

## TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES

**Tuesday, July 21, 2020**

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

**B. Roll Call: Present:** Paul Auclair, Bill Kenny, Steve Moriarty, Jason Record, Joshua Saunders & Ann Sawchuck. **Staff:** Carla Nixon - Town Planner, William Shane - Town Manager & Christina Silberman - Administrative Assistant. **Absent:** Lee Buffinton.

**C. Approval of the Minutes of the April 21, 2020 Meeting:** Ms. Sawchuck noted two minor corrections. Mr. Saunders moved to approve the minutes of the April 21, 2020 meeting as amended, seconded by Mr. Moriarty and voted. **6 yeas - motion carries, unanimous.**

**D. Staff Site Plan Approvals:**

**1. Cumberland Farmers Club:** Minor Staff Site Plan approval of an open-side structure/building that will contain a historic sawmill. The applicant is Lyle Merrifield, President, on behalf of Cumberland Farmers Club. The existing sawmill structure is 8' wide x 48' long. A new concrete pad will be made for the structure to be placed upon and a larger open-sided structure will be built around it.

**2. Verrill Farm Stand:** Minor Staff Site Plan approval of a seasonal farm stand located at 72 Range Rd., Cumberland, ME, Tax Assessor Map R05, Lot 17. The applicant is Eric Verrill. The owner is Robert Verrill. This is classified as minor because it involves a new structure that is less than 1,000 square feet in size. The proposed structure is 16' x 12' for a total square footage of 192 sf.

**3. Fat Guys Concessions:** Minor staff site plan approval for the placement of a mobile food booth on Rt.100 next to Caddy's Shack Ice Cream. The applicants are Beth Copp and Billie Jo Smith, co-owners of Fat Guys Concessions. The owner of the land is Howell Copp. The use is classified as a restaurant which is a permitted use in the VCC zoning district, subject to Site Plan Review. This project is being reviewed as a Minor Staff Review as it involves the construction of a new structure under 1,000 sf and the construction of an impervious surface such as a support pad or paved or gravel parking area.

**4. Copp Garage at 210 Gray Rd.:** Minor staff site plan approval to change the use of an approved site plan from auto repair garage to a medical caregiver. The applicants are Adam and Kelly Copp. The site is located at 210 Gray Road as shown on Tax Assessor Map U20, Lot 58

**5. Mill Run Condominiums:** Minor staff site plan approval for the placement of a 6' x 12' storage shed. The Applicant is the Mill Run Condominiums. Green Sip Construction is the owner, Jim Schmidt and Peter Biegel are the representatives.

Ms. Nixon reported on each of the approved staff review items and answered questions.

**E. Minor Change Approvals:** None.

## F. Hearings and Presentations:

**1. Public Hearing: Preliminary Major Subdivision Review for OceanView at Cumberland, LLC (Phase 2) – 52 dwelling units plus 1 community building. Greely Rd., Tax Map R04, Lot 34A.** **Applicant:** Ocean View at Cumberland, LLC / John Wasileski. **Representative:** Frederic Licht, P.E, LSE, Licht Environmental Design, LLC.

Chairman Auclair introduced the item.

Chris Wasileski, OceanView at Cumberland, LLC, introduced his team and reported that Town Engineer comments and review edits have all been addressed as well as the comments about fire hydrants or safety from Chief Small. Mr. Wasileski said that neighborhood buffering concerns have been addressed. DEP and Army Corp. of Engineers submittals are proceeding. Architect Gawron-Turgeon has been retained for the community center and pool concept. Ledgewater Pools will also be retained.

Mr. Wasileski showed an example of a model unit and outlined the community amenities. Mr. Wasileski said that they go for solar power and hot water where they can. Mr.

Rick Licht, PE, provided a timeline of the project progress. Mr. Licht displayed a plan of the project and outlined the sidewalk locations. Mr. Licht explained a waiver request for a sidewalk from a crossing near Leonard Dr. up to the clubhouse. Mr. Licht said that they plan to provide a stone dust path across the field and up to the parking area and barns. Mr. Kenny asked if this would be maintained in the winter and Mr. Licht said yes. Chairman Auclair asked for the rationale for this given the opposition from the Trails Committee. Mr. Licht explained that it comes down to philosophy and character. Mr. Licht said that the project will provide a lot of connectivity and this makes sense because they are trying to provide a park like feel. Mr. Moriarty asked about the proposed width and length of the stone dust walkway. Mr. Licht replied it would probably be 500' long and 5' wide.

Mr. Saunders asked what the average daily traffic for this road will be. Mr. Licht replied less than 50. Mr. Saunders asked what it will be for the other end. Ms. Morabito, traffic engineer for the Applicant, replied that the total average daily traffic for the entire development for phase 1 and 2 is 448 trips with the majority going to Tuttle Rd.

Mr. Saunders asked for clarification on road standards for private roads. Mr. Saunders said that he isn't sure the waiver is needed and does not think the Board can give the waiver today. Chairman Auclair asked if the Senior Housing Overlay would affect this. Mr. Licht read from the Senior Housing Overlay road standards. Mr. Saunders noted this doesn't say anything about private roads. Mr. Licht said he will review this and find the answer.

Mr. Record asked how somebody walks from the community building to Greely Rd. Mr. Licht said that they don't expect residents to walk out to Greely Rd. There is no sidewalk on Greely Rd.

Mr. Licht noted that the remaining items from Sevee and Maher's comments will be addressed at the final review.

Mr. Licht outlined refinements to the plan since the last meeting. Water will be extended from Phase 1 through Phase 2 and along an easement out to Greely Rd. An easement has been added to extend water and sewer to service potential new restrooms by the 14<sup>th</sup> tee at

Val Halla. Mr. Licht reviewed changes to the landscaping plan that was adjusted after meeting with Dr. Netland.

Mr. Licht referred to the triangular easement that is the current 5<sup>th</sup> tee and described the trail crossing and buffer in this area. Mr. Licht reported that a unit that was encroaching on the 50' buffer has been adjusted and is no longer in buffer. Mr. Licht described a redesign of the focal system for stormwater.

Mr. Licht outlined plans for the community center parking, including the addition of a 24 space lot with lighting for a total of 34 total spaces. The plan is or a 64' x 20' pool with a deck around it. They are working to determine what the use of the community building will be and ADA access. Mr. Licht explained that they would like to have the pool installed next year. The building has a 300 gallon per day septic system currently. An analysis of the septic system has been done. OceanView would like to use the septic system for about 3 years and it will be monitored. A forced main sewer will be added when the septic system reaches capacity.

Mr. Licht described the roadway in the preservation area and reported that an apron will be added near the barn for a fire truck to turn around. Mr. Saunders asked if a fire hydrant will be put on Leonard Ln. and Mr. Licht responded yes.

Chairman Auclair asked about trail changes. Mr. Licht outlined the trail plans and noted that things have changed due to the COVID virus. They are proposing a Val Halla boundary trail. Mr. Licht said that the proposed internal trails will not be connected now and will be primarily for OceanView residents' recreational use. Trails are proposed to be constructed commensurate with the phase that is under construction. Mr. Moriarty asked about access off Greely Rd. Mr. Licht said a trail will be accessed from Greely Rd. This trail would walk along the boundary of phase 2 and connect to a trail system in phase 1.

Mr. Moriarty inquired about the snowmobile trail. Mr. Licht replied that phase 1 has a snowmobile trial and there will be a crossing in phase 2 to connect to the existing trail on the golf course. Mr. Licht reported that the snowmobile club asked for a connection across phase 2 out to Greely Rd. and the answer was no. Mr. Moriarty said that when this gets to final plan review, it would be interesting to see an exclusive trail map without all the other features. Mr. Licht they will come up with something graphically.

Mr. Saunders asked about traffic circulation from Greely Rd. Mr. Licht responded that there will be an open connection in from Greely Rd. Mr. Anderson added that they needed to make sure the road is beefy enough for fire trucks to pass over but not make the existing gravel way any larger, so the impervious surface doesn't grow. Mr. Anderson continued that the plan was not to have this be an accessway. This is intended for access to the community center and for emergency vehicles. There will be no barrier to driving through from Greely Rd. to Tuttle Rd.

Ms. Sawchuck asked if the internal trails for phase 2 are just loops around the clusters and Mr. Licht said yes.

Chairman Auclair opened the Public Hearing.

Rick Doane, 4 Catalpa Ln., said that he believes that the proposed trail to Greely Rd. is now in Dick Ingraham's yard.

Mr. Doane expressed concern about traffic count estimates for the next six to eight years with the constant flow of work vehicles. Mr. Doane said that those on Tuttle Rd. are being asked to accept all the traffic for an extremely protracted construction process. This construction traffic is a disruption to Mr. Doane's peace and enjoyment and is a safety hazard for the residents of phase 1. Mr. Doane observed that the Board has a house of cards with the various subdivision private road standards and approvals. Mr. Doane said that he has read these ordinances and cannot get from A to B.

Mr. Doane asked about Loni Allen's garage. Mr. Wasileski replied that the old horse barn is being used as a lay down area and storage shed. OceanView might retain this for maintenance purposes. Mr. Doane replied that he is not sure this is shown on the plans and that there should be a conversation around this. Mr. Doane urged the Board to look at the road and traffic situation carefully.

Chairman Auclair said that he is not sure that the Planning Board can dictate that a certain number of construction vehicles come through. Mr. Doane responded that the remedy is to at least have a construction entrance off Greely Rd. so phase 2 can be built out from this access point. Mr. Doane added that the Town Council spent approximately two hours of their time approving a recommendation from staff to create this zone and they could modify this if in best interest of community.

John Jensenius, Trails Subcommittee, referred to the sidewalk or stone dust trail question and said that a mowed grass trail was proposed in January and a stone dust trail with a gravel base is better. Mr. Jensenius said that the subdivision has sidewalks. It makes sense that the sidewalk connect to the community center. The Trails Subcommittee would like to see a sidewalk the whole way through. Mr. Jensenius agreed that times have changed and noted that the first home (in phase 2) is not scheduled to be built until 2023. Mr. Jensenius continued that hopefully times will change again and it is not appropriate to make decisions now about the health of the people that will live there.

Mr. Jensenius referred to the boundary trail proposed to go along Val Halla and said he is not aware that Toby at the golf course has approved this. Mr. Jensenius wants clarification from Toby that this trail is appropriate. Mr. Jensenius referred to the trail along the white fence and said the Committee doesn't care which side the trail is on but asked who will maintain this. Mr. Jensenius said that the connecting trails to the loops are likely to be used by the residents to get out, and not by outsiders, and it is important to keep these connecting trails in the plan. Mr. Jensenius said he visited phase 1 today and met a new resident who was excited to learn about the connecting trails. Mr. Jensenius said that there is no argument about the snowmobile trail. Mr. Jensenius said that the tote road could be used now by the general public, but this does not need to be advertised, and it can be closed during the construction.

Chairman Auclair read the following letter from Hall Thompson of 240 Greely Rd.  
My property abuts the Ingraham property at 236 Greely Road which abuts the above development.

My sole comment relates to the proposal to run a trail for snowmobiles and other uses on the NORTHWEST SIDE OF THE WHITE FENCE along the NORTHWEST SIDE OF THE SUBJECT PROPERTY.

That trail would run less than 50 feet from the Ingraham's bedroom window, creating a noise pollution problem. In addition, the distance between the fence and the utility pole that shows up on the map near Ingrahams is only 8 feet. That would spell disaster for two snowmobiles meeting there. For those reasons I would propose running the trail on the other side of the fence, the SOUTHEAST side, where there is plenty of room. Other borders of the development are required to have a 50 foot setback. It seems like that should apply here as well.

Other options would be to run the trail along the project Access Road or the Utility Access route. Those would save considerable bridge building expenses. The proposed route transverses a very wet drainage area between the referenced utility pole and the vicinity of the 12th Val Halla green, in addition to the brook that bisects the Godsoe Farm.

Thank you for listening.

Chairman Auclair read the following letter from Judy Ingraham, 236 Greely Rd.

I will jump on here to express my concerns as well. The trail proposed feels very close to being too much a part of my backyard considering the less than 50 ft from my bedroom window. A great time to ride is at night and over the years, rogue snowmobilers have used that path many times. I am well aware how loud it can be.

As for the 8 ft space between tree and utility pole, the obvious solution for the snomobilers would be to swerve out into the yard which is another concern for me. That tree has widespread above the ground roots as well.

I'm not sure if anyone has actually walked the property to assess the feasibility of the proposed trail. Hall makes an excellent point too about the area beyond the pole being very wet. I visualize slushy conditions with the slightest bit of travel through it.

I agree with Hall, it appears that there is enough open and drier land on the inner side of the fence to satisfy the same outcome, probably much better.

Mr. Licht responded that they will be happy to meet with Ms. Ingraham and noted that snowmobiles will not be allowed in this area.

Chairman Auclair closed the Public Hearing.

Mr. Saunders asked about the flood plain and Mr. Licht replied that this is in process.

Chairman Auclair asked about traffic. Mr. Licht replied that the construction traffic is going to happen. There may be a point where there is a construction access from Greely Rd., but this has not been worked out.

Mr. Saunders asked about Ms. Nixon's March 12<sup>th</sup> review question about a revised MDOT entrance permit. Ms. Nixon said she will look at this for final approval.

Ms. Sawchuck asked if the Board has authority to say internal trails must connect to external trails. Chairman Auclair and Ms. Nixon replied no.

A discussion was had about applicable road standards and the requested waiver. The Board agreed not to decide on the waiver tonight. It can be considered at final review.

Chairman Auclair reviewed the proposed Findings of Fact.

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

## 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. There is a Zone A area indicating likely flooding but the applicant is filing an appeal to FEMA for a redesignation of this area. The area where the homes are located is not in this Zone A area. 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 for preliminary approval.*

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 consisting of "50-100 housing units". An updated letter from PWD is required for final review and should be based on the final water supply design. Based on the information provided, the standards of this section have been met for preliminary approval.*

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 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. An updated letter from PWD is required for final review and should be based on the final water supply design. Based on the information provided, the standards of this section have been met for preliminary approval.*

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. The Town Engineer has reviewed and approved the Erosion and sedimentation control 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;

*A traffic study was performed by Maine Traffic Resources. An MDOT Entrance permit was issued for Phase 1 and for "an anticipated 40-50 units in Phase 2. Staff has requested an updated MDOT permit be provided for final review which reflects the actual number of units in both phases and that also addresses the additional entrance from Greely Road. Based on the information provided, the standards of this section have been met for preliminary approval.*

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. There is a letter from the PWD stating there is sufficient capacity to serve the additional units to be built in Phase 2. There is a letter dated 1/14/20 from Town Manager Bill Shane stating that the Town agrees to accept the sewer design flow from the project. A charge of \$500 for each of the units will be charged to the applicant. 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 in Phase 2 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 and approved by the town planner, the town engineer and town department heads. There are minor plan changes that are required for final review. Based on the information provided, the standards of this section have been met for preliminary approval.*

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, an architect and a licensed soils scientist.*

*Financial capacity is evidenced by a letter dated 10/14/19 from Kennebunk Savings stating that bank has approved financing of the infrastructure for the project and that Oceanview at Cumberland has the financial capacity to complete the land development and construction project as proposed.*

*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 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 be served by public sewer. Infiltration of stormwater is limited to the installation of BMP's 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) and Zone A. A letter of map amendment is being proposed to FEMA to adjust Zone A. Based on the information provided, the standards of this section have been met for preliminary approval*

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. 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. The applicant has submitted plans to MDEP and Army Corp and is awaiting approval. Based on the information provided, the standards of this section have been met for preliminary approval.*

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.*

Mr. Saunders moved to approve Preliminary Major Subdivision Review for OceanView at Cumberland, Tax Map R04, Lot 34A, subject to the single proposed Condition of Approval, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous**.

**Condition of Preliminary Approval**

1. That all outstanding items listed in this review be provided for final review along with all outside agency letters of approval.

**G. Administrative Matters/New Business:** Mr. Moriarty asked about the August meeting. Ms. Nixon replied that there is nothing at this time.

**H. Adjournment:** Mr. Moriarty moved to adjourn the meeting at 8:59 pm, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous**.

**A TRUE COPY ATTEST:**

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Paul Auclair, Board Chair

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Christina Silberman, Administrative Asst.