

CUMBERLAND PLANNING BOARD MEETING MINUTES
February 20, 2024

A. Call to Order: Chair Bingham called the meeting to order at 7:00 pm.

B. Roll Call: Present: Peter Bingham - Chair, Paul Auclair, Bridget Perry, Lorraine Rardin - Vice Chair, Joshua Saunders, Ann Sawchuck, Carla Nixon - Town Planner & Bill Shane – Town Manager. **Absent:** George Turner & Christina Silberman - Admin. Asst.

C. Election of Officers - Chair and Vice Chair: Mr. Auclair nominated Peter Bingham as Chair, seconded by Mr. Saunders. Mr. Auclair moved to cease nominations, seconded by Mr. Saunders and **VOTED** for Peter Bingham as Chair, **6 years, unanimous - motion carries.**

Mr. Saunders nominated Lorraine Rardin for Vice Chair, seconded by Mr. Auclair. Mr. Saunders moved for nominations to cease, seconded by Ms. Perry and **VOTED** for Lorraine Rardin as Vice Chair, **6 years, unanimous - motion carries.**

D. Approval of the Minutes of the December 19, 2023, meeting: Mr. Saunders moved to approve the minutes of the December 19, 2023 meeting as written, seconded by Ms. Perry and **VOTED, 5 years, 1 abstained (Sawchuck) - motion carries.**

E. Staff Site Plan Approvals: None.

F. Minor Change Approvals: None.

G. Hearings and Presentations:

1. TABLED Public Hearing: ~~Amendment to an approved subdivision, Heritage Village (f/k/a Cumberland Foreside Village), to extend the length of Skyview Dr. by sixty feet, located off US Route 1 in the Office Commercial South Zoning District under a Contract Zoning Agreement. Applicant/Owner: Heritage Development Group/Peter Kennedy. Representative: Craig Burgess, PE – Acorn Engineering, Inc. This item was tabled prior to the meeting and was not heard.~~

2. Public Hearing: Site Plan Review for issuance of an Annual Renewable Special Permit for the fourth consecutive year for operation of the Storey Brothers Gravel Pit located at 48 Goose Pond Road as shown on Tax Assessor Map R07, Lot 48. **Applicant/Representative:** Robert Storey. **Owner:** RJT Properties, Inc.

Chair Bingham introduced the item.

Ms. Nixon noted that Code Enforcement Officer William Longley has stated that there have been no complaints made to him regarding this location during the past year.

Robert Storey said this is their fourth application for renewal. Next year will be the fifth year and after this they can ask for a five-year window instead of an annual one. Mr. Storey reported that they purchased the pit from the Town in 2019. There have been no complaints that Mr. Storey is aware of.

Chair Bingham opened the public hearing.

Teri Maloney-Kelly of West Cumberland thanked Mr. Storey for being a good neighbor as best as they can with what they do.

Chair Bingham closed the public hearing.

Mr. Saunders asked if there are any changes to the findings of facts from last year. Ms. Nixon replied that there have been no changes and recommended the Board waive the reading of the findings. Mr. Saunders moved to waive the reading of the findings of fact, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous - motion carries.**

Mr. Saunders moved to adopt the findings of fact as written, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous - motion carries.**

SECTION 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.

10.A Utilization of the Site

A. 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 site has been previously permitted for use as a gravel pit. The approved area is 7.9 acres. The Maine DEP must review extraction facilities that are greater than 5 acres. A Notice of Intent to Comply has been filed with the Maine DEP to register the site in the 2 DEP gravel program under the Medium Borrow Pit Standards. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site. Based on the above findings of fact, the 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 accessways 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 accessways 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	Stall Width	Aisle 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.

The continued use of the site as a gravel pit will not have an adverse effect on the existing traffic conditions and no change is proposed for the existing site access. Based on the above findings of fact, the 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.

The stormwater runoff from the existing site will not be altered due to the proposed continued use of the site. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site. Based on the above findings of fact, the Board finds the standards of this section have been met.

(D) Water, Sewer, and Fire Protection

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

(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.

The proposed continuation of the site as a gravel pit does not require water or sewer service. The access to the site is not proposed to change and will therefore not have an adverse effect on fire service to the site. A "Certificate of Compliance" from the Fire Chief is not required as there are no changes to the site. Based on the above findings of fact, the Board finds the standards of this section have been met.

E. Water Protection

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

There will be no septic systems needed for this project.

(2) Water Quality: All aspects of the project must be designed so that:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

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

There will be no storage facilities for fuel, chemicals, chemical or industrial wastes or biodegradable raw materials. Nor will there be any discharge of liquid, gaseous or solid materials.

(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. The above findings demonstrate that the aquifer will not be adversely affected by the continued use of the pit. Based on the above findings of fact, the 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.

Based on a review of the FEMA floodplain maps, the site is not located within a floodplain.

Based on the above finding of fact, the 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.

The site was permitted as a gravel pit in 1995. The proposed use will be in compliance with that permit and will not have an adverse effect on any historical or archaeological resources. Based on the above finding of fact, the 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.

No exterior lighting is proposed. Based on the above finding of fact, the 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.

The application shows that there will be a minimum 200' buffer from the Goose Pond Road right of way. The remaining three sides of the property abut existing contractor stockyards and therefore are not required to be buffered from the project site. Excavation machinery will be screened from the Goose Pond Road right of way by the minimum 200' buffer required by the ordinance.

(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.

Due to the unique attributes of the site, no additional landscaping buffer is feasible. Based on the above findings of fact, the 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 continued use of the site as a gravel pit will not result in adverse noise to surrounding properties above existing levels. Based on the above findings of fact, the Board finds the standards of this section have been met.

K. Storage of Materials

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

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

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

There is no proposed storage of materials on site. Based on the above findings of fact, the 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 Gorrill Palmer engineers to prepare plans and site permit application and also utilized Boundary Points Land Surveyors for survey services.*

Financial Capacity: *No funding is required to continue to utilize the pit in accordance with the ordinances.*

Based on the above findings of fact, the 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.

(5) Extraction of Earth Materials (Zoning Ordinance Section 315-49 Extraction of Earth Materials)

10.M Design and Performance Standards

The gravel pit use will comply with the Zoning Section 315-49 Extraction of Earth Materials standards as follows.

(1) The operation shall be shielded from surrounding property by an adequate buffer area of not less than 200 feet from the top of the final grade to the property line. If approved by the contract zone agreement, the Planning Board may reduce the buffer area from the minimum requirement of 200 feet to a minimum requirement of not less than 100 feet, provided that any excavated property remaining will be left in a condition more useful for some future purpose conforming to the district requirements in which the excavation site is located.

A 200' buffer will be maintained on the southern boundary adjacent to Goose Pond Rd. Buffers will not be maintained on all other boundaries (see section 2 below).

(2) An applicant may specifically apply as a part of his application for the excavation and removal of lands for waiver of the requirement of the two-hundred-foot buffer strip when the protective barrier serves only to separate two existing gravel pits. If approved by the contract zone agreement, the Planning Board may only grant a waiver from this requirement if:

(a) The protective buffer zones exist only between two existing gravel pits.

(b) The owners of the respective properties mutually and voluntarily consent to the removal of the buffer zone; and

(c) The Planning Board finds that it shall not have a detrimental effect upon adjoining properties.

The Applicant is also the owner of the adjacent contractor stockyards; therefore the removal of the buffer zone is mutually and voluntarily consensual. The existing gravel pit on the parcel has no buffer on these boundaries.

(3) Specific plans shall be established to avoid hazards from excessive slopes and/or standing water. In no case may soils be removed or excavated to closer than within five feet of the seasonal high-water table as may be determined by a competent authority. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one foot vertical to three feet horizontal, except that where the required buffer area has been reduced to 100 feet the slope of the edge of the excavation area shall not exceed one foot vertical to four feet horizontal.

Upon closure of the facility, the bottom most elevation of the pit will not be less than 5' above the existing seasonal water table. 3:1 slopes will be maintained on areas not currently being excavated.

(4) No standing water shall be allowed to remain longer than two consecutive calendar weeks unless specifically provided for by the contract zone agreement and the Planning Board as part of the site plan approval.

Standing water will not be allowed to remain for longer than two weeks.

(5) In the case of any excavation to a depth of more than 20 feet below the surface, there shall be constructed a substantial fence with suitable gates completely enclosing the property or area in which the excavation is located. No portion of such fence shall be located closer than forty feet to the edge of such excavation. However, this condition shall not apply in the case of an excavation or removal of lands adding a slope of one foot vertical to greater than three feet horizontal.

It is not anticipated that the gravel pit will have a depth of greater than 20 feet below the existing grade with a side slope equal to or less than 3:1.

(6) No excavation shall be extended below the grade of adjacent streets unless a two-hundred-foot buffer strip shall be provided from the edge of the right-of-way, except in cases where authorized by the contract zone agreement and the Planning Board as part of the site plan approval and through agreement with other involved parties, such as the Cumberland Public Services Department, Maine State Department of Transportation and other property owners for the reconstruction of the right-of-way and street at a different level.

A 200' buffer will remain from the edge of the right-of-way.

(7) Provision shall be made for the control of stormwater runoff to prevent on-site erosion and to ensure that stormwater runoff leaves the site at the same location and is not significantly increased.

The stormwater runoff from the existing site will not be altered due to the proposed continued use of the site. The maximum side slope within the pit of 3:1 will reduce the potential for erosion of the pit site.

(8) Sufficient topsoil shall be retained on the site or otherwise provided sufficient to cover all disturbed areas with an average depth of not less than two inches. All disturbed areas resulting from the excavation and removal of lands or soils shall be graded and sloped to conform to the provisions of this chapter, reloaded and seeded with grasses indigenous to the area and such trees as the Planning Board as part of the site plan review and the contract zone agreement may require and otherwise restored to a natural condition. In the case of topsoil removal, the upper six inches of topsoil shall be stockpiled and restored to a depth of six inches throughout the site.

Topsoil will be stockpiled from new areas of excavation. Sufficient topsoil to reclaim the site will be provided by the Applicant prior to cessation of excavation on-site.

(9) Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.

The Applicant's trucks are equipped with tarp covers to prevent contents from spilling or blowing.

(10) All access roads leading from the extraction site to public ways shall be treated with stone, calcium or other suitable materials to reduce mud and dust.

The access road will be treated with stone, calcium or other suitable materials.

Mr. Saunders moved to approve Site Plan Review for the issuance of an Annual Renewable Special Permit for the operation of the Storey Brothers Gravel Pit located at 48 Goose Pond Road as shown on Tax Assessor Map R07, Lot 48 subject to the Limitation of Approval and the Standard Condition of Approval, seconded by Ms. Perry and **VOTED, 6 yeas, 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 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.

3. Public Hearing: Amendment to the approved Brentwood Subdivision to adjust the lot lines for subdivision lot 6, located at 11 Brentwood Dr., Tax Assessor Map R02C, Lot 8, and subdivision lot 7, located at 81 Ravine Dr., Tax Assessor Map R02C, Lot 9 in the Low Density

Residential (LDR) Zoning District. **Applicant:** Stephen Broadhead. **Representative:** Paul H. Babbidge, P.L.S, Colliers Engineering & Design.

Chair Bingham introduced the item.

Ms. Nixon explained that this item does not really affect anyone except for the applicant, Mr. Broadhead, and his neighbor, Mr. Cimino. The requested lot line changes do not affect anyone else.

Mr. Auclair asked for clarification on waiver requests. Ms. Nixon replied that a lot of the subdivision review criteria will not apply in this case and waivers are not needed.

Stephen Broadhead, 11 Brentwood Dr., noted that the application for the Brentwood Subdivision revision is adjunct to the next item for the Fairwind revision. This is a basic land swap. Mr. Broadhead explained that his neighbor Tony Cimino's driveway is located on a right of way across Mr. Broadhead's property. The rear of Mr. Broadhead's property, part of Brentwood, is adjunct to Fairwind. Mr. Cimino owns two lots in Fairwind, a piece of which has a wedge into Mr. Broadhead's front yard. Mr. Broadhead and Mr. Cimino have agreed to swap Mr. Cimino's driveway for a piece of Mr. Cimino's land that is behind Mr. Broadhead's lot. A complication was that this involves two subdivisions and the Fairwind subdivision has part of its jurisdiction in Yarmouth and part in Cumberland. The Town of Yarmouth has waived doing anything with this. Mr. Cimino owns three of the impacted lots and Mr. Broadhead owns one lot.

Chair Bingham opened the public hearing. There were no public comments. Chair Bingham closed the public hearing.

Mr. Saunders asked if the Board needs findings of fact for this or the other related item. Ms. Nixon replied that she does not think findings of fact are needed because the Board is not reviewing any of the standards.

Mr. Saunders moved to approve an amendment to the approved Brentwood Subdivision to adjust the lot lines for subdivision lot 6, located at 11 Brentwood Dr., Tax Assessor Map R02C, Lot 8, and subdivision lot 7, located at 81 Ravine Dr., Tax Assessor Map R02C, Lot 9 in the Low Density Residential (LDR) Zoning District, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous - motion carries.**

4. Public Hearing: Amendment to the approved Fairwind Estates Subdivision to adjust the lot lines for subdivision lot 1, located at 10 Fairwind Ln. Ext, Tax Assessor Map R02C, Lot 16B and subdivision lot 10, located at 5 Fairwind Ln. Ext., Tax Assessor Map R02C, Lot 16G, in the Low Density Residential (LDR) Zoning District. **Applicant:** Stephen Broadhead. **Representative:** Paul H. Babbidge, P.L.S, Colliers Engineering & Design.

Chair Bingham introduced the item noting that it is a "sister" to the previous item.

Chair Bingham opened the public hearing. There were no public comments. Chair Bingham closed the public hearing.

Mr. Saunders moved to approve an amendment to the approved Fairwind Estates Subdivision to adjust the lot lines for subdivision lot 1, located at 10 Fairwind Ln. Ext, Tax Assessor Map R02C, Lot 16B and subdivision lot 10, located at 5 Fairwind Ln. Ext., Tax

Assessor Map R02C, Lot 16G, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous - motion carries.**

5. Public Hearing: Amendment to an approved Site Plan for an eight-space parking area for access to Rines Forest to be located at 48 Blanchard Rd., Tax Assessor Map U12, Lot 6 in the Medium Density Residential (MDR) and the Rural Residential 1 (RR1) Zoning Districts.

Applicant: Chebeague and Cumberland Land Trust. **Owner:** Mark Read. **Representative:** Jeffrey Read, PE, Sevee & Maher Engineers.

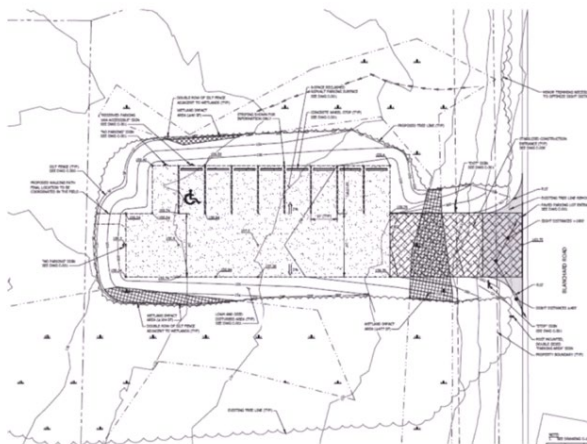
Chair Bingham introduced the item.

Ms. Nixon reported that this project was approved previously by the Planning Board. Modifications to the entrance are needed for the purpose of saving a significant amount of money that would have been required because of additional fill. The entrance location has shifted because the Water District responded that the entrance should be moved another six feet toward the Town Center. This change was sent out for review. Ms. Nixon noted that the project is pretty much the same as what was previously approved. This amendment is just the change to the entrance location that was originally approved.

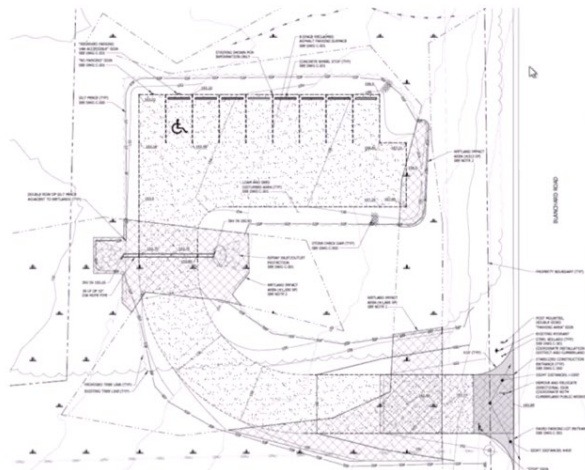
Mr. Saunders asked if the three requested waivers were approved when the Board gave the original approval. Ms. Nixon said she believes so.

Jeff Read, PE, Sevee & Maher Engineers, described the location and shared details of the project. There will be 8 parking spaces with one ADA van accessible space. Reclaimed asphalt pavement will be used. There will be 13,100 sf of disturbed area, 7,839 sf of impervious area and 3,368 sf of wetland impact. Mr. Read outlined the amended site plan.

APPROVED SITE PLAN



AMENDED SITE PLAN



Mr. Read noted that the shift of the site entrance was in order to enter the site over a greater driveway distance with a lower elevation in order to save on the fill. Mr. Read explained that the shift of the location requested by the Water District was due to a fire hydrant location. The Water District and the Fire Chief are satisfied with the change.

Ms. Rardin asked for information regarding two driveways that are located across from the proposed new entrance location. Mr. Read showed an aerial view of the location with the two

driveways and explained that the new location will be almost in line, but not quite over as far, as one of the existing driveways on the other side.

Mr. Auclair referred to a comment about a directional sign on Range Rd. Ms. Rardin said that should be Blanchard Rd. and Mr. Read agreed. Mr. Auclair referred to a grade issue raised by the peer review engineer and asked if the issues have been addressed. Mr. Read replied yes and explained how the issue was addressed.

Mr. Saunders asked if Mr. Read has the letter from the Maine Historic Preservation Commission. Mr. Read replied yes, this was submitted this last week. Mr. Saunders said the findings of fact under traffic, circulation and parking say that the sight distance is 350 feet in one direction and 485 feet in the other direction. The application says the sight distance is 405 feet in one direction and greater than 1,000 feet in the other direction. Mr. Read replied that the sight distance is the larger of the two. Mr. Saunders noted that the findings will need to be corrected.

Chair Bingham opened the public hearing. There were no public comments. Chair Bingham closed the public hearing.

Chair Bingham asked if there are any waivers. Ms. Nixon noted that the Town Engineer asked to ensure that the Board is good with the previously approved waivers.

Mr. Saunders said there are changes to the findings and he does not think the Board should waive the reading.

Chair Bingham noted that the Planning Board has standards of approval that the Board has to review. These standards are applicable in this case and will be applicable to item #6. Chair Bingham said that standards come under the Board's purview and are the only things that will be under review. Ms. Nixon noted that this item comes under the standards for site plan review and the standards for subdivision review are different from the standards for site plan review.

Vice Chair Rardin reviewed the prepared findings of fact. Mr. Saunders moved to accept the proposed findings of fact as amended, seconded by Ms. Perry and **VOTED, 6 yeas, unanimous - motion carries.**

Findings of Fact - Site Plan Review Sec. 229-10 - Approval Standards and Criteria: The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the Site: Utilization of the Site - The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

The plan will minimize impacts to the natural features of the site by minimizing disturbance to undeveloped areas as much as possible. Land disturbance has been limited to the mostly open areas of the site with less mature tree growth. Clearing in the forested area has been avoided completely. A wetlands delineation was completed by Coppi Environmental, LLC which identified the stream and forested wetlands associated with it to the east and west of the proposed parking area. A copy of a letter from the Maine Department of Inland Fisheries and Wildlife is on file. Based on the above facts, 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. *The traffic at the proposed parking area will be controlled by the restrictions of the conservation easement which details need for conserving as much of the natural environment as possible. Based on the limited parking available, traffic volume will be limited well below the 100 trip in a peak hour and a traffic movement permit is not required.*

(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. *The combined entrance and exit drive for the parking lot has a sight distance of 405' in one direction, and greater than 1,000' when looking in the other direction. Based on the MDOT standards of 10' for every mile per hour of the posted speed limit of 35 mph, this standard has been met.*

(b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows. *This standard has been met.*

(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. *This standard has been met.*

(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. *This standard has been met.*

(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. *N/A*

(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. *No turning lanes are necessary due to the low traffic volume expected.*

(g) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street. *This standard has been met.*

(h) The following criteria must be used to limit the number of driveways serving a proposed project: 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. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet. *Only 1 combined exit/entrance drive is proposed for the parking lot.*

(2) Accessway Location and Spacing: Accessways 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard. *N/A*

(b) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible. *N/A*

(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. *N/A*

(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). *N/A*

(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.

The driveway and parking areas were located and designed to provide safe circulation to the site while minimizing impacts to the surrounding land. Existing grades and vegetation will be maintained to the extent practicable. The above standards have been met.

(5) Building and Parking Placement: *N/A*

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

C. Stormwater Management and Erosion Control

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

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

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

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

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

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

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

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond. ***The proposed stormwater management plan was reviewed and approved by the Town Engineer. Based on the above facts, the Planning Board finds the standards of this section have been met.***

(2) Erosion Control

(a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

(b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the

requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

Slope and wetland impacts were limited. Erosion control will be in conformance with the Maine Erosion and Sediment Control Manual will be applied during construction. Based on the above facts, the Planning Board finds the standards of this section have been met.

D. Water, Sewer and Fire Protection

(1) Water Supply Provisions: The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows. ***There will be no water supply or sewage disposal required for this project. The parking area has been sized to allow a fire truck to pull in the drive aisle if needed and an ambulance will also be able to enter and exit the parking lot at the entrance as needed. Based on the above facts, the Planning Board finds the standards of this section have been met.***

(2) Sewage Disposal Provisions: The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules. ***There will be no need for sewage disposal in the parking area. Based on the above facts, the Planning Board finds the standards of this section have been met.***

(3) Utilities: The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground. ***No utilities are required for this parking area. Based on the above facts, the Planning Board finds the standards of this section have been met.***

(4) Fire Protection. ***The parking area has been sized to allow a fire truck to pull in the drive aisle, if needed. Based on the above facts, the Planning Board finds the standards of this section have been met.***

E. Water Protection

(1) Groundwater Protection. The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine. ***There will be no groundwater or hazardous materials discharged as a result of this project. The property is not located within an area designated as an aquifer protection area. There will be no on-site water supply or sewage disposal systems. Based on the above facts, the Planning Board finds the standards of this section have been met.***

(2) Water Quality: All aspects of the project must be designed so that:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

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

No substances described above will be stored or discharged in a way that could contaminate surface or groundwater. Based on the above facts, the Planning Board finds the standards of this section have been met.

(3) Aquifer Protection (if applicable). If the site is located within the Town Aquifer Protection Area a positive finding by the board that the proposed plan will not adversely affect the aquifer, is required. ***The parcel is not located in the Aquifer Protection Area. Based on the above facts, the Planning Board finds the standards of this section have been met.***

F. Floodplain Management. If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions. ***The parcel is shown on Floodplain map number 230162 0015B. The location of the proposed parking area is within an area designated as Zone C-Area of Minimal Flooding. Based on the above facts, the Planning Board finds the standards of this section have been met.***

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

A review letter has not yet been provided from the Maine Historic Preservation Commission. This is a proposed condition of approval. Based on the above facts, and the proposed condition of approval, 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. ***No exterior lighting is proposed. Based on the above facts, 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. ***There are no proposed changes to the landscaping plan due to the minimal change in the amount of pavement. The parking area will be buffered from views on all sides through existing vegetation. Based on the above facts, the Planning Board finds the standards of this section have been met.***

J. Noise. The development must control noise levels such that it will not create a nuisance for neighboring properties. ***There will be no activities associated with the parking area that will result in noise. Based on the above facts, the Planning Board finds the standards of this section have been met.***

K. Storage of Materials.

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

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

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

There will be no external storage of material. There will be no dumpster or trash receptacles on site. Signs will be placed instructing visitors to remove any trash generated. Based on the above facts, 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 Capacity: *The applicant has retained the services of Sevee and Maher Engineers, Inc.*

Financial Capacity: *There is a letter on file dated July 25, 2023 from Atlantic Federal Credit Union stating that the project is estimated to cost \$50,000 or less and that the CCLT has sufficient funds in its bank accounts to finance the project.*

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

Mr. Saunders stated that there are three proposed conditions of approval remaining. Ms. Nixon confirmed this. Mr. Saunders moved to approve an amendment to an approved Site Plan for an eight space parking area for access to Rines Forest to be located at 48 Blanchard Rd., Tax Assessor Map U12, Lot subject to the Limitation of Approval, the Expiration Approval, the Standard Condition of Approval and the three proposed Conditions of Approval, seconded by Mr. Auclair and **VOTED, 6 years, unanimous - motion carries.**

Expiration of Approval: Construction of the improvements covered by any site plan approval must be substantially commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced within 12 months of the date upon which approval was granted, the approval shall be null and void. If construction has not been substantially completed within 24 months of the date upon which approval was granted or within a time period as specified by the Planning Board, the approval shall be null and void. The applicant may request an extension of the deadline to commence or complete construction 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 one-year extensions to the period if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

Standard Condition of Approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except 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 (if Staff Review, the Town Planner or Staff Review Committee) prior to implementation. This condition shall be included on all site plans.

CONDITIONS OF APPROVAL

1. A preconstruction conference shall be held prior to the start of construction.
2. All clearing limits are to be staked and inspected by the Town Engineer prior to the preconstruction conference.
3. The lot shall be staked and the Chebeague and Cumberland Land Trust be allowed to review the site prior to construction.

6. Public Hearing: Site Plan Review for development of a convenience store with fuel pumps and a bank with drive through to be located at 181 Gray Rd., Tax Assessor Map U19, Lot 12 and a portion of 173 Gray Rd., Tax Assessor Map U19, Lot 13, in the Village Center Commercial (VCC) Zoning District, under the US Route 100 Design Guidelines. **Owners:** Lot 12 – Ronald Copp, Sr. & Ronald Copp, Jr., Lot 13 – Ronald Copp, Sr., Howell Copp & Jerald Copp, Jr. **Applicant:** Cumberland Real Estate Holdings, LLC. **Representative:** Curtis Neufeld, PE, Priority Real Estate Group.

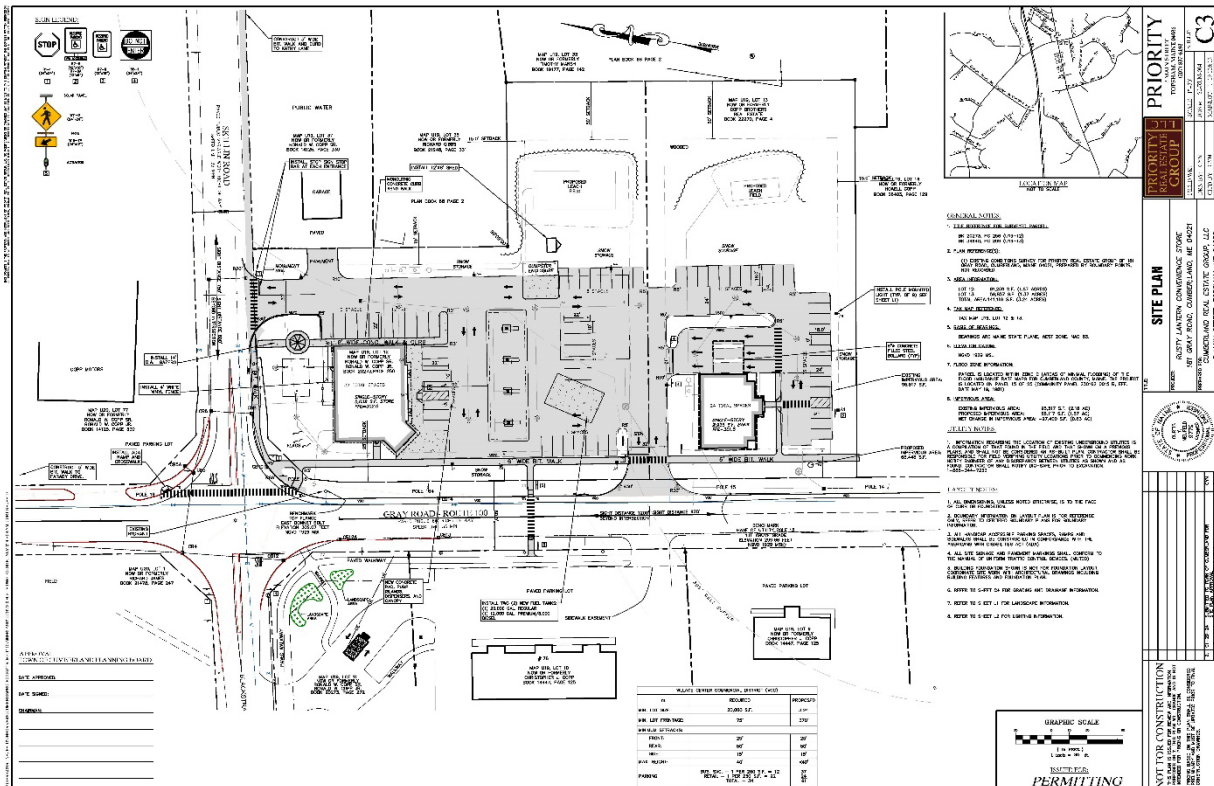
Chair Bingham said the applicants are here to seek comments from the Board and the public and noted that the project is a permitted use in the Zoning District. Chair Bingham introduced the item.

Ms. Nixon explained that this is the initial hearing for this substantial project with two components, a market/gas station and a bank. Ms. Nixon said she has been working with Mr. Neufeld and the Hydrogeologist that the developer hired to prepare a report. Ms. Nixon asked that the Board consider if a peer review of the hydrogeological report should be conducted.

Curtis Neufeld, PE, Priority Real Estate Group, LLC, introduced himself and noted Priority Real Estate Group, LLC is owned by Cumberland Real Estate Holdings, LLC. These companies are local and based in Topsham and Brunswick. The real estate groups, under different LLCs, own the land and develop the stores that are operated by Rusty Lantern Market. Mr. Neufeld said Jim Howard, President, has assembled a team of all small Maine companies to do the projects. The focus is to keep things as local as possible. The convenience stores are focused on Maine communities and sell Maine products to the extent possible with a Maine products section. The gas is from Irving.

Mr. Neufeld shared that the project includes development of a 3.24-acre site, a new 5,038 square foot store with updated architecture, indoor/outdoor seating with a patio and gazebo, regular and diesel fueling stations, a 2,935 square foot bank with drive thru service, ample parking, new landscaping and lighting. Mr. Neufeld said there is not a tenant for the bank at this point so there are not as many architectural details for the bank. The plan is coordinated around the proposed roundabout at Route 100.

Mr. Neufeld said they have met with Maine DOT who are reviewing the project now. Extension of the sidewalks to local neighborhoods has been requested. A variance to allow for the fuel tanks to be located within the aquifer zone has been requested through Maine DEP. Mr. Neufeld displayed the proposed site plan and described the project.



Lisa Jacobs, Geologist/Principal - Sevee & Maher Engineers, noted that she is here with Andrew Gobeil, Senior Hydrologist - Sevee & Maher Engineers, to provide a summary of the findings of the hydrogeologic investigation and to answer questions. Ms. Jacobs noted the project is for a proposed gasoline station and convenience store with storage of gasoline in underground tanks (UST) within a mapped significant sand and gravel aquifer according to mapping by the Maine Geological Survey. Ms. Jacobs stated that it is not uncommon in Southern Maine to have underground storage of gasoline in mapped significant sand and gravel aquifers. There is an increased risk that is dealt with through regulation and design standards. The Town will rely on Maine DEP to provide guidance and enforcement of the permitting and construction. Ms. Jacobs reviewed rules for siting a UST facility in a mapped significant sand and gravel aquifer.

Ms. Jacobs explained that a work plan for the hydrogeologic investigation was provided for Maine DEP to review. Maine DEP did not find that investigation was needed and provided an opportunity for the project owners to accept the published mapping and seek approval for a variance based on the published mapping. The project owners decided to move forward with the geologic/hydrogeologic investigation to characterize the site, understand groundwater direction and general velocity and to be able to better answer questions. Ms. Jacobs outlined the investigation plan and summarized the findings. Ms. Jacobs reported that an area of contamination was found and a phase 1 environmental site assessment and baseline groundwater quality monitoring is currently underway.

Mr. Neufeld reported that the proposed site will comply with the Route 100 Design Standards. Mr. Neufeld shared the waiver requests and said they have addressed most of the Peer Review Engineer comments. Mr. Neufeld added that, in knowing that this is a sizable project,

they wanted to go ahead and have this meeting so that any questions from the Board or the public can be answered and the project can be altered before the project comes back to the Board for approval.

Chair Bingham said that the Town hires an independent engineer to review all of the technical, and other, aspects of the plan. The Board will try to answer any questions tonight.

Mr. Auclair asked if there would be remediation of the contaminated area. Mr. Neufeld replied that contaminated soils were found where underground storage tanks were previously located for a former gas station, and they are doing their due diligence and will dispose of the contaminated soil safely. Mr. Auclair asked about the distance from private wells and the flow of the water underground. Mr. Neufeld said that they have determined the location of private wells and have accurately mapped them out. The flow goes toward the intersection, and away from the wells on Kathy Ln. Mr. Auclair asked if Mr. Neufeld knows of any failure of this type of system in the U.S. Mr. Neufeld said he is not aware of any and he has requested a statistic from DEP. Mr. Auclair asked if there can be above ground storage tanks for this type of operation. Mr. Neufeld responded that he would not say above ground storage tanks are not allowed but the measures needed with containment requirements are much worse.

Mr. Saunders said the store hours will be 24 hours per day, 365 days a year. Mr. Neufeld agreed. Mr. Saunders asked for information on safeguards to leaks. Mr. Neufeld said a pad will go around the fuel tanks with a series of grooves around the outside, beyond the reach of any of the fuel hoses, to catch any spillage. The oil stop valve has a floating cylinder that floats in water but not in gas and if gas gets inside, the stopper will sink and cut off the flow.

Ms. Sawchuck asked who will own the site. Mr. Neufeld said it will be owned by Cumberland Real Estate Group. Ms. Sawchuck asked if Rusty Lantern is a franchise. Mr. Neufeld replied that it is a franchise and they operate about thirty of these stores with about twenty of them in Maine. Ms. Sawchuck asked if there will be EV charging stations. Mr. Neufeld said not at this time, but they are planning to be able to add these in the future. Ms. Sawchuck asked why the Board would want to waive the market study. Jim Howard, Priority Real Estate Group, replied that he will be the owner of this store and owns almost all of the Rusty Lantern stores that they have built. These are not franchises like Dunkin Donuts or McDonalds. Priority Real Estate Group is the preferred developer for John Cook and Irving Energy. Priority Real Estate Group builds and owns the stores and leases them to Mr. Cook and Irving Energy. Mr. Howard said that he does have a market study and will get the Board a copy.

Ms. Perry asked for an update on the proposed roundabout. Town Manager Bill Shane said they are hopeful that the town will get a Congressional earmark and should know by June. Mr. Shane said that the Board will have to focus on the project in front of them because even if the Town gets the earmark, the roundabout could be two years out. Ms. Perry asked about the timeline for the Rusty Lantern project. Mr. Neufeld said they hope to break ground by the end of this year and open in Spring of 2025.

Ms. Rardin asked about sidewalk plans. Mr. Neufeld said there would be a crosswalk across Gray Rd. and sidewalks in front of the site along Gray Rd and Skillin Rd. The proposed crosswalks will have a flashing beacon. A plan for additional signage is being proposed. The posted speed limit is 35 m/p/h.

Chair Bingham asked for the location of the proposed septic system. Mr. Neufeld pointed out the location of the two septic systems that will be at the rear of buildings looking from Gray Rd. Chair Bingham said the discharged water will flow Northwest and Mr. Neufeld agreed. Chair Bingham said the discharges from the homes on Kathy Ln. are also going Northwest. Andrew Gobeil, Sevee and Maher Engineers, said Kathy Ln. is outside of where they did the test wells but he would expect that it follows the same pattern. Chair Bingham asked about the property abutting the site on Skillin Rd. and Mr. Neufeld said Ron Copp, Sr. and Richard Gibbs own the abutting lots. Chair Bingham said there seems to be a good buffer between the site and most properties on Kathy Ln. but he is concerned about the lack of buffer to Mr. Gibbs' property. Chair Bingham is concerned about the effect of the lighting for the residents of Kathy Ln. and with traffic concerns.

Ms. Sawchuck asked about peer review of the hydrogeologist report. Ms. Nixon said she could look into that. Ms. Sawchuck said this would be a wise thing to do. Ms. Nixon noted that there is a public information meeting planned. Mr. Neufeld said the meeting will be Thursday, here at Town Hall at 5 pm and the abutters were notified. Ms. Nixon said that after the public meeting, they will submit the DEP application and expect to have the project back to the Board in late summer or early fall. Ms. Nixon said when the project comes back, they will have the Peer Review Engineer and the Peer Review Hydrogeologist at that meeting.

Chair Bingham opened the public hearing and asked that questions be addressed through him.

Joyce Baughan, Blackstrap Rd., said she thinks this is a great proposal and she has a couple of concerns. She hopes the Board ensures that the buffer zone for residents of Kathy Ln. is not just deciduous trees so there is a permanent buffer in the winter. Ms. Baughan said she hopes that cars cannot accidentally go onto the outdoor seating area. Ms. Baughan would like to see a connection from the bank to whatever may go in next to it beside Caddy's.

Jeff Davis, 38 Interurban Dr., said he is in support of this project but has a concern about the kitchen filtration so the odors from the kitchen are controlled. Chair Bingham asked if the applicant can address this. Mr. Howard said there will be a good suppression system in the kitchen.

Ross Goldberg, 18 Faraday Dr., said he is concerned about the climate and this should be part of the review of all Town projects. Mr. Goldberg said it sounds like a great project that is well thought through and could be a great addition to the community. Mr. Goldberg said that the climate is our single point of failure and it does not matter how well conceived things are or how well things run, if the climate is not addressed all else fails.

Daryl Quinn, 8 George Rd., said he does not have a problem with the project. Mr. Quinn understands concerns about the environment but the Town has to move forward. Mr. Quinn said he has been into a number of Rusty Lantern facilities and they are very good.

Scott Morgan, 2 Forest Ln., said his parents are at 7 Kathy Ln., the Gibbs residence, and asked for more information on the buffer. Chair Bingham said that the Board will ensure this is properly buffered.

Jeanne Graves, 20 Faraday Dr., asked for clarification on the proposed roundabout. Mr. Shane replied that the Town will know by June if the roundabout will move forward. Mr.

Shane identified the location of the roundabout at the intersection of Gray Rd., Blackstrap Rd. and Skillin Rd. Ms. Graves said if the roundabout does not go forward, she is concerned about where the sidewalks will be. Mr. Neufeld showed that sidewalks are proposed from Faraday Dr. to the Copp Motors site and from Kathy Ln. up to Gray Rd. Mr. Neufeld said if the roundabout is approved the sidewalks will also be on the opposite side of Gray Rd. and will go further east on Skillin Rd.

Rorie Lee, 18 Faraday Dr., said she is glad to hear that the Board is concerned about the neighbors and the lighting. She asked that the Board consider some type of restriction on deliveries and noise. She is concerned that the development be in harmony with the people that live in the area and with light and noise pollution.

Town Manager Bill Shane recognized Jim Howard for a having solid team of technically competent people to address big concerns on this project. Mr. Shane shared history on water issues in the area and noted that Ms. Jacobs worked with the Town on these issues and on lifting the well advisory through DEP. Mr. Shane said that Mr. Gobeil has worked with the Town on the gravel pits in Cumberland and both Ms. Jacobs and Mr. Gobeil are more knowledgeable about Cumberland than anyone the Town will hire to do the a Peer Review. Mr. Shane said that the Board has the ability, under the well advisory zone, to add additional conditions of approval. Mr. Shane suggested a condition that the Code Enforcement Officer conduct an annual inspection and report to the Board. Mr. Shane said finding the contaminant at the site and bringing it forward to the Board was fantastic. Mr. Shane said he is really pleased to work with Mr. Howard and his team.

Teri Maloney-Kelly, 29 Maloney's Ridge Way, said she is confused about the sidewalks and she thought she heard that the sidewalks would go down the hill to the housing development. Mr. Neufeld said no sidewalks are proposed as part of this project other than what was shown on the plans tonight but maybe she is thinking of the roundabout. Ms. Maloney-Kelly said that she is in favor of this project but has concerns. She thinks being open 24 hours a day is a stretch for this community. This zone, Village Center Commercial (VCC), is the only zone this use exists in within the Town of Cumberland. Ms. Maloney-Kelly said this zone has not been very successful and she is here to advocate for her neighbors. This project is abutting a residential neighborhood. Ms. Maloney-Kelly asked if all of the Rusty Lantern stores are open 24 hours a day. Mr. Howard replied that all but the one in Topsham are open 24 hours a day. Mr. Howard said that the Topsham store was the first store they opened and no one there stays out past 9 pm. Mr. Howard added that other stores are open 24 hours and there is some business at night. There is a community benefit that during bad weather, people have the ability to get gasoline and go to the store. Ms. Maloney-Kelly stated that the Town gets along fine without having something open 24 hours a day and she requested that there be some consideration starting out to see what the real traffic will be. Ms. Maloney-Kelly is interested to find out how the Police Dept. feels about being open 24 hours a day as it will attract whoever is out at 2 am. Ms. Maloney-Kelly expressed concern with the buffer to the neighborhood and said understands there may be an issue of vandalism with a barrier instead of trees. A barrier would protect the neighbors' back yards and block the lights shining into people's yards from cars coming in and out.

Nicole Nevulis, 354 Blanchard Rd. Ext., commended the applicants on the presented plan. Ms. Nevulis is concerned about the aquifer. As somebody who lived near the Baird Maguire

Superfund Site in Holbrook, Ma., she is especially sensitive to anything that is done to jeopardize the water supply. She appreciates that due diligence will be done by a peer review because one can never be safe enough. Ms. Nevulis referred to a note that the water was different twenty years ago and there was a big concern then but today the water is different and asked what's to say that things won't change back twenty years from now. Ms. Nevulis asked if we have to be concerned about ecological or environmental changes and is it possible in this location that things shift back to the same problems from twenty years ago. Mr. Shane explained that the DEP well advisory issue twenty years ago was caused by someone who had deliberately thrown drycleaning fluid into a well and this destroyed the water supply for many years. Ms. Nevulis expressed safety concerns with having a 24-hour location that could be a beacon for people that aren't doing favorable things. Ms. Nevulis noted she recently called the Police Dept. recently to request monitoring of a stop sign after a near collision recently and was told there was only one officer on duty. Ms. Nevulis asked the Board to consider what type of safety measures can be put in place to protect from transient people hanging out and other safety issues. Ms. Nevulis said she likes the design and it has been well thought out but many people were hoping for some nice shops and restaurants vs. a gas station and a bank.

Chair Bingham asked if the Maine Turnpike service area is open 24 hours and Ms. Nixon said yes. Chair Bingham said that a lot of people in Cumberland may not know that they have access to the Burger King on the Turnpike.

Kathy MacDonald, 17 Tammy Ln., has a concern with the buffer. Ms. MacDonald said she now has condos across the street from her and even though she has some wonderful neighbors, the buffer is horrible. Ms. MacDonald asked what the buffer consists of because all she has is a few trees and it does not block out any noise and she can see into the condos. Ms. MacDonald would like to see more trees closer together than what was put in across from her because the neighbors deserve that. Ms. Nixon explained how the ordinance defines buffering as any combination of distance, vegetation or fencing and said the Board looks at these three things. Ms. Nixon works with the Board to ensure that abutters are happy with what the Board approves and she will often work with the landscaper as plantings are put in. Chair Bingham agreed and referenced a case with a solar project on US Route 1 where the Developer worked with an abutter for a satisfactory buffer. Ms. MacDonald said in her case, the trees didn't do well because they were planted in November when it was freezing outside and requested that there be a requirement that things are planted at the proper time. Ms. Nixon explained that the town holds a performance guarantee (\$) for one year in order for the landscaping to be completed and established satisfactorily.

Mr. Howard stated that he will reach out to the neighbors and, regardless of what the Code says for the number of trees, he will ensure that they design a landscape plan that the abutters approve. Mr. Howard added that they will not plant small trees but will plant tall ones. Mr. Howard said they have built thirty stores and a lot are in neighborhoods. In 2013 they won an award from the Maine Association of Planners for one gas station because it was built in a neighborhood and they did it right.

Chair Bingham said the Developers will take these comments and will take the needed steps with Maine DOT and Maine DEP and hope to come back to the Board in late summer with their proposal. Chair Bingham pointed out that people access the agenda posted on the

Town website and click on the item to see all the information that the Planning Board sees. This is often available weeks prior to the meeting for people to review and form their questions. Chair Bingham noted that the Planning Board is a quasi-judicial entity and direct communication with Board members is not permitted. People can send a letter or email to the Planning Dept. to be included in the meeting materials. Chair Bingham added that lobbying of the Board members is not allowed.

Mr. Saunders asked about the buffer requirements. Ms. Nixon said the Route 100 Design Guidelines require a 25-foot landscaped buffer that extends all along the corridor on the front and there are other buffer requirements. Mr. Saunders asked if a waiver of the buffer is needed on the Skillin Rd. side where there will be access to the abutter, Ron Copp, Sr.'s property. Mr. Howard said there will be an easement given to Mr. Copp for access from Mr. Copp's garage so he can move his car collection in and out. This will be a curb cut from the driveway to the Rusty Lantern from Skillin Rd. providing access to Mr. Copp's garage. Mr. Saunders referred to the other waivers requests and said he doesn't see anything he is concerned about but does not think there needs to be a waiver tangent to the proposed roundabout as we don't currently have the roundabout.

Mr. Neufeld said this meeting was outstanding and he appreciates everyone coming out to help them make the project the best possible.

Chair Bingham closed the public hearing.

Ms. Perry moved to table the item, seconded by Mr. Auclair and **VOTED, 6 yeas, unanimous - motion carries.**

H. Administrative Matters/New Business: Ms. Nixon said there are plans for the lot line modifications that Board Members need to sign.

Ms. Nixon reported that she does not yet know when David Chase's project for the pit will be ready to come forward but they are hoping for next month.

Ms. Sawchuck asked about the status of the gym project. Ms. Nixon said that the Foley's Fitness gym is gone at this point. The landowner and the Foley's Fitness owners could not come to an agreement on what the purchase and sale agreement included and are going through legal channels right now. There is hope that Foley's Fitness will come back at some point, possibly in a different location.

I. Adjournment: Mr. Auclair moved to adjourn the meeting at 9:30 pm, seconded by Ms. Rardin and **VOTED, 6 yeas, unanimous – motion carries.**

A TRUE COPY ATTEST:

Peter Bingham, Planning Board Chair

Christina Silberman, Administrative Asst.