

**TOWN OF CUMBERLAND PLANNING BOARD MEETING MINUTES**  
**Tuesday, August 17, 2021**

**A. Call to Order:** Chairman Auclair opened the meeting at 8:32 pm and noted that six of the seven Board members are present.

**B. Roll Call: Present:** Paul Auclair, Amanda Berticelli, Lorraine Rardin, Jason Record, Joshua Saunders & Ann Sawchuck. **Staff:** Carla Nixon - Town Planner, Christina Silberman - Administrative Assistant. **Absent:** Bill Kenny.

**C. Approval of the Minutes of the July 20, 2021, meeting:** Corrections to the prepared minutes were noted. Mr. Saunders moved to adopt the minutes as amended, seconded by Mr. Record and **VOTED, 6 yeas, unanimous - motion carries.**

Mr. Auclair noted that the Board had a workshop at 6 pm that just finished and this is why the Board is starting their regular meeting late.

**D. Staff Site Plan Approvals:** None.

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

**F. Hearings and Presentations:**

**1. Public Hearing:** Amendment to an approved subdivision, Broad Cove Ridge a 50-unit residential condominium building located at 102 US Route 1, Tax Assessor Map R01, Lot 13 B, to show a required land swap with the abutter at 92 US Route 1. Owner: 100 US Route 1, LLC. Representative, Dan Diffin, P.E., Sevee and Maher Engineers.

Ms. Nixon explained that this is a simple amendment to an approved subdivision that has to do with the land swap that was created between the developer and Ledgeview Assisted Living. The developer didn't realize they were making the Ledgeview lot more non-conforming, so the developers are switching back some land to Ledgeview.

Chairman Auclair introduced the item.

Dan Diffin, P.E., Sevee & Maher Engineers, identified an area of land on a displayed plan of the Broad Cove Ridge Subdivision that was acquired from Ledgeview Assisted Living on the adjacent lot that is less than four acres. Mr. Diffin said the town informed him that they could not make the Ledgeview lot more non-conforming so they are swapping a piece of land in the rear of the Broad Cove Ridge Subdivision property to Ledgeview. Mr. Diffin said that all the agreements are in place and they just need to amend the subdivision plan.

Mr. Record asked if they are still meeting the setbacks on the lower corner of the property and Mr. Diffin said they are.

Mr. Saunders referred to the beautification strip restrictions and asked if it does not matter who owns that property and Mr. Diffin said that is correct.

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

Mr. Saunders moved that the Board waive the reading of the findings of fact, seconded by Mr. Record and **VOTED, 6 yeas, unanimous - motion carries.**

Mr. Saunders moved that the Board adopt the findings of fact as written, seconded by Mr. Record and **VOTED, 6 years, unanimous - motion carries.**

**PROPOSED 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.**

Mr. Saunders moved to approve an amendment to an approved subdivision, Broad Cove Ridge a 50-unit residential condominium building located at 102 US Route 1, Tax Assessor Map R01, Lot 13 B, to show a required land swap with the abutter at 92 US Route 1, subject to the Limitation of Approval, the standard Condition of Approval, the eleven prior conditions of approval and one additional condition of approval, seconded by Mr. Record and **VOTED, 6 yeas, unanimous - motion carries.**

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

**Standard Condition of Approval**: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except 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.

**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.

**G. Administrative Matters/New Business:** Chairman Auclair noted that the Board discussed growth and the comprehensive plan with the Council at the workshop tonight

**H. Adjournment:** Mr. Record moved to adjourn the meeting at 8:45 pm, seconded by Mr. Saunders and **VOTED, 6 yeas, unanimous - motion passes.**

**A TRUE COPY ATTEST:**

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**Paul Auclair, Board Chair**

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**Christina Silberman, Admin. Asst.**