

**TOWN OF CUMBERLAND  
PLANNING BOARD MEETING MINUTES  
Tuesday, November 20, 2018 - 8:00 pm**

**A. Call to Order:** Chairman Moriarty opened the meeting at 7:00 pm and noted that items #3 and #4 have been tabled and will not be discussed.

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

**C. Approval of Minutes of the October 16, 2018 Meeting:** Mr. Saunders moved to approve the minutes of the October 16, 2018 meeting as written, seconded by Mr. Auclair and **VOTED, 5 years, unanimous - motion carries.**

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

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

**F. Hearings and Presentations:**

**1. Public Hearing: Amendment to an Approved Major Subdivision - Orchard Rd., 10 Lot Residential Subdivision, Tax Map R08, Lot 59 and a portion of Tax Map R08, Lot 59 B in the Rural Residential 2 Zoning District. Owner and Applicant: TZ Properties; Representative: William Haskell, P.E., Gorrill Palmer Consulting Engineers.**

Chairman Moriarty introduced the item and noted that preliminary and final plan approval was granted on June 19, 2018. The matter now before the Board is for a minor amendment to the subdivision plan to relocate lot #10 while preserving the same amount of open space as the prior approval.

Will Haskell, P. E., Gorrill Palmer Engineers, explained that they are back with an amendment to relocate one of the lots. Mr. Haskell displayed the subdivision plan that was approved back in June with 10 lots. The approved location of lot #10 is now proposed to be converted to open space and lot 10 is now proposed to go in an area that was previously approved as open space. Mr. Haskell displayed the proposed new plan and outlined the change.

Mr. Haskell reported that they have resubmitted the plan to MDEP and the Army Corps of Engineers. Mr. Haskell noted that the change to relocate lot #10 really does not impact the prior approvals.

Mr. Haskell said that the amount of open space remains the same. The road remains the same. The requested waivers remain the same. The only change is in shifting the lot.

Mr. Haskell provided responses to peer review comments. The curbing locations shown on drawings #10 and #7 have slight differences. Mr. Haskell said these will be revised to make them consistent and he asked that this be a condition of approval. Mr. Haskell reported that the new lot #10 does meet the 30' minimum side setback. The building

envelope for lot #10 is aligned with the wetlands on both sides and there will not be any wetlands inside the building envelope.

Chairman Moriarty asked if any activity has begun on the property and Mr. Haskell replied no.

Mr. Saunders asked if there is an easement from the road to the open space between where lot #10 is now and lot #3 where a corridor appears on the plan. Mr. Haskell responded that this is a drainage easement that goes to a stormwater filter. Mr. Saunders asked if an easement is needed to allow access to the common space. Mr. Haskell said that the open space can be accessed on both sides near the beginning of the road.

Chairman Moriarty opened the Public Hearing.

Chris Neagle, 76 Orchard Rd., stated that after the Board approved this project in the summer he filed an appeal claiming that the approval was incorrect in a variety of things, primarily because lot #10 didn't meet one of the review standards. Mr. Neagle thanked the developer and said they had a healthy discussion and slow negotiations to get to this point and he is pleased with the final outcome. Mr. Neagle encouraged the Board to approve the amended plan.

Mr. Neagle said that he was on the Planning Board for twelve years and works with ordinances for a living. Mr. Neagle cautioned the Board to be careful about relying too heavily on the Planning Department to do their job. Mr. Neagle said that the Board is independent of Town Hall and Bill Shane. The Council and the Planning Department have no authority over the Board. Mr. Neagle said that there is a bias in favor of development from Town Hall and this means the Board has to be very careful in relying on Town Hall, especially when credible issues are raised. Mr. Neagle said that he does not think that the Planning Department should ever be involved in the Board's discussion of matters before them. This gives the appearance that the Board is working with the Planning Department. Mr. Neagle encouraged the Board to be independent, use critical thinking and protect the neighbors who live near developments.

Chairman Moriarty closed the Public Hearing.

Mr. Saunders moved that due to the particular nature of the project and the land the Board waive the requirement to identify trees 10 inches in diameter or more, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the particular nature of the project and the land the Board waive the requirement for a high intensity soil survey, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the particular nature of the project and the land the Board waive the requirement to superimpose the soil boundaries and names on the plot plan, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the particular nature of the project and the land the Board waive the requirement to show building locations on the plan, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Mr. Saunders moved that due to the particular nature of the project and the land the Board waive the requirement to map the location of temporary markers in the field, seconded by Mr. Auclair and **VOTED, 5 years, unanimous - motion carries.**

Chairman Moriarty reviewed the proposed Findings of Fact.

Mr. Saunders moved that the Board adopt the Findings of Fact as written, seconded by Mr. Kenny and **VOTED, 5 years, unanimous - motion carries.**

### **SUBDIVISION REVIEW 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 property is located a minimum of 390 feet above sea level and is not within a zone A 100 year floodplain; Test pits show that soils are capable of disposing of wastewater; the site does not contain excessive slopes; the existing stream will not be used for disposal of effluents; The subsurface wastewater disposal systems and well locations will conform to all applicable state and local regulations. 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 individual wells, a hydrogeological study was submitted. 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 not utilize a municipal water source. 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 and MDEP. 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; *A traffic study dated October 2017 was submitted by the applicant. The forecasted trip generation is less than the 99 trip ends during a peak hour that would require a Maine DOT Traffic Movement Permit. The Town has approved the removal of several small trees to the north of the exit location which will provide the necessary sight distance in that direction. 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 systems. The applicant has submitted a report by Sebago Technics that concludes "the wastewater disposal system will not result in an increase of NO<sup>3</sup>-N concentrations above 10mg/L in groundwater at the subdivision perimeter study. This report has been reviewed and approved by the Town Engineer. Based on the information provided, 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 10 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 for preliminary approval.*

**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, a licensed site evaluator, licensed geologist and a wetland scientist.*

*Financial capacity: The applicant has provided a letter dated May 10, 2018 from UBS Financial Services stating that the applicant had a credit line account with \$700,000 available.*

***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 have been reviewed and approved by MDEP and the U.S. Army Corps of Engineers for the initial approval in June, 2018. An amended permit application has been submitted to the ACE and their approval is a condition of this amendment approval. 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 soils have been found to have capacity to support sub surface waste water disposal systems. *The proposed subsurface waste disposal systems will conform to the Maine Subsurface Wastewater Disposal Rules. A Groundwater Impact Study conducted by a Maine Certified Geologist, has been reviewed and approved by the Town Engineer. 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 maps 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 Stormwater Permit from MDEP is on file. 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. *All wetlands within the proposed subdivision 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 northerly end of the parcel. Based on the information provided, the standards of this section have been met.*

Chairman Moriarty reviewed the proposed Conditions of Approval.

Mr. Saunders moved to approve the amendment to an approved Major Subdivision at Orchard Rd., Tax Map R08, Lot 59 and a portion of Tax Map R08, Lot 59 B subject to the Standard Condition of Approval, the Limitation of Approval and the ten proposed Conditions of Approval, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

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

**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. An amended permit application has been submitted to the ACE and this approval is a condition of this subdivision amendment approval.
2. An amended MDEP Stormwater permit application has been submitted to MDEP and this approval is a condition of this subdivision amendment approval.
3. Statement of values for required improvements for all lots to be submitted prior to releasing the plat for recording.
4. A performance guarantee in a form and amount acceptable to the Town Manager shall be provided prior to the pre-construction conference.
5. A blasting permit, if required, shall be obtained from the Code Enforcement Officer.
6. If significant modifications are necessary to accommodate future building plans on a lot, then a revised groundwater impact study should be prepared by a qualified Professional Engineer or Certified Geologist licensed in the State of Maine and submitted to the Town.
7. Clearing limits shall be flagged and approved by the peer review engineer prior to the preconstruction conference.
8. The trees that have been identified for removal to enhance sight distance to the north of the entrance/exit shall be flagged and removed prior to the start of work.
9. A pre-construction conference is required prior to the start of work.
10. Information regarding any restrictions on the cutting or clearing of trees or other vegetation will be provided.

***2. Public Hearing: Sketch Plan Review for Christmas Creek Major Subdivision. Tuttle Road. Tax Assessor Map R04, Lot 10; Thomas Perkins, P.E., Representative.***

Chairman Moriarty introduced the item. A sketch plan review was held on September 18, 2018. After the sketch plan review took place, changes were made to the plan. The Planning Board conducted a site walk of the property on November 3, 2018. A renewed sketch plan review is being done because a couple of lots have been added to the plan.

Tom Perkins, P.E., Dirigo Architectural Engineering, said he is here to present sketch plan review again and there are a few items to report on concerning the project.

Mr. Perkins displayed the plan for a cluster subdivision and outlined the adjustments to this plan compared to what was presented in September. The road has been shifted over to align with the entrance that is on the site now to minimize the impact to Tuttle Rd. Mr. Perkins identified the location of a vernal pool on the plan. The overall road has been shortened. The net residential density calculations have been corrected to allow for 20 lots instead of 18 as originally proposed. Mr. Perkins noted that all of the lots exceed the minimum square footage and minimum frontages.

Chairman Moriarty asked for information on the trails and the paved shoulder. Mr. Perkins displayed the trail plan. The roadway is per town specifications with two 11'

travel ways. On the south side of the road the pavement will extend an additional 4' to create a pedestrian walkway. The walkway will cross Tuttle Rd. and connect to the sidewalk. Mr. Perkins described the trail system on the plan with easements. Mr. Perkins said that they are comfortable with the trails becoming public should the Town wish to pursue this.

Chairman Moriarty noted that he found it impressive during the site walk that the easement at the back lot line will come very close to the Wilderness Trail at Twin Brook. Chairman Moriarty said that as he understands it, a member of the public could come in off Tuttle Rd. and choose either to walk through the open space and connect into Twin Brook or walk to the cul-de-sac and take a short connector and then connect onto the trail. Mr. Perkins agreed. Mr. Perkins said that there will be some selective clearing that happens after the approvals and the plan is to chip up this material to use as mulch for the surface of the trails.

Chairman Moriarty asked if there are any wetland issues where the easement would connect to Twin Brook and Mr. Perkins said no. The plan has been reviewed by MDEP and they are on board.

Mr. Auclair referred to lot #10 and asked if the dotted lines on the sketch are part of the building envelope. Mr. Perkins said that this is a wetland delineation. Mr. Auclair said that it appears the building envelope overlaps some wetlands and he asked if this is an issue. Mr. Perkins said that an adjustment will be made to the building envelope and that there is plenty of room on this 2.21 acre lot. Mr. Perkins noted that there will be a vegetated buffer that will be shown on the subdivision plan. This will take care of the stormwater on the site and filter it naturally.

Mr. Auclair said that on the site walk it seemed like there was a significant slope in the very back and he asked about the building envelope for lots #10 and #11. Mr. Perkins said that there will be daylight basement opportunities for these lots and there is enough room.

Mr. Saunders asked about the road length. Mr. Perkins said the road in the cluster plan is just under 3,000 feet. Mr. Saunders noted that a waiver will be required.

Mr. Perkins displayed a traditional plan option. Chairman Moriarty noted that the traditional plan is one that conforms to the minimum lot size that pertains to the particular zoning district and has no open space. Mr. Perkins said that the cluster plan is a better use of the land.

Chairman Moriarty asked if lots #1 and #2, the lots closest to Tuttle Rd., will be seen from Tuttle Rd. Mr. Perkins said there is approximately 300' from Tuttle Rd. to the property line of Lot #1. There is a natural clearing across a low area that Mr. Perkins identified near the front of the lot. Mr. Perkins said you may see a corner of the house from Tuttle Rd. depending on where it is sited. Mr. Kenny commented that Lot #1 will probably be seen from Tuttle Rd.

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

The Board unanimously favored the cluster plan over the traditional plan.

Mr. Perkins said they are interested in conveying the open space into public lands along with the trails that go with it. A DEP pre-application meeting has been held and the project will need a full site law permit because of the size of the project. Vernal pools were discussed and Mr. Perkins identified the locations on the plan. One of the vernal pools may not be located on the property and this will be confirmed. The project will be reviewed by Army Corps of Engineers and they will be aware of the location of the vernal pools. Mr. Perkins said they will do test pits. The wetland crossing will require that the slopes be steepened with riprap to bring up the road grade. The land is currently in tree growth and DEP is fine with tree harvesting and selective cutting. Mr. Perkins will keep the DEP informed on the progress.

Mr. Shane recommended that Mr. Perkins check with Town staff on the type of materials used for the culverts if they want the road accepted as a public road. Mr. Shane added that the construction criteria in the Subdivision Ordinance has to be met for the road design.

**~~3. TABLED Public Hearing: Recommendation to the Town Council to amend the Zoning Ordinance Chapter 315, Section 28.4B - Senior Housing Community (SHC) Overlay District to add a portion of the lot located at 228 Greely Road, Tax Map R04 Lot 34A.~~** This item was tabled prior to the meeting.

**~~4. TABLED Public Hearing: Recommendation to the Town Council to amend the Official Overlay Zoning Map to include a portion of the lot located at 228 Greely Road, Tax Map R04 Lot 34A in the Senior Housing Overlay (SHC).~~** This item was tabled prior to the meeting.

**~~5. Public Hearing: Recommendation to the Town Council on proposed amendments/additions/deletions to the Zoning Ordinance; section 315-4 Word usage and definitions, section 315-12 Office Commercial North District (OC-N), section 315-28.5 Registered Caregiver Overlay District and section 315-59.1 Registered dispensaries re: regulation of medical marijuana, registered caregivers and medical marijuana dispensaries.~~**

Chairman Moriarty introduced the item. Mr. Shane noted that a recommendation is also needed to approve the amendments to the Zoning Map to show the new overlay district in three different parts of Town.

The Board reviewed the changes to the word definitions. Mr. Saunders asked if a definition is needed for a seedling. Mr. Shane said that this is language from the State Statute that has been recommended by the Town Attorney to insert into Cumberland's Ordinance. These changes are what is required by law and what is recommended by the Town Attorney. Mr. Auclair referred to the definition for marijuana concentrate and said it doesn't make sense and he guesses there is something missing.

Chairman Moriarty suggested the Board hold separate public hearings for each recommended change. Chairman Moriarty opened the Public Hearing on word usage & definitions. There were no public comments. Chairman Moriarty closed the Public Hearing.



Mr. Saunders moved to recommend to Town Council the approval of the amendments to section 315-4 word usage and definitions as presented, seconded by Mr. Kenny and **VOTED, 5 yeas, unanimous - motion carries.**

The Board reviewed section 315-12 Office Commercial North District (OC-N). The proposed change will eliminate a registered dispensary as a permitted use.

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

Mr. Saunders moved to recommend to Town Council to make an amendment to section 315-12 to eliminate the registered dispensary as a permitted use in the Office Commercial North zone, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

The Board reviewed the creation of section 315-28.5 Registered Caregiver Overlay District for three specific areas in Town. Chairman Moriarty explained that the Town is allowed to designate areas in which registered caregivers can open up but the Town cannot prohibit them all over Town. If the Town does not designate areas where they are allowed, they could open anywhere in Town. Mr. Shane concurred. Chairman Moriarty outlined the three areas. One is a portion of the Village Center Commercial District in the general vicinity of the intersection of Route 100 and Skillin Rd. This is not the entire district but portions of it, all of which have frontage on Route 100. A second part of the overlay is the Highway Commercial Zone located at the junction on Route 9 heading to and from Falmouth. Again it is not the entire zone but portions of it with frontage on Route 9. The final proposed overlay is portions of the Office Commercial South district with frontage on Route 1. These are all areas that permit commercial uses anyway and will not intrude into a residential use. The lots that are affected all front on a main travel way.

Ms. Sawchuck said apparently these facilities can be located near schools or day care facilities. There cannot be signage within 1,000 feet of schools or day cares but the facility could be located there. Mr. Shane said that this is correct. Ms. Sawchuck noted that there are a couple of day care facilities in the HC area and there is a school on Route 1 and this does not seem ideal. Chairman Moriarty asked if the Town has any ability to create a distance from schools or day cares. Mr. Shane replied no.

Mr. Shane said the restrictions are based on the commercial aspect of the operation. This is why the Town is trying to locate them in 3 commercial zones to keep them out of residential neighborhoods. Mr. Shane said that there are 22 registered dispensaries in Town today and there has only been an issue with one. The majority are in residential neighborhoods. The State has not restricted the distance by day cares or school facilities and the Town doesn't feel we can be more restrictive than the State.

Ms. Sawchuck asked if there are restrictions for bars. Mr. Shane replied that there are restrictions for alcohol. Mr. Shane pointed out that the property across from Friends School (on Route 1) is already a commercial business and there are almost three lots before there is an open lot. Mr. Auclair said it seems to him that day cares wouldn't be a concern given the age of the kids and he pointed out that this is for medical.

Mr. Saunders referred to paragraph two, subsection D, and said that the language “A registered caregiver must provide control odors and emissions...” seems to be missing a word and should probably read “...provide for the control of odors...”. Mr. Shane said yes.

Mr. Auclair asked if hours are needed for exterior lighting. Mr. Saunders said that the underlying requirements of the zone will still apply. Mr. Shane noted that the Planning Board will not see these applications. If applications comply with the restrictions, the Code Officer can issue a license. If the applications don't meet the restrictions and the applicant wants to overturn the Code Officer's decision, it will go to the Board of Appeals. Mr. Shane said that he doesn't think it is inappropriate to ask to regulate exterior lighting during operational hours. Mr. Auclair said that he is curious if, security wise, the lights should be on 24 hours. Mr. Saunders noted that there is language here that says that the exterior has to be lit. Mr. Saunders said the language also says that it has to comply with applicable provisions of the Code.

Mr. Saunders questioned the overlay maps. Mr. Shane said the Board has some bad maps. The lots outlined in yellow are the proposed overlay district. In the OC South District the overlay is the lots that abut Route 1. In the VCC the overlay is only the lots that abut Route 100.

Mr. Saunders moved to recommend to Town Council that they approve the inclusion of section 315-28.5 to add a new overlay zone for registered caregivers as an overlay district as presented and amended tonight, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Chairman Moriarty said that changes to section 315-59.1 are to delete language related to registered dispensaries. Mr. Shane said that the Ordinance Committee recommends abolishing this language.

Mr. Saunders noted that the previous discussion was not opened up for public hearing and he suggested to allow comment on both items at the next public hearing.

Chairman Moriarty opened the public hearing for comments on both section 315-59.1 and section 315-28.5. There were no comments from the public. Chairman Moriarty closed the public hearing.

Mr. Saunders moved to recommend to Town Council to eliminate section 315-59.1 regarding registered dispensaries from the Zoning Ordinance, seconded by Mr. Kenny and **VOTED, 5 yeas, unanimous - motion carries.**

Mr. Saunders moved to recommend to Town Council to approve the Medical Caregiver Overlay District in portions of the Highway Commercial, Office Commercial South and the Village Center Commercial districts on the official Zoning Map of the Town of Cumberland, seconded by Mr. Kenny. Chairman Moriarty asked if there are any members of the public wishing to comment on the motion and there were none. The motion was then **VOTED, 5 yeas, unanimous - motion carries.**

**G. Administrative Matters/New Business:** The next meeting will be the third Tuesday of December.

**H. Adjournment:** Mr. Saunders moved to adjourn the meeting at 8:25 pm, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

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Stephen Moriarty, Board Chair

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Christina Silberman, Administrative Asst.

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