

Date May 17 ,2022
To Town of Cumberland Planning Board
From Carla Nixon, Town Planner
Subject **Amendment to an Approved Subdivision (Culvert Change):
Cumberland Crossing, Phase 2 - Tuttle and Greely Roads.**

I. REQUEST/OVERVIEW:

The Applicant is Oceanview at Cumberland, LLC. The Applicant is requesting an amendment to the Phase 2 subdivision plan to replace a concrete box culvert with an open-bottom metal or concrete arch culvert on concrete footings. Associated with the stream crossing culvert, the project team has worked with the Portland Water District to reduce the required fill over the culvert and 12-inch water main to lower the profile of Little Acres Drive from approximate stations 54+50 to 64 + 50.

The parcel is shown on Tax Assessor Map R 04, Lot 34 A in the Rural Residential 1 (RR 1) zoning district with a Senior Housing Community Overlay. Frederic Licht, P.E. of Licht Environmental Design, LLC is the Applicant's representative. Dan Diffin, P.E. of Sevee and Maher Engineers reviewed the plans for the Town.

II. PROJECT HISTORY:

- Final Subdivision Plan Approval: 2/16/21.
- Preliminary Plan Review: Approved by Planning Board on 7/21/20.
- Preliminary Plan Review: 1/21/20. Tabled after discussion and approval of requested waivers.
- Sketch Plan Review/PH w/ Planning Board on April 16, 2019.
- Sketch Plan Review/PH w/ Planning Board. February 19, 2019.

III. DESCRIPTION:

Parcel size:	59.59 acres
Net Residential Density:	Not required for developments in the Senior Housing Community (SHC) Overlay district.
Proposed # of units:	52, plus a community center.
Zoning:	Rural Residential 1 with a Senior Housing Community Overlay
Development Type:	Clustered Subdivision Design
Min. Lot Size:	RR 1 requires a 4 acre minimum lot size; the SHC Overlay requires a 5 acres minimum lot size. The proposed project site is 59.59 acres.
Road:	Private way from Tuttle Road.
Lot frontage:	50'
Setbacks:	Front: 25', Rear: 75', Side: 30' (combined = 75')
Parking:	2 spaces per unit
Buffering:	50' undisturbed buffer along entire perimeter of site.
Water & Sewer:	Portland Water District

Electricity:	Central Maine Power
Natural Gas:	Summit Gas
Open Space:	20% required, 68% provided.
Wetlands:	17,516 sf
Vernal Pools:	None
Utilities:	Underground electric, telephone, cable, gas, water and sewer from Tuttle Road.
Street Lighting:	For street intersections and along roadways at “key locations”.
Traffic Impact Assessment:	Traffic report shows no adverse effects.
Homeowners Association:	None
Floodplain Map Classification:	23005C0536F Zone A. No structures will be built in this area of the site.
Right, Title and Interest:	Trustees’ Deed of Sale.
Fire Protection:	Public water. Fire Hydrants location approved by Fire Chief. Units will have sprinklers

OUTSIDE AGENCY APPROVALS:

Agency	Type of Permit	Status
MDEP	Site Location of Dev. Permit (SLODA)	Outstanding
MDEP	NRPA Tier 1 permit	On File
US Army Corp of Engineers	(wetlands) permit	On File
MDOT	Entrance Permit	
Maine Natural Areas Program	Rare Botanical Data	Letter dated 2/8/19
Maine Historic Preservation Commission	Historic Properties	Letter dated 2/19/19
Maine Dept. Inland Fisheries & Wildlife	Habitat Data	Letter dated 6/14/17
Portland Water District	Ability to Serve	On File
Central Maine Power	Approval of Design	On file
Town of Cumberland	Sewer User Permits	Letter dated 1/14/20

PREVIOUS WAIVER REQUESTS:

Waiver Request 1 - Road width for access drive from Greely Road to Community Center. Applicant requests a waiver to maintain the existing road width of 14.5 feet. **GRANTED.**

Waiver Request 2 - Show True North on Subdivision Plan. **GRANTED.**

Waiver Request 3 - Street Signs. Applicant requests waiver from requirement to show street signs until reviewed by Town E911 Administrator. **GRANTED.**

Waiver Request 4 - Trees over 10-inch diameter. **GRANTED.**

DEPARTMENT HEAD REVIEWS:

- **William Longley, CEO:** No comments
- **Police Chief Charles Rumsey:** No comments
- **Fire Chief Small.** No comments

Note: These are the Findings of Fact from the final subdivision plan approval granted on 2/16/21. The only finding which has been changed is “N. Stormwater Management” and 0. “Freshwater Wetlands”.

V. SUBDIVISION REVIEW:

PROPOSED FINDINGS OF FACT - Chapter 250 - Subdivision of Land

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

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

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

The parcel is above sea level. There is a Zone A area indicating likely flooding but the applicant is filing an appeal to FEMA for a redesignation of this area. The area where the homes are located is not in this Zone A area. The project will use public water and sewer. A groundwater impact assessment was provided by the applicant and reviewed and approved by the Town Engineer.

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

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

The subdivision will be served by public water. The subdivision will utilize public water. There is a letter on file, dated July 31, 2018, that states the Portland Water District has the capacity to serve the proposed project consisting of “5-100 housing units”.

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

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

The subdivision will utilize public water. There is a letter on file, dated July 31, 2018, that states the Portland Water District has the capacity to serve the proposed project consisting of “5-100 housing units”.

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

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

***The applicant has submitted an erosion and sedimentation control plan that is consistent with the current Maine Erosion and Sediment Control Best Management Practices.
Based on the information provided, the standards of this section have been met.***

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

A traffic study was performed by Diane Morabito, PE, PTOE dated 11/19. The study concluded that the project will generate a modest level of vehicle peak hour trips, will not have any significant impact on off-site traffic operation, that there are no capacity constraints at Tuttle Road or Greely Road and that there are no attributable vehicular safety concerns from the development of the project. An MDOT Entrance permit was issued for Phase 1.

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

- F. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized

The project will utilize public sewer. A letter indicating there is sufficient capacity is on file from both the Portland Water District and the Town of Falmouth is required for the additional units to be built in Phase 2. There is a letter dated 1/14/20 from Town Manager Bill Shane stating that the Town agrees to accept the sewer design flow from the project. A charge of \$500 for each of the units will be charged to the applicant.

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

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

Cumberland provides curbside trash collection and recycling through a contracted waste hauler. Based on a conversation with the Director of Public Services, the addition of 52 new homes in Phase 2 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.

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

Letters are on file from the relevant state agencies 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.

- I. Conformity with local ordinances and plans. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan

or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

The plans have been reviewed and approved by the town planner, the town engineer and town department heads. There are minor plan changes that are required for final review.

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

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

Technical capacity is evidenced by the use of the following experts: a professional engineer, a licensed land surveyor, a traffic engineer, an architect and a licensed soils scientist.

Financial capacity is evidenced by a letter dated 10/14/19 from Kennebunk Savings stating that bank has approved financing of the infrastructure for the project and that Oceanview at Cumberland has the financial capacity to complete the land development and construction project as proposed.

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

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

The proposed subdivision will not adversely affect the quality of the mapped wetlands or unreasonably affect the shoreline of the stream on the parcel. Plans include a MEDEP 75' stream setback to protect the resource.

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

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

The project will be served by public sewer. Infiltration of stormwater is limited to the installation of BMP's along the access road which meet all DEP standards for treatment of stormwater prior to discharge of groundwater.

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

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

The parcel is shown on FEMA floodplain maps as being in Zone C (area of minimal flooding) and Zone A. A letter of map amendment is being proposed to FEMA to adjust Zone A.

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

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

A stormwater management plan was submitted as part of the application packet and has been reviewed by the Town Engineer for conformance with Chapter 250-38 of the Cumberland Subdivision Ordinance. The use of an alternative culvert structure which is the reason for this amendment, has been reviewed and approved by the Town Engineer. The U.S. Army Corp of Engineers will need to issue a Modified Permit; the receipt of which is a proposed condition of approval.

Based on the information provided, and with the proposed condition of approval, the standards of this section have been met.

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

All wetlands within the proposed subdivision have been delineated and mapped by Mark Hampton Associate, Inc. and are shown on the project plans. The applicant has submitted revised plans to Maine DEP and is awaiting approval.

Based on the information provided, and with the proposed condition of approval, the standards of this section have been met.

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

There is a stream on the property which is depicted on the plans.

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

Proposed Condition of Approval

1. The applicant shall provide a copy of the Maine DEP SLODA permit prior to the issuance of first building permit.