

**TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, May 21, 2019 – 7:00 pm**

A. Call to Order: Chairman Auclair opened the meeting at 7:00 pm and noted that Planning Board member Steve Moriarty is not here tonight.

Chairman Auclair reported that Item 2 for review of Christmas Creek has been tabled and will be discussed at a future meeting.

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

C. Approval of Minutes (This was heard after Item D): Board members noted minor corrections to the prepared minutes. Mr. Saunders moved to approve the minutes as amended, seconded by Mr. Record and **VOTED, 6 years, unanimous - motion carries.**

D. Staff Site Plan Approvals: Ms. Nixon reported on items #1 and #2 below and said these are good uses for both properties.

1. Sales display of up to 20 sheds at 173 Gray Road, Tax Map U19, Lot 13.
Applicant Ronald Copp, Sr.

2. Garden and produce market at 333 Main St., Tax Map U13, Lot 64. Applicant Nancy Storey.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: Amendment to an approved Site Plan for Friends School for a 3,950 square foot addition, expansion of on-site parking, other minor changes and reapproval of the 3,500 square foot Community Hall and 28,000 square foot Play Area 3 east of the existing building, located at 11 US Route One, Tax Map R01, Lot 10. *Applicant: Friends School of Portland; Representative Silas Canavan, PE, Walsh Engineering Associates, Inc.*

Chairman Auclair introduced the item.

Silas Canavan, PE – Walsh Engineering, said he is here tonight with Jenny Rowe to discuss the expansion of Friends School of Portland. Mr. Canavan noted that they were here to discuss this last month and the plan has not changed. The plan includes a classroom expansion in the back of the building, reapproval of the community center in the front, an expansion of the parking lot and reapproval of the future play area three in the back of the site.

Mr. Canavan showed the original design from 2013 and noted that the basketball court and the community center were not constructed. The footprint of the new classroom addition is 4,295 sf. Mr. Canavan reviewed plans for the addition. The addition will

result in an increase of 25 students and 5 faculty members for a total of 150 students and 30 faculty.

N

Mr. Canavan reported that the community hall will be 3,500 sf. with no change in the size from the original application.

Mr. Canavan pointed out that the parking requirements by ordinance are for 132 spaces. Currently there are 36 spaces. Mr. Canavan said that they are proposing a total of 84 paved spaces with an alternate of 4 spaces that might not be constructed. Mr. Canavan identified the location of a field on the plan and said the school uses this are for overflow parking for approximately 30 parking spaces. Mr. Canavan said this provides 114 parking spaces which does not meet the required 132 spaces. They are asking for a waiver from the parking standard. Mr. Canavan said that the original approval was for 61 spaces and the plan provides for 84 spaces. There will be a 20% increase in building occupancy but there will be a 38% increase in parking spaces. Mr. Canavan said that the additional paved parking will meet the need of the additional occupancy of the building.

Mr. Canavan described a storm water filter at the end of the new parking lot to capture the runoff. The remainder of the site will be treated by the existing stormwater infrastructure. A stormwater permit has been submitted to the DEP that is currently under review. Mr. Canavan said that they will be asking for a condition of approval that the stormwater and NRPA permit will be provided prior to construction.

Mr. Canavan reported that there were outstanding items at the last meeting that have been addressed. Mr. Canavan referred to financial capacity and noted that the school has the financial capacity for construction of the parking lot with approximately \$400,000.00 available. The cost of construction for the parking lot will be about \$350,000.00. Mr. Canavan said that there was discussion about having a condition of approval for providing financial capacity to the Town prior to construction for the remaining pieces of the project.

Mr. Canavan said that an after the fact NRPA permit is required from the DEP due to some inadvertent wetland fill when the original project was constructed and this is under review and will be provided when approved. A request to confirm with DOT that no additional permitting is required was made at the last meeting. Mr. Canavan said this has been done and a letter from DOT indicating that no additional permitting is required with this project has been provided to the Town. Mr. Canavan said that with the exception of the pending DEP permits, all other permits are in line.

Mr. Saunders asked what the NRPA permit is. Mr. Canavan said that this is a Natural Resource Protection permit for the wetland permitting process through the Maine DEP. Mr. Saunders asked about the 4 alternate parking spaces and asked when they will make the decision about these spaces. Mr. Canavan replied that this will be a financial decision that the school will make.

Mr. Record asked how often the overflow parking is used. Ms. Rowe replied that it is used about five times a year. Mr. Record asked about current parking and Mr. Canavan said there are currently 36 parking spots. Mr. Canavan continued that 61 spaces were

approved in 2013 for the entire buildout but only phase one was constructed. The parking will go from 36 to 80 spaces. There will be five additional employees and 25 additional students.

Chairman Auclair referred to a waiver request recommended by the Town Engineer for the lighting and asked Mr. Canavan to address this. Mr. Canavan said that they did discuss a possible waiver from a lighting standard. The lights installed in 2013 appear to have a little bit of spill over onto the abutting property for Hawks Ridge. Mr. Canavan considered a waiver request but they plan to put a shield on the back side of the light to deflect the angle so the light ends at the property line.

Chairman Auclair opened the Public Hearing. There were no public comments. Chairman Auclair closed the Public Hearing.

Mr. Saunders asked if the letter from DOT resolves the issue. Ms. Nixon replied that it does resolve the issue. The applicant does not need an entrance permit.

Ms. Nixon reviewed the waiver requests and noted that one waiver for section 10 B for the parking spaces will be needed. Mr. Saunders moved that due to the unique characteristics of the property and the project that the Board waive the parking space requirements such that the project shall require no less than 80 parking spaces seconded by Mr. Sherr and **VOTED, 6 yeas, unanimous - motion carries.**

Chairman Auclair reviewed the proposed Findings of Fact. Minor corrections were noted by Board members. Mr. Sherr moved to approve the Findings of Fact as amended, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

Findings of Fact - 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: 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 layout of the campus has been designed to minimize impact to environmentally sensitive areas such as wetlands and steep slopes. The Planning Board finds the standards of this section have been met.

B. Traffic, Circulation and Parking:

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

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

(b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

(c) The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

(d) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

(e) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

(f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

(g) Accessways 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.

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) 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.

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 Stall Angle	Skew Width	Stall Width	Aisle Depth	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 the 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 to 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.

Bill Bray, PTE of Traffic Solutions, has reviewed the traffic plan and has found that access to and from the site is safe and meets all applicable design standards. Adequate sight distances are shown on the plans. There is a letter on file from Maine DOT dated 5/8/19 that states the proposed expansion will not require a Maine DOT Traffic Movement Permit because there will not be an increase in peak hour trip generation of more than 99 trip ends. There is a detailed explanation of the parking situation in a response letter dated April 26, 2019 from Walsh Engineering. To summarize, there will be 44 additional parking spaces provided as part of this amended plan. There was a waiver granted in 2013 that reduced the number of spaces for Phase 1 and Phase 2 to 61 spaces. Total on-site parking will be 110 spaces which includes an overflow grassed area which will be used for special event parking. The Board finds the standards of this section have been met with the approved waiver.

C. Stormwater Management and Erosion Control

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

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

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

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

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

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

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

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

The Town Engineer, the Maine Army Corp of Engineers and MEDEP have not yet been reviewed and approved the amended stormwater management plan. There is a proposed condition of approval. The Planning Board finds the standards of this section have been met with the condition of approval.

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 and will be applied during construction. The Town Engineer has reviewed and approved the Erosion and Sedimentation Control Plan. 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.

The project will continue to use public water. There is an adequate supply of water via the PWD. 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.

The project will continue to utilize public sewer. The original site plan application in 2013 provided a 2012 ability to serve letter from the PWD for 2,750 gpd for domestic use. Based on actual flow rates the facility average a flowrate of approximately 348 gpd. The Applicant states that assuming a 20% increase in building occupancy with the proposed addition, the facility can be expected to average approximately 418 gpd and peak at 778 gpd which is significantly less than the 2,750 gpd of usage approved by the PWD in 2013. The Ability to serve letter from the Town of Cumberland also allows a flow rate well below the 2,750 gpd originally approved. 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.

The existing electrical and telecommunication service will be connected to the building addition. The Planning Board finds the standards of this section have been met.

4. Fire Protection

The building has been designed to meet all fire codes and will have sprinklers. Approval by the State Fire Marshall is a condition of approval. With the proposed condition of approval, the Planning Board finds this standard has been met.

E. Water Protection

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

The project will connect to public water and sewer. The proposed use is an expansion to an environmentally-conscious K – 8 grade school. No obnoxious or toxic chemicals will be stored at the site. The property is not located in an Aquifer Protection Area. This use should have no adverse impact on the quality or quantity of groundwater. The Planning Board finds the standards of this section have been met.

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

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

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

No substances described above will be stored or discharged in a way that could contaminate surface or groundwater. 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. 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 property is not located in a flood hazard area. The Planning Board finds the standards of this section have been met.

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

A letter from the Maine Historic Preservation Commission is on file from the original site plan approval stating that the site is not in a historically sensitive area. The Planning Board finds the standards of this section have been met.

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

There is a small amount of light trespass onto the adjacent northerly boundary line with Hawks Ridge. The Planning Board finds the standards of this section have been met pending the condition of approval.

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 applicant has submitted a landscaping plan that utilizes the natural site vegetation and grading for buffering as well as additional plantings around the existing building and entrance circle. The Planning Board finds the standards of this section have been met.

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

The school and parking areas are located away from residential abutters. There will be plantings to provide a visual and noise buffer. The proposed addition to a private school will not generate any additional noise beyond what was approved as part of the original site plan. 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 outside storage of materials or machinery requiring screening. The existing dumpster will be relocated when the Community Hall is constructed and be installed on a concrete slab and screened with a fence. 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 a professional engineer, architect, landscape architect, surveyor and soils scientist.

Financial Capacity: The school has received donations and other funding for the improvements covered in this amendment application, however information regarding financial capacity is required.

The Planning Board finds the standards of this section have been met with the proposed condition of approval.

(M) Design and Performance Standards

Route 1 Design Guidelines (if applicable)

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

Planner's Note: This project is located in the LDR district, but does have frontage on Route 1. The applicant has provided Findings of Fact for the Route 1 Design Guidelines as follows:

1.4.1 Vehicular Access – Route One Curb Cuts

No new entrances are proposed.

1.6.2 Parking – Landscaping

Developers are encouraged to separate every ten parking spaces by a landscaped plot to break up long runs of parking.

The Applicant states that in an effort to limit impacts and keep the development in as small a footprint as possible, landscaping is not shown within the limits of the parking areas, however existing vegetation around parking areas will remain untouched wherever possible.

1.6.3 Parking – Snow Storage

Provisions should be made for snow storage in the design of all parking areas and these areas should be indicated on the site plan.

Snow storage locations have been shown on the site plan.

1.7.2 Service Area Design

Service areas should be separated from other vehicle movements, parking areas and pedestrian routes.

Wood fencing is always preferred as an enclosure.

A fenced dumpster for trash and recycling will be relocated on site.

1.8.1 Open Space – Internal Walkways

At a minimum, bituminous concrete should be used as the primary material for internal walkways, except that for entrance areas and other special features the use of brick or special paving shall be encouraged.

This has been provided for.

1.8.2 Open Space – Landscaping

Trees within the 75' buffer between Rt. 1 and the building should be maintained if possible.

Trees within this buffer area will not be affected by this amendment.

1.11.2 Utilities – Electric, Telephone, Cable

Wired connections to be made underground wherever possible.

Electric and telecommunications will be located underground as show on the plans.

The Board reviewed the proposed Conditions of Approval. Mr. Saunders moved that the Board approve the amendment to an approved Site Plan for Friends School as proposed in the application located at 11 US Route One, Tax Map R01, Lot 10 subject to the Limitation of Approval, the Standard Condition of Approval and ten proposed Conditions of Approval, seconded by Mr. Sherr 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.

Conditions of Approval:

1. That a preconstruction conference be held prior to the start of construction.
2. That all fees be paid prior to pre-construction conference.
3. That a performance guarantee and proof of financial capacity in an amount acceptable to the Town Manager be provided prior to the preconstruction conference for each construction phase.
4. That all clearing limits are staked and inspected by the Town Engineer prior to the preconstruction conference.
5. That a permit for blasting, if needed, be obtained from the Town.
6. That a Fire Marshal's Permit be obtained prior to submission of building permit application.
7. The recommendations of the Fire Chief as listed in his review of the project be shown on the final site plan and complied with.
8. That the amended stormwater management and NRPA from the Maine DEP be provided prior to the preconstruction conference.
9. That shields for the lights along the property line with Hawks Ridge be installed prior to the Certificate of Occupancy permit being issued.

10. That the first phase of the construction be the parking lot.

2. TABLED *Public Hearing: Final Review for Christmas Creek 20 Lot Major Subdivision, located on Tuttle Road, Tax Assessor Map R04, Lot 10.* Applicant: *Beta Zeta Properties, LLC; Representative: Thomas Perkins, PE - Dirigo Architectural Engineering, LLC.* This item was tabled prior to the meeting and was not heard.

3. *Public Hearing: Recommendation to Town Council on proposed amendments to the Contract Zone Agreement for Cumberland Foreside Village dated March 28, 2017.* Applicant, *Peter Kennedy, d/b/a Heritage Village.*

Chairman Auclair introduced the item.

Town Manager Bill Shane reported that this Contract Zone Agreement is before the Planning Board and comes from the Town Council. The Council has reviewed this and recommended it go to the Board for public hearing tonight to get public input and for the Board to provide their input on the proposed amendments. Mr. Shane said that the contract zone has been in place since 2002. Mr. Shane thanked Peter Kennedy and his development team for getting to this point. Mr. Shane said this is a collaborative approach to finishing one of the more successful mixed projects in Town.

Mr. Shane displayed a concept plan of what Lots 7 & 8 could look like with a combination of multiplex and duplex homes for 120 units, a center meeting place with small cafes, retail spaces or shared workspaces and some commercial buildings similar to Dr. McCoy's' new building. Mr. Shane noted that 25% of the proposed 120 housing units on Lot 7 would be for affordable senior housing. Lot 8 would be for commercial businesses. This leaves Lots 3 & 4 along Route 1 to be developed under the current zoning that is primarily OC South and would be business/office type buildings.



Mr. Shane reported that what will be eliminated from the current contract zone agreement is warehouses, distribution centers and the unique zoning allowance of “site development”. Site development was consistently used on this project to try to encourage development. This lasted a long time before the project got uses that would fit there. Mr. Shane said that the Town does not feel that site development is an appropriate use to allow to continue because of the blasting and processing.

Mr. Shane reported that there were two things brought up during the prior Planning Board Workshop. Parking buffering is typically allowed and required for headlight berms. Mr. Shane said that some of the parking on Lot 7 is planned to be underneath the buildings. Mr. Sherr noted during the workshop that buffering is not needed for parking underground so they will fix this. Mr. Kenny suggested during the workshop that the landscape berm on Lot 8 be incorporated into the first phase of development. This would allow for a lot of landscape height over the next three to five years before the lots fill in. Mr. Shane said he thinks these are constructive additions to the proposed amended contract. Mr. Shane said that this is a great opportunity before the Board tonight to bring this special project close to a close.

Mr. Shane feels that the CZA before the Board tonight is something that Town staff can support, that the neighborhoods can support and provides a vision for something positive. Mr. Shane believes that this project could generate 25 to 30 million dollars in new property tax value when completed. Mr. Shane thinks this will fit nicely with what has been developed in the area.

Chairman Auclair said that the Board had a one hour long workshop before this meeting and were able to ask questions and get input from the Heritage Village team.

Chairman Auclair opened the Public Hearing.

Jen Grasso, 10 Clipper St., said she lives in Cumberland Foreside Village next to Mr. Kennedy's property. Ms. Grasso said that she thinks that this is a fantastic plan. It would provide great connectivity for the neighborhood. Ms. Grasso said that she didn't know which phase would go in first but if the residential phase goes in first this will leave the business phase open. Chairman Auclair said that during the workshop it was noted that Peter Kennedy and his team will not be the developers. The Planning Board can possibly direct the order of the development. Ms. Grasso said that once the berm is there it won't be an issue for her neighborhood.

Ms. Grasso referred to language in the proposed contract under permitted uses section B, 2 and asked if the Town could require a certain number of owner occupied units vs. rented units.

Ms. Grasso noted that the concept plan requires 10% open space for each lot, which she thinks is very much needed, but she doesn't think the contract zone agreement itself says anything about open space being required. Chairman Auclair asked Mr. Shane if this has been addressed. Mr. Shane said that he doesn't know if this is in the CZA but landscaping/buffering and these types of things are in the Planning Board's purview. Mr. Shane said it would also depend on what types of development occur. If the Board isn't happy with landscape or buffering plans, they have the right and authority to change it.

Chairman Auclair referred to Ms. Grasso's comment about the number of rental units. Mr. Shane said that there is nothing in the CZA on the number of rental units but this is a recommendation the Board is entitled to make to the Council.

Ms. Grasso referred to contract language for setbacks, number 3 bullet 5, and said this includes language about buffers but doesn't mention anything about if a residential care facility is next to residential. Ms. Nixon said that the residential care is a commercial use.

Ms. Grasso noted that there is currently a path that goes from Skyview Dr. to Seafax. Mr. Grasso thinks the language under letter H of the agreement regarding the walkway is confusing. Ms. Grasso said the path has already been built and she wants to make sure that the path does not get left out of the contract zone and that the developers will have to repair any damage along the way. Ms. Nixon said that the reference to the appendix that shows the walking trail would cover this and the Town will make sure it is referenced.

Ms. Nixon asked if the site concept plan will be an appendix. Mr. Mohr replied that it was provided as part of the package as an illustration of what they are thinking with the CZA language. Mr. Sherr said that this doesn't answer the question about whether it will be part of the amended CZA. Ms. Nixon replied that this can be up to the Board.

Mr. Sherr noted that tonight, if the Board moves forward, they are only making a recommendation to the Town Council on the proposed amendments to the contract zone. The Board is not reviewing a site plan. A site plan application will come in the future from a developer with a proposal for something on this property in accordance

with the contract zone agreement and at that time the Board will do a full review. Tonight there is no site plan approval for any projects on this property.

Mr. Sherr recommended that a concept plan, as an example, be included as part of the amended CZA. Mr. Saunders noted that there is site plan included in the CZA that shows the whole site and has a note of a 15' easement for the trail. Mr. Shane asked Mr. Sherr what the purpose is of including the concept plan. Mr. Shane continued that the concept plan is just to show a design of how the pieces fit together and somebody could come in with something totally different. Mr. Sherr said he understands this but he thinks it gives rise to some of the language being amended. Mr. Shane said that this can't be defined on the face of the earth and he thinks it would be difficult to include a concept plan as part of the CZA. Mr. Sherr agreed that the Town can't put limitations on a developer as long as they comply with the contract zone agreement and there could be a new concept that could be completely different as long as it meets the standards.

Chairman Auclair referred to Ms. Grasso's comment about the rental part and said that this is a point that would affect him as a potential buyer. Chairman Auclair thinks that if everything were rental, it could change the character of the community. Chairman Auclair said he doesn't know where the Board could be on this.

Ms. Grasso asked who would be responsible for the stormwater soil filters. Mr. Sherr replied that this would be part of the site plan when it comes before the Board.

Mr. Record asked Ms. Grasso what would alleviate her concerns about Lot 8 being empty, other than the berm and the buffer. Ms. Grasso asked if building out the road would ensure that something would be built eventually and said that having the berm, for her, would be enough. Mr. Kenny said it would be a lot of financial burden on the developer to build the road.

Ms. Grasso stated that she loves the concept and the proposed changes are a big improvement.

Tom Foley, 29 Granite Ridge Rd., said that the concept is something that he agrees with. Mr. Foley has been involved with this project for 17 years and he thinks this will work. Mr. Foley asked if there is anything in the CZA that prevents someone from buying one of the multi units and turning it into short term rental houses. Ms. Nixon replied no. Mr. Foley asked if there should be. There is a potential for an Air B & B business in the multiple units. Chairman Auclair said he doesn't know how they could regulate this. Mr. Foley said that he has heard of neighborhoods being disrupted by commercial developers coming in and buying a multiple unit building and then renting it out for parties, weekends and social functions and he doesn't think this is something they want to get into. Chairman Auclair said that there is nothing to prohibit this in Town and Ms. Nixon agreed.

Elaine Clark, 19 Nautical Dr., said that when the Maine Youth Center was redeveloped the City did put on a restriction that a certain percentage of units needed to be owned instead of rented. People felt that it is critical to the stability of the neighborhood.

Chairman Auclair closed the Public Hearing.

Mr. Saunders said that, in regards to the buffer, he thinks Mr. Kenny's idea is good and the Board should say that the buffer gets built with whatever development goes in first.

Mr. Saunders said that one problem is that everyone looks at the concept plan so this is what is in their minds but there is nothing in the language to prevent the construction of one massive edifice of 120 units. Mr. Saunders asked if the Board wants to say that no single building will have more than so many units. Discussion ensued regarding limiting the number of units per building. The general consensus was that the language state that on lot 7 the Developer "shall vary the mix" between duplex and multiplex instead of stating that the developer "shall have the right to vary the mix".

Ms. Sawchuck referred to language in the draft stating that individual house lots for detached dwellings shall contain not less than 4,000 square feet on Lot 7. Ms. Nixon said that this is old language that was originally proposed and needs to be removed. Ms. Nixon noted language on page five of the draft referring to detached dwelling units and said this needs to come out as well.

Mr. Saunders moved that the Planning Board recommend to the Town Council to approve the amendments to the Contract Zoning Agreement for Cumberland Foreside Village dated March 28, 2017 as presented tonight with modifications as discussed in both the workshop and the Planning Board meeting tonight, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

G. Administrative Matters/New Business: Chairman Auclair thanked Councilor Bingham and noted that this is Councilor Bingham's last meeting as the Planning Board's Town Council Liaison because his term on the Town Council is expiring.

H. Adjournment: Mr. Sherr moved to adjourn the meeting at 8:26 pm, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

Paul Auclair, Board Chair

Christina Silberman, Administrative Asst.