

**TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES**  
**Tuesday, October 19, 2021**

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

**B. Roll Call: Present:** Paul Auclair, Amanda Berticelli, Bill Kenny, Lorraine Rardin, Jason Record, Joshua Saunders & Ann Sawchuck. **Staff:** Town Planner Carla Nixon & Administrative Assistant Christina Silberman. Town Manager Bill Shane arrived during Public Hearing #1.

**C. Approval of the Minutes of the August 17, 2021, meeting:** Mr. Saunders moved to adopt the minutes as written. The subsequent vote was invalid due to the lack of a second to the motion. These minutes will be reconsidered at the Board's next meeting.

**D. Staff Site Plan Approvals:** Town Planner Carla Nixon reported on a minor staff site plan application approval for MSAD #51 to add a 588 square foot portable classroom at Greely Middle School located at 351 Tuttle Rd., Tax Map U11, Lot 1.

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

**F. Hearings and Presentations:**

**1. Public Hearing for Preliminary and Final Major Subdivision Review for a 3 lot Major Subdivision, Ross Estates, on a 12.41-acre parcel located on Blanchard Rd. Ext., Tax Assessor Map R08, Lot 68i in the Rural Residential 2 (RR2) Zoning District. Applicant/Owner: Stonewood Land, LLC. Representative: Kevin P. Clark, PLS, Sitelines Civil Engineers and Surveyors.**

Chairman Auclair introduced the item. Ms. Nixon provided history for the project that has been in the works since last spring. The applicant is here tonight to present to the Board for both preliminary and final review.

Note: technical difficulties occurred with the audio system during review of this item and discussion paused at times to address the issue.

Kevin Clark, PLS, Sitelines Civil Engineers and Surveyors, representing Stonewood Land, LLC, that that he is here with owner Nate Ross to discuss Ross Estates, a three-lot major subdivision. Mr. Clark gave an overview of the project and said that a portion of Blanchard Rd. Ext. will be brought up to Town standards. A new 300' private road will be constructed to the less than fifty trips per day standard. The net residential acreage is 11.23 acres. The maximum number of lots allowed is over five. The applicant proposes three lots at this time. The proposed open space is 6.39 acres, which is 51% of the property.

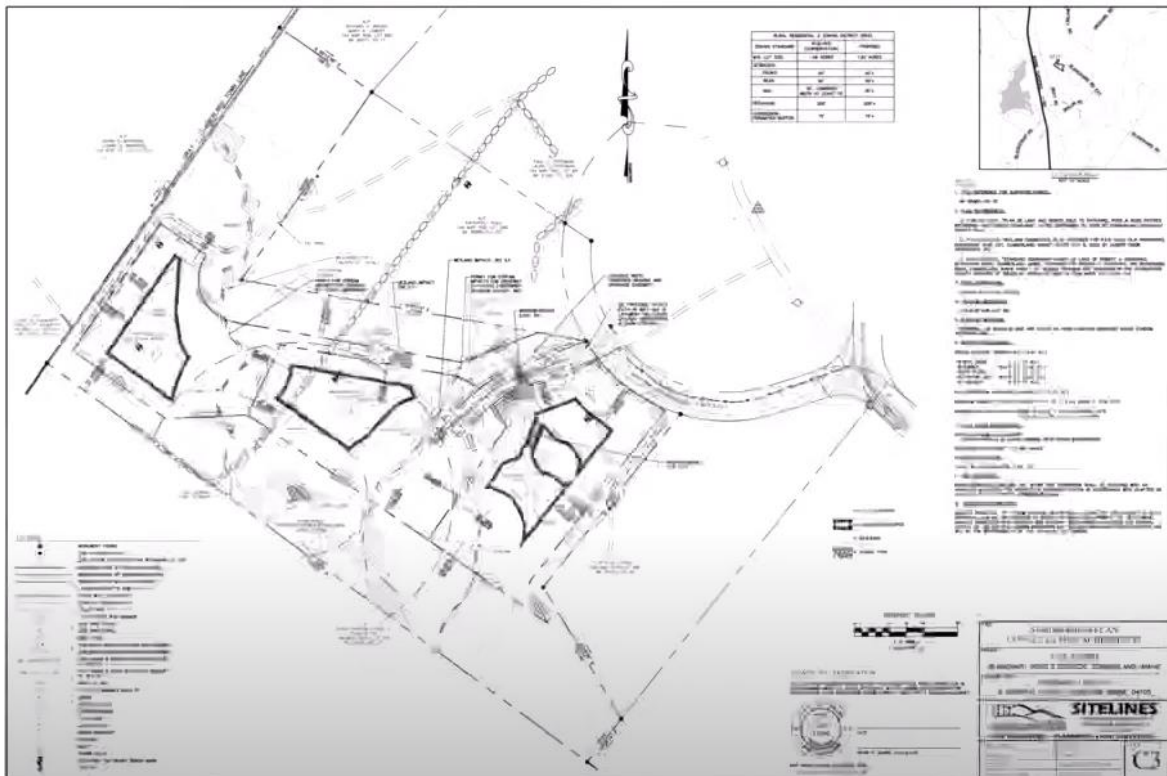
Mr. Clark explained that a minimum lot size of 1.1 acres is allowed in a conservation subdivision. The proposed lots are, at minimum, 1.9 acres. A 75' perimeter buffer will be provided. Wetlands and a potential vernal pool have been observed on the site. A NRPA (Natural Resources Protection Act) permit has been filed with DEP (Department of Environmental Protection) for these impacts and for stream crossings.

Mr. Clark shared that the project proposes to have private septic systems and wells. The houses will have sprinklers, per the request of the Fire Chief. Trails will be maintained and

relocated out of the building windows. Mr. Clark reported that a proposed homeowners' association document has been provided.

Mr. Clark said that portions of Blanchard Rd. Ext. are subject to an existing maintenance agreement. This covers the ability to use this portion of the road and to maintain it and bring it up to a higher standard, as proposed. Construction of Estella's Way is proposed as a 300' long, 18' wide gravel private road. Two sections of Blanchard Rd. Ext. will be upgraded to the over fifty trips per day private road standard.

Mr. Clark referred to stormwater management and described minimal impacts where best management practices will be applied. Mr. Clark showed a map depicting the location of the project and described the displayed plan of the subdivision.



Mr. Clark reported that passing test pits were done for all three lots.

Chairman Auclair referred to a hydrogeologic report in the meeting materials and asked Mr. Clark if they still need the waiver. Mr. Clark responded that a specific study was not done but existing condition mapping was provided. Chairman Auclair asked if the proposed finding under sufficient water is correct. Ms. Nixon responded that the Town Engineer looked at the information submitted to determine that there is no negative impact. Chairman Auclair confirmed that the waiver is needed and Mr. Clark agreed.

Chairman Auclair inquired about lot A. Mr. Clark explained that an existing trail is shown to be moved outside of the building window. A similar trail relocation occurs on lot C.

Mr. Clark answered questions about waiver requests.

Ms. Sawchuck inquired about road maintenance agreements and associations and how they apply to the new homeowners. Mr. Clark replied that the 300' private road will have its

own association that will cover these three lots plus the maintenance of this road. Blanchard Rd. Ext. has a maintenance agreement in place. The portions of Blanchard Rd. Ext. are part of the previous maintenance agreement and any new lots that are built and gain access by this will contribute a pro rata share for the maintenance of these sections. Mr. Clark explained the sections of Blanchard Rd. Ext. to be impacted are section A and the small spur that is proposed to be called Moore Farm Rd. The three new lots will be subject to two road associations.

Chairman Auclair opened the public hearing.

John Jensenius, Vice Chair Lands & Conservation Commission (LCC), said the Board should have the LCC's review and recommendation. Mr. Jensenius reported that the Commission feels the open space was located to minimize the impact on critical areas and feels the relocation of the trails are adequate. The LCC recommends approval by the Town Council of the gift of the open space to the Town.

Chairman Auclair closed the public hearing.

Ms. Sawchuck referred to the Town's acceptance of open space areas in general and asked if there is a plan in place to manage these. Town Manager Bill Shane replied that he met earlier tonight with the leadership of the LCC to talk about what is next. A lot of the stewardship now is done by the LCC and the Land Trust. Mr. Shane said that in the future, they will need additional help and funding to manage the over 1,000 acres of open space that the Town now manages. Mr. Shane said the conservation subdivision will continue to keep our town in the shape it is in today. The Town appears very rural in most areas and the conservation subdivision will have to be supported in order to do this. The LCC is putting a budget forward for projects they have. The Land Trust will be coming (to the Town) for assistance with stewardship in the future and management of properties.

Mr. Jensenius added that part of what the LCC does is to look at the various pieces of properties and try to make connections so there are connected trails throughout. This part of Town does not really have any trails managed by the Town. This is an area where there should be more trails in the future and the LCC will be looking at these properties to try and decide where and how to put trails in.

Mr. Record asked for clarification on the roads and access to the lots. Ms. Nixon explained that the proposal has been reviewed by the Town Attorney. Mr. Record referred to previous feedback from people living in the area about wells and water and said he is hesitant to waive the hydrogeological study. Mr. Record said that he also struggles with the waiver for walkways.

The Board reviewed waiver requests. Mr. Saunders moved to waive the reading of the individual waivers, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

**Waivers granted:**

1. Existing physical features (trees 10" diameter or more) shown on plan.
2. Hydro-geologic study.
3. Well locations shown on plan.
4. High intensity soils survey.
5. Location of temporary markers in field.
6. Street lighting details.

7. Soil surveys with license number of soil scientist.
8. Septic plans with license number of site evaluator.
9. Geological evaluations with registration number of Geologist.
10. Walkways within roads of proposed subdivision.

Mr. Saunders moved that the Board approve the ten requested waivers based on the scale and nature of the project as well as the Town Engineer's comments that he has no objection to the waivers, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

Chairman Auclair reviewed the proposed findings of fact. Minor corrections to the proposed findings were made. Mr. Saunders moved to adopt the findings of fact, as amended, with a note that the conservation subdivision standards were also reviewed separately and found to be in compliance, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

**FINDINGS OF FACT - Chapter 250 - Subdivision of Land:** The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

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

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

**There are no flood plains on site. A subsurface investigation confirmed that the soils and subsoils are adequate to support waste disposal and passing test pits were confirmed for each lot. The large lot sizes and slope of the land are sufficient for the disposal systems. Streams will not be utilized for disposal of effluents. Based on the information provided, the Board finds that the standards of this section have been met.**

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

**The lots will be served by private wells. The applicant reviewed the Maine Well Database which shows adequate groundwater available in the surrounding area. Due to the limited (3 lot) development on 12.41 acres will not adversely affect the supply of groundwater to surrounding properties. The Town Engineer has reviewed and approved the findings of the hydrogeologic report. Based on the information provided, The Board finds that the standards of this section have been met.**

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

**The subdivision will not utilize public water. Based on the information provided, the Board finds the standards of this section have been met.**

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

**An erosion and sedimentation control plan (Sheet C 7) was submitted. The plan has been reviewed and approved by the Town Engineer. Based on the information provided, the Board finds that 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;

**The application states that “the anticipated traffic generation for the three (3) proposed single-family lots is estimated at an average of one (1) vehicle trip per hour and ten (10) vehicle trips per day. This is well below any of the traffic permitting thresholds and the existing level of service will not be reduced as a result of this subdivision. Based on the information provided, the Board finds that the standards of this section have been met.**

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

**Each home will have a private septic system. The location of the test pits have been shown on the plan. Based on the information provided, the Board finds that 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. The addition of 3 new homes will not cause a burden on the municipality’s ability to dispose of solid waste. Based on the information provided, the Board finds that 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;

**The plans have been reviewed by town staff and a review letter from the Maine Department of Inland Fisheries and Wildlife is pending and is listed as a proposed condition of approval. With the proposed condition of approval, the Board finds that 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. The Board finds that the standards of this section have been met.**

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

**The Applicant has submitted a statement of values that has been reviewed and approved by the Town Engineer. The Applicant states that the proposed improvements will be completed with operating funds of Stonewood Land, LLC. Evidence of this was provided by Bangor Savings Bank and the requirement for a performance guarantee will provide complete evidence of financial capacity. Technical capacity is evidenced by the use of the following experts: a professional engineer, a licensed land surveyor, an attorney, and a wetland scientist. The Board finds that 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;

**Wetlands were delineated by Albert Frick Associates, Inc. in Mya of 2020. The three-lot development has been designed to avoid wetland impact to the maximum extent practicable and will involve the filling of 2,558 sf of wetland which is below MDEP permitting thresholds. The proposed development will not adversely affect the quality of the wetlands. The site is**



**not situated in the watershed of a pond or lake. Based on the information provided, the Board finds that 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 three-lot subdivision, which will utilize private well water, will not adversely affect the quantity or quality of groundwater. Based on the information provided, the Board finds that 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 development is not located within a 100 year flood plain as shown on FEMA Flood Insurance Rate Map Panel 10 of 25 for Cumberland, Maine. Based on the information provided, the Board finds that the standards of this section have been met.**

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

**The site is currently undeveloped and wooded. The proposed private road will create 7,245 sf of impervious area. The runoff from the private gravel road will be directed downstream into existing drainageways. The proposed impervious and disturbed areas are below any permitting threshold for stormwater treatment. Specific provisions for permanent and temporary erosion control features have been provided in the construction drawings. The Town Engineer has reviewed and approved the stormwater management plan. Based on the information provided, the Board finds that 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 have been mapped and shown on the plan. The development of three proposed single-family residential lots has been designed to avoid wetland impacts to the maximum extent possible and will involve the filling of 2,558 sf of wetland which is below MDEP permitting thresholds. Based on the information provided, the Board finds that the standards of this section have been met.**

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

[Amended; Effective. 11/27/89]

**The streams on the site were delineated by Albert Frick Associates, Inc. Based on the information provided, the Board finds that the standards of this section have been met.**

The Board reviewed the proposed conditions of approval. Mr. Saunders moved that the Board approve preliminary and final major subdivision review for a 3 lot major subdivision, Ross Estates, on a 12.41-acre parcel located on Blanchard Rd. Ext., Tax Assessor Map R08, Lot 68i subject to the standard condition of approval and eight recommended conditions of preliminary and final approval, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

**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 Preliminary and Final Plan Approval:**

1. A preconstruction conference shall be held prior to the start of construction.
2. A performance guarantee in an amount and form acceptable to the Town Manager will be required prior to the preconstruction conference.
3. All clearing limits shall be flagged and approved by the Peer Review Engineer prior to the preconstruction conference.
4. A blasting permit, if required, shall be obtained from the Code Enforcement Officer.
5. All legal and technical review fees shall be paid to the Town prior to the preconstruction conference.
6. A letter from the Maine Department of Inland Fisheries and Wildlife shall be submitted prior to the preconstruction conference.
7. Any required local, State or Federal permits shall be submitted to the Town Planner prior to releasing the plat for recording.
8. An electronic copy of the as-built plans shall be submitted to the Town Planner prior to the release of any remaining inspection fees.

**2. Public Hearing for Recommendation to Town Council on a zone change request from James Banfield for property located at 10 Old Gray Rd., Tax Assessor Map U21, Lot 2, from the Village Office Commercial 1 Zone (VOC1) to the Village Medium Density Residential Zone (VMDR), as recommended by the Ordinance Committee.**

Chairman Auclair introduced the item. Town Manager Bill Shane explained the request. The lot is located at the intersection of US Route 100 and Old Gray Rd. Mr. Shane said that a road opening permit for access to Route 100 was denied. The owner feels that there is not a lot of value for a commercial development because the access would have to be from Old Gray Rd. The owner has requested that his lot be changed to the VMDR (Village Medium Density Residential) zone that would allow him to split his lot into two residential lots. The Board is being asked by the Town Council for their recommendation.

Chairman Auclair said that there is a home here now. Mr. Shane replied that the home has been there for a while and it has always had access off Old Gray Rd. Mr. Kenny asked if this request is for two additional lots. Mr. Shane replied that it would be two lots total.

Chairman Auclair opened the public hearing.

Owner James Banfield introduced himself and asked if the Board has questions. Mr. Record asked what the general plan is. Mr. Banfield said the plan is to separate the lot, build a new house and rent the old house.

Chairman Auclair closed the public hearing.

Mr. Saunders moved that the Board make a recommendation to the Town Council to approve a zone change request from James Banfield for property located at 10 Old Gray Rd., Tax Assessor Map U21, Lot 2, from the Village Office Commercial 1 zone (VOC1) to the Village Medium Density Residential zone (VMDR), as recommended by the Ordinance Committee, seconded by Mr. Kenny and **VOTED, 6 yeas, 1 nay (Record) - motion carries.** Mr. Record commented that he does not take zoning changes lightly and this is one of the few places where the Town can control growth a little bit.

**3. Public Hearing Site Plan Review for a ten (10) space parking lot for Rines Forest located on Range Rd., Tax Assessor Map R05, Lot 23A. Applicant: Town of Cumberland. Representative: Daniel Diffin, P.E., Sevee & Maher Engineers.**

Chairman Auclair introduced the item.

Jeff Read, Sevee & Maher Engineers, noted that Dan Diffin is on vacation. Mr. Read said this project is for access to the Rines Forest conservation area off Range Rd. and he described the site. Mr. Read displayed and described the existing conditions plan and provided project details. The proposal is for a ten space parking area paved with reclaimed asphalt with a 20' wide paved apron that will be gated and closed at night. At the rear of the parking area there will be another gate that will secure the existing gravel access that goes deeper into the property that can be opened for maintenance access. There is no additional permitting needed for this project. Mr. Read displayed and described a site plan of the project and outlined two waiver requests.

Chairman Auclair asked about the need for wheel stops for the parking spots. Mr. Read explained that there is a slight fill along the eastern edge where the cars would pull in to and these are a convenience factor because of the slope. Chairman Auclair noted that the proposed handicap space is shown as eight feet wide but parking spaces are required to be nine feet wide. Mr. Read explained that the handicap space is actually two eight foot spaces allowing room for loading and unloading.

Ms. Sawchuck commented that she thinks this will be very helpful for the people that use Rines Forest and this was part of the plan originally. Ms. Sawchuck asked if the neighbors received notice of this. Ms. Nixon replied affirmatively.

Chairman Auclair opened the public hearing.

Joan Kaijala said she lives in the area and had not heard about this. Neighbors she has talked with had also not been informed. Ms. Kaijala asked if a need assessment was done, were there any alternative solutions, if the cross-Cumberland trail will be rerouted, how far down the parking lot goes, if there is enough space to come in and out at the same time and if the salamander crossing was considered.

Mr. Shane replied that when the Town had the option to buy the fifty acre parcel to add to Rines Forest, one of the concerns was parking. The Town's intent was always to provide a small parking area and it will be a lot safer. Mr. Shane explained the design of the lot and the entrance design.

John Jensenius, Vice Chair of the LCC, said that the LCC is recommending approval of this. The LCC is in the process of enhancing trails in the area and they will be starting work on a connecting trail that will go to the snowmobile trail. Mr. Jensenius explained that the idea is that the people from the Idlewood trails heading toward Blanchard Rd. will be directed across Range Rd. to the left and onto the snowmobile trail. With this connection there will be a loop going to what is now the white trail. The new connecting trail is currently flagged and work will begin shortly.

Mr. Read estimated that the parking lot is roughly 160' from the main road to the back of the improved surface.



Ms. Kaijala asked about the reclaimed asphalt instead of using other material. Mr. Read replied that originally the plan was for a gravel surface and based on the peer review comments the surface was upgraded to reclaimed asphalt. Mr. Read said reclaimed asphalt is pavement grindings and it acts as a reinforced gravel or low grade pavement and forms a more stable surface.

Ms. Berticelli asked for information about the abutter notices that were sent. Ms. Nixon explained that notices are sent to anyone within five hundred feet of the property line for the project.

Chairman Auclair closed the public hearing.

Mr. Record said he agrees with the need to get cars away from parking along Range Rd. and asked how the Town came up with ten spaces. Mr. Shane said that this is for up to ten spaces with the agreement the Town has with the Land Trust, who are stewards of the property, and this is part of the grant that was received for part of this project. Mr. Record asked if this is being paid for with a grant. Mr. Shane responded not all of it, it is kind of a partnership between the Town, the Land Trust and the federal government.

Ms. Sawchuck asked if there will be any interference with the salamander crossing. Mr. Shane replied absolutely not as this is one of the biggest, most exciting nights of spring.

Ms. Rardin asked who would be responsible for opening and closing the gate. Mr. Shane said that the gate at the road will be opened and closed by the Police Dept. with similar hours as Twin Brooks.

Mr. Saunders moved that due to the nature and scope of the project that the Board waive the requirement for a hydrogeologic evaluation, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the nature and scope of the project that the Board waive the requirement for a market study, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

Chairman Auclair reviewed the proposed findings of fact. Mr. Saunders moved that the Board adopt the findings of fact as written, seconded by Mr. Kenny and **VOTED, 7 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:** 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 Albert Frick Associates which identified the stream and forested wetlands associated with it to the west of the proposed parking area. The wetlands do not extend into the project area and therefore wetland impacts have been avoided. A letter from the Maine Department of Inland Fisheries and Wildlife has been provided. 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.

**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 Town Engineer has reviewed and approved the site distance for the entrance.**

**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. **This standard has been met.**

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. **This standard has been met.**

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**

6. Pedestrian Circulation: The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site. **There are no sidewalks along Range Road but there is a paved shoulder which connects to the parking area. 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. **A 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. **The Town Engineer has reviewed and approved the erosion control plan that will be in conformance with the Maine Erosion and Sediment Control manual. 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. 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. 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. Based on the above facts, the Planning Board finds the standards of this section have been met.**

4. Fire Protection: **The plans have been reviewed and approved by the Fire Chief. 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 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 from the Maine Historic Preservation Commission is on file. Based on the above facts, 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.

**Clearing of the property for the parking lot will be kept to a minimum. The existing forested and vegetated land will be undisturbed to allow natural buffering to effectively screen the parking lot. 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 a professional engineer, wetlands analyst and land surveyor. **Financial Capacity:** Project improvements will be funded by the Town of Cumberland and public works employees will be utilized. **Based on the above facts, the Planning Board finds the standards of this section have been met.**

Mr. Saunders asked if there were changes to the proposed conditions of approval and, hearing none, moved that the Board approve site plan review for a ten space parking lot for Rines Forest located on Range Rd., Tax Assessor Map R05, Lot 23A subject to the expiration of approval, the standard condition of approval and the two proposed conditions of approval, seconded by Mr. Kenny and **VOTED, 7 yeas, 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 of 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. 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.

Chairman Auclair called for a short break prior to taking up the next item. Chairman Auclair resumed the meeting.

**4. Public Hearing for amendment to an approved subdivision, Broad Cove Ridge Apartments, located at 102 US Route 1, Tax Assessor Map R01, Lot 13 for a change in ownership and to amend a lot line. Applicant: Cumberland Foreside Partners, LLC. Owner: 100 US Route 1, LLC. Representative, Dan Diffin, P.E., Sevee and Maher Engineers.**

Chairman Auclair introduced the item.

Jeff Read, P.E. – Sevee & Maher Engineers, said he is here representing Cumberland Foreside Partners. Mr. Read noted that there are two items for amendment and one waiver request. The first amendment item is a transfer in ownership from Snell Construction, LLC to Cumberland Foreside Partners, LLC. The second item is a reduction in the number of parking spaces from the proposed 96 down to 90. Mr. Read said this number is still above the 75 spaces required by the ordinance. The waiver request is for one area where pavement is proposed within fifteen feet of the property line. Mr. Read explained that initially there was going to be a land swap with the adjacent parcel that the developer will now forgo. The plan will now be within the original property line.

Chairman Auclair asked about reference to the Miami Group. Mark McClure – GenX Capital Partners replied that their offices are in Miami and Portland and they are the developer for this project.

Mr. Saunders asked how far from the property line is the proposed edge of pavement. Mr. Read replied that it would be four feet.

Chairman Auclair opened the public hearing. There were no public comments and the public hearing was closed.

Mr. Saunders referred to the acquisition letter for the property and said the Board cares about being able to complete the project and this could be a proposed condition of approval. Mr. McClure provided a timeline for the project that includes the infrastructure planning in February.

Ms. Sawchuck asked about the project financing. Mr. McClure said they are looking at rates before they choose a bank. This could be a condition of approval.

Mr. Kenny inquired about snow plowing in the waiver area and Mr. Read explained.

Mr. Saunders asked if there is a buffer on the abutter's property. Mr. Read said that the parcel is forested and there will be some clearing. Mr. Read believes there is a wooded buffer on the abutter side. Mr. Saunders asked if the abutter wanted a visual buffer on their side to replace the eleven feet of space, could this be crafted. Mr. Read replied that this wouldn't be a deal breaker. Mr. Read noted that originally the plan would extend twenty feet beyond the property line and there would have been a lot less buffer.

Chairman Auclair confirmed with Ms. Nixon that the abutters were notified.

Mr. Record asked what it would look like if the project did not get the waiver. Mr. Read said that there is a limited area by the building corner with minimizing clearing and keeping the distance to wetlands. Mr. Read said that it would really complicate things and would involve a redesign of almost the entire project. Mr. Record commented that setbacks are there for a reason and fifteen feet is already small.

Ms. Sawchuck pointed out that abutters were notified and if they had concerns, they would have shown up to say we don't want the Board to waive that.

Chairman Auclair asked what is on the other property (in the waiver area). Mr. Read referred to a displayed plan identifying the septic system on the abutting property and said there are setback requirements for septic systems. Mr. Read said he does not imagine anything would be planned to be between the septic system and the property line. Mr. Record commented that this is logical but it is the abutter's property. Mr. Saunders noted that there will be a retaining wall here and will be below grade so this will act as a fence. Mr. Read said the retaining wall will be roughly 8' tall.

Mr. Saunders moved that based on the unique requirements of this project, the Board waive section 229-10.B.4 for pavement to be within fifteen feet of the property line, seconded by Mr. Kenny and **VOTED, 6 yeas, 1 nay (Record) - motion carries.**

Mr. Saunders moved to approve an amendment to an approved subdivision, Broad Cove Ridge Apartments, located at 102 US Route 1, Tax Assessor Map R01, Lot 13 for a change in ownership and for a reduction in the number of parking spaces from 96 to 90 and that all previous findings of fact and conditions of approval remain in full effect with the addition of one proposed condition of approval related to financial capacity, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

**Additional Condition of Approval:**

**13. Evidence of Financial Capacity**

**Prior Conditions of Approval:**

1. A preconstruction conference shall be held prior to the start of construction.
2. All outstanding fees shall be paid prior the preconstruction conference.

3. A performance guarantee in an amount acceptable to the Town Manager and Town Engineer shall be provided prior to the preconstruction conference. In addition, a check for 2% of the cost of public improvements shall be provided prior to the preconstruction conference.
4. All clearing limits shall be clearly flagged by the applicant and inspected and approved by the town engineer prior to the preconstruction conference.
5. There shall be no indoor or outdoor storage of any hazardous materials.
6. The applicant shall obtain a sign permit from the Town of Cumberland that shows consistency with the Route 1 Design Standards.
7. The applicant shall comply with all state and local fire regulations.
8. A blasting permit, if needed, shall be obtained from the Town Code Enforcement Officer prior to blasting.
9. The Town Attorney shall review and approve the draft HOA documents prior to the preconstruction conference.
10. Any outstanding issues raised by the Town Engineer shall be addressed prior to the preconstruction conference.
11. A capacity to serve letter from Portland Water District showing that there is sufficient water will be provided prior to the preconstruction conference.
12. An amended subdivision plan shall be signed by the Planning Board and recorded in the Cumberland County Registry of Deeds. A copy of the recorded plan will be returned to the Planning Department prior to granting of a building permit by the Code Enforcement Officer.\

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

**Standard Condition of Approval:** This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:** The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Cumberland, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

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

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

**The parcel is above sea level and not within a flood plain. The project will use public water and sewer. The Maine Natural Areas program identified no rare, threatened, or endangered plant species within the project area. Maine Department of Fisheries and Wildlife has not mapped designated essential or significant wildlife habitats in the project area. The Board finds the standards of this section have been met.**

**B. 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. The applicant has requested a capacity to serve letter from the PWD which will be a final condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

**C. 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 be served by public water. The applicant has requested a capacity to serve letter from PWD which will be a final condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

**D. Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results; **The erosion and sedimentation control plan has been reviewed and approved by the Town Engineer. The Board finds the standards of this section have been met.**

**E. 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; **Traffic generation data was provided that showed 22 trips will be generated in the weekday a.m. peak hour and 27 trips in the weekday p.m. peak hour. This is below the 100 peak hour trips that would require further review by MDOT. There are no high crash locations within the area or other issues identified for access onto US Route 1. The Board finds the standards of this section have been met for final approval.**

**F. 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 parcel will be serviced by a 160' extension of the Town's 2-inch force main along US 1 which will convey the approximately 8,220 GPD of anticipated wastewater. A capacity to serve letter has been received by the Town Manager. The Board finds the standards of this section have been met.**

**G. Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized; **The multiplex units will have a dumpster that will be emptied by a private waste hauler. The Board finds the standards of this section have been met.**

**H. 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; **A letter is on file from Maine Historic Preservation Commission stating that there are no evident historic features on the site. There is a letter from the Department of Inland Fisheries and Wildlife stating there is no evidence of rare or endangered species. The Board finds the standards of this section have been met.**

**I. 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's peer review engineer and town staff. Any outstanding issues raised by the Town Engineer will be addressed as a condition of approval. With the proposed condition of approval, the Board finds the standards of this section have been met.**

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

**Technical Capacity:** Technical capacity is evidenced by the applicant's use of a professional civil engineer, landscape architect, and building architect.

**Financial Capacity:** The applicant has provided a letter dated May 17, 2021 from Katahdin Trust Company stating that the applicant has an established commercial banking relationship with the lender and that subject to normal and routine conditions, the lender would finance the project. **The Board finds the standards of this section have been met.**



K. 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 project will not adversely affect the quality or quantity of groundwater. There is no septic system on site. The Board finds the standards of this section have been met.**

L. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. **The project will be served by public sewer. There will be no septic system on site. The Board finds the standards of this section have been met.**

M. 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; **Based on a review of the Federal Insurance Rate Maps, the parcel is located in Zone C-Areas of Minimal Flooding. The Board finds the standards of this section have been met.**

N. Storm water. The proposed subdivision will provide for adequate storm water management; **A stormwater management report was submitted and reviewed and approved by the Town's peer review engineer. A stormwater permit by rule application has been submitted to MEDEP. The Board finds the standards of this section have been met.**

O. 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 multiplex are outlined in the project plan set. There are minimal impacts to the wetlands to accommodate the stream crossing for the proposed access drive. The Board finds the standards of this section have been met.**

P. 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] **An unnamed tributary to Chenery Brook is located within the proposed multiplex and outlined in the project plan set. The Board finds the standards of this section have been met.**

SECTION 300 - AQUIFER PROTECTION (if applicable): The parcel is not located in the Aquifer Protection District. **The Board finds the standards of this section have been met.**

Route 1 Design and Performance Standards: **Attachment K of the application packet provides evidence that the standards have been met.**

**5. Public Hearing for Site Plan Review for construction of a .998 acre gravel storage pad on 1.9 acres of land leased to the Town of Cumberland by Yarmouth Water District for a portion of an 8.3 acre lot located at 226 Greely Road, Tax Assessor Map R04, Lot 42. Applicant: Town of Cumberland. Representative: Doug Reynolds, PE, Gorrill Palmer.**

Chairman Auclair introduced the item and inquired whether the acreage referenced was reduced.

Doug Reynolds, P.E. – Gorrill Palmer, displayed a plan showing the proposed project that abuts the location of a site plan approved earlier for storage and for moving the Quonset hut from Drowne Rd. to Greely Rd. Mr. Reynolds said the subject property is owned by Yarmouth Water District. The Town of Cumberland has a ground lease of two acres of the

parcel and are proposing a gravel storage area to store catch basins, pipes, plows, sanders and things like that.

Mr. Reynolds explained that due to a peer review comment, the size of the gravel lot was reduced from 43,000 square feet to 32,000 square feet so as not to disturb more than 1 acre of land which would require permitting from DEP.

Chairman Auclair opened the public hearing. There were no public comments and the public hearing was closed.

Mr. Saunders inquired if there is any difference in site plan requirements based on whether it is considered major or minor. Ms. Nixon said no.

Mr. Saunders moved that due to the limited nature of this project, the Board waive the requirement for a high intensity soil survey, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the unique and limited nature of this project, the Board waive the requirement for the hydrogeologic evaluation, seconded by Ms. Rardin and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the unique and limited nature of this project, the Board waive the requirement for a traffic study, seconded by Ms. Berticelli and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the unique and limited nature of this project, the Board waive the requirement for a Market study, seconded by Ms. Sawchuck and **VOTED, 7 yeas, unanimous - motion carries.**

Mr. Saunders asked if there are any proposed recreation areas, outdoor furniture or features proposed. Mr. Reynolds said no. Mr. Saunders said that he doesn't think a waiver is needed for this and he would rather not waiver something that doesn't need to be waived.

Chairman Auclair reviewed the proposed findings of fact.

Mr. Saunders moved to adopt the findings of fact as written, seconded by Mr. Kenny and **VOTED, 7 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:** 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 areas of disturbance and there will be no storage of hazardous materials on the site. 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.

**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.

**There is no entrance from Greely Rd.**

**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. **N/A.**

**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:

**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. **N/A.**

**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. **This standard has been met.**

**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. **This standard has been met.**

**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. **There is no parking proposed.**

**5. Building and Parking Placement. N/A**

**6. Pedestrian Circulation:** The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site. **There are no sidewalks. There will be no pedestrian traffic to this area. 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. **A 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. **The Town Engineer has reviewed and approved the erosion control plan that will be in conformance with the Maine Erosion and Sediment Control manual. 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. 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. 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. Based on the above facts, the Planning Board finds the standards of this section have been met.**



**4. Fire Protection:** ***There is a fire hydrant located 450' from the site. 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 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 location of the proposed storage 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. **There are no evident historic or archeological features on the site. Based on the above facts, 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. **A 50' existing vegetated buffer will remain between the site and Greely Rd. The other three sides are wooded and will be preserved the greatest extent possible.**

**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 dumpster or trash receptacles on site. There is a gate from Greely Road that will prevent children from accessing the area. 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 a professional engineer and land surveyor.**

**Financial Capacity: Project improvements will be funded by the Town of Cumberland and public works employees will be utilized. Based on the above facts, the Planning Board finds the standards of this section have been met.**

Mr. Saunders moved that the Board approve Site Plan Review for construction of a .998 acre gravel storage pad on 1.9 acres of land leased to the Town of Cumberland by Yarmouth Water District for a portion of an 8.3 acre lot located at 226 Greely Road, Tax Assessor Map R04, Lot 42, subject to the expiration of approval, the standard condition of approval and the two proposed conditions of approval, seconded by Mr. Kenny. Chairman Auclair noted there is a reduction in the size. Mr. Saunders moved to amend his proposed motion to reference a .74 acre gravel storage pad instead of a .998 acre gravel storage pad, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.** The original motion as amended to approve Site Plan Review for construction of a .74 acre gravel storage pad on 1.9 acres of land leased to the Town of Cumberland by Yarmouth Water District for a portion of an 8.3 acre lot located at 226 Greely Road, Tax Assessor Map R04, Lot 42, subject to the expiration of approval, the standard condition of approval and the two proposed conditions of approval was then **VOTED, 7 yeas, unanimous – motion carries.**

**G. Administrative Matters/New Business:**

1. To adopt a Planning Board remote and hybrid meeting policy as recommended by the Town Attorney.

Chairman Auclair introduced the item. Ms. Nixon explained that the Planning Board needs to formally adopt the policy. Town Manager Bill Shane said that the State Legislature gave the power for the Board to meet remotely during emergency events. The pandemic is no longer considered a declared emergency by the Governor. Mr. Shane said that the State Legislature prefers that boards meet in person and use the remote and hybrid policy as a fall back if there is illness to multiple members, snowstorms or things like this. Mr. Shane noted that the Town is set up to conduct hybrid meetings but it is easier if meetings are all Zoom or all in-person. This policy cannot be done as a blanket policy by the Town Council and has to be done committee by committee. The same policy is proposed for all committees and was prepared by the Town Attorney.

Chairman Auclair asked if any other groups have adopted the policy with similar language. Mr. Shane responded that the Town Council has adopted this with identical language.

The Board discussed the proposal and asked questions of the Town Manager. Ms. Rardin said it is most likely that the Board will meet all in-person or all by Zoom. Mr. Shane noted that the policy would allow for a hybrid in-person and Zoom meeting but he would discourage this due to the challenges of managing hybrid meetings.

Mr. Saunders moved to adopt a Planning Board Remote and Hybrid Policy as recommended by the Town Attorney and amended here tonight, seconded by Ms. Berticelli and **VOTED, 7 yeas, unanimous – motion carries.**

**TOWN OF CUMBERLAND PLANNING BOARD REMOTE AND HYBRID MEETING POLICY** *Pursuant to 1 M.R.S. § 403-B*

**I. Purpose:** The Town of Cumberland strives to provide an open and transparent government that maximizes the ability of its residents to participate in the public process. This Policy sets forth the conditions upon which the Cumberland Planning Board may conduct a remote meeting, as that term is defined in this Policy. In addition, this Policy sets forth the conditions upon which the Cumberland Planning Board may conduct a hybrid meeting, as that term is defined in this Policy.

**II. Definitions:**

- a. “Hybrid meeting” means a public proceeding, as defined in 1 M.R.S. § 402(2), as may be amended, conducted with some meeting attendees in person/face-to-face at a designated physical location while connecting with other meeting attendees by remote means.
- b. “Public meeting” means a “public proceeding,” as that term is defined in 1 M.R.S. § 402(2), as may be amended.
- c. “Remote means” means “remote methods” as that term is defined in 1 M.R.S. § 403-B (1), as may be amended. For purposes of this Policy, “remote means” may include, but is not necessarily limited to: Zoom, Go-To-Meeting, Skype, Google Meet, or other comparable internet-based telephonic or videoconferencing platform. Remote means does not include text-only means such as e-mail, text messages, or chat functions.
- d. “Remote meeting” means a public proceeding, as defined in 1 M.R.S. § 402(2), as may be amended, conducted *solely* by remote means.

**III. Remote Meetings of the Planning Board:** The Planning Board shall conduct its meetings in person unless the Chair (or in his/her absence, the Vice Chair), in consultation with the Town Manager, makes a determination that an emergency or urgent issue exists that requires the Planning Board to conduct a remote meeting, including, but not limited to, inclement weather and/or disasters or catastrophes caused by either natural or man-made causes. The determination of such an emergency or urgent issue shall be made as soon as practicable, and notice of a meeting being conducted solely by remote means shall be disseminated consistent with 1 M.R.S. § 406, as may be amended, and this Policy.

**IV. Hybrid Meetings with Remote Participation by Individual Planning Board Members:** Except for a remote meeting being conducted consistent with Section III of this Policy, members of the Planning Board are expected to be

physically present for all public meetings except when being physically present is not practicable for one or more members. Circumstances under which physical presence for one or more members is not practicable are limited to:

- A. Illness or other physical condition, or temporary absence from the Town of Cumberland, that causes the member to face significant difficulties travelling to and attending the public meeting in person; or
- b. To provide a reasonable accommodation to a member with a disability.

A Planning Board member who believes it is not practicable, as set forth above, for him/her to attend a meeting in person shall notify the Chair (or in his/her absence, the Vice Chair), as well as the Town Manager, of the existence of such circumstances as far in advance as is possible. The Chair (or in his/her absence, the Vice Chair), shall, in consultation with the Planning Board member, then make a determination whether being physically present is not practicable for that Board member and, if such a determination of impracticability is made, so notify the Town Manager that a hybrid meeting will be conducted. If the agenda has already been posted at the time the determination is made to authorize a hybrid meeting with the Planning Board member's remote participation, an amended meeting agenda containing the information set forth in Section VI(a) of this Policy shall be posted on the Town's website and be distributed to all Planning Board members, relevant Town staff, and local representatives of the media by the same or faster means used to notify Planning Board members at least four (4) hours prior to the originally noticed meeting start time.

**V. Hybrid Meetings with No Remote Participation by Individual Planning Board Members:** The Planning Board is not required by law to offer this type of meeting format and will only conduct a hybrid meeting with no remote participation by individual Planning Board members when it is determined by the Town Manager, in consultation with the Chair (or in his/her absence, the Vice Chair), that such a hybrid meeting is necessary for some special reason, such as the need for the Planning Board to communicate with Town staff, an outside attorney, professional or consultant without incurring the costs associated with that person's travel to/from Cumberland.

**VI. Public Notice of Remote Meetings or Hybrid Meetings:** When the Planning Board conducts a remote meeting or a hybrid meeting, the following shall occur:

- a. Notice of the public meeting shall be provided in a manner that provides ample time to allow public attendance. Such notice shall be disseminated in a manner that is reasonably calculated to notify the general public of the time, date, location, and method to be used to conduct the meeting. Such notice shall provide information regarding how members of the public may attend the public meeting remotely and shall provide the physical location where members of the public may participate in person, if applicable.
- b. Members of the public shall be provided with a reasonable opportunity to participate in the public meeting by remote means, which shall at a minimum include an effective means of communication between such members of the public and the Planning Board. Reasonable accommodations may be provided when necessary to provide access to individuals with disabilities.
- c. Unless the entire Planning Board is conducting a remote meeting as provided in Section III of this Policy, members of the public must be provided the option to attend the meeting in person or by remote means.
- d. Unless the entire Planning Board is conducting a remote meeting as provided in Section III of this Policy, the Chair (or in his/her absence, the Vice Chair), at the start of the meeting, shall announce the name of any Planning Board member(s) participating by remote means and state the reason therefor, which reason must be consistent with Section IV.
- e. All public documents and other materials considered by the Planning Board shall be made available to members of the public by the same or more efficient means as they are provided to individual Planning Board members. This requirement may be met by: (i) posting all public documents and materials to be considered by the Planning Board on the Town's website at least one (1) business day prior to the meeting; (ii) making physical copies of all documents and materials to be considered by the Planning Board available for in person pick-up at the Town Office at least one (1) business day prior to the meeting; or (iii) enabling the "screen-sharing" function of the remote means utilized for the meeting in such a way that members of the public are able to view all relevant documents and materials while the Planning Board is reviewing and discussing the same.

**VII. Quorum:** A Planning Board member who participates in a remote meeting or a hybrid meeting is considered present for purposes of determining the presence of a quorum and voting.

**VIII. Roll Call Vote Required:** All votes taken during a remote meeting or a hybrid meeting must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by all Planning Board members and the public.

**IX. Zoom Preferred:** The preferred remote means for all Town boards and committees shall be Zoom Webinar. The platform shall be set up and hosted by a Town official and a digital recording shall be preserved. The use of private accounts to host a remote meeting or a hybrid meeting is prohibited.

**X. Disruptions and Adjournment:** If during the conduct of a remote meeting or a hybrid meeting, the meeting is interrupted through disruptions or glitches in the technology, the meeting shall be automatically recessed for up to 15 minutes to restore communication when audio-visual communication cannot be maintained with a quorum of Planning Board members. If the interruption cannot be resolved within 15 minutes, and the Planning Board has not provided reasonable notice to the public as to how the meeting will be continued at an alternative date and time, then the meeting shall be automatically adjourned. If the meeting being conducted is a hybrid meeting with no remote participation by individual Planning Board members and a remote connection to the public location identified in the Planning Board's notice pursuant to Section VI(a) of this Policy is interrupted or lost, the meeting shall continue at the public location without the need for a recess or adjournment.

**XI. Executive Sessions:** To preserve the executive session privilege of any portion of a meeting closed to the public, the Chair should confirm with each attendee that no unauthorized person is present or has access to any executive session being conducted via remote means. There shall be no audio or visual recording of an executive session.

**XII. Other Town Boards and Committees:** Any public body organized under the auspices of the Town may adopt this Policy in order to comply with 1 M.R.S. § 403-B. Any public body adopting such a remote and hybrid meeting policy under this section must, after hearing on the same, file written notice of the vote with the Town Clerk upon adoption. Any such public body may also choose to set more stringent regulations for use of remote means, provided that said policy is at least as stringent as this Policy and complies with 1 M.R.S. § 403-B. Such enhanced policy must also, after hearing on the same, be approved by a vote of a majority of the members of said body, and a copy of said enhanced policy must be filed with the Town Clerk upon adoption.

**XIII. Amendment; Severability; Effective Date:** This Policy may be amended as needed by a majority vote of the Planning Board. The provisions of this Policy are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect. This Policy shall take effect immediately upon adoption by the Planning Board.

Ms. Rardin asked if there would be a follow-up meeting with the Town Council regarding their earlier workshop with discussion on growth and development. Ms. Nixon reported that the Town has reached out to other organizations for data that will be shared with the Town Council and she expects some workshops will follow.

**H. Adjournment:** Mr. Kenny moved to adjourn the meeting at 9:36 pm, seconded by Chairman Auclair and **VOTED, 7 yeas, unanimous – motion carries.**

**A TRUE COPY ATTEST:**

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**Paul Auclair, Board Chair**

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**Christina Silberman, Admin. Asst.**