

TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, February 28, 2017 - 6:30 pm

A. Call to Order: Chairman Moriarty called the meeting to order at 6:30 pm.

B. Roll Call: Present: Steve Moriarty - Chair, John Berrett, Gerry Boivin, Teri Maloney-Kelly, Joshua Saunders & Peter Sherr. **Absent:** Jeff Davis. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant, William Shane, Town Manager.

C. Approval of Minutes of the January 17, 2017 meeting: Mr. Saunders moved to approve the minutes of the January 17, 2017 Planning Board meeting as written, seconded by Mr. Boivin and **VOTED, 6 yeas - unanimous, motion carries.**

D. Staff Site Plan Approvals: None.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: 5 Lot Major Subdivision Review for Preliminary and Final Review. Solar Way - 34 Hillside Drive. Live Life Maine, LLC, Applicant; Representative: Tom Greer, P.E., Pinkham and Greer. Tax Map R04; Lot 24.

Chairman Moriarty explained that this item was advertised as a public hearing for a 5 lot major subdivision preliminary and final review for Solar Way. The Planning Board had a sketch plan review for this project on October 18, 2016 where the Board listened to a presentation for a cluster subdivision. On December 20, 2016, the Board began preliminary review for the project and after extended discussion the item was tabled until tonight's agenda. Questions have been raised by interested parties about the legitimacy of the sketch plan review and its compliance with the ordinance. Under the ordinance, two draft plans should have been presented for sketch plan review and the Board should have chosen among the plans and advised the applicant which plan should continue on to preliminary review. The Board is going to go back to square one tonight and redo the sketch plan review. All the Board will do tonight is the sketch plan review in accordance with the ordinance. Two concept plans will be presented by the Developer. The Board will determine which of the proposed plans best suits the property. It was noted that the Board conducted a site walk of the property on February 4, 2017.

Tom Greer, Pinkham and Greer, said he is here tonight with Mark Hampton, who has done some soils work on the site, and Patrice Miller, the owner of the project. Chairman Moriarty noted that a conventional lot layout was included in the Board's packet and the previously presented cluster layout will be presented again tonight. Mr. Greer reviewed a proposal for a cluster subdivision layout for 5 lots. Two of the lots have existing homes that are super energy efficient homes. The plan is for the additional three homes to also be energy efficient.

Mr. Greer said that the site was heavily logged before Ms. Miller bought it. A lot of the mature trees are gone and there are logging trails over the property. The lot is bounded by a lot owned by CMP on one side, the Blanchard farm in the rear and a subdivision on the other side. This is the RR1 zone which requires 4 acres as a standard. Across the street

are roughly 1 acre lots in the RR2 zone that requires 2 acres, and most of the homes were there prior to the current zoning. Mr. Greer said that the cluster plan fits in between the 1 - 4 acre surrounding lots and will have 60,000 square foot lots. The utilities will come off Hillside Ave. with underground power and communication cables. Each home will have a septic system and well water supply. Geologist Dick Sweet has determined that there is an adequate water supply for the project.

Mr. Greer explained that in the Board's packet is a (traditional) plan that he will not show due to comments he has received indicating that the proposed plan has to meet the net residential density requirements. The plan in the Board's packet does not meet the requirement. Mr. Greer said instead he will show a different conventional plan that he put together this afternoon that does meet the density calculations as well as the minimum lot sizes and setbacks.

Chairman Moriarty asked Mr. Greer to take some questions about the cluster plan at this time and inquired if the two existing homes are on 4 acre lots. Mr. Greer said currently one home is on a 4 acre lot and the other lot is about 20 acres. The cluster plan would create four 60,000 square foot lots, including the two existing homes, and one 7 acre lot with 10 acres in the back as common open space. Mr. Greer showed where a trail system could go in the open space that will connect to a CMP right of way which has a trail system. Mr. Greer said that the Town of Yarmouth has plans to upgrade the CMP trail in the future. Chairman Moriarty asked what the length of the road shown in the cluster plan will be and Mr. Greer said 750'. Chairman Moriarty asked if the 10 acre open space area will remain open in perpetuity and Mr. Greer said that it would. Mr. Greer said that the applicant proposes to build her home on the proposed 7 acre lot and would like the ability to subdivide this lot in the future if the zoning changes to allow it. Mr. Greer clarified that unless the zoning changes, the five lots that are being proposed right now are all there will be. Chairman Moriarty confirmed that future zoning changes will not affect the proposed 10 acre open space lot and Mr. Greer agreed.

Mr. Greer presented a plan for a traditional subdivision. This plan has the same road layout of 750'. The density calculations for the cluster plan, for the most part, also apply to this plan to allow 5 lots. The traditional plan shown has five color coded lots. Mr. Greer said these lots are very awkward and are a horrible layout. This plan has 4 acre lots with 200' of frontage. The two existing homes meet the required setbacks. Mr. Greer outlined the awkward layout of the lots. The building envelopes shown with the test pits on the previous plan will apply to these lots with the same 5 homes in roughly the same place. Mr. Greer said that the merits of the cluster plan over the traditional plan are that the cluster has cleaner boundary lines, common open space, has a trail network that connects back to the power lines and the 10 acres of open space are protected in perpetuity. Mr. Greer noted that conventional lots could be cut and cleared again if the owner so chooses. Mr. Greer said that the applicant much prefers the cluster provisions where 10 acres are set aside with clearing restrictions which is better for the environment, wildlife and the trail connection. Chairman Moriarty confirmed that with the traditional plan Mr. Greer just presented (not the one in the Board's packet) there is no reserved open space and Mr. Greer agreed.

Mr. Boivin remarked that he is surprised that the traditional plan is not for 4 lots because the 5 lot plan is unappealing. Mr. Greer said they are proposing 5 lots in both the cluster and the traditional plan and it makes the most sense from a financial point of view and for

the development overall. Mr. Greer said that if the Board looks at this as gerrymandering the lot layouts, then that is correct. It does work and it does meet the ordinance. Mr. Greer said that they prefer the cluster plan and feel it is the most viable. Mr. Greer is advocating for the cluster plan and thinks it makes the most sense from a lot layout point of view and overall it is a better looking of plan in terms of boundaries and for the property.

Mr. Greer reported that there is a valid stream crossing permit for the two driveways that are shown in the plans. Something that was overlooked is that the road is adjacent to a stream and will require another NRPA (National Resource Protection Act) permit that has been filed with DEP and Mr. Greer expects this will be issued in the next 30-60 days.

Chairman Moriarty asked Mr. Greer if he thinks the DEP would endorse the traditional plan in terms of the stream crossings. Mr. Greer replied yes and noted that the wetland impacts will remain the same no matter which plan is used. Chairman Moriarty asked Mr. Greer if he is awaiting any other approvals and Mr. Greer said no. Chairman Moriarty asked Mr. Greer if, in his view, the reconfiguration of the traditional plan impacts any of the approvals obtained thus far on the project and Mr. Greer said he does not think so.

Chairman Moriarty stated that this is technically not a public hearing but he will open the meeting to the public for questions or comments.

Alison Beyea, abutter to the parcel, said she is not opposed to the land being developed but she is concerned that the plan be developed consistent to what the plan can sustain. Ms. Beyea said she has submitted some information from Mr. Shumadine of Murray, Plumb & Murray (attorneys). Ms. Beyea said one of concerns raised is how the land is looked at. The conventional plan is a really awkward layout because the applicant already built two houses without the Town's involvement. Ms. Beyea said she does not think the Town wants people to start to build a development and then say, oh well that is already done. Ms. Beyea said that they are comparing between two plans with one that looks absurd and the plan is being forced because of prior conduct of the applicant within the five year time period. Ms. Beyea said that the subdivision barely has enough land for five lots and she is not sure that the traditional plan is actually a realistic or appropriate plan. Ms. Beyea said that this land has always been difficult to build on and that is why, over the years, there have been different requirements for septic and wells. Ms. Beyea said there is a legitimate question about whether this land can better handle a cluster with 5 wells and stormwater. She is not sure if the benefits of a cluster, which are supposed to protect land, are really achieved with this subdivision.

Chairman Moriarty said that the applicant is within her rights notwithstanding the fact that two homes were built without subdivision approval. Chairman Moriarty said that as to Ms. Beyea's comment that the project is barely sufficient to meet the residential density, it doesn't make a difference if it barely or generously meets the criteria, as long as it meets it. Ms. Beyea questioned whether the wetlands were correctly calculated. Ms. Beyea asked what the standards are by which the applicant needs to be held when developing the land. Chairman Moriarty responded that the Board does not question the motives of a developer or land owner. The land owner has rights under town ordinances to develop the land as they choose and they can do it in this fashion or build one home every 5 years if they choose. Chairman Moriarty said that if there is a suggestion of some ulterior motive, the Board does not get into this as long as there is compliance with the ordinances. Ms. Beyea said that she knows plans change and all she is suggesting is that if land owners take certain actions that have an impact on future development, this has to be considered

by the Planning Board. Ms. Beyea said she is not suggesting any malfeasance. Chairman Moriarty said that he is not sure that there is any standard in the ordinance that would apply a different set of review criteria if a couple of parcels are developed first before going into a subdivision.

Ms. Nixon said Chairman Moriarty is right. When the Planning Board started to review this project, they looked at what is considered to be the mother parcel, the original parcel that was split into two lots and is now being split again. Ms. Nixon added that all of the subdivision standards are being looked at as though this is a 5 lot subdivision, including the two lots that are already built and all of the standards apply. Ms. Nixon said that the Board is looking at the whole lot as a comprehensive project and will continue to do this.

Mr. Sherr noted that subdivision law is triggered by adding a third lot within a five year period.

Ms. Beyea said that her disagreement may be about a different matter, as referenced in her attorney's letter. Ms. Beyea noted that a four lot subdivision would resolve many problems.

Ed Libby, abutter at 145 Greely Rd., questioned if a cluster plan is even possible and said the Planning Board is obligated to evaluate the cluster plan's merits compared to an alternate plan. Mr. Libby said that whatever plan is best, the applicant is required to comply with the procedure and the standards required in the ordinance. Mr. Libby stated that he is a developer and he finds himself in an awkward position regarding this project and is usually on the other side of the equation. Mr. Libby said he welcomes this development in his back yard. Mr. Libby wants to make sure it is done appropriately, that the procedures are followed and that we end up with a plan that fits the property, the land and the neighborhood that complies with the ordinances.

Mr. Libby said that for a cluster plan, the ordinance requires that it meet one of seven very specific characteristics. It has been said that this cluster plan is a qualified subdivision because of the trails. Mr. Libby showed the portion of the ordinances to support this and said he does not agree that there is an existing trail system. Mr. Libby said there are some old, overgrown, rutted skidder trails and it is a far stretch to say these are trails. Mr. Libby showed a map from a prior preliminary submission for this project. He pointed out a portion of a trail shown on the map and said this section does not exist. Mr. Libby said that another portion of trail shown is someone else's property and there is no permission or agreement and no trail. Mr. Libby said discussion was heard tonight about trails on the CMP power line. CMP has posted a no trespassing sign and these are not a trail system. There is a West Side Trail Group in Yarmouth that is endeavoring to develop trails within the power line. Mr. Libby has spoken with Dan Ostrye, who runs the Group, and Dan said that nobody has spoken with him about the trail and he was unaware of this subdivision. Mr. Libby said the ordinance cites "existing trails".

Mr. Libby showed an alternate (traditional) plan that he put together. Mr. Libby's plan takes the land into account and meets the requirements as a 4 lot subdivision with two 4 acre lots in front and two roughly 8 acre lots in the back. The Board is supposed to look at the two plans submitted and how they fit the characteristics of the land, the neighborhood and other criteria, how it meets the applicant's financial requirements is not one of the criteria. Mr. Libby said that the average lot size of the abutting property owners is 24

acres. Mr. Libby's plan looks a lot more like the neighborhood instead of 65,000 sq. ft. lots crammed up against the road.

Mr. Libby showed the cluster plan and said the plan requires 4 houses densely located in an area with very poor soil conditions that are highly erosive. Concentrating all the run off in this small area instead of spreading out the houses is not as good of an idea. Mr. Libby said there was another subdivision that the Board had sketch plan review on and the Board decided that the traditional plan was the way to go because it made more sense to spread out the houses so there was less impact on the land and that applies here. Mr. Libby said lot 4 of the cluster plan has 2 streams and the lot is surrounded on 3 sides by streams. The applicant had to get an extra permit from the DEP to cross the stream and the traditional plan does not do this. Mr. Libby said the location of the well and septic would be within 75' of the stream which is a regulated zone. People are concerned with the sensitivity of the stream and runoff because it is the head waters for the Piscataquis River.

Chairman Moriarty noted that this is a sketch plan review and Mr. Libby has been speaking for 15 minutes. Mr. Libby said that his point is that there is a lot of impact in this cluster plan. Mr. Libby showed a map of the stream and said there is a proposal to put in a culvert that will change the course of the stream which is a big impact. Mr. Libby said another thing that needs a lot more scrutiny is the wetlands. Mr. Libby said there are aerial photographs of standing water that appear to be wetlands and cattails were seen in these areas during the site walk. These areas are not mapped or included in the deductions for the net residential acreage. Mr. Libby noted that the wetland delineation person said previously that this was probably the worst site he has ever walked on and this merits another look at the wetlands.

Chairman Moriarty asked Mr. Greer if the course of the stream will be reversed. Mr. Greer said they are not reversing the course. Mr. Greer showed a drawing of the area in question and explained that a driveway will be put in and an area will be filled in and a culvert put in. This plan is being reviewed as part of the NRPA application still under review.

Chairman Moriarty said the Board has now heard and seen two concept plans, a traditional subdivision and a cluster subdivision. The ordinance states that the Board shall determine which type of subdivision best suits the property in relation to the natural features of the land, adjacent properties and neighborhoods and the characteristics of open space to be maintained, if applicable.

Mr. Greer noted that Mr. Libby said that there is no access to CMP and they actually do have access. Chairman Moriarty confirmed that a letter from CMP has been submitted indicating that permission would be granted.

Ms. Nixon commented that for trails and how the Board has looked at them in the past, logging trails and even paths in the woods have all been considered part of a trail system. It is not a high bar for the Board to find that a trail is there and this criteria is being met.

Mr. Saunders asked if the Board has to find that a cluster plan meets the criteria the applicant says it meets or can the Board find that it meets a different characteristic. Ms. Nixon said that the Board can do this. Mr. Saunders said that during the site walk, they crossed a stream. One of the 7 criteria is for "land which provides physical or visual access to a water body, including the ocean, lake, pond, river, stream, or brook". Mr.

Saunders said previously an abutter spoke that has a farm and that abutting a farm is another of the criteria.

Mr. Sherr said before the Board tonight is a traditional and a cluster plan and both show five lots. An alternative 4 lot plan was presented during the public hearing. Mr. Sherr asked if the applicant is still looking for 5 lots or, based on the information given tonight, would the applicant consider 4 lots as an alternative. Mr. Greer said he thinks 5 lots is reasonable and meets the criteria. Mr. Greer said that if other wetlands are found then there are ways to modify the design to meet this and he is comfortable going forward with 5 lots.

The Board reviewed the 7 criteria that a cluster subdivision has to meet one of. One is active farm land or land adjoining active farm land. Chairman Moriarty said this may be one of the criteria met. Additional criteria are; an active trail system or which provides a link to an active system, land which provides a buffer around a sensitive wildlife habitat or other natural area, land which provides physical or visual access to a water body, including the ocean, lake, pond, river, stream, or brook, land which is in resource protection, land which is suitable for active recreation and land which abuts or adjoins an existing public open space. Chairman Moriarty said that he thinks criteria regarding adjoining farm land, the trail system and access to a water body all arguably apply.

Mr. Saunders said based on Mr. Greer's description of the traditional sketch plan, he does not see anything in the ordinance about a minimum width of a lot and asked Ms. Nixon if the lots conform. Ms. Nixon said she has not had time to review the plan Mr. Greer presented and that there is not a lot width requirement. There is a setback requirement for 15' from the road. Ms. Nixon said if the Board says 4 lots fit better so there should be 4, the applicant can say the Board deprived them of having 5 lots which the ordinance allows.

Mr. Boivin said it may be appropriate to have a peer review. Ms. Nixon said the Board has not had peer review on a sketch plan before and it is not required. The burden of proof is on the applicant at the next stage to show that the plan meets the ordinance requirements.

Mr. Berrett said that for sketch plan review, if the cluster plan meets all requirements for stormwater runoff, water availability and sewage disposal there is no reason for the Board to be wary of the plan based environmental factors. Ms. Nixon said this is correct and the cluster plan has been well vetted and appears to be very workable. Ms. Nixon cannot say the same for the traditional plan because it has not been reviewed.

Chairman Moriarty asked for a motion citing the ordinance which states that the Board shall determine which type of subdivision best suits the property. Mr. Sherr moved that the Board select the cluster subdivision sketch plan as presented tonight and for the applicant to move forward with the next step, seconded by Mr. Saunders and **VOTED, 6 yeas - unanimous, motion carries.**

The Board took a 5 minute recess then the meeting resumed.

2. Public Hearing: Site Plan Review: Central Fire Station Renovations and Expansion. 363 & 366 Tuttle Road. Applicant: Town of Cumberland; Representatives: Dan Diffin, P.E., Sevee and Maher Engineer and Andrew Hyland, AIA, Port City Architecture. Tax Map U-11, Lots 27 & 28.

Dan Diffin, Sevee and Maher Engineers, said with him tonight is Andy Hyland from Port City Architecture and others including Fire Chief Dan Small. Mr. Diffin showed an aerial view of the current Central Fire Station and described the location. Mr. Diffin showed the site plan for the project. The existing apparatus bay will stay with some renovations and a small bump out added to the back. A 2 bay apparatus garage will be added between the existing structure and a new admin space to be added. Overall, there will be 6 overhead doors in the front for emergency vehicle access.

Mr. Diffin said that the existing parking to the west will remain with minor changes and will be for staff parking only. There are reasons why they are proposing a staff parking only lot and the key is to separate the two uses so that when the staff is dealing with an emergency, the public can still access the admin part of the building. The public parking area is proposed for the southeast side of the property. Mr. Diffin showed a picture of what the new station will look like and pointed out the parking areas. The public parking area will service the lower level of the admin building with a classroom that can be used for small community events to allow up to 70 occupants. Two additional parking spaces are proposed at the front of the main entrance to the admin building for day to day burn permits or visitors to the Fire Department. If more than 2 spaces are needed, there is access into the building from the lower lot that also serves as the ADA access.

Mr. Diffin pointed out a generator pad in the back and the snow management areas at the rear of the parking area. Mr. Diffin said that they are requesting 7 waivers. One is for parking within 15' of the property line for the public lot with the abutter to the east.

Mr. Diffin said that the sight distance is okay. The existing 2" domestic water lines into the station will be reused and they will add a 6" line. The sewer will tie into the street. There will be overhead electric to a pole currently in front of the main entrance that will be relocated to an area between the main entrance and the visitor parking area. The electric will then go underground and will be directed to a transformer in the back. The capacity letter from the Portland Water District has been submitted and is approved. Mr. Diffin said that the curb cuts/road openings did require going through the Maine DOT permit process and this has been included in the Board's packet.

Mr. Diffin said the main struggle they have had with the site is that the grading drops about 10' from the staff parking space to the proposed lower parking space and with the property line to the southeast. Mr. Diffin explained the grading and the drainage on the southeast. Mr. Diffin showed how the water runoff will exit the parking area to a new manhole that will be added in the corner of the property. The storm drain will be extended in front of the abutter's property and another new manhole added. Mr. Diffin said that the Town is in talks with the abutter to negotiate an access easement to construct the storm drain. A construction easement will be needed with the abutter to grade onto the abutter's property. An underdrain is proposed for the abutter's property to help with saturated soils and a 6' stockade fence will be added to separate the parking from the neighbor's view. The front of the apparatus bays will be regraded to encourage drainage away from the building.

Mr. Diffin reviewed the landscaping plan and said right now the site has a tree line along the back that they will try to maintain. The trees along the southeast will be removed and this has been agreed upon by the abutter. A lit flagpole with plantings will be in the front and there will be a boulder wall with some plantings.

Mr. Diffin said that five waivers were originally requested and based upon the peer review, two more have been added. One additional waiver is for grading. As you come into the site, the requirement is for 40' at 3% or less and they have 25' at 2% that drops to 5%. The two proposed parking spaces in the front have as much as a 9% slope and then a 5% slope parallel with the parking space. The other additional waiver is for the need for 2 access points and the ordinance allows 1 access point. Mr. Diffin said there is no feasible way to get the parking they need with 1 access point. Mr. Diffin said that the peer review also suggested a waiver for the two parking spaces in the front to back out into the street but the ordinance says a waiver is needed for more than 2 spaces. The proposal is limited to 2 spaces and it is Mr. Diffin's interpretation that they do not need this waiver. Mr. Diffin explained the other waivers.

Andy Hyland, Port City Architecture, showed a virtual model of the new station. He said one thing that is important in public safety projects is to ensure separation for staff, fire use and the public for safety reasons. They intentionally wanted to keep the lower level parking separate from the staff. Mr. Hyland noted that the existing parking in the front of the station currently backs out into the road so they are not increasing an issue in this respect. The existing building will be taken down with the current 4 bays remaining. Mr. Hyland said this building will satisfy the Town's needs for many years and further explained the design.

Chairman Moriarty said he understands that the small ranch house will be razed to the east of the current building and asked if it could have been moved for habitat housing or something of this nature. Town Manager Bill Shane replied that the house will not be razed and will be moved to the Town Garage site temporarily and a foundation, hopefully on a town owned lot, will be put in place and the property will be sold. Demolition of the existing fire station's office space will occur.

Mr. Berrett asked if there is any sidewalk from the front door down to the lower parking area. Mr. Diffin said they evaluated this but there is an issue with the change of grade. ADA access is provided into the building from the lower level.

Ms. Maloney-Kelly stated that if someone is handicapped, they will have to enter from the lower level and take an elevator to the main level and Mr. Diffin agreed. Mr. Shane said that there will be a monitor at the lower entrance and when someone comes in they will be able to buzz a person to come down to meet them. Mr. Shane added that there is an at grade main entrance in the front but the two parking spaces do not meet the slope for ADA requirements.

Mr. Boivin asked if the generator will be diesel or propane and Mr. Shane said it is diesel. Mr. Boivin asked where the fuel tank will be. Mr. Diffin said it will be with the generator. Mr. Boivin asked if the size of the generator and fuel storage will be increased. Mr. Diffin said yes, the generator pad shown on the plan will accommodate the larger generator and the fuel storage. Mr. Boivin said at Christmas time the Fire Dept. sells trees and he asked if this will continue and if so, where will this be located. Mr. Diffin said he has not been involved in this and he suspects it will take place in the lower lot. Mr. Boivin noted that the parking is very tight to the property line and they propose a fence and some block wall for drainage and he asked about discussions with the abutter. Mr. Shane responded that right now there is a hill that comes across the abutter's garage that takes the drainage from all of the properties behind the abutter right to his property. Steve and Sonja Richard are the

owners of the abutting property. Mr. Shane said that he has been in contact with them extensively. The agreement is that the Town will add an underdrain on his property if needed. The Town is seeking a 15' permanent easement across the Richard property to maintain the drainage.

Chairman Moriarty opened the public hearing.

Dale Denno said he lives on Main Street and is an abutter behind the fire station. Mr. Denno is supportive of the plan. He asked about buffering behind the fire station and said that right now, the pine trees are shedding their lower limbs and do not do much buffering. Mr. Diffin said that to the rear of the site now there is a stand of trees that will be maintained. They are not proposing adding any additional trees.

Chairman Moriarty closed the public hearing and explained the site plan review process.

The Board reviewed the requested waivers. Mr. Sherr moved to accept the 7 waivers as presented in the submittal package, seconded by Mr. Saunders and **VOTED, 6 yeas - unanimous, motion carries.**

Waivers Granted:

1. Hydrogeological Evaluation - Project will be served by public water and sewer.
2. Market Study
3. Parking Standard 229-10B (2) (b) - Proposed community parking access will be less than 75 feet from the adjacent driveway.
4. Parking Standard 229-10B (4) (b) - Proposed layout includes parking spaces within 5 feet of the east property line.
5. Parking and Loading 315-57 - Reduction in required parking spaces from 26 to 21.
6. Parking Standard 229-10B (1) (c) - Site constraints will not allow grades of less than 3% within 40 feet of a public street.
7. Parking Standard 229-10B (1) (h) – Each parking area will serve a different use at the facility. The upper lot will be reserved for staff parking. The lower lot will serve visitor parking. Separation of these two areas is critical to the safety and function of the facility.

Chairman Moriarty reviewed the site plan criteria (findings of fact). Mr. Saunders moved to approve the findings of fact as amended, seconded by Mr. Berrett and **VOTED, 6 yeas - unanimous, motion carries.**

FINDINGS OF FACT - 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.

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 existing property is a developed parcel within a residential neighborhood. Proposed development will not alter the use or function of the existing property. Redevelopment of the facility will result in an increase of approximately 9,800 square feet of impervious area. There are no wetlands or habitat for rare or endangered species present on the existing property.

The site overlies a sand and gravel aquifer, as mapped by the Maine Geologic Survey. The proposed facility will be served by public water and sewer services. Impact to the aquifer is not anticipated.

A geotechnical investigation was conducted on the property by S.W. Cole Engineering, Inc. on June 9, 2016. Six borings were placed at the anticipated corners of the building addition, and one in the center of the proposed structure. Borings indicated fill to a depth of 3.5 to 5.0 feet below the existing ground surface (BGS). Fills were underlain by layers of clay, silt, and sand to a depth of 11.5 to 27.0 feet BGS, which is consistent with glacial fluvial soils typically found in this area. A copy of the S.W. Cole report is included in Attachment F.

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

2. 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.

(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 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 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.

(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.

(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.

(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.

(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.

Traffic will access the Fire Station from Tuttle Road in the same manner that it currently does. The existing parking area to the northwest of the current apparatus bays will be retained and reserved for staff parking. Emergency vehicles and equipment will have direct access to Tuttle Road across the regraded drive. Two visitor parking spaces serving the front entrance and new administration areas will also access Tuttle Road directly, similar to visitor parking at the existing facility.

A new 22-space parking lot is planned for the southeast portion of the property adjacent to the proposed building addition. This lot will provide ADA and community access to the facility at the lower level of the addition to directly access the public meeting and training space in the new facility.

A total of 45 parking spaces are planned for the new facility; 21 in the existing staff parking area, two at the proposed main building entrance and 22 at the new visitor parking area southeast of the proposed building addition. A parking calculation for the facility is provided in Attachment G. Based on anticipated building use, available staff parking will be 5 spaces less than the off street parking requirements outlined in the municipal Zoning Ordinance. Visitor parking will meet the

requirement at 24 spaces allocated for community use on the lower level. A waiver is requested for staff parking based on available space on the property. A Driveway/Access Permit has been submitted to the Maine Department of Transportation (MDOT) for proposed modifications associated with the proposed redevelopment. A copy of the application is provided in Attachment B.

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

3. 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.

(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.

As the proposed site redevelopment will disturb less than 1 acre, a Stormwater Permit Application for the Maine Department of Environmental Protection (MEDEP)

is not required. Grading for the proposed development is designed to retain all stormwater runoff from the new impervious areas. The lower lot is curbed and equipped with a double grated catch basin, porous concrete panels, underdrain and underground storm drain piping connected to the existing municipal closed storm drain system in Tuttle Road.

SME conducted an investigation to determine the impact of proposed site improvements on the existing municipal stormwater system. Increases in surface runoff associated with the project were minimal and within the capacity of the existing system. Results are outlined in the Stormwater Management Report included in Attachment C.

The construction will be completed in accordance with the most recent version of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices and as detailed on Drawing C-103 included in the drawing set.

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

4. 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.

(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.

(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.

(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.

The plan for the expansion of the Fire Station includes an increase over time from eight employees and students in a 24-hour period to up to fourteen employees and students in a 24-hour period. This increase of 6 full time occupants is not anticipated to result in a significant change in water usage at the facility.

SME has estimated the increased water requirement, and requested a statement of capacity from the Portland Water District (PWD), which is included in Appendix D. The new building will have fire protection throughout.

Similar to water demand, the increase in occupants is not anticipated to impact the public sewer system.

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

5. 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.

(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 groundwater used or hazardous materials discharged as a result of this project. Any hazardous materials will be stored inside the Fire Station due to its location over a sand and gravel aquifer. The property is not located within an area designated as a source protection area. Truck washing operations will be inside the apparatus bays. Wash water will drain through an oil/water separator prior to draining to the public sewer. No effects to the aquifer are anticipated from this project.

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 located in an aquifer protection area. The proposed use which will be served by public sewer will not adversely affect the aquifer.

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

6. Floodplain Management

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

The site is located in an area of minimal flooding (Class C) as shown on FEMA floodplain map # 230162 0015 B.

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

7. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The site review has been requested from the Maine Historic Preservation Commission (MHPC). A copy of the request for review is included in Attachment E.

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

8. Exterior Lighting

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

Site lighting will include shielded, full cut off fixtures to ensure light levels at the property line do not exceed minimum standards for light pollution at the property line. Fixtures will be connected to a timer set to turn off at 10:00 PM to minimize impact to abutting property Owners. The exterior lighting around the building will be done in accordance with the photometrics plan prepared by Charron, Inc. and Port City Architects and included in Attachment H.

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

9. 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.

The property is currently developed as a Fire Station and residential structure. Modifications to the existing buffering and landscaping on the property are outlined on Drawings C-101, C-102 and L-1 in the attached project plan set. Removal of existing trees and installation of proposed fencing will be coordinated with the abutting property Owner.

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

10. Noise

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

There is no change in use associated with redevelopment of the existing property, therefore a change in noise level is not anticipated.

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

11. 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.

No change in waste storage is anticipated from the proposed development. Any hazardous materials will be stored inside the Fire Station due to its location over a sand and gravel aquifer.

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

12. Capacity of the Applicant

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

Financial Capacity – The project will be funded with Town Council approved funds.

Technical Capacity: The Town has hired Boundary Points Professional Land Surveyors, Sevee & Maher Engineers, Inc., Port City Architects and Ledgewood Construction to assist with the project design. Construction and maintenance of the project will be performed by experienced contractors as necessary.

Board finds the standards of this section have been met.

13. 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.

(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: Not Applicable

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

Mr. Sherr noted the proposed conditions of approval and suggested adding another that the drainage easement is negotiated and approved with the abutter. Mr. Saunders moved

to approve the Site Plan Review for Central Fire Station Renovations and Expansion, 363 & 366 Tuttle Road, Tax Map U-11, Lots 27 & 28 subject to the limitation of approval, the standard condition of approval and the 3 conditions of approval, seconded by Mr. Sherr and **VOTED 6 years – unanimous, motion carries.**

LIMITATION OF APPROVAL: Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

STANDARD CONDITION OF APPROVAL: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted 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. A preconstruction conference shall be held prior to the start of construction.
2. All clearing limits be flagged prior to the preconstruction conference and inspected and approved by the Town Engineer.
3. All outstanding drainage issues with the abutter must be resolved.

3. TABLED Public Hearing: Major 10 Lot Residential Subdivision Review for Preliminary Review. Spring Valley Subdivision. 29 Blackstrap Road. Applicant: Walnut Hill Investments; Representative: Dan Diffin, P.E., Sevee and Maher Engineers. Tax Map: R07 A; Lot 1 A. This item was tabled prior to the meeting.

4. *Public Hearing: Recommendation to Town Council to amend the Contract Zoning Agreement for Cumberland Foreside Village to;* *1. Require plantings within the I-295 buffer along Lot 100 to screen the multiplex dwelling units, 2. Remove requirement to build sidewalk along buildings and trail within the I-295 buffer as previously stated in Exhibit D to the CZA (Design Guidelines for Commercial Properties and Multiplex Dwellings), 3. Require construction of a common walkway/path within the Route 1 right of way from Sky View Drive to Seafax and 4. Remove additional Route 1 buffer requirement for Lot 9, provided that the front setback is met and sufficiently vegetated.* Applicant; Cumberland Foreside Village Housing, LLC, Tom Greer, P.E., Pinkham and Greer, Representative. ***Tax Map R01; Lots 11-1, 11-2, 11-3, 11-4, 11-5, 11-7, 11A, 11B, 11C, 12 & 12A.***

Tom Greer, Pinkham and Greer, showed the master plan of the Cumberland Foreside Village project and reviewed the proposed amendments. The first item is for plantings. There were some issues along the I-295 buffer near the apartment buildings and neighbors across the highway would like additional plantings. Mr. Greer said they have agreed to this and the plantings will be site specific and field located. Mr. Greer said another item is a requirement to put a trail along the beautification easement buffer near I-295. There are questions about whether this is allowed under the beautification easement

and this requirement will be removed. A third item is to add a sidewalk along Route 1. The last item has to do with lot 9 that was originally approved by the Board for a small building. The underlying zone requires a 25' setback that is met for lot 9. Mr. Greer said that there is a wetland that runs through the middle of the lot on the back and by changing the setback, they are able to build on the lot.

Mr. Berrett asked Mr. Greer to clarify the reference in #2 to "build sidewalk along buildings". Mr. Greer said that this refers to removing the sidewalk along the beautification easement buffer and he does not think the words "along the buildings" should be there. Mr. Saunders referred to the second to last page of the agreement and said this is how it is phrased.

Mr. Boivin asked if trees will be added in the easement area. Mr. Greer said the trees will be added next to the easement area. Mr. Saunders said that the language will need to be amended because it currently states that "The location of the plantings within the lot 100 buffer shall be substantially the same location as shown on exhibit E" which is noted that exhibit E is not provided subject to Town approval. Mr. Saunders recommends changing this to "...within the lot 100 buffer shall be field located subject to Town approval of the same".

Mr. Saunders confirmed that this has gone through the new contract zoning amendment process and Mr. Shane agreed.

Chairman Moriarty said that Route 1 has wide, paved shoulders and asked if the sidewalk from Skyview Drive to Seafax will be in addition to the paved shoulders. Mr. Greer said that is correct. Chairman Moriarty asked if the sidewalk will be set back with a strip between the pavement and the sidewalk and if it will meander. Mr. Greer said they want to save some of the trees in this area and want to avoid the ditches and drainage. Chairman Moriarty asked who will use the sidewalk. Mr. Greer said it is anticipated that the sidewalk will be used by residents of the apartments and anyone else who wants to walk along it. Mr. Greer added that the new design of this section of Route 1 includes a 5' wide bike trail. What is now a 10' wide shoulder will be reduced to a 5' wide bike lane with a center turning lane so there will not be as much room here to walk as there is now. Mr. Greer said the sidewalk will be placed into the trees and will be a pleasant amenity and will have a gravel surface.

Mr. Sherr asked why the walkway will stop at Seafax and not continue on to the other entrance with the apartments. Mr. Greer explained that a site walk was done with Town staff and at Seafax, the side of the road drops off dramatically. In order to put a sidewalk there, it would be down below Route 1 and as you walked along, the cars would be at eye level. This is awkward and not safe. Mr. Greer said the sidewalk would come out to the bike lane and people could walk along the bike lane. Mr. Sherr asked if, at the other end, the sidewalk will extend past Skyview Dr. and Mr. Greer said it will not.

Mr. Boivin asked about the easements being shown on the plan that was discussed previously. Mr. Greer said that the subdivision plan has been modified and signed as part of a different item for a subdivision amendment.

Ms. Nixon noted that if exhibit E has been removed from the contract zone agreement entirely, exhibit E is mentioned again in exhibit D and should be removed.

Chairman Moriarty opened the public hearing.

Tom Foley, Granite Ridge Rd., asked how the construction of the walking path will relate to the maintaining the buffer along Route 1 when the buildings are built on the unsold lots. Ms. Nixon said that the unbuilt lots do not have a lot of vegetation. The sidewalk is supposed to meander between the trees so as not to lose the tree buffer. Ms. Nixon said that she thinks that where there are no trees, the sidewalk will be in the open. Mr. Shane said that the contract zone agreement is not under the influence of the Route 1 guidelines. A 20' vegetated buffer is required as part of the contract zone agreement. The walkway will be placed between the Route 1 right of way and the buffer. Mr. Foley noted that language in item 4 regarding being "sufficiently vegetated" is kind of ambiguous and suggested this be rephrased. Mr. Shane cited page 8, item H, of the agreement that says "the Route 1 buffer shown on the plan shall be 35' from the Route 1 right of way. 25' of which shall be undisturbed vegetation and the remaining 10' can be used for a common walkway/path". Mr. Shane noted that the site plan is subject to the Board's review. Ms. Nixon asked if, when the Board does site plan review for lot 9, this precludes the Board from asking for additional buffering in this area. Mr. Greer said that it is his understanding that the buffer standards in the site plan review ordinance still come into play and there would be a 25' buffer between the buildings and the boundary line that would be planted to the satisfaction of the Board.

Shirley Storey-King, 28 Shirley Ln., spoke in support of the additional plantings along the back buffer and showed pictures of what the project looks like from her property. Ms. Storey-King said that she has a concern with the houses. There is a whole different appearance as you drive down Middle Rd. at night and look east and it is like a city scape now with all the houses there.

Chairman Moriarty closed the public hearing.

Mr. Saunders moved to recommend to the Town Council to approve the amended Contract Zoning Agreement for Cumberland Foreside Village, Tax Map R01; Lots 11-1, 11-2, 11-3, 11-4, 11-5, 11-7, 11A, 11B, 11C, 12 & 12A, seconded by Mr. Berrett and **VOTED 6 yeas – unanimous, motion carries.**

5. Public Hearing: Major Subdivision Revision or Amendment to amend the Village Green Subdivision plan to show revised lot line for Tax Map R03 Lot 54 and Tax Map U10 Lot 7 B, Applicant: Town of Cumberland.

Town Manager Bill Shane showed a map of the Village Green subdivision, owned by Bateman Partners. He explained that when the Town began processing the application with the DEP for the brush dump, test pits were required. It was discovered that the extent of the brush dump was further than the Town believed by about 50'. This required the Town to file some amendments with DEP after the subdivision went in on behalf of some lot owners and also to talk with Bateman Partners about the need to do a deed swap and move the lot line about 100' closer to the pond to get the setback away from the landfill. Mr. Shane said the town seeks to amend the lot line that is common to the Town Garage and the area right behind the salt shed next to the pond. This requires Planning Board approval. Mr. Shane said the Town will prepare deeds and come back to the Board's next meeting with Mylars for signatures.

Chairman Moriarty confirmed that this item is for an amendment to the subdivision plan for a new common lot line between the Town Garage and the open space for Village Green. There is no financial consideration as part of this amendment.

Mr. Sherr asked if, after the property line is moved, all the work on the closing of the landfill will be conducted on the Town property and noted an area of riprap. Mr. Shane said the rip rap will be cleaned up and the work will all be on Town property.

Mr. Saunders asked if the net residential calculations for the subdivision will have to be changed. Mr. Shane replied that he does not believe so but he will come back to the Board with the answer.

Ms. Nixon noted figure 1 that shows a 100' variance in a red dashed line and asked if easements have been obtained if needed. Mr. Shane said as soon as the Town found out about the limits of the landfill several years ago, the Town applied for variances with DEP on behalf of the subdivision and these were granted before the homes were constructed. DEP requests that these variances be applied for and the Town could apply for additional variances at this time but since the original master plan was negatively impacted, a new phase two plan will be needed. Mr. Shane said phase two was for townhouses where the Town Garage site is and there was going to be a commercial building. Mr. Shane indicated an orange lined area on the subdivision map and said anything planned for within this area can't happen. Mr. Shane indicated a red lined area on the map and said anything within this area requires a variance from the DEP.

Mr. Boivin asked if this is phase two as approved on the master plan. Mr. Shane said it is phase two as approved on the master plan but it has never been before the Board as part of a subdivision or a site plan. Phase two is planned for after the Town Garage is moved in 5-7 years. Mr. Boivin asked about the non-disturb buffer on the landfill. Mr. Shane said that anything that the landfill cap is placed over cannot be penetrated without extensive review by DEP, anything within the orange line is the actual landfill limit and cannot be disturbed and anything outside of this to the red line needs a variance from DEP.

Chairman Moriarty opened the public hearing. There were no public comments. Chairman Moriarty closed the public hearing.

Mr. Boivin asked if this change will affect the contract zone for Village Green. Mr. Shane said that he does not think it will and he will check with the Town Attorney.

Mr. Sherr recommended that checking on the net residential density calculations and the effect on the CZA be added as conditions of approval. Mr. Sherr moved to approve the major subdivision revision or amendment to amend the Village Green Subdivision plan to show revised lot line for Tax Map R03 Lot 54 and Tax Map U10 Lot 7 B including two conditions of approval to revisit the net residential density calculations and to confirm with the Town Attorney whether this effects the contract zone agreement or whether an amendment is necessary for that, seconded by Mr. Saunders and **VOTED 6 yeas – unanimous, motion carries.**

The Board recessed for 5 minutes and the meeting resumed.

6. Public Hearing: Recommendation to Town Council to Repeal and Replace Section 315-63 (Signs) of the Cumberland Code. Applicant: Town of Cumberland.

Chairman Moriarty explained that there is a chapter in the Cumberland Code dealing with signs that has been in place for years and it has been known for some time that the sign ordinance needed a tune up. Last summer, a proposal was made to the Town Council to allow LED signs in the Town Center District (TCD) from Farwell Ave. to the Town Center,

where the church is. It was the church that raised the issue of installing an LED sign in place of the lettered sign that is there currently. The Town Council referred the issue to the Ordinance Committee which consists of 3 Town Councilors. The Ordinance Committee met and voted 2 to 1 against the idea of internally illuminated signs. The full Council then asked the Ordinance Committee to tackle the matter again and to come up with something that allows for internally illuminated signs in the TCD. In June, the Ordinance Committee expanded to include Town Planner Carla Nixon, Town Manager Bill Shane, Chairman Moriarty and Paul Auclair. The Town Council enacted a moratorium on signs, which has expired.

Chairman Moriarty said this has been a long and detailed effort and a lot of time was involved. Towards the end of last year, the Ordinance Committee came up with a draft sign ordinance for consideration. A lot of the proposed changes are housekeeping related matters and a good deal has to do with allowing some internally illuminated signs within the TCD.

Mr. Shane showed a map of the TCD. Chairman Moriarty said that the TCD was created about 6 years ago. There was a Town Council Citizen Committee called the Main Street Advisory Committee and Chairman Moriarty, who was on the Town Council at the time, served as the liaison. They dealt with whether or not to allow commercial uses in some portion of the Main St. corridor. Zoning at that time only allowed residential uses. Food Stop, Terry Snow's office and other commercial uses were grandfathered that were open before the zoning was changed. The Main Street Advisory Committee recommended the creation of a new zone, the Town Center District, which would allow commercial uses together with the existing residential uses. Chairman Moriarty noted that there was a lot of robust discussion over the change and the district was created. Changes have been seen. Louie's Restaurant and Cumberland Food Co., formerly Doc's Café, are new uses which would not have been allowed prior to the new district.

Chairman Moriarty said that basically the Ordinance Committee came up with a proposal which would allow LED type signs in the TCD to be used by businesses. There is a limit on the size of the sign that can only be white lettering with a black background as opposed to the multi colored sign seen on the Greely High School campus. There are limitations regarding hours of operation. The sign must be inside a frame and cannot be portable. There are terms and definitions regarding the intensity of the lighting.

Chairman Moriarty read a letter from Gary & Patricia Heiselberg indicating that they are not in favor of allowing electronic message center (EMC) signs and asking the Board to prohibit them.

Chairman Moriarty said that this item is an ordinance change and the Planning Board cannot approve it. The Board can only make a recommendation to the Town Council which has the sole authority to change or modify Town ordinances. The Planning Board's recommendations are not binding upon the Council. The Council will have this item on their agenda soon and there will be another public hearing before the Council before the Council votes to do anything.

Chairman Moriarty opened the public hearing.

John Davis, property owner within the zone and President of the Osgood Condo Association, asked for the support of the Planning Board to pass along to the Town

Council not to include signs as LED or other electronic signage. Mr. Davis spoke against allowing LED type signs.

Chairman Moriarty shared the definition of electronic message center sign: A digital form of a changeable copy sign that is electronically controlled by remote or automatic means to display characters, numerals or letters through the use of internal illumination, such as Light Emitting Diodes (LEDs).

Mike Perfetti, 283 Main St., indicated he also served on the Main St. Advisory Committee and said he lives just outside of the TCD. Mr. Perfetti said that the sign does not matter to him particularly but he is a policy guy and feels that if something is good for the goose, it is good for the gander. Mr. Perfetti said if the Town will allow something like LED signs, he is sure that there are other businesses in other districts that would like this opportunity. Mr. Perfetti said it seems strange to him that the Ordinance Committee said 2 to 1 don't do it and then the Ordinance Committee was reconstituted to essentially provide the church with what they have asked for by only allowing the LED sign in one district. Mr. Perfetti said limiting LED signs to one district seems unnecessarily restrictive and if it is good for this district, it's certainly good for other districts. Mr. Perfetti noted that there is a lot of light pollution and an abundance of signage in the center of Town that is unnecessary in his opinion. Mr. Perfetti said that light pollution is a big deal and if you don't live in an area like this, it is hard to imagine.

Mr. Perfetti said that it was decided to have mixed use in the TCD and this was a big decision that effects people directly so it seems that being conservative is the way to go. Mr. Perfetti said that the sign that the school put in is probably uniformly hated but he doesn't think that the proposal is like the school sign. Mr. Perfetti said there are design standards for the TCD. He does not know if these have been reviewed in relationship to the new ordinance but it seems that the new ordinance would make the sign section of the design standards null and void. Mr. Perfetti said that if this proceeds, the Town will have to look at the TCD design standards and Mr. Shane agreed. Mr. Perfetti urged the Board to be conservative and to challenge how the proposal got to be only for one district.

Chairman Moriarty said that the focus on this part of Town is because the request came from the district. Also, this is a bit of an experiment and there was some thinking that rather than allowing LEDs on a town wide basis, it made sense to try it out on a limited basis to see how it worked before going town wide. Chairman Moriarty noted that this is his impression and he invited other members of the Ordinance Committee to add any comments.

Melissa Gattine, 325 Main St., said she is very concerned about making this change. A lot of thought was put into the design standards at the time that the district was created. Ms. Gattine said she is relatively happy with the changes but the school sign is hideous. Ms. Gattine said that in January, there was an article in *Maine Home and Design* about Cumberland and why people move to and live here. She read the last paragraph of the article and asked the Board to take it into account in their thought process. Ms. Gattine said this issue requires conservatism because once the door is opened, there are a lot of properties that would have the right to open as a business and have these signs and there would be no recourse at that point.

Carolyn Currie, resident in the TCD, said she is very concerned about the addition of LEDs in the center of Town. It changes the atmosphere of the lovely center. Mr. Currie said 6

years ago when the zoning was changed from residential to mixed use, the standards that were presented sort of eased the change and made residents feel more comfortable. Ms. Currie said they were told that the design standards are in place to protect everyone so that the residential and commercial can be side by side in a compatible way. The proposed new signage is for the use of businesses. Ms. Currie resides next to Louie's Grill with a dentist on her other side. She has lights shining up and shining in and she doesn't think that LED lights are very pretty. Ms. Currie is also concerned with compliance in Town. People are not compliant with when the signs go off or with the way they are lit. The light trespassing is a major deal for her. Ms. Currie strongly hopes that the Board decides that this is not a good idea for the Town. There would be about 10 business now that could put LED signs out. Ms. Currie recognized that LED signs are expensive but there is a potential to have 10 LED signs down Main St. and she would not like to see this.

Carrie Larson said she is a member of the PTO and is the person that actually goes out to put the letters on the sign board at the Mabel I. Wilson School. Ms. Larson said the school sign is in severe decay. The PTO is in need of a new sign and are in support of LED signage. Ms. Larson said that having a digital sign that the office can update without a person having to physically go outside would be wonderful and she supports the change.

Chairman Moriarty noted that the Wilson School is not part of the TCD currently but the next item on the Board's agenda is to consider a recommendation to add the Greely campus (including the Wilson School) to the TCD.

Paul Auclair, Olivia Ln., said he is a church member. Mr. Auclair said the current ordinance allows lights and flood lights can be seen along Main St. that are like driving into a high beam car. Mr. Auclair said that not having LED signs does not eliminate light. Mr. Auclair said a demo of the LED sign has been done. The proposed LED sign has no movement or flashing and changes only every 20 minutes or fewer and looks like the sign the church has now. The sign is white on black with a standard font and most businesses would not be interested in this type of sign. Mr. Auclair said it is nothing like the high school sign. If allowed, the LED sign would be encased in a frame similar to what the church has now. The software is by a company that deals with municipalities across the country that are very sensitive to what is being talked about.

Diane Bennekamper, Minister of the Congregational Church, cited many community wide events sponsored by the church and spoke in favor of allowing LED signs.

Melissa Richter of the PTO commented that there are 2 reader boards in town that are old and need to be replaced. She asked why the Town can't have an ordinance that says if you have a reader board now you can replace it with one of the proposed LED signs.

Deb Dugas, 312 Main St. (directly across from Greely High School) said she draws her shades every night because of the high school LED sign. She recommends that the Board pass on to the Council to give this a considerable amount of thought and investigate all avenues. She understands why the church wants the type of sign they have described. Ms. Dugas said even the high school sign would be more neighborhood friendly if it was not on all night, 24/7, 365 days a year and if there was some kind of reasonable time limit. Ms. Dugas said there needs to be consideration for what this could evolve into and added that if one area in Town is allowed to have these type of signs then all areas should. Ms. Dugas said that the high school traffic at the present time is hectic and the more digital display signs that you have just add the distractions of drivers.

Chairman Moriarty noted that residential uses could not have this type of sign and nothing is written about signs being located within a certain distance of another sign.

Gail Witherill, church member, spoke in support of allowing the LED sign and asked people to go online to see what the black signs with white letters look like and it is much like what the church has now. Ms. Witherill said that the timing of the lighting can be handled very well electronically instead of someone having to switch a light on and off. She asked the Board to please consider recommending this to the Council.

Jessica Grondin, Main St. resident and PTO member, spoke in support of this item and the next item. She said that there are many benefits to the community and there are good restrictions in place about what can happen in terms of the color and hours so that the sign doesn't become a nuisance. She asked the Board to pass on a favorable recommendation to the Council.

Mr. Auclair said that illumination seems to be a focus and he wants everyone to realize that with floodlights, there really is no control. The new ordinance would control the daytime and the nighttime luminesce and it could be metered and change at the discretion of the Town Planner or a designee. Mr. Auclair said that unlike conventional lighting, digital lighting can be controlled.

Ms. Currie asked if the Board has seen the proposed sign at night. Chairman Moriarty said that last fall there was a demonstration and it was twilight and the proposed sign is very much like construction signs seen on I-295 only the color is amber rather than white. Ms. Currie said that she works at the Library and changes the sign all the time and does not think it is a big deal.

Lynn Wise, PTO member, said that a question came up about whether an LED sign would be just for Mabel I. Wilson School or might there be another sign for Greely Middle School. The hope is that this would be a shared sign for both schools. Ms. Wise said the proposed guidelines and restrictions are fair, reasonable and make perfect sense. They are looking for substance and safety, not flash, and want the ease of making updates to communicate to the community and Ms. Wise noted that changing the sign is dangerous and laborious. Chairman Moriarty noted that the proposed ordinance states that only one EMC will be allowed per lot.

Chairman Moriarty closed the public hearing.

Chairman Moriarty disclosed that he is a member of the Congregational Church and does not feel that this is a conflict of interest.

Mr. Saunders referred to the Town Center District Standards and asked if the proposed ordinance passes, would there then be two ordinances in conflict with each other. Chairman Moriarty said to be clear there would be 3 ordinances in conflict with each other. The TCD, section 315-21, says that there shall be no internally illuminated signs and the Town Center Design Standards say that only externally lit signs are permitted and these two would conflict with the proposed ordinance and would have to be brought into sync with each other.

Ms. Maloney-Kelly said she is concerned that the proposal is only for 1 district and there are businesses throughout the Town. She saw the sign and honestly thought it is much nicer than some of the signs and lighting that people have to endure. The LED signs do give an opportunity to send a message. Ms. Maloney-Kelly said that again, it would only

be one church that would have the opportunity and there are many churches within Town boundaries.

Chairman Moriarty said that as a member of the expanded Ordinance Committee, they had a task to produce something per the Council's request. He worked harmoniously with other members to come up with something clear, understandable and logical that was an improvement over what the Town has now. With respect to EMC/LED signs, the Committee came up with the lowest impact conceivable.

Chairman Moriarty said he has struggled with this and given it a lot of thought. He cited his involvement with the Main Street Advisory Committee 6 years ago when they recommended the conversion of a primarily residential zone into a mixed zone. A lot was asked of the residents at that time and they fundamentally changed the character of the neighborhood. Chairman Moriarty said that the Council in effect made a series of promises that businesses would be allowed but with limits to hours of operation, size, type of business and the ordinance at the time did not allow internally illuminated signs of any type. Chairman Moriarty said that he can't support the proposed lighting changes with respect to the signs and the rest of the proposal is solid and well put together.

Mr. Saunders said that these types of sign are probably less intrusive than a lot of the signs on Main Street and noted that the Town cannot restrict these types of signs to civic organizations only. Mr. Saunders said that he does not want to drive down Main St. and see every business with an EMC sign and would this happen - probably not, could this happen - yes.

Mr. Boivin agreed with Chairman Moriarty said that it is unlikely but possible that there could be 3 or 4 signs changing one after another. Mr. Boivin said he does not see this in the TCD or in the Town.

Ms. Storey-King, Town Councilor & Chair of the Ordinance Committee, said all of the concerns raised tonight were discussed. The Committee came up with some great ideas and then the Town Attorney would say their ideas can't be done.

Mr. Sherr said a lot of work has gone into looking at the signs and limiting what they can and should look like to help keep the character of the Town. He struggles with fairness across the districts. Mr. Sherr said that this can't be applied to schools or the church alone, let alone the other districts and for him it comes down to fairness.

Mr. Berrett said that technology will not create a difference in the Town Center and the aesthetic would be a series of signs that are probably not much different than the signs that exist. There would not be more light pollution and it would probably be less than signs with spotlights on them. Mr. Berrett said he thinks it is a good way of bringing change into the Town if it could be monitored and controlled.

John Davis noted that the current monitoring and control is not effective.

Mr. Sherr moved to recommend to the Town Council to repeal and replace section 315-63 (Signs) of the Cumberland Code excluding the EMC/LED lighting sign provisions within the draft document, seconded by Mr. Saunders and **VOTED 5 yeas, 1 nay (Berrett) – motion carries.**

Public Hearing: Recommendation to Town Council to add MSAD #51 properties Tax Map U11, Lots 1,9 & 8 and Tax Map U13, Lot 112 to the Town Center District (TCD) zone.

Mr. Shane said that should the recommendation of the Planning Board hold and the LED signs go away, this item most likely would be tabled by the Town Council indefinitely. The TCD design standards would have to come to the Planning Board to be changed if the sign ordinance as presented is adopted.

Mr. Sherr asked if there is any other benefit for the school beyond the sign changes for this item and Mr. Shane said not really. Mr. Sherr asked how many lots there are at the school. Mr. Shane said there are 4. Mr. Sherr asked if the (full) sign ordinance moves forward, could there be a sign at Mabel I. Wilson School and at the Middle School in addition to the one already at the High School. Mr. Shane said that he does not think this could be. Right now the High School and the Middle School are one property, the Wilson School is another, there is a small lot in front of the High School and then there is the Superintendent's lot.

Mr. Saunders said that if the school district wanted to put a sign on every lot they could. Mr. Shane said this would be a challenge and it would be difficult.

Chairman Moriarty opened the public hearing. There were no comments. Chairman Moriarty closed the public hearing.

Mr. Saunders moved to recommend to the Town Council to add MSAD #51 properties Tax Map U11, Lots 1, 8 & 9 and Tax Map U13, Lot 112 to the Town Center District (TCD) zone subject to the Town Council adopting the full new sign chapter of the Cumberland Code (including the ECM/LED signs), seconded by Mr. Berrett and **VOTED 6 yeas – unanimous, motion carries.**

G. Administrative Matters / New Business: None.

H. Adjournment: Mr. Saunders moved to adjourn the meeting at 10:46 pm, seconded by Ms. Maloney-Kelly and **VOTED 6 yeas – unanimous, motion carries.**

A TRUE COPY ATTEST:

Stephen Moriarty, Board Chair

Christina Silberman, Administrative Asst.