

**TOWN OF CUMBERLAND  
PLANNING BOARD MEETING MINUTES  
Tuesday, August 21, 2018 - 7:00 pm**

**A. Call to Order:** Chairman Moriarty opened the meeting at 7:00 pm.

Chairman Moriarty welcomed new Planning Board member Ann Sawchuck and explained that she has been appointed to serve the remainder of Gerry Boivin's term.

**B. Roll Call: Present:** Steve Moriarty - Chair, Paul Auclair, Jeff Davis, Bill Kenny, Joshua Saunders, Ann Sawchuck & Peter Sherr. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant & Bill Shane - Town Manager.

**C. Election of Officer - Vice Chairman:** Chairman Moriarty explained that Gerry Boivin has resigned and was serving as Vice Chairman. The Board needs to elect a new Vice Chairman to serve from now until the first meeting in January.

Mr. Saunders nominated Bill Kenny to serve as Vice Chairman, seconded by Paul Auclair and **VOTED, 6 yeas, 1 abstained (Kenny) - motion carries.**

**D. Approval of Minutes of the July 17, 2018 Meeting:** Mr. Saunders noted minor corrections to the prepared minutes. Mr. Saunders moved that the Board approve the minutes of the July 17, 2018 Planning Board meeting as amended, seconded by Mr. Sherr and **VOTED, 6 yeas, 1 abstained (Sawchuck) - motion carries.**

**E. Staff Site Plan Approvals:**

**1. Cumberland Farmers' Club Display Building:** Ms. Nixon explained that Staff Site Plan Approval was granted to the Cumberland Farmers' Club to build a 36' x 35' wood framed building to be used during the fair.

**2. MSAD 51 Storage Shed:** Ms. Nixon explained that Staff Site Plan Approval was granted to the School District to put a 15' x 20' storage shed near the track.

**F. Minor Change Approvals:**

**Mill Run Multiplex Site Plan (relocation of septic):** Ms. Nixon explained that the Ordinance allows for the Town Planner to review small changes for current projects also known as minor field changes. Ms. Nixon has approved a small change that was time sensitive at the former Allen's Farm location to slightly shift the location of the septic field to better enable the utility connections.

**G. Hearings and Presentations:**

**1. Public Hearing: Final Major Subdivision Review for OceanView at Cumberland – 52 dwelling units plus 1 community building.** Tuttle Rd., Tax Map R04, Lots 4B, 4D, 4E & 5. **Applicant:** Ocean View at Cumberland, LLC / John Wasileski. **Representative:** Frederic Licht, P.E, LSE.

Ms. Nixon referenced an email that she sent to the Board this afternoon and a memo she left for the Board members on the dais tonight. OceanView and Village Green would not be able to be considered for approval tonight because there are outstanding

DEP permits. The Town Attorney has advised that there is a provision in the Ordinance that allows for approval subject to the DEP permit being brought to the preconstruction conference.

Chairman Moriarty provided history on the project including a Sketch Plan Review, Site Walk and Preliminary Plan Approval.

Peter Sherr disclosed that since the preliminary review, his firm has done some consulting work directly for the applicant on this project and he feels obligated to recuse himself from further participation on this item. Mr. Sherr left the dais and sat in the audience during review of this item.

Rick Licht, Licht Environmental Design, said he is here with Scott Anderson, counsel for the applicants. Chris Wasileski, OceanView, will be joining them soon. Mr. Licht reviewed changes to the project since the preliminary approval in March. Mr. Licht displayed the subdivision plan and described a couple of minor changes to the road alignment. The road has been shifted about 10 - 15' from the former location to save particular trees. Mr. Licht said that this is a minor change. Another change was to the type of culvert for the stream crossing from an arch culvert to a box culvert with footings. A stormwater pond has been slightly elongated based on DEP comments. Mr. Licht explained that the buffer areas have been clearly identified on the plan. Acceptable street names have been decided. All utility serviceability letters have been received.

Mr. Licht said that they worked with Grover when the sidewalk was being put in on the other side of Tuttle Rd. to add an ADA compliant ramp in the sidewalk to allow for a crosswalk to be added when the OceanView project is ready.

Mr. Licht reported that OceanView, LLC has closed on the properties which include 5.88 acres of the Allen property, the back of the Doane parcel of approximately 31 acres and a small .22 acre piece of an abutting parcel also owned by Mr. Doane. The project now includes 36.56 acres with access via a 50' easement across the Allen parcel that is about ½ acre for a total project area of 37.09 acres.

Mr. Licht said they have received the Army Corps. permit and are awaiting DEP permits. The DEP has done substantial review on both the Tier 1 NRPA permit and on the Sight Location of Development (SLODA) permit. Mr. Licht explained that DEP does not have the resources to complete writing the permits. Mr. Licht has talked with DEP staff and the review is done and is in the queue to be drafted. Mr. Licht said that if the Board is amendable, he is requesting conditional approval for the project based on the DEP permits being issued.

Mr. Licht said there is a memo with subsequent peer review comments and these are very minor items that have been and will be easily addressed. If the Board is agreeable, Mr. Licht asks that another condition of approval be that the staff comments are addressed.

Mr. Licht explained that there is a deadline of October 1<sup>st</sup> for the first culvert crossing and it is critical for the project to make this crossing because it is the only way into the project. If the in stream portion of the crossing isn't made by October 1<sup>st</sup>, they can't work in the stream until next June or July. Mr. Licht said that this would be an extreme

hardship for the project to move forward. The DEP is committed to issuing the permit under their six month guideline by early September. If final approval with conditions isn't received tonight they would be back at the September 18<sup>th</sup> meeting followed by a preconstruction meeting which would only give the contractor 10 days which would be a tight window.

Chairman Moriarty asked for clarification on the location of the stream crossing. Mr. Licht identified two locations where there will be a stream crossing. Mr. Wasileski added that the first stream crossing will occur this fall and the second stream crossing will occur next year. Mr. Licht clarified that the project will be completed in two to possibly three phases depending on the market.

Chairman Moriarty clarified that without the first stream crossing being completed this year, the whole project will be set back a year and Mr. Licht agreed. Mr. Moriarty stated that if a crossing is constructed this fall then the project is poised for 2019 and 2020 for the additional phases and Mr. Licht agreed.

Mr. Saunders asked for clarification on whether units #50 to #52 will be completed in phase 1 or phase 2. Mr. Wasileski replied that units #50 to #52 will be constructed last and will be at the location of the Allens' current house. Chairman Moriarty confirmed that OceanView has purchased the Allens' home and Mr. Wasileski agreed.

Mr. Kenny asked if the Board can make a condition of approval that the road work cannot start until the DEP permits are received. Ms. Nixon quoted the memo from the Town Attorney with sample language that the applicant "cannot perform any work on the stream crossing prior to acquiring the final agency approvals for this work. The applicant may perform work on either side of stream prior to final satisfaction of this condition of approval." Ms. Nixon explained that with this condition of approval, the applicant can have a preconstruction conference and the Town can allow the developer to remove trees, put in the road, put in the utilities and then put in the culvert once they have their DEP permit. DEP has a statutory requirement to either issue or deny the permit application by September 15<sup>th</sup>. Mr. Saunders noted that any work that they do will be done at their own risk. Mr. Anderson agreed and said that if for some reason they do not get the permit from DEP to do the crossing than any of the prep work would be a waste of money and would be at the developer's risk.

Mr. Auclair said that it seems that the applicant is quite certain that they will get the DEP permit. Mr. Anderson replied that there has been some back and forth with DEP requesting changes to one of the ponds and the substantive review is done. There is a process where DEP drafts the permit and then it has to go for review and this administrative process can take a few weeks. Mr. Anderson said that they do expect to get approval. If something happens and the DEP wants them to change something, they will have to come back to the Planning Board for modifications to the project.

Chairman Moriarty said he is looking at something that came today from Sevee & Mahar and it looks like the applicant needs both a Site Location Development Act Permit and a Natural Resources Protection Act Tier 1 Permit. Mr. Anderson agreed. Chairman Moriarty said Jeff Read from Sevee & Mahar also refers to a possibly required permit from Cumberland County Soil and Water Conservation. Mr. Licht

replied that his understanding is that they do not need this permit but if this will need a waiver then he asks for one. The DEP and Town Engineer have done this review and having a third agency do the same review doesn't make sense. Ms. Nixon said that the Planning Board hasn't required this review by the Cumberland County Soil and Water Conservation District for years because it is a redundant review. Ms. Nixon said when the Town revises the Subdivision Ordinance, which is in the process now, this is a change that will be made.

Mr. Saunders suggested a condition of approval basically saying that there be an appropriate resolution and approval by staff of all additional Town Engineer comments. Ms. Nixon agreed and suggested the condition of approval be "All outstanding issues identified by the Town Engineer be addressed prior to the preconstruction conference." Mr. Licht said they would agree to this.

Mr. Saunders referenced the license for the snowmobile trail and noted that a portion of the trail is not on OceanView property. Mr. Saunders confirmed that the license is only for the portion of the trail that is on OceanView property. Mr. Anderson agreed and noted that OceanView has committed to contribute up to \$10,000 to go towards the portion of the trail that is not on OceanView's property. Mr. Saunders asked if the applicant has whatever landowner agreements are needed in place. Mr. Licht said that the license for the trail will extend from the new Allen lot and along the edge of the field to the portion that leaves the OceanView property onto Town property. Mr. Licht said he understands that the Allens have agreed to work with the snowmobile club to relocate the trail on their property. Chairman Moriarty stated that the license for the snowmobile trail does not pertain to the Allens' property so we are vitally dependent upon the Allens' good will to make the rest of the trail work.

Chairman Moriarty said that there are other trails that will be on the OceanView property and he asked if these trails will be open to the public. Mr. Licht replied that OceanView has a good neighbor policy and the public can use the trails. There will not be any signage indicating the trails are open to the public. The trails will be open to the public as long as they are used respectfully and there are no issues. Chairman Moriarty said that there is a restriction on the snowmobile trail for hours of use from 7 am to 7 pm.

Mr. Wasileski thanked his team for their work and said that all of the time spent by Town staff to work on this project is greatly appreciated.

Mr. Davis asked about the Titcomb survey for the proposed lot 50 the 100' Inland Fishery and Wildlife buffer. Mr. Licht showed the buffer location on the plan and explained that Inland Fisheries and Wildlife has a provision to maintain a 100' buffer, except for crossings and other areas where it is approved. The buffer is measured from the edge of the wetlands and is shown on the plan with a note. The note indicates that the 100' buffer is maintained throughout the property except for the area of the proposed lots #50 - #52. The restriction for these lots is the tree line that is behind the current Allen house. The work for the three units cannot go any further into the tree line than what currently exists today. These units are going onto developed land and do not change the environment relative to the stream. Mr. Davis suggested that work in this area should be avoided until the project has the DEP permits.

Mr. Wasileski noted that OceanView is working on moving the Allens house instead of demolishing it and said if anyone is interested to please contact him.

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

Chairman Moriarty explained that the subdivision ordinance generally requires complete applications before final approval may be granted, however, there is a waiver and modification provision in the ordinance that was cited by the Town Attorney in her communication to the Board this afternoon. In cases of unnecessary hardship, the Board may waive any of the standards that may otherwise apply. The Board has the authority, according to the Town Attorney, to waive the "all permits must be in hand" requirement and yet preserve the essence of the standard by articulating conditions of approval as part of the overall process.

Mr. Auclair noted that Ms. Nixon has a number of comments under the Planner's Review and asked if all of these have been satisfied. Mr. Nixon said yes, one that is a judgement call for the Board is the photometric plan. The proposed lighting is for street lights, lantern posts next to each driveway and lighting on the units. Mr. Kenny asked if the lights are on dimmers so in the evening the lights will dim down low. Mr. Wasileski replied yes and noted that the street lights have extreme cut offs and there isn't a lot of light pollution from side to side. The individual house lights will be turned off or on by the residents. Mr. Saunders asked if there is a standard for lighting. Ms. Nixon said that there isn't a standard but the ordinance requires that there be no spill over at the property line and that is not happening here. Ms. Nixon said that the Town does not have a specific standard that points to the Night Sky Initiatives that are being implemented across the country.

Mr. Saunders confirmed that the waivers were approved at the preliminary approval and Ms. Nixon said yes.

Chairman Moriarty reviewed the subdivision criteria (findings of fact) and revisions were noted by Board members and Ms. Nixon.

Mr. Saunders moved to adopt the findings of fact as amended, seconded by Mr. Auclair and **VOTED, 5 yeas, 1 abstained (Sawchuck), 1 recused (Sherr) – motion carries.**

#### **FINDINGS OF FACT - Chapter 250 - Subdivision of Land**

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

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



***The parcel is above sea level and not within a floodplain. The project will use public water and sewer. A groundwater impact assessment was provided by the applicant and reviewed and approved by the Town Engineer. Based on the information provided, the standards of this section have been met.***

**2. Sufficient Water.** The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

***The subdivision will be served by public water. There is a letter on file, dated July 31, 2018, from the Portland Water District stating the District's ability to serve the proposed project. Based on the information provided, the standards of this section have been met.***

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

***The subdivision will utilize a municipal water source. There is a letter on file, dated July 31, 2018, from the Portland Water District stating the District's ability to serve the proposed project. Based on the information provided, the standards of this section have been met.***

**4. Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

***The applicant has submitted an erosion and sedimentation control plan that is consistent with the current Maine Erosion and Sediment Control Best Management Practices. This plan has been reviewed and approved by the Town Engineer. Based on the information provided, the standards of this section have been met.***

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

***A traffic study was performed by Maine Traffic Resources and reviewed and approved by the Town Engineer. An MDOT Entrance permit is on file. Based on the information provided, the standards of this section have been met.***

**6. Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

***The project will utilize public sewer. A letter indicating there is sufficient capacity is on file from both the Portland Water District and the Town of Falmouth. There is a letter dated 5/22/18 from Town Manager Bill Shane stating that the Town agrees to accept the sewer design flow from the project. Based on the information provided, the standards of this section have been met.***

**7. Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

***Cumberland provides curbside trash collection and recycling through a contracted waste hauler. Based on a conversation with the Director of Public Services, the addition of 52 new homes will not cause a burden on the municipality's ability to dispose of solid waste. Based on the information provided, the standards of this section have been met.***

**8. Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

***Letters are on file from the relevant state agencies stating that the subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas. Based on the information provided, the standards of this section have been met.***

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

***The plans have been reviewed by the town planner, the town engineer and town department heads. There is a condition of approval requiring that the applicant address all outstanding issues identified by the Town Engineer in his review comments. Based on the information provided, the standards of this section have been met.***

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

***Technical capacity is evidenced by the use of the following experts: a professional engineer, a licensed land surveyor, a traffic engineer and a licensed soils scientist. Evidence of financial capacity is evidenced by a letter dated 12/20/17 from SIS Bank stating that developer has solid financial capacity and that the bank has approved financing for the acquisition, infrastructure development, and home construction for the project. Based on the information provided, the standards of this section have been met for preliminary plan approval.***

**11. Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

***The proposed subdivision will not adversely affect the quality of the mapped wetlands or unreasonably affect the shoreline of the stream on the parcel. Plans include a MEDEP 75' stream setback to protect the resource. Based on the information provided, the standards of this section have been met.***

**12. Ground water.** The proposed subdivision will not alone, or in conjunction with, existing activities, adversely affect the quality or quantity of ground water;

***The project will not utilize any groundwater from wells. Infiltration of stormwater is limited to the installation of Best Management Practices along the access road which meet all DEP standards for treatment of stormwater prior to discharge of groundwater. Based on the information provided, the standards of this section have been met.***

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

***The parcel is shown on FEMA floodplain maps as being in Zone C (area of minimal flooding). Based on the information provided, the standards of this section have been met.***

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

***A stormwater management plan was submitted as part of the application packet and has been reviewed and approved by the Town Engineer for conformance with Chapter 250-38 of the Cumberland Subdivision Ordinance. There is a condition of approval that the DEP SLODA and NRPA Tier 1 Permits be provided prior to conducting any work in the area of the stream crossing. Based on the information provided, the standards of this section have been met.***

**15. Freshwater wetlands.** All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

***All wetlands within the proposed subdivision have been delineated and mapped by Mark Hampton Associate, Inc. and shown on the project plans. There is a condition of approval that the DEP NRPA Tier 1 permit be provided prior to the disturbance of any wetlands. Based on the information provided, the standards of this section have been met.***

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

***There is a stream on the property which is depicted on the plans. Based on the information provided, the standards of this section have been met.***

Ms. Nixon reviewed the proposed conditions of approval and revisions were noted by the Board.

Mr. Saunders questioned the phasing of the project and the expiration of approval. Ms. Nixon explained that the applicants know that the project will be phased and this is noted in their application and so this is the specified period.

Mr. Saunders moved that the Board approve Final Major Subdivision Review for OceanView at Cumberland – 52 dwelling units plus 1 community building. Tuttle Rd., Tax Map R04, Lots 4B, 4D, 4E & 5 subject to the Standard Conditions of Approval, the Limitation of Approval and the seven proposed Conditions of Approval, seconded by Mr. Kenny and **VOTED, 5 yeas, 1 abstained (Sawchuck), 1 recused (Sherr) – motion carries.**

**STANDARD CONDITIONS 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 de minimis changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**LIMITATION OF APPROVAL:** Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) 1 year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

**CONDITIONS OF APPROVAL:**

**1.** No work may be done for the stream crossing prior to acquiring the final MDEP SLODA approval for this work. The applicant may perform work on either side of the stream prior to final satisfaction of this condition of approval.



2. No work may be done for the stream crossing prior to acquiring the final MDEP NRPA Tier 1 approval for this work. The applicant may perform work on either side of the stream prior to final satisfaction of this condition of approval.
3. A preconstruction conference shall be held prior to beginning of construction.
4. The Applicant shall provide a performance guarantee in an amount and form acceptable to the Town Manager prior to the preconstruction conference.
5. All outstanding issues identified by the Town Engineer in his review comments shall be addressed prior to the preconstruction conference.
6. All fees owed to the Town shall be paid prior to the preconstruction conference.
7. The applicant shall purchase the necessary number of sewer user permits from the Town of Cumberland prior to the preconstruction conference.

Chairman Moriarty called for a five minute break. Chairman Moriarty resumed the meeting.

**2. Public Hearing: Amendment to Village Green Major Subdivision to add 4 single family lots. 50 Amanda's Way, Tax Map U10, Lot 1B. Applicant:** Village Green Cumberland, LLC; **Representative:** Stephen Bushey, P.E. Stantec Consulting Services, Inc.

Chairman Moriarty introduced the item.

Mr. Sherr disclosed that his firm has done work with the applicant but not with this project. Mr. Sherr said he does not think this will affect his opinions or decisions on this project but he wanted to make sure the Board is okay with this. No concerns were expressed from other members of the Board.

Stephen Bushey, Stantec Consulting, said his firm has assisted the applicants with a number of projects. Mr. Bushey noted that this application, like the prior item, is also dependent on DEP action and they are also seeking final approval with a number of conditions. Mr. Bushey indicated that they made an amendment application to DEP in March, 2018. The Village Green Subdivision already received SLODA and NRPA permits from DEP for the original project and the proposal to add 4 additional house lots requires amended permits. Mr. Bushey said there is a culvert crossing for a small intermittent stream that the applicant hopes to get done by the end of September. Mr. Bushey has been in contact a number of times with DEP staff over the last four months and he is very hopeful that they will have the DEP permit within the next couple of weeks.

Mr. Bushey reviewed the location of Village Green Subdivision. The proposal is for a 650' private drive with access to property that is under a purchase and sale agreement currently owned by the Russells. An amendment has been made to the Contract Zone Agreement (CZA) to allow for this proposal. Mr. Bushey displayed the revised subdivision plan and reviewed the changes.

Mr. Bushey noted that he had previously responded to the Peer Review Engineer comments and there may be a few small outstanding items that are minor.

The proposal is for an 18' wide private drive to access 4 additional house lots. The CZA allows for the Russells current home to have access to the new private drive and the

Russells' home would discontinue use of their current access off Amanda's Way. Utilities will be extended from Bradbury Way to serve the 4 house lots.

Chairman Moriarty inquired about waiver requests. Mr. Bushey responded that there are two waiver requests. One is to not have a high intensity soil survey because there are no onsite wastewater disposal systems and they will use public sewer. Secondly is a waiver for the soil boundaries and names to be superimposed on the plan for the same reason that there are no onsite wastewater disposal systems.

Nathan Bateman, Village Green Subdivision, said that this addition has been part of the plan from the beginning. They originally looked to add six lots and this is now down to 4 lots. Mr. Bateman said they have met with abutters and have made changes to the plan. Mr. Bateman said they have been frustrated with DEP. They submitted the revised plan in March. They have received feedback from DEP and last responded to all of their questions in June. Mr. Bateman said he is optimistic that the DEP permit will be in hand in a couple of weeks.

Chairman Moriarty asked if the four homes to be constructed will be of the same design style and size as is currently in Village Green. Mr. Bateman said these four lots will become part of Village Green with the same design guidelines.

Mr. Sherr noted that from a timing perspective, the same stream crossing limitations are in play from July to October 1<sup>st</sup> and if the approval doesn't go through or the applicant doesn't get the DEP permit they could be set back almost a year for the stream crossing. Mr. Bateman agreed and said they are ready to go once they get the permit in hand.

Mr. Saunders asked if the portion of land being retained by the Russells will be part of the subdivision. Mr. Bateman replied that this will not be part of the subdivision. The Russells will have an access easement to go over the subdivision roads that are private. The Russells will be responsible for a dues to have the access easement and will pay a pro rata share of the fees for the roads but they will not be a part of the association.

Mr. Saunders said that it appears that the entire Russell parcel has been added to the subdivision plan. Mr. Bushey replied that the entire lot was shown on the plan as the surrounding area.

Mr. Saunders said that the CZA includes the full 5.6 acres of the Russell parcel and asked if this is a problem. Mr. Shane said that any additional division of land or additional homes would require an amendment to the CZA again. Mr. Saunders confirmed that the plan is in compliance with the CZA and Mr. Shane said yes.

Mr. Auclair asked if the purchase and sale agreement has been finalized. Mr. Bateman responded that the purchase and sale agreement is contingent on final subdivision approval. When the subdivision plan amendment is approved, the sale will be final. Mr. Auclair asked if they will start work on either side of the stream crossing prior to receiving the DEP permits. Mr. Bushey said no, they will not do any work until they have the permits.

Chairman Moriarty opened the public hearing.

Dave Finnegan, 17 Cumberland Common, said it has been a frustrating experience for the abutters. Three and one half years ago the Town Council forwarded the concept to the Planning Board and the abutters knew nothing about it. There have been a lot of meetings since then, some productive and some frustrating. Mr. Finnegan said that “what the Town wanted, the Town is going to get” is how he feels about the project. Mr. Finnegan said it will be his mission to work with the Town Council on amendments to the CZA process so this never happens again. Mr. Finnegan asked if there have been any changes to the proposal since the spring. Mr. Bateman reviewed some landscaping changes.

Chairman Moriarty confirmed that the Russells are retaining 2.52 acres for their own home and use. The Russells will not be part of the subdivision but are within the Contract Zone. The property that the applicant wants to buy is approximately 3.2 acres that will be developed into four homes and will be part of the Village Green Homeowners Association. Mr. Bateman agreed.

Mr. Auclair asked what the frustration has been with the neighbors. Mr. Bateman said he thinks the neighbors had a frustration with the CZA and had a feeling of lack of transparency and notification. Mr. Bateman said since then they have taken a proactive approach to be amenable and listened to the concerns of the abutters. Mr. Bateman outlined the buffering plan between the new house lots and the abutters on Cumberland Common.

Chairman Moriarty closed the public hearing.

Mr. Saunders referred to the final subdivision plan and noted that the net residential acreage is 45.81 and he questioned if this is accurate because it may include the Russell property that they are retaining. Mr. Bateman explained that this is showing the total subdivision of the land.

Chairman Moriarty reviewed the requested waivers. Mr. Saunders asked if the Town Engineer is okay with both of the waivers. Ms. Nixon said yes, these are customary waivers when a project is on sewer.

Mr. Saunders moved that due to the unique characteristics of the site and the project that the Board grant a waiver for a high intensity soil survey, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

Mr. Saunders moved that due to the unique characteristics of the site and the project that the Board grant a waiver for soil boundaries and names to be superimposed on the plan, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

Chairman Moriarty reviewed the subdivision criteria (finding of facts). The Board and Ms. Nixon noted changes to the findings.

Mr. Saunders moved to adopt the Findings of Fact as amended, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.** Ms. Nixon noted that the last finding for aquifer protection was not reviewed. Mr. Saunders moved to amend his motion to include the aquifer protection finding, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

#### **FINDINGS OF FACT - Subdivision Ordinance, Section 1.1**

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

**1. Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of the land above sea level and its relation to the flood plains;
- B. The nature of soils and subsoil and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations;

**The project will be on public sewer therefore the soils do not need to support waste disposal. The applicant has provided a soils report prepared by Albert Frick Associates, Inc. describing the soils as they relate to the design for the proposed drainage system. Based on the information provided the standards of this section have been met.**

**2. Sufficient Water.** The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;

**The proposed subdivision will utilize public water. There is a letter on file from the Portland Water District dated 4/25/2018 that states that there is an adequate supply of clean and healthful water to serve the needs of the proposed subdivision. Based on the information provided the standards of this section have been met.**

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

**The proposed subdivision will utilize public water. There is a letter on file from the Portland Water District dated 4/25/2018 that states that there is an adequate supply of water to serve the needs of the proposed 12 lot mixed use subdivision without creating a burden on the existing water supply. Based on the information provided the standards of this section have been met.**

**4. Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

**The erosion control plan has been reviewed by the Town Engineer who has made a recommendation that will be incorporated into the final plan. Based on the information provided, the standards of this section have been met.**

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

**There is a traffic study on file dated April, 2011 which has been reviewed and approved by the MDOT and Tom Gorrill, the Town's peer review traffic engineer. Based on the information provided, the standards of this section have been met.**

**6. Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;

**The project will utilize public sewer. Jeff Read, P.E., has reviewed and approved the proposed sewer plans. There is a letter on file dated 7/27/11 from the Town Manager, Bill Shane, stating that the town has agreed to accept the flow of at least 16,000 gallons per day to its municipal sewer system from this project. Based on the information provided, the standards of this section have been met.**

**7. Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

The Town provides curbside pickup of household trash. The Town is currently under contract with Pine Tree Waste for the collection and hauling of residential solid waste with disposal at Eco-Maine. The four additional single family homes will not impact the municipality's ability to dispose of solid waste. Based on the information provided, the standards of this section have been met.

**8. Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

Letters on file dated 10/25/05 and 4/14/11 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area. Letters on file dated 10/12/05 and 6/8/11 from the Department of Inland Fisheries and Wildlife states that there are no known significant wildlife habitat or threatened or endangered species in the vicinity of the project. A letter on file dated 4/28/11 from the Maine Historic Preservation Commission states that this project will have no effect on historic resources. Based on the information provided, the standards of this section have been met.

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

The plans have been reviewed by the Town's peer review engineers and town staff. There is a condition of approval that all outstanding issues identified by the Town Engineer in his review be addressed prior to the preconstruction conference. Based on the information provided, the standards of this section have been met.

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

Technical capacity is evidenced by expert engineering, surveyors, soils evaluators, traffic engineers. A letter dated 4/25/18 from Norway Savings Bank states that "the developers have the financial capacity, management skills, and marketing finesse to successfully develop this site and complete the project on time and on budget." Based on the information provided, the standards of this section have been met.

**11. Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

The man-made pond on the site is not by State definition a great pond or lake regulated by the State. The pond is not part of the parcel now being subdivided. Based on the information provided, the standards of this section have been met.

**12. Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

The project will be served by public sewer. There are no proposed activities that would adversely affect the quality or quantity of ground water. Based on the information provided, the standards of this section have been met.

**13. Flood areas.** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard



boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

**The parcel is located in Zone C- Areas of Minimal Flooding. Based on the information provided, the standards of this section have been met.**

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

**A stormwater management plan was revised in March, 2018 and submitted for review by the Town Engineer. There is a condition of approval that all outstanding issues identified by the Town Engineer in his review be addressed prior to the preconstruction conference. Based on the information provided, the standards of this section have been met.**

**15. Freshwater wetlands.** All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

**Wetland areas have been delineated and shown on the plan. The impact is 2,104 sf. The applicant intends to pay the in-Lieu fee to the MDEP for this additional impact. The project requires NRPA Tier 1 and SLODA amendments which are outstanding. There is a condition of approval that no work be done in the area of the parcel under MDEP jurisdiction. Based on the information provided, the standards of this section have been met.**

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

**One perennial and three intermittent MDEP jurisdictional streams are located within the westerly portion of the site. The 5,976 square feet of impacts associated with the stream crossings are permitted through the NRPA Permit-by-Rule process which has been undertaken. Based on the information provided, the standards of this section have been met.**

**SECTION 300 – AQUIFER PROTECTION (if applicable): The parcel is partially located in the Aquifer Protection District. A residential development on public sewer will not adversely affect the aquifer.**

Ms. Nixon reviewed the proposed conditions of approval.

Mr. Saunders moved to approve the amendment to the Village Green Major Subdivision to add 4 single family lots at 50 Amanda's Way, Tax Map U10, Lot 1B subject to the Standard Conditions of Approval and the nine recommended Conditions of Approval.

**STANDARD CONDITIONS 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 de minimis 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. Legal documents to be reviewed and approved by Town Attorney prior to release of the plat for recording.
2. Sewer user permits to be obtained from the Town prior to the preconstruction meeting.

3. Statement of values for required improvements for all lots to be submitted prior to releasing the plat for recording.
4. A performance guarantee in a form acceptable to the Town Manager shall be provided prior to the pre-construction conference.
5. A pre-construction conference is required prior to the start of work.
6. The applicant shall provide the MDEP SLODA Amendment Permit prior to commencing work in the area of the parcel under MDEP jurisdiction.
7. The applicant shall provide the MDEP NRPA Tier 1 Amendment Permit prior to commencing work in the area of the parcel under MDEP jurisdiction.
8. That all fees owed to the Town be paid prior to the preconstruction conference.
9. That all outstanding issues identified by the Town Engineer in his review be addressed prior to the preconstruction conference.

**3. Public Hearing: Amendment to Site Plan to install 4 portable buildings containing 8 classrooms on Mable I. Wilson School site. Tuttle Rd., Tax Map U11, Lot 9. Applicant: MSAD 51, Representative: Patrick Carroll, Carroll Associates.**

Pat Carroll, Carroll Associates introduced Scott Poulin, Director of Finance/HR Operations for MSAD 51. Mr. Poulin said he is here about adding four portable classrooms that he feels are necessary for the school district. Over the past several years, they have done a lot of reconfiguration of space at Mabel I. Wilson School and have done everything they can to find existing space. Last year the school received a temporary permit for one portable classroom that is on site. Mr. Poulin said that they were up against the start of the school year and needed space. Mr. Poulin's understanding is that the District should have come to the Planning Board within six months of the temporary permit being issued and this did not happen. The District found itself in the same position in July of this year when the enrollment numbers were in and they needed another portable classroom. Mr. Poulin explained that the second portable arrived on site last week. The district needs space for more students and time to set up water, electricity, ramps, etc. Mr. Poulin explained that it has been a busy year with projects and coming back to the Planning Board for the site plan amendment got by him and he takes responsibility for this. Mr. Poulin said he is here now to rectify this.

Mr. Carroll explained that the revised plan is for 4 portables including the one added last year and the one being added for this year. Mr. Carroll outlined the revised site plan. The typical configuration of the portables is two classrooms with an access in the middle where students will enter to go to either classroom and there are emergency doors at the end of each classroom. The portable classrooms will be located where there is currently a hard surface play area. Four portable classrooms are planned for with this amendment. Each portable needs to have 20' of separation between each building and this will be maintained. They also need 40' of maneuvering room to set the portables and they have planned for this. The playground area will be reconfigured and there is plenty of space. Mr. Carroll showed the phasing plans for the additional portables to be added in the future. Mr. Carroll reviewed the utility locations in response to peer review comments.

Mr. Carroll said the applicant has requested waivers. One is for a complete stormwater management plan because it is all on existing pavement and there will be no grade changes. There was a comment about the lack of a landscape plan and Mr. Carroll

explained that this is for the interior of the school campus and none of the portables are visible from the public and they request a waiver from the landscape standard.

Mr. Auclair asked where the second unit is now and Mr. Carroll indicated the location on the plan. Mr. Auclair asked if this is not approved, where will the kids go. Mr. Poulin said that there is not another place to put the students even temporarily at this time.

Mr. Saunders asked how the propane tanks will be protected. Mr. Carroll said there will be a skirt around the entire base of the portable to prevent kids from getting underneath. The propane tanks are on the side and are pretty fool proof. Mr. Saunders asked about lighting. Mr. Carroll said each doorway will have a down light and there will be wall packs along the sides. Mr. Saunders asked if shadows will be created that will need to be illuminated and Mr. Carroll said no.

Chairman Moriarty asked if the hard surface play area to be eliminated will be replaced elsewhere. Mr. Carroll said no, there is a large soft play area nearby and there will be enough hard surface area remaining for hopscotch or four square.

Ms. Sawchuck asked what grades are at Mabel I. Wilson. Mr. Carroll replied that it is K through 3. Ms. Sawchuck asked how many classrooms there are. Jeff Porter, MSAD #51 Superintendent, replied that they will have 33 classrooms at Mabel I. Wilson School this year. Ms. Sawchuck asked how many children there are. Mr. Porter said that they will not know for sure until the first day of school but they are projecting 607-610 students. The enrollment at the Mabel I. Wilson School has increased by 70 students over the last three to four years. In 2014/2015 there were 541 students. Mr. Porter said that they have maxed out the space inside the building and portables are necessary. Ms. Sawchuck asked if Mr. Porter feels that there will be adequate playground space and Mr. Porter said that there is enough space for the students for a playground.

Mr. Kenny asked if there was capacity at any of the other schools for students to go to and Mr. Porter replied that there is no more physical capacity within the district.

Chairman Moriarty referred to a handout from Ms. Nixon with a lot of highlighting and said that it appears that Sevee & Mahar Engineers are involved. Ms. Nixon replied that the project has happened and two portables are in place. Ms. Nixon said it appears that some of the paving is not yet done and there are places that are jagged. Mr. Poulin said that they will pave everything that was cut out to run the utility lines by this Thursday. Ms. Nixon said that the Board can have a condition of approval that the Engineer's comments are taken care of.

Mr. Saunders asked if they can waive the landscaping standard. Ms. Nixon said the Board can waive the submission of a formal landscaping plan. Mr. Saunders noted that this is an amendment and is already subject to a site plan. Mr. Saunders asked why aren't the findings that are already in place remaining the same. Ms. Nixon said that the Board can interpret the application this way. Mr. Sherr noted that the application does say it is an amendment to a site plan. Mr. Saunders asked if the Board can say there is no change to the approved site plan and buffering and Ms. Nixon said the Board can do this.

Chairman Moriarty opened the Public Hearing.

Mr. Shane said that when this came up in July, Mr. Poulin came to the Town with full disclosure and thought the timing would work but he was not able to meet the deadline for the July Planning Board meeting. Mr. Shane said that there is nothing malicious or anything the school is trying to do to sneak something in. There is no monetary gain by anyone involved in the process. Mr. Shane said he does not want to impact the kids in the district.

Chairman Moriarty closed the Public Hearing.

Mr. Davis said that he does not have an issue with this. Mr. Davis asked how the Board amends a site plan for temporary structures. Ms. Nixon said that the Ordinance considers the portables as structures and does not get into whether they are temporary or permanent. Ms. Nixon said she does not recommend that the Board condition their approval on these being temporary. Chairman Moriarty said that the duration doesn't really make any difference and Ms. Nixon agreed.

Ms. Sawchuck said that there is a problem with there being more kids than there is space for and the only solution at this point is portable classrooms. Mr. Porter noted that the school district has a strategic plan that started in July and they are committed in the next three years to study the facilities for long term. Mr. Porter said they are at the beginning stages and there will be a stakeholder group to review this.

Mr. Sherr noted that an existing site plan has already been approved with findings of fact. This is a small adjustment to the site plan and the nearest property line is 150' from this project. Abutters have been notified about the process. There is no increase in impervious surfaces. Mr. Sherr doesn't think there is a significant impact to the site plan.

Mr. Saunders moved that due to the unique characteristics of the project and the property that the Board waive the requirement for a landscape plan, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

Mr. Saunders moved that the Board waive the reading of the findings of fact subject to the proposed conditions of approval except for reading finding I – buffering and landscaping, seconded by Mr. Sherr. The Board discussed the pending motion. The motion was then **VOTED, 7 yeas, unanimous – motion carries.**

Chairman Moriarty read the findings of fact for item I – buffering and landscaping.

Mr. Saunders moved that the Board adopt the finding of facts as amended, seconded by Mr. Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

#### **CHAPTER 229 – SITE PLAN REVIEW, SECTION 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 placement of four portables on existing impervious areas of the MSAD's campus will not affect any environmentally sensitive areas. Based on the above findings of fact, 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:

(1) 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.

(2) 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 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.



**(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.

***There are no proposed changes to the site circulation or parking. Based on the above findings of fact, 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.

### **(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.

***There is a condition of approval that the applicant address all outstanding issues of the Town Engineer, one of which is related to stormwater and erosion control. Based on the above findings of fact, the Planning Board finds the standards of this section 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.

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

***Water, sewer, electricity will be connected from the adjacent school building. There will be an alarm system in the units. There is a condition of approval that the applicant address all outstanding issues of the Town Engineer, one of which is related to providing details of the utility connections. Based on the above findings of fact, the Planning Board finds the standards of this section.***

#### **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.

**(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.

**(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 within the Town Aquifer Protection Area. There will be propane tanks adjacent to each portable. The siting of these tanks will meet all necessary setback and separation requirements. There will be no other storage facilities for fuel, chemicals, chemical or industrial wastes or biodegradable raw materials. Nor will there be any discharge of liquid, gaseous or solid materials. Based on the materials included in the application, the Planning Board finds that 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 provisions.

***Floodplain information was not submitted, however there is a condition of approval that the applicant address all outstanding issues of the Town Engineer, one of which is***

***related to providing FEMA floodplain designation. Based on the above finding of fact, 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.

***There are letters on file from previous site plan applications) stating that the Maine Historic Preservation Commission has not found there to be any historical or archaeological resources present on the site of the school campus. Based on the above finding of fact, 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 is a wall mounted light at each entry door. Based on the above findings of fact, 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.

***A waiver request to not provide a landscaping plan was approved by the Planning Board. Based on the above findings of fact, 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.

***The portables will not emit noise. Based on the above findings of fact, 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.

***The application states that an existing dumpster will be utilized. Based on the above findings of fact, 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.

***Technical Ability: The applicant has retained an architect, landscape architect, civil engineer and surveyor to assist in preparing the site plan.***

***Financial Capacity: The leasing of the portables will be paid for from the operating budget of the MSAD.***

***Based on the above findings of fact, the Planning Board finds the standards of this section have been met.***

**M. Design and Performance Standards**

(1) Route 100 Design Standards

(2) Route 1 Design Standards

(3) Town Center District Design and Performance Standards

(4) Village Mixed Use Performance Standards.

**None of the above are applicable to this project.**

Ms. Nixon reviewed the proposed conditions of approval.

Mr. Saunders moved to approve an amendment to the Site Plan to install 4 portable buildings containing 8 classrooms at the Mable I. Wilson School site, Tuttle Rd., Tax Map U11, Lot 9 subject to the Standard Conditions of Approval, the Limitation of Approval and the four Conditions of Approval, seconded by Mr. Auclair and **VOTED, 7 years, unanimous – motion carries.**

**STANDARD CONDITIONS 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 de minimis changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**LIMITATION OF APPROVAL:** Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) 1 year extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

**CONDITIONS OF APPROVAL:**

1. The Applicant shall provide a letter from the Portland Water District to demonstrate adequate capacity to serve the project and details for the proposed temporary services to the portable classrooms. This shall be done prior to the preconstruction conference.
2. The Applicant shall provide details for the proposed sewer, electrical utilities and fire protection services to the portable classrooms prior to the preconstruction conference.
3. The Applicant shall provide evidence that the site is not located in a floodplain.
4. The Applicant shall address any outstanding issues identified by the Town Engineer in his review comments, prior to the preconstruction conference.



**4. Public Hearing: Recommendation to Town Council on amendment to the Zoning Ordinance, section 315-4, Definitions, and section 315-14, Village Center Commercial, District to allow for storage units in the VCC Zone.**

Mr. Saunders moved to table the Recommendation to Town Council on amendment to the Zoning Ordinance, section 315-4, Definitions, and section 315-14, Village Center Commercial, District to allow for storage units in the VCC Zone, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.**

**H. Administrative Matters/New Business:** Ms. Nixon said that she brought the Mylar for the Orchard Road Subdivision that is currently in litigation. Ms. Nixon said her understanding is that the parties have reached an agreement and will revise lot 10. The Board needs to sign the Mylar so that it can be recorded so they meet the 90 day filing deadline and if there is an amendment, the Board will have a new Mylar to sign at that time.

There will be a variety of proposed ordinance change recommendations at the September meeting. Ms. Nixon doesn't have anything else right now.

**I. Adjournment:** Mr. Auclair moved to adjourn the meeting at 10:12 pm, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

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Stephen Moriarty, Board Chair

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Christina Silberman, Administrative Asst.