

**TOWN OF CUMBERLAND  
PLANNING BOARD MEETING MINUTES  
Tuesday, February 19, 2019 - 6:30 pm**

**A. Call to Order:** Chairman Auclair opened the meeting at 6:30 pm.

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

**C. Approval of Minutes of the January 15, 2019 Meeting:** Mr. Saunders noted a minor revision to the minutes. Mr. Moriarty moved to approve the minutes of the January 15, 2019 meeting as amended, seconded by Mr. Saunders and **VOTED, 7 yeas, unanimous - motion carries.**

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

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

**F. Hearings and Presentations:** Please note that Item #3 was taken out of order and heard first.

**3. Public Hearing: Sketch Plan Review for the Phase 2 retirement community for Cumberland Crossing (OceanView at Cumberland, LLC) to develop 52 new cottages, located at 228 Greely Road, Tax Map R04, Lot 34 A.** *Applicant: OceanView at Cumberland, LLC; Representative: Frederic (Rick) Licht, PE, LSE, Licht Environmental Design, LLC.*

Mr. Sherr stated that his company has represented the applicant previously and he feels obligated to recuse himself. Mr. Sherr left the dais and sat in the audience during this item.

Rick Licht, PE, Licht Environmental Design, LLC, introduced himself and noted that part of the development team are here, Christian Hanes and Scott Anderson. John Wasileski will be here. Chris Wasileski sends his regards and is not able to be here.

Mr. Licht gave an overview of the phase two project of Cumberland Crossing, formerly approved as OceanView at Cumberland. The name change is for marketing purposes. The new project will connect through the phase one project and through an easement from the Town. The project is located on the former Godsoe parcel, tax map R04, lot 34A. The parcel is just shy of 60 acres with 700+ feet of frontage on Greely Rd.

Mr. Licht showed an aerial view of the project and said that phase one was approved last year and construction started several months ago. Phase one consists of 52 units and what was going to be a small community center. Mr. Licht pointed out where the phase one project ends on the main road, Little Acres Dr. Phase two is proposed to connect to Little Acres Dr. through an easement that has been acquired through the Town. It is a small triangular easement where the 5<sup>th</sup> tee of the Val Halla golf course is.

The Godsoe parcel contains a beautiful farmstead. Through the adoption of the overlay zone, OceanView has agreed to a preservation area on the farmstead on Greely Rd. of

500 feet that goes to the front of the barn and the main residence. The intent is to preserve the area in the same basic form and not change the character of the barn or the residence. Mr. Licht identified the area near the main residence and barns that will now become a community center for both phase one and two.

Mr. Licht said that the phase two parcel is about 2/3 wooded. There are some wetlands that have been mapped and there is a small segment of a tributary stream. The stream is mapped as a shoreland zone and has a 75 foot protection zone.

Mr. Licht showed the phase two sketch plan. The concept is to have an extension of Little Acres Dr. through the easement on the golf course and end as a private road at an area Mr. Licht identified on the plan. The project is to develop a senior housing community with small neighborhoods. There will be an extension of Little Acres Dr. with a sidewalk and possible trail connections. Side roads will create small, private neighborhoods. The road will end just past the brook and there will be an extension to the farm that will be the community center. The idea is to keep the extension to the community center as a gravel type road to sort of signify the end of the main road. Mr. Licht noted that this will not be a through road (to Greely Rd.). There will be a gate located near the barn that the developer will work out with the Fire Chief. There will be access to the sales office and community center from the main driveway off Greely Rd.

Mr. Licht stated that phase two is proposed to have 52 units, plus or minus, subject to the final design and permitting with DEP. Mr. Licht noted that when they come back with the formal application, they would like to amend the phase one plan to change what was the community center into another unit to make 53 units in phase one.

Mr. Licht reported that utilities will be extended from Tuttle Rd. with water and sewer, electric and natural gas. The Town has expressed an interest to extend the utilities further over to Greely Rd. with easements and Mr. Licht said they will work with the Town on this. CMP has expressed that they would like to bring the electric for phase two in from Greely Rd.

Mr. Licht said that there will be a lot of open space left with the project with a development area of 20 acres, including the farm, out of 60 acres. There will be opportunities for trail connections within phase two and the developer will work with the Town on this.

Mr. Licht said that there is an ordinance requirement for a 50 foot buffer which will extend around the property with the exception of the road location near the property line.

Mr. Licht reported that amendments will be required to the DEP Site Location Permit, the NRPA and Army Corps permits. Mr. Licht said that phase 2 will be proposed as a new subdivision application as opposed to an amendment. Mr. Licht said the State will look at this as an amendment to their permits. Mr. Licht noted that there is a nice wooden bridge currently on the farm road and they are looking into whether or not they can keep this.

Mr. Licht said that in terms of stormwater, they have not gotten into the details. There is a FEMA flood plain on the parcel and he identified the location. There isn't an elevation

given. Mr. Licht said he knows the map is not correct and they may seek a letter of map amendment to amend the flood plain. Mr. Licht said they will do an analysis of the stream to size the culvert and bridge where the road crosses before the railroad tracks.

Chairman Auclair noted that this is a concept sketch plan review and no decisions will be made tonight. Chairman Auclair asked what the distance is from Greely Rd. to the nearest units. Mr. Licht said he would guess it is about 1,200 feet in to the main road and a side road extends about 1,000 feet to the units closest to Greely Rd. Mr. Auclair asked if these units will be seen from Greely Rd. Mr. Licht said he doesn't think you would see the units from Greely Rd. but you may have a filtered view of them from the back of the farm house.

Chairman Auclair questioned, given that there is no through way, if this would be considered a dead end road and subject to limitations for distance.

Mr. Kenny referred to the wooden bridge and asked if the developer is able to keep the bridge, could it handle the weight of fire trucks and things like this. Mr. Licht said that it would have to and they will be meeting with the Fire Chief and a consultant to look at the bridge.

Mr. Record asked why the developer is opting to come in from Tuttle Rd. instead of from Greely Rd. Mr. Licht replied that this is a community, an extension of phase one, and it makes more sense from a planning perspective. The developer was guided early on in talking with Town staff to not make a connection to Greely Rd. Mr. Record asked if it would be possible to bring the main traffic in from Greely Rd. and then just have a cart path to connect the two phases. Mr. Licht said he does not think this is something the developer is interested in doing and they were directed from the Town not to have a through road connection. Mr. Record asked for an update on the passage from phase one to phase two and the easement the Board heard about at an earlier meeting with concerns about access from one phase to the other. Mr. Licht described the road connection between phase one and phase two. Mr. Record asked if the original easement on the phase one parcel allows for legal access to phase two and Mr. Licht replied yes.

Mr. Moriarty said that at certain times of the year, folks that want to go to the community center will drive and he asked what sort of parking Mr. Licht envisions near the barn and farm house. Mr. Licht said that they can manage transportation through vans and buses for major events. On a day to day basis, people that drive to the community center will have a parking area near the buildings that would be screened from view from Greely Rd. Mr. Licht noted that they have not looked at the size of this area.

Mr. Kenny said that there could be quite a walk from the proposed parking area to the community building and asked if there would be any handicapped parking. Mr. Licht said there is a large area of impervious surface in front of the buildings and they will look at this.

Mr. Moriarty noted that phase one of the project was noted as being designed for the most independent and healthy end of the senior spectrum and asked if this is the case for phase two. Mr. Licht replied yes, phase two is for independent living and is a satellite to the Falmouth location which has assisted living and memory loss services.

Chairman Auclair opened the public hearing.

Peter Godsoe addressed the Board and said that he handled the estate matters for his parents relating to this property and dealings with the OceanView group. Mr. Godsoe noted that he is a North Yarmouth resident. Mr. Godsoe said that his dealings with OceanView extended over a period of time and he found OceanView to be straight forward, business like and supportive of jogs and jags they went through to get to the final sale. Mr. Godsoe said OceanView is committed to their communities, their residents and local area vendors/contractors. Mr. Godsoe added that he has no financial interest in the project and speaks from an independent perspective based on his history with the Wasileski's and their team. Mr. Godsoe said he wholly supports the reuse of the property that will be very beneficial to the Town of Cumberland.

Rick Doane, 4 Catalpa Lane, said he was not going to speak about the disagreement over the easement on the phase 1 property and they have not resolved anything. Mr. Doane said they are waiting to see if they can negotiate something or will go through litigation at the appropriate time.

Mr. Doane said that he has concerns with the proposed second subdivision. Mr. Doane said he assumes that there will be a site walk. Chairman Auclair replied possibly. Mr. Doane said this would be helpful. Mr. Doane said that OceanView has done a reputable job on what they have done on his dad's former property (phase one). Mr. Doane said to see the homes imposed on a tree line, it gives the impression of a wooded feel and buffering that you don't necessarily see when the property is clear cut. Mr. Doane gave the example of the buffer on the portion of phase one between Val Halla that is pretty thin and has impacted his view and where golf balls may be landing.

Mr. Doane said that the cluster of homes proposed nearest to Greely Rd. is almost a mile of roadway to get back to Tuttle Rd. and this feels like a lot. Mr. Doane said that when you consider not only these 50+ new units but the 50+ units in phase one and consider the long term implications that the Town has talked about for the property across the street and the subdivision on the Vining property with 20 lots, he has concerns about the traffic density on Tuttle Rd. Mr. Doane hopes that the Board consider the opportunity to take 50 units out of this equation and route the traffic out to Greely Rd.

Mr. Doane said that he is concerned with the overall density with 52 units and said it feels jammed in. Mr. Doane referred to the cluster of homes near Greely Rd. and said if you look at the contour lines, it appears as though a number of these homes are perched with the rear of the building and deck hanging out over a precipitous drop.

Tom Netland, 212 Greely Rd., said he has met with Mr. Licht and Mr. Wasileski and have expressed some of his concerns and they have agreed to get him additional information. Dr. Netland has three main concerns. He is anxiously waiting for the stormwater information and wetland impacts. Dr. Netland referred to the proposed road and said it is set almost right on his property line and he is concerned with what will happen with all the water rushing through and downstream impact studies. He has heard that there have been trout in the brook and doesn't know if anyone has looked into the impacts to fish and wildlife. Dr. Netland is concerned with the buffering along

his property line and the proposed road. Dr. Netland quoted the language of the overlay district that says "the roads, trails and utilities may be located within the 50 foot buffer area as required by this subsection when necessary due to the physical limitations of the property provided that such location is not intended to circumvent the provisions of this section". Dr. Netland said this wording is open and he is not convinced that the physical limitations force them to be essentially on his property line within the 50 foot buffer area. Dr. Netland asked for consideration that the road be moved away from his property line to allow him a 50 foot buffer. Dr. Netland said that the bridge will almost certainly have to be rebuilt. Dr. Netland said he sees no limitations on moving the road. Dr. Netland is concerned with traffic in the area. He identified the portion of the road leading to the community center and said he thinks the amount of traffic here is being under played significantly. Dr. Netland said that as drawn, this traffic will be within view from Greely Rd. Dr. Netland suggested this portion of the road and community center parking area be moved.

Chairman Auclair asked if Dr. Netland will be able to see this traffic from his building and Dr. Netland said yes. Dr. Netland said he has options for the rear portion of his lot and he wants to protect his interests in what is happening there.

Bob Poole, 46 Mere Wind Dr., asked if this is the first time phase two has been publicly aired. Chairman Auclair replied that this is the first time the Board has seen a detailed sketch of phase two. Mr. Poole said he is grateful for the restrictions on the development to protect the view shed. Mr. Poole said it is important to recognize what could happen with the traffic. Mr. Poole said that Greely Rd. is pretty scary to him already in terms of cycling or running because it is fast, bumpy and twisty. Mr. Poole is fearful that inevitably people will want to open up traffic to the Greely Rd. side of the development.

Mr. Poole asked if the community center will be available to the public. Mr. Poole said that he appreciates the foresight and wisdom from the Board.

Chairman Auclair closed the public hearing.

Mr. Licht responded to the public comments. The community center will be for the residents of the community. There might be an opportunity for the Town to have a meeting on an occasional basis. Mr. Licht said that they have met with Mr. Netland and will look at buffering and the road location which will be subject to the wetland impacts. Mr. Licht said that there will be a traffic study done and they are aware of the Christmas Creek project. Stormwater plans will be developed to meet DEP and Town standards.

Mr. Moriarty clarified that the community center will be for use by the residents of Cumberland Crossing rather than Town residents. Mr. Licht replied that the community center will be primarily for use by residents of Cumberland Crossing but they are not ruling out the opportunity for small Town community events on a scheduled basis but not on a day to day basis.

Ms. Nixon asked for a general time frame for when they will be back for preliminary review and so forth. Mr. Licht said they are moving as quickly as they can and his guess is that they will be back with preliminary plans in several months. DEP will easily



take 4 months which goes into the fall. Ms. Nixon suggested that the Board think about a potential site walk when the snow is gone.

Ms. Nixon reported that the ordinance has a 2,000 foot limit for a dead end road. The Board has in the past waived this to 2,500 to 2,800 feet. If this road is in fact 1 mile that is 5,280 feet, which is almost twice as long as anything the Town has had before. Ms. Nixon continued that not having a connector from Tuttle Rd. to Greely Rd. is very important to the Town. The Board will have to really look at things like the width of the road, the width of the right of way and the type of sidewalk or byway. The longer the road is, the more potential for difficulties in the future. Mr. Kenny asked if the road could be made shorter and Mr. Licht said it could be made shorter but it could be more troublesome with the wetlands. Mr. Licht said they will have better guidance after meeting with the State agencies.

Mr. Record said he has concerns about the density of the housing and if a 50 foot buffer is enough. Mr. Record is concerned about not balancing the traffic and sending everything to Tuttle Rd. instead of sending half of the traffic to Greely Rd. Mr. Record said that through the easement, maybe there could be a smaller road or passage to keep the community together but balance the traffic to the two major roads. Mr. Licht said they would look at this after the traffic study. Mr. Licht said their guidance has been to come from Tuttle and not to make a through connection.

Chairman Auclair thanked Mr. Licht for his presentation.

Mr. Sherr returned to the dais.

**1. Public Hearing: Amendment to an approved site plan for changes to parking, additional curb cuts and revisions to the landscaping and equipment storage areas for 199 Middle Road, LLC located at 199 Middle Road, Tax Map R02, Lot 27.**  
*Applicant: 199 Middle Road, LLC; Representative: Tom Greer, PE, Walsh Engineering Associates, Inc.*

Chairman Auclair introduced the item.

Bill Walsh, PE - Walsh Engineering, displayed the site plan from the 2016 approval. Mr. Walsh pointed to a structure on the plan that is a salt shed and noted that this was part of the approval but the salt shed was not put in the same location as shown on the plan and is actually off to the side. Mr. Walsh displayed an aerial view of the current site and identified the actual location of the salt shed.

Mr. Walsh said this application is for 199 Middle Road, LLC. The zoning is rural industrial. They are here to discuss the front entrance. Mr. Walsh referred to the 2016 site plan and described the driveway in with angled parking in front of the building and a driveway out so it is one way. Mr. Walsh noted that as the owner, Mr. Wright, has used the facility, he realized that the layout wasn't going to work. What is being proposed now is to separate the traffic patterns with one drive coming in to be used to get to the back yard and the boat storage area, one drive for commercial customers for the front parking area and two other drives to be used for the stone yard.

Mr. Walsh explained that the plan is to take the green space that was previously proposed for the front of the site and shift it to the larger areas to the sides. A landscape plan has been submitted for this.

Mr. Walsh said they are asking for a setback waiver for the aisle in the front parking area for the ability to back up that will put them within the 15 foot setback. An island will reduce the ability for people to back up onto Middle Road. Mr. Record asked if there will be angled parking and Mr. Walsh said parking will be face in at 90 degrees. Mr. Walsh showed a site plan showing the difference between what was approved and what is proposed. Mr. Record referred to the waiver for the distance backing out and asked how many feet they are short. Mr. Walsh replied that they will be completely within the 15 foot setback, as it is in either case (approved vs. proposed).

Chairman Auclair asked Mr. Walsh to describe the curb to separate the parking area. Mr. Walsh identified the area on the plan between the road and the parking area and said there will be a curbed island that will be 6 inches high and landscaped.

Mr. Sherr clarified that the application tonight is for revisions to the landscaping along Middle Rd. and approval of the salt shed. Mr. Sherr asked if the original application that was approved by the Planning Board included the salt shed or was the salt shed built outside of the approval of the original site plan. Mr. Walsh displayed the original plan which showed the salt shed. Mr. Sherr asked if Mr. Walsh's opinion is that the salt shed was on the original plan that was approved but the construction of the salt shed was done in a different location. Mr. Walsh said yes, it was shifted slightly to the side. Mr. Sherr said he would like clarification on the approval of the salt shed. Ms. Nixon noted that she has asked Ms. Silberman to get the file for the original approval so they can look at exactly what was approved.

Chairman Auclair opened the public hearing.

Tom Colby, 218 Middle Rd., noted that the salt shed was discussed at prior meetings and he remembers talking about it because he was worried about his well.

Chairman Auclair closed the public hearing.

Ms. Nixon asked if the parking area will still be one way and Mr. Walsh said no, it will be two way. Ms. Nixon said she doesn't see how this will prevent someone pulling in with a trailer and blocking the spaces and that there will need to be some signage.

Mr. Saunders asked if the proposal is to add two more curb cuts. Mr. Walsh said that there are two more curb cuts added with the proposed circulation pattern. Mr. Saunders said it seems like the potential for a lot of people to be coming and going in a short distance. Mr. Walsh referred to the first entrance and said this is primarily for the boat storage area and some of the Coastal Landscaping people will use this to leave their car and take their truck to go to work. The next two entrances are designated for the retail part of the business. The next two entrances go to the stone yard and will be used primarily by contractors and Coastal Landscaping. Mr. Walsh said their thinking is that there is a segregation of retail space, boat yard entrance/space and the stone yard.

Mr. Kenny said he goes in and out of this area quite a bit and there are several times a day where there are pickup trucks with trailers loading/unloading. Mr. Kenny asked if

the trucks do that, will there will be enough space for people to get by. Mr. Walsh said that the idea is for these trucks to use the first entrance rather than the retail entrance. Craig Wright, owner of 199 Middle Rd., pointed to an area on the side of the retail building and said that Foreside Power has an entrance in this area and they are trying to educate the commercial landscapers to drop their equipment off here. Mr. Wright said when he started to do the layout to build what he proposed, he realized it wouldn't work, even with angled parking. Mr. Wright said that one of the entrances was dangerous with two way traffic coming in to a one way area and reviewed other parking issues. Mr. Kenny asked if there would be signage to say maintenance is at the side. Mr. Wright said yes.

Mr. Sherr said he has clarification on the salt shed. A smaller salt shed was originally shown on the prior site plan approved by the Planning Board. A new salt shed was constructed in a different location and a larger size. Ms. Nixon has put in the package a condition of approval for the owner to receive a building permit for this new structure and size. The Board will approve an amended site plan tonight that shows the new location and correct size of the salt shed that was built and a condition to obtain a building permit after the fact.

Ms. Sawchuck asked for a walk through of the traffic and Mr. Wright reviewed the proposed traffic patterns.

Chairman Auclair referred to the waiver requests and said the one for the parking setback has been discussed. Regarding the waiver for the 75 feet of separation, the ordinance says "where possible" and it isn't possible so this waiver isn't needed. Chairman Auclair asked about the parking space number waiver. Mr. Walsh said he was not clear what was meant by this waiver, there is the right number of parking spaces on the site by his calculation.

Mr. Record referred to the change from angled to perpendicular parking and asked why they wouldn't keep the angled parking. Mr. Walsh said with the angled parking it is a one way and they want to avoid this. There will be enough space to back out and turn.

Mr. Moriarty asked whether there are any waivers required. Mr. Saunders said one is needed for the 15 feet but he doesn't think there is anything else needed. There was general consensus on this from the Board.

Mr. Saunders moved that due to the unique characteristics of the site and the use that the Board grant a waiver from section 229-10(4)(b) to allow parking in the 15 foot setback, seconded by Mr. Moriarty and **VOTED, 7 yeas, unanimous – motion carries.**

Mr. Sherr moved to waive the reading of the Findings of Fact, seconded by Mr. Saunders and **VOTED, 7 yeas, unanimous – motion carries.**

Mr. Saunders moved to adopt the Findings of Fact, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.**

Ms. Nixon noted that there were four proposed conditions of approval and she recommends adding a fifth one to say the applicant will obtain a building permit from the Code Enforcement Officer for the existing salt storage building.



Mr. Saunders moved to approve an amendment to an approved site plan for changes to parking, additional curb cuts and revisions to the landscaping and equipment storage areas as well as the revised location and size of the salt shed for 199 Middle Road, LLC located at 199 Middle Road, Tax Map R02, Lot 27 subject to the Limitation of Approval, the Standard Conditions of Approval and the five proposed Conditions of Approval, seconded by Mr. Moriarty and **VOTED, 7 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 minimis changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**CONDITIONS OF APPROVAL:**

1. The applicant will obtain a building permit from the Code Enforcement Officer for the existing salt storage building.
2. All outstanding fees shall be paid prior the issuance of a building permit.
3. Any existing dumpsters to be fenced as required prior to issuance of building permit.
4. There shall be no indoor or outdoor storage of any hazardous materials.
5. The applicant shall comply with all state and local fire regulations.

**Chapter 229 – SITE PLAN REVIEW, SECTION 229-10: APPROVAL STANDARDS AND CRITERIA**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

**A. Utilization of the Site:** 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.

***There are no known environmentally sensitive areas on the parcel. The site is not located within habitat for rare and endangered plants and animals, or significant wildlife or fisheries habitat. Based on the above findings of fact, the Board finds the standards of this section have been met.***

**B. Traffic, Circulation and Parking**

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

- (a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (c) The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (d) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (e) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- (f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (g) Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (h) The following criteria must be used to limit the number of driveways serving a proposed project:
- [1] No use which generates less than one hundred (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.
- [2] No use which generates one hundred (1) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.
- (2) Access way Location and Spacing:** Access ways must meet the following standards:
- (a) Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- (b) Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.
- (3) Internal Vehicular Circulation:** The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.
- (a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- (b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- (c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.
- (4) Parking Layout and Design:** Off street parking must conform to the following standards:
- (a) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

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

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

Parking Stall Angle	Skew Width	Stall Width	Aisle Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

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

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

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

***The Town Engineer has reviewed the amended parking, access and circulation plan. Several comments were made which were responded to by the Applicant's engineer and included herein. The Planning Board will need to approve the waiver requests related to these comments.***

***With approval of the requested waivers, the Board finds the standards of this section have been met.***

#### **(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.

**(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 a building and parking and pedestrian plans are appropriate to the type and scale of the development.**

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

#### **C. Stormwater Management and Erosion Control**

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

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

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

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

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

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

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

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

## **(2) Erosion Control**

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

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

***The Town Engineer has reviewed and approved the stormwater and erosion control plan.***

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

## **D. Water, Sewer, Utilities and Fire Protection**

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

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

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

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

**There are no new utilities required for this amendment. All changes are external to the existing building.**

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

## **E. Water Protection**



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

***The project will not utilize subsurface water or produce 2,000 gallons or greater per day of wastewater. Storage of fuels or chemicals is not anticipated.***

**(2) Water Quality:** All aspects of the project must be designed so that:

**(a)** No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**(b)** All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

***The amendment includes the approval of an existing salt storage shed. The shed has been constructed to contain the salt and not allow it to leach into the soil. There is no existing or proposed outdoor storage of petroleum products.***

**(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.***

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

***The site is not located within a floodplain. See Attachment 7 for a FEMA Flood map of the area.***

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

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

***A letter from the Maine Historic Preservation Commission stating that there was no historic or archaeological resources on the site was submitted as part of the subdivision review.***

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

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

***There are no changes to the lighting proposed as part of this amendment.***

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

#### **I. Buffering and Landscaping**

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

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



particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties. ***A landscaping plan is included in the plan set; it shows a mixture of plantings that are suitable to the site.***

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

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

***No noise will be generated by changes proposed in this amendment.***

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

**K. Storage of Materials**

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

***The use of this property is for the storage and sale of landscaping materials. As part of the original site plan approval, the Applicant installed numerous trees and plants to buffer the storage areas.***

***Additional landscaping is proposed around the revised entrance areas that are part of this site plan amendment.***

(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.

***This is applicable to the project. Existing dumpsters must be screened.***

(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 business is located in the Rural Industrial zoning district. There is outside storage of materials, however they are low piles of stacked stone or piles of sand and do not pose a safety hazard to children.***

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

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

- ***Technical Ability: The Applicant has retained Walsh Engineering to prepare the application.***

- ***Financial Capacity: The Applicant has provided a letter from Machias Savings Bank dated February 13, 2019 that states the Applicant has the capacity and funds to upgrade the front parking areas.***

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

**M. Design and Performance Standards:**

***The project is not subject to any Town Design Standards***

**2. Public Hearing:** Amendment to an approved site plan with revisions to the site entrance and addition of an 11,900 sf building for 199 Middle Road, LLC located at 191 Middle Road, Tax Map R02, Lot 27 A. Applicant: 199 Middle Road, LLC; Representative: Tom Greer, PE, Walsh Engineering Associates, Inc.

Chairman Auclair introduced the item.

Bill Walsh, PE – Walsh Engineering, said he is here on behalf of 199 Middle Road, LLC for an amendment to the site plan to add a building to the site. Mr. Walsh displayed the site plan showing the existing building and proposed building. The existing building is 11,900 sf and the proposed building will be the same size. The building will be used for inside storage of boats primarily used in the spring and fall. Mr. Walsh noted that there are really no employees. People will bring their boats in, drop them and leave. Parking isn't really necessary but there is space around the building.

Mr. Walsh said they did do stormwater calculations for the site and there is no measurable change in the stormwater calculations because the new building will be put mostly over the existing impervious surface.

Chairman Auclair confirmed that there will be no maintenance or servicing and Mr. Walsh replied that this is correct.

Ms. Nixon asked if there will be any outdoor storage of boats after, and if, the new building is approved by the Planning Board. Steve Arnold, owner of Yarmouth Boat Yard, replied that originally there were a lot of boats outside. There will be very limited storage in the back and they will try to put everyone in the new building and keep outdoor storage to a minimum. Ms. Nixon suggested that the Board consider setting some sort of minimum for outdoor storage.

Mr. Kenny asked where the outside boats would be stored. Mr. Arnold identified an area in the back of the buildings and said it would be minimal. Mr. Kenny asked how much space is between the buildings and said he is concerned about if a fire truck could get through. Mr. Walsh said there is space for a fire truck to get through.

Chairman Auclair asked if there is outside storage currently and Mr. Walsh replied yes there is. Mr. Moriarty said that the outside storage currently overlaps onto the footprint of the new building.

Mr. Sherr asked if the Board were to suggest a condition of approval limiting to 15 boats on the exterior to a size of no more than 25 feet would the applicant be amenable to this. Mr. Arnold said this would work.

Mr. Record asked if this will be unconditioned space with only lighting and electricity inside and no work going on. Mr. Arnold said yes but they do buff and wax some boats on the insides and top sides. There would be no other work other than light cleaning.

Chairman Auclair opened the public hearing.

Dale Spugnardi, 189 Middle Rd., said his property is adjacent to the boat yard. Mr. Spugnardi asked if there would be any additional cutting of the woods to put this building in. Mr. Spugnardi said that even though there is a buffer it is pretty thin and he can see everything that is there. Mr. Spugnardi said the original plan shows lighting on the side of the building that is supposed to be motion detection. For the first eight or nine months with the first building, the lights were on from dusk to dawn. Mr. Spugnardi went to the Town and got the owner to turn off the lights at night. Mr. Spugnardi said this new building will face the back of his home and he asked if there is any reason why they have to have lights on this side of the building. Mr. Spugnardi asked about outside boat storage. The original plan referred to trailers and at the time Tom Greer said they were only talking about a few little boat trailers off to the side but now there are 25 boats outside. Mr. Spugnardi asked if the Town still wants boats sitting out in the back and if there is pavement around the building.

Mr. Walsh responded that there will not be additional cutting. Chairman Auclair asked if there is a possibility for additional plantings for a buffer between the building and the home. Mr. Arnold said that the area is pretty wooded so he would say no. Mr. Arnold referred to the lighting issue and said he doesn't see any need for lights on the side of

the building facing Mr. Spugnardi's property. Regarding outside storage, Mr. Arnold said this would be in the back and they would be out of view.

Mr. Kenny asked if outdoor storage would be boats and trailers. Mr. Arnold said it would be boats and/or trailers.

Sam York, Fox Run Rd., asked if it can be categorically said that there will be no chemicals or any washing or hydraulic cleaning that would have to be treated.

Mr. Arnold said there will be absolutely no engine work going on. They will wax the inside of a boat with boat wax but there will be no maintenance or gear/engine oil.

Mr. Moriarty asked if the boats will be hosed down and Mr. Arnold said no, this will be done at the marina.

Chairman Auclair closed the public hearing.

Mr. Moriarty asked if, at the previous approval, outside storage of boats was approved. Ms. Nixon said she believes that trailers were talked about and approved to be stored outside. Mr. Moriarty said that the only difference between what was envisioned and what is there today is the presence of a boat on a trailer as opposed to an empty trailer.

Mr. Moriarty asked about the capacity for the new building. Mr. Arnold said that depending on the length of the boat they would generally store 32 to 38 boats in the building. Mr. Moriarty confirmed that the new building will take care of the boats currently stored outdoors with some additional capacity and Mr. Arnold agreed.

Mr. Record asked about future outdoor storage location and Mr. Arnold said this will be primarily in the back. Mr. Record asked if they could designate an area where the boats are stored so a fire truck would not be impeded. Mr. Arnold said he thinks there is enough space and Mr. Walsh agreed. Mr. Record confirmed that there are no employees and additional parking spots aren't needed. Mr. Walsh said there may be one employee to do the waxing and there is space for this parking.

Chairman Auclair said he doesn't think there are any waivers. Mr. Saunders asked if there is an exterior lighting requirement. Ms. Nixon said no. Mr. Sherr asked if the application tonight shows lighting. Mr. Walsh said he believes it does. Mr. Sherr said the Board needs to clarify the change that there will be no lighting on the side of the building.

Mr. Sherr noted that there is a typo in the findings on page nine. Ms. Nixon said this is relating to fire protection and there is a statement that the Fire Chief has reviewed the plan and has no recommendation but Ms. Nixon did get comments from the Fire Chief and these are included in the review on page one. Ms. Nixon proposes a condition of approval that all requirements of the Fire Chief be complied with prior to application for a building permit. Mr. Sherr said under the Findings of Fact for this section, the Board will delete the last sentence.

Mr. Moriarty moved to waive the reading of the Findings of Fact and adopt the proposed Findings of Fact with an amendment to letter D indicating that the Town did receive input from the Cumberland Fire Chief, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.**

## **Chapter 229 – SITE PLAN REVIEW, SECTION 229-10: APPROVAL STANDARDS AND CRITERIA**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

**A. Utilization of the Site:** 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 had been previously developed for industrial uses. The groundcover is gravel. There are no evident environmentally sensitive areas on the site. The proposed amendment to add another boat storage building on the site is an appropriate utilization of the site.*

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

### **B. Traffic, Circulation and Parking**

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

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

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

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

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

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

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

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

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

[1] No use which generates less than one hundred (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.

[2] No use which generates one hundred (1) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access ways must not exceed sixty (60) feet.

**(2) Access way Location and Spacing:** Access ways must meet the following standards:

**(a)** Private entrance / exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from

the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

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

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

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

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

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

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

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

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

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

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

Parking Stall Angle	Skew Width	Stall Width	Aisle Depth	Width
90°	9'-0"		18'-0"	24'-0" 2-way
60°	8'-6"	10'-6"	18'-0"	16'-0" 1-way
45°	8'-6"	12'-9"	17'-6"	12'-0" 1-way
30°	8'-6"	17'-0"	17'-0"	12'-0" 1 way

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

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

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

***The Town Engineer has reviewed the proposed amendments and found them to be in conformance with these standards.***

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

### **(5) Building and Parking Placement**

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



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

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

*There are no changes to the parking. The building is located in an area that is appropriate. Due to the use of the building, there is no need for pedestrian ways.*

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

### **C. Stormwater Management and Erosion Control**

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

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

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

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

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

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

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

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

### **(2) Erosion Control**

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

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

*The Town Engineer has reviewed and approved the stormwater management report and the erosion control plan.*

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

**D. Water, Sewer, Utilities and Fire Protection**

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

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

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

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

***There is a well on site. Public sewer is provided by the Portland Water District. An ability to serve letter from the Portland Water District is on file. There is electrical service on site.***

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

**E. Water Protection**

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

***The project will not utilize subsurface water or produce 2,000 gallons or greater per day of wastewater. Storage of fuels or chemicals is not anticipated.***

**(2) Water Quality:** All aspects of the project must be designed so that:

**(a)** No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

**(b)** All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

***There will be no outdoor storage of environmentally harmful products.***

**(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.***

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

***The site is not located within a floodplain. See Attachment 9 for a FEMA Flood map of the area.***

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

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

*A letter from the Maine Historic Preservation Commission stating that there are no historic or archaeological resources on the site was submitted as part of the subdivision review.*

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

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

*The site plan show an appropriate amount of limited lighting on the new building.*

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

#### **I. Buffering and Landscaping**

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

**(2) Landscaping:** Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

*Landscaping was done around the perimeter of the site following the original approval. No additional landscaping is proposed around the proposed building, however new landscaping is shown for the revised entrance area. The Applicant has stated that there shall be clearing of trees or vegetation on the site.*

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

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

*There will be a period of time during the construction phase that may create elevated noise levels compared to normal operation of the development, but will not be permanent noises associated with the development. Anticipated noises that could possibly occur during construction could come from, but are not limited to, equipment noise. It is anticipated that no adverse impact will occur on the surrounding area once the boat storage building is built.*

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

#### **K. Storage of Materials**

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

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

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

*There will be no outdoor storage of petroleum products. There is no dumpster shown on the plan.*

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

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

**Technical Ability:** *The applicant has retained Walsh Engineering to prepare the amended site plan.*

***Financial Capacity:*** The applicant has provided a letter from Androscoggin Bank stating that the applicant has the capacity to finance the project as proposed.

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

**M. Design and Performance Standards:**

***The project is not subject to any Design Standards.***

Ms. Nixon reviewed the proposed conditions of approval. General consensus of the Board was to add a condition to address no lighting on the side of the building.

Mr. Walsh asked if there were comments by the Fire Chief. Ms. Nixon read the Fire Chief's comments. **1.** As identified on Sheet C1.0 General Notes #13 the building shall be protected with a fire protection sprinkler system. **2.** Buildings should be equipped with a fire alarm system that is monitored by an approved fire alarm company. The system should have a remote annunciator panel located at the main entrance that can be silenced with the push of **one** button from this location. The strobe or other visual alarm signaling devices shall remain active when the system is silenced. The alarm system shall identify the exact location of each individual initiation device with plain text at the fire alarm panel. **3.** The building shall be equipped with a hinged key box approved by the fire department. **4.** Access to the building shall be adequate enough to accommodate fire department vehicles.

Mr. Walsh referred to the comment about sprinklers and said this is an issue because they don't have public water here. Mr. Moriarty said that it seems that the Board frequently gets these recommendations from the Chief and these are recommendations and not requirements. Ms. Nixon recommended that the Board consider asking the applicant to meet with the Fire Chief to discuss what would be a reasonable and appropriate way of handling fire protection. Mr. Sherr asked what was done in the first building. Mr. Arnold said there is an alarm and a Knox box. Mr. Arnold noted that he couldn't build the building if he had to put sprinklers in. Ms. Nixon said that typically if there's no life safety concern, there will not be people working or living in this building, the Fire Chief is agreeable to not requiring sprinklers.

Mr. Saunders noted that the general notes for building one indicate that the first building has a sprinkler system and the Chief was probably reading this note when he made his recommendation. Chairman Auclair asked if the Board wants to ask the applicant to meet with the Chief. The general consensus of the Board was not to require the applicant to meet with the Chief or require a fire suppression system.

Mr. Moriarty asked Mr. Walsh to address the Chief's comment about accessibility of firefighting equipment. Mr. Walsh replied that there is enough room and he outlined the access areas on the plan.

The Board continued review of the proposed conditions of approval and confirmed the conditions are acceptable to the applicant.

Mr. Saunders moved to approve an amendment to an approved site plan with revisions to the site entrance and an addition of a 11,900 sf building for 199 Middle Road, LLC located at 191 Middle Road, Tax Map R02, Lot 27 A subject to the Limitation of Approval, the Standard Condition of Approval and the five proposed Conditions of Approval, seconded by Mr. Kenny and **VOTED, 7 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 minimis changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

**CONDITIONS OF APPROVAL:**

1. Any outstanding fees shall be paid to the Town prior to the issuance of a building permit.
2. A building permit be obtained from the Code Enforcement Officer for the new storage building.
3. Outdoor storage shall be limited 15 boats, trailers, or boats on trailers up to 25 feet long.
4. There will be no lighting on the southerly side of the building and no clearing of trees or vegetation on the site as indicated in the application.
5. That the Fire Chief's recommendations #2, #3 and #4 as listed in the Town Planner's review be complied with.

Chairman Auclair called for a short break and then the meeting resumed.

3. Item #3 was taken out of order and heard first, see the beginning of New Business.

**4. Public Hearing: Preliminary Review for Christmas Creek 20 Lot Major Subdivision, located on Tuttle Road, Tax Assessor Map R04, Lot 10.** *Applicant: Beta Zeta Properties, LLC; Representative: Thomas Perkins, PE - Dirigo Architectural Engineering, LLC.*

Chairman Auclair introduced the item.

Tom Perkins, PE - Dirigo Architectural Engineering, LLC, said that he is here seeking preliminary approval for a major subdivision, Christmas Creek. Mr. Perkins displayed a plan of the subdivision and outlined the layout. Mr. Perkins reported that they have met with DEP and submitted their SLODA permit application and are awaiting DEP's initial comments. Mr. Perkins identified an area on the plan that allows for a future connection to the adjoining lot.

Chairman Auclair referred to comments from the Town Manager at a previous meeting about being sure that the materials used will meet the requirements for public roads and Mr. Perkins said they do. Chairman Auclair asked about the percentage of wetlands and slopes. Mr. Perkins replied that there are not any very steep slopes and he identified the wetland areas on the plan. Chairman Auclair indicated that it appears some of the building envelopes intersect with wetland delineation. Mr. Perkins said that they have shrunk the building envelopes to offset from the wetland setback requirements.

Mr. Moriarty asked if the cul-de-sac has a wide enough diameter to allow for firefighting vehicles. Mr. Perkins replied that the ordinance allows for two different size cul-de-sacs



or a hammerhead and they have selected the larger of the cul-de-sacs and are in compliance with the Town's street construction ordinance.

Chairman Auclair asked for clarification of the building envelope for lot 10 intersecting with wetlands. Mr. Perkins replied that the FEMA 100 year flood plain touches the back corner of this property and they have shaped the envelope to set back from this. Mr. Perkins said they will make sure this is clearer for the final review. Chairman Auclair noted that lot 8 and lot 2 appear to have building envelopes that overlap with wetlands. Mr. Perkins said he will make sure that these do not overlap.

Ms. Sawchuck referred to the letter regarding archaeological features and asked if there will be further study to determine that there is nothing there. Mr. Perkins said that there was a recommendation, not a requirement, from Maine Historic Preservation and if the Town or State desire that this be done then further study will be commissioned but is not planned for at this time.

Ms. Sawchuck asked about the recommendation on further study for rare plants and animals. Mr. Perkins said that the concern was that this parcel overlaps onto a New England cotton tail species mapping. A State Biologist was engaged to visit the site and droppings were collected and analyzed. The findings came back today via email, to be followed up with a formal letter, that what they found was not New England cotton tail.

Ms. Sawchuck referred to page 8, #12, of the findings regarding ground water that say the standards have not been met. Ms. Nixon said that this is a typo and these standards have been met. Mr. Perkins referred to #3 of the findings and said that they will be using public water and the word "not" should be stricken.

Chairman Auclair opened the public hearing.

John Jensenius, 44 Laurel Ln., said he serves on the Lands & Conservation Commission and the Trails Subcommittee. Mr. Jensenius identified the proposed trail through the open space to the easement and said the Commission would like to see this trail be made open to the public in perpetuity. Mr. Jensenius identified an area near where the proposed trail meets the easement and said he has a concern that this is fairly wet and narrow and may need some sort of a raised trail or boardwalk. Mr. Jensenius asked that if this area isn't suitable for a trail that an alternative location be found. Mr. Perkins reported that the plan is to deed all of the open space over to the Town. Mr. Perkins said that he thinks this is a good spot for the trail and he showed another possible location on the plan.

Chairman Auclair said that he isn't sure that the land can be conveyed to the Town. Mr. Sherr said that typically the Town does not prefer to take ownership. The Town does like the idea of a public trail for public use and this should be part of the homeowners' association documents. Mr. Perkins said this could be accommodated through the homeowners' documents. Mr. Perkins said this is contrary to discussion he has had with the Town for this land. Ms. Nixon asked Mr. Perkins if he got this from her and he replied no.

Mr. Record said that there is an easement between lot twelve and eleven for a connection to the walkway but there is no parking area. Mr. Perkins said that they do not

want to provide a parking area but are promoting pedestrian use through the site to connect to other trails.

Chairman Auclair closed the public hearing.

Mr. Sherr noted that the Town Engineer's comments have been addressed and asked if the Town Planner's review comments have been addressed. Mr. Perkins said that he has prepared responses to these comments and can respond in writing if the Board would like. The Board reviewed the Town Planner comments with Mr. Perkins.

1. Is a Phase 1 Prehistoric Archeological assessment planned? Chairman Auclair noted that this is a recommendation and not a requirement.
2. Why has the vernal pool classification/location changed? Should a spring survey be conducted? Mr. Perkins replied that the wetland scientist was out last June/July and identified a designated vernal pool that Mr. Perkins identified on the plan that is several hundred feet away. The vernal pool in question that changed is on the corner near the proposed road. The survey happened prior to the improvements that were made on Tuttle Rd. Subsequent to the wetland delineation, the surveyors went out to do the boundary survey and noted that this corner of the property is right in the middle of a new pile of riprap and large diameter pipes that were installed as part of the street improvement project. The wetland scientist went back out to look at this again and he determined that the current conditions definitely took away any potential vernal pool and the scientist has been asked to reissue the report. Mr. Sherr referred to the Town Engineer's comment to make sure that the final plan identifies all of the vernal pools and wetlands and Mr. Perkins will include this on the final plan.
3. Confirm there will be no street lights. Mr. Perkins replied that they do not plan to put street lights down the new road.
4. Will there be a street light at intersection with Tuttle? Mr. Perkins said that if the Town desires a street light to mark the intersection they will add this.
5. Has Fire Chief approved the length of dead-end road? Mr. Sherr said there is a waiver request for this and the Board can discuss it later.
6. Is sight distance sufficient? Mr. Perkins said that they did measure the sight distances which are 780' in one direction and 810' in the other direction and this is well within minimum sight distances.
7. Should a traffic study be done? Is an MDOT Traffic Movement Permit required? Mr. Perkins said he thinks this is overkill for a 20 house subdivision and he does not think it is warranted. Mr. Perkins added that if the Town wants the study done then they will do it. Ms. Nixon noted that the neighboring OceanView project will do a traffic study that will look at this project also. Mr. Moriarty said the Town usually looks at traffic but he is unclear if there is a threshold to require studies. Ms. Nixon said that Tuttle Rd. is a State Rd. and the State will have to issue a road opening permit. Mr. Perkins said they have not applied for this permit. Ms. Nixon said the State may say there is a need for a traffic movement permit. Mr. Sherr concurred and said the road opening permit will have to be part of the final review application.
8. Has the Town Manager indicated if the necessary number of sewer user permits are available? Mr. Perkins responded that he has reached out to the Town Manager and the Fire Chief and has not heard back.

9. Applicant needs to submit proposed street name (Vining Way) to Town Assessor for approval for E-911 purposes. Mr. Sherr noted that there is a waiver request for this.

Mr. Sherr reviewed the requested waivers. Mr. Saunders said this is preliminary approval and he prefers not to waive things during preliminary approval that will not be waived from final approval and to do these as proposed conditions of approval.

Mr. Moriarty said that he agrees that street lighting along the road is not necessary but it is his impression and experience that intersections between subdivision and collector roads always have a street light. Ms. Nixon agreed and said this will be figured out for final approval.

General consensus of the Board was to hold off on the waiver requests except for the high intensity soil survey and the survey of trees.

Mr. Moriarty asked Mr. Jensenius if the open space is to be retained by the homeowners' association but there is a perpetual easement on the proposed trails, would this be acceptable to the Lands and Conservation Commission in lieu of Town ownership of the open space. Mr. Jensenius replied that the main point is that the Commission wants the public to have access to this trail in perpetuity.

Mr. Sherr moved that due to the special conditions of the project, the Board waive the requirement for a high intensity soil survey, seconded by Mr. Moriarty and **VOTED, 7 yeas, unanimous – motion carries.**

Mr. Sherr moved that due to the specific conditions of this project, the Board waive the requirement for a survey of trees over 10 inches in diameter, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.**

The Board reviewed the Findings of Fact and suggested amendments. Mr. Saunders moved to adopt the Findings of Fact as amended, seconded by Mr. Moriarty. Mr. Moriarty clarified that items two and three, sufficient water and municipal water supply, have been met for purposes of preliminary plan review and Ms. Nixon confirmed this. The motion was then **VOTED, 7 yeas, unanimous – motion carries.**

**PRELIMINARY MAJOR SUBDIVISION REVIEW: NOTE: The following findings of fact have been met sufficiently for granting preliminary approval, provided the requested waivers are granted by the Planning Board.**

**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 for preliminary approval.***

***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 outstanding.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

***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 outstanding. Applicant needs to provide required number of sewer user permit from Town Manager.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

***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 by the Town Engineer. Several comments made by the Town Engineer need to be addressed for final approval.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

***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;

***Required site distance needs to be shown on the final plan.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

***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 outstanding.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

***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 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 by the town planner, the town engineer and town department heads. The plans are sufficiently in conformance for preliminary approval.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

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 12/27/18 from Katahdin Trust Company stating that the developer has the financial capability to finance the estimated costs of the project which is estimated to be \$2,535,000.***

***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 be submitted to and conform to, the requirements of the MDEP and ACOE.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

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 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 by the Town Engineer. A Stormwater Permit application has been submitted to MDEP. A copy of the stormwater management report supporting the application was provided in the packet.***

***Receipt of the MDEP Stormwater Permit will be required for final approval.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

**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 site. MDEP permitting is underway.***

***Based on the information provided, the standards of this section have been met for preliminary approval.***

The Board continued review of the proposed conditions of approval. Mr. Saunders referred to a comment by the Fire Chief that fire hydrant locations must be identified. Mr. Saunders suggested there be conditions of approval for the Town Engineer's comments. Mr. Saunders suggested a condition of approval regarding the three waivers not granted and something about the trail easement. Mr. Saunders asked if the Board wants to have something about the trail easement. Mr. Moriarty replied yes and suggested a condition of approval for purposes of preliminary plan review that language be developed that establishes an easement in perpetuity through the open space as shown on the proposed plan.

Mr. Perkins noted that the hydrant locations are shown on the plan and have been darkened up on the plan shown tonight. Mr. Perkins identified the hydrant locations and noted that they comply with the 800' spacing and 1600' to any structure. Mr. Perkins said that he has reached out to the Fire Chief and will make sure he gets an updated version of the plan.

Mr. Saunders moved to grant preliminary subdivision approval for Christmas Creek Subdivision located on Tuttle Road, Tax Assessor Map R04, Lot 10 subject to the Standard Condition of Approval, the Limitation of Approval and the five Conditions of Preliminary Plan Approval, seconded by Mr. Moriarty and **VOTED, 7 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.

**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 PRELIMINARY PLAN APPROVAL:**

1. The Board has acted on two of the five requested waivers.
2. The three waivers that were not granted need to be addressed for final approval.
3. That any necessary MDEP and ACE approvals be submitted for final review.
4. That all comments made by the Town Planner and Town Engineer be addressed and that the Fire Chief's requirements be complied with prior to final submission.
5. That language be developed that establishes a public easement in perpetuity for the trail as shown on the preliminary plan.

**5. Public Hearing: Recommendation to the Town Council on proposed amendments to the Cumberland Code, Chapter 250 – Subdivision Ordinance.**

Chairman Auclair introduced the item.

Ms. Nixon explained that the Board has the entire subdivision ordinance before them tonight. Initially a committee was formed to develop provisions for a new type of subdivision to be called a conservation subdivision. The committee met and worked on proposing all of the elements for a conservation subdivision and then asked that the changes be incorporated into the existing subdivision ordinance. Ms. Nixon said that this was nearly impossible to do because of the structure of the ordinance. Then another committee went to work on an overhaul of the entire subdivision ordinance to include the provisions of the proposed conservation subdivision ordinance. This meant that areas of the Zoning Ordinance, which is the last agenda item tonight, that had provisions relating to subdivision developments and review should be deleted. What the Board has in front of them tonight is a revised subdivision ordinance that includes the provisions for the conservation subdivision.

Ms. Nixon noted that the conservation subdivision is something that has been recommended in the Comprehensive Plan for the Town of Cumberland.

Ms. Sawchuck referred to page 10 of the draft under section 250-6-E-1 to clarify the language. Mr. Saunders suggested a comma is missing. Ms. Sawchuck suggested removing the term "applicable laws". Ms. Nixon said this is typical language for applicability provisions to say you can't violate any existing law doing what you are doing on a local level. General consensus of the Board was to remove the term "applicable laws".

Ms. Sawchuck referred to page 36 of the draft section 250-30-B and said she thinks there is some language that didn't get deleted. She suggested the phrase "a portion of

the waterfront area,” should come out. Mr. Saunders suggested moving “when feasible” to after “the Planning Board may require”. The Board was in agreement on these changes.

Chairman Auclair opened the Public Hearing.

Chairman Auclair read a letter from Mike Schwindt, Chairman of the Conservation Subdivision Advisory Committee, in support of the changes to the subdivision ordinance.

Tom Gruber, 88 Foreside Rd., Town Councilor, thanked the Board for all of the work that has been put into this ordinance. Councilor Gruber asked the Planning Board to send this on to the Council. Councilor Gruber expressed appreciation to Mike Schwindt.

Sam York remarked that a lot of effort has gone into this and he spoke in favor of the changes. Chairman Auclair noted that Sam served on the Conservation Subdivision Advisory Committee.

Chairman Auclair closed the Public Hearing.

Mr. Moriarty reported that at the last Board meeting on January 15<sup>th</sup>, they voted to recommend the repeal and replacement of section 250 (the Subdivision Ordinance) and explicitly indicated that, as an entire body, they had only reviewed the first seven out of thirteen articles of section 250 and were not making any recommendations on articles eight through thirteen. The Board appointed a subcommittee with three members of the Board and Mike Schwindt to deal with the last several articles. The subcommittee met four times since the last full Board meeting. The original recommendation to the Council appeared on their agenda for their second meeting in January but it was tabled. Chairman Moriarty said that he isn't sure why this was tabled but probably it was because they knew that by this time, the subcommittee would have finished their work to address the entire ordinance and make a fully comprehensive recommendation.

Mr. Moriarty moved to rescind the Planning Board's recommendation to the Town Council of January 15, 2019 regarding the deletion and replacement of chapter 250 of the Cumberland Code titled Subdivision of Land, seconded by Mr. Kenny and **VOTED, 6 yeas, 1 abstained (Record) – motion carries.**

Mr. Moriarty moved that the Planning Board recommend to the Town Council the repeal of current chapter 250 of the Cumberland Code titled Subdivision of Land and recommend the adoption of the revised section 250 of the Cumberland Code titled Subdivision of Land dated February 13, 2019 as amended by the Planning Board on February 19, 2019, seconded by Ms. Sawchuck and **VOTED, 7 yeas, unanimous – motion carries.**

**6. Public Hearing: Recommendation to the Town Council to strike Section 315-43 (Clustered, dispersed and traditional residential developments) from the Zoning Ordinance.** *(Note: some of these provisions have been relocated to the revised Subdivision Ordinance).*

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

Mr. Moriarty moved that the Board recommend to Town Council that section 315-43 of the Cumberland Code titled Clustered, dispersed and traditional residential developments be repealed, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous – motion carries.**

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

Chairman Auclair asked if meeting at 6:30 pm when needed is a problem for any Board members. No one responded that this is a problem.

Ms. Nixon noted that the Town Council will be taking up the ordinance change recommendations next Monday, February 25, 2019 and if any of the Board members want to come to lend support that would be great.

**H. Adjournment:** Mr. Moriarty moved to adjourn the meeting at 9:48 pm, seconded by Mr. Kenny and **VOTED, 7 yeas, unanimous - motion carries.**

A TRUE COPY ATTEST:

\_\_\_\_\_  
Paul Auclair, Board Chair

\_\_\_\_\_  
Christina Silberman, Administrative Asst.