet of improvements as actually constructed on the site shall submit as-built plans. These plans must be submitted within 30 days of the issuance of a certificate of occupancy for the project or occupancy of the building.
2. A preconstruction conference shall be held prior to the start of construction.
3. All outstanding fees shall be paid to the Town prior to the preconstruction conference.
4. Prior to the preconstruction conference, a performance guarantee in an amount acceptable to the Town Manager and Town Engineer shall be provided should the project not be completed and site restoration work is required.
5. All clearing limits be flagged prior to the preconstruction conference and inspected and approved by the Town Engineer.
6. Hours of operation 7:00 a.m. to 5:30 p.m. Monday through Friday and no holidays; with the exception the Blasting shall be limited to the hours of 8:00 a.m. to 5:00 p.m.
7. There shall be no lighting on the site.
8. That a blasting permit be obtained from the Code Enforcement Officer prior to blasting.
9. This approval is subject to the provisions of the (proposed) amended contract zoning agreement that must be approved by the Town Council prior to the preconstruction conference. If the contract zoning agreement is not approved by the Town Council to include the following language, this site preparation project will be considered denied by the Cumberland Planning Board. G) Site preparation activities including grading and aggregate processing, as defined in Section 315-4 of the Cumberland Code, which substantially alter terrain and site character shall be permitted subject to the requirements set forth herein. Site preparation activities shall be permitted by the Developer and/or his

subcontractor and shall include aggregate processing of materials on site; but shall not be permitted unless in preparation of the site for proposed or approved development. The foregoing activities shall be performed in accordance with Maine Department of Environmental Protection requirements for ledge removal and materials processing, regardless of whether such use actually requires a permit from the Maine Department of Environmental Protection. If a permit from the Maine Department of Environmental Protection is not required for the use, the Town shall have the authority to enforce these requirements. Any such activities and any other site work proposed on the site, including development permitted under the terms of this Agreement shall be subject to review and approval by the Planning Board and shall be completed pursuant to all applicable sections of the Cumberland Code including, but not limited to, Sections 315-48 and 315-49. All site preparation activities must be completed within one year of approval unless an extension is requested by the Developer from the Planning Board prior to the expiration date. The Planning Board is authorized to extend the project completion not more than two times for a period of up to six months each time. The Planning Board shall deny a request for extension if the site preparation activities are not at least 35% completed within one year from the date of approval and if an application for site plan and/or subdivision including the area for which site preparation activity was permitted has not been approved.

10. Prior to the preconstruction meeting the applicant shall provide the following to Town Staff for approval:
 - 1.) An erosion control plan that shows specific locations of erosion control measures.
 - 2.) Stormwater management calculations that demonstrate the stormwater runoff will exit the site similar to existing conditions and without a significant increase in peak flow.
11. A note will be added to the plans stating that “The exposed rock surface shall be loamed and seeded at the conclusion of the preparation work or anytime the work ceases for more than 3 months.”
12. There shall be no clearing or trimming of underbrush within the 75’ landscape buffer along Route 1.

G. Administrative Matters:

1. Site Walk for Cumberland Foreside Village Housing: The Board set the date for the Site Walk for Saturday, February 7, 2015 at 9:00 a.m. In case of inclement weather the Site Walk will be held on Saturday, February 14, 2015 at 9:00 a.m.

2. February and April Vacations: Ms. Nixon asked if anyone would have a conflict with the February and April Planning Board meetings which typically are the same weeks as school vacations. The majority of the Board is available for those meetings. The Planning Board will meet on its regularly scheduled dates for February and April 2015.

3. Ms. Nixon stated the Spears Hill Subdivision has held its pre-construction meeting and the developer hopes to have the infrastructure complete by August and are moving forward with the project.

H. Adjournment:

Mr. Moriarty moved to adjourn.

Mr. Saunders seconded. The meeting was adjourned at 9:20 p.m.

A TRUE COPY ATTEST:

Gerry Boivin, Vice-Chair

Pam Bosarge, Clerk to the Board