

**TOWN OF CUMBERLAND
PLANNING BOARD MEETING MINUTES
Tuesday, February 18, 2020 at 7:00 pm**

A. Call to Order: Chairman Auclair opened the meeting and noted that Board Member Jason Record is away.

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

C. Approval of the Minutes of the January 21, 2020 Meeting: Minor revisions to the minutes were noted. Mr. Saunders moved to approve the minutes of the January 21, 2020 meeting as amended, seconded by Ms. Buffinton and **VOTED, 5 yeas, 1 abstained (Moriarty) - motion carries.**

D. Staff Site Plan Approvals: None.

E. Minor Change Approvals: None.

F. Hearings and Presentations:

1. Public Hearing: Amendment to an Approved Subdivision "Plan of Property in Cumberland, ME for William J. Serretta Jr." to approve the transfer of a portion of subdivision lot 2 owned by Gary & Linda Gagne, Tax Assessor Map R08A, Lot 5 to subdivision lot 3 owned by Karen Herold, Tax Assessor Map R08A, Lot 4 located in the RR2 Zone. Applicant: Karen Herold, 67 Wild Apple Ln.

Chairman Auclair introduced the item.

Karen Herold, 67 Wild Apple Ln., noted that her neighbor Gary Gagne is here as well. Ms. Herold explained the location of a section of Mr. Gagne's property that she wishes to add to her property.

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

Mr. Saunders moved to waive the reading of the Findings of Fact, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.** Mr. Saunders requested an amendment to the finding for financial capacity to note that there are no public improvements proposed. Mr. Saunders moved to adopt the Findings of Fact as amended, seconded by Mr. Moriarty and **VOTED, 6 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:

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

- (1) The elevation of the land above sea level and its relation to the flood plains;
- (2) The nature of soils and subsoil and their ability to adequately support waste disposal;
- (3) The slope of the land and its effect on effluents;
- (4) The availability of streams for disposal of effluents; and
- (5) The applicable state and local health and water resource rules and regulations;

The shift of a portion on land from one lot to another will not result in undue water or air pollution.

Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, the standards of this section have been met.

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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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 planner and town department heads.

The reconfiguration of the three lots is consistent with all local ordinances and plans. Based on the information provided, 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;

Financial capacity: There are no public improvements proposed. Technical capacity is evidenced by the use of a licensed land surveyor. There are no public improvements proposed; the Applicant has the funds to complete the purchase of the land upon Planning Board approval. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots or improvements are being made. Based on the information provided, the standards of this section have been met.

N. Storm water. The proposed subdivision will provide for adequate storm water management;

No new lots are being created. Based on the information provided, the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

No new lots are being created. No activity will occur which could affect wetlands. 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]

No new lots are being created. Based on the information provided, the standards of this section have been met.

Mr. Saunders moved to approve the amendment to an approved subdivision "Plan of Property in Cumberland, ME for William J. Serretta Jr." to approve the transfer of a portion of subdivision lot 2 owned by Gary & Linda Gagne, Tax Assessor Map R08A, Lot 5 to subdivision lot 3 owned by Karen Herold, Tax Assessor Map R08A, Lot 4, subject to the Standard Conditions of Approval and the two Conditions of Final Plan Approval, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

STANDARD CONDITIONS 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 FOR FINAL PLAN APPROVAL:

1. A copy of the recorded plan shall be provided to the Town Planner within 90 days of approval.
2. Approval of any subdivision plan not filed for recording within 90 days after the final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan.

2. Public Hearing: Site Plan Review for a change of use from a non-conforming convenience store with gas sales to a non-conforming auto sales and repair shop in the RR1 Zone, located at 174 Main St., Tax Assessor Map U09, Lot 8. Applicant: Matthew Almy & Mark Axelsen. Representative: Jim Fischer, P.E., Northeast Civil Solutions.

Chairman Auclair introduced the item.

Jim Fischer, P.E., displayed a plan of the project and noted that Mark Axelsen and Matt Almy are here. Mr. Fischer said that the property used to be a two pump service station that belonged to C. N. Brown. The property has been vacated since the middle of the year and is located at the intersection of Main St. and Winn Rd. It is roughly a 1.25 acre site. Mr. Fischer said that the applicants are proposing minimal changes to the site, notwithstanding facade changes. The applicants propose to have minor automobile repairs inside the building. Mr. Fischer reported that the gas pumps have been removed and the existing canopy, under which the gas tanks were located, will be removed. Mr. Fischer said there will be a slight extension of one bay off the back and other than this, and some onsite lighting, there isn't any change to the structure.

Mr. Fischer described changes to access points for the site and said this will be an improvement to the overall intersection. The DOT permit has been received. The building will require eleven parking spaces which are shown on the plan. Mr. Fischer said that they do not expect more than five to six visitors a day and plan for three employees. Mr. Fischer noted that the parking area is already here and it will be sealed and restriped. The location of the dumpster has been changed. There will be a lower lot for when there are an abundance of vehicles that is accessed from Winn Rd. and gated. The lower lot is where the septic system is located and the system has been tested and is viable. There is a new design in place in case the system fails.

Mr. Fischer said that there are no floor drains and any liquids or materials will be stored inside the building. Mr. Fischer described the topography and buffering of the site.

Chairman Auclair asked for information about the plans for auto sales. Mr. Fischer said that the sales will not be for new vehicles. Mr. Fischer identified where the vehicles for sale could be stored. Chairman Auclair asked about the proposal for 6' high trees and a 6' high fence on one side of the site. Mr. Fischer explained that there is a residential area near this location and the owner requested the fence and the arborvitae trees will improve the site.

Mr. Moriarty confirmed that there will not be any floor drains. Mr. Fischer said the applicants do not intend to put in any floor drains and there will be no major repairs. Materials that get spilled on the floor will be cleaned up and stored inside, not placed in the dumpster, until taken away by a contracted service.

Ms. Buffinton referred to a proposed condition regarding the canopy and confirmed that the canopy will be removed and the condition can be struck. Mr. Fischer agreed. Ms. Buffinton asked why the fence doesn't extend to the last two parking spaces. Mr. Fischer identified the location of the abutter's house and said the fence doesn't need to extend further. Mr. Fischer added that it is not likely that the house will have a line of sight but they will extend the fence if needed. Mr. Axelsen said that they met with the owners of the abutting property and asked them to map out where they would like the trees and the buffer and this is what they marked.

Ms. Buffinton referred to correspondence from abutters across the street with concerns about lighting and noise and asked if the garage bay doors will be kept closed while work is in progress. Mr. Fischer said that they want to be as good a neighbor as possible and when vehicles are being worked on, the doors will be closed. Ms. Buffinton asked about lighting. Mr. Fischer said that there is a light pole that they plan to get rid of because it is not needed. There will be wall packs on the building that will be on when it is dark while the business is open. When the work hours are over, the lights will be on motion sensors for security.

Mr. Kenny asked where waste oil will be kept. Mr. Fischer replied that it will be kept inside. The applicants anticipate having no more than 500 gallons maximum of any types of fluids. Mr. Kenny asked about lighting in the back and Mr. Fischer said there will be lighting on the building facing down to the lower area. The dumpster will have a stockade style fence surrounding it.

Chairman Auclair asked Ms. Nixon if there was an update from the Town Engineer and Ms. Nixon replied that she heard from him today and he is all set. Mr. Saunders confirmed if the Town Engineer is okay with all three waivers and Ms. Nixon indicated yes.

Chairman Auclair asked about a comment about a failing septic. Mr. Fischer replied that Albert Frick Associates has looked at the septic system. The system is perfectly viable and there is no indication of degrading. Mr. Fischer noted that every system fails at some time and there is already a new design in place.

Ms. Sawchuck confirmed that the tanks have been removed and asked if any State/Dep approval is required. Mr. Fischer replied that DEP requires that only certified contractors remove the tanks. The tanks were inspected when they were taken out and there was no degrading. The DEP has no issues. Ms. Sawchuck noted that this is a busy intersection and asked if it is already lit. Mr. Fischer said there are some lights now.

Chairman Auclair opened the public hearing and read the following letter provided by abutter Kerry Volk of 21 Wild Way;

To Whom It May Concern:

I received a notification that there will be a site plan review for the property at 174 Main Street at the meeting scheduled for 2/18. This property is directly across Route 9 from our home at 21

Wild Way. I am not able to attend the planning meeting because I will be out of town but wanted to submit some comments/concerns if possible. My concerns are as follows:

1. Lighting at night - At the earlier meeting there was a discussion about whether or not there was light at night with the previous gas station. The assumption was made that there was, however, in fact there was not. Once the store closed, there was no more than a dim light inside the store. There was no exterior lighting. I don't know if there is a plan to have the car lot lit at night (I'm assuming there may be for security of the vehicles). I'm aware that there was an offer made to add a tree barrier to the right of the car lot to block light to the adjacent property, but I am not aware of any suggestion yet that would address light that would be shed directly across route 9 towards our home at night.
2. Noise - At the previous meeting there was also a discussion about whether the increase in noise would be markedly different from the previous business. While I don't expect that traffic noise will be any different, I am concerned about the use of power tools in the shop. I don't know the name of the tool but am familiar with the sound of having tires changed on a vehicle. It is loud and jarring. I think the assumption was made at the previous meeting that because this noise would primarily be during day time hours, that it in theory would not be bothersome to the abutting neighbors who might be working during those hours and therefore not home to hear it the majority of the time. However, my husband and I do not necessarily work jobs that occur Monday through Friday. We have days off during the typical work week on a weekly basis. Nor does my husband work typical hours; he arrives home late from work at night and does not go to work until late morning. Therefore for us, having noise during typical daytime hours can have a significant impact on sleep and would be disruptive to our residence.
3. Parking - Since the closure of the gas station, there was work completed by Summit gas on Route 9. Prior to this work, the shoulder along Route 9 in front of our property (directly across from the gas station) was relatively uneven and there was a slight ditch. Other than the occasional truck, people did not park here. However, when the new work was completed, the shoulder was leveled off to eliminate the ditch which has the effect of widening the shoulder in that area. It is difficult to see traffic coming in both directions currently, and I am concerned that now that the shoulder is wider, it will be a tempting place for people to park and walk across to the car lot. I would respectfully request that the town post a No Parking sign in that area, regardless of what type of business may be in that location.

Mr. Fischer said that lighting at night will be for security with wall mounted lights that will be triggered by movement. Mr. Fischer said that there is going to be noise and the compressors and equipment will be inside the building. The building was constructed for this use that will be continued and it is insulated. Mr. Fischer said that there already is no parking on the street and people aren't supposed to be parking on the road. There is an abundance of parking on site.

Chairman Auclair closed the public hearing.

The Board discussed noise and if there are any restrictions in the Ordinance. Mr. Saunders noted that if there is a noise restriction in the Ordinance than a condition of approval is not needed. Mr. Saunders asked if the applicants are amenable to a 65 decibel noise limit at the property line as a condition of approval. Mr. Fischer said that they are amenable to this.

Mr. Moriarty moved that the Board grant waiver requests one, two and three, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

1. Waiver from the High Intensity Soils Survey

2. Waiver from Hydro Geologic Evaluation.
3. Waiver from conducting a Traffic Study.

Chairman Auclair reviewed the approval standards and criteria (a/k/a findings of fact). The Board discussed a condition of approval for a noise decibel restriction and agreed not to have this condition. Other minor corrections to the findings were noted. Mr. Saunders moved to adopt the proposed findings of fact as amended, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

Chapter 229 – SITE PLAN REVIEW

SECTION 10: APPROVAL STANDARDS AND CRITERIA (Findings of Fact)

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

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 site has recently supported a retail/gas station. The proposed new uses will not require expansion into any environmentally sensitive areas. Based on the above findings of fact, the Board finds the standards of this section have been met.

B. Traffic, Circulation and Parking

10.2.1 Traffic Access and Parking

Vehicular access to and from the development must be safe and convenient.

10.2.1.1 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.

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

10.2.1.3 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.

10.2.1.4 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.

10.2.1.5 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.

10.2.1.6 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.

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

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

a. No use which generates less than one hundred (1) 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.

b. 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.

10.2.2 Access way Location and Spacing

Access ways must meet the following standards:

10.2.2.1 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.

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

10.2.3 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

10.2.3.1 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.

10.2.3.2 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).

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

10.2.3.4 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.

10.2.4 Parking Layout and Design

Off street parking must conform to the following standards:

10.2.4.1 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.

10.2.4.2 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.

10.2.4.3 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

10.2.4.4 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.

10.2.4.5 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.

10.2.4.6 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 Town Engineer and Town Planner have reviewed and approved the parking and circulation plan. An entrance permit from MDOT is on file. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.2.5 Building and Parking Placement

10.2.5.1 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.

10.2.5.2 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.

10.2.6 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 is no existing pedestrian way on-site or connecting to the site. The new parking spaces will be located to the side of the building (with the exception of the one handicapped space). There will also be a small gravel parking area constructed with a gated entrance from Winn Road. The site constraints will not permit parking in the rear of the building. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.3 Stormwater Management and Erosion Control

10.3.1 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.

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

10.3.1.2 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.

10.3.1.3 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.

10.3.1.4 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.

10.3.1.5 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.

10.3.1.6 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.

10.3.1.7 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.

10.3.2 Erosion Control

10.3.2.1 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.

10.3.2.2 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 stormwater management and erosion control plans. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.4 Water, Sewer, Utilities and Fire Protection

10.4.1 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.

10.4.2 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.

10.4.3 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.

10.4.4 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.

A hydrant is located within 30' of the building. The fire protection plan has been reviewed and approved by the Fire Chief. Utilities are on site. There is an existing operating well on site that has served the needs of the previous tenant and should be sufficient for this use as well. The location of the existing and proposed septic system needs to be shown on the site plan; this is a proposed condition of approval. Based on the above findings of fact, and with the proposed condition of approval, the Board finds the standards of this section have been met.

10.5 Water Protection

10.5.1 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.

10.5.2 Water Quality

All aspects of the project must be designed so that:

10.5.2.1 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.

10.5.2.2 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.

The applicant has provided information on the quantity and type of materials that will be stored on site. The Town Engineer has reviewed this information and found it to be acceptable. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.5.3 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 not located within the Town Aquifer Protection Area.

10.6 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 structures are not located in a flood hazard area, though a small portion of the site is in Zone B defined as:

Areas of 500-year flood; areas of 100-year flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 100-year flood. An area inundated by 0.2% annual chance flooding.

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

10.7 Historic and Archaeological Resources

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

A letter of request for information from the Maine Historic Preservation Commission was submitted. The response has not yet been received. This can be a condition of approval. The application does state that the site is currently developed and there are no apparent historic or archaeological resources on site. Based on the above finding of fact, and with the proposed condition of approval, the Board finds the standards of this section have been met.

10.8 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.

The applicant has provided cut sheets for the new exterior lights. A photometric plan was submitted and reviewed. The plan does show slight light trespass across the front property line. Removal of an existing pole light on the front corner would likely remove this effect and the Applicant has agreed to do so. A proposed condition of approval will ensure this. Based on the above findings of fact and the proposed condition of approval, the Board finds the standards of this section have been met.

10.9 Buffering and Landscaping

10.9.1 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.

10.9.2 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.

6 Arborvitae trees with the height of six feet will be planted on the property line as shown on the plan. Based on the above findings of fact and the proposed condition of approval, the Board finds the standards of this section have been met.

10.0 Noise

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

All repair work will be done inside the building. The hours of operation are limited to daytime hours. The operation should not create a noise nuisance for neighboring properties. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.11 Storage of Materials

10.11.1 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.

10.11.2 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.

10.11.3 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.

The Town Engineer and Town Planner have reviewed the plan for storage of materials and found it to be in compliance with the ordinances. Based on the above findings of fact, the Board finds the standards of this section have been met.

10.12 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: The applicant has utilized Northeast Civil Solutions to prepare the plan and supporting information. Financial Capacity: A letter of Financial Capacity has been received from Atlantic Federal Credit Union date February 13, 2020. Based on the above findings of fact, the Board finds the standards of this section have been met.

The Board reviewed the proposed conditions of approval and made revisions. Mr. Saunders moved to approve Site Plan Review for a change of use from a non-conforming convenience store with gas sales to a non-conforming auto sales and repair shop in the RR1 Zone, located at 174 Main St., Tax Assessor Map U09, Lot 8 subject to the Limitation of Approval, the Standard Condition of Approval and the six Conditions of Approval, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.**

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

STANDARD CONDITION OF APPROVAL: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from the plans, proposals and supporting documents, except de 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.

CONDITIONS OF APPROVAL:

- 1.** The plan shall be revised to show that the building shall be equipped with a hinged key box approved by the fire department.
- 2.** The existing light pole on the front corner of the parcel shall be removed prior to issuance of a building permit.
- 3.** A letter from the Maine Historic Preservation Commission shall be submitted to the Town Planner.
- 4.** The location of the existing and proposed septic system needs to be shown on the site plan.
- 5.** A note shall be added to the plan stating the hours of operation as approved by the Board to be M-F from 9-6 and Saturday from 9-3.

6. A note shall be added to the plan stating that all exterior lighting will be off when the business is closed and that motion-detector lights will be used.

Chairman Auclair called for a short break.

3. Public Hearing: Amendment to an Approved Subdivision for Jordan Farm Estates to change the location of the public water service to serve 98 Chet's Way, subdivision lot 4, Tax Assessor Map R03, Lot 43F located in the RR2 Zone. Applicant: Michael Nelson. Representative: Robert Metcalf, Mitchell & Associates.

Chairman Auclair resumed the meeting and introduced the item.

Michael Nelson, 98 Chet's Way, explained that a water stub is already there and this is to hook up and run the water to his property. The initial idea was to tee off down the shared driveway but this water line is too small to serve multiple houses. Mr. Nelson reported that there is some wetland impact and he has DEP and Army Corps approvals for this.

Chairman Auclair noted that Dan Diffin, P.E., has reviewed this and he opened the public hearing. There were no comments. Chairman Auclair closed the public hearing.

Mr. Saunders confirmed that there are no requested waivers and Ms. Nixon agreed.

Mr. Saunders moved to waive the reading of the Findings of Fact, seconded by Mr. Moriarty and **VOTED, 6 years, unanimous - motion carries.** Mr. Saunders moved to adopt the Findings of Fact as written, seconded by Mr. Kenny and **VOTED, 6 years, 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:

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

- (1) The elevation of the land above sea level and its relation to the flood plains;
- (2) The nature of soils and subsoil and their ability to adequately support waste disposal;
- (3) The slope of the land and its effect on effluents;
- (4) The availability of streams for disposal of effluents; and
- (5) The applicable state and local health and water resource rules and regulations;

The relocation of the public water line will not result in undue water or air pollution. Based on the information provided, 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;

This amendment is to provide a water line to the new home to be built. Based on the information provided, 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 entire subdivision was approved for water service through the PWD. This is just to relocate the water line. Based on the information provided, 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;

There will be minimal soil disturbance associated with this water line relocation. Based on the information provided, 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;

No new lots are being created. Based on the information provided, the standards of this section have been met.

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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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 planner and town department heads. The relocation of the water line is consistent with all local ordinances and plans. Based on the information provided, 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: Evidenced by the use of a licensed landscape architect. Financial capacity: There are no public improvements proposed. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots are being created. Based on the information provided, 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;

No new lots or improvements are being made. Based on the information provided, the standards of this section have been met.

N. Storm water. The proposed subdivision will provide for adequate storm water management;

No new lots are being created. Based on the information provided, the standards of this section have been met.

15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

No new lots are being created, however the water line relocation did necessitate an amendment to the project's DEP permit. 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]

No new lots are being created. Based on the information provided, the standards of this section have been met.

Mr. Saunders moved to approve the amendment to an Approved Subdivision for Jordan Farm Estates to change the location of the public water service to serve 98 Chet's Way, subdivision lot 4, Tax Assessor Map R03, Lot 43F located in the RR2 Zone subject to the Standard Condition of Approval and two recommended Conditions for Final Plan approval, seconded by Ms. Buffinton and **VOTED, 6 yeas, unanimous - motion carries.**

STANDARD CONDITIONS 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 FOR FINAL PLAN APPROVAL:

1. A copy of the recorded plan shall be provided to the Town Planner within 90 days of approval.
2. Approval of any subdivision plan not filed for recording within 90 days after the final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan.

4. Public Hearing: Amendment to an Approved Subdivision for Christmas Creek for an entrance design revision, Tuttle Rd., Tax Assessor Map R04, Lot 10 located in the RR1 Zone. Applicant: Beta Zeta Properties. Representative: Tom Perkins, P.E., Dirigo Architectural Engineering.

Chairman Auclair introduced the item.

Tom Perkins, P.E., Dirigo Architectural Engineering, displayed a plan of the subdivision and outlined the revision to the entrance to the property. The first roughly 200' of the roadway has been realigned along with the associated utilities and soil filter. Mr. Perkins said that there are no changes to any of the lots. There is no change in the net acreage of open space.

Chairman Auclair asked about the Fire Chief's comment about the location of the fire hydrants and Ms. Nixon said this has been taken care of.

Mr. Kenny asked if the soil filter had to be moved and Mr. Perkins replied yes. Mr. Kenny asked if this will affect the wetlands and Mr. Perkins replied that it will not.

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

Mr. Saunders moved to waive the reading of the Findings of Fact, seconded by Mr. Kenny and **VOTED, 6 yeas, unanimous - motion carries.** Mr. Saunders moved to adopt the Findings of Fact as written, seconded by Mr. Moriarty and **VOTED, 6 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;

The 20 lot residential subdivision will be served by public water and sewer; it will not result in undue water or air pollution. 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 from the Portland Water District indicating capacity to serve is on file. 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 subdivision will utilize public water. A letter from the Portland Water District indicating capacity to serve is on file. 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;

The applicant has submitted an erosion and sedimentation control plan that has been reviewed and approved by the Town Engineer. 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;

The plans have been reviewed and approved by the Town Engineer. 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 public sewer. A capacity to serve letter from the PWD is on file along with a letter from the Superintendent of Wastewater in Falmouth. Sewer user permits will be obtained from the Town Manager prior to the preconstruction conference. This is a condition of approval. With 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;

Cumberland provides curbside trash collection and recycling through a contracted waste hauler. The addition of 20 new homes will not cause a burden on the municipality's ability to dispose of solid waste. Based on the information provided, the standards of this section have been met.

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

Letters are on file stating that the subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas. Based on the information provided, the standards of this section have been met.

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

The plans have been reviewed and approved by the town planner, the town engineer and town department heads. 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 the following experts: a professional engineer, a licensed land surveyor, and a wetland scientist. Financial capacity is evidence by a letter dated 7/29/19 from Machias Savings Bank stating that the developer has the financial capability to finance the estimated costs of the project which is estimated to be \$2,060,000. Based on the information provided, the standards of this section have been met.

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

The proposed subdivision will not adversely affect the quality of the mapped wetland or unreasonably affect the shoreline of the stream on the parcel. The proposed stream crossing and wetland impacts will conform to, the requirements of the MDEP and ACOE. This is a condition of approval. With the proposed condition of approval, 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 20 lot residential subdivision which will be served by public water and sewer will not adversely affect the quality or quantity of ground water. 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 # 23005C0538F 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; ***A stormwater management plan was submitted as part of the application packet and has been reviewed and approved by the Town Engineer. A copy of the stormwater management report supporting the application was provided in the packet. A Stormwater Permit application has been submitted to MEDEP. Receipt of the MEDEP Stormwater Permit is a condition of approval. With 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.

All wetlands within the proposed subdivision were delineated by Sebago Technics and are outlined in the project plan set. 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]

A perennial stream has been identified on the site. ACE has approved the subdivision plan. Based on the information provided, the standards of this section have been met.

Mr. Saunders moved to approve the amendment to an Approved Subdivision for Christmas Creek for an entrance design revision, Tuttle Rd., Tax Assessor Map R04, Lot 10 located in the RR1 Zone subject to the Standard Conditions of Approval and the Limitation of Approval, seconded by Mr. Kenny and **VOTED, 6 years, unanimous - motion carries.**

STANDARD CONDITIONS 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.

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.

5. Public Hearing: Recommendation to the Town Council on amendment to the Zoning Ordinance, Chapter 315, Section 29 - Lot Regulations, to clarify that corner lots may have a 30' front on a private street, if they meet the 50' front on a public street.

Chairman Auclair introduced the item and read the proposed amendments.

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

The Board discussed whether the "B" identifying subsection B is struck. Ms. Nixon replied that the B should not be struck.

Mr. Moriarty moved to recommend to the Town Council that Chapter 315-29 of the Cumberland Code be amended such that subparagraph "A" would read "Setback requirement. Lots which abut on more than one public street shall provide the required front setbacks along each and every public street ..." and then so forth to the end without any further change and that the Town Council amend subparagraph "B" by adding a third new sentence which would read "A lot that abuts on both a private street and a public street shall provide the required front setback from any public street on which it abuts and shall provide a thirty (30)-foot front setback on any private street on which it abuts." and a forth new sentence which reads "This section shall not apply to lots in existence on August 23, 2005 that meet the standards set forth in Subsection A of this Section.". Mr. Saunders seconded the proposed motion and noted that the first two sentences of subparagraph "B" should be struck but the letter "B" is not struck. Mr. Moriarty amended his motion to delete the first two sentences of current subsection "B" and add the two new sentences as read, seconded by Mr. Saunders. The proposed motion was then **VOTED, 6 yeas, unanimous - motion carries.**

G. Administrative Matters/New Business: Chairman Auclair reported that tomorrow night is the neighborhood meeting on the Town Garage project here at Town Hall. Mr. Moriarty noted that there have been two neighborhood meetings already.

H. Adjournment: Mr. Saunders moved to adjourn the meeting at 8:35 pm, seconded by Ms. Buffinton and **VOTED, 6 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

Paul Auclair, Board Chair

Christina Silberman, Administrative Asst.