

TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES

Tuesday, October 20, 2020 at 7:00 pm

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

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

C. Approval of the Minutes of the September 15, 2020 Meeting: Chairman Auclair noted a spelling correction. Mr. Saunders moved to adopt the minutes as amended, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

D. Staff Site Plan Approvals:

1. Minor Staff Site Plan Approval: Jeff Storey for Springbrook Farm, 168 Greely Road; Tax Assessor Map R04, Lot 32A for a 28' x 28' addition to the store and a 7' x 9' open porch added to the side of the existing structure.

2. Minor Staff Site Plan Approval: Elizabeth Noonan Hasbrouck for Stone Coast Music, LLC, to provide music lessons at the Cumberland Methodist Church located at 52 Tuttle Road; Tax Assessor Map R01, Lot 57.

3. Minor Staff Site Plan Approval: Andrew Pettingill d/b/a Evergreen Cannabis, for a Registered Caregiver use to operate at 222 Gray Rd. (former Board Barn), Tax Assessor Map U20, Lot 66.

Ms. Nixon reported on the three staff site plan approvals. Board members suggested corrections to the findings. Ms. Nixon will make the corrections.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: Review of a Four (4) Lot Commercial Minor Subdivision to be located at 166 Gray Rd., Tax Assessor Map U19, Lot 8. Representative: David St. Clair, Jr. – St. Clair Associates, Owners: Ronald Copp, Sr., Howell Copp & Jerald Copp, Jr.

Chairman Auclair introduced the item. Representative David St. Clair noted that they were before the Board on September 15th to talk about this four-lot commercial subdivision located at 166 Gray Rd. Mr. St. Clair displayed the layout of the proposed subdivision and explained that this is similar to what was last presented but they have removed the constructed road and have shown it as an easement for potential future access needs.

Mr. St. Clair said they have worked with the Town Planner and Town Engineer to work through comments received from the prior review.

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

Mr. Saunders referred to the requested waivers and said he doesn't have a problem with the hydrogeological study, but he is hesitant to waive the stormwater. Mr. Saunders said that the findings talk about a condition of approval and he is happy with a condition of approval. Mr. Saunders moved that, due to the unique scope of this project, the Board waive the requirement for a hydrogeological study, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

Chairman Auclair reviewed the prepared Findings of Fact. Corrections to the proposed findings were noted by the Board. Mr. Saunders moved to adopt the Findings of Fact as amended, seconded by Mr. Moriarty and **VOTED, 6 yeas - motion carries, unanimous.**

FINDINGS OF FACT - Chapter 250 - Subdivision of Land

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

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

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

The 4-lot commercial subdivision will be served by public water and private septic. There are no streams on site. A medium intensity soils survey was submitted as was a FEMA floodplain map that show the proposed subdivision will not result in undue water or air pollution. While test pit locations were not provided at this time, they will be provided when each of the site plans for specific developments are provided. Based on the information provided, the standards of this section have been met.

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

The lots will be served by public water. A letter dated 9/17/20 is on file from the Portland Water District indicating there is a sufficient and healthful water supply available for the future development of the four lots. Based on the information provided, the standards of this section have been met.

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

The lots will be served by public water. A letter dated 9/17/20 is on file from the Portland Water District indicating there is a sufficient and healthful water supply available for the future development of the four lots. Based on the information provided, the standards of this section have been met.

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

This application is for the division of the parcel into four lots. Information regarding specific erosion control measures will be provided as each lot is reviewed under the Site

Plan Ordinance. Based on the information provided, the standards of this section have been met.

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

No traffic information was provided as there are no specific uses proposed for the lots at this time. There is one existing access point that could serve the four lots and there is also an MDOT permit on file for a new entrance, if desired, from Route 100. Based on the information provided, the standards of this section have been met.

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized; **The project will utilize private septic. Additional information on test pit locations and HHE 200s will be required during site plan review for each lot. Based on the information provided and the proposed condition of approval, the standards of this section have been met.**

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

The 4 lot commercial subdivision will need to contract for private waste disposal service once site plans are approved for each lot. Based on the information provided, the standards of this section have been met.

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

There are letters on file from the Maine Natural Areas Program indicating there are no rare or unique botanical features on the site. Letters have been submitted to the Maine Historic Preservation Commission and MDIFW. As there are no structures or streams on the site, it is not anticipated that there will be any concerns expressed by those agencies when they respond. Based on the information provided, and the proposed condition of approval, the standards of this section have been met.

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

The plans have been reviewed by the town planner, town engineer and town department heads. All ordinances and plans have been met. Based on the information provided, the standards of this section have been met.

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

Technical capacity is evidenced by the use of professional land surveyor. A statement of values and evidence of financial capacity have not been provided as there are no specific developments proposed for the lots. This information will be submitted during site plan review for each of the lots, as required. Based on the information provided, the standards of this section have been met.

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

adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

There are no surface waters on site. Based on the information provided, the standards of this section have been met.

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

The 4-lot subdivision will be served by public water. Soils information and HHE-200 designs will be submitted when site plan applications are submitted for the four lots. Based on the information provided, the standards of this section have been met.

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

The parcel is shown on FEMA Floodplain Map #230162 0015B as being in Zone C - Area of Minimal Flooding. Based on the information provided, the standards of this section have been met.

14. Storm water. The proposed subdivision will provide for adequate storm water management; ***No stormwater plan was provided as there are no specific plans for the four lots. There is a proposed condition of approval for the subdivision that a stormwater plan be submitted for each lot as it is proposed for development and reviewed under the Site Plan Ordinance. Based on the information provided, and the proposed condition of approval, 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.

The site is flat and well-drained. The Applicant's representative and surveyor states that the property was visited on 2017 and in 2019 and that there was no evidence of wetlands found on the site. Based on the information provided, the standards of this section have been met.

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

There is no river, stream or brook on the parcel. Based on the information provided, the standards of this section have been met.

Mr. Saunders stated that there are three proposed conditions of approval and another condition to be added for the historic preservation and MIF&W letters. Mr. Moriarty suggested a condition of approval to reflect the fact that, at such time as specific plans are proposed for a lot, the criteria of the site plan review ordinance will be applied.

Mr. Saunders asked, if the subdivision plan is approved, will the applicant have to get the subdivision plan amended every time they come back with a site plan. Ms. Nixon responded that they would only have to amend the subdivision plan if they change the lot lines.

Mr. Saunders moved that the Board approve the four lot commercial minor subdivision to be located at 166 Gray Rd., Tax Assessor Map U19, Lot 8 subject to the Standard Condition of Approval, the Limitation of Approval and the five proposed Conditions of Approval, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

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

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

Conditions of Approval:

1. Future development on the individual lots will require a Hydrogeological Study be performed to confirm that there will be no impacts at the property line for each lot, not at the exterior boundaries of the Subdivision.
2. Future development of individual lots shall provide drainage easements for stormwater flow from adjacent properties in the subdivision.
3. The individual lot owners will be required to submit evidence of financial capacity for any public improvements proposed during site plan review of the lots.
4. Submission of the letters from the Maine Historical Preservation Commission and the Maine Department of Inland Fisheries and Wildlife are required prior to recording the approved plan at the Cumberland County Registry of Deeds.
5. At such time as specific plans are proposed for one or more of the lots, the criteria of the Site Plan Review Ordinance will be applied when site plan approval is sought.

2. Public Hearing: Site Plan Review for the Town of Cumberland at the Val Halla Country Club located at 60 Val Halla Road, Tax Assessor Map R04, Lot 41, for the construction of an equipment storage building and placement of a storage building for the Moonlight Skimmers Snowmobile Club to be located off Greely Rd. Representative Douglas Reynolds, PE – Gorill Palmer.

Chairman Auclair introduced the item.

Douglas Reynolds, PE – Gorill Palmer, said he represents the Town of Cumberland for this after the fact site plan review application for construction of a 2,400 sf storage facility on a portion of the Val Halla Golf Course by the twelfth tee. Mr. Reynolds reported that the storage facility has been somewhat constructed. They propose a 15' paved area around the building. Mr. Reynolds added that the snowmobile club building is being relocated there as well as the cold storage bins. A berm has been constructed facing the twelfth fairway. Current access to the area is from Greely Rd. and will remain as a 12' wide gravel road. Access to the site will be locked at all times and members of

the public will not be accessing the area. A small buffer strip of trees is proposed along Greely Rd.

Chairman Auclair relayed absent Board member Lee Buffinton's comments regarding the application. It was confirmed that the project started without a permit. Ms. Nixon explained that an abutter called her on the phone and expressed concern about the level of activity that was occurring.

Chairman Auclair asked Mr. Reynolds if he is aware of any concern. Mr. Reynolds responded that the berm is being placed to kind of hide the facility from the golfers. The closest residence is about 600' from the facility. Mr. Reynolds described the location. Chairman Auclair asked what would be stored. Mr. Reynolds replied that there would be machinery and no hazardous materials.

Mr. Kenny asked about snowmobiles and gasoline being stored there. Mr. Reynolds said that there would be no snowmobiles and any gasoline would be limited to what is left in the equipment.

Mr. Moriarty stated that the structure is a Quonset hut type. Mr. Reynolds confirmed this and said that it is the existing salt shed from Public Works that is being moved. Mr. Moriarty said that he believes it will be closed in and Mr. Reynolds said there will be a door on the front end.

Ms. Sawchuck asked about an abutter concern with the type of activity. Ms. Nixon replied that the original use at Val Halla is recreation. There may be a question about the proposed use and one answer is that the Town lost quite a bit of storage when the Public Works facility was redesigned.

Ms. Sawchuck asked if the storage is for the snowmobile club to store equipment for the trails. Mr. Reynolds responded that the 2,400 square foot building will be for storage of town related equipment and the 12' x 16' building is the snowmobile club's shed. Ms. Nixon added that the snowmobile club shed was located at the Public Works facility and can no longer be there. The shed is used to store signs, posts, and things like that. It was confirmed that the shed is owned by the snowmobile club and was relocated from Public Works to the Val Halla site near a trail that goes by on the access drive.

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

The waiver requests were reviewed. Consensus of the Board was that waiver requests five and six for location of proposed recreation areas and location of outdoor furniture, etc., are not needed.

Mr. Saunders moved that, due to the unique nature of the site and the project, the Board waive the requirement for a high intensity soil survey, seconded by Mr. Moriarty and **VOTED, 6 yeas - motion carries, unanimous.**

Mr. Saunders moved that, due to the unique nature of the site and the project, the Board waive the requirement for a hydrogeologic evaluation, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

Mr. Saunders moved that, due to the unique nature of the site and the project, the Board waive the requirement for the traffic and market studies, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

Chairman Auclair reviewed the Findings of Fact. Mr. Saunders moved that the Board adopt the Findings of Fact as written, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

Findings of Fact - Chapter 229 - Site Plan Review, Section 10: Approval Standards and Criteria:

The following criteria shall be used by the Planning Board/Town Planner 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/Town Planner determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

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

The proposed use is a permitted use in the Val Halla Golf and Recreation Center Overlay District. The large size of the parcel allows the site to support the proposed development. An earthen berm buffers the containment bins from view from the golf course. A stand of trees buffers the view from Greely Road. Excavation has been limited to that required for the new construction. Based on the above findings of fact, the Planning Board finds the standards of this section have been met.

B. Traffic, Circulation and Parking

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

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

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

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

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

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

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

(g) Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(h) The following criteria must be used to limit the number of driveways serving a proposed project:

(1) No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

(2) No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

(2) Access way Location and Spacing

Access ways must meet the following standards:

(a) Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

(b) Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

(3) Internal Vehicular Circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

(a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.

(b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

(c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

(d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

(4) Parking Layout and Design. Off street parking must conform to the following standards:

(a) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

(b) All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

(c) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way

60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

(d) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(e) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

(f) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

(5) Building and Parking Placement

(a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

(b) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

(6) Pedestrian Circulation: The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

No new driveways or streets are proposed. The existing driveway from Greely Road will be gated and locked at all times, and access by town personnel will be on an infrequent basis (approximately once per week). Additional access to the area will be via an existing cart path located within the Val Halla site. There will be no public pedestrian access and all other standards of this section have been met by the proposed plan. Based on the above findings of fact, the Board finds the standards of this section have been met.

C. Stormwater Management and Erosion Control

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

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

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

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

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

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

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

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

(2) Erosion Control

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

(b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

Fill and excavation have been minimized for the building and site construction. Natural vegetation was preserved and disturbed areas have been stabilized with an erosion control mesh. Equipment storage of the site will be covered and prevented from degrading receiving waters to the greatest extent. The site will utilize vegetated drainage swales to mitigate stormwater runoff. Based on the above findings of fact, the Board finds the standards of this section have been met.

(D) Water, Sewer, and Fire Protection

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

(2) Sewage Disposal Provisions: The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

(3) Utilities: The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

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

The proposed storage buildings do not require water or sewer service. There is a hydrant located approximately 450' from the Greely Rd. entrance. The utility lines will be placed underground. Based on the above findings of fact, the Board finds the standards of this section have been met.

E. Water Protection

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

No water supply or sewage disposal systems are proposed.

(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.

Equipment storage shall be covered to prevent any potential run off, seepage or percolation into surface water or groundwater.

(3) Aquifer Protection: If the site is located within the Town Aquifer Protection Area, a positive finding by the Board that the proposed plan will not adversely affect the aquifer is required.

The site is located within the Town Aquifer Protection Area. The development does not propose a use listed in Section 315-36.B.2 that requires a positive finding by the Board. This use will have no adverse effect on the aquifer. There will be no septic system needed for this project. The Board finds that the standards of this section have been met.

F. Floodplain Management: If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

The site is located in a Zone C area of minimal flooding. Based on the above finding of fact, the Board finds the standards of this section have been met.

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

The site is an open area with no evidence of historic or archaeological resources. Based on the above finding of fact, the Board finds the standards of this section have been met.

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

No exterior lighting is proposed. Based on the above findings of fact, the Board finds the standards of this section have been met.

I. Buffering and Landscaping

(1) Buffering of Adjacent Uses: The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and / or a combination of these or other techniques.

(2) Landscaping: Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site,

preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

The site is buffered on three sides by existing trees and additional plantings are proposed. Based on the above findings of fact, the Board finds the standards of this section have been met.

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

The activity will be distanced from abutting residential uses and there will be infrequent use of the storage building and materials stored on site. Based on the above findings of fact, the Board finds the standards of this section have been met.

K. Storage of Materials

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

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

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

No dumpsters are proposed. Based on the above findings of fact, the Board finds the standards of this section have been met.

L. Capacity of the Applicant: The applicant must demonstrate that he / she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

Technical Ability: A professional engineer and surveyor were used.

Financial Capacity: The town has the financial capacity to fund the construction of the equipment storage building and the material bins using the Town's General Funds.

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

M. Design and Performance Standards

(1) Route 100 Design Standards

(2) Route 1 Design Standards

(3) Town Center District Design and Performance Standards

(4) Village Mixed Use Performance Standards.

None of the above are applicable to this project.

Mr. Saunders moved to approve site plan review for the Town of Cumberland at the Val Halla Country Club located at 60 Val Halla Road, Tax Assessor Map R04, Lot 41, for the construction of an equipment storage building and placement of a storage building for the Moonlight Skimmers Snowmobile Club subject to the Limitation of Approval and the Standard Condition of Approval, seconded by Mr. Kenny and **VOTED, 6 years - motion carries, unanimous.**

LIMITATION OF APPROVAL: Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months of the date upon which the

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

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

3. Public Hearing: Recommendation to the Town Council on proposed amendments to the Route 1 and Route 100 Design Standards.

Chairman Auclair introduced the item.

Ms. Nixon provided history regarding the adoption of design guidelines and standards. Ms. Nixon explained that Route 100 is where there is much difficulty applying the design standards because the projects located there are not ones that are designed for these types of reviews. Ms. Nixon used the example of Caddy Shack Ice Cream. Ms. Nixon said that, especially with the smaller projects, she finds she is stuck either approving something that really shouldn't be, or she is stopping development from occurring because the standards are not realistic. Ms. Nixon said that one solution is to change standards to guidelines and she will endeavor as much as possible to meet the intent of the guidelines.

Chairman Auclair referred to Ms. Nixon's letter which indicates that these design standards are not ordinances, there is no need for Town Council action and the changes will go into effect as of the date of Planning Board action. Chairman Auclair said that in the proposed amendments, almost every paragraph uses the word should, which gives the option to do something or not do it.

Chairman Auclair read absent Board member Lee Buffinton's comments, as follows. What are the reasons for the proposed sweeping changes from design standards to design guidelines, guidelines seem more like mere suggestions? What is the reasoning for eliminating descriptive language and visual examples which can help folks better understand the intent? How many developable lots are there on route 100? I think this may need a more thorough discussion.

Ms. Nixon indicated that she does know the number of developable lots.

Mr. Record asked if this only applies to commercial zoning and Ms. Nixon said it is for non-residential development. Mr. Record asked about a red line comparison. Ms. Nixon said that this could be done and there is a lot of language, photos, and text boxes that would have to be struck through. Ms. Nixon added that the site plan ordinance gets at some of the standards such as landscaping, buffering, signage and this isn't throwing everything out the window, there will still be guidelines. The Board can still look at things and urge applicants to do things that are needed.

Mr. Saunders said that if the standards are turned into guidelines, you wouldn't have to strike the language and could still give the information to a developer. The change is in whether these are perceived as standards or guidelines.

Mr. Record surmised that right now things are very restrictive, and applicants would have to come before the Board to waive lots of things that don't fit what the applicant is doing. The benefit would be that this helps the little guy. The danger is that if these things are suggestions, and don't really have teeth, the Board loses control and it could end up not looking like what the Town had hoped.

Ms. Nixon noted that the Board tends not to see the small projects that go through staff site plan review. Ms. Nixon referred to the Bru-Thru Coffee project and said that this is a fun little business that is attractive and functional but it would not meet these sophisticated, consultant developed standards.

Mr. Saunders asked about the difference between minor and major site plan review. Ms. Nixon explained that there is minor staff review, major staff review and Planning Board review. Mr. Saunders asked if it would make sense to have guidelines to a certain point and then standards above that point. Ms. Nixon said that this could be done. Ms. Nixon reported that Planning Board site plan review is required when there is construction of a new structure over 3,000 square feet, if a building is being expanded and the expansion is over 3,000 square feet, if there is construction of 3,000 square feet or more of impervious surface and for site preparation activities such as clearing and grubbing when it is more than five acres.

Mr. Moriarty clarified that on the cover sheet of each set of standards, it is noted that they were adopted by the Town Council and are, in effect, amendments to the Comprehensive Plan approved by the Council. Mr. Moriarty wondered whether the Planning Board can simply pass a motion. Ms. Nixon conceded that this part of her memo was jumping the gun. This item was advertised as a recommendation to the Town Council. Brenda Moore has prepared the Town Council agenda for Monday night and has advertised this to be taken care of in that way. Chairman Auclair confirmed the item is to make a recommendation to the Town Council.

Mr. Moriarty explained why he is reluctant to give up the standards and go back to guidelines and suggested that a workshop with the Town Council may be appropriate.

Mr. Saunders asked about the differences between the town center district and village mixed use standards and the Route 1 and Route 100 standards. Ms. Nixon responded that district standards are different in nature and tend have things about performance standards like hours of operation and deliveries. Mr. Saunders said that it makes sense to him that if a project is subject to Planning Board review, they are standards and smaller projects are guidelines. Mr. Saunders would support a change along these lines.

Ms. Sawchuck agreed with Mr. Saunders and said that she finds the lengthier standards with pictures helpful and this would be helpful to the developers as well. Ms. Sawchuck said that for a larger facility that needs to come to the Planning Board, it would be helpful to have the standards.

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

Chairman Auclair said he is torn and asked Ms. Nixon for input. Ms. Nixon replied that she is coming from a position of being realistic about the types of developments that Cumberland gets that are small, stand-alone businesses. Ms. Nixon referenced Seafax and the Friends School and said that if the Town were to enforce the standards, these wouldn't have been built. Chairman Auclair asked Ms. Nixon what the biggest advantage is in these being guidelines. Ms. Nixon said she thinks that if a substantial project is coming to the Planning Board, the Board should have the standards to look through but would want some wiggle room to be able to say this isn't applicable in this situation. Ms. Nixon continued that for the smaller projects, she would feel more comfortable not turning a blind eye to the fact that she is supposed to be looking at the standards when she knows there is no way the applicant can comply.

Chairman Auclair asked Mr. Moriarty if having a distinction between the size of the project would affect his opinion. Mr. Moriarty confirmed that with things that can be granted at the staff level, Ms. Nixon has the option of kicking the application up (to the Planning Board) as a sort of safety valve. Ms. Nixon agreed. Mr. Moriarty referred to the minor commercial subdivision approved tonight without knowing what might actually go there and said he would feel more comfortable when they come for site plan review if the Board had standards in place.

Ms. Nixon asked how the Board would address projects under their review that don't meet the standards. Mr. Saunders said he believes there is waiver language in the standards.

Chairman Auclair noted that he always looks to see what the authority is. For instance, if he didn't like the look of a window, he would need a statute or ordinance to say that the applicant cannot do that window. Chairman Auclair added that it is not his role on the Planning Board, if he doesn't like something, to change the design.

Ms. Sawchuck said that it would be useful to define the terms "standards" and "guidelines".

Mr. Moriarty reported that the standards for Route 1 have a waiver provision but the standards for Route 100 do not appear to. Mr. Saunders recommended adding waiver language to the Route 100 standards.

Mr. Record said that this seems like sweeping changes very quickly and there has been a lot of work in the past put into the standards. Mr. Record is not prepared to make a recommendation tonight and would like to look into this further. Mr. Record noted that it makes sense to add waiver language.

Ms. Nixon said that the Board has made some very good points and she asked if she has a staff site plan and the design is not traditional, for example, should an application be kicked up to the Board? Mr. Saunders asked if Ms. Nixon has the same waiver authority that the Board has. Ms. Nixon said she does not think so.

Mr. Saunders said that if he were to make a motion, it would be something like if a project is subject to Planning Board approval, whether it's the size or Ms. Nixon kicks a

project up, then it is subject to standards and if it is something that staff approves, then they are guidelines. Mr. Saunders explained that this gives Ms. Nixon flexibility and if she wants to kick a project up to the Board, she can without kicking up every single project that is on Route 1 or Route 100.

Mr. Kenny pointed out that there is a difference between shall and should and it bothers him to have “should” in the language. Mr. Kenny asked if the Board has the authority to overrule a staff approval. Ms. Nixon explained that with a staff review, she could receive an application on Monday, could review and approve it by Wednesday and the applicant could then get a building permit. Mr. Saunders said he doesn’t know how the Board could reverse this and an applicant could make significant investment based on the approval. Ms. Nixon said the way the staff review is written, she needs to bring the info to the Board so the Board knows, but she does not know if the Board has the ability to reverse the decision. Mr. Moriarty agreed with Ms. Nixon. Chairman Auclair said he presumes Ms. Nixon knows the rules as well as the Board and she is applying those rules and Ms. Nixon agreed.

Mr. Saunders moved that the Board table any recommendation to the Town Council on proposed amendments to the Route 1 and Route 100 Design Standards, seconded by Mr. Record and **VOTED, 6 yeas - motion carries, unanimous.**

Ms. Nixon will give the matter more thought and come up with some alternatives for the Board to consider. Mr. Record said that a red lined version would help and some good thinking about what comes under guidelines versus what comes under standards.

G. Administrative Matters/New Business: Ms. Nixon reported that Town Manager Bill Shane has asked her to check with the Board about conducting Zoom meetings for November, December and January.

The Board discussed meeting in person when public comment is expected for a public hearing and meeting via Zoom when there is nothing major. Mr. Record said that he prefers to meet in person. Ms. Sawchuck said that if the meetings are here, she will be here, but it is her preference to meet via Zoom where they can during the flu season. Mr. Saunders and Chairman Auclair said that either is fine with them. Mr. Kenny said he would want to meet in person, especially when there is a public hearing. Mr. Moriarty agreed with Mr. Kenny. The preference of a majority of the Board is to meet in person in November.

H. Adjournment: Mr. Moriarty moved to adjourn the meeting at 8:31 pm, seconded by Mr. Kenny and **VOTED, 6 yeas - motion carries, unanimous.**

A TRUE COPY ATTEST:

Paul Auclair, Board Chair

Christina Silberman, Admin. Asst.