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2004

## **Town of Cumberland Planning Board Meeting Minutes 2004**

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## Planning Board Meeting

Tuesday, January 20, 2004  
Council Chambers of the Town Offices  
290 Tuttle Road, Cumberland Center  
7:00 PM

### A. Call To Order

The meeting was called to order at 7:01 p.m.

### B. Roll Call

Present: Phil Hunt, Vice-Chair, Tom Powers, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle.

Absent: Terry Turner

Staff: Carla Nixon, Town Planner

### C. Minutes of Prior Meetings

Ms. Howe moved to approve the minutes of December 16, 2003 with technical corrections.

Mr. Powers seconded.

VOTE: Unanimous

### D. Election of Officers

Mr. Powers moved to nominate Mr. Phil Hunt, Vice-Chair as the Board Chair.

Ms. Howe seconded.

VOTE: Unanimous

Mr. Ward moved to nominate Mr. Tom Powers as the Vice-Chair.

Ms. Howe seconded.

VOTE: Unanimous

### E. Consent Calendar / De minimus Change Approvals

There were no consent calendar items.

### F. Hearings and Presentations

#### 1. Public Hearing - Preliminary Plan Review – Major 38-unit residential

subdivision and eight acres of commercial property that will be developed –  
Cumberland Foreside Village, Tax Assessor Map R01, Lots 11, 8, 8A and 7, U.S.

Rout 102, Commercial district, with a contract zone overlay, Pinkham Greer, representative, Foreside Village, LLC owner.

Mr. Hunt explained that the review for Cumberland Foreside Village had been tabled.

**2. Public Hearing – Minor Site Plan Review and Section 433 – Telecommunication Facilities, co-location on existing wireless Communication Facility, 159 Range Way, Tax Assessor Map R03B, Lot 19, Nextel Communications of the Mid-Atlantic, Inc., applicant.**

Mr. Hunt stated the application was found complete at the December meeting. The Town's Ordinance prescribes the requirements that a person who wants to locate must satisfy. This proposal is for twelve flat panel antennas on a platform on an existing 190-foot tower at a centerline height of 168 feet. The Planning Board has considered this tower on many occasions in the past. The tower has been previously approved, the issue at this meeting deals with some additional antennas to be added and an auxiliary building that will be built at the site. The Board has to make a number of findings under Section 433 – Telecommunications Facilities and Section 206 – Minor Site Plan review. The Site Plan review is limited because the Board has previously reviewed the tower. Mr. Hunt explained the Board procedure for the hearing.

Ms. Nixon presented background information as follows: Nextel proposes to install twelve (12) panel antennas on a triangular platform mounted to the existing 190-foot tower at a centerline height of 168 feet. The antennas will be installed on an array in the three sectors of four antennas each. Nextel's antennas will be connected by a means of coaxial cables running down the tower and across a coaxial ice bridge to an unmanned equipment shelter (11' x 2") located at the base of the tower. The equipment shelter houses radio and telephone components to operate the facility. This shelter is a new structure. There will also be two GPS antennas located on the unmanned equipment shelter. The application is in order; there is one waiver request from § 206.7.4.5 – Landscaping plan.

Mr. George Chianis, Project Manager for Nextel Communications stated there was one issue the Planner had brought to his attention regarding how the antennas were to be bolted to the triangle platform. He said they would be bolted with a friction clamp. The manufacturer designs the bolts, friction clamp and platform to exceed 100 miles per hour wind load. He said he believed Cumberland's requirement was 70 miles per hour wind load.

Mr. Hunt stated the applicant is requesting a waiver from Section 206.7.4.5 – Landscaping; the request involves an existing tower and there will be no change to the landscaping. He stated it would be appropriate for the Board to waive Section 206.7.4.5 of the Ordinance.

Mr. Powers moved to grant a waiver from Section 206.7.4.5.

Ms. Howe seconded.

VOTE: Unanimous

Ms. Howe asked about Exhibit A – Structural Analysis Report on page 9. The results of the structural analysis (stress check) indicate there will be no percent over stress, except

one-column states 105 over-stress and that is acceptable. Can you explain what that means?

Mr. Chianis stated a structural engineer does a review of each site. An engineer deems the numbers are acceptable, which Nextel agrees with. If one were not acceptable an alternative would be to shore up a structure, such as changing guide wires, or adding metal to the existing tower.

Mr. Ward asked how many cell companies operate on this tower?

Ms. Nixon stated she was not sure.

Mr. Chianis stated Verizon, AT&T, U.S. Cellular, Nextel and a few other whips.

Mr. Ward asked how often the companies have service personnel on the tower.

Mr. Chianis stated Nextel is generally one visit per month, or every six weeks, but he didn't know for the other companies. It is not the tower that is serviced; it is the equipment in the shelter.

Mr. Ward asked if there was one company who was responsible for the overall operation of the tower.

Ms. Nixon stated SBA Properties owns the tower, and thought they would be ultimately responsible for inspections and the structural integrity of the tower. All of the antenna operators are independent.

Mr. Chianis stated each carrier is responsible for their equipment and shelters.

Mr. Ward voiced concern regarding the criteria for storage of materials. He visited the site before the first snowfall and there were a couple of service trucks at the tower. He asked if there were provisions for trash removal.

Mr. Chianis said he had been there and seen some shot gun cases and beer cans. If Nextel is approved, the contractors will be required to clean the site when servicing the tower.

Mr. Ward recommended the Board might want to address trash disposal.

Mr. Neagle stated with respect to the lack of landscaping he assumed it was due to the remote location. He voiced concern if the road was developed to connect to Harris Road and was used by the public; the site is very unattractive. He stated as a new person to the Board he was unaware of the history of the site.

Mr. Hunt stated this tower is on the Range Way. The landscape aspects would have been a requirement of the tower owner. Range Way is an old range way, which has been

discontinued as a main road. It does run into Harris Road, and there is an undeveloped right-of-way to Rock Ridge Run subdivision. SBA Properties, the tower owner, would be responsible for landscaping.

Mr. Neagle noticed the tower is 190 feet tall. Is it because it is non-conforming and built before the Ordinance?

Mr. Hunt stated he believed that was true.

Ms. Nixon reviewed the requirements of Section 433; stating the requirements have been satisfied.

### **SECTION 433.3 – TELECOMMUNICATION FACILITIES**

- (a) *A report from a Registered Professional engineer in the state of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number, type, and volume of antenna that it can accommodate and the basis for the calculations*

*The applicant submitted a structural report (Exhibit A) dated September 22, 2003 by Sterling Engineering and Design Group prepared on behalf of SBA Network Services, Inc. indicating that the existing tower can adequately support the existing and proposed appurtenances. A later letter dated November 24, 2003 was provided from Sterling stating that the installation of the proposed appurtenances at 168' rather than the initial proposal of 165' will not change the structural analysis report.*

- (b) *Written approval from all applicable state and federal agencies, including but not limited to the FAA and FCC including a description of any conditions or criteria for approval, or a statement from the agency that no approval is required.*  
*The applicant submitted a copy of the FCC license issued to Nextel Communications dated 11/7/98, as well as National Programmatic Agreement. A Checklist prepared by the tower's owner, SBA, indicates that the tower is in compliance with FCC guidelines for co-location. Also provided was the FAA determination filed by the original tower owner.*

- (c) *A letter of intent that commits the tower owner and his successors in interest to: Respond in a timely manner to a request for co-location and negotiate in good faith.*  
*The applicant is not the tower owner, however the applicant has submitted a letter (Exhibit C) dated 11/25/03 which commits Nextel Communications of the Mid Atlantic and its successors and interest, to the requirements of this section.*

- (d) *Proof of financial capacity to build, maintain and remove the proposed tower. **The applicant provided information (Exhibit D) evidencing Nextel's financial capacity to build, maintain and remove its proposed installation.***
- (e) *An inventory of all the provider's existing and approved towers, antennas or sites within the Town of Cumberland and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. **The applicant provided information (Exhibit E), which lists existing sites in and around Cumberland. It is stated in this Exhibit that there is no other Nextel site within Cumberland, and that the other sites listed do not provide adequate coverage nor do they potentially provide adequate coverage to the Cumberland area.***
- (f) *Photos of the site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties **Applicant has provided photographs prepared by Bay State Design Associates, Inc. dated November 2003.***
- (g) *Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed. **Applicant has provided a visual analysis prepared by Bay State Design Associates, Inc. dated November 2003. Also depicted on site plans. The proposed installation will require fencing around the equipment shelter and no trees or shrubs will be removed.***
- (h) *Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness. **The applicant provided site drawings including elevation drawings prepared by Bay State Designs on behalf of Nextel Communications.***
- (i) *Detail of the method of attachment to a structure. If the facility will be attached to an existing structure, provide measurements and elevations of the structure. **There is a note on Plan A-2, which states that the design engineer will determine the antenna mount. This is customary as it is difficult to determine the type of mounting until installation.***
- (j) *A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the*

proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will change visually. The analyses should include before and after analyses of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically, those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in His review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area and identify and include feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.

**The applicant has provided a visual analysis prepared by Bay State Design Associates, Inc. dated November 2003. Nextel's proposed installation will not have significant impact because the existing tower has had antennas and microwave dishes for a number of years. The applicant will provide to the Board any additional information upon request.**

- (k) Identify any other telecommunication facilities existing or proposed on the site. **The applicant has reflected this information on the site plan submitted.**
- (l) Details of all accessory structures including buildings, parking areas, utilities, gates access roads, etc. **The applicant submitted site plans prepared by Bay State Designs which include the existing site facilities and the proposed new structure and appurtenances, including building designs and elevation information. All required road and parking information is depicted on the site plan.**
- (m) Structural Requirements:
  - (1) Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures. **This section is not applicable. No new tower is proposed.**
  - (2) The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/SIA/TIA 22 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan. **The applicant submitted a structural report (Exhibit A), which was prepared with the above-mentioned standards on behalf of Nextel.**

- (3) *For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower for antennas and their accompanying equipment. Nextel is installing on an existing tower not a building or alternative tower structure. Therefore this requirement is not applicable to the proposed installation.*

#### SECTION 433.4 SPACE AND BULK STANDARDS

a. Tower Height

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"HC" Highway Commercial; "LB" Local Business, and "IB" Island Business: 175 feet  
*Existing Tower (height is 190')*

b. Antennas

(1) Height

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed the following maximum heights:

"RR1 & RR2" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential, "IR" Island Residential, "I" Industrial, "OC" Office Commercial; "RI" Rural Industrial; 150 feet

(2) Mounting and dimensions

The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

- (a) Whip antennas shall not exceed 20' in length for an individual antenna and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.



- (b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24", with no single dish being more than 8" in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.
- (c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length nor 2' in width.

***This is the applicable subsection. The plans include this information.***

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

***Not applicable as a new tower is not being constructed.***

d. Setbacks

- (1) All wireless communications towers shall be set back from any lot lines a distance equal to at least 125% of the tower height.
- (2) Equipment facilities shall meet the required District setbacks.
- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (12/13/1999) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (12/13/1999), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.

- (4) There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

***All applicable setbacks have been adhered to. Subsections 1, 3, 4, and 5 are NA.***

4. CO-LOCATION REQUIREMENTS

a. On existing towers

(1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence shall be documentation from a qualified and licensed professional engineer that:

(a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

(b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost:

(c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment place or approved; or

(d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

- (2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
- (3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
- (4) The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Cumberland.

***The applicant is not proposing a new tower. Above is NA.***

b. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 433.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

***The applicant is not proposing a new tower. Above is NA.***

5. INTEREST OF TELECOMMUNICATION ENTITY

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities, which are contracted to locate on the tower, must join as applicants.

***A letter from SBA (tower owner) is included in the packet.***

6. DESIGN STANDARDS

a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.

*NA*

- (2) Equipment facilities shall be adjacent to the tower base unless an alternate location will be less visually obtrusive or topographic considerations require an alternative location.

***Nextel's equipment shelter shall be adjacent to the tower base as depicted on site plan.***

- (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

***The proposed shelter is one story in height and will be typical of existing buildings in the compound.***

- (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

***There will be no impact on the above.***

- (5) Manually operated or motion detecting security lighting is permitted.

***Nextel's proposal includes a security light by the equipment shelter door.***

- (6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and / or community features).

***This proposal is for a co-location on an existing tower. No special design is required.***

- (7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility as needed, to reduce the potential for trespass and injury.

***Nextel's equipment will be surrounded by a security fence as depicted on the site plan.***

b. Antenna arrays

Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do

not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

***The antenna arrays shall be placed and colored to blend into the architectural detail and the coloring of the host structure.***

7. LOCATION

a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

***Application is for co-location on an existing tower, which will be fenced.***

8. ADDITIONAL STANDARDS AND CRITERIA

a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

b. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

***Application is for co-location on an existing tower.***

9. WAIVER PROVISION

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 433.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

***PROPOSED FINDINGS OF FACT – SECTION 206***

**.1 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.

*This proposal is to add antennas to an existing tower, and a new unmanned equipment shelter (11' x 6" x 20 foot). There will be no site work done in sensitive areas.*

***Based on these facts the standards of this section have been met.***

**.2 Traffic Access and Parking**

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

*There are no proposed changes to the access and parking.*

***Based on these facts the standards of this section have been met.***

**.3 Access way Location and Spacing**

Access must meet the specific ordinance requirements.

*There is no proposed change to the location and spacing of the site.*

***Based on these facts the standards of this section have been met.***

**.4 Internal Vehicular Circulation**

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

*There is no proposed change to the layout of the site.*

***Based on these facts the standards of this section have been met.***

**.5 Parking Layout and Design**

Off street parking must conform to the specific standards.

*There is no anticipated demand for additional parking and no changes have been proposed.*

***Based on these facts the standards of this section have been met.***

## **.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 proposed changes to the site which would affect pedestrian circulation or safety.*

***Based on these facts the standards of this section have been met.***

## **.7 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.

*There will be no additional impact on stormwater.*

***Based on these facts the standards of this section have been met.***

## **.8 Erosion Control**

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

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

*There is a note on the plan stating that erosion control measures are to be approved by Nextel and installed by the general contractor prior to starting construction.*

***Based on these facts the standards of this section have been met.***

## **.9 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.

*No sewer, water or septic are required.*

***Based on these facts the standards of this section have been met.***

**.10 Sewage Disposal Provisions**

The development must be provided with a method of disposing of sewage which 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.

*No sewer, water or septic are required.*

***Based on these facts the standards of this section have been met.***

**.11 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.

*The current electrical service is sufficient for the expanded use.*

***Based on these facts the standards of this section have been met.***

**.12 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 proposed activity will not impact groundwater.*

***Based on these facts the standards of this section have been met.***

**.13 Water Quality Protection**

All aspects of the project must be designed so that:

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

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

*No toxic materials will be created or stored on this site.*

***Based on these facts the standards of this section have been met.***



**.14 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.

*The applicant has provided proof of technical and financial capacity.*

***Based on these facts the standards of this section have been met.***

**.15 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.

*No portion of the site has been identified as containing such resources.*

***Based on these facts the standards of this section have been met.***

**.16 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 property is located in the Floodplain Overlay Zone C—areas of minimal flooding (Community-Panel Number 230162 0018 C) No special precautions are necessary in Zone C.*

***Based on these facts the standards of this section have been met.***

**.17 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.

*Only a motion light to be located by the shelter door is proposed.*

***Based on these facts the standards of this section have been met.***

**.18 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.

*Based on the type of use, buffering of the antennas is not feasible.*

***Based on these facts the standards of this section have been met.***

**.19 Noise**

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

*The proposal will not generate any noise that would be audible to neighboring properties.*

***Based on these facts the standards of this section have been met.***

**.20 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.

*This proposal does not generate any additional storage of materials outside. It will not increase solid waste disposal.*

***Based on these facts the standards of this section have been met.***

**.21 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.

*There is no new landscaping needed. A waiver has been requested.*

***Based on these facts the standards of this section have been met.***

**.22 Building and Parking Placement**

.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 with 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.

.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.

*There is no increase or change in location of the existing parking.*

***Based on these facts the standards of this section have been met.***

**SECTION 300 – AQUIFER PROTECTION (if applicable)**

The use is not located in the Aquifer Protection district.

Ms. Howe moved to adopt the findings of fact as prepared by the Planner for Section 433 – Telecommunications and Section 206 minor site plan review for Nextel Communications, at 159 Range Way, Tax Assessor Map R03B, Lot 19.

Mr. Powers seconded.

VOTE: Unanimous

Ms. Howe moved to approve the application with the proposed and standard conditions of approval submitted by Nextel Communications for co-location on existing wireless communications facility located at 159 Range Way under Site Plan Review and Section 433 Telecommunication Facilities with one waiver from the landscaping requirement under Section 206.7.4.5 – Landscaping Plan.

Mr. Powers seconded.

VOTE: Unanimous

Ms. Nixon stated a third condition of approval should be added; that all fees are paid.

Ms. Howe moved to amend her motion to include the condition that all fees are paid.

Mr. Powers seconded.

VOTE: Unanimous

Mr. Ward voiced concern about trash from service contractors.

Mr. Hunt stated the Planner and the Code Enforcement Officer should talk with SBA Properties regarding an improved plan for trash removal.

**Standard Conditions of Approval**

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

**Recommended Conditions of Approval**

1. Implementation of the proposal shall comply with any additional requirements of the Planning Board.
2. That all fees are paid.  
Engineer Review Fees - \$ 143.93  
Cumberland Fire Dept.- \$2,000.00 (equipment upgrade)

**G. Administrative Matters** – There were no administrative matters.

**H. Adjournment** – Ms. Howe moved to adjourn.

Mr. Powers seconded.

VOTE: Unanimous

Adjournment: 7:30 p.m.

A TRUE COPY ATTEST:



Philip C. Hunt, Board Chair



Pam Bosarge, Board Clerk

## **Planning Board Meeting**

**Tuesday, February 24, 2004  
Council Chambers of the Town Offices  
290 Tuttle Road, Cumberland Center  
7:00 PM**

### **A. Call To Order**

The meeting was called to order at 7:00 p.m.

### **B. Roll Call**

Present: Phil Hunt, Chair, Tom Powers, Vice-Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle.

Absent: Terry Turner

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

### **C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of January 20, 2004 with technical corrections.

Mr. Powers seconded.

VOTE: Unanimous

### **D. Consent Calendar / Deminimus Change Approvals**

Ms. Nixon stated that Ms. McPheters, Code Enforcement Officer had received a growth permit application for the first lot at Ridge Road Subdivision. In reviewing the application it was discovered that there had been no final inspection on the engineering work for the driveways. Mr. Tom Saucier of SYTDesign Consultants addressed the changes that were needed. Ms. Nixon stated the changes are minimal and acceptable as a deminimus change.

The Board agreed to consent to the changes with no further action.

### **E. Hearings and Presentations**

**1. Application Completeness – Minor Site Plan Review and Section 433-Telecommunication Facilities, to locate a telecommunications antenna and equipment within existing facilities and steeple at Cumberland Congregational Church, 286 Main St.; Tax Assessor Map U11, Lot 48 in the MDR district; United States Cellular applicant.**

Mr. Chris Neagle stated he was a member of the Cumberland Congregational Church and a former trustee, but didn't think there would be a conflict of interest. He would not object if a Board member thought he should recuse himself.

The Board agreed Mr. Neagle was eligible to hear the steeple item.

Ms. Nixon presented background information as follows: The applicant is Florida RSA # 8, LLC (United States Cellular.) The agent is William H. Fricke, of LCC International. Oest Associates of South Portland, Maine prepared the site plan. The applicant has entered into a lease agreement with the Cumberland Congregational Church to replace its existing steeple with a new steeple made of a different material, which will more easily permit the transmission of radio frequencies. The applicant will lease space in the steeple and the church basement for the related equipment. The Cumberland Congregational Church is located at 286 Main Street. Tax Assessor Map U11, Lot 48 in the MDR zone.

The Planning Board is asked to determine application completeness and consider the requested waivers.

Mr. Hunt stated the Board is familiar with the site and there is no new construction proposed. He asked Ms. Nixon if the application was complete.

Ms. Nixon stated yes.

Mr. Neagle asked if the steeple would be similar to the existing steeple.

Ms. Nixon stated it would be an exact replica made of different material.

Ms. Howe moved to grant the waiver requests.

Mr. Powers seconded.

VOTE: Unanimous

Waiver requests:

- 206.7.3.2 – boundary survey
- 206.7.3.3. – utilities, including sewer & water
- 206.7.3.4 – location, names, widths of existing public streets
- 206.7.3.5 – location, dimension of ground floor elevation of existing buildings
- 206.7.3.6 – location, dimension of existing driveways
- 206.7.3.7 – location of intersecting roads
- 206.7.3.8 – location of drainage courses
- 206.7.3.9 – direction of existing surface water drainage
- 206.3.7.10 – location, front view, dimensions and lighting of signs
- 206.3.7.12 – location of nearest fire hydrant or water supply for fire protection
- 206.7.4.2 – surface water drainage and impact on downstream properties
- 206.7.4.3 – handling solid waste
- 206.7.4.4 – driveway, parking and loading areas
- 206.7.4.5 – landscape plan
- 206.7.4.6 – location, dimension and ground floor elevation of buildings

- 206.7.4.7 – signs/location and method of securing
- 206.7.4.8 – location and type of exterior lighting
- 206.7.4.9 – location of all utilities including fire protection systems
- 206.7.4.12 – stormwater calculations / erosion & sedimentation

Ms. Howe moved to find the application complete to locate a telecommunications antenna and equipment within existing facilities and steeple at the Cumberland Congregational Church at 286 Main Street.

Mr. Powers seconded.

VOTE: Unanimous

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**2. Sketch Plan – Greely Jr. High School Renovations, 303 Main St.; Tax Assessor Map U11, Lot 1, M.S.A.D. # 51 owner, S.M.R.T. Engineers, representative.**

Mr. Hunt explained that tonight's meeting is informational and no decision would be made.

Mr. Powers stated he lives across the street from the Junior High School and feels he would not be influenced, but would step down if he Board or public thought there would be a conflict of interest.

Mr. Neagle stated he would be influenced if the site were next door to his residence.

Mr. Hunt stated they would proceed this evening; the Board will not be making any decision.

Mr. Paul Stevens, Principal of S.M.R.T., stated he and Ron Williams, Architect and Steve Bushey, Civil Engineer were present at the meeting to answer any questions.

Mr. Stevens reviewed the proposed renovations. The proposed work involves the existing junior high buildings facing Main Street on the Greely campus. The project will include the Gyger Gym and the ca. 1980's gymnasium, and associated site work. The Greely Institute building and adjacent 50's era classroom building is not included in the project.

The proposed renovations and additions focus on conversion of existing spaces to use for the performing and music programs of the high school in anticipation of the relocation of the junior high populations to the new middle school. The work is the first of a series of phased efforts at the high school, moving toward the implementation of the approved campus long-range development plan. The Gyger Gym will be retrofitted for the music program. The 80's gym will be converted to the audience chamber of a new theater, with an addition on the south side providing space for a stage house (not to exceed the 35-foot height limit in the zone) and set storage space. A new major entrance relating to the high school parking (east) side will provide primary school and public access to the theater. On the Main Street side, the existing ca. 1985 connector will be removed and a new main entrance created. Both entries and internal improvements will

make the buildings handicapped accessible. Portions of the existing buildings totaling 2,500 square feet will be removed; new space totaling 7,500 square feet will be added, resulting in a net increase of approximately 5,000 sq. ft.

Site development will include removal of the existing continuous vehicular access in front of the junior high buildings and replacement with pedestrian walkways. Small plazas located at major building entry points will provide opportunities for student gathering with the provision of benches, and landscape enhancements. Vehicle parking displaced from in front of the gym buildings will be relocated to the area in front of the 50's wing by more efficient utilization of the current paved area. Thirty-five spaces have been displaced, thirty-one spaces are provided in the front parking area, and four spaces have been added proximate to the set loading access area. There will be no net loss of parking. Emergency and service access will be possible on a controlled basis, as the ends of the main walk will be protected with either removable bollards or mountable curbs. Vehicular access to the site will remain basically as it currently exists, with the exception of conversion of the southern-most entrance from one-way in, to two-way movement, as has been approved previously in the campus master plan. Three of the five portable classrooms currently located between the junior and senior high school buildings will be removed, and a large portion of the pavement under them. Overall, there is a net reduction of approximately 5,000 square feet of impervious surface.

Utilities will remain as-is. New mechanical, electrical, plumbing, and fire suppression systems will be included as part of the project. A new six-inch fire service water line will be included, connecting the Gyger Gym boiler room to the existing main in the street. Pressures and flows sufficient for the sprinkler system have been documented, eliminating the need for pumped system enhancement. Stormwater drainage on the site is anticipated to remain basically "as-is", with the exception of possible new drains in the area between the junior and senior high to accommodate surface and roof drainage. No new sanitary service is anticipated. A new underground electrical primary would be routed from a pole at Main Street to a new transformer near the front of the Gyger Gym.

New landscaping and pedestrian level lighting, where required, will complete the new work.

The proposed renovations and additions described above constitute a small and incremental step towards achievement of the overall campus master plan, which has been reviewed and approved by both the town and the state. The school's desire is to begin construction immediately following the end of the 2003-04 school year.

Mr. Neagle stated the plan looks great, his son just graduated from the high school and the need for a performing arts and music building is long overdue.

Mr. Neagle asked who would use the parking.

Mr. Stevens stated faculty.



Mr. Couillard asked for clarification on the brick on the building.

Mr. Stevens reviewed the conceptual drawing.

Ms. Howe asked about the traffic pattern, would people be parking on the road, and dropping off students?

Mr. Stevens stated the pedestrian way would eliminate the ability to drive in front of the building.

Ms. Howe asked when the Gyger Institute was built?

Mr. Bushey stated 1939.

Mr. Ward stated the proposed renovation is attractive, and asked about parking for a 500-seat theater.

Mr. Stevens answered there are currently 470-spaces and with overflow parking at the new middle school.

Mr. Powers asked about the landscaping plan.

Mr. Stevens stated there is existing vegetation, and additional planting in the front area.

Ms. Howe stated the little green space between the Greely Institute building and the 1980's gym could be attractive.

Mr. Stevens stated it hasn't yet been designed.

Ms. Nixon stated it would be nice to have bench seating in the pedestrian ways.

Mr. Stevens stated there would be two major entrances to the building, the front entrance and on the backside.

Mr. Powers asked where the people using the front entrance would park.

Mr. Stevens stated they would use current parking.

Mr. Powers asked if they anticipated parking on the street.

Mr. Stevens said he didn't know, currently do people park on the street?

Mr. Hunt stated it is important to remember the middle school is adding significant parking, which should allow enforcement of no parking on Route 9. He asked about a walking trail from the middle school.

Mr. Powers stated the location of the entry suggests front area parking. The entrance location should coordinate with middle school parking. The path should be defined with lighting.

Mr. Hunt asked if the current Farmer's Market green would remain.

Mr. Stevens stated yes.

Mr. Powers asked if there would be new signage to address performances.

Mr. Stevens stated not at this time.

**The public portion of the meeting was opened.**

Mr. Peter Bingham, School Board Representative, stated he, Bob Vail, and Superintendent Bob Hasson, were present to answer any additional questions. The building committee had a preliminary meeting with town staff last year and within the last month; and plans to work closely with staff. The Historical Society is pleased with the design, and that no trees were to be removed.

Mr. Hunt thanked Mr. Stevens for the presentation. The Board would hear the proposal next month and the approval process should evolve as nicely as the middle school's.

**3. Greater Portland Council of Governments Presentation on Regional Transportation.**

Ms. Nixon introduced two long time staff members of the Greater Portland Council of Governments; John Duncan; Director of PACTS and Dave Willauer; Director of Planning and Transportation.

Mr. Duncan stated they had given this presentation on Destination Tomorrow in Yarmouth and Mr. Powers had invited them to give the presentation to the Planning Board.

Mr. Duncan gave a slide presentation on regional transportation. He stated PACTS (Portland Area Comprehensive Transportation Committee) is the federally mandated Metropolitan Planning Organization for the Portland region. Seven communities comprise PACTS: Cape Elizabeth, Falmouth, Gorham, Portland, Scarborough, South Portland and Westbrook. PACTS also has representatives from the Maine Department of Transportation, the Maine Turnpike Authority, the Greater Portland Council of Governments, the Regional Transportation agencies, the Federal Highway and Transit administrations and interested citizens and businesses.

Based on the 2000 U.S. Census, the PACTS region has expanded to include eight additional communities. Transportation issues in the communities of Biddeford,

Cumberland, Freeport, North Yarmouth, Old Orchard Beach, Saco, Windham and Yarmouth will be addressed.

*Destination Tomorrow* is a work in progress. This regional vision needs public involvement to make it successful.

The principal recommendations of *Destination Tomorrow* are:

- Work to achieve region-wide transportation solutions to ensure the area's economic health and quality of life.
- Establish the Maine Turnpike as the primary means for traffic traveling through our region and Interstate 295 for regional traffic traveling within our region.
- Maintain existing highway, bridge and transit systems, and avoid building new highways in the region.
- Coordinate land use decisions with transportation investments to ensure development is supported by an adequate transportation system, and develop incentives that promote compact land use.
- Upgrade our arterials to serve traffic safely and efficiently, and focus on critical intersections.
- Maintain our existing passenger transportation, pedestrian and bicycle facilities and services, and expand them when and where appropriate.

Mr. Willauer stated that Greater Portland Council of Governments receives federal funds to supply planning support. They have connected public travel in Portland with the web site transportme.org. PACTS is looking at the South Yarmouth exit, which does not have an entrance to go north.

Mr. Neagle stated the presentation was very interesting and informational, and asked about the focus on impact in Cumberland.

Mr. Willauer stated the Metro Bus route has been extended to West Falmouth Crossing, but there are no current plans to extend bus service to Cumberland. They have looked at extending bus service from Portland to Brunswick.

Ms. Howe asked if there was a State plan for connectivity of roads.

Mr. Willauer stated two studies have been done in Falmouth to look at interconnected street opportunities.

Ms. Howe asked why Strategy 56, to support residential development along major arterials.

Mr. Duncan stated the study is certainly to keep mixed use.

Mr. Ward commended the committees for future planning. He spent forty years in Silicone Valley and witnessed transportation unable to keep up with growth. He asked if there were any plans for an interchange in West Cumberland near the Burger King.

Mr. Duncan answered, not at this time.

Mr. Powers thanked them for the presentation and hoped his fellow Board members found the information helpful. Communities in Southern Maine are struggling with growth and it is helpful to know the bigger picture is being addressed.

Mr. Hunt echoed Mr. Powers's thanks, and inquired about the feasibility for metro transportation along the Route One Corridor from Portland to Freeport.

Mr. Willauer stated they would conduct a feasibility and cost study.

Mr. Hunt stated with development of the Route 100 corridor, traffic from West Cumberland is funneled back to Route 9, if there were a connection to the Turnpike it may help with congestion in the center of Town. He also asked about expanding Yarmouth to a full interchange.

Mr. Neagle asked about the connection of Harris Road to Route 9.

Mr. Willauer agreed a Route One bus would be a good idea, and the surrounding communities could share in the cost as well as the benefit.

Ms. Nixon stated the developer for Cumberland Foreside Village on Route One is looking at the concept of "A Great American Neighborhood". There will be condos, and the Town is proposing 40-units of senior housing. It would be exciting to have access to public transportation.

Mr. Hunt thanked Mr. Duncan and Mr. Willauer for their presentation.

#### **F. Administrative Matters**

Ms. Nixon stated the Board members had received in their packets a Capital Improvement Plan from the Town. This is the first year the Town has made a concerted effort with a C.I.P. plan. The Planning Board is asked to review the proposed plan and advise the Town Council. The Planning Department has addressed some of the following issues: A bike path on Route 88, which is a State road and the Town would need State assistance: The Chebeague Groundwater Study, it is hopeful a grant will fund the implementation. Ms. Nixon stated she would like the Board to begin working on C.I.P. issues in late summer.

Mr. Hunt asked about the paper streets on Chebeague. The Board had said they would be completed by 2002.

Ms. Nixon stated she would check with Ms. Damon, Ms. Howe and the Island Committee.

#### **G. Adjournment – 9:15 p.m.**

**The Board adjourned to a Workshop on Road Design Standards**

Ms. Nixon reviewed the proposed changes to subdivision ordinance Table 8-2: Geometric Design Standards.

Ms. Howe asked what triggers the need for curbed or urban section?

Ms. Nixon stated the site walk gives a sense of the topography and drainage on the property. The review engineer gives an opinion of when under drains and curbs are necessary.

Mr. Hunt stated in previous reviews it has not been clear when hybrid roads are designed.

The Board will conduct one more workshop to address language in the ordinance to match the revised table.


Mr. Powers stated the Board is moving in the right direction to be consistent with road guidelines.

The workshop was adjourned at 9:30 p.m.

A TRUE COPY ATTEST:



Philip C. Hunt, Board Chair



Pam Bosarge, Board Clerk

**Planning Board Meeting**  
**Tuesday, March 16, 2004**  
**Council Chambers of the Town Offices**  
**290 Tuttle Road, Cumberland Center**  
**7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Present: Phil Hunt, Board Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle, and Terry Turner

Absent: Tom Powers

Staff: Carla Nixon, Town Planner, Nancy Decker, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of February 24, 2004 with technical corrections.  
Phil Hunt seconded VOTE: UNANIMOUS

**D. Consent Calendar / Deminimus Change Approvals**

Advisory recommendation – required by Section 410 of the Zoning Ordinance “Extraction of Earth Materials” for an annually renewable special permit from the Zoning Board of Appeals; Tax Assessor Map R07, Lot 48, Town of Cumberland, applicant.

The gravel pit has been operating since 1994; the last several years there have been no public objections or comments.

**The public portion of the meeting was opened.**  
**There were no public comments.**

Ms. Howe moved to grant the Town of Cumberland’s application.  
Mr. Ward Seconded. VOTE: UNANIMOUS

**E. Hearings and Presentations**

**1. Public Hearing – Minor Site Plan Review and Section 433 – Telecommunication Facilities, to locate a telecommunications antenna and equipment within existing facilities and steeple at Cumberland Congregational Church, 286 Main St.; Tax Assessor Map U11, Lot 48 in the MDR district; United States Cellular applicant, Cumberland Congregational Church owner.**

## REQUEST

Ms. Nixon presented background information as follows: The applicant is Florida RSA #8, LLC (United States Cellular.) The agent is William H. Fricke, of LCC International. OEST Associates of South Portland, Maine prepared the site plan. The applicant has entered into a lease agreement with the Cumberland Congregational Church to replace its existing steeple with a new steeple made of a different material which will more easily permit the transmission of radio frequencies. The applicant will lease space in the steeple and the church basement for the related equipment. The Cumberland Congregational Church is located at 286 Main Street. Tax map U-11, Lot 48 in the MDR zone.

The Planning Board is asked to conduct a minor site plan review under Section 206, and review for compliance with Section 433.1 Telecommunication Facilities. At the February meeting, the Board found the application complete and granted the requested waivers. Tonight the Board will review the application for approval.

## PROJECT DESCRIPTION

- A. Replicate the existing steeple at the Congregational Church.
- B. Place three (3) cellular telephone antennas within the steeple at a height of approximated 67'-68'.
- C. Renovate existing interior space in the basement of the church to provide a separate room in which to locate telecommunication equipment.
- D. Install telecommunications equipment (three cabinets) in the church basement, and install power and telephone service to the equipment.
- E. Connect the equipment in the basement to the antennas in the steeple by means of concealed coaxial cable.

Mr. Neagle reminded the Board that he is a member of the Congregational Church. The Board last month agreed that he could hear this matter.

Barry Hobbins is an Attorney with Hobbins and Gardner. He stated the plans were prepared by OEST and Associates and were commissioned to do what is known as a Stealth application of a wireless telecommunications facility. He presented some background information to the Board: United States Cellular is new to the marketplace. They are attempting to do a build-out in Cumberland and York Counties. For the purpose of their license requirements, they are required to build out their system within a certain period of time. We are attempting to use a stealth application rather than use the norm of building a new structure to house antennas or to co-locate on an existing wireless telecommunications facility.

He explained that this is something we will find more in the future---the use of hiding the antennas in an existing structure. The company that would do this is known as Stealth Concealment Solutions.

Mr. Hunt asked if there were questions from the Board.

Mr. Neagle stated he thought it was a great plan. He asked Mr. Hobbins what is the danger (in laymans terms) of radio-active frequencies.

Mr. Hobbins stated the health and safety issues are not to be considered by a determining Board, if in fact the facility is within the appropriate guidelines. However, it was one of the concerns raised by the Church and the Board. "We provided an evaluation of the potential levels that would be emitted at this site. As I mentioned before, it is below 1.7% of the maximum levels that are allowed. In the report there is an engineering statement that outlines the power density calculations."

Mr. Couillard also agreed that this is a good plan. He asked if you are standing close to the church, and you look up, would you be able to see the antennas?

Mr. Hobbins stated that it would be hidden within the steeple. It will look exactly the same as it does now.

Mr. Turner made reference to page 11 of the Planner's review, Section 433.3; paragraph A requires a report from a registered professional engineer. It is just left blank, is there some reason why a report was not given?

Mr. Hobbins stated that OEST and Associates stamp all the plans.

Ms. Nixon stated that their structural report encompasses that piece. She had just neglected to put a finding under that sub-section.

Mr. Hunt asked if there were members of the public who wish to be heard on this application.

Mr. Peter Bingham represents the Cumberland Congregational Church and has been working with this group of people for a while now. The church initially had 3 concerns when this was proposed. The first being the aesthetics of the steeple, the second was the safety issues. One of the main reasons for this was that the church houses the Cumberland Nursery School. The third was the issue of taxation and their non-profit status. These issues were also taken to the Church Council in October; all the issues have been answered and dealt with to the Church's satisfaction.

Mr. Hunt asked Ms. Nixon to review the findings.

Ms. Nixon stated she adjusted the findings in Section 206.8.

#### Section 433.4

433-Space and Bulk Standards. Most of the items are not applicable given that it is a stealth location. Ms. Nixon added the structural report to the area that Terry Turner suggested. Everything else has been submitted.

Ms. Nixon has proposed some recommended conditions of approval.

Mr. Hunt reviewed with the applicant the following:



## SECTION 206.8 – Approval Standards and Criteria

### Sec. 206.8

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.

#### .1 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.

*Due to the stealth location of the facilities, the above standards have been met.*

#### .2 Traffic Access and Parking

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use, which generates less than one hundred (100) vehicle trips per day, shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

***Since the applicant will use an existing parking area, the standards of this section have been met.***

### .3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

***Since the applicant will use an existing parking area, the standards of this section have been met.***

#### .4 Internal Vehicular Circulation

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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

***Since the applicant will use an existing parking area, the standards of this section have been met.***

#### .5 Parking Layout and Design

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

- .3 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

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

***Since the applicant will use an existing parking area, the standards of this section have been met.***

.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 will be minimal pedestrian traffic generated due to this proposal. Existing parking and walkways can be used. The standards of this section have been met.***

.7 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.

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

- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff, which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

***There will be no impact on stormwater due to the use of an existing facility. The standards of this section have been met.***

.8 Erosion Control

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
- .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for

Construction: Best Management Practices, dated March 1991, and as amended from time to time.

***There are no changes being made to the site which pertain to erosion control. The standards of this section have been met.***

#### .9 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.

***There is no need for a water supply. The standards of this section have been met.***

#### .10 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.

***The use will not generate any need for sewage disposal. The standards of this section have been met.***

#### .11 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.

***The applicant will utilize existing utilities. The standards of this section have been met.***

#### .12 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.

***There are no changes being made to the site which would impact groundwater. The standards of this section have been met.***

### .13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater's 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.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

***There are no changes being made to the site which will impact water quality. The standards of this section have been met.***

### .14 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.

***The applicant has submitted a quarterly report detailing the financial capacity of the company. The plans have been prepared by licensed engineers and surveyors which demonstrates that the applicant has the technical capacity to carry out the project. The standards of this section have been met.***

### .15 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.

***This project will not impact any historic or archaeological resources due to its location in an existing facility. The standards of this section have been met.***

### .16 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 in a flood hazard area. The standards of this section have been met.***

#### .17 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 being made to the site which pertain to lighting. The standards of this section have been met.***

#### .18 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.

***There are no changes being made to the site which would require buffering. The standards of this section have been met.***

#### .19 Noise

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

***There are no changes being made to the site which will generate noise. The standards of this section have been met.***

#### .20 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 is no storage of materials required. Any refuse will be taken off site with the technician. The standards of this section have been met.***

.21 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.

***There are no changes being made to the site which pertain to landscaping. A waiver was granted to the applicant. The standards of this section have been met.***

.22 Building and Parking Placement

- .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.
- .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.

***There are no changes being made to the site which pertain to building and parking as an existing facility is being used. The standards of this section have been met.***

Mr. Turner moved to approve the Section 206.8 findings as recommended by the Planner.  
Ms. Howe seconded. VOTE: UNANIMOUS

**Waivers requested from Section 433.4 - Space and Bulk Standards:**

**WAIVER PROVISION**

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 433.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally

determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

### **SECTION 433.3 – TELECOMMUNICATION FACILITIES**

**NOTE: THE APPLICANT BELIEVES THAT THE ISSUES ADDRESSED BY THIS SECTION ARE LARGELY INAPPLICABLE TO A "STEALTH" INSTALLATION AND REQUESTS A WAIVER OF ALL AREAS THAT ARE NOT ADDRESSED BY THE SITE PLAN.**

- (a) *A report from a Registered Professional engineer in the state of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number, type, and volume of antenna that it can accommodate and the basis for the calculations*

**A structural report from Sterling Engineers was submitted.**

- (b) *Written approval from all applicable state and federal agencies, including but not limited to the FAA and FCC including a description of any conditions or criteria for approval, or a statement from the agency that no approval is required.*

**U.S. Cellular has submitted a copy of the FCC license REGISTRATION #0008710014, which is effective from 6/18/03 to 5/23/05.**

- (c) *A letter of intent that commits the tower owner and his successors in interest to: Respond in a timely manner to a request for co-location and negotiate in good faith.*

**U.S. Cellular is not the owner of the structure.**

- (d) *Proof of financial capacity to build, maintain and remove the proposed tower.*

**U.S. Cellular has provided (Tab #9) its company's quarterly report.**

- (e) *An inventory of all the provider's existing and approved towers, antennas or sites within the Town of Cumberland and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.*

**U.S. Cellular has submitted (Tab # 5) a partial network build out map.**

- (f) *Photos of the site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties.*

**U.S. Cellular has submitted photos of the building, steeple and foundation.**

- (g) *Landscaping plan-reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.*

**U.S. Cellular received a waiver for a landscaping plan due to this being an existing structure.**

- (h) *Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.*

**U. S. Cellular has provided site drawings including elevation drawings prepared by Michael S. Deletestsky, P.E.**

- (i) *Detail of the method of attachment to a structure. If the facility will be attached to an existing structure, provide measurements and elevations of the structure.*

**U.S. Cellular has provided measurements and elevations of the structure, however structural details are proposed to be provided at the building permit stage.**

- (j) *A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will change visually. The analyses should include before and after analyses of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be give to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically, those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in His review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area and identify and include feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.*

**U.S. Cellular received a waiver, as this is an existing structure.**

- (k) *Identify any other telecommunication facilities existing or proposed on the site.*

**There are no other cellular communication facilities existing or proposed on this site.**

- (l) *Details of all accessory structures including buildings, parking areas, utilities, gates access roads, etc.*

**U.S. Cellular received a waiver, as this is an existing structure.**

- (m) *Structural Requirements:*

- (1) *Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.*
- (2) *The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/SIA/TIA 22 for Cumberland County relative to wind and ½" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.*
- (3) *For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower for antennas and their accompanying equipment.*

**NOTE: U.S. Cellular has stated that they typically do not develop structural designs until a site receives approval by the Planning Board. They will be provided more information than we currently have as of 2/3/04, but ask that the Board permit approval subject to the CEO approving the structural design as submitted and certified by a licensed professional engineer as part of the building permit process.**

#### **SECTION 433.4 SPACE AND BULK STANDARDS**

- a. Tower Height

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"HC" Highway Commercial; "LB" Local Business, and "IB" Island Business:  
175 feet

***Existing Structure***

b. Antennas

(1) Height

Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed the following maximum heights:

"RR1 & RR2" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential, "IR" Island Residential, "I" Industrial, "OC" Office Commercial; "RI" Rural Industrial; 150 feet

*Existing Structure*

(2) Mounting and dimensions

The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:

(a) Whip antennas shall not exceed 20' in length for an individual antenna and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.

(b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24", with no single dish being more than 8" in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.

(c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length or 2' in width.

*Existing Structure*

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

*Existing Structure*

d. Setbacks

(1) All wireless communications towers shall be setback from any lot lines a distance equal to at least 125% of the tower height.

(2) Equipment facilities shall meet the required District setbacks.

- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.
- (5) There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

*Existing Structure*

4. CO-LOCATION REQUIREMENTS

a. On existing towers

- (1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/ or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice, which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence shall be documentation from a qualified and licensed professional engineer that:

(a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

(b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost:

- (c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment place or approved; or
  - (d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.
- (2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
  - (3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
  - (4) The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Cumberland.

**U.S. Cellular is not proposing a new tower. Above is NA.**

b. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 433.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

**U.S. Cellular is not proposing a new tower. Above is NA.**

5. INTEREST OF TELECOMMUNICATION ENTITY

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities, which are contracted to locate on the tower, must join as applicants.

N/A

## 6. DESIGN STANDARDS

### a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to, having a galvanized finish, being painted "flat" blue gray or in a sky tone above the top of surrounding trees and earth tone below treetop level.
- (2) Equipment facilities shall be adjacent to the tower base unless an alternate location will be less visually obtrusive or topographic considerations require an alternative location.
- (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.
- (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.
- (5) Manually operated or motion detecting security lighting is permitted.
- (6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and / or community features).
- (7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility as needed, to reduce the potential for trespass and injury.

N/A

### b. Antenna arrays

Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

**Interior steeple location. Not visible.**

## 7. LOCATION



- a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.  
N/A
- b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.  
N/A

8. ADDITIONAL STANDARDS AND CRITERIA

- (a) Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
- (b) Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- (c) Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

**By locating in an existing structure, U.S. Cellular is utilizing creative measures to camouflage their proposed facilities.**

9. WAIVER PROVISION

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 433.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

Mr. Hunt moved to make the findings under 433.3 as recommended by the Planner

Mr. Turner moved to approve.

Ms. Howe seconded.

VOTE: UNANIMOUS.

Mr. Hunt made the motion to grant site plan approval for this steeple antenna at the Cumberland Congregational Church.

Mr. Turner moved.

VOTE: UNANIMOUS

Proposed conditions of approval:

1. The standard condition that it is dependent on the materials submitted and there will be no change without the planning boards further approval.
2. The implementation of the proposal will comply with any additional requirements that this board adopts.
3. The fees be paid prior to issuance of the building permit and the Code Enforcement Officer must review and approve the structural design as submitted by a licensed engineer prior to the issuance of a building permit.

Mr. Hunt asked if it was the sense of the Board to adopt those conditions.

Beth Howe moved.

Terry Turner seconded

VOTE: UNANIMOUS

**2. Application Completeness – Minor Site Plan Review and Section 433 – Telecommunication Facilities, to install 6 antennas at the top of a 9’ height extension to the existing tower at 149 Range Way, Tax Assessor Map R03B, Lot 19, in the RR2 district, U.S. Cellular applicant, SBA Properties, owner.**

Ms. Nixon reviewed the application:

**REQUEST:**

The applicant is Florida RSA #8, LLC (United States Cellular.) The agent is William H. Fricke, of LCC International. Oest Associates of South Portland, Maine prepared the site plan. The applicant is requesting approval for the co-location on the SBA Range Way tower; Tax Assessor Map R07, Lot 48.

The Planning Board is asked to conduct a minor site plan review under Section 206, and review for compliance with Section 433.1 Telecommunication Facilities. Tonight the Board will determine if the application is complete, and decide on which, if any, waivers shall be granted.

**PROJECT DESCRIPTION:**

- To extend the height of the existing telecommunications tower owned by SBA from 190’ to 199.’
- To install six antennas at the top of a 9’ height extension to the existing 189’ tower
- To construct an equipment pad of 11’ x 12’ and place a shelter of 10’ x 12’ for electronic equipment on the ground at the base of the tower.
- To connect the antennas and equipment by means of coaxial cables running down the tower, under an ice bridge and to the shelter.
- To bring telephone and electric power underground to the shelter.

**Planner's Review:**

1. The structural analysis submitted states that the tower is not adequate to support the existing and proposed appurtenances. I have discussed this with Barbara McPheters, Code Enforcement Officer, and she said that the Planning Board could continue to review and approve the application on the condition that the applicant be permitted to make the necessary reinforcements to the tower and then provide evidence from the structural engineer that it has been done in accordance with the design submitted by Sterling Engineering and Design Group. This would be done prior to the issuance of a building permit.
2. As for the height extension, the town attorney and the Board of Appeals have determined that a variance is not required since under Section 433.4.d states that *"in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting."*

Ms. Nixon made note to the attached letter from the town attorney for the Board to review.

Mr. Hunt asked if there were any questions from the Board.

Mr. Neagle asked where the Natalie Burns opinion is?

Mr. Nixon stated it was included in your packet. (Letter was found by Mr. Neagle)

Mr. Neagle asked who is Sterling Engineering and Design Group? Do they work for the town or the applicant?

Ms. Nixon stated that they work for the applicant. The town would need to hire a peer reviewer. She has talked to Tom Saucier of Sytdesign and feels confident there will be someone qualified to do this review.

Mr. Neagle asked if this is a self-supporting tower? Does this tower tend to crash when it falls or does it collapse?

Mr. Hobbins stated it is a self-supporting lattice tower. It falls like an erector set.

Mr. Hobbins also stated that they have complied with the provisions of Section 206 of site plan review. SBA Tower Company owns the tower. SBA will not allow US Cellular on the tower unless structural changes are made. The tower has reached its maximum load and will need to be modified in order to house these antennas. Mr. Hobbins reviewed information included in the Planning Board Package. "We request that the application be deemed complete and that the waivers be granted so we can progress to a public hearing."

Mr. Hunt asked if there are members of the public that would like to speak on this item? "We will not make any decision on this tonight." No comments from members of the public.

The Board reviewed waiver requests for Section 206.7.3 Existing Conditions. No waivers were granted.

Mr. Neagle asked about the landscaping (Section 206.7.4.5). Suggested that whatever new structure will be there, should be landscaped.

Mr. Hunt stated that a landscaping plan should be addressed. "We should make sure we have in our packet the plan materials from the previous approval so we can satisfy ourselves on these boundary issues."

Mr. Hunt asked if other than the landscaping issue, is the application complete?

Ms. Nixon stated it was.

Mr. Hunt asked if it was the sense of the board we find the application complete and move onto a public hearing.

Ms. Howe moved.

Mr. Turner seconded.

VOTE: UNANIMOUS

Mr. Hunt stated that with acceptable tower renovation, of course, we will go on for a public hearing to consider that.

**3. Application Completeness – Site Inventory and Analysis – Major Site Plan – Greely Jr. High School Renovations, 303 Main St.;** Tax Assessor Map U11 Lot 1, M.S.A.D. # 51 owner, S.M.R.T. Engineers representative.

#### **REQUEST**

The applicant is MSAD #51. Paul Stevens, Principal, SMRT Architecture, Engineering and Planning, is the representative. Delucca-Hoffman prepared the site plan. The applicant is requesting review of the Site Inventory and Analysis for renovations and an addition to the existing Greely Junior High located at 303 Main St., Tax Assessor Map U11 Lot 1.

As per Section 206.6.3 (Site Inventory and Analysis Review Procedure-Major Developments Only), *The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board...The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers.*

#### **PROJECT DESCRIPTION**

1. The proposed work involves the existing junior high buildings facing Main Street. The project will include the Gyger Gym and the ca. 1980's gymnasium, and associated site work. The Greely Institute building and adjacent 50's era classroom building is not included in this project.
2. The proposed renovations and additions focus on conversion of existing spaces to use for the performing and music programs of the high school in anticipation of the relocation of the junior high school population to the new facility nearing completion at the southeast end of the campus.

3. Site development will include removal of the existing continuous vehicular access in front of the junior high buildings and replacement with pedestrian walkways. 35 parking spaces have been displaced, 31 spaces are provided in the front parking area, and 4 spaces have been added near the loading access area. There is no net loss of parking proposed.
4. Three of the five portable classrooms currently located between the junior and senior high school buildings will be removed, and a large portion of the pavement under them. There is a net reduction of approximately 5,000 s.f. of impervious surface.
5. New mechanical, electrical, plumbing and fire suppression systems will be included as part of the project.
6. Stormwater drainage on the site is anticipated to remain basically "as-is: with the exception of possible new drains in the area between the junior and senior high to accommodate surface and roof drainage.
7. New landscaping and pedestrian level lighting where required will complete the new work.

Mr. Paul Stevens from SMTC reviewed the master plan of the site previously approved by the Planning Board. The potential path was discussed previously. The Site Inventory and Analysis requirements were reviewed with the Board.

Mr. Neagle stated his concern about the lack of a pathway from the lower fields.

Mr. Stevens stated they are working on that. "There is no easy way to get up the hill. We will include this as part of the project. We plan to show the Board how one will walk up the hill from the soccer field to the door."

Mr. Hunt asked members of the public if there were any comments.

Mr. Bob Vale stated that any contemplation of foot traffic between the middle school to the existing junior high would end up at the Mable I. Wilson School first. It is a bit of a stretch to say that any traffic will build up at the middle school. Please keep in mind that any expense placed upon this is placed upon all of us as taxpayers.

Mr. Hunt also suggested that the walkway should be made safer. This is not a major addition to make this project work, but we will come up with a cost effective way to do this.

Mr. Hunt stated the site analysis is complete and ready to go to the next phase of submitting an application for the next meeting.

Ms. Howe moved

VOTE: UNANIMOUS

**4. Application Completeness – Minor Site Plan Review – Parking and site improvements at the Foreside Community Church at 4 Foreside Road, Tax Assessor Map U01, Lot 2A. in the LDR district, Mohr & Sereidin Landscape Architects, applicant, Foreside Community Church, owner.**

**REQUEST:**

The applicant and owner is the Foreside Community Church. Steven Mohr of Mohr & Seredin Landscape Architects is the representative. Mohr & Seredin prepared the site plan. The applicant is requesting minor site plan review of proposed parking and site improvements on Lots 1 & 2A located at 4 Foreside Road, Tax Assessor Map U01 Lots 1 & 2A.

## **PROJECT DESCRIPTION**

- (a) The Church is proposing to remove an existing house, garage and driveway on Lot 2A in order to construct a new parking lot and related improvements to supplement the existing parking at the church.
- (b) The proposal is to revise the existing on-site circulation and parking by creating a one-way vehicular pattern that accesses two parking areas.
- (c) The new layout creates a 26-car parking lot on the 4 Foreside Road lot, and reconfigures the existing lot into a one-way, exit only parking lot and driveway.
- (d) Both lots will have 60 degree angled parking, and a new drop-off zone will be created at the front door of the church.
- (e) A total of 70 parking spaces will be provided in the new parking areas.
- (f) Access to the cemetery and the rear of the property will remain as existing, with a driveway through the parking area adjacent to the church. The internal radii have been sized to accommodate service vehicles for access to the cemetery.
- (g) Two new sidewalks will provide access from the parking lots to the front doors of the sanctuary. This will separate pedestrian and vehicle traffic and create a pedestrian drop-off and pick-up area at the front door of the church.
- (h) The proposal includes plans for revised lighting of the walkways and parking areas.
- (i) The plan includes street tree plantings and the installation of a buffer at the easterly property line abutting a residential use. Additional planting will be placed along Route 88 and in the center island between the two lots to screen the parking.

## **PROJECT HISTORY**

On February 12, 2004 the Cumberland Board of Appeals approved the special exception application for the Church's use of the 4 Foreside Road property for a parking lot.

Ms. Nixon stated there currently is not an easement for the public or Town to get to the cemetery, which is owned by the town, not the church. The applicant is agreeable to adding a formal easement to protect that access.

Mr. Mohr reviewed the plans and gave a brief summary of project description.

Mr. Neagle asked if approval from Falmouth was required.

Mr. Mohr stated that because the actual pavement stays exactly where it is in Falmouth, and it is a restriping, it is considered maintenance.

Mr. Couillard mentioned the drop off area. Stating it appears that it might block traffic coming out of the parking lot.

Mr. Mohr stated this is the one weakness of this plan. "We've tried to manage that with pavement width. We still think it is safer to keep it a one way."

Ms. Howe stated that the plan is well thought out. The lighting is significantly better than the previous lighting. Ms. Howe also commented to the church stating she thought that it is entirely inappropriate to buy a house, tear it down, and make a parking lot for 70 cars.

Mr. Turner stated in defense of the church that there are a lot of cars parked in the street. The parking lot is really needed. "My concern is the one way in and one way out, dropping off, will cause mayhem. What is the encroachment issue?"

Mr. Mohr stated that in this part of town, when the lots were laid out in the 1820's there was a slight angle put on everything, so that the Foreside Community lot actually encroached onto the Wayner lot in a pie shaped fashion towards the rear. "All the lots are cantered slightly to the northeast. We've resolved that with the church and the Wayners. There is the same issue with the encroachment to the Wayner lot to the Sawyer lot. Mrs. Sawyer's garage is on the Wayner lot. We are going to deed back to her that wedge shaped piece of land, so that she will now control her driveway and her garage."

Mr. Turner stated that the one way might keep people from parking in the lot and keep them on the street due to the congestion in the lot.

Mr. Mohr stated that the final analysis from the congregation seems that the pickup/drop off will be limited to special occasions. There is another drop off area for special needs people.

**The public portion of the meeting was opened.  
There were no public comments.**

Mr. Ward asked Mr. Mohr about the buffer of lilacs to the north.

Mr. Mohr stated that they are proposing 32-36 new 6' lilacs in a hedge form down the property line. "We discussed this with Ms. Sawyer, she decided on the lilacs rather than a fence."

Mr. Hunt asked Ms. Nixon if this application is complete and in order for a public hearing.

Ms. Nixon stated that the only requested waiver by the applicant is the one on the traffic.

Mr. Hunt motioned to find complete and move onto a public hearing.

Mr. Turner moved                      Mr. Couillard seconded                      VOTE: UNANIMOUS

**5. Sketch Plan – Major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07, Lot 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P. E., Sebago Technics, Normand Berube Builders, Inc., owner.**

Ms. Nixon gave background information on this issue:

This application came forth back in the spring. The applicant ran into some problems with their access location. Initially they had proposed an access on Blackstrap Road. Blackstrap Road is a

state road and is classified as an arterial. The DOT is trying to limit access on these roads so the flow of traffic will not be impeded by multiple developments. The DOT access guideline said that if there is an alternate location for an access point, that one should be used. Those of you that went on the site walk, will recall, that up on the far end there is a right of way that will come out onto Poplar Ridge Road, which is located in Falmouth. The Board tabled the application pending the applicant's ability to work with the DOT. It has taken them a number of months and the applicant has acquired the DOT permit allowing them to enter off Blackstrap Road. There is no proposed road that will come back into Poplar Ridge. Ms. Nixon did not write a cover letter as the cover letter the applicant provided was a very good outline of what they are now trying to do. The applicant was hoping to come in for a preliminary review; however, Ms. Nixon asked that they come back for sketch plan. The Board prefers the cluster plan.

Jeff Amos is an engineer with Sebago Technics. He is representing Norman Berube Builders for Old Colony Estates. He reviewed the plans with the Board. He stated that Blackstrap Road is classified as a collector according to the state. The primary issue with getting the permit was getting the sight distance on Blackstrap Road. In order to gain proper sight distance, the applicant is proposing to blast a section of the ground surface to provide 450 ft of sight distance, which meets the DOT's criteria. After further review and speaking with the town of Falmouth, it became clear they would not support access through Poplar Ridge Road for several reasons. The major issue is that the residents did not want the extra traffic. The Town Planner of Falmouth believed that a cross connection as either a primary or secondary entrance could cause confusion for services such as plowing, mail delivery and fire and rescue.

Mr. Neagle asked if the common space on Blackstrap Road shows a residence.

Mr. Amos stated it is an old auction house; the understanding is that building will be removed.

Mr. Couillard stated that the backside of this development abuts swamp/wet property. "How are the septic systems going to affect that land? How close are you to the trails?"

Mr. Amos stated that they could provide a nitrate analysis if required to prove that it will not be polluted. He is not sure how close to the trails the land is.

Mr. Couillard asked about a CMP right away, its not shown on the map.

Mr. Amos stated they are in the process of getting it turned over to the property owner.

Mr. Couillard is very concerned about the septic systems, stating that there have been problems in this area before. There are a lot of houses in a small area. The pollution will be a major concern.

**The public portion of the meeting was opened.**

Robert Maloney of Maloney Ridge Way stated he is glad to see the curve up there cleared up. It will be an asset to this road. He is very concerned about the runoff. He stated he gets all the runoff from that property. He also stated that several years ago, the Cumberland County Soil Service stated to him that there is a total of 1200 acres of impervious soil. If 14 plus houses are to be put onto 2-3 ft. of ground or build it up with fill or leach fields, he feels that 4-5 years from now the sewage will end up down on his property.

Bob Simons of Bruce Hill Road asked: "How many lots 19 or 14? What is the average lot size? What is the length of road?"



Mr. Amos stated that Phase 1 is 14 lots but the total build out is proposed to be 19. The road is 1800 ft. The lot sizes are between 1.5-2.5 acres. He discussed stormwater issues that were brought up.

Ms. Geraldine Sanchez of 6 Blackstrap Road raised the issue of the buffer. She referred to a discussion of keeping a lot of the open areas so the development could not be seen from Blackstrap Road. The common area does not have a lot of planting; you will be able to see the houses from Blackstrap Road.

**The public portion of the meeting was closed.**

Mr. Hunt stated he expects the applicant to be back with their plans for the next month, with application ready for completeness review. The Board would like to conduct a site walk. The Board agreed to do a site walk before the next meeting on April 20 at 6pm.

**Public Hearing – Consideration of proposed Capital Improvement Plan for Town of Cumberland.**

Ms. Nixon discussed the Capital Improvement Plan (CIP). The Planning Board is asked to review and provide some input to the Town Council on the adoption of the CIP. This is the first year that the Town has put together a comprehensive plan that encompasses all the various departments. Ms. Nixon asked if any member of the Board has any questions with what is being proposed?

Mr. Couillard stated it was a good idea to have a five-year plan, but found it surprising that some of the accounts, i.e. replacing vehicles, building maintenance, etc. do not have a budget item to build on every year. "I would think that every year they would put monies in these accounts for things to be done. I see a lot of #1's that need to be done. Priorities need to be set. What do we really need versus what do we really want." He questioned Val Halla's operating costs. "If it is not returning profits to the town or at least has been able to take care of itself, why do we keep it?" There is a budget item for an outdoor swimming pool, at least in Maine it should be enclosed. Build your budget on what you want down the road.

Ms. Nixon stated that The Town Council would be conducting a public hearing for the budget soon.

Mr. Ward stated he was not sure what Mr. Shane is really asking for. "I read through the plan extensively, it's a good approach, it gives broad visibility to department needs, but I ask myself what can we really contribute to it as a Planning Board? What is expected of us?"

Ms. Nixon stated that Planning Boards in most communities are asked to weigh in on this process because there is a feeling that whatever is funded should be consistent with the comprehensive plan for the town. The Planning Board is the board that has the most working knowledge of that plan and how these might apply to it. As the Planners of the community, what do we see as the needs of the community and are they being reflected accurately in this document.

Mr. Turner stated that all the departments seem to be looking for funds to build training facilities. "Looking at the money we are spending as tax payers to build new schools here, I would think that the departments could find training facilities in this school system. They are not operating the school at night, so there should be a lot of room. We should be sitting down with Mr. Shane to give input."

Mr. Hunt stated the Planning Board should be involved with the infrastructure piece, in particular with regard to the sewer development. Historically, sewer projects have been done to solve problems rather than to promote future development. The future extension of water lines is a matter of concern to us. It is always helpful to have the Portland Water District come in and inform the Board of their plans. The Route 88 paved shoulder issue has been a matter of concern, we should find away to get this updated as they did with Tuttle and Blanchard Road. In addition, recreation budget issues should be discussed.

The Board decided a meeting with Mr. Shane should be scheduled.

**ADMINISTRATIVE:**

Ms. Nixon asked The Board if the April meeting would be an issue, being that it is school vacation week.

The Board was fine with the date.

Ms. Nixon introduced Nancy Decker as the new Board Clerk.

Meeting adjourned at 9:15pm.

A TRUE COPY ATTEST:

  
Mr. Philip Hunt, Board Chair

  
Nancy Decker, Board Clerk

**Planning Board Meeting  
Tuesday, April 20, 2004  
Council Chambers of the Town Offices  
290 Tuttle Road, Cumberland Center  
7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:05 p.m.

**B. Roll Call**

Present: Phil Hunt, Board Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle, Terry Turner, Tom Powers

Staff: Carla Nixon, Town Planner, Nancy Decker, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of March 16, 2004 with technical corrections.  
VOTE: UNANIMOUS

**D. Consent Calendar / De minimus Change Approvals**

None

**E. Hearings and Presentations**

**1. Public Hearing – Minor Site Plan Review and Section 433 – Telecommunication Facilities**, to install 6 antennas at the top of a 9' height extension to the existing tower at 159 Range Way, Tax Assessor Map R03B, Lot 19, in the RR2 district, U.S. Cellular applicant, SBA Properties, owner.

Mr. Hunt stated that the board has found this application complete, there have been many antennas on this structure, and the Board is familiar with this site.

Ms. Nixon stated that the landscaping and buffering issues will need to be discussed by the Board. Over the years there have been many co-locating cellular entities that along with using the tower, also have small equipment shelters. There is a "mishmash" of shelters, fencing, wiring, towers, etc., with no landscaping or buffering. This may be the last cellular entity that will co-locate on this site. It appears that the Board would like some landscaping and buffering as a requirement of this application. The question to the Board is if we should require this applicant to provide landscaping and buffering to the entire site and whether this is appropriate to require, or do we look at some type of effort to be made to their site or a portion of the site.

Mr. Hunt asked if the Board had any questions for Ms. Nixon.

Mr. Neagle stated that this area may be a public way that will be traveled as part of a loop road and this is a rather unattractive area to see as part of a residential subdivision. He would be satisfied if the proposed shelter that is being added to the right side of the site had some kind of landscaping to make it look like the beginning of the woods.

Mr. Couillard feels that it should be the tower owner's responsibility to have the cellular entities required to landscape. Down the road this road will be developed. A request should be forwarded to SBA asking them to put something around the area.

Ms. Howe asked if SBA had a concern with the security of the tower, if plantings were grown around the fences or tower.

Ms. Nixon commented that she was not sure, but did not think they would be opposed.

Mr. Turner commented on the Fire Chief's comments regarding the money for equipment and training. The applicant is agreeable to whatever is necessary.

Mr. Ward suggested the we request a landscaping plan from the owner of the property and apportion it out to not only the applicant tonight, but the other cellular entities that are already on the site.

Mr. Hobbins of Hobbins and Gardiner is representing US Cellular. Also present is Mark Hartly, the project manager with US Cellular and Pam Chambers of LCC, the site acquisition specialist, who is negotiating the lease with the owner of the facility.

Mr. Hobbins discussed the proposed tower extension of 9'.

The applicant agreed to screen the area around their proposed shelter. He liked the idea that SBA send letters to the other carriers for contributions to help landscape the area. U.S. Cellular will provide something in its small area that will disguise the shelter.

Mr. Powers asked if this applicant is a tenant.

Mr. Hobbins stated yes, they are subject to a lease.

Mr. Powers asked if the lease has been executed.

Mr. Hobbins stated that it had been signed with conditions. One of the conditions of the commencement of the lease is the approval of the conditions by this Board.

Mr. Powers stated that any condition that is imposed by this Board presumably would become effective through the contract called the lease with the landlord/owner of the property.

Mr. Hobbins stated that he believed that the condition proposed by the board would be enforceable by the applicant and whether or not its enforceable to the owner/SBA is unclear to him.

Mr. Powers stated that the applicant may have some room to negotiate with the tower owner.

Mr. Hobbins stated that there is really no two way street when it comes to negotiations, because US Cellular has negotiated the terms and conditions on this area as did the other co-locaters.

Mr. Powers stated that the Board is merely trying to anticipate the future of this area.

Mr. Hobbins believes that landscaping this area will not enhance the site. He also stated he would have to go back to the owner and ask them if they would agree to this. The lease is essentially for the pad area to the tower and ingress/egress to the tower itself.

Mr. Neagle stated that he liked Mr. Ward's idea of screening the whole area, however, he does not feel it can be "pinned" entirely on this application. You can see this area from the road and its ugly. He would be satisfied if the side of the building is shielded from the street.

Mr. Hartly stated that they will screen their area, but would ask that the Board add a strongly worded statement asking SBA to work with US Cellular to find a way to screen the rest of the site. U.S. Cellular has some leverage with SBA as they rent properties from them in other parts of the country. US Cellular will guarantee to screen its area. We cannot guarantee that SBA will comply, but we will guarantee there will be a strong effort made on our part.

Mr. Hunt asked if there were any members of the public who wished to be heard. Mr. Raymond Rivera of 74 Rock Ridge Run stated that the he can see the tower from his home and it is very unsightly. Adding another 9 feet onto this tower will further decrease his property value. The Town is already increasing our real estate value and taxing us more and more. He is representing the neighbors in Rock Ridge. He said that we do not know what the long-term effects of microwave and micro magnetic fields are on our children. The tower is only 500 feet from our homes. He would like the Board to consider the long-term effects of adding more antennas.

Mr. Neagle asked Mr. Rivera to look at the bottom photo to determine how much of the tower is seen at his property.

Mr. Rivera stated that the picture was taken in such a way as to disguise how much of the tower is really seen. The neighborhood has a clear site of the tower.

Mr. Turner asked Mr. Rivera if the buildings could be seen from the neighborhood.

Mr. Rivera stated that they couldn't see the buildings due to the trees. His concern is not the buildings, but the height of tower, the possibility of a light being put on the top and the long-term effects of the microwaves being emitted.

Ms. Cathy Willauer of 85 Rock Ridge said she appreciates the efforts being taken for the landscaping. The issues are with the height, to add to the tower will devalue the properties in the area, which are assessed high. She had 15 neighborhood children playing in her yard today; she is concerned about "tempting" them to possibly climbing the tower in the future.

Mr. Hunt asked if there were any further questions from the public. Seeing none, the public portion was closed.

Mr. Hunt spoke briefly with regards to the height of these towers stating that the heights are defined by the Town's ordinance, there is a section in the Town ordinance that deals specifically with this issue. Section 433.4.d.4 states: Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.

We are proceeding under this presumption. The Board does not get to vote on this at all. This is a permitted activity under the terms of this ordinance.

Mr. Neagle sympathizes that it will make the view from the neighborhood more unsightly by adding the 9 feet, however none of the standards deal with neighboring property values or even views from the neighborhood. There is nothing in the ordinance that allows us to turn the applicant down. There are landscaping issues they must meet which they had asked us to waive, and we declined.

Mr. Hunt stated that the Board approved Rock Ridge subdivision at a time when the tower was already existing, knowing that Range Way existed as a potential road that may become a public way.

Ms. Nixon reviewed proposed findings of fact

## **.1 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.

***This proposal is to add 6 panel antennas to an existing tower. A relatively small equipment shelter will be placed on a concrete pad so no excavation is required.***

***Based on these facts, the standards of this section have been met.***

## **.2 Traffic Access and Parking**

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

***There are no proposed changes to the access and parking.***

***Based on these facts the standards of this section have been met.***

## **.3 Access way Location and Spacing**

Access must meet the specific ordinance requirements.

***There is no proposed change to the accessway location and spacing of the site.***

***Based on these facts the standards of this section have been met.***

## **.4 Internal Vehicular Circulation**

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

***There is no proposed change to the layout of the site.***

***Based on these facts the standards of this section have been met.***

## **.5 Parking Layout and Design**

Off street parking must conform to the specific standards.

***There is no anticipated demand for additional parking and no changes have been proposed.***

***Based on these facts the standards of this section have been met.***

## **.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 proposed changes to the site which would affect pedestrian circulation or safety.***

***Based on these facts the standards of this section have been met.***

#### **.7 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.

***Based on the review by SYTDesign Engineering, there will be no additional impact on stormwater. A waiver has been requested.***

***Based on these facts the standards of this section have been met.***

#### **.8 Erosion Control**

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

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

***There is no site work proposed which would require erosion control measures to be taken.***

***Based on these facts the standards of this section have been met.***

#### **.9 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.



*There is no need for a water supply.*

*Based on these facts the standards of this section have been met.*

#### **.10 Sewage Disposal Provisions**

The development must be provided with a method of disposing of sewage which 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.

*There is no plumbing or sewer proposed.*

*Based on these facts the standards of this section have been met.*

#### **.11 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.

*Page C-2 of the site plan depicts proposed underground electric and telephone lines. The applicant states that this will address the needs for this project and will not be obtrusive.*

*Based on these facts the standards of this section have been met.*

#### **.12 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.

*This activity does not involve any water or sewage disposal. The proposed activity will not impact groundwater.*

*Based on these facts the standards of this section have been met.*

#### **.13 Water Quality Protection**

All aspects of the project must be designed so that:

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

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

*No toxic materials will be created from this use.*

*Based on these facts the standards of this section have been met.*

#### **.14 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.

*The applicant has provided information, which shows proof of technical and financial capacity.*

*Based on these facts the standards of this section have been met.*

#### **.15 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.

*No portion of the site has been identified as containing such resources.*

*Based on these facts the standards of this section have been met.*

#### **.16 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 property is located in the Floodplain Overlay Zone C—areas of minimal flooding (Community-Panel Number 230162 0018 C) No special precautions are necessary in Zone C.*

*Based on these facts the standards of this section have been met.*

#### **.17 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.

*No new exterior lighting is proposed.*

*Based on these facts the standards of this section have been met.*

### **.18 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.

***Based on the type of use, buffering of the tower and antennas is not feasible, however the equipment shelters on site, within a chain link fence, could be landscaped to improve the appearance of the site.***

***With the acceptance of the proposed condition of approval, the standards of this section have been met.***

### **.19 Noise**

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

***The proposal will not generate any noise that would be audible to neighboring properties.***

***Based on these facts the standards of this section have been met.***

### **.20 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.

***This proposal does not generate any additional storage of materials outside. It will not increase solid waste disposal.***

***Based on these facts the standards of this section have been met.***

### **.21 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.

***There is no new landscaping proposed. A waiver has been requested. This has been addressed as a condition of approval.***

***With the acceptance of the proposed condition of approval, the standards of this section have been met.***

## **.22 Building and Parking Placement**

.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.

.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.

***There is no increase or change in location of the existing parking. This new use is expected to generate one or two trips per month.***

***Based on these facts the standards of this section have been met.***

## **SECTION 300 – AQUIFER PROTECTION (if applicable)**

***The use is not located in the Aquifer Protection district.***

Ms. Howe moves to accept the findings of fact.

Mr. Turner seconded.

Vote: UNANIMOUS

Ms. Nixon reviewed section 433.3 – telecommunication facilities-submission requirements.

- (a) *A report from a Registered Professional engineer in the state of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number, type, and volume of antenna that it can accommodate and the basis for the calculations*

**This is an existing tower. U.S. Cellular has submitted a structural report prepared by Sterling Engineering and Design Group. This report states that the tower structure and foundation is *not* adequate to support the existing**

**appurtenances and proposed appurtenances. This has been addressed in the conditions of approval.**

- (b) *Written approval from all applicable state and federal agencies, including but not limited to the FAA and FCC including a description of any conditions or criteria for approval, or a statement from the agency that no approval is required.*

**U.S. Cellular has submitted a copy of the FCC license REGISTRATION #0008710014, which is effective from 6/18/03 to 5/23/05.**

- (c) *A letter of intent that commits the tower owner and his successors in interest to: Respond in a timely manner to a request for co-location and negotiate in good faith.*

**U.S. Cellular is not the owner of the tower. Owner has agreed to co-locate, as evidenced by previous co-locations.**

- (d) *Proof of financial capacity to build, maintain and remove the proposed tower.*

**U.S. Cellular has provided (Tab #9) its company's quarterly report.**

- (e) *An inventory of all the provider's existing and approved towers, antennas or sites within the Town of Cumberland and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application.*

**U.S. Cellular has submitted (Tab # 5) maps showing the location of U.S. Cellular sites within Cumberland and the surrounding towns. They have also submitted a partial build-out map.**

- (f) *Photos of the site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties*

**U.S. Cellular has submitted photos of the site. Submitted 4/21/04.**

- (g) *Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.*

**U.S. Cellular requests a waiver for a landscaping plan due to the tower being an existing structure.**

**This has been addressed as a proposed condition of approval.**

- (h) *Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front,*

*sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.*

**Included in the Structural Report is a tower elevation for the proposed tower with improvements drawn by Sterling Engineering and Design Group. Oest Associates has provided an elevation drawing depicting the existing tower and the proposed extension. A proposed condition of approval would satisfy the need for elevation drawings of the proposed utility building.**

- (i) Detail of the method of attachment to a structure. If the facility will be attached to an existing structure, provide measurements and elevations of the structure.

**U.S. Cellular has provided measurements and elevations of the structure, however structural details are proposed to be provided at the building permit stage.**

- (j) *A visual analysis, which may include photo montage, field mock up, or other techniques, that identifies the potential visual impacts, at design capacity, of the proposed facility. This visual analysis shall include sufficient information for the Planning Board to determine how the proposed site will change visually. The analyses should include before and after analyses of the site from adjacent public views and roads as well as from adjacent vantage points. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically, those listed in the National Register of Historic Places or those that are eligible for such listing. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable communication facilities in the area and identify and include feasible mitigation measures consistent with the technological requirements of the proposed Wireless Communication Service.*

**U.S. Cellular requests a waiver from this requirement based on the fact that the tower exists. They have provided photos of the site including the buildings and parking area.**

- (k) *Identify any other telecommunication facilities existing or proposed on the site.*

**SBA is the tower owner. Several telecommunication companies are co-located on the tower. This information was submitted on 4/21/04.**

- (l) *Details of all accessory structures including buildings, parking areas, utilities, gates access roads, etc.*

**Information submitted on 4/20/04.**

(m) *Structural Requirements:*

- (1) *Telecommunication towers shall be designed and installed in accordance with the most current standards of the Electronic Industries Association (EIA) Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.*
- (2) *The applicant's engineer shall provide documentation showing that the proposed transmission tower meets or exceeds the most current standards of the American National Standards Institute ANSI/SIA/TIA 22 for Cumberland County relative to wind and 1/2" ice loads when the tower is fully loaded with antennas, transmitters, and other equipment as described in the submitted plan.*
- (3) *For towers or antennas placed on buildings or alternative tower structures (ATS), the applicant shall also provide written certification that the building or ATS itself is structurally capable of safely supporting the tower for antennas and their accompanying equipment.*

**NOTE: U.S. Cellular has provided a structural analysis and drawings depicting the type and location of antennas. The CEO will be approving the structural design as submitted and certified by a certified engineer as part of the building permit process.**

**A. SECTION 433.4 SPACE AND BULK STANDARDS**

a. Tower Height

Towers shall not exceed a height of one hundred (100) feet, except that where evidence of acceptable design and co-location is provided, the Planning Board may approve an additional twenty-five (25) feet of tower height per each additional wireless communication service co-locator, not to exceed the following maximum tower heights:

"HC" Highway Commercial; "LB" Local Business, and "IB" Island Business: 175 feet

**Existing Structure.**

b. Antennas

- (1) Height  
Installing antennas on alternative tower structures is permitted, provided the resulting alternative tower structure height does not exceed the following maximum heights:

"RR1 & RR2" Rural Residential; "LDR" Low Density Residential; "MDR" Medium Density Residential, "IR" Island Residential, "I" Industrial, "OC" Office Commercial; "RI" Rural Industrial;  
150 feet

### **Existing Structure**

- (2) Mounting and dimensions  
The mass and dimensions of antennas on a tower or alternative tower structure shall be governed by the following criteria:
- (a) Whip antennas shall not exceed 20' in length for an individual antenna and shall be limited to two (2) per mount, with no more than three (3) mounts at a given level.
  - (b) Microwave dish antennas. The aggregate diameters of microwave dish antennas mounted within a 20' vertical section of a tower may not exceed 24", with no single dish being more than 8" in diameter and 5' in depth, unless otherwise required per the path reliability and/or tower structural studies.
  - (c) Panel antennas. The horizontal centerline of all panel antennas of a single carrier must be aligned in the same horizontal plane, with each antenna not to exceed 8' in length nor 2' in width.

### **The design of panel antennas meets these criteria.**

c. Lot Area

A new wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record.

### **The lot area is conforming.**



d. Setbacks

- (1) All wireless communications towers shall be setback from any lot lines a distance equal to at least 125% of the tower height.
- (2) Equipment facilities shall meet the required District setbacks.
- (3) If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.
- (4) Notwithstanding the height and setback limitations within a zoning district, in order to accommodate the co-location of an additional antenna, a tower, existing as of (date of adoption) may be modified or rebuilt to a taller height, not to exceed a total maximum of thirty (30) feet more than the tower's height as of (date of adoption), but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks.
- (5) There shall be setback requirements for antennas mounted on alternative tower structures. The standard District setbacks shall continue to apply for alternative tower structures and equipment facilities, where applicable.

**This is an existing structure with a 9' height extension, which is permitted by ordinance, Subsection d above.**

4. CO-LOCATION REQUIREMENTS

a. On existing towers

- (1) Applicants for site plan review for a new wireless communication tower must send written notice by pre-paid first class United States mail to all other such tower and alternative tower structure owners and licensed wireless communication providers in the Town utilizing existing towers and alternative tower structures and to owners of such towers and alternative structures within a one (1) mile search radius of the proposed tower, stating their needs and/or co-location capabilities. Evidence that this notice requirement has been fulfilled shall be submitted to the Planning Board and shall include a name and address list, copy of the notice, which was sent, and a statement, under oath, that the notices were sent as required. An application for a new tower must include evidence that existing or previously approved towers and alternative tower structures within the Town and search area cannot accommodate the communications equipment (antennas, cables, etc.) planned for

the proposed tower. Such evidence shall be documentation from a qualified and licensed professional engineer that:

(a) Planned necessary equipment would exceed the structural capacity of existing and approved towers and alternative tower structures, considering the existing and planned use of those towers and alternative tower structures, and the existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;

(b) Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower or alternative tower structure, and the interference cannot be prevented at a reasonable cost:

(c) Existing or approved towers and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment place or approved; or

(d) Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers and alternative tower structures.

- (2) Shared use shall be conditioned on the applicant's agreement to pay a reasonable fee and costs of adapting existing facilities to the proposed use.
- (3) Once the Planning Board has determined that telecommunications equipment proposed by the applicant cannot be accommodated on an existing or approved tower or alternative tower structure, each tower or alternative tower structure so determined is presumed unable to accommodate similar equipment that may be proposed in the future unless the Board determines after additional information is provided, that new technology or other considerations enables the existing or approved tower or alternative tower structure to accommodate the equipment.
- (4) The Planning Department will maintain a list of existing and approved towers and alternative tower structures, including the name and address of owner(s), within the Town of Cumberland.

**U.S. Cellular is not proposing a new tower. Above is NA.**

- b. Construction of new towers

A proposal to construct a new co-located communication tower taller than the maximum height permitted for a single wireless communication service must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for each anticipated co-locating entity. (See Section 433.4 on Tower Height).

Prior to the issuance of any building permits for a co-located tower in excess of the height of a single user tower, the applicant will submit to the Code Enforcement Officer executed agreements documenting commitments to co-locate from the number of co-locators approved by the Planning Board.

**U.S. Cellular is not proposing a new tower. Above is NA.**

5. INTEREST OF TELECOMMUNICATION ENTITY

A proposal to construct or modify a wireless communication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless communication services. All wireless communication entities, which are contracted to locate on the tower, must join as applicants.

**An FCC license was submitted by the applicant.**

6. DESIGN STANDARDS

a. Wireless communication facilities:

- (1) Except where dictated by federal or state requirements, the Planning Board may require that a proposed tower be camouflaged or designed to blend with its surroundings. This may include, but not be limited to, having a galvanized finish, being painted "flat" blue gray or in a skytone above the top of surrounding trees and earthtone below treetop level.

**The proposed antennas will have a flat finish and be blue/gray color.**

- (2) Equipment facilities shall be adjacent to the tower base unless an alternate location will be less visually obtrusive or topographic considerations require an alternative location.

**The equipment facility is located adjacent to the base of the tower.**

- (3) Equipment facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

**The equipment shelter complies with this requirement.**

- (4) No obstruction painting or any lighting shall be permitted on any towers, except where dictated by federal or state requirements. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.

**There are no lights proposed.**

- (5) Manually operated or motion detecting security lighting is permitted.

N/A

- (6) The Planning Board may require special design of the facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and / or community features).

N/A

- (7) Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility as needed, to reduce the potential for trespass and injury.

**Existing tower and equipment shelters are located at the base of the tower within a secure compound surrounded by barb-wire-topped chain link fence.**

- b. Antenna arrays  
Antenna arrays located on an existing structure or alternative tower structure shall be placed in such a manner so as to not be visible from a ground level view adjacent to the structure. If, however, circumstances do not permit such placement, the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

**N/A-tower mount.**

7. LOCATION

- a. Wireless telecommunication facilities shall not be sited in areas of high visibility unless the Planning Board finds that no other location is technically feasible. For purposes of this section high visibility shall mean areas with no visual clutter such as trees and buildings. If the facility is to be sited above the ridgeline it must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.

**N/A- Existing Tower**

- b. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

**N/A-Existing Tower**

8. **ADDITIONAL STANDARDS AND CRITERIA**

- a. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.
- b. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.
- c. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

**By locating on an existing tower, U.S. Cellular is minimizing the negative effect that a new tower location would have.**

Ms. Howe moved to approve the findings under section 433.3 and 433.4 as recommended by the Planner.

Mr. Turner seconded.

Vote: UNANIMOUS

**WAIVER PROVISION**

The Planning Board, in its sole discretion, may modify or waive any of the submission requirements, application procedures, or standards of this Section 433.3 of this ordinance when it determines that, because of the type or size of the project or circumstances of the site, such requirements would not be applicable or would be unnecessary to determine compliance with the approval standards. The Planning Board must additionally determine that such modification or waiver would not adversely affect properties in the vicinity or the general safety and welfare of the Town. The burden of proof regarding any such modification or waiver rests solely with the applicant and must be shown to be consistent with federal and state law.

Notwithstanding the authority of the Planning Board to grant a waiver, in no instance may the height of a new tower exceed 250' or may the height of an alternative tower structure be increased to more than 250'.

**WAIVERS REQUESTED FROM SECTION 433.3:**

- (g) *Landscaping plan-reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.*

**WAIVERS REQUESTED FROM SECTION 207.7.3**

- .1 Boundary survey  
**n/a**
- .5 Location, dimension of ground floor elevation of all existing buildings  
**submitted.**
- .6 Location, dimension of existing driveways, parking, loading, walkways  
**n/a**
- .8 Location of drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, important or unique features, etc.  
**Granted.**
- .9 Direction of existing surface water drainage across the site and off site.  
**Granted.**
- .11 Location and dimensions of existing easements and copies of documents.  
**Granted.**

**WAIVERS REQUESTED FROM SECTION 206.7.4**

- .12 Stormwater calculations/erosion and sedimentation control plan, etc.  
**Granted.**

Mr. Powers moved to grant waivers from Section 206.7.3 and 206.7.4

Ms. Howe seconded.

Vote: UNANIMOUS

Ms. Nixon reviewed the recommended conditions of approval:

1. That the applicant, submit a landscaping plan, to be approved by the Planner\*, (either in conjunction with the tower owner, SBA, or on its own) that fully\* screens the proposed utility equipment shelter area from view of the adjacent, existing road. The Planning Board strongly encourages the owner (SBA) to screen existing shelters on this property.\*

\*Additional amendment by Mr. Neagle.

2. The structural report submitted by the applicant states that the tower structure and foundation is *not* adequate to support the existing appurtenances and proposed appurtenances. The applicant shall make the necessary reinforcements to the tower and then provide evidence from the structural engineer that it has been done in accordance with

the design submitted by Sterling Engineering and Design Group. This shall be done prior to the issuance of a building permit. \*This will need to be approved by the Town's Peer Reviewer.

\*Additional amendment by Mr. Neagle.

3. That the applicant provide payment in the amount of \$2,000 to the Cumberland Fire Department as a contribution to provide equipment and training specific to this tower location. This is to be done prior to the CEO's final approval of the project.
4. Implementation of the proposal shall comply with any additional requirements of the Planning Board.
5. That all fees be paid prior to the issuance of a building permit

Mr. Powers moved to adopt the conditions of approval 1-5.

Mr. Ward seconded.

Vote: UNANIMOUS.

Mr. Neagle moved to make a motion for site plan approval with the conditions approved by this Board.

Mr. Powers seconded.

Vote: UNANIMOUS

Mr. Hunt commented to Mr. Hobbins that he strongly urges landscaping on this site. It would be of great benefit to the Town if it were kept up.

**2. Application Completeness – Major Site Plan – Greely Jr. High School Renovations, 303 Main St.;** Tax Assessor Map U11 Lot 1, M.S.A.D. # 51 owner, S.M.R.T. Engineers representative.

Ms. Nixon found the application to be complete. All areas required by the ordinance have been submitted. Evidence of financial and technical capability is the area of concern at this time. Mr. Paul Stevens is here to address the Board on these issues.

Mr. Stevens of SMRT stated that earliest this project may go ahead is in September with a bond vote. Given that we are far along on this application we would like to go forward with a public hearing on May 18 and ask at this meeting get approved, with condition of approval, to provide the financial capacity letter at which time we have a bond vote. We are hopeful the project will still go forward.

Mr. Peter Bingham of the Renovation Committee and the School Board stated that there is some engineering work to do. It is our intention to go through with this project.

At the last meeting there were some issues with regards to a lighted path. The cost for a paved, lighted path is \$25,000. The majority being the lighting. Given the fact that we are dealing with a financial crunch, we'd ask that the Town work with us on this area- perhaps a crushed stone walkway with no lighting.

Mr. Hunt asks for a motion to move forward to a public hearing on May 18, 2004.

Ms. Howe moved.

Mr. Turner seconded.

Vote: UNANIMOUS

Mr. Hunt stated that the issue of the pathway would be addressed at the next meeting.

**3. Public Hearing – Minor Site Plan Review – Parking and site improvements at the Foreside Community Church** at Foreside Road, Tax Assessor Map U01, Lot 2A. in the LDR district, Mohr & Seledy Architects, applicant, Foreside Community Church, owner.

Ms. Nixon stated that this issue was tabled due to parking stall dimension concerns. They will be back next month with a corrected plan.

**4. Application Completeness– Major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road,** Tax Assessor Map R07, Lot 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P. E., Sebago Technics, Normand Berube Builders, Inc., owner.

Mr. Hunt stated that members of the Board conducted a site walk prior to this meeting. It has been advertised as an application completeness review however, there were some advertising deficiencies in the notice, thus we will not go to a Public Hearing, and we will consider this only from the standpoint of application completeness.

Ms. Nixon stated she reviewed the submission plan and has found that the application is substantially complete. There are some issues as follows:

1. The proposed road width is 20'. This is in conformance with a rural drainage design for a Residential Access road. They are proposing 4' gravel shoulders (again, in conformance). There is no byway, sidewalk or paved shoulder proposed for pedestrian use.
2. The applicant has not provided any information about water supply other than there will be private, drilled wells on each lot. The Board has the option of requiring a hydro-geologic study. I think this might be in order given the anecdotal information we have received about water supply in the area. We also will need assurance that the 100' well separation can be accomplished for each lot.



3. I have discussed with Mr. Bastion the probable need for plantings for buffering of surrounding parcels and also along Blackstrap Road.
4. I have also discussed with him the likelihood that a future road connection easement will be asked for. (It would connect to Poplar Ridge Road via the existing easement on the Falmouth side.)

Tom Saucier has not reviewed this plan as of yet.

Mr. Larry Bastion of Sebago Technics reviewed the issues mentioned above. He believes they would need some guidance with regards to the pedestrian walkway. He does not believe there will be a tremendous need for walking beyond the shoulder. He would offer for consideration a paved shoulder widened on one side would be adequate.

In reference to the hydro-geologic study, we are in the process of conducting a study. It will focus on the individual wastewater disposal systems. It is being prepared by Richard Sweet Associates. He is looking at the nitrate plumes from the septic systems and making sure these do not impact abutting properties and we locate our wells outside of those. We've also asked Mr. Sweet to look at some DEP wet monitoring that has been going on north of this property on the Pond Road. Apparently there was a spill in the last 8-10 years, they want to make sure there are no issues that would affect this property.

The proposal for water supply is to drill individual wells. It is a bedrock site, very shallow; we conducted a lot of tests, and have a good confirmation of the depths of the soils. Wells drilled into bedrock are a very common water supply in a subdivision in this area. We are not clear on what level of testing the Board will be comfortable with to assure this is an adequate water supply. Typically we would look at records of adjoining wells in the area. We are not aware of any problems of water supply in this area.

The two areas of concern with regards to the buffering issues are the view from Blackstrap Road up into the property, and the amount of vegetation along Mr. Desjardin's property. There is some thick growth that will screen the view from Blackstrap Road with the exception of the road cut that will go up through. Along Mr. Desjardin's property line, it is heavily wooded and buffered with the 75 foot required buffer. At the last meeting, Ms. Sanchez inquired about the screening and we have had some follow-up with her and have decided that white pines would be acceptable. She also expressed the issue of the drainage onto the rear of her property. We took a look at that after some heavy rain, we determined that the water was coming from off the property and down along Poplar Ridge.

Mr. Bastion discussed the connection between Poplar Ridge and Old Colony Estates. He stated that there is really not any additional land that is presently accessible for development, and he is not sure what good any future connection would serve. There does not seem to be any potential for additional development in this area. The area

mentioned is in our Phase II and is not before the Board at this time; however, we would like you to see what our future plans are.

Mr. Neagle commented on the checklist that it appeared there was a lot of “no’s”. He also wanted his engineers to determine that the watercourse that we walked across at the site walk is not a stream as defined by state law.

Mr. Couillard stated that at the last meeting Mr. Maloney mentioned the water running down the road onto his property. Mr. Couillard stated he is also concerned about that water. It could cause some slippery conditions on Blackstrap in the winter. He asked how they proposed to draw that water away from Blackstrap Road.

Mr. Bastion stated the drainage plan would have roadside ditches on either side of the access road. He further discussed in more detail how the water would be collected. He believes that the water issue will be improved due to the work that will be done.

Mr. Couillard commented on the desire of the Board to add sidewalks to these subdivisions. There is a preference to have separate sidewalks other than the road, especially since this is a hilly area. He mentioned the ditches and how it will relate to the separate sidewalks.

Ms. Howe discussed proposed new standards discussed by the Board and that is for a 20-foot road with a 2-foot shoulder and a 5-foot sidewalk. She suggested possibly having 2 feet on one side of the road and few more on the other side.

Mr. Couillard asked about the wetlands on the Phase II portion of the property. It is pretty extensive back there, which feeds into Forest Lake, which in turn supplies water to Cumberland. The lake needs to be protected.

Ms. Howe is in favor of road connections. However in this case, due to the wetlands, she will not make it issue in this case.

Mr. Turner asked if something could be worked out with the easement issue. He is sure that something can be done with a separated sidewalk. The road is 2000 feet.

Mr. Ward suggested something be sketched up to show what is going to take place where the ledge is on Blackstrap Road as this has been brought up several times. There will most likely be a lot of comments on this when this goes to Public Hearing.

He asked if the barn is going away. Suggested a review from DEP with regards to what the classifications of the wetlands are.

Mr. Bastion stated the barn is coming down and that a review from the DEP can be done.

Mr. Powers asked to find out what the conditions are regarding wells in this area. This an area where developers have had to go to some extraordinary lengths due to the water supply or lack there of. He is strongly in favor of divided walkways on this property. It would also be nice if the access could continue into the common area.

Mr. Ward stated the concern of the ledge. It is his understanding that there will be a dramatic change in the curve of this road. He asked that at the next meeting some issues with the ledge and vegetation in the front of the property be further discussed with regards to sight concerns.

Mr. Hunt stated that by-ways should be provided per the ordinance.

Mr. Hunt reviewed Section 8.2:

2. Rural: Rural design standards as tabulated herein shall be used for all street designs in the Town of Cumberland, except as specified above. Rural design standards shall be defined as paved streets with gravel shoulder, side ditches for the transportation of storm water and a byway. [Effective 5/15/89]

The Planning Board shall require the provision of a byway under the rural design standards, which for purposes of this subparagraph A.2. shall include only a freewalk or paved shoulder; provided however, that under the waiver standard set forth in Section 10 of this ordinance, a paved shoulder may be substituted for a freewalk, or the requirement of a byway may be waived altogether. [Effective 5/15/89]

Mr. Hunt stated the Board favors free walks (and pedestrian friendly paths) over paved shoulders. A 4-foot wide free walk, preferably connected to other walkways, would be desirable. The possibility of connectivity should be considered.

Mr. Hunt discussed the water issues. There appears to be a quantity and quality issue. The soils did not look very good. It does not drain very well. This information should be addressed in the future.

Mr. Hunt also discussed the neighboring drainage concerns. This development will further enhance the problem. Another look at drainage should be done.

Mr. Hunt opened to the public.

Mr. Bob Hayner of the Conservation Committee discussed a letter addressed to Carla Nixon stating the Committee's concerns. Major concerns were water issues, storm water, wetlands, water flow, bedrock conditions and the watershed.

Mr. Hayner is also president of the Forest Lake Association. He is concerned about a development that does not pay attention to the watershed. He discussed the phosphorus issue. Excavation should be done properly. He made note to a study done by USM.

Public portion closed.

Mr. Hunt asked if the application was complete to go to a Public Hearing at the next month.

Mr. Ward stated the application is not complete. He would like to see Mr. Powers' point addressed with regards to the water supply and well water.

Ms. Howe stated that a lot of questions have been asked.

Ms. Nixon explained that many of these issues will be addressed in the preliminary review stage. That is where most of the refinement of plans is done.

Mr. Powers agrees with Ms. Nixon to find for completeness.

Ms. Howe moved to find the application complete.

Mr. Turner seconded.

Vote: 6:1

Opposed: Mr. Ward

**5. Public Hearing - Final Plan Review –Major Subdivision, Hawks Ridge 14**  
unit age restricted condominium project, tax assessor Map U04 Lot 8B- U.S.  
Route One, Curtis Y. Neufeld, P.E., SYTDesign Consultants, representative, BDC  
LLC, owner.

Ms Nixon stated that this applicant was last before the Board on December 16.

Preliminary Plan Review: October 21, 2003. Tabled at Applicant's request.

Preliminary Plan Review: November 18, 2003: Tabled by Board.

Preliminary Plan Review: December 16, 2003: Preliminary Approval Granted

Ms. Nixon stated that the only outside agency approval that is outstanding is a Site Law of Development (SLODA) permit application. It has been filed with DEP. This includes the Maine Stormwater General Permit.

Mr. Neufeld stated that the permit is being reviewed by DEP at this time. He expects to receive the permit in two weeks.

Ms. Nixon stated that in the past subdivisions have been approved when the outside agency approval have not been in place.

Ms. Nixon reviewed the Fire Chief's notes:

1. An outside flashing light, that is interconnected with smoke detectors, shall be located in an area easily visible from the driveway of each unit.
2. The location and style of street numbers shall be approved by the fire department.
3. Propane gas installations shall meet the requirements of NFPA 54 and 58.
4. Residential lock boxes should be provided for each unit.

Ms. Nixon reviewed Joe Charron, Police Chiefs recommendations:

Recommends a temporary (construction period) security fence to prevent after-hours theft of materials and equipment.

Mr. Powers commented about note four in the subdivision plan submitted by SYTDesign. He would like it to say that the future road is created and *dedicated* for the future use as a *public street* for the Town of Cumberland. His understanding is that the Board wanted the developer to show the possible future development, and to allow this to become a road in the future.

Ms. Nixon reviewed the findings of fact-Subdivision Ordinance, Section 1.1

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

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 Maine Department of Environmental Protection has reviewed the plans under the Site Location of Development law and the NRPA Wetlands provisions. Public sewer will serve the project.**

**The standards of this section have been met.**

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

**The applicant has submitted a letter dated April 22, 2003 from David Coffin of the PWD, which states that they have sufficient water to serve this project.**

**The standards of this section have been met.**

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

**The applicant has submitted a letter dated April 22, 2003 from David Coffin of the PWD, which states that they have sufficient water to serve this project.**

**The standards of this section have been met.**

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

**An erosion and sedimentation control plan was prepared by SYTDesign and included in the application packet. This plan has been reviewed and approved by the Cumberland County Soil and Water Conservation District.**

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

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

**An email dated 1/15/04 was sent to the Planning Director from Bill Eaton of Eaton Traffic Engineering. He states that the traffic to be generated by this project is “not significant enough to have any meaningful impact.”**

**The standards of this section have been met.**

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

**The project will be served by the Portland Water District. The applicant has secured the required 14 sewer user permits. The sewer design has been reviewed and found acceptable by MACTEC Engineering, peer reviewer.**

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

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

**Municipal trash and recycling will be utilized.**

**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;

**The proposed subdivision will impact the site. However, there has been sufficient review by state, local and regional agencies, as well as the Cumberland Conservation Commission. These reviews have resulted in a carefully planned project, which should minimize the impact to the natural environment. The developer has retained a sizable natural open space buffer around the perimeter of the**

development and along Route One. New trails will be constructed by the developer, which will connect Route One to the existing trails in the rear of the property. These trails will be open to the public.

The Maine Department of Inland Fisheries and Wildlife has reviewed the proposed plan and site and stated in a letter dated March 30, 2003 that there are no known threatened/endangered fish species on the site. The recommended 100' undisturbed buffers along both sides of any stream or associated wetland has been provided. IF & W also requests that the number of stream crossings be minimized, constructed to allow fish passage, and that in-stream work is likely to be restricted to a limited work window, typically from 7/1 to 9/30.

Normandeau Associates, Inc. was retained by the applicant to conduct a field investigation to confirm the potential existence of any rare plant species. No Variable Sedge was located despite a "particularly intensive search." The report did note the presence of American chestnut saplings, however, the report stated that the number and size of the trees did not constitute an exemplary population. This report was forwarded to Maine Natural Areas Program.

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

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

The plans have been reviewed by town staff, Al Palmer, P.E., and Ralph Oulten, Mactec Engineering. The final plan for the proposed subdivision has been found to be in compliance with local ordinances and plans.

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

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



**The applicant has provided a letter from Peoples Heritage Bank, which indicates that Mr. Bragg has the financial resources available to him to accommodate the proposed project.**

**The applicant has utilized the services of SYTDesign Consultants for the preparation of the plans.**

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

10. 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;

**Wetlands delineation and high intensity soils mapping was done by Joseph Noel, of Berwick Maine. Mr. Noel is a Licensed Soils Evaluator and Certified Soils Scientist.**

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

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

**This is a 14 lot residential subdivision on public water and sewer. A 100' buffer has been provided around all streams and associated wetlands. Appropriate erosion control measures have been planned.**

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

12. 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;

**According to the National Flood Insurance Program's Flood Insurance Rate Map #230162 0018 C, The property is located in Floodplain Overlay C-areas of minimal flooding. No special precautions are necessary in Zone C.**

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

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

**The applicant has submitted a Maine Department of Environmental Protection Stormwater Management Law Permit application as part of its DEP SLODA applications, which is forthcoming.**

**Stormwater runoff from the construction of 7 duplex structures and access roadways will be routed via storm sewers and overland flow to a natural channel upstream of the proposed channel crossing. The width of the natural channel crossing provides sufficient attenuation of peak stormwater runoff rates to reduce the minor increases to less than existing conditions rates of runoff.**

**The project does not reside in a watershed that drains to an "at risk" resource.**

**The applicant has provided a Stormwater Management Report prepared by Curtis Neufeld of SYTDesign that has been reviewed by the Town's consulting engineer, Al Palmer.**

**With the approval of the proposed condition of approval re: receipt of the SLODA and Stormwater Management permits, it has been found that the standards of this section have been met.**

14. 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.

**Wetlands delineation and high intensity soils mapping was done by Joseph Noel, of Berwick Maine. Mr. Noel is a Licensed Soils Evaluator and Certified Soils Scientist.**

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

- 15. 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 stream, identified as Norton Brook, was identified running adjacent and parallel to Route One with two incised channels tributary to the stream that traverse the site's southerly half. The building envelope excludes this stream and creates a 100' no disturbance buffer adjacent to the tributary channel. These buffer areas are in accordance with the requests of the DEP and IF&W.**

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

#### **SECTION 300 – AQUIFER PROTECTION (if applicable)**

*The use is not located in the Aquifer Protection district.*

Ms. Howe moved to accept the findings of fact as determined by the Planner.

Mr. Tuner seconded.

Vote: UNANIMOUS

Ms. Nixon reviewed:

#### **STANDARD CONDITIONS OF APPROVAL:**

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

#### **RECOMMENDED CONDITIONS OF APPROVAL:**

1. That a performance bond or irrevocable letter of credit in an amount agreed to by the consulting peer review engineer and the Public Works Director be submitted prior to the pre-construction conference and the releasing of the mylar for recording.
2. That all required deeds necessary for the development to occur as planned must be submitted and approved by the Planning Director prior to the mylar being released for recording.

3. That all proposed required utility easements/deeds be submitted and approved prior to final release of the Letter of Credit.
4. That all as-built drawings be submitted to the Town prior to the final release of the Letter of Credit.
5. That the final details for the culvert crossing be approved by the Public Works Department prior to the start of construction.
6. That the revised, proposed homeowners association covenants be reviewed and approved by the town attorney prior to the mylar being released for recording
7. That the project receive MDEP SLODA and Maine Stormwater Management Approval and that evidence of such approval be provided to the Planner prior to the release of the mylar for recording.
8. That all fees be paid prior to the mylar being released for recording.
9. That the Town and CMP arrange for the installation of a street light on Route One at the entrance to Hawks Ridge.
10. That the applicant comply with any other conditions the Board chooses to impose.
11. Change note #4 on the applicant's plan to add that the future road area be dedicated for the future use as a public street for the Town of Cumberland.

Mr. Powers moved to grant subdivision approval with conditions for Major Subdivision, Hawks Ridge, 14 unit age restricted condominium project, tax assessor Map U04 Lot 8B-U.S. Route One.

Ms. Howe seconded

Vote: UNANIMOUS

**6. Site Inventory and Analysis-Major Site Plan Review-Lot 8, Cumberland Business Park, Tax Assessor Map R02D Lot 1B, DST Realty, owner; SHP Management Corporation, applicant. Representative is Gawron Turgeon Architects.**

Ms. Nixon reviewed.

**PROJECT DESCRIPTION:**

1. The proposed project is for the construction of a one-story wooden building of approximately 7000 sq. ft. to accommodate 20 employees. The building will be heated by propane gas. There will be a parking lot. All utilities will be underground. Public Utilities are currently located on Thomas Drive.
2. The site is bordered on the east by Route One, by Thomas Drive on the north and by two undeveloped lots to the west and south, both of which are wooded. It is approximately 2.1 acres in size and covered with a mix of deciduous (oak) and coniferous (pine and hemlock) trees.
3. The setbacks are 25' front, 30' side and 65' rear. The Route One Design Guidelines call for a 75' setback from Route One, the applicant has proposed only the 25' permitted in the OC North zone.
4. SHP owns and manages housing throughout the United States. Its acquisition and accounting departments are currently located in Portland.

SHP'S business is expanding and they would like to move their offices to Cumberland. Their hours of operation are 8 a.m. to 5 p.m., Monday through Friday.

5. The applicant has provided a letter from traffic engineer John Murphy that indicates this use will generate an estimated 11 peak hour trips for a total for the development of 117. This is well below the 310-trip limit imposed by DOT.

Ms. Charlotte Maloney of Gawron Turgeon Architects is representing SHP. Chris Bowden is the owner. Ms. Maloney gave a brief description of what is being proposed.

Ms. Maloney discussed the zoning setback issue. They are asking that the building be allowed to be 7 feet beyond the Route One guideline for a 75-foot setback.

Ms. Maloney reviewed the style of building being proposed, and reviewed the wetland information.

Mr. Turner asked about right title and interest. It appears to be expired. Ms. Maloney stated that the applicant has already obtained this information and it was her error for not including it.

Ms. Howe suggested tilting the building a bit to keep it out of the buffer. Tilt the building and the parking lot.

Ms. Maloney stated the point is well taken and is worth another look.

Ms. Nixon asked what the backside of the building (the Route One) would look like.

Ms. Maloney stated that the building would not be very visible from Route One.

Mr. Neagle suggested that there should be some restrictions with regards to the cutting of the trees.

Mr. Hunt stated that they appear to have all necessary items in order and will see the applicant at the May 18 meeting.

**7. Public Hearing – Preliminary and Final Plan Review- 3-lot minor subdivision, Wellstone Dr, Z4 Orchard Road, Tax Assessor Map R08, Lot 51, Larry Cochran/Cochran Custom Builders, Inc., representative, John & Robin Coffin, owners.**

**8. Sketch Plan - Major 12-lot subdivision, Orchard Ridge Subdivision, 158 Orchard Road,** Tax Assessor Map R08, Lot 44, 31 acres, RR2 zone, Great Neck Builders, owner, Curtis Y. Neufeld, P.E., SYTDesign Consultants, representative.

Ms. Nixon reviewed project. Great Neck Builders are proposing a 31-acre community of 12 custom homes. This community will include a jogging and cross country ski trail within the 75-foot perimeter buffer, as well as a community ski hut where neighbors will gather. The existing pond will be expanded and enhanced with a gazebo and landscaping to promote both summer time and winter activities. Open space will include a tennis/basketball court for daylight use. There will also be a school bus hut for the children. All sites will be served with underground electric, telephone and broadband utilities. All lots will be served by individual septic systems and wells.

Mr. Neufeld of SYTDesign described the project. He suggested that the clustered plan seems to work the best as far as recreational/open space areas.

Mr. Hunt stated that the Board reviews the plans at these Sketch Plan Reviews to determine if the Board prefers a cluster or traditional layout in addition to road design. He asked if this is public sewer/water.

Mr. Neufeld stated each lot would have its own septic system and well. He also stated he has been very informative to the abutting neighbors. The abutters seemed to prefer the cluster layout. It is an all forest lot. He is not aware of any unique wildlife on this property. There are minimal wetlands on the site.

Mr. Neagle asked if the lot size for clustering is 45,000 square feet?

Mr. Neufeld stated that houses with sewer could be 45,000 square feet. Houses without sewer must be at least 60,000 square feet.

Mr. Neagle asked for more detail to be submitted for the open space uses.

Mr. Couillard asked if there was any wetland on the property.

Mr. Neufeld stated that the wetlands were concentrated in the front of the property.

Mr. Couillard asked what is being planned for open space between the pipeline and the road.

Mr. Neufeld stated that they prefer to keep it largely forested if possible.

Ms. Howe asked if the other parcel were acquired, what would be the logic of only having 10 lots in the back?

Mr. Neufeld stated that Alexandra Hughes wants to retain the property up front, but is willing to have a road go through.

Ms. Howe stated that it seemed like an “awful lot of road.” She is an advocate of road connectivity. She is in favor of having the road go through, but feels there should be less of it.

Mr. Neufeld stated that if the abutting parcel is acquired it does make sense to have the roads connect.

Mr. Turner is in favor of the connected road.

Mr. Powers stated that he is in favor of the cluster plan. It looks good. He complimented the developer on being informative with the plans for the future subdivision.

The Board agreed to conduct a site walk on May 18, 2004 at 5:30pm at 158 Orchard Road-Orchard Ridge Subdivision.

Mr. Hunt addressed some of the neighbors who were present for the Orchard Ridge discussion. He reviewed the process for Major Subdivision Review.

A resident who resides on Kerry Drive stated her property has been wet for three weeks now. She is not sure where the water is coming from.

#### ADMINISTRATIVE:

Ms. Nixon reviewed the letter from Larry Cochran requesting reconsideration of the paving requirement for the Wellstone Subdivision. She also read an email from Mark Twombly, an abutter.

Mr. Ward stated that he did not think we should relax the ordinance to reduce the cost.

Mr. Neagle stated that the Council has given them a road ordinance to comply with.

The Board discussed the issue.

Mr. Hunt stated that this application has been approved with the condition of a paved road.

Mr. Powers stated that a dirt road does not have the endurance of a paved road. He does not feel the Board should relax the standards.

Mr. Powers moved to adjourn.

**Planning Board Meeting**  
**Tuesday, May 18, 2004**  
**Council Chambers of the Town Offices**  
**290 Tuttle Road, Cumberland Center**  
**7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Present: Tom Powers, acting Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle, Terry Turner.  
Phil Hunt absent until 7:55pm.

Staff: Carla Nixon, Town Planner, Nancy Decker, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of April 20, 2004 with technical corrections.

Mr. Turner seconded.

VOTE: UNANIMOUS

**D. Consent Calendar / Deminimus Change Approvals**

Ms. Nixon reviewed the 10x9 utility shed for the U.S. Route One Chebeague Island parking lot. The shed would be placed on cement blocks and located behind the porto potties. Ms. Nixon stated that the purpose of this building is for the equipment used for the upkeep of the lot. The shed will purchased from Sears.

Mr. Neagle moved to approve the 10x9 Utility shed for the U.S. Route One Chebeague Island Parking lot.

Mr. Ward Seconded.

Vote: UNANIMOUS

**E. Hearings and Presentations**

1. **Application Completeness -- Minor Site Plan, Slow Bell Café, 2 Walker Drive, Chebeague Island, Tax Assessor Map I03, Lot 33, (Former Nellie G. Restaurant) SYTDesign Consultants, representative, Jonathan KomLosy, owner.**

Ms. Howe recused herself as she is an abutter to the applicant.

Ms. Nixon reviewed with the Board:

**REQUEST:**

The applicant and property owner is Jonathon KomLosy of 2 Walker Drive, Chebeague Island, Maine. The property is located in Zone IB (Island Business.) The application is for site plan approval of a 40-seat restaurant with a take out counter. Restaurants are a permitted use in the IB zone. The structure was formerly the Nellie G. Restaurant. After that, it was converted to residential use, and therefore must undergo site plan approval for the change of use to a restaurant. The Planning Board is asked to review the plan for application completeness. The representative is Jonathon KomLosy. SYTDesign prepared the site plan.

**PROJECT HISTORY:**

**June 13, 2003:** Tabled by Planning Board



PROJECT DESCRIPTION:

1. The parcel is located at 2 Walker Drive, off South Road, diagonally across from the Post Office (Map I-03, Lot 33). The parcel is .85 acres in size. Minimum lot size in the IB zone is 1.5 acres, however this parcel is a lot of record.
2. The proposal is to open a 40-seat restaurant with a take-out counter. The restaurant and take out will be located on the first floor, which is 1,172 sq. ft. The upstairs, which consists of 2 bedrooms and a bathroom (378 sq. ft.), will be living quarters for Mr. KomLosy.
3. The applicant anticipates operating the café and take-out on a seasonal basis for the first few years.
4. The structure is currently a 1-3/4 story wood frame house. It is 32' x 26' (2026 sq. ft.). The applicant proposes to enlarge the existing 12' x 8' deck to permit five tables and chairs to be placed upon it, and to enlarge the waiting area for the take-out.
5. The parking area has space for 16 cars. It is currently unpaved and will remain unpaved, so actual parking lines will not be marked. A handicap parking sign will be placed. There are currently two entrances to the lot, one will be closed off to make room for parking and to make the entrance and exit safer.
6. This plan is classified as minor since it involves a structure of less than 5,000 sq. ft. (1,172- sq. ft. proposed).
7. The parcel will be serviced by a private well. A new well has been drilled on the parcel across the road (also owned by Mr. KomLosy.) Final approval from the State Drinking Water Program is required prior to putting the well on line. Two satisfactory water sample results must be obtained.
8. The parcel will be serviced by an on-site and site adjacent septic system. There is a lease on file between Paul Ferragamo and Jonathon KomLosy for the use of the Ferragamo parcel and septic system.
9. Existing electric and telephone are on site on overhead lines.

Mr. Wolfe, the applicant's attorney, is speaking on behalf of Jonathan Komlosy, as he is out of town.

Mr. Neagle commented on the driveway.

Ms. Nixon stated that "driveway" is the Hale ROW. This is one of the items of discussion for the Board.

Ms. Nixon asked Mr. Wolfe if he was able to find any written documentation on this ROW.

Mr. Wolfe does not have any other information. He does know that the Hales use this driveway to gain access to South Road. Mr. Bruce Bowman is gathering information on this. The applicant does not have a problem continuing to allow the Hales to use the café driveway for this use.

Mr. Neagle reviewed the waivers with the applicant.

Mr. Wolfe stated that the applicant does not use the ROW. He also stated that some of the waivers have been addressed.

Ms. Nixon stated that there is some concern regarding a culvert that the applicant may have done some work on with regards to channeling the water. This issue does need to be reviewed further.

Ms. Nixon asked that the drainage issue be reviewed at the next meeting.

The Board reviewed the waivers.

Ms. Nixon stated that Mr. Komlosy reviewed the solid waste issue with her. He stated that it would be stored in the shed and brought to the landfill on a weekly basis. Ms. Nixon would like this information to be stated in writing.

Ms. Nixon reviewed her concern with the existing lighting. The ordinance requires that light must not be visible beyond the property line. This includes lighting of the sign. There is a spot light shown.

Mr. Neagle commented on the landscaping on the site. He would like to see more information on the landscaping at the next meeting.

Mr. Turner asked Ms. Nixon about the 5000 square feet of the building.

Ms. Nixon stated that the applicants are not utilizing all of the 5000 square feet for the restaurant.

Mr. Powers asked about the arrangement for the septic system.

Mr. Wolfe stated that the word "easement" was referenced on the application, however he has a lease agreement with the neighbor to continue to have the septic where it is.

Mr. Powers asked if that was included in the packet. What are the terms of the lease and how long is it good for?

Ms. Nixon stated that her understanding is that the septic on site will just be used for gray water.

Mr. Wolfe stated that was correct.

Mr. Neagle stated that the lease has a one-year term, with a 90-day notice cancelable by both parties. He stated that the approval could be granted, conditioned on the applicant maintaining the lease. If the lease is cancelled or not renewed, the restaurant will have to shut down.

Mr. Wolfe stated the lease is conditional on the Planning Board granting the okay for the restaurant.

Mr. Powers asked if the applicant could improve on this lease vs. easement. The concern is that the town not need to track this.

Mr. Fricke did the site evaluation on the property. Mr. Fricke spoke with Mr. Peterson, the Town Plumbing Inspector. He stated there is a requirement when a permit is issued for a septic system located on abutting land, that a legal easement must be filed with the Registry of Deeds. Mr. Peterson is checking the Town records for this easement.

Mr. Powers suggested to the applicant that this be looked at. There is a statutory requirement for an easement.

Mr. Neagle stated a letter was received from Leonard Passano, an abutter, stating his concern with regards to the lighting and sound.

Mr. Powers asked what the hours of operation are?

A family member of Mr. Komlosy stated from 5:30am-10pm

Mr. Powers asked about entertainment.

A family member stated there would be entertainment (live music) not to exceed 9pm.

Mr. Neagle suggested that the applicant review the abutter's letter and address these issues to the Board at a later date.

Ms. Nixon asked if this was a seasonal operation.

Mr. Wolfe stated that this will run seasonally from May-October.

Ms. Nixon stated that the Board should also give thought to the morning noise as well.

Ms. Nixon stated that the applicant has made reference to utilizing the parcel across the street for overflow parking. This may also want to be added as a condition of approval.

Ms. Nixon stated that the ordinance requires 1 parking space per 3 seats. This application does meet that requirement.

Mr. Turner moved to waive section 206.7.4.11 (Traffic)

Mr. Ward Seconded.

Vote: 3

Opposed: 1

Mr. Turner moved to waive the section 206.7.4.12 (Stormwater calculations/erosion)

Mr. Ward Seconded.

Vote: UNANIMOUS

Mr. Turner stated the issues that need to be addressed are:

1. Lighting on the sign/property.
2. Easement regarding the septic.
3. Landscaping plan.

Mr. Turner moved to find the application substantially complete with the above mentioned conditions.

Mr. Neagle Seconded.

Vote: UNANIMOUS

A Public Hearing – Final Plan Review is scheduled for the June 15, 2004 meeting.

**2. Public Hearing – Preliminary and Final Plan Review – 3 lot Minor Subdivision, Wellstone Drive, 124 Orchard Rd., Tax Assessor Map R08, Lot 51, Larry Cochran/Cochran Custom Builders, Inc., representative, John and Robin Coffin, owners.**

Ms. Nixon reviewed:

The applicant is Larry Cochran; he is presenting the project. The owners are John and Robin Coffin of Freeport. The property is located at 124 Orchard Road, Map R-08, Lot 51. The applicant proposes to build 3 single-family homes on a parcel of 9.24 acres+/-.  
The applicant is requesting that the Planning Board review this plan tonight for both Preliminary and Final Approval.

**HISTORY:**

- October 21, 2003: Board reviewed the plan as though for Sketch Plan Review rather than for Application Completeness. While Sketch Plan Review is not required for Minor Subdivisions, this step was taken to review to resolve some basic design/layout issues. The Board did not find the application complete. A site walk was scheduled for 11/1/03.
- November 1, 2003: Site walk held.
- November 18, 2003: Board found the application complete and approved the waiver requests listed below.
  1. From Appendix C – A - Scale drawing at 1" = 40' (approved 1"=100")
  2. From Appendix C- A-8 – Contour lines at 10' intervals instead of 2'
  3. From Appendix C-A-10 – Design of septic system. Test pit locations shown.
  4. From Appendix C – A- 11 – Waiver of Stormwater Mgmt. plan (with CCSWCD approval)
- December 18, 2003:
  - Board voted to deny the waiver request that the road be unpaved.
  - Board voted to approve the waiver request to not provide a by-way (Table 8-2)

Mr. Cochran stated that he has decided to remove his application from subdivision review. He stated that the property can be better utilized with two dwellings vs. three dwellings; in addition the cost factor with the paved road can be eliminated.

Mr. Powers stated that the Board has considered his application to be withdrawn. He wished Mr. Cochran luck on his project.

**3. Public Hearing - Preliminary Plan Review – Major Site Plan – Greely Jr. High School Renovations, 303 Main St.; Tax Assessor Map U11 Lot 1, M.S.A.D. # 51 owner, S.M.R.T. Engineers, representative.**

Ms. Nixon reviewed:

The applicant is MSAD #51. Paul Stevens, Principal, SMRT Architecture, Engineering and Planning, is the representative. Delucca-Hoffman prepared the site plan. The project is the proposed renovation and additions to the Greely Junior High School located at 303 Main St., Tax Assessor Map U11 Lot 1. Tonight the Board will begin Preliminary Plan Review.

**Project Description:**

1. The proposed work involves the existing junior high buildings facing Main Street. The project will include the Gyger Gym and the ca. 1980's gymnasium, and associated site

work. The Greely Institute building and adjacent 50's era classroom buildings are not included in this project.

2. The proposed renovations and additions involve conversion of existing spaces to use for the performing and music programs of the high school in anticipation of the relocation of the junior high school population to the new facility nearing completion at the southeast end of the campus.
3. Site development will include removal of the existing continuous vehicular access in front of the junior high buildings and replacement with pedestrian walkways. 35 parking spaces have been displaced, 31 spaces are provided in the front parking area, and 4 spaces have been added near the loading access area. There is no net loss of parking proposed.
4. Three of the five portable classrooms currently located between the junior and senior high school buildings will be removed, and a large portion of the pavement under them. There is a net reduction of approximately 5,000 s.f. of impervious surface.
5. New mechanical, electrical, plumbing and fire suppression systems will be included as part of the project.
6. Stormwater drainage on the site is anticipated remain basically "as-is: with the exception of possible new drains in the area between the junior and senior high to accommodate surface and roof drainage.
7. New landscaping and pedestrian level lighting where required will complete the new work.

#### PROJECT HISTORY:

- February 24, 2004: Pre-application Conference with Planning Board
- March 16, 2004: Site Inventory and Analysis deemed complete.
- April 20, 2004: Application deemed complete.

Mr. Stevens reviewed the Planner's comments. He stated that there should be no audible noise to be heard outside. A new hydrant will not be installed onsite. Sprinklers will be installed in the building. More information will be forwarded to the Fire Chief with regards to additional fire protection measures requested. An additional traffic study will not be done. There was a study done as part of the master plan and a permit was received by the MDOT. A letter is in the packet from the PWD. He stated they do not have a letter from CMP as of yet. There will be no sign on the building.

Ms. Nixon asked how people from out of town will know where the auditorium is located?

Mr. Stevens stated that the committee did not want a sign, but chose instead to use the existing sign. He will, however, bring the concerns of the Planning Board back to the committee for review.

Mr. Stevens stated that the sewage at the location is adequate. He made note to page 15.

Mr. Stevens also stated that due to this going to referendum in September for funding, that a condition of approval for financial capability be applied.

Mr. Stevens stated to Mr. Powers that the hours of construction operation will be from 7am-7pm.

Mr. Steve Bushey reviewed with the Board, the comments made by Tom Saucier of SYTDesign and the proposed corrections.

Mr. Powers asked about the lighting of the walkway from the Mable I. Wilson school to the existing Jr. High School.

Mr. Stevens stated that currently there is lighting shown on the plan. They intend to provide the path, however, would ask the Board for a waiver with regard to lighting the path due to cost considerations.

Mr. Powers asked the capacity of the auditorium.

Mr. Stevens stated 500.

Mr. Ward suggested a site walk. He would like to see the lightening and the dead-end parking issue as reviewed by Mr. Tom Saucier.

Mr. Powers suggested that Ms. Nixon arrange a site walk for Mr. Ward and Ms. Howe.

Mr. Powers opened the public portion of the meeting.

Ms. Small, President of the Historical Society asked if the parking in front of the Jr. High would be changed. She also asked about the old trees.

Mr. Stevens stated that the new parking lot will have a one way in one way out. He stated that the trees will be saved.

Mr. Hunt closed the public portion of the meeting.

Mr. Turner asked the applicant if Osgood Drive is going to be one way and one lane?

Mr. Stevens stated that Osgood Drive will be unchanged. We need to go to MDOT to get a modified permit change due to the in/out of the new parking lot.

Ms. Nixon stated that Preliminary Approval is not an actual stage. The review has begun, there are no major issues, next month we will look at this for final approval.

4. Public Hearing – Minor Site Plan Review – Parking and Site Improvements at the Foreside Community Church at 4 Foreside Road, Tax Assessor Map U01, Lot 2A. in the LDR district, Mohr & Seredin Landscape Architects, applicant, Foreside Community Church, owner.

Ms. Nixon reviewed:

**REQUEST:**

The applicant and owner is the Foreside Community Church. Steven Mohr of Mohr & Seredin Landscape Architects is the representative. Mohr & Seredin prepared the site plan. The applicant is requesting minor site plan review of proposed parking and site improvements on Lots 1 & 2A located at 4 Foreside Road, Tax Assessor Map U01 Lots 1 & 2A.

**PROJECT DESCRIPTION:**

- The Church is proposing to remove an existing house, garage and driveway on Lot 2A in order to construct a new parking lot and related improvements to supplement the existing parking at the church.
- The proposal is to revise the existing on-site circulation and parking by creating a one-way vehicular pattern that accesses two parking areas.

- The new layout creates a 26-car parking lot on the 4 Foreside Road lot, and reconfigures the existing lot into a one-way; exit only parking lot and driveway.
- Both lots will have 60 degree angled parking, and a new drop-off zone will be created at the front door of the church.
- A total of 70 parking spaces will be provided in the new parking areas.
- Access to the cemetery and the rear of the property will remain as existing, with a driveway through the parking area adjacent to the church. The internal radii have been sized to accommodate service vehicles for access to the cemetery.
- Two new sidewalks will provide access from the parking lots to the front doors of the sanctuary. This will separate pedestrian and vehicle traffic and create a pedestrian drop-off and pick-up area at the front door of the church.
- The proposal includes plans for revised lighting of the walkways and parking areas.
- The plan includes street tree plantings and the installation of a buffer at the easterly property line abutting a residential use. Additional planting will be placed along Route 88 and in the center island between the two lots to screen the parking.

**PROJECT HISTORY:**

- February 12, 2004: Cumberland Board of Appeals approved the special exception application for the Church's use of the 4 Foreside Road property for a parking lot.
- March 30, 2004: Planning Board finds the application complete.

Mr. Mohr stated that the church does not currently have site location of development license. It does not meet the thresholds. The same holds true with the MDOT turning movement permit. We have submitted the MDOT entrance permit for the Wayner lot.

Mr. Mohr addressed Mr. Neagle's concern of the fundraising. The church does have sufficient funds to go forward with the project pending the Board's approval.

Ms. Howe noted that the "central spine" appears to be narrower.

Mr. Mohr stated more buffer was added due to the loss of dimensions. They would like to keep the visual edge of the parking lot.

Mr. Turner asked if the school buses are still able to use this parking lot for a turnaround.

Mr. Mohr stated that the buses can still turn around. There is enough room for a 45-foot single unit through the lot.

Mr. Turner suggested that the school districts be made aware of the change.

Mr. Hunt opened the public hearing. There were no comments.

Ms. Nixon reviewed the proposed findings and recommendations:

**Sec. 206.8 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.

## .1 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 project work limits do not impact any environmentally sensitive areas. An erosion and sedimentation plan has been reviewed and approved by the Town's peer review engineer.***

**The Board finds the standards of this section have been met.**

## .2 Traffic Access and Parking

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.  
***The sight distances are in excess of requirements for the 35 mph speed limit.***
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.  
***The Town's peer review engineer has reviewed the plans for the driveways and found them acceptable. The plans are also being reviewed by MDOT.***
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.  
***The proposed grade (3%) meets this standard.***
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.  
***There is not expected to be any change in the volume of traffic for this site. The proposed circulation plan will improve the level of service. A waiver has been granted.***
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.  
***Not Applicable.***
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.



***No public street improvements are required, though pedestrian access will be improved through the installation of two sidewalks from the parking lots to the front door. There will be a separation of pedestrian and vehicle traffic.***

- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.  
***The new circulation system expands the queuing system on site and will decrease or eliminate queuing on the public street.***
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.  
***The plan complies with this requirement.***

**The Board finds the standards of this section have been met.**

### .3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.  
***There are no signalized road intersections within 150' of the driveways.***
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.  
***The one-way driveways are 82' apart.***

**The Board finds the standards of this section have been met.**

### .4 Internal Vehicular Circulation

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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.  
*The existing uses rarely require service deliveries. The new plan creates a drop off zone for these occasional deliveries.*
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

*The proposed parking lot was designed as a narrow, sloping lot to fit with the existing lot configuration and to work with the existing grades found on the property. Cut and fill have been minimized, and the proposed grading will accommodate all-season pedestrian, vehicular and emergency uses.*

The Board finds the standards of this section have been met.

.5 Parking Layout and Design

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.  
*This has been done.*
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.  
*This has been done.*
- .3 Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	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

*All parking spaces will be 8'6" wide, 10'6" long; and one way travel lane will be 16".*

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.  
*This has been done.*

- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.  
*This has been done.*
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.  
*This has been done.*

**The Board finds the standards of this section have been met.**

**.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.

*The proposed plan introduces a walkway system where none existed previously.*

**The Board finds the standards of this section have been met.**

**.7 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.

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

*Stormwater will be directed to a grass swale on site to provide some infiltration and retention prior to the stormwater entering the existing catch basin in Route 88.*

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

*There is no increase to stormwater on-site, and no significant change off site to the catchbasin.*

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

*The existing drainage system on Route 88 has the capacity to handle this small change as evidenced by the stormwater report by Steve Blais, P.E.*

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

*No impacts to natural drainage ways are proposed.*

- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.  
*Based on the minor increase in stormwater, no impacts to streets, downstream properties, soils or vegetation will result.*
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff, which must pass over or through the site to be developed and provide for this movement.  
*The larger watershed has been evaluated. The proposed plan accommodates the limited increase resulting from this project.*
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.  
*The runoff characteristics will remain unchanged from current conditions.*

**The Board finds the standards of this section have been met.**

**.8 Erosion Control**

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
- .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

*Erosion control measures have been reviewed and approved by Tom Saucier. They are in conformance with the Best Management Practices.*

**The Board finds the standards of this section have been met.**

**.9 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.

*The project will not require any significant need for water beyond irrigation of the new plantings for the first three years.*

**The Board finds the standards of this section have been met.**

.10 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.

*The project has no impact on sewage disposal.*

**The Board finds the standards of this section have been met.**

.11 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.

*All new lines will be underground, replacing the existing overhead service.*

**The Board finds the standards of this section have been met.**

.12 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 does not use groundwater resources and no discharge to groundwater is proposed.*

**The Board finds the standards of this section have been met.**

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater's 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.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

*The project involves no storage for fuel, chemicals, chemical or industrial waste of biodegradable raw materials. No discharges of unsuitable materials are contemplated.*

**The Board finds the standards of this section have been met.**

.14 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.

*Mohr and Seredin prepared the site plan. The Church has funds in place for this project.*

**The Board finds the standards of this section have been met.**

.15 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.

*The site does not contain any historic or archaeological resources.*

**The Board finds the standards of this section have been met.**

.16 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 special hazard flood area.*

**The Board finds the standards of this section have been met.**

.17 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.

*All lights will be fully shielded with cut-offs and be on timers for evening shut-off as per the site plan and details submitted.*

**The Board finds the standards of this section have been met.**

.18 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.

*A buffering plan for the residential abutter has been integrated into the project design. This has been approved by the abutter. Street trees are proposed for the side of the lot adjacent to Route 88.*

**The Board finds the standards of this section have been met.**

.19 Noise

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

*The use will not create a source of noise that will be a nuisance to properties.*

**The Board finds the standards of this section have been met.**

#### .20 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.  
*A lilac hedge will buffer the residential use on one side.*
- .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.  
*No new dumpster is proposed. The existing dumpster will have a landscape screen added to its south side.*
- .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.  
*No safety hazards to children are apparent on this property.*

**The Board finds the standards of this section have been met.**

#### .21 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 landscape plan has been prepared outlining the installation of various trees and shrubs. The plan will enhance the visual appearance of the front and sides of the building and parking areas and will complement the existing trees and plantings.*

**The Board finds the standards of this section have been met.**

#### .22 Building and Parking Placement

- .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.  
*The parking design retains a central green space/landscape island between the lots and in front of the church.*

- .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.  
*No new buildings are proposed.*

The Board finds the standards of this section have been met.

## 206.9 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.

Mr. Hunt motioned to approve the findings as reviewed by the Planner.  
Mr. Turner Seconded.  
Vote: UNANIMOUS

## Recommended Conditions of Approval

1. That the applicant, prepare an estimate of values for review by SYTDesign and Town staff, and that a pre-construction meeting be held prior to the start of construction. *Condition removed by Planner on May 24, 2004.*
2. That the hours of work be limited to 7:00 a.m to 7:00 p.m., daily.
3. That all fees be paid prior to the issuance of a building permit.
4. That the applicant, establish an escrow account with the Town to cover the costs of construction inspections. *Condition removed by Planner on May 24, 2004.*
5. That an easement deed for access to the cemetery from Route 88 be prepared by the church, signed and recorded in the Registry of Deeds and reviewed and approved by the Town Attorney prior to the issuance of a building permit. *Completed on May 19, 2004.*

Mr. Turner moved to approve parking and site improvements at the Foreside Community Church at 4 Foreside Road, Tax Assessor Map U01, Lot 2A. in the LDR district.  
Mr. Powers Seconded.  
Vote: UNANIMOUS

5. Public Hearing – ~~Primary Review~~ 4-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, Normand Berube Builders, Inc., owner.

Ms. Nixon stated that there appeared to be some storm water management issues. The applicant will review and return for the June meeting with corrections.

6. Application Completeness—Major Site Plan Review—Lot 8, Cumberland Business Park, Tax Assessor Map R02D, Lot1B, DST Realty, owner; SHP Management Corporation, applicant. Representative is Gawron Turgeon Architects.



Ms. Nixon reviewed:

REQUEST:

The applicant is SHP Management Corporation. DST Realty is the owner. Charlotte Malony, of Gawron Turgeon Architects is the representative. The applicant is requesting major site plan review for a new office building on Lot #8 of the Cumberland Business Park, Tax Assessor Map R02 D Lot 1B.

Tonight the Board is reviewing the plan for Application Completeness.

PROJECT DESCRIPTION:

1. The proposed project is for the construction of a one-story wooden building of approximately 7000 sq. ft. to accommodate 20 employees. The building will be heated by propane gas. There will be a parking lot. All utilities will be underground. Public Utilities are currently located on Thomas Drive.
2. The site is bordered on the east by Route One, by Thomas Drive on the north and by two undeveloped lots to the west and south, both of which are wooded. It is approximately 2.1 acres in size and covered with a mix of deciduous (oak) and coniferous (pine and hemlock) trees.
3. The lot setbacks are 25' front, 30' side and 65' rear. The Route One Design Guidelines call for a 75' setback from Route One, the applicant initially proposed only the 25' permitted in the OC North zone.
4. SHP owns and manages housing throughout the United States. Its acquisition and accounting departments are currently located in Portland. SHP'S business is expanding and they would like to move their offices to Cumberland. Their hours of operation are 8 A.M. to 5 p/m/, Monday through Friday.
5. The applicant has provided a letter from traffic engineer John Murphy that indicates this use will generate an estimated 11 peak hour trips for a total for the development of 117. This is well below the 310-trip limit imposed by DOT.

PROJECT HISTORY:

4/20/04: Site Inventory and Analysis Complete

Ms. Maloney of Gawron Turgeon Architects made note that Chris Bowden, the owner of the project, is also in attendance.

Ms. Maloney reviewed the "backside" of the building that will be facing Route One as requested by Mr. Neagle from the prior meeting. She reviewed the diagram of the building.

Ms. Maloney made a special request per the owner of the building. They requested the possibility of Final Approval based on a full review and meeting all of the conditions.

Mr. Hunt stated that it was not advertised as such and therefore that request cannot be granted.

Ms. Howe moved to find the application complete.

Mr. Powers seconded.

Vote: UNANIMOUS.

A Public hearing is scheduled for next month.

7. **Sketch Plan Review— Major 12 lot subdivision, Orchard Ridge Subdivision, 158 Orchard Rd., Tax Assessor Map R08, Lot 44, 31 acres, RR-2 zone, Great Neck Builders, owner; Curtis Neufeld, P.E., SYTDesign Consultants, representative.**

Ms. Nixon reviewed the application with the Board. She stated that the Board did prefer the clustered plan previously submitted. Also discussed was the possibility of linking this subdivision to a future subdivision. A site walk took place prior to the meeting this evening. Ms. Nixon suggested that Mr. Simonds come back this month to conclude the sketch plan review stage to determine which design concept the Board prefers and to discuss any other concerns before the engineering work begins.

Mr. Simonds of Great Neck Builders stated that when Mark Hampton completed the wetlands delineation, lot #1 (behind Exxon Mobile pipeline), was moved from behind the pipeline to in front of the pipeline to protect that area. In doing so, a span of trees would buffer the house from the roadway if the lot could be crowded towards the back.

Mr. Simonds asked the Board to reduce the perimeter buffer only for lot #1 from 75' to 50'. There is room to leave the house next to the road with the current setbacks however, Mr. Simonds feels that it would be a better layout to nestle the house into the trees. This lot abuts what will eventually be the single-family home of Alexander Hughes. Her house is contemplated to be in the middle of the 17 acres she is retaining.

Mr. Simonds discussed Phase II, Orchard Hill. He discussed the road connectivity to Orchard Ridge. It is a fairly lengthy Road; the Board suggested Mr. Simonds review some alternatives.

Mr. Simonds reviewed some of the comments made during the site walk with regards to the wetlands. He will address these issues and submit to the Board for the next meeting.

Mr. Simonds stated that he has offered to grant an easement to the CMIT for the land along the pipelines, eventually to be used for snowmobile trails.

Mr. Neagle reviewed the ordinance with the regards to the 75' buffer request. Mr. Neagle stated that is not within the Board's power to change the ordinance, which is very specific.

Mr. Neagle stated that the easement for the CMIT is a good idea, however, the homeowners of lot 1&2 should be notified.

Ms. Howe made mention to the stream on the property.

Mr. Turner asked if anything could be done to alleviate that "swail" between 4&6.

Mr. Ward stated that is was a nice piece of property. He suggested possibly ask the abutter if the property line could be moved over 25' to work with the 75' requirement.

Mr. Powers stated that he is not a fan of cul de sacs.

Ms. Howe asked what the total road length is.

Mr. Simonds stated the road length as currently designed is 2600 lineal feet from Rose Drive to Orchard Road. If the road was to go through and back onto Rose Drive, the length increases to 3000 lineal feet. It is actually a longer road and creates the dead end situation. He stated it would also impose on some of the open space.

Mr. Simonds stated that the proposed Orchard Hill subdivision has not been finalized, and has not been submitted for sketch plan. The reason this is brought before the Board is to determine whether it merits one 60' ROW in the subdivision between lots 6&8, or whether it merits two 60' ROW that go over to that parcel and where that would be.

Mr. Hunt stated that two accesses onto Orchard Road seem to make more sense.

Mr. Simonds asked if the Board would consider advertising the meeting next month for completeness and preliminary approval.

Ms. Nixon asked if it would be an open or closed drainage design.

Mr. Simonds stated it would be an open design.

Ms. Nixon asked about the sidewalk design.

Mr. Simonds stated it would be a separated esplanade with a paved sidewalk going up the north side of Rose Drive.

Mr. Hunt stated that it was the Planner's decision based on the application to determine completeness to be able to move forward to application completeness and preliminary approval.

**8. Public Hearing – Preliminary Plan Review – Minor Site Plan, Shiva Yoga Studio –150 Gray Road, Tax Assessor Map 9106 in the Local Business (LB) District, Mary Pat Warming, applicant/owner.**

Ms. Nixon stated that this item would be discussed at the administrative portion of the meeting.

**9. Sketch Plan – Major 45-unit, age restricted Subdivision, Rockwood Senior Housing-Phase IV, Cumberland Business Park, Tax Assessor Map R02D, Lot P/O 1, Lee Allen, Northeast Civil Solutions, representative, LSH Holdings, Inc., owner.**

Ms. Nixon stated that this is Phase IV of the Rockwood Subdivision. The design will be similar to Phase I, II, and III.

Mr. Fisher reviewed the plans of the existing Rockwood units. The abutting properties are Rockwood on one side and the previously approved Cumberland Business Park on the other. The proposed access for Phase IV will be from Thomas Drive. An emergency exit to U.S. Route One is proposed, however the MDOT has indicated that the principal access to any such development must not be from U.S. Route One if another roadway for access is available. MDOT does concur that the emergency access as proposed is prudent (with gated control for access by the municipal safety offices). A traffic study is currently underway and will be provided prior to final submission.

Mr. Fisher further reviewed the layout design stating it will be very similar to the first three phases. It will have curbing, sidewalks, lighting and a connecting pathway.

Mr. Neagle asked if there were any paper streets between these lots.

Mr. Fisher stated no.

Mr. Neagle asked Mr. Fisher if he could submit a plan of Phase I, II, III and how they fit with Phase IV. He would also like to see a subdivision plan of the business park.

Mr. Fisher asked if this plan should be submitted with the preliminary application.

Ms. Howe asked about the access to U.S. Route one.

Mr. Fisher stated that DOT does not want to have an access road to U.S. Route One.

Ms. Howe mentioned the one way in versus the one way out issue. It makes sense to have another access road into the development.

Ms. Howe and Mr. Fisher discussed the landscaping and contours of the units. These units do have small backyards.

Ms. Howe asked if there was any data on the average age of persons buying the units.

Mr. Fisher stated that 60 % of the units are being sold to 55-58 year olds. 30% of the people moving in are mid to late 70's.

Mr. Turner asked if there were sidewalks on both sides on the road.

Mr. Fisher stated that some of the road has two sidewalks but there is at least one side walk on the road.

Mr. Turner stated that the letter made mention of the developers speaking with Falmouth with regards to the sewer and that everything is treated in Falmouth. He asked if conversations were taking place with Cumberland.

Mr. Fisher stated that a letter of acceptance capacity from Falmouth was necessary before going forward with the Town of Cumberland. They want to make sure everything is okay on the Falmouth side before speaking with the Cumberland Superintendent of Sewers.

Mr. Powers asked about the senior recreation building that was originally proposed.

Mr. Fisher stated that this issue was explored. The indication of the people who are all ready living there is that they feel they do not need it and do not want to pay for it.

Mr. Hunt asked if it was public water and public sewer.

Mr. Fisher stated yes.

Mr. Hunt also suggested working with DOT to have another access road.

Mr. Fisher stated that they would approach DOT again with these concerns. He stated that DEP has not yet determined if this will need a site location permit. If it does require a permit, it will be submitted to the Board.

Mr. Hunt opened the public hearing. There were no comments. He closed the public hearing.

**10. Application Completeness—Minor Site Plan—Cumberland Glass, 117 Longwoods Road, Tax Assessor Map U07, Lot 5A, Andy Fillmore, InterUrban Planning and Design, representative, Scott Simoneau, owner.**

Mr. Ward recused himself, as he is the owner of the 117 Longwoods Road property.

Ms. Nixon reviewed the application:

The applicant is Scott Simoneau, owner of Cumberland Glass. The owners of the property are William and Noreen Ward of 128 Longwoods Road, Cumberland. The applicant has an Option to Purchase from the owners. Andy Fillmore of InterUrban Planning & Design prepared the site plan. He will be representing the applicant. SYTDesign conducted the survey.

The property is located at 117 Longwoods Road (Route 9) Tax map U07, Lot 5A which is partially in the HC and RR1 zones. It is 4.04 acres in size, with 235' of road frontage.

The application has received Board of Adjustment and Appeals approval as a home occupation. Site plan review is required because the portion of the structure in which the home occupation will occur is located

in the Highway Commercial (HC) zone. This type of home occupation in the HC or LB zone requires site plan review in addition to Board of Appeals review for a special exception.

The applicant currently leases space at 7B Corey Road in Cumberland from William and Norene Ward. Mr. Simoneau is seeking approval from the Town to relocate his business to the recently completed single-family dwelling located at 117 Longwoods Road. He and his family also intend to occupy the home as their primary residence.

The Planning Board will determine if the application is complete and schedule a public hearing for the next meeting. The Board may also decide on which, if any, waivers shall be granted.

#### **PROJECT DESCRIPTION:**

Cumberland Glass provides glass for residential uses (windows, cabinets, shower enclosures, etc.), automobile uses (windshields), and other custom applications. The glass is either shipped to the site ready to be sold as-is, or it is sometimes “shaped” on-site to meet specific needs such as beveling or etching. Cumberland Glass also installs windshields both on-site and in the field.

The business is owned and operated by Mr. Simoneau, who has one employee to answer phones and run the office when he is out on business. The business will be open from 8 a.m. to 5 p.m., Monday through Friday and 8 a.m. to noon on Saturday.

The home occupation will occupy 1,150 s.f. out of the total 3,800 s.f. (including the garage), or 30% of the structure. The proposed use will be in the 900 s.f. garage and the office/reception area will be located in the 250 s.f. breezeway connector between the main house and the garage.

The home has a private drilled well and a septic system sized for 4 bedrooms.

The home is serviced by underground telephone, electric and cable via a CMP pole near the driveway entrance.

Ms. Nixon stated that the application is complete. There are some waiver requests that need to be addressed.

Mr. Fillmore stated that the waivers requested appear to be requirements for new construction. He stated they are seeking a waiver for the landscape plan. With this being a residence, the property will be landscaped in a residential fashion.

Mr. Neagle stated that he is not asking the applicant to spend money on retaining a landscape architect, however he does need to see what is going to be planted.

Ms. Howe stated that this house is close to the river and the run off and sedimentation should be controlled.

Mr. Turner agreed that most of the requests could be waived. A landscape plan should be in place.

Mr. Powers asked how many vehicles could be accommodated.

Mr. Fillmore stated that there is space for four vehicles.

Mr. Powers suggested that there should be a limitation of vehicles on site. He realizes this is a home occupation, however, it is still a visible residence. A cap should be put on the parking. This can be discussed with the Planner and the owner.

Mr. Fillmore will address the parking situation at the next meeting.

Mr. Hunt stated that the screening of the driveway is necessary. Perhaps a deal with a neighbor to handle overflow parking may be helpful to the applicant.

Mr. Powers moved to find the application complete.

Ms. Howe seconded.

Vote: UNANIMOUS

11. Public Hearing – ~~Resolution~~ **TABLED** on proposed amendment to the Subdivision Ordinance, Section 11.1Z, Fire protection for Minor Subdivision.

**F. Administrative:**

Ms. Nixon reviewed the district regulations for Local Business or Highway Commercial zones. It states the use of the zone and what is required for such uses.

It states under Local Business:

The purpose of the Local Business District is to allow a limited range of local business and professional services for residential and rural areas within the Town. Site Plan Review is required for all uses and special exceptions, with the exception of single-family dwellings, bed & breakfast inns with three or fewer guest bedrooms, and day care homes. [Amended, effective 12/13/89]

Ms. Nixon stated that the type of issues that are addressed during Site Plan Review could be addressed by the Board of Appeals. For example, parking, signing, lighting, etc. If we are trying to keep the home occupation permitting a simple process, for a small limited use such as the yoga studio, then we should consider changing the ordinance to not require site plan review for home occupations in the HC and LB districts.

Ms. Nixon stated a business like use in a business type zone should be treated like another business would be. There is a distinction between a home occupation and other businesses.

Mr. Hunt stated that we do not do a site plan review in a residential district and he his happy with the Board of Appeals granting these home occupations.

Ms. Nixon reviewed the home occupation ordinance:

**Sec. 414      Home Occupations**

414.1      Any home occupation such as arts and crafts work, dressmaking, tutoring, music teaching, and the use of a portion of a residential building as a bed & breakfast inn, day care home, or as the office of a physician, dentist, lawyer, engineer, architect, hairdresser, barber, real estate broker, insurance agent, accountant or similar uses may be approved as a special exception by the Board of Adjustment and Appeals if: [Amended, effective 12/13/89]

- .1      The occupation of an office will be managed by a member of the family residing within the dwelling unit. Up to two employees who are not members of the family may be employed in a home occupation, and;
- .2      The occupation or office will be located wholly within the principal or accessory structures, and;
- .3      Exterior displays, exterior storage of materials, and exterior indication of the home occupation will not be permitted except for signs as may be specifically provided

for by the Board of Adjustment and Appeals and as may otherwise conform to the conditions of this Ordinance; and

- .4 Noise, vibration, smoke, dust, electrical disturbance, odors, heat, or glare will not be detectable beyond property limits, and;
- .5 Off-street parking spaces will be provided in an amount to be determined by the Board as necessary to avoid street congestion.

414.2 The granting of a special exception approval for a home occupation shall apply to the applicant only while the applicant resides at the property.

The Board agreed that Ms. Nixon will develop ordinance language to simplify the review process.

ADJOURNED AT 9:50PM

A TRUE COPY ATTEST:

\_\_\_\_\_  
Mr. Philip Hunt, Board Chair

\_\_\_\_\_  
Nancy Decker, Board Clerk

**Planning Board Meeting  
Tuesday, June 15, 2004  
Council Chambers of the Town Offices  
290 Tuttle Road, Cumberland Center  
7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Present: Phil Hunt-Board Chair, Tom Powers, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle  
Terry Turner absent until 7:05pm.

Staff: Carla Nixon, Town Planner, Nancy Decker, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of May 18, 2004 with technical corrections.

Mr. Powers seconded.

VOTE: UNANIMOUS

**D. Consent Calendar / Deminimus Change Approvals**

Ms. Nixon discussed the Chebeague Island Historical Society parking lot paving change. She stated the abutter is agreeable to the paving change and that it is a small, in-fill section, which will enhance the site.

Mr. Powers stated that the Board should leave this to the discretion of the municipal group.

Vote: UNANIMOUS

**E. Hearings and Presentations:**

Mr. Hunt stated that agenda item #9 would be heard first to accommodate the Fire Chief Dan Small.

There was no opposition.

**9. Public Hearing – Recommendation to Town Council on proposed Fire Protection Ordinance**

Chief Small reviewed the proposed ordinance. The proposal is to take the current ordinance from the zoning and subdivision ordinance and make it a stand-alone ordinance. Chief Small has been working with the Town Manager Mr. Shane and Steve Moriarty, a Town Council member, to refine the document with the intention of making the ordinance clearer.

The proposed ordinance would rely on the type of equipment that the Fire Department has in determining if adequate fire protection can be provided for minor subdivisions. Major subdivisions would include 5 or more lots or units. Commercial buildings would be 4000 square feet or more.

Chief Small stated that the Fire Department is trying to get away from fire ponds due to the danger to children. The alternatives include underground water tanks, an extension of the water main, and sprinklers.

Ms. Nixon was concerned that in the Definitions it states that a Major/Minor Subdivision is a Town of Cumberland Planning Board “approved” subdivision. She stated that the Board relies on this ordinance as they are going through the planning process. Perhaps the word “approved” should be deleted.

Mr. Hunt suggested referring to underground tanks as water supply systems, which could include both tanks and ponds if need be.



Chief Small stated that existing water bodies should stay as their own definition.

Mr. Neagle asked if future development could include fire ponds.

Chief Small stated a pond cannot be used. One of the alternatives will be required.

Mr. Couillard asked about the lock box system for the homes.

Chief Small explained how the proposed lock box key system works. Dispatch will have the keys to be released to an authorized person. The intent is that the Fire Department sometimes cannot get into homes without substantial damage being done to the home. With this alternative, the Fire Department could get into a home without damaging it.

Mr. Couillard was concerned about the safety of the boxes. Further stating that the homeowner/contractor would be responsible for the costs. He stated that the homes are too expensive in this town already and it is because of these types of things that drive the costs up.

Ms. Howe asked Chief Small if the firemen on Chebeague were informed or consulted on the proposed ordinance changes.

Chief Small stated that this group had been at the Officer's meetings where this ordinance has been discussed. They are aware of the proposal.

Ms. Howe reviewed the fire protection on Chebeague Island. She would be interested in seeing a map of the location of fire ponds on the island.

Chief Small stated there are several ponds on the island.

Mr. Turner reviewed Section 105 with Chief Small and the Board.

Mr. Powers reviewed Section 115.1 with Chief Small and the Board.

Other issues of concern/discussion were: minor subdivisions, lock boxes, penalties/fines, wording/definitions, testing of hydrants, underground storage tanks.

Mr. Hunt opened the meeting to public comment. There were no comments.

Mr. Hunt closed the public portion of the meeting.

Mr. Hunt stated that there were a few definitional items to be clarified. The ordinance should be redrafted and resubmitted for review by this Board.

Mr. Turner moved to table for revisions.

Ms. Howe seconded.

Vote: UNANIMOUS.

1. **Application Completeness – Major 45-unit, age-restricted Subdivision, Rockwood Senior Housing – Phase IV, Cumberland Park, Tax Assessor Map R02D, Lot P/O 1, OC district, Lee Allen, Northeast Civil Solutions, representative, LSH Holdings, Inc., owner.**
2. **Application Completeness – Minor Site Plan Review – Longmeadow Farm Alpacas, Barn Construction, 135 Main Street; Tax Assessor Map U08 Lot 6, 28 acres, HC district, Pamela Harwood, owner.**

Ms. Nixon asked Fire Chief Dan Small if he could stay for this application.

Mr. Ward noted to the Board that he is an abutter to this property and stated he would recuse himself if the Board deemed it necessary.

The Board approved Ward sitting on this application.

Ms. Nixon reviewed the application:

The applicant is Pamela Harwood, owner of Longwood Alpacas. The applicant is seeking minor site plan approval to construct a 40' x 40' barn to be used for raising alpacas. Scott Decker of SYTDesign prepared the site plan. The survey was conducted by Daniel LaPoint, PLS #1183. This survey was done in 1988.

The property is located at 135 Main St. (Route 9), Tax Map U08, Lot 6. This is in the HC (Highway Commercial) zone. Animal husbandry is a permitted use in this zone. The parcel is 25 acres in size, with 60.09' of road frontage.

Tonight the Planning Board will determine if the application is complete and schedule a public hearing for the next meeting. The Board may also decide on which, if any, waivers shall be granted.

#### **PROJECT DESCRIPTION:**

The principal activity of the business is to breed alpaca livestock and annually harvest the fiber. Alpacas are not bred for food. The applicant proposes to build a 1600 sq. ft. barn with a 3 sided shelter and some electric perimeter fencing. The applicant anticipates building a herd of 10 breeding females and some other alpacas for a total herd size of between 15 and 20 animals. The applicant may sell yarn and clothing made from the fiber of the animals, but this retail operation would be by appointment only.

Ms. Nixon reviewed the waivers:

1. 206.7.3.7 location of intersecting roads & driveways within 200 feet of the site.
2. 206.7.3.12 location of nearest fire hydrant or water supply for fire protection
3. 206.7.4.9 location of all utilities including fire protection systems.

Ms. Harwood reviewed the details of her project:

Alpacas stand approximately 3 feet at the withers (shoulder), with a long neck that brings them eye-to-eye with larger children and smaller adults. They tend to be shy and gentle and unlike llamas, they rarely spit. Alpacas make wonderful PR animals in hospitals and nursing homes. To answer questions about wear and tear on the land, alpacas average 130-150 lbs. – much less than horses or cattle. They have footpads with two large toenails; so they have a very low impact on the environment, unlike many hoofed animals, and when feeding they bite off grass with their lower teeth against the toothless upper palate rather than pull it out by the roots. With proper pasture rotation, we will have plenty of grazing for the herd.

To protect alpacas from the extremes of cold wind and snow, they grow dense blankets of fiber that has been highly prized for thousands of years. Alpacas are shorn every spring. The hollow fibers are spun into yarn that rivals cashmere in softness, and US alpaca breeders are working very hard to develop and promote the fiber market in this country. She plans to sell yarn, rovings, sweaters, socks, scarves, hats, etc made from the fiber of her animals, though it would be more as a farm store open by appointment to occasional farm visitors rather than a separate retail store with set hours and employees.

Ms. Harwood's land is 25+ acres of clear pasture crossed by Mill Brook and a small, seasonal stream.

The proposed barn will be 40'x40' with a 10' shed along its SE side. They will dig out the soil under the barn (sand and clay) to a depth of 4-5' and replace it with crushed rock, gravel and sand. The barn will be built on 6' concrete piers available at Swan's Concrete Products of Westbrook, ME. The piers are conical and will be set at least 5' into the ground to eliminate or at least minimize frost heaves. The stall area for the alpacas has an open plan to allow for many configurations depending on the needs of the herd. The

other side of the barn will be used to store farm vehicles and implements as well as grain and fleece. Barn and gates will be secured with kiwi gate latches, and will be padlocked when they are away from the farm. They are set back from the road far enough that passersby cannot see the property, so she does not think unexpected visitors will be a problem. Farm visits will be by appointment only, and may happen as much as 3-4 times per month. Traffic will be minimal.

Initially, they will run electricity from the nearby utility pole to a box on the end of the barn, but as soon as they can afford it, they intend to put in solar-power for the indoor 8' waterproof fluorescent lighting and to run fans in the heat of the summer. Light switches and outlets will be waterproof. There will be an exterior fluorescent fixture out front – likely an attractive goose-necked one found in a catalog. It will be on from dusk to late evening on a timer.

A 5', 6" strand Geotek "Common Sense Fence"™ with solar-powered Electro braid will contain the alpacas in the paddock area around the barn, as well as the larger pasture to the NE. The largest field will remain unfenced and will continue to be hayed by Bob Tibbetts of Gray as it has been for many years. Typically, alpacas do not challenge fences. The real purpose of the fencing is to keep out predators such as coyotes and neighborhood dogs, and white-tailed deer, which carry meningeal worm, a disease that is fatal to alpacas.

Mr. Hunt asked if the public would be coming onto the property to view the livestock.

Ms. Harwood stated they would, by appointment only, to view the livestock and the fur.

Mr. Hunt asked how far the residence would be from the proposed barn.

Ms. Harwood stated it was 200 feet.

Mr. Hunt asked the Fire Chief if the pond would be acceptable to utilize for fire protection.

Chief Small stated that as the current ordinance reads now, the pond would be acceptable for an agricultural building.

Mr. Hunt asked Ms. Nixon if the application was complete.

Ms. Nixon stated it was.

Mr. Powers moved to find the application complete.

Mr. Turner seconded.

Vote: UNANIMOUS.

**3. Application Completeness – Minor 4-lot Subdivision, Deer Field Estates, Mill Road, Tax Assessor Map R07C, Lot 1A, 19.64 acres, RR1m district, representative, Larry Bastion, P.E., Sebago Technics, Elvin Copp, owner.**

Ms. Nixon reviewed:

The applicant is Elvin Copp of 38 Skillin Road. Larry Bastion of Sebago Technics represents the applicant. The property is located on Mill Road, Map R-07C, Lot 1A in the RR1m (Rural Residential, manufactured housing overlay) district. The request is for minor subdivision approval for a four-lot subdivision. The property size is 19.64 acres. The Planning Board will review the application for completeness and discuss waiver requests.

**PROJECT DESCRIPTION:**

Parcel Size: 19.64 acres  
Zoning: RR1m (Rural residential 1-manufactured housing overlay)

Subdivision Type:	Traditional
Road :	18' traveled way w/ 2' gravel shoulders on both sides. Road will be private and will access the subdivision from Mill Road through a proposed right-of-way across land to be retained by Mr. Copp.
Homeowners Assoc.:	Will maintain private roadway and stormwater drainage systems. (Homeowners documents forthcoming)
Min. Lot Size:	4 ac. (174,240 sf).
Lot frontage:	200' for traditional style subdivision
Setbacks:	Front = 50', Rear = 75', Side 30' (combined = 75').
Water:	Private wells on each lot.
Wastewater:	Individual on-site septic systems.
Utilities:	The applicant is proposing underground utilities. Electrical service will be from pole on Route 100 along lot line between lots 3 and 4.
Wetlands:	Less than 4,300 sq. ft. will be filled or disturbed; these areas are shown on the plan. No stream crossings and no disturbance with 75' of the existing stream on the property. Property is located in the Piscataqua River Watershed. There are no downstream lakes or ponds.
Min. Open Space:	In a traditional subd., 10% of gross lot area may be required by Board. None is proposed.

**WAIVER REQUESTS:**

1. By-way modifications due to steep topography and associated construction costs.
2. Modify requirement for a 3% maximum grade within 75' of the intersection.

Mr. Bastion reviewed with the Board:

The property is located on Mill Road. The property itself is rolling terrain. The proposal is to bring the private way down along the slope of the large rock off of Mill Road. The road is proposed at a 10% grade.

The waivers relate to the extent of fill that will be needed to accomplish these requirements. The 3% grade waiver is for the purpose of providing a level grade before turning onto Mill Road. For safety reasons it was a practical solution. The by-way waiver request is due to the low density (4-lots with low volumes of traffic on the road.) Pedestrians could utilize the shoulder of the roadway.

Drainage runs to the south, through the woods to headwater channels and eventually to the Piscataqua River.

Mr. Neagle asked about the abutting lots owned by Mr. Copp. He stated that this appears to be a 5-lot subdivision, which would be classified then as a major subdivision.

Mr. Couillard stated he is an abutter on Gray Road. The road going into the subdivision is a concern. There is a cliff on the side of the road going down into the subdivision.

Ms. Howe questioned the water courses. She could not find the stream on the topography map.

Mr. Bastion stated he was also unclear where the stream was on the property. He believes that while on the property, it is not classified as a stream, but as it runs off the property, it becomes a stream. He reviewed the streams, wetlands and drainage courses with the Board.

Mr. Hunt stated he would like an answer to Mr. Neagle's question regarding a 5-lot vs. a 4-lot subdivision. He suggested that the Town Attorney needs to determine this.

**Mr. Powers moved to table this application for further review.**

Ms. Nixon stated that the difference between a minor and major subdivision is not that great with regard to submission requirements. Ms. Nixon reviewed the checklist with the Board.

Mr. Powers asked about the cul de sac and the prospect of a future connection.

Mr. Hunt asked if there were any existing public uses on this property such as snowmobile, horseback riding, trails, etc. If so, can they be identified?

Mr. Couillard stated that there is a small trail on the backside of the property. He mentioned it was used for cross country skiing and some ATV use.

Mr. Powers stated that trails are important in these types of areas.

**Mr. Neagle seconded.**

**Vote: UNANIMOUS**

The Board will conduct a site walk on Tuesday, July 20, 2004 at 6pm

- 4. Public Hearing - Final Plan Review – Major Site Plan – Greely Jr. High School Renovations, 303 Main St.; Tax Assessor Map U11 Lot 1, MDR district, M.S.A.D. # 51 owner, S.M.R.T. Engineers representative.**

Ms. Nixon reviewed:

The applicant is MSAD #51. Paul Stevens, Principal, SMRT Architecture, Engineering and Planning, is the representative. Delucca-Hoffman prepared the site plan. The project is the proposed renovation and additions to the Greely Junior High School located at 303 Main St., Tax Assessor Map U11 Lot 1. Tonight, the Board will consider this plan for final approval.

#### **PROJECT DESCRIPTION:**

1. The proposed work involves the existing junior high buildings facing Main Street. The project will include the Gyger Gym and the ca. 1980's gymnasium, and associated site work. The Greely Institute building and adjacent 50's era classroom building are not included in this project.
2. The proposed renovations and additions focus on conversion of existing spaces to use for the performing and music programs of the high school in anticipation of the relocation of the junior high school population to the new facility nearing completion at the southeast end of the campus.
3. Site development will include removal of the existing continuous vehicular access in front of the junior high buildings and replacement with pedestrian walkways. 35 parking spaces have been displaced, 31 spaces are provided in the front parking area, and 4 spaces have been added near the loading access area. There is no net loss of parking proposed.
4. All of the portable classrooms currently located between the junior and senior high school buildings will be removed, plus a large portion of the pavement under them. There is a net reduction of approximately 5,000 s.f. of impervious surface.
5. New mechanical, electrical, plumbing and fire suppression systems will be included as part of the project.
6. Stormwater drainage on the site is anticipated remain basically "as-is: with the exception of possible new drains in the area between the junior and senior high to accommodate surface and roof drainage.
7. New landscaping and pedestrian level lighting where required will complete the new work.

**PROJECT HISTORY:**

February 24, 2004: Pre-application Conference with Planning Board

March 16, 2004: Site Inventory and Analysis deemed complete.

April 20, 2004: Application deemed complete.

May 18, 2004: Preliminary Review

Ms. Nixon stated that there is no evidence of financial capacity at this time, however they have continued with the approval process and will move forward with construction, pending a positive bond vote in November.

Ms. Stevens stated that the two issues of concerns are the financial capability and the lighting of the pathway between the Junior High School and the elementary school. He asked if the pathway lighting could be considered for elimination due to the cost.

Mr. Ward stated that he did conduct a site walk with Dennis Judd of SMRT. He stated it appeared there was ample lighting at the Mable I. Wilson parking lot and the Middle School. The void of lighting appeared to be between the parking lots and the auditorium. In the winter it could be a treacherous walk without lighting. He recommends a lighting engineer review the lighting issue.

Mr. Powers stated that given the scope of this job, to not consider installing lights for safety and security seems petty.

Mr. Stevens stated that the lighting would cost \$16,000.

Ms. Howe asked if the bond issue were passed would this plan go into effect? Will this project come back to the Planning Board for any reason?

Mr. Stevens stated it would not come back to the Planning Board. There is already \$5 million for the project; once the remainder is received the construction will begin. The project is estimated to cost \$6.7 million.

Ms. Nixon asked again about a sign for the performing arts center to help patrons locate the building.

Mr. Stevens did not discuss this with the School Board. The Committee is loathe to do anything that will increase the cost of this project.

Mr. Hunt opened the public portion of the meeting. There were no comments. He closed the public portion.

Ms. Nixon reviewed the findings:

**Sec. 206.8 Approval Standards and Criteria**

**.1 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 project work limits do not impact any environmentally sensitive areas, as evidenced by the State and Federal agency contacts and evidence previously provided to the Town during the Master Plan permitting efforts.

The Board finds the standards of this section have been met.

.2 Traffic Access and Parking

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.  
**The existing driveway onto Main Street has adequate sight lines in each direction (200' beyond the requirement for the 25 mph speed limit.)**
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.  
**The southerly driveway has been in existence and does not conflict with existing turning movements or traffic flows.**
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.  
**The existing grade of the southerly drive intersection with Maine Street is less than 3%.**
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.  
**Traffic volumes from the southerly driveway will be low compared to the surrounding traffic volumes, therefore levels of service are considered adequate. The Traffic Impact Study predicts that the southerly driveway will function with an acceptable level of service as a primary access drive into the High School Campus. Despite a predicted level of service D for left turns out of the campus, future traffic volumes are not forecast to meet traffic signal warrants.**
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.  
**Access routes into the campus will remain unchanged as part of the proposed project.**
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.  
**For the current project, the District is proposing modest traffic/pedestrian safeguards including crosswalk striping, signage and sidewalk ramps to protect against hazards. The plans also include an improved pedestrian route from the east side of campus (the elementary and middle school) to the auditorium area. A new pathway**

**will be constructed between the track and the high school to allow access to the paved areas along the south side of the High School to the auditorium.**

- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

**The Main Street access driveway functions adequately to avoid queuing onto Main Street during normal traffic conditions.**

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

a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

**The campus currently contains two one-way entering drives from Main Street and a single two-lane exiting drive onto Main Street. The proposed project will result in one two-way driveway (southerly drive) and a single entering driveway and a single exiting drive. In the future under the Master plan, two full movement driveways are proposed off Main Street. These revisions, however, are not contemplated until some future period. The Board finds the standards of this section have been met.**

### .3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

**The southerly driveway is located approximately 90' from the nearest adjacent private driveway and greater than 150' from the signalized intersection at Main Street and Tuttle Road.**

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

**Access routes for emergency vehicles will continue to be provided around the existing structures and proposed renovation areas. A fire lane will be posted along the northerly side of the gym is required by the Fire Department.**

**The Board finds the standards of this section have been met.**

### .4 Internal Vehicular Circulation



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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.  
**The parking lot layout for the small lot in front of the 50's wing contains adequate maneuvering space for cars using the lot. The parking areas in front of the High School will remain substantially unchanged from the existing conditions and appear adequate for their intended purpose.**
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.  
**No substantial grading activity is required for the proposed project. Pedestrian walks and access ways will be graded to meet ADA requirements and no substantial removal of trees or earth is required.**

**The Board finds the standards of this section have been met.**

.5 Parking Layout and Design

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.  
**This has been done.**
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.  
**No new parking spaces are located within 15' of the side, rear or front property lines.**
- .3 Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
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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

**All parking spaces shall be 9' x 18' in dimension.**

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.  
**No diagonal parking is proposed.**
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.  
**This has been done.**
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.  
**This has been done.**

**The Board finds the standards of this section have been met.**

.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.

**Sidewalks and ramps will provide a pedestrian linkage between the parking areas and the building entrance. There is also a new route being constructed on the east side of the High School.**

**The Board finds the standards of this section have been met.**

.7 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.

**The proposal includes the installation of new drainage infrastructure including catch basins and pipes to collect and convey runoff from the development area.**

**The peer review engineer requests more information on the pipe that is located under Route 9 and its ability to handle the increase predicted. This is a condition of approval.**

- .1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.  
**Stormwater will be collected and discharged to either the existing drainage system in Main Street or to existing drainage pipes onsite.**
- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of

flow from the site after development does not exceed the predevelopment rate.

**Tom Saucier is requesting additional information to prove that the existing drainage system in Main Street has adequate capacity for the current and improved site.**

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

**Tom Saucier is requesting additional information to prove that the existing drainage system in Main Street has adequate capacity for the current and improved site.**

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

**No impacts to natural drainage ways are proposed.**

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

**Tom Saucier is requesting additional information to prove that the existing drainage system in Main Street has adequate capacity for the current and improved site.**

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

**No sources of upstream runoff pass through the limits of work.**

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

**The runoff characteristics will remain unchanged from current conditions. New catch basin structures will be fitted with sediment sumps and hooded outlets to capture floatable pollutants and any oils or grease entering the structures.**

**With the proposed condition of approval, the Board finds the standards of this section have been met.**

#### .8 Erosion Control

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

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

**Earthwork activities will consist of foundation excavation and modest excavations for placing gravels and new hard surfaces. Erosion control measures and details have been placed on the project drawings and meet the requirements of the Maine Erosion and Sediment Control handbook.**

**The Board finds the standards of this section have been met.**

.9 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.

**The project will include new fire protection and domestic water supply lines tied to the existing 16" water main in Main Street. A letter from the PWD has been received.**

**The Board finds the standards of this section have been met.**

.10 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.

**The project will utilize public sewer. A letter from the PWD has been received.**

**The Board finds the standards of this section have been met.**

.11 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.

**Telephone and power currently serve the campus. Upgrades may occur as part of the proposed project. Such upgrades will be coordinated with the providing utility company.**

**The Board finds the standards of this section have been met.**

.12 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.

**Public water and sewer is being utilized.**

**The Board finds the standards of this section have been met.**

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.  
**The project involves no storage for fuel, chemicals, chemical or industrial waste of biodegradable raw materials. No discharges of unsuitable materials are contemplated. The erosion control plan contains appropriate procedures to reduce the risk of spills or other threats to stormwater or groundwater.**

**The Board finds the standards of this section have been met.**

.14 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.

**The applicant has demonstrated technical capacity as evidenced by the use of SMRT and Deluca Hoffman.**

**The Board has not yet received evidence of financial capacity. This will be addressed as a condition of approval.**

.15 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.

**The site does not contain any historic or archaeological resources as evidenced by the Master Plan permitting process.**

**The Board finds the standards of this section have been met.**

.16 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 special hazard flood area.**

**The Board finds the standards of this section have been met.**

.17 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.

**Lighting will consist of wall pack lights over the building entrances and several pole mounted lights to provide coverage over parking and pedestrian access routes.**

**The Board finds the standards of this section have been met.**

The Board reviewed with Ms. Nixon the lighting issues of the pathway.

Mr. Neagle stated he was sensitive to the cost issue and could go either way.

Mr. Couillard stated it would be a good idea to have lights.

Ms. Howe stated that for safety and liability, lights should be added to this pathway.

Mr. Hunt stated that there is a lot of lighting from the sides of the structures. It does provide some illumination. He does suggest that some highlighting along the paths is a good idea. He referenced the new middle school paths. There is no need to over kill with the lighting, however, some degree of low level lighting is necessary.

Mr. Stevens addressed the plans-ES101; ES102. He discussed the lighting on plans with the Board.

Mr. Ward and Mr. Turner reiterated the safety and security of the path lighting.

Ms. Nixon continued:

.18 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.

**The area is located within the interior of the campus, no substantial impacts are anticipated.**

**The Board finds the standards of this section have been met.**

.19 Noise

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

**Construction noise will occur, but this is temporary. A condition of approval has been proposed to limit hours of construction work to between 7:00 a.m. and 7:00 p.m.**

**While this is to be an auditorium, the associated noise will be contained within the building and will not create a nuisance for neighboring properties.**

**The Board finds the standards of this section have been met.**

.20 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.  
**Not applicable**
- .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.  
**The proposed dumpster location will be on the south side of the gym on an area of pavement shielded from view from the High School and nearby properties. Due to the removal of the kitchen functions, the dumpster needs should be reduced.**
- .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.  
**No safety hazards to children are apparent on this property.**

**The Board finds the standards of this section have been met.**

.21 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 landscape plan has been prepared outlining the installation of various trees, shrubs and ground covers. The plan will enhance the visual appearance of the front of the building facing Main Street and should complement the existing trees and plantings.**

**The Board finds the standards of this section have been met.**

.22 Building and Parking Placement

- .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 with 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.  
**The project will remove and enhance a substantial area of pavement to the front of the Gyger Gym. Pedestrian walks will link the small parking area in front of the 50's wing with the larger parking area in front of the High School. A substantial landscape buffer will remain along the Main Street frontage.**
- .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.

**Planting will primarily be focused on the Main Street frontage to break up the building façade and enhance the appearance of the Main Street view.**

**The Board finds the standards of this section have been met.**

Mr. Turner moved to approve the findings.

Mr. Ward seconded.

Vote: UNANIMOUS

**Recommended Conditions of Approval**

1. That the applicant provide evidence of financial capacity prior to the issuance of a building permit, to be reviewed and approved by the Code Enforcement Officer, Town Planner and Town Manager.
2. That the applicant prepare an estimate of town-related values for review and approval by SYTDesign and Town staff, and that a preconstruction meeting be held prior to the start of construction.
3. That the applicant's engineer provide the information requested by Tom Saucier on the ability of the pipe under Route 9 to handle the anticipated increase in flow of water. To be reviewed and approved by the Public Works Director and Tom Saucier.
4. That the applicant place notes on the plan to address the requirements of the Fire Chief (as contained in his review listed on page 1 & 2 herein.)
5. That the hours of construction work be limited to 7:00 a.m. to 7:00 p.m., daily.
6. That the applicant provides a letter from CMP indicating capacity to serve.
7. That all fees be paid prior to the issuance of a building permit.
8. That the applicant establishes an escrow account with the Town to cover the costs of construction inspections, if required by the Town Manager.
9. That the applicant provide evidence of the MDEP permit for modification to the standing Site Law permit prior to the pre-construction conference.
10. That the applicant provide evidence of the MDOT permit for modification to the standing traffic permit prior to the pre-construction conference.
11. That the applicant submits as built plans to the Town upon the completion of construction.

Mr. Turner moved to approve the conditions of approval.

Mr. Neagle seconded.

Vote: UNANIMOUS

Mr. Hunt stated there would be a 5-minute break. 9:15pm-9:20pm

- 5. Public Hearing – Final Plan Review-Major Site Plan Review-Lot 8, Cumberland Business Park, Tax Assessor Map R02D, Lot 1B, OC district, DST Realty, owner; SHP Management Corporation, applicant. Representative is Gawron Turgeon Architects.**

Ms. Nixon reviewed:



**REQUEST:**

The applicant is SHP Management Corporation. DST Realty is the owner. Charlotte Malony, of Gawron Turgeon Architects is the representative. The applicant is requesting major site plan review for a new office building on Lot #8 of the Cumberland Business Park, Tax Assessor Map R02 D Lot 1B.

Tonight the Board will consider granting final approval.

**PROJECT DESCRIPTION:**

1. The proposed project is for the construction of a one-story wooden building of approximately 7000 sq. ft. to accommodate 20 employees. The building will be heated by propane gas. There will be a parking lot. All utilities will be underground. Public utilities are currently located on Thomas Drive.
2. The site is bordered on the east by Route One, by Thomas Drive on the north and by two undeveloped lots to the west and south, both of which are wooded. It is approximately 2.1 acres in size and covered with a mix of deciduous (oak) and coniferous (pine and hemlock) trees.
3. The lot setbacks are 25' front, 30' side and 65' rear. The Route One Design Guidelines call for a 75' setback from Route One.
4. SHP owns and manages housing throughout the United States. Its acquisition and accounting departments are currently located in Portland. SHP'S business is expanding and they would like to move their offices to Cumberland. Their hours of operation are 8 A.M. to 5 p/m/, Monday through Friday.
5. The applicant has provided a letter from traffic engineer John Murphy which indicates this use will generate an estimated 11 peak hour trips for a total for the development of 117. This is well below the 310 trip limit imposed by DOT.

**PROJECT HISTORY:**

4/20/04: Site Inventory and Analysis Complete

5/18/04: Application deemed complete by Board

Mr. Couillard asked the applicant about the underground propane tanks and the accessibility to fill in the winter.

Ms. Nixon stated that the Town Engineer made note that it may be difficult to access the tanks in the winter. This issue will be corrected in the field.

Mr. Hunt opened the public portion of the meeting.

Mr. McAecharn of 26 York Ledge Drive stated that the water pressure in Rockwood is very low. He understands that Rockwood is at the end of the PWD pipeline. He also asked what the hours of operation for this business would be.

Ms. Nixon stated that the hours of operation are Monday through Friday, 8am-5pm.

Mr. McAecharn asked about the parking lot lights.

Ms. Nixon stated that a photometric plan will be provided. The ordinance requires that the lighting not go beyond the property lines. She stated this appears to be a compatible type of business for a residential area. She was unaware of a problem with the water pressure, noting that the letter from the PWD does state that the capacity to serve this project is adequate. This letter would have been dated between April and now. She stated that Mr. McAecharn should speak with the PWD to state his concerns of the water pressure and that the PWD should keep a closer watch on that issue as further development occurs.

Mr. Neagle stated that this office building would use a small amount of water.

Mr. Hunt closed the public portion of the meeting.

Ms. Nixon reviewed the findings:

**Sec. 206.8 Approval Standards and Criteria**

**.1 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.

**No distinctive stands of trees were identified on the site. The buildable area is relatively flat. The entire Cumberland Business Park site has been reviewed by the Maine Department of Inland Fisheries and Wildlife and no records were found of significant wildlife habitat or fisheries. A review of the Maine Natural Heritage Program data revealed "no known rare or unusual features on the property." The site is not located on the 100 year floodway of any river or stream. The DEP order states that the proposed development will not pose an unreasonable risk that a discharge to a significant groundwater will occur.**

**The Board finds the standards of this section have been met.**

**.2 Traffic Access and Parking**

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.

- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

**The proposed project will generate very little visitor traffic. Other than employee vehicles, the only vehicles will be a delivery van and the mail delivery truck. All the Town's parking, layout and circulation standards have been met. The parking area has been split up by landscaped islands and pedestrian walkways between parked cars have been provided. As per the John Murphy, traffic engineer, the additional trips generated by the proposed project still leaves the total number of trips at 117 below the approved threshold of 310 trips per hour for the Cumberland Business Park.**

**The Board finds the standards of this section have been met.**

### .3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**The proposed entrance is located approximately 110' from the nearest intersection.**

**The Board finds the standards of this section have been met.**

### .4 Internal Vehicular Circulation

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

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

- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

**The layout and design of the parking area will allow for safe movement of vehicular and pedestrian traffic. The site requires minimal grading and tree removal is being kept to a minimum.**

**The Board finds the standards of this section have been met.**

**.5 Parking Layout and Design**

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.  
**This has been done.**
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.  
**No new parking spaces are located within 15' of the side, rear or front property lines.**
- .3 Parking stalls and aisle layout must conform to the following standards.

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

**All parking spaces are 19' x 9' in dimension.**

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.  
**No diagonal parking is proposed.**
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.  
**This has been done.**
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.  
**This has been done.**

**The Board finds the standards of this section have been met.**

**.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 adequate provision for pedestrian movement within the parking area and into the building.**

**The Board finds the standards of this section have been met.**

**.7 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.

- .1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff, which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**A 1995 stormwater plan for the entire Cumberland Business Park was included in the submission for this development. It assumed that the smaller lots, such as Lot #8 would be 100% impervious within the building envelope. The building envelope for Lot #8 is 40,000 sq.ft. The proposed plan will result in approximately 20,600 sq. ft. of roof, parking, driveway and walks. This plan does not substantially change the drainage patterns on the lot from that anticipated in the 1995 report. There is a 60" undisturbed wooded buffer on the site before runoff reaches the vegetated ditches on both Thomas Drive and Route One.**

**The Board finds the standards of this section have been met.**

.8 Erosion Control

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
- .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

**Erosion control measures and details have been placed on the project drawings and meet the requirements of the Maine Erosion and Sediment Control handbook. This erosion control plan has been reviewed and approved by Al Palmer, peer review engineer.**

**The Board finds the standards of this section have been met.**

.9 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. **A letter from the PWD has been received stating that there is adequate water supply for the development.**

**The Board finds the standards of this section have been met.**

#### .10 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.

**The project will utilize public sewer. A letter from the Portland Water District and an email from the Town Manager have been received.**

**The Board finds the standards of this section have been met.**

#### .11 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.

**Telephone and power currently serve the Cumberland Business Park. Connecting service to the building will be underground.**

**The Board finds the standards of this section have been met.**

#### .12 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 be on public water and sewer.**

**The Board finds the standards of this section have been met.**

#### .13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine

Department of Environmental Protection and the State Fire Marshall's Office.

**The project involves no storage for fuel, chemicals, chemical or industrial waste of biodegradable raw materials. No discharges of unsuitable materials are contemplated. The erosion control plan contains appropriate procedures to reduce the risk of spills or other threats to stormwater or groundwater.**

**The Board finds the standards of this section have been met.**

.14 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.

**A letter from Ballentine, Finn & Company has been received stating financial capacity. Technical expertise was provided by Gawron Turgeon Architects, Sebago Technics and SYTDesign.**

**The Board finds the standards of this section have been met.**

.15 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 review of the Maine Natural Heritage Program data revealed "no know rare or unusual features on the property."**

**The Board finds the standards of this section have been met.**

.16 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 the 100 year floodway of any river or stream.**

**The Board finds the standards of this section have been met.**

.17 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.

**Lighting will consist of 7 area lights along the edge of the parking lot and one at the main entry; there will also be wall fixtures at both building entryways. Cut sheets were provided showing light fixture details. The area light is a complete cutoff fixture. The entrance sign will not be lit. A condition of approval is for the applicant to provide a photometric plan.**

**With the proposed condition of approval, the Board finds the standards of this section have been met.**



.18 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.

**Substantial buffers of existing vegetation will remain after the development except along the south side of the site where only a 15' strip will remain. A landscaping plan showing a border planting of coniferous and multi-stemmed deciduous trees has been submitted. The compressors by the side of the building will be screened by evergreens.**

**The Board finds the standards of this section have been met.**

.19 Noise

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

**Construction noise will occur, but this is temporary. A condition of approval has been proposed to limit hours of construction work to between 7:00 a.m. and 7:00 p.m.**

**No aspect of the proposed operation will produce noise that would create a nuisance for neighboring properties.**

**The Board finds the standards of this section have been met.**

.20 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.

**Not applicable**

- .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.

**The dumpster is screened by a 6' wooden fence and shrubs.**

- .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.

**No safety hazards to children are apparent on this property.**

**The Board finds the standards of this section have been met.**

.21 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 landscape plan has been prepared that seeks to emulate the natural character of the site. Native species of trees and bushes have been specified. Evergreens and Vibernums will buffer the parking area along the south side from the adjoining lot.

The Board finds the standards of this section have been met.

.22 Building and Parking Placement

- .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 with 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.
- .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.

**The building will not be visible from Route one in the summer. During the winter, parts of its outline will be visible through a veil of tree trunks and branches. Parking is set along the side of the site and well back from the road. The 75' setback recommended by the Route One Design Guidelines is in place.**

The Board finds the standards of this section have been met.

Ms. Howe moved to approve the findings of fact.

Mr. Neagle seconded.

Vote: UNANIMOUS

Ms. Nixon reviewed:

**Conditions of Approval**

1. That the hours of construction work be limited to 7:00 a.m to 7:00 p.m., daily.
2. That the applicant provides a letter from Central Maine Power indicating capacity to serve to be reviewed and approved by the Town Planner.
3. That the applicant provides a copy of the photometric plan to be reviewed and approved by the Town Planner.
4. That the plan be changed to note the locations of cleanouts for the sanitary sewer as required by the Ordinance, to be reviewed and approved by the Public Works Director.
5. That the plan be changed to state that riprap aprons will be provided for the driveway culvert, to be reviewed and approved by the Town Engineer and Public Works Director.
6. That the final culvert design for the driveway be reviewed and approved by the Town's Public Works Director and the Town Engineer.

7. That Sheet C-101 be revised to show building dimensions, to be reviewed and approved by the Town Planner.
8. That Sheet C-101 be revised to note the surface treatment for the dumpster pad, to be reviewed and approved by the Town Planner.
9. That the handicapped parking area be changed to show two parking spaces and also to provide for an 8' barrier between the two spaces, to be reviewed and approved by the Town Planner.
10. That all fees be paid prior to the issuance of a building permit.
11. That the applicant submit as-built plans to the Town upon the completion of construction.
12. That the location of underground tanks be reviewed and approved by the Town Engineer.

**STANDARD CONDITIONS OF APPROVAL:**

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

Mr. Powers moved to grant approval with the conditions stated.

Ms. Howe seconded.

Vote: UNANIMOUS

6. **Public Hearing – Final Plan Review- Minor Site Plan – Cumberland Glass, 117 Longwoods Road, Tax Assessor Map U07, Lot 5A, RR1/LB district, Andy Fillmore, InterUrban Planning and Design, representative, Scott Simoneau, owner.**

Mr. Ward recused himself as he is the owner of the building.

Ms. Nixon reviewed:

**REQUEST/BACKGROUND:**

The applicant is Scott Simoneau, owner of Cumberland Glass. The owners of the property are William and Noreen Ward of 128 Longwoods Road, Cumberland. The applicant has an Option to Purchase from the owners. Andy Fillmore of InterUrban Planning & Design prepared the site plan. He will be representing the applicant. SYTDesign conducted the survey.

The property is located at 117 Longwoods Road (Route 9) Tax map U07, Lot 5A which is partially in the HC and RR1 zones. It is 4.04 acres in size, with 235' of road frontage.

The application has received Board of Adjustment and Appeals approval as a home occupation. Site plan review is required because the portion of the structure in which the home occupation will occur is located in the Highway Commercial (HC) zone. This type of home occupation in the HC or LB zone requires site plan review in addition to Board of Appeals review for a special exception.

The applicant currently leases space at 7B Corey Road in Cumberland from William and Norene Ward. Mr. Simoneau is seeking approval from the Town to relocate his business to the recently completed single-family dwelling located 117 Longwoods Road. He and his family also intend to occupy the home as their primary residence.

Tonight the Planning Board will consider granting approval.

**PROJECT DESCRIPTION:**

Cumberland Glass provides glass for residential uses (windows, cabinets, shower enclosures, etc.), automobile uses (windshields), and other custom applications. The glass is either shipped to the site ready to be sold as-is, or it is sometimes "shaped" on-site to meet specific needs such as beveling or etching. Cumberland Glass also installs windshields both on-site and in the field.

The business is owned and operated by Mr. Simoneau, who has one employee to answer phones and run the office when he is out on business. The business will be open from 8 a.m. to 5 p.m., Monday through Friday and 8 a.m. to noon on Saturday.

The home occupation will occupy 1,150 s.f. out of the total 3,800 s.f.(including the garage), or 30% of the structure. The proposed use will be in the 900 s.f. garage and the office/reception area will be located in the 250 s.f. breezeway connector between the main house and the garage.

The home has a private drilled well and a septic sized for 4 bedrooms.

The home is serviced by underground telephone, electric and cable via a CMP pole near the driveway entrance.

**PROJECT HISTORY:**

**May 18, 2004:** Application deemed complete by Board. Applicant asked to provide three things for June meeting: 1) An informal landscape plan; 2) a limit on the number of cars to be parked on site; 3) screening of cars.

Mr. Fillmore addressed the Board. He stated that the Right Title and Interest has been extended to June 19. He addressed the parking issue in the driveway stating that 4 cars can fit in the driveway at the same time. The rear garage door opens to the back yard and another car can be held back there if need be. Plantings will screen the cars in the driveway.

Mr. Fillmore stated that DOT does not require a permit for this; however, DOT will be reviewing the site to be certain. The signage will be set back to meet the 15- foot setback from the ROW. The driveway will not be paved, they are asking for a 3-foot apron waiver. There will be no harmful chemicals on the property.

Mr. Neagle stated that the landscaping detail dated 6/10/04 looked good.

Mr. Hunt opened the public portion of the meeting. There were no comments. He closed the public portion.

Ms. Nixon read the findings:

**Sec. 206.8 Approval Standards and Criteria**

**.1 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 building is existing and there will be no construction which would impact any environmentally sensitive areas.**

**The Board finds the standards of this section have been met.**

**.2 Traffic Access and Parking**

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.  
**Sight distance needs to be shown on plan and meet Town requirements.**
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.  
  
**DOT driveway entrance permit may be required.**
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty- (60) feet.

**The plan has been reviewed the Town's peer review engineer. The applicant needs to provide evidence that a MDOT driveway permit is not required and also depict and check sight distance for conformity with the ordinance. These items have been addressed as conditions of approval.**

**With the proposed condition of approval, the Board finds the standards of this section have been met.**

### **.3 Accessway Location and Spacing**

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.**
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.**

**The Town's peer review engineer has reviewed the plan and finds this section to be in conformance with the ordinance.**

**The Board finds the standards of this section have been met.**

### **.4 Internal Vehicular Circulation**

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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.**
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).**
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.**
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.**

**The parking lot layout allows for a maximum of four parking spaces. The location of the parking spaces will not impede internal circulation.**

**The Board finds the standards of this section have been met.**

**.5 Parking Layout and Design**

Off street parking must conform to the following standards:

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

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

.3 Parking stalls and aisle layout must conform to the following standards.

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

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

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

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

**The proposed parking plan meets the needs of the small home occupation business and allows for safe circulation on the site.**

**The Board finds the standards of this section have been met.**

**.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 will be only occasional customers to the site. The layout of the parking area allows for safe pedestrian circulation.**

**The Board finds the standards of this section have been met.**

#### **.7 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.

- .1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**The runoff characteristics will remain relatively unchanged from current conditions. The Town's peer review engineer is not requiring stormwater calculations.**

**The Board finds the standards of this section have been met.**

#### **.8 Erosion Control**

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving



activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

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

**All construction activity is complete.**

**The Board finds the standards of this section have been met.**

#### .9 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.

**The existing structure has adequate water from a drilled well. No additional water use is anticipated.**

**The Board finds the standards of this section have been met.**

#### .10 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.

**The existing structure has an adequate septic system (see HHE- 200.) No additional sewage waste is anticipated.**

**The Board finds the standards of this section have been met.**

#### .11 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.

**Telephone, electricity and cable are currently on site through underground connection to a CMP pole near the entrance. No additional use is anticipated.**

**The Board finds the standards of this section have been met.**

#### .12 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 Town's peer review engineer has suggested that any acids or other chemical which might be used on site be stated along with the method of disposal to be used. This will be a condition of approval.**

**The Board finds the standards of this section have been met.**

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

**The Town's peer review engineer has suggested that any acids or other chemical which might be used on site be stated along with the method of disposal to be used. This will be a condition of approval.**

**The Board finds the standards of this section have been met.**

.14 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.

**The Board has not yet received evidence of financial capacity, however the building is existing and the applicant does not require funds to continue his business in this location. This will be addressed as a condition of approval, if needed.**

**The Board finds the standards of this section have been met.**

.15 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.

**The structure is existing and the proposed use will not affect the site.**

**The Board finds the standards of this section have been met.**

.16 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.

**According to Flood Insurance Rate map #230162-0015B as issued by FEMA, the subject property has areas that are Zone A (area of 100 year flood) and Zone C (area of minimal flooding.) The existing home is located entirely within Zone C and is approximately 100' from Zone A at its nearest point.**

**The Board finds the standards of this section have been met.**

.17 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 will be lighting for the sign (shielded, down-facing and turned off after business hours), no other additional lighting is proposed. There are three small, residentially scaled exterior lanterns as shown in the photographs.**

**The Board finds the standards of this section have been met.**

.18 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.

**The building and parking areas will be landscaped. There will be buffering of the parking spaces. The building is a residence and the glass operation is to be located in the garage area.**

**The Board finds the standards of this section have been met.**

.19 Noise

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

**There will be some noise generated (e.g., grinding, beveling, etching, etc.) but the equipment involved is limited to small hand and bench tools with noise output similar to tools found in a small woodworking shop.**

**The Board finds the standards of this section have been met.**

.20 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 a small dumpster on site which will be used for discarded glass fragments, packing materials, and other waste products of the office. No hazardous materials will be used or disposed of on site. The dumpster will be emptied every two weeks. It will be buffered as per the direction received from the Town. This is a condition of approval.**

**The Board finds the standards of this section have been met.**

.21 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 landscape plan has been prepared outlining the installation of various trees, shrubs and ground covers. The plan will enhance the visual appearance of the front of the building and provide a buffer to the parking spaces**

**The Board finds the standards of this section have been met.**

.22 Building and Parking Placement

- .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 with 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.
- .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.

**The building and parking areas are existing. The parking will be landscaped to buffer the view from the road.**

**The Board finds the standards of this section have been met.**

Ms. Howe moved to adopt the findings as proposed by the Planner.

Mr. Powers seconded.

Vote: UNANIMOUS

**STANDARD CONDITION OF APPROVAL:**

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

**Recommended Conditions of Approval**

1. That the applicant provide evidence of financial capacity prior to the issuance of a building permit, to be reviewed and approved by Town Planner.
2. The applicant needs to provide evidence that a MDOT driveway permit is not required and also depict and check sight distance for conformity with the ordinance. This is to be reviewed and approved by the Town Planner.
3. A 3' paved driveway apron shall be provided to at least the limits of the Route 9 right-of-way to facilitate turning movements into or out of the driveway.
4. That all fees be paid prior to the issuance of a building permit.

5. No more than 4 cars may be parked in the driveway.

Mr. Powers moved to grant site plan approval.

Ms. Howe seconded.

Vote: UNANIMOUS

7. **Public Hearing – Preliminary Plan Review– Major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07, Lot 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P. E., Sebago Technics, Normand Berube Builders, Inc., owner.**

Ms. Nixon reviewed:

**REQUEST:**

The applicant is Normand Berube Builders, Inc. The applicant is represented by Larry Bastion, P.E., Sebago Technics, Inc. The request is for major subdivision review and approval of a 14 lot clustered subdivision at 10 Blackstrap Road. The property is shown on Tax Assessor's Map R07, Lot 71 and 70B. The two parcels combine to consist of 51.9 acres of land. The subdivision is shown as a two-phased plan, but only Phase 1, for 14 lots, is under review at this time. The parcels abut the municipal boundary with Falmouth on the south and Windham municipal boundary to the northwest.

Tonight, the Board is asked to conduct a review for Preliminary Major Subdivision Approval.

**HISTORY:**

- May, 2003: Sketch plan for 19 lot subdivision submitted to Board.
- June 17, 2003: Sketch plan review
- July 7, 2003: Site walk held.
- July 15, 2003: Board tabled sketch plan pending further feasibility assessment by applicant (Road entrance/DOT issue)
- March 17, 2004: Sketch plan review
- April 20: Site walk held prior to the meeting at which the application was deemed complete.
- May 18, 2004: Preliminary plan review tabled at applicant's request.

**PROJECT DESCRIPTION:**

- Zoning: RR2m (Rural residential 2, manufactured housing overlay)
- Subdivision Style: Clustered
- Min. Lot Size: 2 ac. (87,120 sf) Traditional or 1.38 ac. (60,000sf) Clustered/Dispersed.
- Lot frontage: 200' traditional or 100' if clustered or dispersed.
- Setbacks: Front = 50', Rear = 75', Side 30' (combined = 75').
- Roadway: The applicant is proposing a public road to be offered to the town upon completion.
- Road Width: 20"
- Shoulders: 4' gravel
- Sidewalk: 4' esplanade with 4' sidewalk on one side of road
- Water: Private wells on each lot.
- Sewer: Individual private septic systems.
- Utilities: The applicant is proposing underground utilities (telephone & electric)
- Lighting: To be determined
- Min. Open Space:

Traditional subdivision: 10% of gross lot area x 51.9 ac. = 5.19  
 Dispersed/Clustered: 25% of gross lot area x 51.9 ac. = 12.97  
 Open space provided: 16.56 acres (12.3 acres of this is within the Phase 2 area.)

- Net Residential Acreage: 51.9 acres gross site area  
 -5.22 acres for wetlands  
 -.46 for ledge (*to be field surveyed*)  
 -7.79 acres for roadway (15% of gross)  
-0 acres of steep slopes  
 = 38.44 acres Net Residential Acreage
- Max. # of Lots: The maximum number of lots is calculated by dividing the net residential density (38.44 acres) by the minimum lot size of the underlying zone (2 ac.), which yields a maximum of 19.22 lots.  
*14 lots are proposed in Phase 1; 5 additional lots may be added should Phase 2 go forward.*
- Outside Agency Approvals Required:  
 DEP Stormwater permit  
 CCSWCD Approval of Erosion Control Plan  
 MDOT Entrance Permit (Received 1/04)

Ms. Nixon stated that the Board may want to review her comments.

1. Correct Sheets #2 and #4 for Map R07, not Sheet 33
2. I question whether the amount of open space needed for Phase One can be shown in the phase two area. Of the current open space provided (16.56 acres), 12.3 acres of this is within the Phase 2 area.
3. Where are the lots in Falmouth that Berube owns?

Mr. Neagle stated that Phase II may never be developed, so the open space should be shown in Phase I.

Ms. Howe stated it appears that all the difficult issues are being put off until Phase II. She is concerned a Phase II will not occur.

Mr. Turner stated that open space in Phase II is not really an issue. If Phase II is not developed, essentially the land will be the open space.

Mr. Neagle stated that the open space should be done in Phase I, unless a condition of approval is applied that nothing will be done in Phase II until it is approved. He said that Phase I should include enough open space to meet the ordinance.

Mr. Ward stated that with 16 open items, he does not feel preliminary approval can be granted

Mr. Hunt stated that the Board is going to direct the applicant with regard to his application.

Mr. Powers asked the applicant about the CMP easement.

Mr. Bastion stated that it appears it has been abandoned. It is being researched with CMP. There appears to be no evidence of continuation.

Mr. Couillard asked about the property line issue with the Desjardins.

Mr. Bastion stated that the surveyor investigated and the property line is valid.

Mr. Couillard asked about the retention pond on the north side to slow the water. He asked why that would not be put on the South side of the road.

Mr. Bastion stated that there is not enough space to provide the volume that is needed.

Mr. Couillard asked if the retention pond will slow down the run off.

Mr. Bastion stated that it will slow it down to at or below the level it is at now.

Mr. Powers asked about the Town of Falmouth's opinion to connect into Poplar Ridge.

Mr. Bastion stated that there was a meeting back in November with George Theborge, the Falmouth Town Planner. They felt there were no advantages to Falmouth to connect these roads. They felt there might be confusion with emergency vehicles, as well as opposition from the neighbors.

Ms. Nixon stated that the rationale for not connecting these two roads is the negative impact on the wetlands. If it is decided to do this at a later date-it should be done the way Hawks Ridge was done.

*Ms. Nixon read the Hawks Ridge condition: The future road extension area is created and dedicated for potential use by the Town of Cumberland as a connection between the proposed street and adjoining properties or streets. This area will not be utilized for construction or drainage purposes, and no fill shall be placed without prior town approval.*

The Board discussed the issues of connectivity.

Mr. Hunt opened the public portion of the meeting.

Mr. Heyner, President of the Forest Lake Association, stated that there is a stream on the property and he would appreciate it if DEP could determine if it classifies as a stream.

Mr. Heyner also requested to be notified when the back 4-lots begin construction. He wants to be certain they do not affect the water shed to Forest Lake.

Mr. Robert Maloney, of 33 Maloney Ridge reiterated the drainage issue. He referenced the substantial rainfall in April stating that a part of his property had been washed out. He stated that it is all ledge in this area and the water has nowhere to go. The water comes down the hill onto his property. He feels that the septic systems will cause problems in 5-10 years causing more runoff problems.

Mr. David Young of the Cumberland Lands and Conservation Committee reviewed a letter addressed to the Planner from the committee stating their concerns. He asked that these be taken into consideration

Mr. Maloney stated that as an abutter, he would like to be able to see more information.

Ms. Nixon told Mr. Maloney that he can come to the Town office to review the project information. All information is open for public review.

Mr. Powers moved to table this application.

Mr. Neagle seconded.

Vote: UNANIMOUS

Mr. Heyner asked that his questioned regarding the stream on the property be addressed.

Mr. Bastion stated that a wetlands specialist has looked at the streams on the property, and after reviewing the DEP definition of a stream, determined that this is not classified as a stream.

**8. Public Hearing –Application Completeness & Preliminary Plan Review – Major 12 lot subdivision, Orchard Ridge Subdivision, 158 Orchard Rd., Tax Assessor Map R08, Lot 44, 31 acres, RR2 district, Great Neck Builders, owner; Curtis Neufeld, P.E., SYTDesign Consultants, representative.**

Ms. Nixon reviewed:

**REQUEST:**

The applicant is Orchard Ridge, LLC. The applicant is represented by Scott Decker of SYTDesign. The request is for major subdivision review and approval of a 12 lot clustered subdivision at 158 Orchard Road. The property is shown on Tax Assessor’s Map R08, Lot 44. It is approximately 32.2 acres in size and is in the RR-2 zone. There is presently a single family home and several outbuildings on the site; these will be removed. The current owner is Greta Jewett of Pownal, Maine. There is a letter of intent to purchase in Section 5 of the submission.

The parcel abuts the municipal boundary with Gray on the north-east side. There are two easements which bisect the parcel: one is a 50’ easement for an Exxon-Mobil petroleum pipeline and the other is a 20’ easement to Northern Utilities for a natural gas pipeline.

The developer proposes to improve the open area adjacent to Orchard Road by enlarging the existing pond and construction of both a basketball court and a gazebo. There are proposed protective covenants for the development of the lots (Section 17 of submission.) The pond will also serve as a detention basin.

Tonight, the Board is asked to determine if the application is complete and if so, begin preliminary plan review. The Board could also consider the requested waiver.

**HISTORY:**

April 20: Sketch plan review.  
May 18, 2004: Site walk, followed by Sketch Plan Review at meeting. Board stated its preference for a cluster design.

**PROJECT DESCRIPTION:**

- Zoning: RR2 (Rural residential 2)
- Subdivision Style: Clustered
- Min. Lot Size: 2 ac. (87,120 sf) Traditional or 1.38 ac. (60,000sf) Clustered/Dispersed.
- Lot frontage: 200’ traditional or 100’ if clustered or dispersed.
- Setbacks: Front = 50’, Rear = 75’, Side 30’ (combined = 75’).
- Roadway: The applicant is proposing to offer the road to the Town for acceptance once complete. In the interim, the road will be private and the responsibility of a homeowners association. The road is approximately 1,450 linear feet, terminating in a cul-de-sac.
- Road Width: 20’
- Shoulders: 4’ gravel shoulder on one side
- Sidewalk: 4’ esplanade with 4’ sidewalk on one side of road
- Water: Private wells on each lot.
- Sewer: Individual private septic systems.
- Aquifer Protection? Yes
- Utilities: The applicant is proposing underground utilities (telephone, cable & electric)
- Lighting: No street lighting. Individual homes may have a light at the end of each driveway.



- Trails: 4' walking trails. See open space comment below.
- Min. Open Space:
 

Traditional subdivision:	10% of gross lot area x ---- ac. =
Dispersed/Clustered:	25% of gross lot area x 32.24 ac. = 8.06 acres
Open space provided:	11.8 acres (for "walking trails for residents." Public access permitted?)
- Net Residential Acreage:
 

32.24 acres gross site area	
-2.93 acres for wetlands (2,550 sq. ft. to be filled)	
-0 for ROW or easement	
-4.84 acres for roads and parking (15% of gross)	
- 0 acres of steep slopes	
=	24.47 acres Net Residential Acreage
- Max. # of Lots: The maximum number of lots is calculated by dividing the net residential density (24.47 acres) by the minimum lot size of the underlying zone (2 ac.), which yields a maximum of 12 lots.  
  
*12 lots are proposed.*
- Outside Agency Approvals Required:
  - MDEP Stormwater permit
  - CCSWCD Approval of Erosion Control Plan
  - MDEP – NRPA Tier 2 permit (wetlands)

**REQUESTED WAIVER:**

- a. Section 7.15.f of the Subdivision Ordinance, for the developer to submit plans for sewage disposal designed by a professional engineer and/or licensed site evaluator.

**Planner's note: As is customary, the Board typically allows the design of the system to be done prior to the issuance of a building permit, since the homeowner usually selects where to place the house and septic.**

**PLANNER'S COMMENTS:**

1. Al Palmer is working with SYTDesign on the stormwater plan and also on the NRA calculation...both have some issues to be resolved.
2. Should the road be built to the Residential Subcollector level in anticipation of the adjacent lot being developed as a subdivision and accessed through this subdivision? (would require a 22' road vs. 20' now)
3. Re: above, refer to Section 17, page 9 (Enlargement of Orchard Ridge)
4. Stream classification? Mapped?
5. Ground survey road?
6. Trails location acceptable? Public access?
7. Pipeline crossing permission? (conditions for crossing in submission section 5)
8. Can they do an easement (to CMIT) within an easement (Mobil & Northern Utilities)?
9. From submission section 15, p.2: "Some flooding has been reported downstream of the road culvert that serves as an outlet for the breached pond." Comment?

Mr. Turner moved to find the application complete.

Ms. Howe seconded.

Vote: UNANIMOUS

Mr. Hunt asked what was being provided for evidence of septic disposal.

Mr. Decker of SYTDesign, stated that two passing soils tests on each lot have been provided. It is the feeling that the individual buyers will determine where they will want their septic systems.

Ms. Nixon stated this has been done in the past. She stated that Ms. McPheters, the Code Enforcement Officer, is in favor of this.

Mr. Turner asked if this is something that is generally done for all subdivisions?

Ms. Nixon stated yes.

Mr. Powers moved to grant the waiver request for Section 7.15.f of the Subdivision Ordinance, for the developer to submit plans for sewage disposal designed by a professional engineer and/or licensed site evaluator.

Mr. Turner seconded.

Vote: UNANIMOUS

Mr. Decker stated that with 12-lots they fall under the residential access road standards. The proposal is for 12-lots with the consideration of doing something with the abutting property, which will go over the 20-lots. They propose to address that issue at that time. They are proposing two 10-foot travel lanes, a 4-foot shoulder on one side and on the other side they are proposing a 4-foot esplanade and a 4-foot paved free-walk. The next higher standard is 22-feet. Some guidance is needed from this Board as what will be required for this subdivision.

Ms. Howe stated that wider roads are not always better.

Mr. Neagle stated that it should be constructed to the higher standard if necessary.

Mr. Decker reviewed the issue of the stream on the property. According to the wetland delineation, there is a classified stream on one side of the property. The DEP feels that there is another stream on the property. He feels that the pond and the stream should not be altered in any way. A meeting with Doug from the DEP to review this issue is scheduled.

Mr. Neagle stated that a letter from the DEP should be received with regard to the stream.

Mr. Decker also reviewed the flooding that occurs down stream. Reports have been received stating it is wet and it does flood. They will design the stormwater management system to actually decrease the outflow from that existing pond.

Mr. Hunt opened the public portion of the meeting. There were no comments.

Mr. Hunt closed the public portion of the meeting.

Mr. Simonds noted that a letter of financial capability is included in the package.

Ms. Nixon referenced the open space.

Mr. Simonds stated they met with the Cumberland Mainland and Island Trust to grant the open space to them for public use. Cumberland Mainland and Island Trust thought that the amenities that are being proposed are more suited for residents rather than the public. They feel that it should be part of a homeowners association.

Mr. Decker stated that in the net residential calculation they have used the Exxon ROW and Northern Utilities ROW and have not taken it out of the net calculation. Al Palmer, Town Review Engineer, questioned whether an existing easement, should or should not be included in the net residential calculation. Mr. Decker noted that if the easements cannot be considered as open space, they would lose one lot of the proposed subdivision.

Ms. Nixon stated that ROW or easements should not be included.

Mr. Decker stated that is true, except if it is in open space. He read the definition of net residential acreage-  
“lands in right of way’s or easements, but not including land in open space easements.”

Mr. Neagle moved to table the application  
Mr. Powers seconded.

Vote: UNANIMOUS

**F. Administrative:**

- 9. Public Hearing – Recommendation to Town Council on proposed changes to Section 204.6 (District Regulations for Local Business Zone) and Section 204.7 (District Regulations for Highway Commercial Zone) of the zoning ordinance to remove requirement for site plan review for home occupations.**

Mr. Neagle moved to recommend to the Town Council the changes to Section 204.6 and Section 204.7 of the Zoning Ordinance.

Mr. Powers seconded.

Vote: UNANIMOUS

- 10. ~~Public Hearing~~ – Recommendation to Town Council on proposed changes to Section 8.2 (Design and Construction Standards) and Table 8-2-(Geometric Design Standards)**

- 11. ~~Public Hearing~~ – Recommendation to Town Council on proposed change to section 421 (Street Construction) of the zoning ordinance.**

Mylar signing-Hawks Ridge

Ms. Howe moved to adjourn  
Mr. Powers seconded.

Vote: UNANIMOUS

ADJOURNED AT 11: 15 PM

A TRUE COPY ATTEST:

\_\_\_\_\_  
Mr. Philip Hunt, Board Chair

\_\_\_\_\_  
Nancy Decker, Board Clerk

## **Planning Board Meeting**

**Tuesday, July 20, 2004  
Council Chambers of the Town Offices  
290 Tuttle Road, Cumberland Center  
7:00 PM**

### **A. Call To Order**

The meeting was called to order at 7:00 p.m.

### **B. Roll Call**

Present: Phil Hunt, Chair, Terry Turner, Vice-Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle.

Absent: Tom Powers

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

### **C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes with technical corrections.

Mr. Turner seconded.

VOTE: Unanimous

### **D. Consent Calendar / Deminimus Change Approvals**

#### **1. Removal of Front Pole Lights at Town Hall**

Mr. Hunt stated these are matters which will not require a Public Hearing unless the Board votes one is necessary. The pole lights at Town Hall were shown on the approved Site Plan. Many people thought the illumination was excessive; the lights have not been used and have been removed. The Board did not find a Public Hearing necessary; the Consent Calendar item was approved.

### **E. Hearings and Presentations**

- 1. Public Hearing – Minor Site Plan Review, Slow Bell Café, 2 Walker Drive, Chebeague Island, Tax Assessor Map I03, Lot 33, SYTDesign Consultants, representative; Jonathan KomLosy, owner.**

Ms. Howe, an abutter has been recused from the hearing.

Ms. Nixon stated that last month the Board found the application complete. There are still a number of outstanding issues. Next month the Planning Board will hold its annual

meeting on Chebeague, and if the application cannot be approved tonight, it should be ready for final approval next month.

### **BACKGROUND:**

The applicant and property owner is Jonathan KomLosy of 2 Walker Drive, Chebeague Island, Maine. The property is located in the Island Business zone. The application is for site plan approval of a 40-seat restaurant with a take-out counter. Restaurants are a permitted use in the IB zone. The structure was formerly the Nellie G. Restaurant. After that it was converted to a residential use, and therefore must undergo site plan approval for the change of use to a restaurant. Tonight, the Planning Board is asked to review the plan for approval. The representatives are Scott Decker of SYTDesign, and Alan Wolf, of Attorney Terry Snow's office.

### **PROJECT DESCRIPTION:**

- The parcel is located at 2 Walker Drive, off South Road, diagonally across from the Post Office (Map I-03, Lot 33). The parcel is .85 acres in size. Minimum lot size in the IB zone is 1.5 acres, however this parcel is a lot of record.
- The proposal is to open a 40-seat restaurant with a take-out counter. The restaurant and take out will be located on the first floor which is 1,172 sq. ft.. The upstairs which consists of 2 bedrooms and a bathroom (378 sq. ft.), will be living quarters for Mr. KomLosy. The applicant anticipates operating the café and take-out on a seasonal basis (May through October) for the first few years.  
*The hours of operation are to be 7:00 a.m. to 9:00 p.m. each day. (Is this correct?)*
- The structure is currently a 1-3/4 story wood frame house. It is 32' x 26' (2026 sq. ft.). The applicant proposes to enlarge the existing 12' x 8' deck to permit five tables and chairs to be placed upon it, and to enlarge the waiting area for the take-out. *What are the enlarged deck dimensions?*
- The parking area has space for 16 cars. It is currently unpaved and will remain unpaved, so actual parking lines will not be marked. A handicap parking sign will be placed.
- There are currently two entrances to the lot, one will be closed off to make room for parking and to make the entrance and exit safer.
- This plan is classified as minor since it involves a structure of less than 5,000 sq. ft. (1,172- sq. ft. proposed).
- The parcel will be serviced by a private well. A new well has been drilled on the parcel across the road (also owned by Mr. KomLosy.) *This parcel should be depicted and the location of the new well shown.*
- Final approval from the State Drinking Water Program is required prior to putting the well on line. Two satisfactory water sample results must be obtained. The applicant has submitted an un-executed Water License Agreement between the Town of Cumberland and Jonathan KomLosy. This allows the applicant the right to place a conduit for the water line beneath the Town's road.
- The parcel will be serviced by an on-site and site-adjacent septic system. The applicant has submitted an un-signed easement deed from Paul Ferragamo to Jonathon KomLosy for the use of the Ferragamo parcel septic system.

Existing electric and telephone are on site on overhead lines.

**REQUESTED WAIVERS:**

Section 206.7.3.8: Location of drainage courses, wetlands, stonewalls, graveyards fences stands of trees, important or unique features, etc.

Section 206.7.3.9: Direction of existing surface water drainage across the site & off site.

Section 206.7.3.11: Location and dimensions of existing easements & copies of documents

Section 206.7.4.2: Surface water drainage and impact assessment on downstream properties.

Section 206.7.4.3: Provisions for handling solid and hazardous waste.

Section 206.7.4.8: Location and type of exterior lighting. *The Board did not grant this waiver last month. The applicant's representative agreed to show the location and type of exterior lighting. The current plan still does not differentiate among the various types of lighting that exist and that are proposed (e.g., flood, incandescent, halogen, sign lights.) The plan should be clarified to show the locations of the different types of lighting (incandescent or halogen or both?) and the correct amount of watts for each (60 watts or 75 watts?) Also, Note #2 under Lighting Information on the plan states that no SIGNIFICANT spillover of lighting to abutting properties will occur. The ordinance does not allow any spillover. An abutter has written a letter to the Planning Board expressing concern about potential noise and lighting. The lighting should be clearly depicted on the final plan to prevent any future problems.*

*Section 206.7.4.12: Stormwater calculations/erosion & sedimentation control plan, etc. Granted by Board at 5/10/04 meeting.*

*Section 206.7.4.11: Traffic/peak hour and daily traffic generated by project. Granted by Board at June 13, 2003 meeting*

**ISSUES OF DISCUSSION:**

Ms. Nixon reviewed the issues for discussion as follows:

**1. Town Engineer's comments:** These are primarily technical issues that Mr. Decker can address.

Mr. Scott Decker, of SYTDesign Consultants, the applicant's engineer addressed the outstanding issues as follows:

- An Engineer stamp will be on the final plan.
- The setback between parking field and South Road. A 15-foot setback is required. Mr. Decker stated they were under the assumption that the 15-foot setback would

not apply, as the parking area exists and is grandfathered. The area has been used for parking for previous facilities.

Ms. Nixon stated with the change of Code Enforcement Officer's coverage this issue was not addressed by Town staff. It is listed as a condition of approval.

Mr. Neagle stated that in prior packets, there was an existing condition plan, and some of the parking is new.

Mr. Decker stated yes, there are two new spaces.

Mr. Neagle stated the new spaces would not be grandfathered. The Board could not waive Ordinance requirements.

Ms. Nixon stated the plan showed two spaces more than required by the Ordinance.

Mr. Decker asked how the Board would feel if the existing lot was a space or two short if the applicant had parking across the street.

Mr. Hunt stated they would review further to see if that were a problem.

- Sign setbacks – the proposed sign should be 15' from the right-of-way, and 33' from the centerlines of South Road, whichever distance is greater. The lot detail plan shall be revised accordingly.

Mr. Decker stated it was his understanding that the existing signposts are in the ground.

- Solid Waste – It was noted that the existing shed would be used for temporary storage of solid waste, a removal frequency does not appear to be noted. Perhaps a minimum removal frequency should be noted on the plan.

Mr. Decker stated the waste would be removed to the transfer station in accordance with the transfer station schedule (4 days a week). A note has been added to the plan.

- The Site Plan notes that the proposed deck will extend into the side setback.

Mr. Decker stated a revised plan would show a deck that will conform to the side setback requirement.

Mr. KomLosy stated the deck would infill and not extend beyond the current structure.

- The July 23, 2003 letter from the Department of Human Services, Division of Health Engineering provides a Preliminary Approval for the water supply, but notes that Final Approval will require submission of additional information to the Department. No information was provided by the Applicant indicating that the requisite information was submitted to the Department, nor whether final approval has been granted. The Planning office would recommend that prior to

issuance of a Certificate of Occupancy, the Applicant submit evidence of Final Approval for the water supply to the Town.

Mr. KomLosy stated that his understanding was that the well needed to be in place and operational.

- Due to past concerns over the adequacy of the septic system, should the Applicant be required to record daily water usage, and submit it to the Town on a monthly basis for the first season of use demonstrating that actual usage is less than the design flow?

Mr. KomLosy stated there are four water meters in the basement. Al Frick submitted Fred Martindale's water readings for a year, which showed there was no problem

- The Board should consider a condition of approval that requires replacement of the existing system in the event that the actual water usage exceeds the design flow, or in the event that any evidence of malfunction is detected.

Ms. Nixon stated under State Plumbing Code the location of a replacement system is required. She thinks what Mr. Palmer is suggesting is the Town requiring a replacement if the actual water usage exceeds the design flow. She believes this is a Plumbing Inspector issue.

Mr. KomLosy stated there is a permit on the existing system, approved by the State and the Town of Cumberland Plumbing Inspector. It operated at least three years with no mishaps.

- Our office would recommend that the Applicant have Al Frick clarify the design flow for the replacement system. On the HHE-200 it is noted as 2,160 gpd. This is apparently based on 40 seats times 30 gpd/seat times a multiplier of 1.8. The 1.8 multiplier is the adjustment factor for BOD/TSS. Based on our experience, the design flow would actually be 1,200 gpd (40 seats times 30 gpd/seat). The 1.8 adjustment factor would be used in sizing the leach field, but does not result in the "design flow" being increased. If the design flow were 2,160 gpd, the system would be classified as an engineered system, requiring additional design information that has not been submitted to date.

Mr. Decker stated Al Frick has issued a letter that can be submitted to the Town to clarify the issue.

- The Town Engineer agreed that the stormwater calculations and controls are not warranted for this project due to the minimal nature of the proposed non-vegetated surfaces, and that the stormwater runoff will be directed to a vegetated buffer in the rear of the site.



**2. Amplified Music Issue:**

Ms. Nixon stated the Applicant would like to have live music; the Town has received letters regarding concerns of noise from amplified music.

Mr. Wolf stated, originally, Mr. KomLosy's plan was to have outside amplified music. But that is no longer the case.

Ms. Nixon asked if indoor music would still require a special amusement permit from the Town Council.

Mr. Wolf stated that is correct.

Mr. Neagle stated that the Planning Board has the authority to address noise under the Site Plan Review standards.

Ms. Nixon stated that the Council issues special amusement permits. They request information from Department Heads, and in a situation like this would look for information from the Planning Board. The Town has no specific standards for approving or denying the special amusement permit. There may be something said for allowing the applicant to have the permit, with the understanding that the Council has the authority to revoke the permit at any time. It has not been determined what the impact on the neighborhood will be with the playing of indoor music.

Mr. Neagle suggested that a decibel meter be purchased and used by the Town.

**3. Proposed Lighting**

Ms. Nixon noted the lighting plan is not clear.

Mr. Decker stated the lighting will be clarified.

**4. Septic Information – Has been covered**

**5. Water license agreement**

Ms. Nixon stated the Town Attorney has reviewed a Water License agreement; some additional language for an electrical line has been added. The water agreement would need to be approved by the Council at the August 9, 2004 meeting, prior to execution of the agreement.

Mr. Wolf stated they are fine with the changes.

**6. Ferragamo Easement Deed**

Mr. Wolf stated there is an agreement, in principle. It will be submitted to Mr. KomLosy's attorney for review of the language and will be submitted when signed.

**7. Well Information**

Ms. Nixon stated she did not have any information on file for the new well.

Mr. KomLosy stated Hansen Well Drillers stated the well is 5.5 gallon per flow at drilling, gives the State I.D. number and the depth is 120 feet deep. All the information on the well will be added to the Site Plan.

Ms. Nixon asked if the old well was still operating? Would it be taken off line when the new well is operational?

Mr. KomLosy stated he would be switching the well over.

Ms. Nixon stated the current well does not meet the State requirement for separation distance between a well and septic system for a public water supply. She expressed concern about a possible mix-up and the wrong well being used.

Mr. KomLosy stated a color-coded seal could be placed on the existing well switch.

**8. Lighting of the Sign – A sign permit will be required.**

Ms. Nixon asked how the proposed sign would be lighted.

Mr. Decker stated a note on the drawing states there will be a mounted light fixture that will shine down on the sign.

**9. Hours of Operation:**

Mr. KomLosy stated the proposed hours are from 5:30 a.m. to 10:00 p.m. The first boat of the day is 6:40 a.m. and there are 100 commuters that could have breakfast. There are also approximately 40 lobster fishers who leave early in the morning.

**10. Sight Distances:**

Mr. Decker stated the sight distances have been added to the plan.

**11. Hale Right-of-Way Agreement:**

Ms. Nixon asked if the right-of-way agreement had been submitted.

Mr. KomLosy stated it was in his Quit-Claim Deed. He had a conversation with Donna Damon and several right-of-ways on the Island do not specify widths.

## **12. Public Works Director's Comments:**

Ms. Nixon reviewed Mr. Ogden's comments as follows:

- Grease trap? : Mr. KomLosy stated one exists.
- ADA requirements for the gravel parking – Mr. Decker stated the plan has not been reviewed with specifications of meeting ADA requirements.

Mr. KomLosy stated in April 2002 he received approval from the Planning Board for multi-use for this building. The Chebeague Transportation Corporation was renting the building, using the existing parking lot. The parking lot, which exists, is gravel, same as the grange and library parking lots.

Mr. Neagle asked if the parking shown on the plan actually exists on the ground? He was concerned that the new parking spaces do not meet the 15' setback requirement as required in the Ordinance.

Mr. Decker stated the parking lot has been modified.

The Board reviewed photos of the parking lot and the site plan for comparison.

Ms. Nixon stated that a year ago, she and Mr. Decker were out at the site. It looked very much like the pictures except that a large dirt pile has been spread out. It is a gravel parking lot the setback can be resolved.

Mr. Hunt stated the plans shows a configuration of a gravel parking lot, which is neatly squared with lines for parking stalls. The reality is the area has been heavily cleared and parked on. The configuration shown on the plan does not exist on the ground. There is a grassed area, a looped driveway, some parking near the back on the L. The drawing doesn't depict accurately what is on the ground.

Mr. Neagle stated lots 7,8,9,10,11 would not be parking, but a lawn. Spaces 14, 15 and 16 are in an island, with ledge, they are not parking spaces.

Mr. Turner asked Mr. Neagle his areas of concern.

Mr. Neagle stated spaces 7, 8, 9 & 10; appear to be lawn. Parking spaces 13, 14, 15 appear to be in the island. He didn't feel the Board could approve a plan with parking spaces located only one foot from the road.

Mr. Decker stated because photos show a grassed area, doesn't mean that parking hasn't been taking place on that area.

Mr. Turner stated grass is not an impervious surface.

Mr. Neagle stated in 2002 this property was converted to a single-family residence. He feels the front setback needs to be re-designed; he would like to hear from the public regarding noise. His opinion of noise is not whether it is amplified, but how loud it is. He suggests a decibel level be set. A decibel meter could be purchased to measure the noise level at the property line.

**The Public portion of the meeting was opened.**

Mr. Hale of Walker Road stated they are in support of Mr. KomLosy's hope to establish a small café to provide simple meals for visitors and residents. They are concerned about the live music and serving of beer, wine and liquor at his facility; it would completely change the character of his proposed Café. The noise and possible disturbances would be an intrusion on those who live nearby. They were also concerned about the Café staying open until 10:00 p.m..The Island is an early to bed, early to rise community. When the Inn is having music the music, can be heard at their house. The maintenance of the right-of-way was a concern, and the deck, as shown, is in the right-of-way.

Mr. Neagle asked Mr. Hale is they owned the right-of-way.

Mr. Hale stated yes.

Mr. Neagle asked if the deck was in the right-of-way.

Mr. Hale apologized, that is not the deck.

Mr. Neagle asked the width of the right-of-way.

Mr. Hale stated the road is currently about eight feet wide, if there was a problem he could build a driveway on the other side of his property.

Mr. Turner asked Mr. Hale to describe the parking lot. On the other side of the ledge, Mr. Hale said there is a little bit of grass.

Ms. Kitty Freeman, lives at 12 Capps Road, opposite the Hotel. She said that when the hotel was holding weddings, the music was loud. This is a three-generation Chebeague family that wants to supply the Island with a need; she was in support of the application.

Mr. Joe Vincent an abutter stated his main concern was with the entertainment. He agreed the Island needs a restaurant. He asked when the last time anyone went to a restaurant with live music? He was opposed to live entertainment and a liquor license. When Mr. Martindale ran the restaurant it was open until 10:00 p.m., the neighbors could hear the kitchen help up to an hour after closing.

Ms. Kathy Vincent asked about Mr. KomLosy's intent for catering wedding receptions for off-site weddings. She had received a letter stating they would be holding some

wedding receptions. Her concern was the size of functions for weddings and non-profit fundraisers.

Mr. KomLosy stated his intent is to use the facility as a kitchen; there are not many approved kitchens on the Island.

Ms. Vincent stated she used to work for the Nellie G. and said it is cramped and music would be loud.

Mr. Turner asked Ms. Howe about what currently exists; most of the area is gravel and impervious area that has been used for parking.

Ms. Howe reviewed the parking area.

Mr. Turner asked if the brown area on the plan is a parking area.

Ms. Howe stated when the Nellie G. was approved they had a landscaping plan which was put in place and the parking area evolved.

Mrs. Bonnie KomLosy asked about the Special Amusement permit, she wasn't sure when this was instituted.

Ms. Nixon stated the Town Clerk administers Special Amusement permits. The Town Council holds a public hearing, and votes to grant or deny the request.

Ms. KomLosy asked what other groups this permit would cover.

Ms. Nixon stated she thought a dance, band, and an entertainment event.

Ms. KomLosy asked about the Chebeague Hall, how is it charged.

Mr. Hunt stated this permit is not new. It is primarily directed to commercial operations such as restaurants, inns, and bars - establishments with entertainment.

Ms. KomLosy stated Jonathan would work to fulfill all requirements.

**The Public portion of the meeting was closed.**

Mr. Hunt stated there are several items that do not have sufficient information to make positive findings of fact.

Ms. Nixon stated she was unable to make positive findings and recommended tabling the application. There are sixteen conditions of approval.

Mr. Neagle was in favor of tabling the application.

Mr. Turner asked if there were items the Board could take care of at tonight's meeting.

Ms. Nixon stated the requested waivers have probably been addressed on the new plan, which hasn't been submitted for review. The issue is the music and hours of operation.

Mr. Hunt stated the Board must make an affirmative finding on noise under Item # 19.

Mr. Neagle stated it is not within the Board's authority to regulate liquor and special amusement licenses.

The Board voted to hold a site walk on August 17, 2004 prior to the meeting at Chebeague Island Hall.

Mr. Turner asked if the deck would be addressed.

Mr. Decker stated yes, they would review the deck setback.

Mr. Hunt stated that the parking space configuration should be figured out. He agreed with Mr. Turner there is an open gravel area, which can probably be laid out in a way to provide spaces. There is a history of operation with the site. The parking area should take care of itself.

Mr. Ward moved to table the Minor Site Plan Review for Slow Bell Café, at 2 Walker Drive, Chebeague Island, Tax Assessor Map I03, Lot 33.

Mr. Turner seconded.

VOTE: Unanimous

**1. Public Hearing – Final Plan Review – Minor Site Plan – Longmeadow Farm Alpacas, Barn Construction, 135 Main Street, Tax Assessor Map U08, Lot 6, 28 acres, HC district, Pamela Harwood, owner; Scott Decker, P.E., SYTDesign, representative.**

Ms. Nixon presented background information as follows:

**REQUEST/BACKGROUND:**

The applicant is Pamela Harwood, owner of Longwood Alpacas. The applicant is seeking minor site plan approval to construct a 40' x 40' barn to be used for raising alpacas. Scott Decker of SYTDesign prepared the site plan. The survey was conducted by Daniel LaPoint, PLS #1183. This survey was done in 1988.

The property is located at 135 Main St. (Route 9), Tax Map U078, Lot 6. This is in the HC (Highway Commercial) zone. Animal husbandry is a permitted use in this zone. The parcel is 25 acres in size, with 60.09' of road frontage.

Tonight the Planning Board will consider granting minor site plan approval.

**II. PROJECT HISTORY:**

June 15, 2004: Application deemed complete. Waivers granted (see below):

III. WAIVERS APPROVED:

Section 206.7.2.7: location of intersecting roads & driveways within 200 feet of the site

Section 206.7.3.12: location of nearest fire hydrant or water supply for fire protection

Section 206.7.4.9: location of all utilities including fire protection systems

Mr. Neagle asked about the granting of waivers, he stated the minutes do not reflect granting waivers.

Ms. Nixon stated they would come back to the issue.

III. PROJECT DESCRIPTION:

The principal activity of the business is to breed alpaca livestock and annually harvest the fiber. Alpacas are not bred for food. The applicant proposes to build a 1600 sq. ft. barn with a 3-sided shelter and some electric perimeter fencing. The applicant anticipates building a herd of 10 breeding females and some other alpacas for a total herd size of between 15 and 20 animals. The applicant may sell yarn and clothing made from the fiber of the animals, but this retail operation would be by appointment only.

III. TOWN ENGINEER'S REVIEW (Review by Al Palmer dated 7/13/04):

*Information provided to Gorrill-Palmer Consulting Engineers, Inc. on July 13, 2004 for review included:*

*Package from Ms. Pamela Harwood to the Town of Cumberland containing a Minor Site Plan Application for a farm, dated May 24, 2004 with attached plans.*

*Based upon our review of the information provided, we would provide the following comments for Town Staff and Planning Board consideration:*

*Section 401.5 of the Zoning Ordinance indicates in part that:*

*"newly established livestock grazing areas shall not be permitted ... within seventy five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, or tributary streams and wetlands"*

*It would appear that Mill Brook would be an "other water body" and the plan should be revised to depict a 75 setback, as at its closest point, it would appear to be approximately 68' at this time. The classification of the two other brooks either as an "other water body" or "tributary stream" (rear grazing area) should be confirmed by the Applicant. The setback from the fence to the northern most brook should be shown on the plan. Will a sign be installed at Route 9? If so, appropriate setbacks should be noted. The minimum setback for the rear shed (12' x 24') should be shown on the plan. While no minimum setback is noted in the ordinance from a manure stockpile to an abutting property line, our office would recommend that one be considered, and noted on the plan. The current stockpile area, while shown graphically, is within 5 feet of the property line. The Applicant and Board may want to agree to a minimum setback. Our office would then recommend that a means of containing the stockpile along the property line be considered so as to insure that the pile does not spill into the setback.*

*If the 3-sided shed is proposed for shelter of the animals in the winter, the Applicant may want to reconsider the orientation of the structure, with respect to the prevailing winter.*

*Our office agrees with the statements that stormwater calculations and controls are not warranted for this project due to the minimal nature of the proposed non-vegetated surfaces, that the stormwater runoff will be directed to a vegetated buffer, and the location of the site in the Mill Brook watershed.*

Mr. Hugh Harwood, Applicant, addressed the Engineer's Review comments as follows:

1. Mill Brook Stream – They agree with the Engineer's comment and the setback will be shown on the plan.
2. Sign – There will be no sign.
3. The minimum setback for rear shed will be shown on the plan; it is 30 feet as per Ordinance requirement.
4. A setback for the stockpile area 5' from the property line will be shown on the plan.
5. The 3-sided shed will not be used during the winter, the Alpacas will be moved up to the barn for the winter winds.

**The public portion of the meeting was opened.**

**There were no public comments. The public portion of the meeting was closed.**

Mr. Neagle asked if there was a more current plan.

Mr. Harwood stated yes, the Board members did not have the updated plan.

Mr. Turner asked if the Applicant had the required 75' setback from the Mill Brook.

Mr. Harwood stated yes.

Mr. Hunt stated it that the information was complete and no waivers were required.

### **Proposed Findings of Fact**

#### **.1 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 proposed use involves the construction of a barn and a three-sided shelter. The site will not require any grading work, however there will be some electric perimeter fencing installed. The total herd size of 15-20 animals should not adversely impact the site. Appropriate erosion control measures in the vicinity of the construction area are proposed.*



*The Town Engineer has noted in his review that Section 401.5 of the Zoning Ordinance indicates in part that "newly established livestock grazing areas shall not be permitted ... within seventy five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, or tributary streams and wetlands"*

*It would appear that Mill Brook would be an "other water body" and the plan should be revised to depict a 75 setback, as at its closest point, it would appear to be approximately 68' at this time. The classification of the two other brooks either as an "other water body" or "tributary stream" (rear grazing area) should be confirmed by the Applicant. The setback from the fence to the northern most brook should be shown on the plan.*

**With the approval of proposed Condition of Approval #2, the Board finds that the standards of this section have been met.**

.2 Traffic Access and Parking

**Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.**

*Any visits to the site will be minimal and by appointment only. The plan needs to show the sight distances in each direction.*

**With the approval of Condition of Approval #3, the Board finds that the standards of this section have been met.**

.3 Access way Location and Spacing

**Access must meet the specific ordinance requirements.**

*Based on the review by the Town Engineer, the access meets the ordinance requirements.*

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

.4 Internal Vehicular Circulation

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

*The proposed plan will provide adequate area for the safe movement of passenger, service and emergency vehicles.*

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

.5 Parking Layout and Design

**Off street parking must conform to the specific standards.**

*Based on the anticipated number of visits (3-4 per month) the site as depicted is suitable for any needed parking.*

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

.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 not expected to be any significant pedestrian usage. This is a farm operation.*

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

.7 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.**

*The Town Engineer has stated his agreement that stormwater calculations and controls are not warranted for this project due to the minimal nature of the proposed non-vegetated surfaces, that stormwater will be directed to a vegetated buffer, and the location of the site in the Mill Brook watershed.*

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

.8 Erosion Control

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

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

*The applicant has proposed erosion control measures for the construction of the barn. This has been reviewed and approved by the Town Engineer.*

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

.9 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.**

*This use will require little additional water supply. The existing well appears adequate for the needs of the animals. The on-site brook will be used for fire protection purposes.*

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

.10 Sewage Disposal Provisions

**The development must be provided with a method of disposing of sewage which 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.**

*This use will not require any sewage disposal system.*

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

.11 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.**

*The existing utility lines on the property are overhead, as are neighboring properties. A new electricity line will be run overhead from the house to the barn.*

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

.12 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.**

*With the proposed setbacks added to plan and adhered to, along with the containment of the manure stockpile as recommended by the Town Engineer, this project will not adversely impact groundwater.*

**With the approval of Condition of Approval #2, the Board finds that the standards of this section have been met.**

.13 Water Quality Protection

**All aspects of the project must be designed so that:**

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

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

*The only waste that is expected to be generated from this use is that of manure. The applicant has stated the amount of waste that the proposed number of alpacas typically produces and has indicated how the waste will be handled. The Town Engineer has suggested a containment system be provided along the property line. This has been addressed as Condition of Approval #2.*

**With the approval of Condition of Approval #2, the Board finds that the standards of this section have been met.**

.14 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.**

*The applicant has provided information stating that the funds have been secured through Peoples Heritage Bank. A letter from the bank is on file. Technical capacity has been evidenced by the use of SYTDesign Engineers.*

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

.15 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.**

*While the applicant has not provided any evidence regarding historical or archaeological resources, the residence exists and the barn is to be located on an open area of land.*

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

.16 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.**

*All existing and proposed structures are located in Zone C-Areas of minimal flooding as depicted on FEMA Map #230162 0015 B. While this standard states that the entire site must be considered if a portion of the site is within the floodplain, the land affected is open field and pasture and no hazard to property would result from a flood.*

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

.17 Exterior Lighting

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

*The applicant needs to have the plan modified to show the location and types of lighting on site.*

**With the approval of Condition of Approval # 4, the Board finds that the standards of this section have been met.**

.18 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.**

*There is a dense vegetated buffer between this site and adjacent sites, which serves as an adequate buffer.*

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

.19 Noise

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

*The applicant has stated that alpacas do not emit noise. There will be no noise impact on abutting properties.*

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

.20 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.**

*The only waste to be generated is manure-- the storage and containment of which has been addressed as Condition of Approval #2.*

**With the approval of Condition of Approval #2, the Board finds that the standards of this section have been met.**

.21 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.**

*The secluded nature of this farm and the natural vegetation on site does not require any additional landscaping or buffering.*

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

.22 Building and Parking Placement

**.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.**

**.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.**

*The main residence and parking area exist. The new barn will have a grassed area available for parking.*

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

SECTION 300 – AQUIFER PROTECTION (if applicable)

**The use is located in the Aquifer Protection district. A positive find by the Board is required.**

*The site is located in an Aquifer Protection Area. The small amount of animal waste that will be generated, combined with the plan to dispose of the waste allows a positive finding to be made by the Board.*

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

Mr. Turner moved to approve the findings of fact.

Ms. Howe seconded.

VOTE: Unanimous

Ms. Howe moved to grant Minor Site Plan approval for Longmeadow Farm Alpacas, Barn Construction at 135 Main Street, Tax Assessor Map U08, Lot 6, 28 acres in the HC district with the Standard and Proposed Conditions of Approval.

Mr. Turner seconded.

VOTE: Unanimous

#### **STANDARD CONDITIONS OF APPROVAL**

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

#### **RECOMMENDED CONDITIONS OF APPROVAL**

1. That all required fees are paid to the Town prior to the issuance of a Building Permit.
2. That the applicant revise the final plan to depict a 75' setback as at its closest point to Mill Brook. Also, that the other two brooks are classified as either an "other water body" or a "tributary stream" and the appropriate setback depicted on the plan. Also, the setback from the fence to the northern most brook should be shown on the plan. The method of containment is to be added to the plan.
3. The plan needs to show the sight distances in each direction.
4. The applicant needs to have the plan modified to show the location and types of lighting on site.

**4. Public Hearing – Preliminary Plan Review – major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07, Lot 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P. E., Sebago Technics, Normand Berube Builders, Inc., owner.**

Ms. Nixon presented background information as follows: Last month the applicant was at the Planning Board for preliminary review and was tabled due to the many outstanding issues. Many are still outstanding. The Engineer's report was received late last week. She met with Larry Bastion last Friday and several issues were addressed. Ms. Nixon reviewed the outstanding issues.

1. Net residential acreage calculation regarding ledge. The Engineer deducted the ledge outcropping from the net residential acreage calculations. The Ordinance is vague regarding area of land not suitable for development. This ledge area in the open space could be viewed as a similar situation as the easement in open space for Orchard Ridge.

Mr. Bastion stated he had initially deducted the ledge outcropping from the net residential acreage. He has reviewed the Ordinance and based on Falmouth, Windham and Scarborough there are many sites with bedrock. Which are considered buildable, but require blasting. The ledge is located in the open space. He asked for a definition of bedrock outcrop. His proposal was to not deduct the ledge as unsuitable soils.

Mr. Hunt asked how the ledge would affect the number of lots.

Mr. Bastian stated it would decrease the proposal by one lot from 19 to 18 lots.

Ms. Nixon stated ledge at Jordan Farm wasn't visible until the construction of the road.

Mr. Turner stated Mary Lane didn't count the ledge. Ledge is not considered unbuildable it can be blasted.

Mr. Neagle stated he would deduct ledge outcroppings as land difficult to develop.

2. Proposed T-shaped turn-around at the end of Phase I: should a cul-de-sac be built or at least designed and the area reserved in case Phase II is not developed?

Mr. Bastion stated a T-shaped turn-around would be built in the event Phase II is not approved or built. Berube Builders would build a cul-de-sac.

Mr. Turner asked about a guarantee or time frame for a cul-de-sac to be built.

Ms. Nixon stated the road is not being proposed for acceptance until Phase II is completed. There can be a line item in the letter of credit.

Mr. Bastion stated the developer is planning to develop Phase II within six months.

Mr. Turner stated there should be a proposal if Phase II is not built, there should be a provision for the cul-de-sac to be built at developer's expense. He asked who would plow and maintain the road prior to Town acceptance.

Mr. Bastion stated he would talk with the developer and determine a period of time, (perhaps 3 years). He hadn't discussed plowing the road with Adam Ogden.

3. Trails – None are shown as existing or proposed. There is a tote road that winds through the parcel, unfortunately it seems to be right through what appears to be Lots # 8 –14. Ms. Nixon reviewed Section 7.5.E with Mr. Bastion, and explained that when the preservation of an existing trail is not feasible, that relocating the trail to the perimeter is often done. When the "Greenbelt" map was consulted, the area of Town southwest of Route 100 appeared to be missing. The Board needs to discuss options for accomplishing the intent of Section 7.5.E.

Mr. Couillard stated there is a trail along the edge of the wetland on the back of the property. The only other trail is the one that was used at the site walk.

Mr. Neagle asked if the "Greenbelt Map" was not found for this part of the Town.

Ms. Nixon stated the map is not complete.

Mr. Neagle stated trails are great but unless shown on the "Greenbelt Map", he didn't think we could require trails.

Ms. Nixon stated there is open space around the edge of the property and the Comprehensive Plan encourages trails.

Mr. Bastion stated an easement has been provided for a road connection to Falmouth that could be used as public access.

Mr. Neagle stated if there was a trail network developed at some time to the north and south, a trail is provided by lot # 7. If a trail system were developed in the future, a trail could be developed through the site. He would prefer to have a trail through the open space, rather than, along a road.

Mr. Bastion stated he thought the applicant would be willing to come to an agreement for trails.

#### 4. The Boundary of Phase I

Ms. Nixon suggested to Mr. Bastion that the boundary of Phase I be changed to be more depicted more clearly on the plans.

Mr. Neagle asked why the lot in Phase II next to lot # 8 was not in Phase I, the lot has frontage and is clearly a building lot. A note should be added to the plan stating no future development without Planning Board approval.

Mr. Bastion stated the applicant is proposing 14 lots to avoid a Site Location of Development Application (SLODA) at this time.

The Board agreed the lots retained by the developer should have language, which states "lots to be retained by developer and no development without Planning Board approval".

Mr. Neagle inquired about ownership of the common area.

Mr. Bastion stated a Homeowner's Association would own it.

5. Ms. Nixon asked for the location of all stormwater retention areas on the cover sheet, and to add language that clearly indicated the potential for Phase II to be developed in the future.



Ms. Nixon reviewed Mr. Saucier's peer review memo, and stated the items are technical and can be addressed for final approval. Mr. Saucier has discussed the issues with Mr. Bastion.

Ms. Howe stated she was pleased to see the possible road and hopes in the review for Phase II the road will remain as a right-of-way, not necessarily constructed. She agreed with the arrangement of the temporary cul-de-sac.

Mr. Couillard stated he would like to see a north – south trail run along the boundary line of both phases.

Mr. Bastion stated he would review a trail with the owners; there is the buffer area to be preserved with vegetation.

Mr. Neagle referenced Fire Chief Small's comments regarding lights and key boxes with outside lights. If the applicant is happy, he was fine, but felt it was overreaching.

Ms. Nixon stated this came up last month with regard to Orchard Ridge. Fire Chief Small felt this was optional, the Town could provide lock boxes as a service, but they are not required.

**Mr. Hunt opened the public portion of the meeting.**

Mr. Bob Simonds, of 269 Bruce Hill Road stated he spoke with Fire Chief Small and thought the section of the proposed Fire Protection Ordinance was revised to state key box and monitored alarms had been removed, but the sprinkler and flashing lights were still part of the Ordinance.

Ms. Nixon stated the Fire Chief would be present for the proposed Fire Protection Ordinance.

Mr. Maloney, of Maloney's Ridge Way stated he was concerned with stormwater drainage and detention.

Ms. Nixon stated the stormwater plan has been reviewed; Mr. Saucier had technical issues that would be addressed. The application states that post development can't exceed pre-development. She will ask for clarification, although stormwater has not been addressed as a problem by the engineer.

Mr. Maloney stated his concern was water run-off.

Mr. Neagle stated the Board shares his concerns, but the plan shows water dispersed no more quickly than today.

Mr. Hunt appreciated the reminder to review the stormwater.

Ms. Jennifer West, of the Conservation Commission asked that adequate protection be provided for the wetland from the roadway in Phase II.

**The public portion of the meeting was closed.**

Mr. Hunt stated the item would be tabled because of outstanding issues, but suggested the Board address some of the issues. One of which was the classification of net residential acreage regarding the ledge outcropping. Mr. Hunt reviewed the definition of net residential density calculations. Mr. Hunt thought the question of inclusion of ledge was addressed in the Idlewood subdivision, and suggested Ms. Nixon was asked to research the records.

Ms. Nixon stated Rockwood has a large section of visible ledge.

Ms. Howe stated it was obvious there was ledge there.

Mr. Turner thought the ledge shouldn't be deducted if it is not mentioned in the Ordinance.

Ms. Howe agreed, ledge above ground isn't different than ledge six to ten inches below ground. It is not always obvious ledge is present, ledge shouldn't be counted because it is visible.

Mr. Neagle disagreed and thought the ledge should be counted.

Mr. Ward recommended deferring to previous decisions.

Mr. Hunt stated the T-shaped turn-around with cul-de-sac right-of-way could be worked out. The pedestrian passage through the open space area should be identified on the plan; essentially there is a walkway to be laid out as a right-of-way to the Copp property. He stated it might be more desirable to develop the piece as one Phase; it seems an unduly cumbersome way to proceed. The applicant needs to be very careful and work with Mr. Maloney to assure there is no wash out. He is also concerned with the water the drainage.

Mr. Turner agreed the stormwater should be carefully reviewed.

Mr. Maloney stated his grandson came tonight to fulfill a requirement for Boy Scouts.

Ms. Nixon stated in the past if there was a question on a part of the plan, a third engineer could be hired. Would the Board like this to be done with regard to stormwater:

Mr. Neagle stated the two engineers agree, and he didn't feel it was necessary to have a third review.

Mr. Turner moved to table Preliminary Approval for Old Colony Estates, a major 14-lot subdivision at 10 Blackstrap Road, Tax Assessor Map R07, Lots 70 and 70B.

Mr. Neagle seconded.

VOTE: Unanimous

**4. Public Hearing – Preliminary Plan Review – Major 12-lot subdivision, Orchard Ridge Subdivision, 158 Orchard Road, Tax Assessor Map R08, Lot 44, 31 acres, RR2 zone, Great Neck Builders, owner; Curtis Neufeld, P.E. SYTDesign Consultants, representative**

Ms. Nixon reviewed background information as follows: The applicant is Orchard Ridge, LLC. Scott Decker of SYTDesign represents the applicant. The request is for major subdivision review and approval of a 12 lot clustered subdivision at 158 Orchard Road. The property is shown on Tax Assessor's Map R08, Lot 44. It is approximately 32.2 acres in size and is in the RR-2 zone. There is presently a single family home and several outbuildings on the site; these will be removed. The current owner is Greta Jewett of Pownal, Maine. The letter of intent to purchase (upon subdivision approval) is in Section 5 of the submission.

The parcel abuts the municipal boundary with Gray on the northeast side. There are two easements, which bisect the parcel: one is a 50' easement for an Exxon-Mobil petroleum pipeline and the other is a 20' easement to Northern Utilities for a natural gas pipeline.

Tonight, the Board will conduct preliminary plan review.

**Planner's Comments:**

It has been determined that the net residential acreage calculation can include the easements, as long as they remain in the open space areas.

**Stormwater:** DEP permit outstanding.

There was no determination made by the Board at last month's meeting re: road width. The Applicant's engineer stated that they would like to address that issue if and when the other subdivision is proposed. How does the Board want to proceed?

**Stream classification:** There are two letters in the packet from Scott Decker, SYTDesign, summarizing meetings with DEP. Key outcomes: the pond may not be altered in any way, however a detention basin may be constructed "above" that can connect into the pond. One of the two streams was classified as such; the other area is now classified as a forested wetland.

**Ground survey of road:** Done.

**Trails -** Trails to be in open space, owned and maintained by Homeowners Assoc., trails to be cleared by developer, base left in natural condition.

A letter has been received from Exxon Mobil dated June 2, 2004. The Northern Utilities letter is outstanding. The Planner suggests that the notes on C-301-D relating to the pipeline precautions and requirements be more prominent.

Open Space - Is CMIT taking any of the open space? No Homeowners Assoc. will own the open space. Is the Applicant still offering an easement to CMIT within the above easements? Yes, for future trail connection. Are all trails within the subdivision open to the public? Yes, there is access from either side of the subdivision along Orchard Rd.

The Town Engineer, Al Palmer has suggested that the Board may wish to have a qualified firm review the nitrate study.

Well and septic locations with 100' separation? Note on plan?

Mr. Ward asked about the stream classifications: have they been designated?

Mr. Decker stated yes, the confirmation of one stream was classified by the D.E.P.; the D.E.P. was classifying the drainage course on the other side as a stream. He met with Doug Burdick and it was re-classified as a drainage course and not a wetland.

Ms. Nixon asked if the classified stream was depicted on the plan.

Mr. Decker stated yes.

Ms. Howe asked if the requirement of a buffer around the stream excluded walking trails.

Mr. Decker stated it is a no disturb buffer zone. Can you have a walking trail? Yes, can you have something that is four or five feet wide? No.

Mr. Couillard asked if that was a farm pond at one time.

Mr. Decker stated yes.

Mr. Decker stated a detention basin couldn't be constructed in wetlands.

Mr. Couillard stated the applicant would be taking out forested areas for a detention pond.

Mr. Decker stated the current plan shows the gazebo. The tennis court and basketball area have been removed.

Mr. Neagle asked about aquifer protection.

Ms. Nixon stated yes, it is in the aquifer protection zone, and a positive finding must be made that it will not impact the aquifer.

Mr. Neagle asked if there was a more recent plan, revised through June 29<sup>th</sup>.

Mr. Decker stated yes, it is an on-going process.

Ms. Nixon stated the peer review doesn't come back until the week before the meeting. The applicant is anxious to address issues to get an approval at this month's meeting.

Mr. Neagle asked if the setback on Lot # 3 would be affected with the stream designation.

Mr. Decker answered yes.

Mr. Neagle asked about building setbacks.

Mr. Decker stated the building envelope is on the edge of wetlands.

Mr. Decker asked about the classification of the road, would it be a residential access or residential sub-collector. The residential access allows for up to 20 lots.

Mr. Hunt stated he thought it could be either a 20 foot or 22 foot, paved, as long as the Public Works Director and Fire Chief could get vehicles in and out.

Mr. Neagle asked about the frontage of the Lot # 1 on Orchard Road, he thought the path would be moved to go across the front of the lot.

Mr. Decker stated there would be a 10-foot wide strip; anything wider would reduce the size of the lot.

Mr. Neagle asked if the path would be built.

Mr. Decker stated the developer would build the path.

Mr. Simonds, stated the trail will be similar to the Town Forest Path, the path will be designed for foot traffic with the intent to leave have the trail as natural as possible.

**Mr. Hunt opened the public portion of the meeting.**

**There were no public comments. The public portion of the meeting was closed.**

Ms. Nixon reviewed the findings of fact.

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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 parcel is not located in a 100-year floodplain. Richard Sweet has conducted a groundwater impact study, which concludes that the subdivision will not adversely impact the soils or streams. The applicant has applied to the Maine Department of Environmental Protection for a Stormwater Permit and a Natural Protection Act Tier 2 Permit. 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 proposed subdivision will utilize private drilled wells. Richard Sweet has provided information on adequacy.**

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

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

**The standards of this section do not apply.**

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;

***Section 11 of the submission contains documentation that demonstrates adequate erosion control measures will be taken during construction. The plan still needs to be reviewed and approved by the Cumberland County Soil and Water Conservation Commission.***

**Based on the information provided, the standards of this section have been met subject to approval from Cumberland County Soil and Water Conservation Commission.**

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

***A memo dated 5/21/04 from Eaton Traffic Engineering states that the level of trip generation from this 12 lot subdivision will not be likely to have any significant impact on the capacity or level of service of Orchard Road or any other roadway in the vicinity of the proposed subdivision.***

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

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

***A minimum of 2 passing soils test holes has been identified on each lot.***

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

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

***If the Town accepts the road, the Town's municipal waste hauler will be used.***

**Based on the information provided, the standards of this section have 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;

*A letter dated 4/22/04 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area.*

*A letter dated 5/27/04 from the Department of Inland Fisheries and Wildlife states that they have reviewed the site for fishery resource information and found that there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project.*

*The homes will be out of sight from Orchard Road. Significant open space is being preserved.*  
**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;

*There are still some technical issues relating to wetland locations, wetland impacts and setbacks to be changed for final 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;

*Expert engineering, surveyors and soils evaluators evidence technical capacity.*

*Financial capacity evidence is forthcoming; though there is a letter dated 4/13/04 from People's Heritage Bank indicating their interest, it is not a commitment to lend. Bank North has issued a letter that will be reviewed by the Planner and Town Attorney.*

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

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 DEP has viewed the site and provided classification and requirements for the stream and wetland areas. The Applicant needs to designate on the plan that there shall be no disturbance within the 75' setback from the stream.*

**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;

*Sweet Associates conducted a groundwater impact study. The conclusion was that the subsurface wastewater disposal systems will not result in an increase of NO-3-N above 5mg/L*

*at any subdivision property line for the SSWD systems located at Lots 1-12. The Town Engineer, Al Palmer has suggested that the Board may wish to have a qualified firm review the Nitrate Study. The applicant will have a nitrate study done by a qualified firm.*

**Based on the information provided, the standards of this section have been met for preliminary approval conditioned upon a Nitrate Study report.**

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 located in Zone C- Areas 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;

*Scott Decker of SYTDesign has prepared a stormwater management plan. The Town Engineer has reviewed the plan and will be working with SYTDesign to adjust it as needed. A stormwater permit from DEP is outstanding.*

**Based on the information provided, the standards of this section have been met for preliminary approval subject to the Town Engineer and DEP reviews.**

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.

*Wetlands, as delineated by Mark Hampton Associates, Inc., of Portland, Maine, are noted in the existing conditions plan and Drawings C-100, C-102, included in Section 19, Project Drawings. An NRPA Tier 1 Permit has been applied for. Al Palmer, Town Engineer has noted some discrepancies on Sheets C 101 and C-104 that need to be addressed.*

**Based on the information provided, the standards of this section have been met; conditioned upon a NRPA Tier 1 Permit being approved and technical corrections as noted by the Town Engineer.**

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]

*The DEP has walked the site and classified the streams. Appropriate buffer areas have been shown on the plans, however the statement "No disturbance" needs to be added. There are no structures or improvements within 100' of the stream.*

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

17. SECTION 300 – AQUIFER PROTECTION (if applicable)

*The use is located in the Aquifer Protection district; the proposed use will not affect the Aquifer, based on information from Richard Sweet and DEP review.*



Mr. Turner moved to adopt the proposed findings of fact.

Ms. Howe seconded.

VOTE: 4 in favor (Howe, Turner,  
Couillard, Hunt)  
2 opposed (Ward, Neagle)

Mr. Turner moved to grant Preliminary Plan approval for a major subdivision; Orchard Ridge with the standard and proposed conditions of approval. The preliminary approval is granted with the condition that the following additional documentation will be submitted for final approval:

- Maine Department of Environmental Protection Stormwater Permit
- NRPA Tier 1 Permit
- Peer review of Nitrate Plan
- Stream delineation shown on plan
- Cumberland County Soils & Water Conservation review and approval
- Letter of Credit from Bank North be reviewed and approved by the Town Planner and Town Attorney
- Wetland delineation to be reconciled between Mark Hampton and Al Palmer

Ms. Howe seconded.

VOTE: 4 in favor (Howe, Turner,  
Couillard, Hunt)  
2 opposed (Ward, Neagle)

**5. Public Hearing – Revision to Major 12 lot subdivision – Mary Lane, 12 Foreside Road, Tax Assessor Map U01, Lot 5, Federic Licht, P.E., Land Use Consultants, representative; Stephen and Laura Goodrich, owners.**

Ms. Nixon presented background information as follows: Land Use Consultants has requested a revision to the Mary Lane subdivision plan. The change involves the relocation of the detention basin from Lot 1 (on the right side of the entrance as you enter the subdivision) to a portion of a new parcel (formerly owned by Shawn Gorman) on the left side of the entrance. They wish to do this for aesthetic reasons.

Adam Ogden, Public Works Director, and Tom Saucier, Town Peer Review Engineer have reviewed this. You will see that Tom Saucier found some issues, as described in his email dated July 8, 2004. The Board was given an e-mail stating Tom Saucier's comments. Land Use Consultants have responded to the comments and each item has been satisfactorily addressed. Tom Doyle is present with revised plans. Ms. Nixon stated the application is in order.

Mr. Turner asked if the Goodrich's had acquired the property.

Ms. Nixon stated yes.

**Mr. Hunt opened the public portion of the meeting. There were no public comments. The public portion of the meeting was closed.**

Ms. Howe asked about the variable sedge.

Mr. Doyle stated that it had been re-located to the back of the property last fall.

Mr. Neagle moved to approve the subdivision revision for Mary Lane subdivision. The changes involve the relocation of the detention basin from Lot # 1 (on the right side of the entrance as you enter the subdivision) to a portion of a new parcel (formerly owned by Shawn Gorman) on the left side of the entrance.

This revision is subject to the same conditions of approval, waivers and findings of fact approved by the Planning Board at final approval on December 16, 2003.

Mr. Turner seconded.

VOTE: Unanimous

Item # 7 was heard as Item # 6, due to the lateness of the meeting.

**6. Public Hearing – Recommendation to Town council on proposed contract zoning for an increase in the number of rental units at 371 Tuttle Road, Tax Assessor Map U11, Lot 4, in the Medium Density Residential District; Dr. Louis Hanson, owner; Scott Decker, SYTDesign, representative.**

Mr. Hunt reviewed Section 606 of the Zoning Ordinance regarding Contract Zoning. He gave an overview of the process.

Ms. Nixon stated that the Town Council had unanimously approved the concept. If the Planning Board supports the concept, it is helpful. However the Council can proceed with the applicant without the Planning Board's approval.

The Board's packets included a letter from Dr. Hanson, a memo to Bill Shane, Town Manager, referencing the proposal's conformance to the Comprehensive Plan, and a letter from William Wyatt, a neighbor voicing his concerns.

Mr. Neagle asked if the Board had language for a specific agreement.

Ms. Nixon stated not at this time. That is done later by the Council.

Mr. Ward asked what zone the property was located in.

Ms. Nixon stated Medium Density Residential.

Mr. Ward asked if the property was currently being used as a rental property.

Ms. Nixon stated yes, it currently has one dwelling units in the carriage house.

Mr. Ward asked under the MDR, how many units are allowed?

Ms. Nixon stated the lot size does not support the density.

Mr. Ward asked what is the definition of “affordable rental units”.

Ms. Nixon stated in Dr. Hanson’s letter, on page 2, he suggests using the Maine State Housing Authority guidelines for affordable housing. The Housing Authority has guidelines for subsidized units using the Greater Portland Metropolitan Area income figures. The definition of affordable will be set in the contract zoning agreement. The public benefit would be affordable housing, which is a requirement of contract zoning as defined in the Comprehensive Plan.

Mr. Ward asked what the zoning was on the abutting properties.

Ms. Nixon stated it is all MDR.

Mr. Turner stated definitions of affordable are obtainable, what would be the method of maintaining affordable rents.

Ms. Howe agreed, in general she is not keen on the use of contract zoning, so it needs to have a public benefit consistent with the Comprehensive Plan.

Mr. Couillard asked if the building would be the same size.

Mr. Neagle stated he read in the Forecaster that the archway would be preserved.

Ms. Nixon stated there should be language that addresses preserving the historical nature of the building.

Mr. Neagle stated he has written many contract zones and would expect more information for the Planning Board. It seems to be a good idea, although he doesn’t see the Town receiving a large benefit in exchange for the increased density. If perhaps a small park was created on Tuttle Road, maybe there could be a park in front of the cemetery in exchange for two extra units.

Mr. Neagle stated he was unclear what the Council was asking of the Planning Board.

Mr. Hunt stated the Board would hear testimony from Mr. Decker, or Dr. Hanson. What the Planning Board is looking for is either a typical zoning amendment, which would come to the Board and then be recommend to the Council for adoption. They are asking if the provisions that govern multiplex development should allow the density requirement to be altered. The Council may decide that there should be a zone change to allow greater density in the MDR zone. The Council is asking the Planning Board for an opinion on a Contract Zone, or a Zoning Amendment.

Mr. Scott Decker stated the property is on the corner of Main Street and Tuttle Road. There is a paved access drive and a horseshoe gravel drive with an existing carriage building. They are planning to replace the carriage building with a 4-unit, 2-story

apartment building, with approximately 1,000 sq. feet each, with 2-bedrooms, bath on the top floor and ½ bath on the main floor. The existing building is 2,400 sq. feet. The proposed building is 2,800 sq. ft. an expansion of 16 – 17%. They are proposing to expand parking; Dr. Hanson's letter mentions covered parking.

Mr. Neagle asked if the existing residence nearest the road would be torn down.

Mr. Decker stated no.

Mr. Neagle asked if there would be a total of five units on the site.

Mr. Turner asked if the front building was a house, office or apartment?

Dr. Hanson stated the building houses his medical practice, and there is an apartment on the second story.

Dr. Hanson stated the new construction would be the same height and width, but ten feet deeper in the back.

Mr. Neagle asked Dr. Hanson if he had seen Mr. Wyatt's letter, and asked if the aerial photo was accurate.

Dr. Hanson stated yes, he had seen the letter. The aerial photo is accurate, probably close.

Mr. Ward asked if they had looked at traffic impact.

Mr. Decker stated no, he thought tonight's meeting would be conceptual, and issues such as traffic would be addressed at Planning Board review.

Ms. Nixon stated she was under the assumption the building would be renovated, not replaced. She questioned why this was being done.

Mr. Vail, the builder / contractor answered yes, the building was going to be replaced.

Mr. Decker presented architectural renderings of the building.

Dr. Hanson stated the arch would be preserved.

Mr. Couillard asked about the property behind Dr. Hanson's.

Dr. Hanson said it is a vacant lot.

Mr. Neagle asked if the lot was buildable, and was the parking screened from that lot.

Mr. Couillard asked about an easement to the property.

Dr. Hanson reviewed his proposed project, which would provide several benefits to the Town, including an increase in badly needed, yet desirable, affordable housing and an expanded tax base. The project would improve the appearance of the Center while retaining architectural integrity of this landmark; restoring or renovating it will increase its strength and lifetime farther into the future than the current structure could service, and will better utilize space that is currently wasted. The drawings show four identical apartments of about 1,000 sq. feet each, with two bedrooms, one and one-half baths, full kitchen, living and dining rooms, basement area, and compliance with codes regarding stairways, egress, and safety. Full-unfinished basements with laundry will be provided for each unit. The building renovation is to take place on the current footprint, with a bit of extension in the back for decking off each dining room. The front will include a repetition of the current covered porch to balance its appearance, and window treatment from the front will approximate the current appearance as closely as possible. Covered parking will be provided in the rear on the currently existing concrete deck and visual screening will be placed along the back of the property. Sewer access is already available to the building as a result of deliberations here on January 20, 1993. Increasing the number of sewer units is anticipated, and he understands that capacity is available. Mr. Bob Vail has agreed to do this project; the project will be completed to highest expectations.

The Board discussed the methods of maintaining affordability.

**The public portion of the meeting was opened.**

Mr. William Wyatt, of 359 Tuttle Road, stated there is a sewer easement across his property at 359 Tuttle Road, which services 371 Tuttle Road. He felt if additional units were allowed it would likely necessitate additional easement use, such as to increase the number or size of pipes, or increase the frequency of maintenance of the pipe. Should the easement on his property continue to be used, this would be an adverse effect to his property, meanwhile a very workable alternative exists with a different sewer route. He would like a contract zone to specify suitable setbacks and visual buffers for the parking area. And he would request the terms of a contract include a clear survey and marking of the back-line boundaries, with installation of a durable childproof fence. He also suggested setting a permanent marker in the Northern-most corner where none now exists. He would also ask that the existing access for right-of-way through 371 Tuttle Road continue to be available.

Dr. Hanson stated the right-of-way was given to Dr. & Mrs. Wyatt, and did not run with the property.

Mr. David Clifford, a current tenant at 371 Tuttle Road stated he has lived in the carriage house for six years, and would like to remain after the renovation.

Mr. Bob Vail stated a contract relationship allows two people to move forward. Zoning limits would prevent Dr. Hanson from increasing affordable rentals in Town. The building will be replaced and the arch preserved.

Mr. Hunt stated the question for the Planning Board is what recommendation to forward to Council. He applauds the concept; the Town could use more affordable rental properties. He was concerned that the Board allows only Dr. Hanson's property to be changed. Should the Board consider changing the zone and give others the opportunity for increased density? Contract zoning typically has a public benefit, such as Small's Brook.

The Board discussed tearing down the building as opposed to renovating the existing structure.

Mr. Turner moved to recommend the drafting of a contract zone to allow an increase in the number of rental units at 371 Tuttle Road with the following conditions:

- That rents to be affordable as defined by the language of the contract zone. The affordable language must specify a mechanism for annual determination of affordable eligibility.
- That the rental units be rented with preference given to existing residents of the property; and Town and M.S.A.D.# 51 employees.
- That the Planning Board review the project for Site Plan Review.
- That the architectural design shall be subject to design review to assure the historical architecture and integrity is maintained in the Center of Town.

Ms. Howe seconded.

VOTE: Unanimous

#### **7. Public Hearing – Recommendation to Town Council on proposed Fire Protection Ordinance.**

Ms. Nixon stated at last month's meeting the board reviewed the draft and asked for changes. Fire Chief Small has made those changes and the Board is asked to recommend the Fire Protection Ordinance to the Council.

The Board discussed the content of the Fire Protection Ordinance.

Ms. Howe moved to recommend the adoption of the proposed Fire Protection Ordinance with editorial revision to be approved by Chris Neagle and Carla Nixon, Planning Director.

Mr. Turner seconded.

VOTE: Unanimous

Adjournment 12:15 a.m.

A TRUE COPY ATTEST:

\_\_\_\_\_  
Philip C. Hunt, Board Chair

\_\_\_\_\_  
Pam Bosarge, Board Clerk

## Fire Protection Ordinance

**101. TITLE**

This Ordinance shall be known as the "Fire Protection Ordinance of the Town of Cumberland, Maine" and shall be referred to herein as the "Ordinance."

**102. LEGAL AUTHORITY**

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

**103. PURPOSE**

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Cumberland by establishing fire protection measures for residential and commercial buildings.

103.1 To provide for the protection and enhancement of life safety against fire and its byproducts to persons occupying new buildings in the Town of Cumberland by improving the chances of emergency escape.

103.2 To ensure for the reasonable protection and safety of firefighters against building collapse and other effects of fires.

103.3 To better facilitate the needs of a volunteer fire department response.

103.4 To ensure that sound engineering practices are utilized when installing fire protection systems.

**104. DEFINITIONS**

~~Approved: Acceptable to the authority having jurisdiction (AHJ).~~

~~Authority Having Jurisdiction: The organization, office, or individual responsible for approving equipment, materials, an installation, or a procedure.~~

**Commercial Property:** Any building designed for the following occupancy use(s): business, educational, industrial, health care, public assembly, day care, lodging/rooming, mercantile, apartment, hotel, detention, board and care, storage or any combination thereof as defined by the National Fire Protection Association Life Safety Code.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

~~Major Subdivision: A Town of Cumberland Planning Board proposed approved subdivision with 5 or more dwelling units residential occupancies.~~

~~Minor Subdivision: A Town of Cumberland Planning Board approved subdivision with 4 or less dwelling units residential occupancies.~~

**Multi-Family Dwellings:** A building used or intended for residential use containing more than two attached dwelling units.

~~Monitored Fire Alarm System: An approved automatic fire alarm system, with battery backup, shall be capable of detecting the presence of elevated heat temperatures, smoke conditions or sprinkler system water flow within a building and~~



have the capability of calling an approved fire alarm monitoring company. The system shall meet all of the requirements as outlined in the National Fire Alarm Code.

**Public Water System:** Water system maintained by the Portland Water District, including water mains and fire hydrants.

**Subdivision:** A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review, shall not be considered a lot in a subdivision.

**105. APPLICABILITY**

This Ordinance shall apply to all new commercial buildings in excess of 4000 square feet, all multi-family dwellings, all new residential dwelling units in major subdivisions (including manufactured housing), or any other buildings outlined in this ordinance within the Town of Cumberland. No new dwelling unit or commercial property that fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Cumberland.

**106. EXEMPTIONS**

This Ordinance shall not apply to the following:

~~106.1.1~~ 106.1 The repair, replacement, reconstruction or alteration of any existing building or structure, provided the number of dwellings units is not increased.

~~106.1.2~~ 106.2 ~~Minor Subdivisions. Any new single family residential dwelling units that are not located within a major subdivision. (5 or more dwelling units).~~

**107.107. ADMINISTRATION**

~~107.1~~ 107.1 **Basic Requirements:** All new commercial buildings in excess of 4,000 square feet, all new multi-family dwellings, and all new residential dwelling units in major subdivisions shall meet one of the requirements set forth in the following three subsections:

- a. **Public Water Hydrant:** An extension of the ~~P~~public ~~W~~water ~~s~~System with hydrants supplied at a distance not greater than 1000 feet from each other and from the added building(s).
- b. **Automatic Sprinkler System:** An automatic fire protection sprinkler system, approved by the Fire Department, capable of immediately supplying water to a fire without human intervention. The system shall meet all of the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to have a permit issued by the State Fire Marshal's Office prior to installation.
- c. **Dry Hydrant:** ~~A~~ water drafting source for fire department apparatus connected to either an underground storage tank or a body of water as described below. Each hydrant shall be equipped with a male 4.5 inch National Standard Thread (NST) Fire Department connection with a reducing male 2.5 inch NST connection with cap and chain. This connection shall be located within 6 feet from pavement for support of fire apparatus. The center of the cap shall be 30 inches from final grade. There must be 6 feet of level ground around the hydrant. Protective posts shall be approved by the Fire Department. All vertical pipe components and the hydrant shall not be plastic. The design of the hydrant, associated components and piping shall be approved by a licensed engineer. The Public Works Director and the Fire Chief, or their designated agents, shall approve access roads, protection from vehicular traffic, signage, gates, painting of the hydrant, and any other associated items.

Dry hydrants should not be located more than 1000 feet from any dwelling units within a major subdivision.

~~107.1.e1~~

**(a) Fire Pond:** A body of water containing at a minimum 120,000 gallons of useable water for fire protection. A hydrologic study shall be performed by a licensed engineer to certify the availability of the 120,000 gallons water during all conditions, including draught and freezing temperatures. Fire ponds must have been constructed prior to October 6, 2003 to qualify. No new fire ponds will be allowed.

~~107.1.e2~~ **(b) Underground Storage Tanks:** A tank or network of tanks located in the ground serving the sole purpose of supplying at a minimum 30,000 gallons of water for fire protection purposes. All applications under this section shall contain a fire protection water supply plan with profiles designed and stamped by a State of Maine registered professional engineer. A State of Maine registered professional engineer shall also approve the installation of all components of the tank(s) and hydrant system. This plan shall show the fire pond or existing water body, spring, well point, or pumping facility; overflow system; security fence; access road; dry hydrant(s); associated piping and materials; easements; and other elements of the proposed water supply system, or other means of providing fire protection as approved by the Fire Chief. In addition, the engineer shall provide a written narrative describing the materials and methods used in the water supply system and supportive documentation for the proper sizing of the system shall accompany the plan.

107.2 Additional Requirements: ~~after review by~~ The fire department may impose additional requirements for projects with multi-family dwelling units or single-family dwellings separated by less than 100 feet. Additional requirements may include fire sprinkler protection, additional fire hydrants, building construction design(s) intended to reduce the spread of fire, or other accepted engineering practices. The Planning Board shall approve the fire department's recommendation on any project being reviewed by the Planning Board.

107.2 Distances All distances shall be measured by the path of a fire apparatus from the water source to the dwelling unit or commercial building including the driveway.

108. **CONFLICT WITH OTHER LAWS, CODES OR ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws, codes or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

109. **SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

110. **EFFECTIVE DATE**

The effective date of this Ordinance shall be

~~Month-Day-Year~~, 2004.

111. **REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Town Council in

~~Month-Year~~, 200 to assess the efficacy of the Ordinance and shall be reviewed by the Planning Board periodically (but not less frequently than once every three years). Based on its review the Planning

Board may recommend amending this Ordinance as provided in Section 11.

**112. AMENDMENTS**

An amendment to this Ordinance may be initiated by one of the following:

112.1 The Planning Board.

112.2 The Town Council.

112.3 The residents, pursuant to Article X, Section 2 of the Town Charter.

**113. VIOLATIONS**

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership, or corporate entity engages in any construction activity directly related to the erection or placement of a commercial property in excess of 4000 square feet, a residential dwelling unit in a major subdivision, or any other building outlined in this ordinance without first having an approved fire protection plan obtained from the Fire Chief or his/her designee.

113.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been constructed, without an approved fire protection plan, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such new commercial property in excess of 4000 square feet, new residential dwelling unit in a major subdivision, or any other building outlined this ordinance until such approval has been duly issued.

**114. NOTICES OF VIOLATIONS; LEGAL ACTION**

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

**115. PENALTIES**

115.1. Any person owning or controlling the use of any new commercial property in excess of 4000 square feet, any new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance being constructed or occupied in violation of this chapter may be liable to be fined **to be determined by the Town Council** when such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

115.2. If a new commercial property in excess of 4000 square feet, a new residential dwelling unit in a major subdivision, or any other building outlined in this ordinance has been built in violation of this chapter and is

then occupied the owner may be fined as provided in Section 14 A. of this Ordinance.

116. **APPEALS**

The Board of Adjustment and Appeals in accordance with Section 603 of the Cumberland Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

**Planning Board Meeting  
Chebeague Island Hall  
Chebeague Island,  
Tuesday, August 17, 2004  
7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Present: Phil Hunt, Chair, Terry Turner, Vice-Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle, Tom Powers

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of July 20, 2004 with technical corrections.  
Mr. Turner seconded. VOTE: Unanimous

**D. Consent Calendar / De minimus Change Approvals**

**1. Walk-in cooler placement behind Greely High School**

Ms. Nixon presented background information as follows: The Code Enforcement Officer asked if the MSAD needed site plan approval to place a freezer/cooler unit outside the back area of the High School.

Mr. Turner asked for clarification of the location of the cooler.

Ms. Nixon stated behind the cafeteria.

**2. Longmeadow Farm Alpacas** – Ms. Nixon stated she had approved a de minimus change for this project. The barn is being shifted about 14' to the southwest. No setback requirements are impacted. The builder felt this was a more suitable location.

Mr. Hunt stated these are matters, which will not require a Public Hearing unless the Board votes one is necessary. The Board did not find a Public Hearing necessary; the Consent Calendar items were approved.

**E. Hearings and Presentations**

The Agenda items were taken out of order to allow mainland applicants to catch the 8:30 p.m. ferry.

**1. Application Completeness – Minor Site Plan Review, Construction of a 400 sq. ft. concrete block building for use as a local distribution hub;** 197 Blanchard Road, Cumberland Fairgrounds, Tax Assessor Map R07, Lot 8, Nancy Bozenhard, Patriot Field Services, representative; Time Warner Cable, applicant, Cumberland Farmer's Club, owners.

Ms. Nixon presented background information as follows: The applicant is Time Warner Cable of Maine. The owner of the property is the Cumberland Farmer's Club. The applicant has an easement option on a 60' by 87' portion of the parcel. The applicant proposes to construct a 20' x

20' local distribution hub building. The building and appurtances will be fenced within a 50' x 50' chain link fence. The site area is 60' x 80'.

Oest Associates prepared the site plan and survey. Landscaping will be done by Nitz Landscaping. Nancy Bozenhard of Patriot Field Services will be representing the applicant.

The property is located at 197 Blanchard Road, Cumberland Fairgrounds, Tax Map R07, Lot 8, in the RR1 zoning district.

The application was scheduled to receive approval as a special exception from the Board of Adjustment and Appeals meeting. Due to a lack of a quorum the meeting was canceled and appeals will be heard on September 9<sup>th</sup>. Site plan review is required because it is the construction of a non-residential structure. It is classified as minor because the square footage is less than 5,000 sq. ft. (400 sq. ft. proposed.)

The applicant currently utilizes a facility on Skillin Road in Cumberland. This facility will be removed once approval is granted for this new location.

The electricity demand is anticipated to be similar to that for a house. No water or sewer hookups are required. There will be no signs, and lighting will consist of a single, 75 watt, motion activated exterior light. Natural buffering will be supplemented by landscaping.

Following installation, visits to the building by Time Warner Cable employees should average once or twice per week, excepting emergency visits.

Tonight the Planning board will determine if the application is complete and schedule a public hearing for the next meeting. The Board may also decide on which, if any waivers shall be granted.

Section 206.7.2.9 – Financial Capacity is outstanding.

Mr. Turner stated a yearly report would be sufficient.

Section 206.7.3.1 – Zoning – the zoning is RR1, not RR2 as stated on the plan.

Section 206.7.3.11 – Easements – Some are listed on the plan; there were no documents provided.

Ms. Bozenhard stated there were no easements located on the portion of the parcel that Time Warner would occupy.

Mr. Hunt stated easements for the entire parcel, such as gas, CMP easements exist and the depiction on the plan was sufficient.

Ms. Nixon asked about the utility easement along the road.

Mr. Turner stated a 20' utility easement is written into the easement language.

Mr. Neagle asked about building elevations.

Ms. Bozenhard stated the building would be the same as the building in Scarborough (photo included in packet).

Ms. Bozenhard asked for a waiver from Section 206.7.4.12 – stormwater calculations

Ms. Nixon reviewed the peer engineer review comments as follows:

- Culvert design standards and culvert design calculations to be submitted and reviewed by the Public Works Director
- Utility easement documents – are utilities allowed in the setback?
- Landscaping – Are 6-7 ft. high pines, spaced at 20 feet, an appropriate screen?
- Capacity of the propane tank?
- Overhead utilities.
- Wetlands?

Ms. Bozenhard stated that Time Warner requires a double feed. Francis Small from the Farmer's Club has stated it would be helpful to have a pole line, instead of underground utilities to allow individual meters to the mobile homes. There is an existing water line for the barns and stables. Time Warner has no preference.

There are no wetlands involved in the project. A waiver was requested.

Mr. Neagle stated he lives in West Cumberland and thinks the location is good for the proposed use. He asked if the 5,000 sq. ft. easement was creating a non-conforming lot. And would the applicant need a lot size variance? Mr. Neagle asked about the permanent easement on the roadway. He wouldn't want to see the Farmer's Club held up in the future because of the road. Mr. Neagle asked Ms. Bozenhard about the function of the building.

Ms. Bozenhard stated the building allows distribution of signals for the electronic hub.

Mr. Powers moved to find the application for minor site plan to construct a 400 sq. ft. concrete block building for use as a local distribution hub complete.

Ms. Howe seconded.

VOTE: Unanimous

Mr. Powers moved to grant three waivers:

- Section 206.7.4.12 stormwater calculations
- Section 206.7.3.8 drainage courses – wetlands
- Section 206.7.4.3 solid waste

Ms. Howe seconded.

VOTE: Unanimous

The Board will obtain a legal opinion regarding the question of the easement creating a 5,000 sq. ft. lot.

Ms. Bozenhard stated she didn't think an easement created a lot.

**2. Public Hearing – Preliminary Plan Review – Major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07, Lots 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P.E., Sebago Technics, Normand Berube Builders, Inc., owner.**

Ms. Nixon presented background information as follows: This is the third round of preliminary plan review for this project. The outstanding issues (for final approval) are listed in the Planner's review. The plan is ready for Preliminary Approval.

**Request:**

The applicant is Normand Berube Builders, Inc. The applicant is represented by Larry Bastion, P.E., Sebago Technics, Inc. The request is for major subdivision review and approval of a 14 lot

clustered subdivision at 10 Blackstrap Road. The property is shown on Tax Assessor's Map R07, Lot 71 and 70B. The two parcels combine to consist of 51.9 acres of land. The subdivision is shown as a two-phased plan, but only Phase 1, for 14 lots, is under review at this time. The parcels abut the municipal boundary with Falmouth on the south and Windham municipal boundary to the northwest. Tonight, the Board is asked to review the plan for preliminary approval.

**Planner's Comments:**

1. Schooner Road needs to be renamed. The name is too similar to the existing "Schooner Ridge Road" on Cumberland Foreside.
2. No trails are proposed. The Notice of Decision from the July meeting states that *Pedestrian trails should be identified on the plan*. A (full) copy of the Greenways Trail Inventory map is included in this month's packet for the Board. It is unclear if existing trails cross this parcel. Ms. Nixon recommended that the Planner walk the site with the applicant's surveyor and any obvious trail locations be flagged. It can then be determined if the location of any trails can be incorporated into the design or relocated as per Section 7.5E of the Subdivision Ordinance.
3. The note regarding the future construction of the cul-de-sac does not state that it will be at the Applicant's (or Homeowner's Association?) expense. It might be wise to add that the road may not be offered for acceptance by the Town until the cul-de-sac is installed, or the Planning Board approves Phase 2.
4. Sheet 5 should be adjusted to show the proposed streetlight closer to the entrance location. It should be located above the street sign for the entrance.
5. Is any type of subdivision sign (on a stone wall, fence, etc.) proposed?
6. The boundary line for Phase 1 is still unclear. Perhaps a different type of line could be used and listed in the legend?
7. 16 white pines (5'-6' tall) 12' apart are proposed for a buffer on the Sanchez property line. Are white pines the best type of tree for this purpose?

Ms. Nixon stated she had spoke with Mrs. Sanchez who stated she was comfortable with the plan, but voiced concern with traffic speed around the curve.

Ms. Nixon reviewed the Peer Review Engineer's comments:

Mr. Saucier, of SYTDesign Consultant's memo stated, that, as requested, he reviewed the revised plans for Old Colony Estates submitted on July 27, 2005 (received July 28, 2004) relative to the remaining comments outlined in our July 19th email. Based upon this review, it appears all of the past technical comments have been addressed and only the following issues/comments remain which are more legal in nature:

B1. Still awaiting a legal opinion from Norman Berube's attorney regarding the property line discrepancy with the Desjardins.

C1. Sebago Technics has indicated in their 7/27/04 cover letter that metes and bounds information for the proposed easements will be provided on the final plan.

C4. Sebago Technics has indicated in their 7/27/04 cover letter that CMP is preceding with the necessary paperwork to release the old utility easement, and that CMP's corporate approval process could take 8 to 10 weeks. The applicant has requested documentation of the easement release be a condition of subdivision approval.

Mr. Neagle asked about the net residential density calculations in regards to the ledge. He believes that it is difficult to develop and should be deducted.



Mr. Turner stated he disagreed, ledge is expensive to develop, but can be blasted.

Mr. Hunt referenced the 1999 review of Idlewood Subdivision. The Council was very clear not to deduct ledge. The Board has no option but to follow the direction of the Council.

Mr. Ward asked about the hydrogeologic study.

Mr. Larry Bastion, of Sebago Technics stated Dick Sweet associates had done a hydrogeological report, which addressed the septic systems. It was his understanding the requirement was fulfilled.

**The public portion of the meeting was opened.**

**There were no public comments. The public portion of the meeting was closed.**

Ms. Howe asked about Mr. Maloney's concerns of stormwater drainage.

Mr. Bastion stated he had spoken with Mr. Maloney and that Mr. Maloney was satisfied with the drainage.

The Board reviewed the Proposed Findings of Fact as follows:

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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 parcel is not located in a 100-year floodplain. The test pit information for subsurface wastewater disposal was reviewed and approved by Tom Saucier. The nitrate plumes have been changed and accurately depicted on the plan. The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted and the report has been reviewed and approved by Tom Saucier, peer review engineer.

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

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

The proposed subdivision will utilize private drilled wells. Information on adequacy for both domestic use and fire protection needs is evidenced by the groundwater report dated 4/26/04 from Dick Sweet Associates.

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

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

**The standards of this section do not apply.**

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 provided a detailed Erosion and Sedimentation Control Plan that has been reviewed by the Town's peer review engineer and Cumberland County Soil and Water Conservation Commission. Initial comments from CCSWCS are being incorporated into plan. **Based on the information provided the standards of this section have not yet been met.**

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

The applicant has provided an entrance permit dated 6/29/04 from MDOT. A traffic study was not required.

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

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

The subdivision will not be on public sewer. The test pit information for subsurface wastewater disposal was reviewed and approved by Tom Saucier. The nitrate plumes have been changed and accurately depicted on the plan.

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

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

The subdivision road is intended to be offered to the Town for acceptance. As such, the applicant proposes to have the Town pick up solid waste at each proposed house lot.

**Based on the information provided the standards of this section have 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;

Information still needed on this. Applicant has submitted letters dated 7/21/04 to the MDIF&W and the Maine Historic Preservation Commission Review.

**Based on the information provided the standards of this section have not been met.**

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

Based on the plans submitted and reviewed, the proposed subdivision conforms to all local land use requirements.

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

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

Technical capacity has been evidenced by the use of professional engineers, soils scientists, surveyors. As for financial capacity, the letter submitted by the applicant dated July 21, 2004 indicates that Key Bank will “give serious consideration to any request for funding once specifics are known.”

**Based on the information provided the standards of this section have not 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 property is located in two watersheds, the Forest Lake Watershed and the Piscataqua River Watershed. There is no proposed development in the Forest Lake Watershed.

Wetland areas have been mapped on the plans and construction will avoid these locations.

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

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

The groundwater impact study prepared by Sweet Associates (dated 4/26/04) and reviewed by Tom Saucier, Town Engineer, contains information indicating that the development will not adversely affect the quantity or quality of groundwater.

**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;

Based on a review of the FEMA Maps, no portion of the site is located in a flood zone.

**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;

The applicant has provided a “Stormwater Management Report” that has been reviewed by the Town’s peer review engineer.

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

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

Freshwater wetlands on the site were delineated and flagged in the field by Sebago Technics, Inc. in accordance with U.S. Army Corps of Engineers methodology. Less than 4300 square feet of wetlands will be impacted by the development. The wetland areas are shown on the plan set. The new facilities will be constructed in upland areas of the site.

**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]

As per the memo from Gary Fullerton, C.C. S.W., the existing drainage swales on the property do not meet the DEP criteria for definition of "stream".

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

#### SECTION 300 – AQUIFER PROTECTION (if applicable)

The use is located in the Aquifer Protection district. A positive find by the Board is required.

The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted and the report has been reviewed and approved by Tom Saucier, peer review engineer. Sevee & Maher Engineers have reviewed the nitrate study.

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

Mr. Powers moved to approve the findings of fact as presented with the Planner's Comments included.

Ms. Howe seconded.

VOTE: 6 in favor (Howe, Turner,  
Hunt, Powers, Ward, Couillard)  
1 opposed (Neagle)

Mr. Powers moved to grant preliminary plan approval for Old Colony Estates a Major 14-lot subdivision at 10 Blackstrap Road, Tax Assessor Map R07, Lots 71 and 71B with the standard and proposed conditions of approval.

Ms. Howe seconded.

VOTE: 6 in favor (Howe, Turner,  
Hunt, Powers, Ward, Couillard)  
1 opposed (Neagle)

#### Standard Conditions of Approval

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

#### Proposed Conditions of Approval

1. That all fees be paid as required.
2. That the applicant provides documentation of the CMP utility easement release. To be reviewed and approved by Town Attorney and Town Planner.
3. The Homeowner's Association Documents be reviewed by the Town Attorney.

4. That a letter of credit or escrow be established in an amount approved by the Town Planner, Public Works Director and Town Engineer. The cost of the cul-de-sac construction is to be included in the amount.
5. That the C.C.S.W. report be submitted for approval by the Town.
6. That the Inland Fisheries and Wildlife report be submitted and reviewed by the Town.
7. That a binding commitment letter from a financial institution be submitted and approved by the Town.

**Additional items from Planner's Comments:**

1. Schooner Road needs to be renamed. The name is too similar to the existing "Schooner Ridge Road" on Cumberland Foreside.
2. No trails are proposed. The Notice of Decision from the July meeting states that *Pedestrian trails should be identified on the plan.* A (full) copy of the Greenways Trail Inventory map is included in this month's packet for the Board. It is unclear if existing trails cross this parcel. Ms. Nixon recommends that the Planner walk the site and the applicant's surveyor and any obvious trail location flagged. It can then be determined if the location of any trails can be incorporated into the design or relocated as per Section 7.5E of the Subdivision Ordinance.
3. The note regarding the future construction of the cul-de-sac does not state that it will be at the Applicant's (or Homeowner's Association?) expense. It might be wise to add that the road may not be offered for acceptance by the Town until the cul-de-sac is installed, or the Planning Board approves Phase 2.
4. Sheet 5 should be adjusted to show the proposed streetlight closer to the entrance location. It should be located above the street sign for the entrance.
5. Is any type of subdivision sign (on a stone wall, fence, etc.) proposed?
6. The boundary line for Phase 1 is still unclear. Perhaps a different type of line could be used and listed in the legend?
7. 16 white pines (5'-6' tall) 12' apart are proposed for a buffer on the Sanchez property line. Are white pines the best type of tree for this purpose?
8. The three items listed by Tom Saucier, Town Engineer as follows:

*B1. Still awaiting a legal opinion from Norman Berube's attorney regarding the property line discrepancy with the Desjardins.*

*C1. Sebago Technics has indicated in their 7/27/04 cover letter that metes and bounds information for the proposed easements will be provided on the final plan.*

*C4. Sebago Technics has indicated in their 7/27/04 cover letter that CMP is preceding with the necessary paperwork to release the old utility easement, and that CMP's corporate approval process could take 8 to 10 weeks. The applicant has requested documentation of the easement release be a condition of subdivision approval.*

**3. Public Hearing – Final Plan Review – Major 12-lot Subdivision, Orchard Ridge Subdivision, 158 Orchard Rd., Tax Assessor Map R08, Lot 44, 31 acres, RR2 zone, Great Neck Builders, owner; Scott Decker, P.E., SYTDesign Consultants, representative.**

Ms. Nixon presented background information as follows: This is the first review for final approval. There are 15 proposed conditions of approval. Ms. Nixon stated she would be more comfortable approving this project with a more manageable number of conditions, but if the Board would like to approve it this month, things are in order for that to be done.

### **Request & Overview:**

The applicant is Orchard Ridge, LLC. Scott Decker of SYTDesign represents the applicant. The request is for major subdivision review and approval of a 12 lot clustered subdivision at 158 Orchard Road. The property is shown on Tax Assessor's Map R08, Lot 44. It is approximately 32.2 acres in size and is in the RR-2 zone. There is presently a single family home and several outbuildings on the site; these will be removed. The current owner is Greta Jewett of Pownal, Maine. The letter of intent to purchase (upon subdivision approval) is in Section 5 of the submission.

The parcel abuts the municipal boundary with Gray on the northeast side. There are two easements, which bisect the parcel: one is a 50' easement for an Exxon-Mobil petroleum pipeline and the other is a 20' easement to Northern Utilities for a natural gas pipeline.

Tonight, the Board will conduct final plan review.

Ms. Nixon reviewed the Planner's comments from the July 20<sup>th</sup> meeting as follows:

1. **Net Residential Acreage** calculation may include the easements as long as they remain in the open space areas. **OK.**
2. **Stormwater:** DEP permit outstanding. *(Still outstanding, listed as a condition of approval.)*
3. There was no determination made by the Board at last month's meeting re: **road width**. The Applicant's engineer stated that they would like to address that issue if and when the other subdivision is proposed. How does the Board want to proceed? **Board decided at its July meeting that the residential access standard was sufficient.**
4. **Stream classification:** There are two letters in the packet from Scott Decker, SYTDesign summarizing meetings with DEP. Key outcomes: the pond may not be altered in any way, however a detention basin may be constructed "above" that can connect into the pond. One of the two streams was classified as such; the other area is now classified as a forested wetland. **The wetlands and the stream have been classified and delineated with buffer areas.**
5. **Ground survey of road: Done.**
6. **Trails** acceptable? **Trails to be in open space, owned and maintained by Homeowners Assoc., trails to be cleared by developer, base left in natural condition. Trails to be open for public use. This needs to be added as a note to the plan.**
7. Letter from Exxon Mobil dated June 2, 2004 received. Northern Utilities letter outstanding. **The Planner suggests that the notes on C-301-D relating to the pipeline precautions and requirements be more prominent.**
8. Is CMIT taking any of the open space? No Homeowners Assoc. Is the Applicant still offering an easement to CMIT within the above easements? **Yes for future trail connection.** Are all trails within subdivision open to the public? **Yes, there is access from either side of the subdivision along Orchard Rd.**
9. The Town Engineer, Al Palmer has suggested that the Board may wish to have a qualified firm review the Nitrate Study. **(In process; listed as a condition of approval.)**
10. Discussion of Fire Department requirements. **(Notes have been added to the plan)**

11. Well and septic locations with 100' separation? Note on plan? *(Not yet added.)*

**New Issues / Questions 8/10/04**

- What will happen to the existing residence (and outbuilding?) on the parcel?
- Board to decide about the easement dedication for a future road connection. Hawk's Ridge language: *The future road extension area is created for potential future use by the Town of Cumberland as a connection between the proposed street and adjoining properties or streets. This area will not be utilized for construction or drainage purposes, and no fill shall be placed without prior Town approval.*
- *Any landscaping for entrance area?*
- *Need waiver for not showing well locations on plan.*

Mr. Scott Decker, of SYTDesign Consultants stated an earlier plan showed a 75' buffer along Orchard Road.

Mr. Neagle asked if the buffer was still part of lot # 1.

Mr. Decker stated yes, other than a sliver of open space. The lot line on lot # 1 was adjusted to meet the 60,000 sq. ft. requirement. Mr. Decker stated the 60' wide strip of open space is not in the right of way. A note will be added to the plan to allow the homeowner to drill a well in the open space. The nitrate plan has a well exclusion zone and on a few of the lots there is not enough space to drill a well.

Mr. Neagle asked if the Homeowner's Association owns the open space how will a connector road be built, unless there is language in the documents.

Mr. Powers stated the Board had previously approved rights of way to abutter's properties with no indication of further subdivision to insure the capability of access.

**The public portion of the meeting was opened.**

**There were no public comments. The public portion of the meeting was closed.**

Ms. Nixon stated findings of fact are prepared with fifteen conditions of approval. Ms. Nixon's recommendation was to table final approval.

Ms. Howe moved to table the application for Final Approval for a major 2-lot subdivision, Orchard Ridge Subdivision, at 158 Orchard Road, Tax Assessor Map R08, Lot 44, 31-acres in the RR2 district.

Mr. Ward seconded.

VOTE: 5 in favor (Neagle, Howe,  
Turner, Ward, Couillard)  
1 opposed (Powers)  
1 abstain (Hunt)

Mr. Hunt stated the applicant was still waiting for outside reports:

- The Maine Department of Environmental Protection Stormwater Permit
- Natural Resources Protection Act Tier 2 Permit
- Review of the Nitrate Study

Mr. Decker stated the applicant has the nitrate study.

Ms. Nixon stated Staff has not reviewed it.

Mr. Neagle supported the motion to table.

Mr. Powers asked if there would be a significant impact if the application were approved at the next month's meeting.

Mr. Simonds, applicant stated the obvious one is winter would be one month closer.

**4. Public Hearing – Minor Site Plan Review, Slow Bell Café, 2 Walker Drive, Chebeague Island, Tax Assessor Map I03, Lot 33, SYTDesign Consultants, representative; Jonathan KomLosy, owner.**

Mr. Hunt stated a Minor Site Plan Review is only one of the levels of review for this project. The Board will review issues such as land, parking spaces, septic, noise etc. The Planning Board does not review requirements for special amusement permits to allow live entertainment or liquor licensing. That is done by the Town Council.

Ms. Nixon stated this is the second meeting on Chebeague to hear the request for Slow Bell Café. At the meeting last summer, the item was tabled.

Ms. Nixon reviewed background information as follows:

**REQUEST:** The applicant and property owner is Jonathan KomLosy of 2 Walker Drive, Chebeague Island, Maine. The property is located in Zone IB (Island Business.) The application is for site plan approval of a 40-seat restaurant with a take out counter. Restaurants are a permitted use in the IB zone. The structure was formerly the Nellie G. Restaurant. After that it was converted to residential use, and therefore must undergo site plan approval for the change of use to a restaurant. Tonight, the Planning Board is asked to review the plan for application completeness. The representative is Jonathon KomLosy. SYTDesign prepared the site plan.

**PROJECT HISTORY:**

**June 17, 2003:** Application deemed incomplete; tabled by Planning Board.

**May 20, 2004:** Application deemed complete.

**July 20, 2004:** Application tabled after discussion of various items. Site walk was held prior to meeting between 6:30 and 6:45 p.m.

**PROJECT DESCRIPTION:**

1. The parcel is located at 2 Walker Drive, off South Road, diagonally across from the Post Office (Map I-03, Lot 33). The parcel is .85 acres in size. Minimum lot size in the IB zone is 1.5 acres, however this parcel is a lot of record.
2. The proposal is to open a 40-seat restaurant with a take-out counter. The restaurant and take out will be located on the first floor, which is 1,172 sq. ft. The upstairs, which consists of 2 bedrooms and a bathroom (378 sq. ft.), will be living quarters for Mr. KomLosy.
3. The applicant anticipates operating the café and take-out on a seasonal basis (May through October) for the first few years.
4. The hours of operation are to be 5:30 a.m. to 9:00 p.m. each day.
5. The structure is currently a 1-3/4 story wood frame house. It is 32' x 26' (2026 sq. ft.). The applicant proposes to enlarge the existing 12' x 8' deck to permit five tables and chairs to be placed upon it, and to enlarge the waiting area for the take-out.
6. The parking area has space for 16 cars. It is currently unpaved and will remain unpaved, so actual parking lines will not be marked. A handicap parking sign will be placed.



There are currently two entrances to the lot, one will be closed off to make room for parking and to make the entrance and exit safer.

7. This plan is classified as minor since it involves a structure of less than 5,000 sq. ft. (1,172- sq. ft. proposed).
8. The parcel will be serviced by a private well. A new well has been drilled on the parcel across the road (also owned by Mr. KomLosy.)  
Final approval from the State Drinking Water Program is required prior to putting the well on line. Two satisfactory water sample results must be obtained.
9. The parcel will be serviced by an on-site and site adjacent septic system. The applicant has submitted a purchase and sale agreement for a 3-acre portion of the 9-acre parcel owned by Paul Ferragamo. This is the parcel that the off-site septic system is on.
10. Existing electric and telephone are on site on overhead lines.

#### **WAIVERS:**

Section 206.7.4.12: *Stormwater calculations/erosion & sedimentation control plan, etc. Granted by Board at 5/10/04 meeting.*

Section 206.7.4.11: *Traffic/peak hour and daily traffic generated by project. Granted by Board at June 13, 2003 meeting*

#### **ISSUES FOR DISCUSSION:**

##### **THIS MONTH'S ISSUES:**

1. Purchase of Ferragamo land. When is closing? What if purchase falls through? Condition of approval to show deed? (Mr. KomLosy stated the property would close in late August.)
2. Deck setback – Will meet the zoning requirement on new plan
3. Sign setback – The sign and parking must be 15' from the edge of the right-of-way. Mr. Longley, CEO stated grandfathering wouldn't apply, the use was not continuous, and the use was changed.
4. Lighting shown – Lighting met.

##### **LAST MONTH'S ISSUES:**

1. Existing and proposed lighting (see above waiver request)
2. Septic information
3. Well information: 1) for new well, and; 2) is old well not operational now?
4. Lighting of sign. Sign permit required.
5. Hours of operation confirmed.
6. Hale ROW agreement?

Attorney Alan Wolfe, of Terry Snow's office stated the applicant had listened to concerns and made the requested changes. There will be no outside or live music. The hours of operation will be from 5:30 a.m. to 9:00 p.m. The septic easement has been resolved by the purchase of Mr. Ferragamo's property.

**The public portion of the meeting was opened.**

Mr. Neagle asked for the public to note that the Planning Board does not make decisions on liquor licenses, and special amusement permits.

Mr. Dave Stevens, of 278 South Road urged the Board to approve the project.

Ms. Cheryl Buxbaum, of 24 East Shore Drive stated this was a long needed project; parking has worked in the past. The Island needs a family restaurant with convenient hours.

Mr. Bob Earnest, of 12 Rose Point Road stated he understood the Town's primary intent is to protect the public, but the parking has existed and should be allowed.

Mr. Hunt stated the parking wasn't and isn't where it is shown on the plan. The Ordinance requires a 15' setback for parking areas. The Board has not disputed that cars park on grassed areas; however, these are not located where depicted as shown on the plan. The Ordinance provision for non-conforming or discontinued use does not exist beyond 12-months. After a year the owner forfeits the right to be considered grandfathered. At the site walk there was an existing post, but it should be easy to place the sign so that it conforms to the Ordinance.

Mr. Earnest stated the citizens of Chebeague need a family restaurant and would like the Board to consider public good and not the letter of the law.

Mr. Neagle stated the Planning Board does not have discretion to change the Ordinance. The Board's function is to review projects for conformance to the Ordinance.

Mr. Earnest asked if the specific use had to be abandoned for more than one year?

Mr. Hunt stated the developer has the ability to conform to the parking and sign setback requirements.

Mr. Powers asked if the applicant was prepared to comply with the parking and sign Ordinance requirements.

Mr. Decker stated three parking spots would have to be eliminated.

Mr. Turner asked if the parking could conform.

Mr. Decker stated no, because of the tuning radius.

Mr. Turner asked if the Board could waive the number of parking spaces required.

Ms. Nixon stated the Planning Board couldn't waive the parking provisions because they are within the Zoning Ordinance; the Board of Adjustment and Appeals could only give waivers. A parking plan that meets the Ordinance standards can be a condition of approval.

Ms. Donna Damon, Town Councilor stated the process was cumbersome and several buildings on the Island including the Historical Society did not have adequate parking.

Mr. Leonard Passano, of 168 South Road, read the following letter to the Board:

*This is the third hearing that I have commented on Mr. KomLosy's plans for the Slow Bell Café on Chebeague. As I have indicated before, my wife and I own the house next to the café to the east. The Café parcel is in the IB district where restaurants are permitted. We live in the IR district where they are not – the line runs through the Hales' narrow piece of property that is between Mr. KomLosy and us. Neither district permits bars, or parking lots separate from a commercial use.*

*We support having a restaurant. We supported the Nellie G in 1995. During its several years of operation it created no problems for us. It did not have music or entertainment, and did not have outdoor seating; so neither of these uses is a continuation of what existed when the*

*Nellie G was in operation. We have also consistently raised concerns, including at the original hearing for the Nellie G., about having late hours and live music. These two requests, taken together, could allow the "restaurant" to also become a local bar similar to the former Bounty Pub at the Inn, but with outdoor seating which the Bounty Pub did not have.*

*Given these concerns and the testimony at previous hearings, we would like to suggest that the Planning Board limit the hours of operation of the Slow Bell Café to 9pm, and that sound at the café's property line at all hours not exceed 60 decibels. This is the limit proposed for the Peaks Island business district (enclosure).*

*This proposal would require only a modest change in Mr. KomLosy's proposal, one that is in keeping with the residential zoning of our property and the residential use of all the surrounding properties.*

Ms. Jessie Russo stated music was an important part of the heritage of the Island and neighbors haven't complained about jam sessions. The restaurant is important to the economy of the Island.

Ms. Barbara Porter, of 27 Soule Road stated she is a year-round resident and enjoys the peace and quiet of the Island. She supports the restaurant; Jonathan KomLosy is responsible and will respect the quality of life on the Island. She felt the Board should be more flexible and allow parking on the grass.

Mr. Michael Porter, of 27 Soule Road stated a noise limit of 60 decibels would be unrealistically low.

Mr. Donald Soucheck, of 58 South Road stated it appeared that the Board was handling the Inn's parking and Slow Bell Café's parking different. The Inn has twenty-one rooms and can serve 100 people but only has four parking spaces.

Mr. Earnest Burgess, of 8 Springettes Road stated he exceeds 60 decibels pressure washing lobster traps in his yard. Jonathan KomLosy has made several concessions to modify the plan to meet zoning requirements. The restaurant would add to the diversity of the community. Jonathan has integrity and will abide by the requirements.

Mr. Hunt stated the Planner has proposed findings to approve the proposal. He hadn't heard any major issues, which couldn't be solved. The cars can be parked in a way that will comply with code.

Mr. Cecile Doughty felt the proposal should be approved with no restrictions. Mr. KomLosy's sister called the Cumberland Police to inquire about a noise meter. The Town does not own one.

Mr. Hunt stated public testimony had suggested a noise decibel limit.

**The public portion of the meeting was closed.**

The Board reviewed the proposed findings of fact as follows:

**Proposed Findings of Fact**

**.1 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.

All natural areas have been mapped. The applicant will utilize an existing gravel parking area. The only new construction will be the slight expansion of an existing deck.

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

**.2 Traffic Access and Parking**

Vehicular access to and from the development must be safe and convenient. Driveways must be designed to provide the minimum site distance according to MDOT standards. Access and egress must be located to avoid hazardous conflicts.

The applicant will be closing one of the two-entrance/exit locations, which should minimize turning conflicts. The site has the necessary sight distance in each direction.

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

**.3 Access way Location and Spacing**

Accessways must meet the following standards:

**.1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.**

**.2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.**

The Town's peer review engineer has reviewed the plan and finds this section to be in conformance with the ordinance.

**The Board finds the standards of this section have been met.**

**.4 Internal Vehicular Circulation**

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

The parking lot layout allows for a required number of parking spaces. There is a separate entrance and parking area for delivery vehicles. The location of the parking spaces will not impede internal circulation.

**The Board finds the standards of this section have been met.**

**.5 Parking Layout and Design**

Off street parking must conform to the specific standards.

The parking lot layout allows for the required number of parking spaces. The parking area does not meet the 15' setback requirement. The parking must conform as specified in # 12 of the recommended conditions of approval.

**The Board finds the standards of this section have been met.**

.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 specific pedestrian ways either within or outside the site. The parking lot is gravel, which limits the ability of the applicant to designate walkways. However, the limited amount of pedestrians anticipated and the open nature of the parking area will provide for the safe movement of pedestrians within the site.

**The Board finds the standards of this section have been met.**

.7 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.

The applicant requested and received a waiver from the requirement to provide stormwater calculations. There is a natural drainage swale (wetland area), which effectively channels the water without impacting abutting properties. The applicant is not proposing any increase in impervious surface. The Town Engineer has agreed that additional information is not required.

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

.8 Erosion Control

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

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

The proposed use will utilize an existing structure. The only new construction will be the enlargement of a deck. The site will not require additional grading beyond leveling for the parking spaces and the closing of one of the two entrances. A waiver has been granted for Section 206.7.4.12 for stormwater calculations and a sedimentation and erosion control plan. The Town Engineer concurs that these are not required due to the minimal nature of the proposed non-vegetated surfaces, and that the stormwater runoff will be directed to a vegetated buffer in the rear of the site.

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

.9 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.

The applicant has installed a new well on the lot across the road from the restaurant. This will ensure that the required separation between the septic system and the well for the public water supply is met. The applicant still needs to provide evidence of adequate supply for the residence and restaurant and for fire protection once the system is in operation. This has been added as a condition of approval. Also, the Town Engineer has noted that final approval from the Department of Human Services, Division of Health Engineering has not been granted; this too has been added as a condition of approval.

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

#### .10 Sewage Disposal Provisions

The development must be provided with a method of disposing of sewage which 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.

The Applicant's engineer, Scott Decker has forwarded a letter for the file from Al Frick, Licensed Soils Evaluator, dated 7/19/04 that states that the existing system is in conformance with the State Plumbing Code and Subsurface Wastewater Disposal Rules. The Town Engineer and Local Plumbing Inspector have reviewed this.

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

#### .11 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.

The overhead utility lines exist. There is no reasonable way to screen them. They are consistent with the utility lines of surrounding property.

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

#### .12 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 septic system designs have been reviewed and approved by Al Frick, Licensed Soils Evaluator, and the Town Plumbing Inspector. State requirements have been met to ensure protection of groundwater.

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

#### .13 Water Quality Protection

All aspects of the project must be designed so that:

.1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or

groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

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

The application is for a restaurant. The use is not expected to generate any harmful wastes.

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

.14 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.

The applicant has utilized a professional engineer, a licensed soils evaluator and an attorney to assist with this application.

The applicant has provided information indicating that he has the necessary funds for this project. There is no costly site work required.

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

.15 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.

While the applicant has not provided any evidence regarding historical or archaeological resources, the building exists and only minimal changes are being made to the structure (deck enlargement) and site (entrance closed in and parking expanded.)

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

.16 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 located in Zone C-areas of minimal flooding as depicted on FEMA Map #2301620021 D

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

.17 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 shows the type and location of existing and proposed lighting. The lighting will be shielded to avoid adverse impact on neighboring properties and the unnecessary lighting of the night sky.

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

.18 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.

The structure is buffered on three sides by dense, natural vegetation. The remaining side faces the road, but the applicant also is the owner of that site, which is open land. In addition, there will be some landscaping and plantings done by the applicant.

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

.19 Noise

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

The Planning Board has placed a limit on the hours of operation. The hours of operation will be 5:30 a.m. to 9:00 p.m. The applicant has stated that he will not permit outside music.

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

.20 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.

The application is for a restaurant. The use is not expected to generate any harmful wastes. There is no dumpster proposed, solid waste is to be kept in a shed behind the restaurant. Note #14 on the plan indicates the method of waste disposal to be used.

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

.21 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.

The plan depicts the location of a planting bed and the types of plants to be planted. There is a dense vegetated buffer between the site and adjacent properties.

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

.22 Building and Parking Placement

.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 with 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.

.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.

The building and some parking areas are existing, additional parking as required per the Ordinance will meet the 15' setback requirement. A parking plan will be submitted and reviewed as stated in # 12 of the proposed conditions of approval.

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

**SECTION 300 – AQUIFER PROTECTION (if applicable)**

The use is located in the Aquifer Protection district. A positive find by the Board is required.

The application is for a restaurant. The use is not expected to generate any harmful wastes.

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

Mr. Powers moved to accept the findings of fact as presented.

Mr. Ward seconded.

VOTE: 6 in favor  
1 abstain (Hunt)

Mr. Powers moved to approve the Minor Site Plan for Slow Bell Café at 2 Walker Drive, Chebeague Island, Tax Assessor Map I03, Lot 33 with the standard and proposed conditions of approval.

Mr. Neagle seconded.

VOTE: Unanimous

Mr. Neagle moved to add two conditions: # 13. That there be no outside music. #14. The sound level never exceeds 65 decibels at the neighbor's property lines.

Mr. Powers moved to amend the proposed conditions of approval to remove # 14.

Mr. Ward seconded.

VOTE: 4 in favor (Turner, Ward,  
Powers, Couillard)  
1 opposed (Neagle)  
1 abstain (Hunt)

Mr. Turner moved to remove proposed condition # 13 – no outside music.

Mr. Ward seconded.

VOTE: 3 in favor (Turner, Ward,  
Couillard)  
2 opposed (Powers, Neagle)  
1 abstain (Hunt)

**RECOMMENDED CONDITIONS OF APPROVAL:**

1. That all required fees are paid to the Town prior to the issuance of a Certificate of Occupancy and Building Permit.
2. Final approval from the State Drinking Water Program, Department of Human Services, is required prior to putting the well on line. Two satisfactory water sample results must be

obtained. Evidence of this must be provided to the Town Planner prior to the release of the certificate of occupancy.

3. That a fully executed water license agreement be provided to the Town Planner prior to the building permit being issued.

4. A building permit must be obtained from the Code Enforcement Officer for the deck expansion work. All required setbacks to be adhered to.

5. That evidence of the final transfer of ownership of the Ferragamo property to Jonathon KomLosy be submitted and reviewed by the Town Planner prior to the release of the issuance of the building permit and certificate of occupancy. An alternative is for the applicant to submit evidence of a permanent easement on the portion of the Ferragamo parcel that contains the septic system for the Café's use. This easement is to be reviewed and approved by the Town Attorney and Town Planner prior to the issuance of a building permit and certificate of occupancy.

6. The hours of operation shall be limited to 5:30 a.m. to 9:00 p.m.

7. A sign permit must be received from the Code Enforcement Officer. The sign shall meet all required setbacks.

8. The applicant shall provide evidence of adequate water supply for the residence and restaurant and for fire protection once the system is in operation. This is to be reviewed and approved by the Fire Chief.

9. The location and dimension of all proposed additions to the structure (including decks) to be shown on the plan. All setback requirements to be met. This shall be reviewed and approved by the Town Planner and Code Enforcement Officer.

10. The applicant must receive a Victualer's and Restaurant/Lounge license from the Town Council prior to receiving the Certificate of Occupancy.

11. The Certificate of Occupancy shall not be issued until all the following Fire Chief's requirements are in place, notes have been added to the final plan, and the Fire Department has conducted a final inspection.

- *A sprinkler head shall be installed over the furnace in the basement.*
- *A 20-minute rated self-closing positively latching door shall be installed at the top of the basement stairs and an additional one at the base of the second floor stairs.*
- *The kitchen hood system shall be installed in accordance with NFPA 96.*
- *A monitored fire alarm system shall be installed that interconnects all three levels of the building. A remote annunciator panel shall be located in close proximity to the main entrance that identifies the location of detector activation(s) and has an "acknowledge" button to silence the alarm. The strobe devices should remain active when the system has been acknowledged but has not been reset.*
- *An approved key box shall be installed at the main entrance. The box shall be equipped with a tamper switch that is connected to the fire alarm system.*
- *Exit signs, fire extinguishers and emergency lighting shall be installed in accordance with NFPA 101.*

12. The applicant shall provide a parking plan to be reviewed and approved by the Town Planner. This plan shall adhere to all required setbacks. An alternative to this is for the Applicant to obtain a variance through the Board of Appeals for the parking spaces # 9 and #16 to be located within the 15' setback from the road right of way.

**5. Sketch Plan Review – Proposed 7-lot Major Subdivision, Fernandes parcel, Roy Hill Road, Chebeague Island, Tax Assessor Map I03, Lot 130A; Island Residential Zone, Jeffrey Perry, Sebago Technics, representative, Tom Fernandes, owner.**

Mr. Jeffrey Perry, of Sebago Technics reviewed the proposal as follows: the Fernandes' are proposing to subdivide the parcel as shown on the two sketch plans. The conventional 7-lot subdivision meets the minimum 1.5-acre lot size. The cluster plan is 6-lots with open space. In each plan, the wetlands located to the westerly portion of the parcel are left unaltered and the existing residence remains.

Mr. Hunt reviewed procedure for sketch plan review. The Board would not make any decisions. A site walk would be planned and the Board would give direction to which plan it prefers.

Mr. Neagle stated he liked the clustered plan with a smaller road, which has less impact on the environment.

Ms. Leila Bisharat, of 96 Littlefield Road stated water is of great importance to the Island. This lot is very close to the highest point of the Island. The Island aquifers must be protected. There may be development restraints due to water. Along the ridge is a deer nesting area.

An abutter stated she was concerned with construction noise for several years.

Mr. Richard Boisvert, of 369 North Road asked if the existing gravel road would be used.

Mr. Hunt stated roads would be reviewed at preliminary review. The application would have a public hearing for application completeness and preliminary and final approval.

Ms. Mabel Doughty voiced concerns of protecting and not over taxing the Island's water aquifer.

Adjournment: 9:35 p.m.

A TRUE COPY ATTEST:

  
Philip C. Hunt, Board Chair

  
Pam Bosarge, Board Clerk

**Planning Board Meeting**

**Tuesday, September 21, 2004**

**Val Halla Banquet Center**

**60 Val Halla Road**

**7:00 PM**

**A. Call To Order**

The meeting was called to order at 7:00 p.m.

**B. Roll Call**

Present: Phil Hunt, Chair, Terry Turner, Vice-Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle.

Absent: Tom Powers

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

**C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of the August 17, 2004 meeting with technical corrections.

Mr. Powers seconded.

VOTE: Unanimous

**E. Hearings and Presentations**

**1. Public Hearing – Minor Site Plan Review, Construction of a 400 sq. ft. concrete block building for use as a local distribution hub:** 197 Blanchard Road, Cumberland Fairgrounds, Tax Assessor Map R07, Lot 8, Nancy Bozenhard, Patriot Field Services, representative; Time Warner Cable, applicant.

Mr. Hunt presented background information as follow: The Applicant is Time Warner Cable of Maine. The owner of the property is the Cumberland Farmers Club. The applicant has an easement option on a 60' X 87' portion of the parcel. The Applicant proposes to construct a 20' X 20' local distribution hub building. The building and appurtances will be fenced within a 50' X 50' chain link fence. The site area is 60' X 80'.

Oest Associates prepared the site plan and survey. Landscaping will be done by Nitz Landscaping. Nancy Bozenhard of Patriot Field Services is representing the Applicant.

The application has received Board of Adjustment and Appeals approval as a special exception use within the zone. Site plan review is required because it is the construction of a non-residential structure. It is classified as minor because the square footage is less than 5,000-sq. ft. (400-sq. ft. proposed.)

The Applicant currently utilizes a facility off Skillin Road in Cumberland. This facility will be removed once approval is granted for this new location.

The electricity demand is anticipated to be similar to that for a house. No water or sewer hookups are required. There will be no signs, and lighting will consist of a single, 75 watt, motion activated exterior light. Natural buffering will be supplemented by landscaping.

Following installation, visits to the building by Time Warner Cable employees should average once or twice per week, excepting emergency visits.

Mr. Neagle asked about the lot easement.

Ms. Nixon stated she had checked with the Town Attorney, Natalie Burns and Section 420.4 of the Ordinance allows the building on a small lot. *Section 420.4 ... District dimensional requirements as regard lot sizes, setback and lot coverage shall not apply to said accessory structures and/or sewer pumping stations except that as a part of the special exception review, the Board of Adjustment and Appeals shall assure that said facilities are located on a site of sufficient size to provide any screening or other necessary buffering from any residential neighborhood.*

The Board reviewed the proposed findings of fact with the following findings:

**Sec. 206.8 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.

**.1 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 location of the small building on the site will not adversely impact any natural resources. There is to be no water and sewer on site. Appropriate construction erosion control measures will be taken.**

**The Board finds the standards of this section have been met.**

**.2 Traffic Access and Parking**

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty-feet (60).

**The access road is an existing road that will be slightly extended to the building site. The plan has been reviewed and approved by the Town's peer review engineer.**

**The Board finds the standards of this section have been met.**

### **.3 Accessway Location and Spacing**

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**The Town Engineer, Code Enforcement Officer and Town Planner have reviewed the plans and found them to be in conformance with the ordinance.**

**The Board finds the standards of this section have been met.**

**.4 Internal Vehicular Circulation**

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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

**The site is designed to include an access driveway and three parking spaces. The location of the parking spaces will not impede internal circulation.**

**The Board finds the standards of this section have been met.**

**.5 Parking Layout and Design**

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.  
*This has been done.*
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.  
*No new parking spaces are located within 15' of the side, rear or front property lines.*
- .3 Parking stalls and aisle layout must conform to the following standards.

Parking Stall

Skew

Stall

Aisle

Angle	Width	Width	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

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

**The parking plan shows three parking spaces which is a sufficient number for the type of use proposed.**

**The Board finds the standards of this section have been met.**

#### .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 will be only occasional service visits to the site. The layout of the parking area allows for safe pedestrian circulation.**

**The Board finds the standards of this section have been met.**

#### .7 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.

**The proposal includes the installation of new drainage infrastructure including catch basins and pipes to collect and convey runoff from the development area. No impacts to abutting or downstream properties will result.**

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



- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**The runoff characteristics will remain relatively unchanged from current conditions. The Board has stated that the information provided in the application and plans is sufficient.**

**The Board finds the standards of this section have been met.**

- .8 Erosion Control
  - .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
  - .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

**An erosion and sedimentation control plan was reviewed by the Town Engineer and deemed acceptable.**

**The Board finds the standards of this section have been met.**

.9 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.

**There is no need for water to the site. None is proposed.**

**The Board finds the standards of this section have been met.**

.10 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.

**There is no need for sewage disposal to the site. None is proposed.**

**The Board finds the standards of this section have been met.**

.11 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.

**Electricity needs are expected to be similar to that for a house. There are overhead lines on the road to the site, which will be extended. The Farmers Club has requested that the lines remain overhead so that the existing mobile homes can have individual meters.**

**The Board finds the standards of this section have been met.**

.12 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.

**There is to be no septic system on site.**

**The Board finds the standards of this section have been met.**

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

**There will be no harmful wastes generated by this use.**

**The Board finds the standards of this section have been met.**

.14 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.

**The Applicant has provided financial capacity evidence in the form of the submission of the most recent annual financial report for Time Warner. Technical capacity has been evidenced by the use of Oest Associates.**

**The Board finds the standards of this section have been met.**

.15 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.

**The site is small and wooded with no structures on it.**

**The Board finds the standards of this section have been met.**

.16 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.

**According to Flood Insurance Rate map #230162-0015B, as issued by FEMA, the subject property is located in Zone C (area of minimal flooding.)**

**The Board finds the standards of this section have been met.**

.17 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 will be one motion detecting exterior safety light.**

**The Board finds the standards of this section have been met.**

.18 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.

**The site was selected because of its limited visual impact. It is in the southwest corner of a lot that is unlikely to have other development around it, due to its narrow nature. The area is densely wooded on two sides and abuts the CMP transmission line on another side. The fenced area is proposed to be screened on the remaining two sides by a row of trees to be planted. A landscaping plan was designed by Carl Nitz Landscaping.**

**The Board finds the standards of this section have been met.**

.19 Noise

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

**There will be a small generator located outside the building and a residential type air conditioner inside the building. Neither will create noise audible to neighboring properties.**

**The Board finds the standards of this section have been met.**

.20 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.

**Any trash generated will be taken off site by the service technicians.**

The Board finds the standards of this section have been met.

.21 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 landscape plan has been prepared outlining the installation of a fence and trees for buffering and site enhancement.**

**The Board finds the standards of this section have been met.**

.22 Building and Parking Placement

- .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 with 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.
- .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.

**The area to be developed is secluded by its location and existing trees. The building is very small in size and the parking area is for only three cars. The building and parking area will be landscaped to buffer the view from the road.**

**The Board finds the standards of this section have been met.**

206.9 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.

Mr. Turner moved to approve the findings of fact as presented.

Mr. Powers seconded.

VOTE: Unanimous

Ms. Howe moved to grant Minor Site Plan approval with the standard and proposed conditions of approval to Time Warner Cable to construct a 400-sq. ft. concrete block building for use as a local distribution hub; 197 Blanchard Road, Cumberland Fairgrounds, Tax Assessor Map R07, Lot 8, in the RR1 district.

Mr. Turner seconded.

VOTE: Unanimous

**STANDARD CONDITIONS OF APPROVAL:**

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

**Recommended Conditions of Approval:**

1. Additional topography information is required. The Town Engineer and Public Works Director will review and approve culvert design post-approval.
2. The typical driveway section shows riprap slopes along the drive. The extent of these should be shown in plan view.
3. The building shall be equipped with a key box approved by the Fire Department.
4. Any above ground fuel storage shall meet the appropriate standard of the National Fire Protection Association. Attention to protection from vehicles and property line set back requirements should be included as part of the site plan review.
5. The building should have its own distinguishable street address.
6. The type of storage/contents should be included on the site plan drawings.
7. That all fees be paid prior to the issuance of a building permit.
8. The landowner has the ability to move the location of the driveway access easement if deemed necessary.

**2. Public Hearing – Final Plan Review – Major 12-lot subdivision, Orchard Ridge Subdivision,** 158 orchard Road, Tax Assessor Map R08, Lot 44, 31 acres, RR1 zone, Great Neck Builders, owner; Scott Decker, P.E., SYTDesign Consultants, representative.

Mr. Hunt presented background information as follows:

**Request & Overview:** The applicant is Orchard Ridge, LLC. The applicant is represented by Scott Decker of SYTDesign. The request is for major subdivision review and approval of a 12 lot clustered

subdivision at 158 Orchard Road. The property is shown on Tax Assessor's Map R08, Lot 44. It is approximately 32.2 acres in size and is in the RR-2 zone. There is presently a single family home and several outbuildings on the site; these will be removed. The current owner is Greta Jewett of Pownal, Maine. The letter of intent to purchase (upon subdivision approval) is in Section 5 of the submission.

The parcel abuts the municipal boundary with Gray on the northeast side. There are two easements, which bisect the parcel: one is a 50' easement for an Exxon-Mobil petroleum pipeline and the other is a 20' easement to Northern Utilities for a natural gas pipeline.

Tonight, the Board will conduct final plan review.

**History:**

April 20: Sketch plan review.

May 18, 2004: Site walk, followed by Sketch Plan Review at meeting. Board stated its preference for a cluster design.

June 15, 2004: Application deemed complete.

July 20, 2004: Application received Preliminary Approval

August 17, 2004: Application tabled for Final Approval

Mr. Neagle stated he would like the additional notes and comments on the subdivision plan to be added to the recording plat. He also wanted the future road language to specify dedication to the Town.

The Board reviewed the proposed findings of fact with the following findings:

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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 parcel is not located in a 100-year floodplain. Richard Sweet has conducted a groundwater impact study, which concludes that the subdivision will not adversely impact the soils or streams.**

**The applicant has received approval from the Maine Department of Environmental Protection for a Stormwater Permit and a Natural Protection Act Tier 2 Permit.**

**The standards of this section have been met.**

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

**The proposed subdivision will utilize private drilled wells. Information on adequacy has been provided by Richard Sweet.**

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

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

**The standards of this section do not apply.**

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;

**Section 11 of the submission contains documentation that demonstrates adequate erosion control measures will be taken during construction. The plan has been reviewed and approved by the Cumberland County Soil and Water Conservation Commission. Letter dated 7/19/04 is on file.**

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

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

**A memo dated 5/21/04 from Eaton Traffic Engineering states that the level of trip generation from this 12-lot subdivision will not likely have any significant impact on the capacity or level of service of Orchard Road or any other roadway in the vicinity of the proposed subdivision.**

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

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

**A minimum of 2 passing soils test holes has been identified on each lot.**

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

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

**If the Town accepts the road, the Town's municipal waste hauler will be used.**

**Based on the information provided, the standards of this section have 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;



**A letter dated 4/22/04 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area.**

**A letter dated 5/27/04 from the Department of Inland Fisheries and Wildlife states that they have reviewed the site for fishery resource information and found that there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project.**

**The homes will be out of sight from Orchard Road. Significant open space is being preserved.**

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

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

**Town staff and the Town Engineer have reviewed the plan and found to be in compliance with all local ordinances and plans.**

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

10. Financial and technical capacity. The subdivide has adequate financial and technical capacity to meet the standards of this section;

**Expert engineers, surveyors and soils evaluators evidence technical capacity.**

**Financial capacity is evidenced by a letter on file dated 6/22/04 from People's Heritage Bank indicating their commitment to lend.**

**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 DEP and Maine Department of Inland Fisheries and Wildlife have viewed the site and provided classification and requirements for the stream and wetland areas. The plans state that there shall be no disturbance within the 75' setback from the stream.**

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

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

**A groundwater impact study was conducted by Sweet Associates. The Board asked for a peer review of the study. A letter dated 8/13/04 from Sevee and Maher Engineers states that they agree with the conclusion that there appear to be suitable locations on each of the twelve lots to site a well that will avoid the leachfield effluent groundwater plumes.**

**Based on the above, the Board finds that 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 located in Zone C- Areas 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 has been prepared by Scott Decker of SYTDesign. The Town Engineer has reviewed the plan and approved it. A stormwater permit from DEP has been received.**

**The standards of this section have been met.**

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

**Wetlands, as delineated by Mark Hampton Associates, Inc., of Portland, Maine, are noted on the existing conditions plan and Drawings C-100, C-102, included in Section 19, Project Drawings. An NRPA Tier 1 Permit has been received from MDEP.**

**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]

**The DEP has walked the site and classified streams. Appropriate buffer areas have been shown on the plans. There are no structures or improvements within 100' of the stream.**

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

***SECTION 300 – AQUIFER PROTECTION (if applicable)***

The use is located in the Aquifer Protection district. A positive finding by the Board is required.

**The site is located in an Aquifer Protection Area. A nitrate study and a high intensity soils survey have been provided. Passing test pit locations have been identified.**

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

**The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.**

Mr. Powers moved to accept the findings of fact as presented.

Ms. Howe seconded.

VOTE: Unanimous

Mr. Powers moved to grant final major subdivision approval with the standard and proposed conditions of approval to Orchard Ridge Subdivision, a 12-lot subdivision at 158 Orchard Road, Tax Assessor Map R08, Lot 44, 31-acres in the RR2 zone, Great Neck Builders, owner, Scott Decker, P.E., SYTDesign Consultants, representative.

Ms. Howe seconded.

VOTE: Unanimous

**STANDARD CONDITIONS OF APPROVAL:**

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

**RECOMMENDED CONDITIONS OF APPROVAL:**

1. That all fees be paid as required prior to the plan being released for recording.
2. That a letter of credit or escrow be provided for the construction costs. The amount to be reviewed and approved by the Town Planner, Town Engineer and Public Works Director. This is to be done prior to the release of the plan for recording and the preconstruction conference. That funds for the clearing, limbing and marking trees for the trails be included in the Letter of Credit or Escrow.
3. That all required deeds necessary for the development to occur as planned must be submitted and approved by the Planning Director and Town Attorney prior to the mylar being released for recording.
4. That all proposed required utility easements/deeds be submitted and approved by the Planning Director and Town Attorney prior to final release of the Letter of Credit.
5. That the comments in the peer review memo from Terry Snow, dated 9/13/04, regarding the Declaration of Covenants and Restrictions for the Homeowners Association be addressed and reviewed and approved by Mr. Snow prior to the mylar being released for recording.
6. The future road extension area is created and dedicated for potential future use by the Town of Cumberland as a connection between the proposed street and adjoining properties or streets. This area will not be utilized for construction or drainage purposes, and no fill shall be placed without prior Town approval.
7. The additional notes and comments on the subdivision plan will be added to the subdivision plat plan for recording at the registry. The notes and comments will be reconciled to agree.

**3. Application Completeness – Minor Site Plan Review for a Day care “Above & Beyond” at 10 Corey Road, Tax Assessor Map U07, Lot 3, Highway Commercial (HC) zone, Michele Brown, applicant; Andy Fillmore, InterUrban Planning & Design, Representative; William & Norene Ward Trustees, owners.**

Mr. Bill Ward was recused from the hearing.

Mr. Hunt explained the Application Completeness process. The Board would not make any decisions. A public hearing would be heard at the October meeting if the application were found to be complete.

Ms. Nixon reviewed background information as follows:

**Request/Background:** The applicant is Michelle Brown. She is the owner of Above and Beyond Daycare which is now located in her residence at 50 Woodlands Way in Cumberland. The owners of the property are William and Noreen Ward of 128 Longwoods Road, Cumberland. Ms. Brown has a letter

dated 8/3/04 from the owners indicating their intent to lease the property, contingent upon site plan approval.

Andy Fillmore of InterUrban Planning & Design prepared the site plan. He is representing the applicant. The survey, dated December 1983, was done by A.W.I Engineering Co. of Scarborough, Maine.

The property is located at 10 Corey Road, Tax map U07, Lot 3 in the Highway Commercial district. The parcel is 3.14 acres in size.

The application has received Board of Adjustment and Appeals approval for a special exception for a daycare center. Site plan review is required as per Section 206, Site Plan Review, and Section 408A, Day Care Centers and Nursery Schools.

**Project Description:** Above and Beyond Daycare is an after-school enrichment program for children ranging in age from 6 to 12 years of age. Ms. Brown has been providing this service for a number of years and now wishes to relocate to a larger building. The two-story building has approximately 1,200 s.f. per floor. The building is divided in half vertically, resulting in two separate mirror image leases of 1200 s.f. each. The applicant proposes to lease the eastern side of the building, which is on the opposite side of the building from Rt. 9. The maximum enrollment will be 15 students. Children will be dropped after school and picked up at dinnertime. The hours of operation are approximately 3 p.m. to 6 p.m., Monday to Friday during the school year.

#### **Tom Saucier, Town Engineer's Review (E-mail dated 9/8/04)**

Per your request we have undertaken a review of the site plan application materials submitted for the referenced project. It is our understanding that the applicant is requesting a completeness review from the planning board at this time. The following comments may not all be related to completeness, but for reasons of efficiency, we offer them now so that all may be considered and addressed if necessary prior to the submission for a public hearing and site plan approval.

- 1) According to the site plan and the HHE-200 form, it appears the subsurface wastewater disposal field is located under the parking area. The HHE-200 form indicates that the area over the disposal field should be loamed and seeded. This area may be compacted due to the historical parking use.
- 2) The HHE-200 indicates that the existing subsurface wastewater disposal system was designed for a daily flow of 75 gallons. The Maine Subsurface Wastewater Disposal Rules indicate that the design flow for a day care center not serving meals should be 10 gpd per child and 15 gpd/adult. This probably assumes an all day care situation, where it seems the proposal is for ½ day or less. If one halves these numbers, it results in a design flow of 5 gpd/child and 7.5 gpd/adult, resulting in a projected daily flow of 97.5 gpd, which still exceeds the original design flow of the system (75 gpd). Using one third of the flows outlined in the rules results in a daily flow of 65 gpd. Since the proposal is to lease ½ the building, there would be little or no remaining capacity for the other ½ even under this scenario.

These issues should probably be reviewed with the plumbing inspector by the applicant, if this has not been done.

- 3) What is the size of the propane tank? How far is it located from the structure?
- 4) Will the use comply with section 408A.2.1 of the Zoning ordinance?
- 5) If it does not exist, there probably should be some directional signage defining one-way vehicular circulation around the "loop".

- 6) Is the police chief satisfied that the additional traffic at the intersection of Corey and Longwoods Road can safely enter and exit the site? Does the sight distance from Corey Road to the south meet MDOT minimum standards? We haven't had the opportunity to review this in the field.
- 7) From an engineering standpoint, we believe it would be appropriate for the planning board to consider approving the requested waivers of sections 206.7.4.2 and 206.7.4.12, which both are directly related to strictly engineering issues.

Ms. Nixon stated the lot has frontage on Route 9 also.

The applicant has requested several waivers.

Items for discussion are:

1. Is an MDOT Entrance Permit required?

Mr. Fillmore, representative stated he was not sure if an MDOT permit would be required. The entrance is off from Corey Road.

Ms. Nixon stated the building faces Route 9.

2. Circulation and parking areas... are they to be built as designed?

Mr. Powers asked the number of required permanent spaces needed.

Ms. Brown, applicant stated the school bus drops off students, and the pick-up times are scattered one at a time between 4:00 and 6:00 p.m. She abides by State guidelines and parents park and sign their child (ren) out.

Mr. Neagle stated the parking would need to be setback 15' from Corey Road.

Ms. Nixon stated they are not intending to use the u-shaped entrance area.

Mr. Turner asked about the septic location.

Mr. Fillmore stated the new septic design has received a permit from Dick Peterson, Plumbing Inspector.

Mr. Neagle asked if the leachfield location was shown on the plan.

Mr. Fillmore stated the existing leachfield is shown, which will be disconnected; the new leachfield will serve both commercial tenants.

3. Ms. Nixon asked if the existing lighting is adequate for evening pickup of children?

Mr. Fillmore stated existing lighting on the building would be utilized.

The Board stated the lighting might need to be increased for safety.

Mr. Couillard asked about the well tiles at the end of the building.

Mr. Neagle stated daycare center parking would need to be designed as safely as possible, and comply with the 15' setback requirement.

Mr. Hunt stated the 1983 survey shows the septic tank and leachfield in existence.

Mr. Fillmore stated they wouldn't be part of the project, these are existing conditions.

Ms. Howe stated she would like to see landscaping.

4. A new HHE-200 design is to be approved the Plumbing Inspector.

5. Landscaping is not proposed, but the narrative indicates the owner is open to suggestions from the Board.

Mr. Fillmore stated the railings would be modified to meet State guidelines.

Mr. Hunt reviewed the outstanding issues from the checklist.

Section 206.7.2.4 – the applicant will provide an inset location map.

206.7.2.9 – evidence of technical and financial capability to carry out project – is evidenced by the hiring of professionals.

206.7.3.8 – location of drainage courses – existing conditions

206.7.3.9 – direction of existing surface water drainage across site – existing conditions plan adequate.

206.7.4.2 surface water drainage and impact assessment on downstream properties – adequate

206.7.4.6 location, dimension and ground floor elevation of buildings – met with photos

206.7.4.12 – stormwater calculations/erosion & sedimentation control plan – Waivable

Mr. Powers moved to grant a waiver for Section 206.7.4.12 – Stormwater calculation

Mr. Neagle seconded.

VOTE: Unanimous

**The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.**

The Board found the application complete, a public hearing will be held at the October meeting.

**4. Application Completeness – Major Subdivision – Rockwood Senior Housing, Phase IV, 44 units of senior housing, Tax Assessor Map R02D, Lot 1B, lots 9 & 10 and Map R02D, Lot 1C of the Cumberland Business Park;** LSH Holdings, c/o Pioneer Capital Corp, owners, LSH Holdings, c/o John Moody, applicant; Jim Fisher, P.E., Northeast Civil Solutions, representative.

Ms. Nixon presented background information as follows:

REQUEST: The applicant and owner is LSH Holdings. Lee Allen of Northeast Civil Solutions represents the applicant. This review is for Major Subdivision Application Completeness. The Planning Board conducted Sketch Plan review in May, and agreed that the applicant could proceed to the next phase of the project. The proposed project involves the construction of 44 age-restricted condominiums on 18 acres. The site is composed of Lots, 6, 7, 9-11 and a portion of Lot 1 on Assessor's Map R02-D and Lot P/ 1. The property is adjacent to the first three phases of Rockwood located at the end of Thomas Drive, and is directly bordered by Rockwood Phase 3, Lots 5 and 8 of the Cumberland Business Park and Route 1 and Thomas Drive. Multi-plex, age-restricted housing is a permitted use in the Northern OC (Office Commercial) zone.

Ms. Nixon stated there are a few technical issues on the checklist and the following items to discuss:

- Trails- There is an existing trail to the southeast of the parcel. There is no connection shown to the subdivision road, a wetland crossing would be required.

Mr. Jim Fisher, P.E., representative stated there are trails in Phases I through III. A trail was shown on the original sketch plan. To build the trail would disturb wetlands. If the trail were built a S.L.O.D.A. and common theme of development permit would be required from DEP. The small area of wetland

disturbance for the trail would require a review of higher intensity. DEP rules states if wetland disturbance is 5 years and 1 day after previous disturbance a SLODA permit is not required. The trail could be proposed to the extent that the association wants to connect them 2.5 years from now.

Mr. Neagle asked about boardwalk construction over the wetland.

Mr. Fisher stated it would require additional permitting which has a 185-day review period.

Mr. Neagle suggested applying for the SLODA permit. The Ordinance encourages trails.

Mr. Powers stated a condition of approval could be that a trail be installed “x” number of days after approval.

Mr. Neagle asked if money could be held in escrow to ensure the building of the trail.

Ms. Nixon stated usually trails are open to the public, would this trail be open to the public?

Mr. Fisher stated yes.

Mr. Lee Allen, P.E., Northeast Civil Solutions stated a NRPA permit would have to specify there is no other viable location.

- Street lights

Mr. Fisher stated Phase IV would have the same lighting as Phases 1 – III; the lights will be closer to the curb, not in the esplanade area.

- Open Space

Mr. Fisher stated the Open Space has been labeled on the plan.

- Clubhouse

Mr. Fisher stated the current residents have held meetings regarding the need and desire for a clubhouse. The current homeowner’s do not want to spend the money for a clubhouse, or gazebo.

Mr. Powers asked the total number of housing units with Phase IV.

Mr. Moody stated there would be 109 total units at the completion of Phase IV.

Mr. Hunt stated during the review of Rockwood Phases I – III, the issue of amenities for residents 55years and older was discussed, as a result there are walking trails, a place for a gazebo and a bus stop for regional transportation. The question for the need of a community-meeting place was discussed.

Mr. Powers moved to table the request for application completeness. The Board will review the application for completeness and hold a public hearing for Preliminary Plan Review at the October 19<sup>th</sup> meeting.

Mr. Neagle seconded.

VOTE: Unanimous

Mr. Couillard stated he would prefer something more substantial for the gate at the entrance to Route One.

**5. Sketch Plan Review for a proposed Major 8-lot subdivision, Orchard Hill Estates, 36 Orchard Hill Road, Tax Assessor Map R08, Lot 63, Rural Residential 2 (RR2) district; Orchard Hill Estates, LLC, applicant; Thomas Terison, owner, Thomas Greer, P.E., Pinkham Greer Consulting Engineers, representative.**

Ms. Hunt stated the application is for sketch plan, there is no application filed. The Board will not make any decisions.

Ms. Nixon presented the Board with a booklet "*Preserving Rural Character*". The booklet points out the advantages of subdivisions with shared driveways. The Comprehensive Plan states preserving rural character is critical.

Mr. Tom Greer, P.E., Pinkham Greer Consulting Engineers reviewed the proposal. The project is located off Orchard Hill Road and is a portion of the parcel currently owned by Thomas Terison. This parcel historically has been an active apple orchard. The ages of the trees are considered old and need to be replaced if it were to continue as an orchard. The current yield is about 20% of the maximum yield.

The soils in the orchard are paxtons, based on county mapping. This is consistent with agricultural uses. A portion of the site is mapped as an aquifer zone. Field-testing of the material will confirm the boundary.

The applicant is in the early stages of data gathering for the design process. The boundary and topographic survey and onsite soils and wetlands mapping are currently being done.

The proposals show a cluster and standard subdivision layout. The developer is not interested in developing the cluster plan as it requires more roads and does not preserve a significant open space parcel. It is their opinion that the homes in the orchard will preserve most of the trees along the road giving a similar orchard feeling as you drive by the site. The developer is willing to consider shared driveways with the houses set back from the road in the traditional plan.

The Board discussed design possibilities that would enhance the amenity of the orchard. They were not in favor of eight curb cuts. The Board would like to see open space and trails.

**The public portion of the meeting was opened.**

Mr. Tom Terison, owner stated apple trees are worthless unless taken care of. An example was the Blanchard Orchard that was at the Wilson and Middle school location. Today there are no apple trees left.

Mr. Neagle asked about restricting the cutting of the trees.

Mr. Terison stated the trees get summer diseases if not properly taken care of, and lose their leaves.

Ms. Nixon stated the Conservation Committee voiced concern of the soils and pesticides that were used.

Mr. Greer stated they will take soil samples, and there is an on-site well for testing the water.

Ms. Nixon stated the subdivision would need a different name; there is a subdivision within two or three miles with the name Orchard.

The Board took no action pending an application.



**6. Sketch Plan Review – Major 38-lot residential subdivision and eight acres of commercial property that will be developed – Cumberland Foreside Village, Tax Assessor Map R01, Lots 7,8,8A and a portion of lot 11, U.S. Route One.**

Mr. Stephen Mohr, of Mohr and Seredin Landscape Architects stated Mr. Kennedy had received a contract zone in 2002. During the planning process it became apparent that cost to build was prohibitive. The project has been re-designed, working with Terry DeWan, Andy Fillmore and Tom Greer. As a result Phase I has been re-designed. The road design has been modified, there is a small upper flat area for more intense development of 27 lots, 12,000 to 14,000 sq. ft. lots, the roundabout in the center will have town houses with 1,200 to 1,400 square feet, and a small common area. The density of 38-units will remain. The commercial lots will have a green space buffer along Route 1. Tonight's review is of Phase I. The sidewalk system will continue there will be a 5' wide esplanade. The future road on top and bottom will connect on the Falmouth side.

Mr. Neagle asked about the municipal lot.

Mr. Mohr stated the Town currently owns the lot.

Mr. Neagle stated he liked the design.

Mr. Couillard asked about the connector with Falmouth.

Mr. Mohr stated he had talked with Jim Fortune, Assistant Planner and it is not an issue with the Town, Falmouth has not embraced the concept of residential development in the area.

Mr. Couillard asked if there was a tower in the proposal.

Mr. Mohr stated not in this proposal.

Mr. Howe stated there is a lot of pavement with the very regular, classical circles. Ms. Howe voiced concerns regarding snow removal with the circular roads.

Mr. Turner complemented Mr. Mohr on the Foreside Community Church project. He asked about public safety with the dead-end horseshoe road.

Mr. Powers stated he liked the design and variation of lot sizes, he thought the townhouses would look nice.

Mr. Kennedy, applicant, stated the townhouses would not be identical but have a common theme of design, such as roof pitch and color.

Mr. Neagle asked if there would be design parameters.

Mr. Kennedy stated yes, there would be design parameters and guidelines.

Mr. Mohr stated the roundabout is at the centerline of the road.

Mr. Ward voiced concern regarding maintenance of the roundabouts, and snow plowing. He asked if the new design was a cost savings.

Mr. Mohr stated there would be a savings in a large ledge cut, and sewer and road lengths.

Mr. Hunt stated the proposal was a nice design.

The Board took no action pending an application.

**F. Administrative Matters**

Ms. Nixon stated she would be meeting with Larry Bastion from Sebago Technics to walk the proposed Old Colony site. They will be checking for existing trails.

Ms. Nixon stated the Town had received a \$10,000.00 Community Block Development Grant (CBDG) to study the need for affordable housing on the Island.

Ms. Nixon presented the Planning Department's Capital Improvement Proposals (CIP) for the Board to review. Of the three proposals only two can be chosen.

Adjournment: 9:45 p.m.

A TRUE COPY ATTEST:

  
Philip C. Hunt, Board Chair

  
Pam Bosarge, Board Clerk

## Planning Board Meeting

**Tuesday, October 19, 2004**  
**Council Chambers of the Town Offices**  
**290 Tuttle Road, Cumberland Center**  
**7:00 PM**

### **A. Call To Order**

The meeting was called to order at 7:05 p.m.

### **B. Roll Call**

Present: Phil Hunt, Chair, Terry Turner, Vice-Chair, Beth Howe, Bill Ward, Bob Couillard, Chris Neagle.

Absent: Tom Powers

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

### **C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes with minor technical corrections.

Mr. Ward seconded.

VOTE: Unanimous

### **D. Consent Calendar / De minimus Change Approvals**

1. Rockwood Senior Housing Phase III – Ms. Nixon stated the proposed change is for the turn-a-round at the Rockwood, Phase III. The hammerhead will be re-designed slightly. The Town Manager, Fire Chief, Public Works Director and Town Planner have viewed the location of the proposed change and concur the change will improve the functioning of the parking and turning area.

The Consent Calendar item was approved. A public hearing was not necessary.

### **E. Hearings and Presentations**

1. **Public Hearing – Minor Site Plan review for a Day Care “Above and Beyond” at 10 Corey Road, Tax Assessor Map U07, Lot 3, Highway Commercial (HC) district**, Michele Brown, applicant; Andy Fillmore, InterUrban Planning & Design representative; William & Norene Ward Trustees, owners.

Ms. Nixon presented background information as follows:

Request: The applicant is Michelle Brown. She is the owner of Above and Beyond Daycare which is now located in her residence at 50 Woodlands Way in Cumberland. The owners of the property are William and Noreen Ward of 128 Longwoods Road, Cumberland. Ms. Brown has a letter dated 8/3/04 from the owners of the property indicating their intent to lease the property, contingent upon site plan approval.

Andy Fillmore of InterUrban Planning & Design prepared the site plan. He is representing the applicant. The survey, dated December 1983, was done by A.W.I Engineering Co. of Scarborough, Maine.

The property is located at 10 Corey Road, Tax map U07, Lot 3 in the Highway Commercial district. The parcel is 3.14 acres in size.

The application has received Board of Adjustment and Appeals approval for a special exception for a daycare center. Site plan review is required as per Section 206, Site Plan Review, and Section 408A, Day Care Centers and Nursery Schools.

The outstanding issues have been satisfactorily addressed. The application is ready for final approval.

**Project Description:** Above and Beyond Daycare is an after-school enrichment program for children ranging in age from 6 to 12 years of age. Ms. Brown has been providing this service for a number of years and now wishes to relocate to a larger building. The two-story building has approximately 1,200 s.f. per floor. The building is divided in half vertically, resulting in two separate mirror image leases of 1200 s.f. each. The applicant proposes to lease the eastern side of the building, which is on the opposite side of the building from Rt. 9. The maximum enrollment will be 15 students. Children will be dropped after school and picked up at dinnertime. The hours of operation are approximately 3 p.m. to 6 p.m., Monday to Friday during the school year.

**Waiver Request:** A waiver of Section 206.7.4.12 – Stormwater Calculation / erosion and sedimentation control plan was granted at the September 21, 2004 Planning Board meeting.

Mr. Turner asked about the new landscaping plan that was presented to the Board.

Ms. Nixon stated the condition of approval remains; the landscape plan will be reviewed.

Mr. Fillmore, of InterUrban Planning stated the plan is in anticipation of the condition of approval for landscaping. Mr. Fillmore stated there would be maple trees along Longwoods Road, and a cluster of birches at the turn-a-round. Mr. Ward, the owner would like to keep the loading docks intact, and have flexibility in designing the raised beds.

**The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.**

Ms. Nixon reviewed the proposed findings of fact as follows:

#### **Findings of Fact**

Note: Section 206.7.6 states that the Planning Board may waive any of the submission requirements based upon a written request by the applicant. A waiver may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria.

#### **Sec. 206.8 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.

##### **.1 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 building exists and there will be no construction which would impact any environmentally sensitive areas.**

**The Board finds the standards of this section have been met.**

.2 Traffic Access and Parking

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

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

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

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

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

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

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

.7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

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

a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

**The plan has been reviewed the Town's peer review engineer. The applicant has spoken with Bruce Munger, a MDOT Traffic Engineer who has stated that whenever a property's driveway is on a private or town way, then MDOT standards are not applicable. He stated that this is the case even when a property has dual frontage of both a State road and a private or town way.**

**The Board finds the standards of this section have been met.**

.3 Accessway Location and Spacing

Accessways must meet the following standards:

.1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

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

**The Town's peer review engineer has reviewed the plan and finds this section to be in conformance with the Ordinance.**

**The Board finds the standards of this section have been met.**

.4 Internal Vehicular Circulation

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

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

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

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

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

**The parking lot layout allows for seven parking spaces for this business. There is a need for two fulltime employees plus the daily activity teacher. This leaves four spaces for parents to use when dropping off or picking up their children. The Ordinance requires one space for each employee and volunteer worker. It does not address the number needed for parent parking. The location of the parking area will not impede internal circulation.**

**The Board finds the standards of this section have been met.**

.5 Parking Layout and Design

Off street parking must conform to the following standards:

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

**This has been done.**

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

*No new parking spaces are located within 15' of the side, rear or front property lines.*

.3 Parking stalls and aisle layout must conform to the following standards.

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

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

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

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

**The proposed parking plan meets the needs of the small daycare center. Most, if not all children will be arriving by school bus which leaves only the pick-up time for cars to be parked.**

**The Board finds the standards of this section have been met.**

.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 existing sidewalks for connection. The customers will be exiting their vehicles and walking the short distance to the stairs to enter on the side of the building. The proposed landscaping plan will better delineate the path from the parking area to the stairs.**

**The Board finds the standards of this section have been met.**

.7 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.

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

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

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

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

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

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

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

**The runoff characteristics will remain relatively unchanged from current conditions. The Town's peer review engineer is not requiring stormwater calculations.**

**The Board finds the standards of this section have been met.**

.8 Erosion Control

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

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

**The only disturbance of soil will be in the installation of the new septic system and removal of the existing concrete pad. This should create a minimum of disturbance and appropriate erosion control measures will be taken.**

**The Board finds the standards of this section have been met.**

.9 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.

**The existing structure will utilize the private, drilled well on site. The well has provided adequate water supply in the past and it is not expected that this new use will significantly increase the need for water.**

**The Board finds the standards of this section have been met.**

.10 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.

**A new septic system design (HHE-200) has been submitted and reviewed and approved by the Town's Plumbing Inspector.**

**The Board finds the standards of this section have been met.**

.11 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.

**The building is serviced by above ground telephone and electric lines from a CMP pole off the eastern-most corner of the structure. The building is heated by propane supplied by the Dead River Company. An exterior aboveground tank is located just to the northeast of the structure.**

**The Board finds the standards of this section have been met.**

.12 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.

**No hazardous materials will be used or stored on site. The new septic design is for only 375 gallons per day.**

**The Board finds the standards of this section have been met.**

.13 Water Quality Protection

All aspects of the project must be designed so that:

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

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

**Waste will be removed on a daily basis and brought to the tenant's home for disposal with her regular household trash. There will be no dumpster on site. No hazardous materials will be used or stored on site.**

**The Board finds the standards of this section have been met.**

.14 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.

**The owners of the property, William and Noreen Ward, have submitted a letter dated 10/5/04 from Maine Bank and Trust indicating financial capacity. The applicant has utilized the services of Interurban Planning and Design, Inc. to prepare the application and site plan; and has provided a letter indicating the financial capacity to complete the project.**

**The Board finds the standards of this section have been met.**

.15 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.

**The structure exists and the proposed use will not affect the site.**

**The Board finds the standards of this section have been met.**

.16 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.

**According to Flood Insurance Rate map #230162-0015B as issued by FEMA, the subject property is located in Zone A (area of 100 year flood) . The structure has no basement and the finished floor elevation of the main floor is approximately 5' above the surrounding mean grade.**

**The Board finds the standards of this section have been met.**

.17 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 existing light fixture will be replaced with a larger full cut-off “wall-pak” fixture to be located above the Lease #2 doorway. This will be in addition to the existing wall pak between the garage doors. These two lights will illuminate the area clearly. The new wall –pak will be turned off after operating hours to reduce impact on abutting properties.**

**The Board finds the standards of this section have been met.**

.18 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.

**There is some mature vegetation to the rear and side of the building. A new lawn area will be created to provide a play area for the children. It is recommended that a landscaping plan, approved by the Town Planner be installed around the front and two sides of the building and that a variety of deciduous and non-deciduous shrubs and trees be planted to soften the appearance of the building.**

**With the proposed condition of approval re: landscaping, the Board finds the standards of this section have been met.**

.19 Noise

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

**The proposed use will create only minor noise impacts to surrounding properties in large part due to the time of year (Sept. to June) the daycare will be open. Much of this time, play will be indoors. There will be a maximum of 15 children with two supervisors.**

**The Board finds the standards of this section have been met.**

.20 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.

**Waste will be removed on a daily basis and brought to the Tenant's home for disposal with her regular household trash. There will be no dumpster on site. No hazardous materials will be used or stored on site.**

**The Board finds the standards of this section have been met.**

.21 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 landscape plan shall be prepared and submitted to the Town Planner for approval prior to the issuance of the Occupancy Permit. This plan shall depict the installation of trees, shrubs and ground covers. The plan will enhance the visual appearance of the building and provide a buffer to the parking spaces.**

**The Board finds the standards of this section have been met.**

Mr. Turner stated the fence was not depicted on the landscaping plan.

Mr. Fillmore stated he is waiting to hear from the State on the configuration of the corner of the back railing, the side door will be within the fenced area.

The Board determined an appropriate condition of approval would be to have the fence depicted on the landscape plan.

Mr. Turner asked if the fence would impact the parking area.

Mr. Neagle asked about delineation of the pathway.

Ms. Nixon stated it is a gravel area, with no fence shown on the plan, will the walkway be gravel or have paving stones?

Mr. Fillmore stated the intent is for a well maintained gravel walkway.

.22 Building and Parking Placement

.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 with 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.

.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. **The building and parking areas are existing. Additional landscaping is being required as a condition of approval.**

**The Board finds the standards of this section have been met.**

206.9 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.

**Ms. Howe moved to approve the findings of fact as amended.**

**Mr. Turner seconded.**

**VOTE: Unanimous**

**Ms. Howe moved to grant minor site plan approval with the standard and recommended conditions of approval to Michele Brown for a day care center “Above and Beyond” at 10 Corey Road, Tax Assessor Map U07, Lot 3 in the Highway Commercial District.**

**Mr. Turner seconded.**

**VOTE: Unanimous**

**Standard Conditions of Approval**

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

**Recommended Conditions of Approval**

1. That a landscaping plan (consisting of a variety of deciduous and non-deciduous shrubs, trees and or wild grasses) be submitted and approved by the Town Planner prior to the issuance of the certificate of occupancy. This plan shall be designed to soften the appearance of the building and to better define the parking area and entrance areas to the building. The fenced area shall be accurately depicted on the landscape plan.
2. That the applicant provides a cut sheet detailing the proposed lighting fixtures to the walkways. The lighting plan is to be reviewed and approved by the Town Planner prior to the issuance of the certificate of occupancy.
3. The new exterior light is turned off after hours to reduce impact on neighboring properties.
4. That appropriate erosion control measures be taken during the removal and installation of the septic system.
5. That a sign be installed on the structure indicating the use and entrance location.
6. That all fees be paid prior to the issuance of a building permit.

**2. Public Hearing – Application Completeness and Preliminary Plan Review – Major Subdivision – Rockwood Senior Housing Phase IV – 44 units of senior housing, Tax Assessor Map R02D, Lot 1C of the Cumberland Business Par; LSH Holdings, c/o Pioneer Capital Corp. owners.**

**This item was tabled at the Applicant’s request.**

**3. Public Hearing – Final Plan Review – Major 14-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07, Lot 71 and 70B, 51.9 acres, RR2m district, representative Larry Bastion, P.E., Sebago Technics, Normand Berube Builders, Inc., owner.**

Ms. Nixon presented background information as follows:

Request: The applicant is Normand Berube Builders, Inc. Larry Bastion, P.E., Sebago Technics, Inc. represents the applicant. The request is for major subdivision review and approval of a 14 lot clustered subdivision at 10 Blackstrap Road. The property is shown on Tax Assessor's Map R07, Lot 71 and 70B. The two parcels combine to consist of 51.9 acres of land. The subdivision is shown as a two-phased plan, but only Phase 1, for 11 lots, is under review at this time. The parcels abut the municipal boundary with Falmouth on the south and Windham municipal boundary to the northwest.

**History:**

- May 2003: Sketch plan for 19-lot subdivision submitted to Board.
- June 17, 2003: Sketch plan review
- July 7, 2003: Site walk held.
- July 15, 2003: Board tabled sketch plan pending further feasibility assessment by applicant road entrance/DOT issue)
- March 17, 2004: Sketch plan review
- April 20: Site walk held prior to the meeting at which the application was deemed complete.
- May 18, 2004: Preliminary plan review tabled at Applicant's request.
- June 15, 2004: Preliminary plan review, tabled by Board.
- July 20, 2004: Preliminary plan review, tabled by Board.
- August 17, 2004: Board grants Preliminary Approval.

**Project Description:**

- Zoning: RR2m (Rural residential 2, manufactured housing overlay)
- Subdivision Style: Clustered
- Min. Lot Size: 2 ac. (87,120 sf) Traditional or 1.38 ac (60,000 sf) Clustered/Dispersed.
- Lot frontage: 200' traditional or 100' if clustered or dispersed.
- Setbacks: Front = 50', Rear = 75', Side 30' (combined = 75').
- Roadway: The applicant is proposing a public road to be offered to the town upon completion.
- Road Width: 20'
- Shoulders: 4' gravel
- Sidewalk: 4' esplanade with 4' sidewalk on one side of road
- Water: Private wells on each lot.
- Sewer: Individual private septic systems.
- Utilities: The applicant is proposing underground utilities (telephone & electric).
- Lighting: To be determined
- Min. Open Space:  
Traditional subdivision: 10% of gross lot area x 51.9 ac. = 5.19  
Dispersed/Clustered: 25% of gross lot area x 51.9 ac. = 12.97

Open space provided: Required: 8.66 acres  
Provided: 9.11 acres

- **Net Residential Acreage: 51.91 acres gross site**
  - 5.22 acres for wetlands
  - 7.79 acres for roadway (15% of gross)
  - 0 acres of steep slopes

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**=38.90 acres Net Residential Acreage**
- Max. # of Lots: The maximum number of lots is calculated by dividing the net residential density (38.90 acres) by the minimum lot size of the underlying zone (2 ac.), which yields a maximum of 19.45 lots. 11 lots are proposed in Phase 1; 8 additional lots may be added should Phase 2 go forward.
- Outside Agency Approvals Required:
  - DEP Stormwater permit
  - CCSWCD Approval of Erosion Control Plan (*Received, dated 10/5/04*)
  - MDOT Entrance Permit (Received 1/04; revised dated 6/29/04)

Ms. Nixon stated the application is ready for final approval with the recommended conditions.

Mr. Larry Bastion, of Sebago Technics gave a brief summary of the plan changes. The DEP Stormwater review has resulted in a change for Phase 1 to include 11 residential lots and 3 common open space lots. DEP staff has reviewed a sketch of the revised Phase I plan and have confirmed that Phase I would not require SLODA review. In making the revision, the lot lines of the approved preliminary plan have the following changes:

- The rear line of Lot 7 now stops at the 75-foot buffer line.
  - The Old Colony Lane right-of-way is shortened by approximately 10-feet and the common open space now connects past the end of the R.O.W. A 50-foot easement for road right-of-way and a 25-foot grading and drainage easement are reserved through the common open space for future extension of Old Colony Lane in Phase 2.
  - Lots 8, 9 and 10 of the approved preliminary plan are not shown as remaining land to be retained by the owner for future development.
  - Lots 14, 13, 12 and 11 are now renumbered as lots 8, 9, 10 and 11, respectively.
- The stormwater drainage system is designed on the full 14 residential lots as approved in Phase I. The system therefore includes capacity for addition of the three lots deferred to Phase 2.

Mr. Bastion reviewed the responses to the Town Planner's comments as follows:

1. Financial Capacity - A new letter from Key Bank dated 9/28/04 is on file.
2. Road name - Schooner Road will be renamed to Liberty Lane, which was confirmed with the Assessor's office.
3. Trails – Mr. Bastion, Ms. Nixon, David St. Clair (surveyor) and Mr. Couillard conducted a site walk for existing trails on 9/22/04. No existing, connected trails were found and no trails appear to be shown on the Greenway Map. The applicant is now proposing an easement for a future road R.O.W. and public access extending from the end of Old Colony Lane to the southwesterly property line.
4. The note regarding the future construction of the cul-de-sac does not state that it will be at the Applicant's (or Homeowner's Association?) expense. It might be wise to add that the road may not be offered to the Town until the cul-de-sac is installed, or the Planning Board approves Phase 2. The applicant is agreeable to the cost being covered in the letter of credit. The Town does not consider roads for acceptance until they are 100% complete.

5. Sheet 5 should be adjusted to show the proposed streetlight closer to the entrance location. It should be located above the street sign for the entrance.

**This was done.**

6. Is any type of subdivision sign (on a stone wall, fence, etc.) proposed?

**None proposed.**

7. The Boundary line for Phase 1 is still unclear. Perhaps a different type of line could be used and listed in the legend?

**This has been clarified.**

8. 16 white pines (5'-6' tall) 12' apart are proposed for a buffer on the Sanchez property line. Are white pines the best type of tree for this property?

**The trees have been changed to Norway spruce.**

The three items listed by Tom Saucier, Town Peer Review Engineer.

**The legal opinion regarding the Desjardin Property line is enclosed. Metes and bounds information for proposed easements is provided on the subdivision plan.**

**A status update on CMP's release of the old utility easement across the property is enclosed.**

Other Plan Revisions:

The stormwater management calculations have been revised based on the comments from Chris Baldwin, Cumberland County Soil & Water Conservation District. These were mostly minor details in the stormwater modeling and did not have a significant effect on the results of the study.

Mr. Couillard asked if any trails were being proposed.

Mr. Bastion stated as seen on the site walk there were several tote roads identified in several locations, but none appear to connect to each other or to existing off site trails. The applicant proposes to provide an easement for future road R.O.W. and public access extending from the end of Old Colony Lane to the southwesterly property line. No additional trails within the lots or the common open space are proposed.

Mr. Couillard asked when the trail would be constructed.

Mr. Bastion stated the applicant is not proposing to build trails. The 50' easement and future land will be retained by the Applicant and the use continued as it is presently used.

Mr. Couillard voiced concern of people who are using the existing trails, and their ability for continued use of the property.

Mr. Bastion stated there was evidence of people walking on the existing tote road that angles westerly through the proposed lots from the ledge outcrop off Blackstrap Road, there is no practical way to give public access.

Mr. Neagle asked for clarification on the shaded areas.

Mr. Bastion stated the shading is a no disturbance stormwater buffer in common with the cluster subdivision 75' buffer. The limited disturbance criteria were established by the DEP Stormwater review.

Mr. Neagle asked that the "no development language" be added to the 17.01 parcel.

Mr. Neagle asked if the letter evidencing financial capacity was adequate.

Mr. Hunt stated the Superior Court has ruled that a mere expression of interest in financing a developer is not adequate for a Planning Board to make a positive finding. A binding letter of commitment from a financial institution will be required.



The public portion of the meeting was opened. There were no public comments. The public portion of the meeting was closed.

Ms. Nixon reviewed the proposed findings of fact as follows:

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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 parcel is not located in a 100-year floodplain. The test pit information for subsurface wastewater disposal was reviewed and approved by Tom Saucier. The nitrate plumes have been changed and accurately depicted on the plan. The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted and the report has been reviewed and approved by Tom Saucier, peer review engineer.**

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

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

**The proposed subdivision will utilize private drilled wells. Information on adequacy for both domestic use and fire protection needs is evidenced by the groundwater report dated 4/26/04 from Dick Sweet Associates.**

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

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

**The standards of this section do not apply.**

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 provided a detailed Erosion and Sedimentation Control Plan that has been reviewed by the Town's peer review engineer and Cumberland County Soil and Water Conservation Commission. CCSWCS comments have been incorporated into plan.**

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

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

**The Applicant has provided an entrance permit dated 6/29/04 from MDOT. A traffic study was not required.**

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

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

**The subdivision will not be on public sewer. The test pit information for subsurface wastewater disposal was reviewed and approved by Tom Saucier. The nitrate plumes have been changed and accurately depicted on the plan.**

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

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

**The subdivision road is intended to be offered to the Town for acceptance. As such, the Applicant proposes to have the Town pick up solid waste at each proposed house lot.**

**Based on the information provided the standards of this section have 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;

**The Applicant has submitted a letter dated 9-12-04 from the Maine Historic Preservation Commission indicating there will be no effect upon historic properties. Scott Lindsey from MDIF&W has spoken via phone with Larry Bastion and stated there were no unusual wildlife or other natural values specific to the site.**

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

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

**Based on the plans submitted and reviewed, the proposed subdivision conforms to all local land use requirements.**

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

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

**The applicant has submitted a letter dated 9/28/04 from Key Bank expressing interest in financing the project. In order to be adequate as a condition of approval the applicant must submit a binding commitment letter or other proof of financial capacity acceptable to the Town Manager.**

**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 property is located in two watersheds, the Forest Lake Watershed and the Piscataqua River Watershed. The proposed development is located in the Piscataqua River watershed. There is no proposed development in the Forest Lake Watershed.**

**Wetland areas have been mapped on the plans and construction will avoid these locations.**

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

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

**The groundwater impact study prepared by Sweet Associates (dated 4/26/04) and reviewed by Tom Saucier, Town Engineer, contains information indicating that the development will not adversely affect the quantity or quality of groundwater.**

**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;

**Based on a review of the FEMA Maps, no portion of the site is located in a flood zone.**

**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;

**The Applicant has provided a "Stormwater Management Report" that has been reviewed by the Town's peer review engineer.**

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

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

**Freshwater wetlands on the site were delineated and flagged in the field by Sebago Technics, Inc. in accordance with U.S. Army Corps of Engineers methodology. Less than 4300 square feet of wetlands will be impacted by the development. The wetland areas are shown on the plan set. The new facilities will be constructed in the upland areas of the site.**

**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]

**As per the memo from Gary Fullerton, Certified Soils Scientist, the existing drainage swales on the property do not meet the DEP criteria for definition of "stream".**

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

### ***SECTION 300 – AQUIFER PROTECTION (if applicable)***

The use is located in the Aquifer Protection district. A positive find by the Board is required.

**The site is located within the Town Aquifer Protection Area. A High Intensity Soil Survey was conducted and the report has been reviewed and approved by Tom Saucier, peer review engineer.**

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

Mr. Neagle moved to approve the findings of fact as amended.

Ms. Howe seconded.

VOTE: Unanimous

Ms. Howe moved to grant final major subdivision approval with the standard and recommended conditions for an 11-lot subdivision, Old Colony Estates, 10 Blackstrap Road, Tax Assessor Map R07,

Lot 71 and 70B, 51.9 acres, RR2m district, representative, Larry Bastion, P.E., Sebago Technics, Normand Berube Builders, Inc., owner.

Mr. Turner seconded.

Vote: Unanimous

#### Standard Conditions of Approval

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

#### Proposed Conditions of Approval

1. That all fees be paid as required.
2. That the Applicant provides documentation of the CMP utility easement release. To be reviewed and approved by Town Attorney and Town Planner prior to the preconstruction conference.
3. That the two plans notes be changed as recommended by the CEO in his comments dated 10/5/04.
4. That note #18 on sheet 4 be corrected to remove redundant language.
5. That the proposed homeowners documents be reviewed and approved by the Town Attorney prior to the preconstruction conference.
6. That a letter of credit or escrow be established in an amount approved by the Town Planner, Public Works Director and Town Engineer. The cost of the cul-de-sac construction is to be included in the amount.
7. The Applicant must submit a binding commitment letter or other proof of financial capacity acceptable to the Town Manager.
8. The 75' buffer area is to be more clearly marked and the note on future development of the 17.01-acre parcel be clarified.

**4. Sketch Plan Review – Minor Site Plan – Lucinda’s Day Spa; Cumberland Business Park,** Tax Assessor Map R02D, portion of Lot 1, Scott Decker, SYTDesign, representative, Guidi Flash Holdings, LLC, owner.

Mr. Hunt explained that a sketch plan review was an informal review; the Board would not make any decisions.

Ms. Nixon presented background information as follows: The initial plan showed an entrance from Powell Road. However, it is clear an entrance off from Route One could make sense. The plan has not adhered to the 75' front setback requirement in the Advisory Route One guidelines. The rear setback is 65 feet. The property has wetlands which preclude a shared entrance with the adjacent lot.

Mr. Scott Decker, of SYTDesign Consultants stated Lucinda would like to expand her Day Spa business to Cumberland. She currently has a facility in Scarborough. The Cumberland business would employ approximately 16 people with 12 of them being technicians performing manicures, pedicures, etc. and the other 4 would be support staff. The Spa would be open from 8:00 a.m. to 8:00 p.m. Monday through Saturday.

The original sketch plan was prepared depicting an entrance from Powell Road. However, given the concerns of the abutter, the 65-foot no disturb buffer zone adjacent to the abutter and the prospect of queuing vehicles stacking at the Powell Road / Route One intersection, the plan has been revised to depict a Route One access/egress. This has been discussed with MDOT and although MDOT would prefer a

Powell Road access/egress they cannot force it. The possibility of a shared access/egress for lots 1 & 2 has been looked at, however, the entire length of the shared property line is in wetlands making its approval unlikely.

Gawron Architects has submitted to the Code Enforcement Officer a Zoning Board of Appeals application for approval of the use as a Special Exception since a Day Spa is not included as a permitted use in the zone.

Mr. Neagle stated he felt an entrance from Route One would be wrong. He did not see a compelling reason to not have the entrance on Powell Road; the traffic safety on Route One would be an issue.

Mr. Decker stated the safety issue would be dealt with in the D.O.T. application for entrance permit.

Ms. Nixon stated there is a concern customers approaching from the south and north might overshoot the entrance signage. Mr. Guidi has a prospective buyer for lot # 2, it would be ideal if a driveway entrance could be shared, however, there would be an impact to wetlands.

Mr. Neagle stated the clients for the Day Spa would typically be repeat, which would reduce the need for turning around.

Mr. Decker stated review of the 1995 traffic study might show issues with queuing vehicles on Powell Road.

Mr. Couillard asked the distance on Powell Road to the proposed entrance.

Mr. Decker stated 110 to 120 feet.

The Board discussed the following sections of the Route One Design Guidelines.

- 1.3 - Route One 75' Buffer Strip
- 1.4.1 – Route One Curb cuts – The Board discussed an entrance from Powell Road or Route One.
- 1.5.1 – Location of Building on the Site
- 1.6.1 – Parking Location

Mr. Decker stated the building would be somewhat screened from Route One and it didn't seem critical to have the building square with Route One.

Mr. Neagle stated the Route One Design Guidelines should not be dismissed.

Mr. Turner voiced concern with a Route One entrance; there should be a traffic study giving evidence that the queuing on Powell Road would not work. He stated the parking area should be designed with a lot of buffering in the parking area to minimize the mass of pavement.

Mr. Ward stated he would like to see the building back up to the property line to block lighting and provide buffering to neighboring property owners. The parking areas seem to be large, he would like to see satellite parking lots to break up the pavement.

Mr. Hunt stated the original approval of the Cumberland Business Park should show the approved curb cuts. He didn't think shared entrances were contemplated. There are not a tremendous number of curb cuts on Route One. The area on Route One has severe ditching and would require fill. He agreed parking in the rear of the building would provide buffering from Route One.

Mr. Hunt stated a sketch plan is not a public hearing; the Planning Board's practice is to allow comments at sketch plan review.

Ms. Jen Richard, of 32 Powell Road stated there is not a queuing problem when traveling north on Route One; the problem is a quick right then a left into the spa.

Mr. Turner asked why that would be a problem.

Ms. Richard stated if a car is exiting from Powell Road and a vehicle is entering from Route One south, they make a wide turn and then an immediate left. The angle of the corner of Powell Road and Route One is not a 90°.

Mr. Clarence Madore of Schooner Ridge stated he was representing the interest of the Powell Road residents. Mr. Madore stated that Powell Road is narrow and cars may have to wait for exiting vehicles.

Mr. Neagle stated the entrance would be 120 feet from the intersection of Route One; the bigger issue of curb cuts needs to be considered.

Mr. Madore stated an entrance on Powell Road would be a disservice to the neighborhood.

Mr. Decker stated a traffic study would help with the question.

The Board stated the Applicant should be sensitive to buffering the Bennett property. Minimize paved area and curb cuts.

The Board took no action.

**F. Administrative Matters –**

1. The Board signed the mylar for Orchard Ridge subdivision.
2. Ms. Nixon presented the Board with reading material “New Urban Neighborhoods”.
3. Capital Improvements – Ms. Nixon stated the Department Heads would be sending in their C.I.P. requests. The Planning Board would review these and make recommendations to the Town Council.

Adjourn: 8:40 p.m.

A TRUE COPY ATTEST:

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Philip C. Hunt, Board Chair

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Pam Bosarge, Board Clerk

## **Planning Board Meeting**

**Tuesday, November 16, 2004  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine  
7:00 PM**

### **A. Call To Order**

The meeting was called to order at 7:00 p.m.

### **B. Roll Call**

Present: Phil Hunt, Chair, Tom Powers, Vice-Chair, Terry Turner, Vice-chair, Beth Howe, Bill Ward, Chris Neagle

Absent: Bob Couillard

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

### **C. Minutes of Prior Meetings**

Ms. Howe moved to approve the minutes of the October 19, 2004 meeting with technical corrections.

Mr. Ward seconded.

VOTE: Unanimous

Mr. Hunt explained the changes to the Agenda. Items # 2 (Hanson Contract Zoning Agreement) and # 5 (Application Completeness Cumberland Foreside Village) were tabled by the Applicants. Item # 6 (Amanda's Way subdivision) has been withdrawn by the Applicant.

### **D. Consent Calendar / Deminiums Change Approvals:**

There were no Consent Calendar items.

### **E. Hearings and Presentations**

**1. Application Completeness – Minor Site Plan – Lucinda's Day Spa; Cumberland Business Park, Tax Assessor Map R02D, portion of Lot 1, Scott Decker, SYTDesign, representative, Guidi Flash Holdings, LLC, owner.**

Mr. Hunt stated application completeness is not a public hearing, but the Board's practice is to open the floor for public comments.

Ms. Nixon presented background information as follows: The applicants are Lucinda Malbon and Robert Tgettis of 307 Beech Ridge Road, Scarborough, Maine. The Applicants have a purchase and sale agreement on Lot 1 of the Cumberland Business Park, Tax Map R02D in the Office Commercial zone on Route One. This purchase and sale agreement expires on January 30, 2005. The owner of the property is Guidi Flash Holdings, LLC. Scott Decker of SYTDesign prepared the site plan; he will be representing the applicant. The 1995 boundary survey was conducted by Ronald Carpentier. The parcel is 2.7 acres in size.

The application received Board of Adjustment and Appeals Special Exception approval on 10/21/04. This approval was required for the proposed use of providing personal services. Ms. Malbon would like to expand her day spa business currently located in Scarborough. This would be a second location for her day spa. She anticipates employing approximately 16 people: 12 technicians and 4 support staff. The hours of operation would be from 8:00 a.m. to 9 p.m. Access to the site would be from Route 1. An MDOT Entrance Permit Application has been submitted to MDOT.

The parcel will be serviced by underground telephone, electric and cable via a CMP pole near the driveway entrance. (not shown)

Tonight the Planning Board will determine if the application is complete and schedule a public hearing for the next meeting. The Board may also decide on which, if any, waivers shall be granted.

Ms. Nixon reviewed the checklist as follows:

**Town of Cumberland  
Section 206 – Site Plan Checklist**

Per Section 206.4 Classification of Project, Please note: The Town Planner will first determine if the project will be classified as a major or minor site plan. Classification will determine submission requirements

Major Site Plan \_\_\_\_\_ Minor Site Plan \_\_\_\_\_ **X** \_\_\_\_\_

**SECTION 206.7.2 Site Plan Review Application Submission Requirements  
REQUIRED FOR MAJOR AND MINOR SITE PLANS**

1.	Site Plan Application Form Completed	yes
	1. Signed Application	yes
	2. location of all setbacks, yards and buffers	yes
	3. name and address of all property owners w/I 200 feet	Denee on plan incorrect
	4. location map showing location of project	yes
	5. boundaries of all contiguous property under control of owner	Guidi owns other lots
	6. tax map and lot numbers	yes
	7. deed, option to purchase or documentation of right, title or interest	yes
	8. name, registration number and seal of person who prepared plan	yes
	9. evidence of technical and financial capability to carry out project	yes

**SECTION 206.7.3 Existing Conditions  
REQUIRED FOR MAJOR AND MINOR SITE PLANS**

1.	zoning	yes
2.	Boundary survey	yes
3.	utilities, including sewer & water, culverts & drains, on-site sewage	yes
4.	location, names, widths of existing public or private streets/ROW's	Yes
5.	location, dimension of ground floor elevation of all existing buildings	N/A
6.	location, dimension of existing driveways, parking, loading, walkways	N/A
7.	location of intersecting roads & driveways within 200 feet of the site	yes
8.	location of drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, important or unique features, etc	Yes
9.	direction of existing surface water drainage across the site & off site	yes
10.	location, front view, dimensions and lighting of existing signs	N/A



11.	location and dimensions of existing easements & copies of documents	<b>None submitted</b>
12.	location of nearest fire hydrant or water supply for fire protection	<b>no</b>

**SECTION 206.7.4 Proposed Development Activity  
REQUIRED FOR MAJOR AND MINOR SITE PLANS**

1.	estimated demand for water & sewage disposal/location/dimensions, etc	<b>no</b>
2.	surface water drainage and impact assessment on downstream properties	<b>no</b>
3.	handling solid waste, haz & special waste/including screening on-site	<b>yes</b>
4.	driveway, parking & loading areas, location/dimension & materials along with changes in traffic flow onto or off site	<b>Traffic study underway yes</b>
5.	landscape plan	<b>yes</b>
6.	location, dimension and ground floor elevation of buildings	<b>yes</b>
7.	signs/location and method of securing	<b>yes</b>
8.	location and type of exterior lighting	<b>no</b>
9.	location of all utilities including fire protection systems	<b>no</b>
10.	general description of proposed use or activity	<b>yes</b>
11.	traffic/peak hour and daily traffic generated by project	<b>yes</b>
12.	stormwater calculations/erosion & sedimentation control plan, etc.	<b>Stormw. Calcs. - no. Erosion-yes</b>

Note: Section 206.7.6 states that the Planning Board may waive any of the submission requirements based upon a written request by the applicant. A waiver may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria.

Mr. Neagle asked who was the traffic Engineer who walked the site?

Ms. Nixon stated John Murphy.

Mr. Decker, of SYTDesign Consultants, stated D.O.T. had been contacted and an entrance permit for a Route One entrance will be issued. The D.O.T. does not think there are any safety issues with the Route One entrance. The building layout fits the site and meets the Route One Design Guidelines requirement of a 75' buffer from Route One. The lot is narrow and not deep enough for parking in back of the building. The parking will be on the side and front of the building in line with the entrance. There will be grassed areas in the center to break up the pavement.

Mr. Decker addressed the Planner's comments as follows:

1. Contour lines on all of the site plans – will be added.
2. The exterior lighting fixtures have not been finalized.
2. The sign will have a light mounted on the pole.
3. Fire protection will be sprinklers.
4. Hours of operation will be from 8:00 a.m. to 9:00 p.m. six days a week.
7. The dumpster will have a fenced enclosure.
8. Sewer calculations will be addressed with Ralph Oulton of MACTEC.

Ms. Nixon stated that Mr. Couillard (absent) had stated he likes the current layout, and preferred the Route One entrance. He thought with the limited distance on Powell Road, Route One would be safer.

Mr. Powers asked if the utilities would be underground.

Mr. Decker stated yes.

Mr. Turner asked if 55 parking spaces were needed.

Mr. Decker stated due to the nature of the business, there would be client overlap and at certain times that much parking would be needed.

Mr. Turner stated he felt an entrance on Powell Road would be a better location; he travels Powell Road two times a day. The letter from John Murphy, P.E., Civil Engineer; Traffic Engineer stated a Route One entrance would be safe, but didn't address the merits of Powell Road, and the 50 mph speed limit on Route One.

Mr. Decker stated a traffic analysis would be needed to address the potential conflicts on Powell Road. The neighbors have clearly indicated they want the entrance on Route One.

Mr. Decker stated with the 65' no disturb buffer, the access on Powell Road would be close to Route One.

Ms. Nixon stated she and Mr. Decker were at the site and measured the distance, it appeared to be tight.

Ms. Howe stated she agreed it would be better to not have an entrance on Route One. She stated the Advisory Route One Guidelines are important and should be adhered to. Ms. Howe stated it is important to maintain the 75' buffer along Route One. She suggested the buffer be something different than white pines.

Mr. Neagle stated he didn't think the application was complete. He referred to Al Palmer's comment (peer reviewer) to Section 206.8.2.5 that states ("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 pedestrian hazards.") The site has frontage on Powell Road and Route One. The Applicant should address this approval standard. Mr. Neagle said the Ordinance is clear the applicant needs to address the standards of Section 206.8.2.5. He echoed Ms. Howe's comment to not develop in the 75' buffer along Route One.

**Mr. Hunt opened the public portion of the meeting.** He stated the issue before the Board is to determine if the application is complete, not review the merits of the project.

Mr. Jim Bennett, of 40 Powell Road stated his only concern was the entrance. There are pedestrians on Powell Road and the street is narrow and not striped. He thought the road would be inadequate for the increased traffic.

Mr. Stretch Madore, of 40 Schooner Ridge stated Schooner Ridge Association held its annual meeting and actively discussed the possible entrance on Powell Road. The Association thinks the road is not adequate and would be a safety hazard.

Mr. Hunt reviewed the outstanding items:

1. Fire hydrants – the locations are known.
2. Amount of water usage to be determined. Public water and sewer will service the site. The Applicant has adequate sewer user units.
3. Surface water – Ms. Nixon stated the site is flat and contours are shown on the plan.

Mr. Decker stated the 1995 Cumberland Business Park approval provided a stormwater analysis, and considered the entire building envelopes impervious.

4. Traffic Study – Ms. Nixon stated there is a letter from John Murphy; P.E. dated 11/2/04 stating the application would not exceed the threshold number of trips for the entire Business Park.
5. Lighting – Mr. Decker stated the light fixtures have not been selected. The fixture will have a cut-off feature and will point downward and not spread beyond the boundaries.
6. Utilities are not shown on the plan.

Mr. Neagle stated the Day Spa is a great project but the outstanding items bothered him, and he would like Section 206.8.2.5 addressed.

Mr. Hunt asked if the application is in order to set for a Public Hearing.

The Board discussed Section 206.8.2.5 and requested to have the applicant provide information from a traffic engineer.

Mr. Powers moved to set a Public Hearing for the December 21, 2004 meeting subject to formal completion of the outstanding items, and to schedule a site walk.

Mr. Ward seconded.

VOTE: Unanimous

Mr. Neagle requested a new traffic report be available for the site walk.

**2. Public Hearing – Recommendation to Town council for a contract zoning agreement to increase the number of rental units at 371 Tuttle Road, Tax Assessor Map U11, Lot 4, in the Medium Density Residential District; Dr. Louis Hanson, owner; Andy Fillmore, InterUrban Planning & Design, representative.**

**The Applicant tabled this item.**

**3. Public Hearing – Application Completeness and Preliminary Plan Review – Major Subdivision – Rockwood Senior Housing, Phase IV – 44 Units of senior housing, Tax Assessor Map R02D, Lot 1B, lots 9 & 10 and Map R02D, Lot 1C of the Cumberland Business Park; LSH Holdings, c/o Pioneer Capital Corp., owners, LSH Holdings, c/o John Moody, applicant: Jim Fisher, P.E., Northeast Civil Solutions, representative.**

Ms. Nixon presented background information as follows: The applicant and owner is LSH Holdings. Lee Allen of Northeast Civil Solutions represents the applicant. This review is for Major Subdivision Application Completeness and Preliminary approval. The Planning Board conducted Sketch Plan review in May, and agreed that the Applicant could proceed to the next phase of the project. The proposed project involves the construction of 44 age-restricted condominiums on 18.4 acres. The site is composed of Lots, 6, 7, 9-11 and a portion of Lot 1 on Assessor's Map R02-D and Lot P/ 1. The property is adjacent to the first three phases of Rockwood located at the end of Thomas Drive, and is directly bordered by Rockwood Phase 3, Lots 5 and 8 of the Cumberland Business Park and Route 1 and Thomas Drive. Multi-plex, age-restricted housing is a permitted use in the Northern OC (Office Commercial) zone.

Tonight the Planning Board will determine if the application is complete and if so, begin Preliminary Plan Review.

Ms. Nixon stated the review was updated from the packets; Mr. Palmer's comments have been addressed.

#### **HISTORY:**

May 18, 2004: Sketch Plan Review: The Planning Board conducted a Sketch Plan Review.

September 21, 2004: Application Completeness tabled.

**DESCRIPTION:**

Zoning District:	OC (Office Commercial)
Parcel size:	18.4 acres
Net Residential acreage:	11.7 acres (50 units allowed; 44 proposed)
Number of units:	44 units within 19 buildings. 13 duplex structures; 6 tri-plex.
Development Design:	Clustered subdivision design.
Min. Lot Size:	10,000 s.f.
Occupancy:	Age-restricted to persons 55 years of age or older.
Setbacks:	Front = 25', Rear = 65', Side 20' 30' setback around each <i>building? Unit on plan.</i> (engineer to change)
Access:	From Thomas Drive as a private way, with a proposed emergency access and utility corridor onto Route 1.
Water and Sewer:	Portland Water District.
Open Space:	5.94 acres (aprx. 1/3 of parcel)
Utilities:	Public water and sewer from the Portland Water District. Underground electric, telephone and cable service.
Street Lighting:	Same type as in other phases.
Road:	Three curbed roads: Goose Ledges Road, Torry Pines Drive and Broken Cove Lane. Closed drainage system with two detention ponds. 14' travel lanes; 28' road width. <i>Concern re: on street parking. (Discussed, resolved)</i>
Sidewalks:	Paved 4' sidewalk with 1.5' grass esplanade.
Trails:	Existing trail to the southeast of the parcel. A future trail connection has been shown on the subdivision plan pending Homeowners and DEP approval. <i>Why should homeowners have to approve? (Will be removed)</i>
Waivers:	None Requested. (Waivers are needed, see attached letter dated 11/15/04)

Outside Agency Approvals: *Outstanding*

- DEP Stormwater (*Applicant states not required, explain.*) (Only quantity, not quality required to be reviewed by DEP)
- DEP General Construction.
- DEP Tier 2 NRPA (Amendment) (1,716 sq.ft. impact for Phase 4, combined with other phases totals 19,994 sq. ft. wetlands impact)

**PLANNING DIRECTOR'S COMMENTS:**

1. The Applicant is speaking with DEP to see if the trail can be constructed as part of this project. No Homeowners' approval will be required.
  
2. The Applicant will post *No Parking This Side* signs on the right hand side of the streets so that emergency vehicles will have access.

**DEPARTMENT HEAD REVIEWS:**

**Bill Longley, Code Enforcement Officer:** No comments at this time.

**Adam Ogden, Public Works Director:** No comments.

**Dan Small, Fire Chief:** *The Fire Chief's comments have been addressed and resolved.*

1. An outside flashing light, that is interconnected with the smoke detectors, should be located in an area easily visible from the driveway of each unit.
2. The location and style of street numbers shall be approved by the fire department.
3. Residential key boxes, approved by the fire department, are recommended at each residence.
4. On October 7, I had phone conversations with Mr. John Moody (general contractor) and with Mr. Lee Allen from Northeast Civil Solution. We discussed the following changes to the hydrant locations. These changes shall be addressed on the project drawings.  
The hydrant at the end of Torry Pine Drive shall be relocated to the intersection of Torry Pine Drive and Goose Ledge Road.  
Due to the extreme close proximity of these units an additional hydrant shall be installed at the intersection of Thomas Drive and Broken Cove Lane. This is necessary because a fire in a unit adjacent to a hydrant will render it unusable by the fire department.

***HYDRANT LOCATION NOW ACCEPTABLE TO FIRE CHIEF.***

A padlock, approved by the Fire Department, shall be purchased by the developer to be installed on the emergency access gate. The lock shall be keyed identically as the residential key boxes that are in the entire project.

**Joe Charron, Police Chief:** Security gate for construction.

**Chris Bolduc, Rescue Chief:** In the past 30 days the Rescue has responded to 13 calls in a similar subdivision on Thomas Drive. These projects are and will greatly impact emergency medical services in Town. Have impact fees been considered for these projects? I would also like to see floor plans so I can comment on access issues related to moving patients from the residences.

**PEER REVIEWS:** *Note: the following comments were discussed in a meeting with the Applicant, Planner, Public Works Director, project engineer and peer review engineer on*

*11/15/04. The Town is satisfied that any remaining issues can be addressed as part of the final review. This is also true for the items listed by Ralph Oulton for the sewer review.*

**Al Palmer, Gorrill Palmer Associates, P.E. (November 10, 2004) - Mr. Palmer's comments were addressed at the meeting, all can be met for the final approval.**

Information provided to Gorrill-Palmer Consulting Engineers, Inc. for review included:

- ◆ Letter from Northeast Civil Solutions dated October 26, 2004
- ◆ Plans consisting of:

Number	Name	Revision Date
	Cover/Index Locus	October 27, 2004
2	Existing Conditions Plan	September 14, 2004
3	Preliminary Subdivision Plan	October 27, 2004
4	Grading and Drainage Plan	October 27, 2004
5	Site Utility Plan	October 27, 2004
6-12	Road Plan and Profile	October 27, 2004
13	Erosion & Sedimentation Control Plan	October 27, 2004
14	Erosion and Sedimentation Control Notes	October 27, 2004
15-19	Civil Details	October 27, 2004
20	Pre-Development Watershed Plan	October 27, 2004
21	Post-Development Watershed Plan	October 27, 2004
22	Post-Development Drainage – Pipe Sizing	October 27, 2004
23	Landscape and Lighting Plan	October 27, 2004
24	Photometric Plan	October 27, 2004
	Preliminary Subdivision Plan	October 27, 2004

It is recognized that the plans were submitted as a Major Subdivision Preliminary Plan Review. The comments presented below are intended to provide information relative to potential revisions to the preliminary plan submission, as well as information required for the final plan submission. Therefore, it may be appropriate that some of the comments be addressed as part of the final plan submission depending upon the Planning Boards acceptance of the Preliminary Plans. For ease of review, the comments have been grouped with respect to comment elements where appropriate. At this time, we have attempted to limit our comments to those that affect the layout of the project or that may be of concern to the Planning Board, and have not listed all of the comments that pertain to construction related items. Our office has provided a separate technical memorandum to the Applicant's engineer that provides additional comments that should be addressed prior to final approval and construction. We have maintained the numbering system from our prior comments to ease review.

5. The Applicant has submitted an excerpt of the Homeowner Documents that contains boiler plate information as to Maintenance Responsibilities. It does not appear that it has been modified to address the unique circumstances as to this project. What elements of the project will be maintained by a homeowner's association versus a public entity? Who will maintain the sanitary sewer, the water mains? If the roadways will be maintained by a homeowner's association and the utilities by a public entity, the homeowner's documents should provide sufficient clarity that surface restoration for any utility maintenance is the responsibility of the homeowner's association. For example, the

Town should not be put in the position of having to restore pavement due to having to maintain the sewer.

8. The location of the mailboxes should be shown on the plan so that any impact on circulation can be assessed.
9. Visitor parking has been added to the plan, but appears to be deficient in the area of Units 1-12. The visitor parking between Units 24 and 41 should be deepened so that a parked car does not block the sidewalk.
20. While the grading to the rear of Units 33 and 34 have been revised to incorporate additional area for a backyard, drainage has not been addressed, as a hole has been created that would not appear to drain.
21. Based on the revised plans, it would appear that with additional grading revisions or incorporation of retaining walls that usable backyards could be provided for Units 19, 20 and 35. Our office remains concerned with Units 12, 15 and 32. These units appear to have no usable backyard due to the proximity of the units to the rear, and the grading differences between the units. The attached figure depicts this area. We would recommend that the Board consider these areas and provide guidance to all parties as to whether any changes are warranted. Perhaps some re-configuration of the units should be considered, as shown on the attached Figure 2. In addition, as Unit 36 is closest to Route 1, a 50' to 60' shift in Goose Ledge Road closer to Route 1 would not reduce the Route 1 buffer below what is proposed by the Developer as a minimum, but would provide improved building separation.
25. The Applicant indicated that the style of gate at Route 1 would be changed to an aluminum bar type gate with Knox Box and reflectors, but the detail on the plans remains unchanged.
26. The Applicant has agreed that the proposed ponds should be used as sediment ponds during construction, but has not provided sedimentation basin calculations to demonstrate that the size of the basins are adequate, and what temporary outlet structure will be provided.
27. We will await the results of the MDEP review of the Stormwater Aspects of the project. As the project appears to include in excess of 3 acres of non-vegetated surface, it would appear that water quality treatment would be required.
30. Roadway slope at 75' from intersections on both ends of Goose Ledge Road exceed 3% standard in ordinance. Profile should be revised to reduce slope to no greater than 3% within 75' of both intersections
31. It appears that the Applicant has revised the stormwater maps in an attempt to address some of the issues raised in our Technical Memorandum #1; however, no updated calculations have been provided.

**Ralph Oulton, MACTEC Engineering. 11/5/04:**

The following design review comments by MACTEC are based on the following drawings dated 10/27/04, unless otherwise noted, prepared by Northeast Civil Solutions, Inc:

- 1 Cover/Index/Locus
- 4 Grading and Drainage Plan
- 5 Site Utility Plan
- 10 Sewer Plan & Profile Broken Cove Lane
- 11 Sewer Plan & Profile Broken Cove Lane
- 12 Sewer Plan & Profile
- 18 Sewer Details
- 24 Landscape & Lighting Plan

Design review comments are listed below by the drawing number to which the comment applies.

Sheet 1. Index

OK.

Sheet 4. Grading and Drainage Plan

Complete the grading for Northwest berm of Pond #1, the side closest to Route 1.

Sheet 5. Site Utility Plan

1. Show the existing water pipelines on Route 1 and Thomas Drive.
2. Show the size of the proposed water main.

Sheet 10. Sewer Plan & Profile Broken Cove Lane

1. Show the house service connections on the sewer plan or show a standard detail showing where the individual sanitary house service exits the building.
2. The length of sewer shown in the profiles should be measured from the center of manhole to the center of manhole minus 4 feet.
3. The minimum drop within a 4' diameter manhole shall be 0.10'.
4. Delete the invert into SMH #1.
5. House Connections shall not be connected directly to manholes. SMH-1 shall be moved East to pick up the house sewer service from units #1 and 3.
6. 2" rigid insulation board shall be placed between the storm drain and the sanitary sewer @ STA 105+30. The insulation board shall be the width of the sewer trench and extend 6' either side of the crossing. All storm drains that are within 24" vertically of the sewer pipe shall be provided with insulation between the pipes.

Sheet 11. Sewer Plan & Profile Broken Cove Lane

1. The minimum drop within a 4' diameter manhole shall be 0.10'.
2. SMH-6 @ STA 109+40 appears to be too deep, approximately 12' deep. Consider raising the invert from 84 to 86.
3. SMH-6 to SMH-7. The minimum slope for this section should be 0.01'/ft. This sewer carries the total flow from the development.
4. Provide insulation between the 18" storm drain and the sewer at STA 110+20.
5. Show the existing water main on Route 1.
6. Provide a Ripley Dam or clay waterstop from bottom of pipe bedding to 12" above the pipe crown @ STA 110+50.

Sheet 12. Sewer Plan & Profile

1. For Torrey Pine Drive sewer move SMH-8 South as required to connect the house service from units #29 & 31 to the 8" sanitary sewer.
2. Provide 2" thick rigid insulation board over the stone bedding for any sewer that has less than 4.5 feet of cover over the pipe crown.
3. Delete the stubs from SMH-8. House connections will not be connected directly into manholes.
4. Move SMH-10 North as required to connect the house service from unit #36 to the sanitary sewer.
5. The minimum drop within a 4' diameter manhole shall be 0.10'.
6. SMH-11 appears to be at least 5' too low.



7. On Goose Ledge Road show the water main crossings and add a note at the crossing @ STA 130+10 that the water main will have a full length of DI pipe centered on the sewer crossing. The sewer pipe will have a full length of pipe connected to the 2' long manhole stub.
8. Provide 2" Styrofoam insulation board over or under any culvert that is installed within 24" of the sanitary sewer.
9. Provide a Ripley Dam or clay waterstop from bottom of pipe bedding to 12" above the pipe crown @ STA 134+20.

Sheet 18. Sewer Details

1. House Connections shall not be connected directly into manholes.
2. Provide a specification for common fill.
3. In the sewer trench section, add a note indicating that satisfactory excavated material can be used for backfill above the line of narrow trench limit.
4. The pipe bedding for PVC pipe shall be ¾" crushed stone only.
5. Under General Notes for Manholes:  
Delete the second and third sentence under item #4  
In item #6 delete masonry and cast in place.
6. Under General Notes: In Note #5, delete the words 'City Stock Yard' and 'These existing materials may be reused as directed by the project engineer.'
7. In the Precast Concrete Manhole Type "A" Detail:  
The Frame and cover shall be equal to Etheridge M267S, 26" diameter cover and 24" clear opening.  
Provide 2' long stubs for all pipes entering or leaving sewer manholes.  
The manhole rungs shall be ½" steel reinforced PP steps.  
The inverts and benches shall be made of preformed fiberglass.  
Remove the note 'cut back pipe to manhole ID.'  
Add a note that all sewer pipes shall be installed with the bells upgradient.  
The manholes shall be vacuum tested and the sewer pipeline tested using a low pressure air test. The procedure used shall be approved by the Town.  
For shallow depth manholes the cone can be 2' deep.
8. The plan is drawn incorrectly. Both the cone and cover are not located properly.
9. The rubber boot for the sewer pipe penetrations into the manhole shall have at least two SS clamps.
10. Add a note indicating that all sewer pipe used shall be SDR-35, meeting the requirements of ASTM 3034. Pipe shall have gaskets and be installed with bells uphill.

Sheet 24. Landscape & Lighting Plan

1. No conflicts between trees or lighting and the proposed sanitary sewer.

**COMPLETION CHECKLIST:**

BASED ON APPENDIX D - MAJOR SUBD. SUBMISSION REQUIREMENTS

LOCATION MAP	YES/NO	NOTES/COMMENTS
Scale 1"=1000'	Yes	
Shows area 1000' from Property lines	Yes	
All existing subdivisions abutting	Yes	

or across street		
Apx. track lines of adj.& abutting parcels	Yes	
Apx. track lines across street	Yes	
Location, widths and names of existing/proposed streets,	Yes	
Location, width and name of existing/proposed easements	N/A	
Location of existing/proposed bldg. lines	Yes	
Boundaries & designations of zoning districts, parks, public spaces	<b>Conservation easement line shown, but open space not labeled.</b>	<i>Plan will be changed to show "conservation area"</i>
Outline of proposed subd. w/ street system	Yes	
Future probable st. system of remaining portion of tract	N/A	
<b>Preliminary Plan</b>		
15 copies	Yes	
1"=100' for general plan	1"= 40'	
<b>1"=40' for required improvements</b>	<b>1"=50'</b>	<i>Waiver request</i>
Proposed subd. name & name of municipality	Yes	
Name & address of record owner, subdivider, and designer of preliminary plan	Yes	
Date of plan submission, true north & graphic scale	Yes	
# of acres w/in subd.	Yes	
Location of property lines	Yes	
Existing easements	None shown	
Buildings	Yes	
<b>Watercourses</b>	<b>None shown, but NRPA references a stream. ?</b>	<i>DEP unclear if this is a stream, but 75' setback is in place.</i>
Other essential existing features	Yes	
Names of adj. subdivisions	Yes	
Names of owners of record of adjacent acreage	Yes	
Space & setback of district	Yes	
Any zoning districts boundaries affecting subd.	Yes	
Location & size of existing or proposed sewers, water mains, culverts, hydrants and drains on property	Yes	
Connections w/existing sewer or water systems	Yes	
Private water supply shown	N/A	

Private septic shown	N/A	
Hydro-geologic study (option for Board)	No	
Test pit locations	N/A	
Well locations	N/A	
Signature & lic. # of site evaluator	N/A	
Existing streets: location, name(s), widths w/in and abutting	Yes	
Proposed streets: location, name(s), widths w/in and abutting	Yes	
The above for any highways, easements, bldg. lines, alleys, parks, other open spaces w/in and abutting	<b>No open space shown</b>	<i>Will be shown on next plan</i>
Grades & street profiles of all streets, sidewalks or other public ways proposed	Yes	
2' contour lines	Yes	
High intensity soil survey by cert. soil scientist	<b>A medium-high intensity survey was submitted.</b>	<i>Waiver request – public water &amp; sewer</i>
Soil boundaries & names superimposed on plot plan	Yes	
Deed reference & map of survey of tract boundary by reg. land surveyor tied to established reference points	Deed reference-yes  Boundary survey-metes & bounds of boundary shown on subdivision plan.	
Deed restrictions, if any, described	None	
Surface drainage or stormwater mgmt plan w/profiles & cross sections by a P.E. showing prelim. design and conveyences	Yes	
Proposed lot lines w/ dimensions and suggested bldg. locations.	Yes	
Location of temp. markers in field	No	
All parcels proposed to be dedicated to public use and conditions of such.	None proposed	
Location of all natural features or site elements to be preserved	Yes	
Survey stamped by P.E.	<b>No</b>	<i>Will be done</i>
Soil surveys w/# of soil scientist	No	
Septics plan w/ # of prof. site evaluator	n/a	
Geological evals w/ reg. geologists number	n/a	
Architect w/ seal	<b>No</b>	<i>For final review</i>

Mr. Neagle moved to grant the two waiver requests and deem the application complete subject to Ms. Nixon's comments.

Waivers granted: 1. 1" = 40' for required improvements to 1" = 50'  
2. High intensity soil survey by certified soil scientist.  
A medium-high intensity survey was submitted.

Ms. Howe seconded.

VOTE: Unanimous

**The Board proceeded with the Preliminary Approval review.**

Ms. Nixon reviewed the proposed findings of fact as follows:

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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;

*DEP Stormwater, General Construction and Tier 2 Wetlands permits have been applied for, but not yet received. The project will utilize public sewer. A medium-high intensity soil survey has been conducted and was reviewed and approved by the Town Engineer.*  
**Based on the information provided the standards of this section have not been met.**
2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;  
*The proposed subdivision will utilize a public water supply. The other phases of the development are connected to the water line. Adequacy has been evidenced by a letter from the Portland Water District dated 8/30/04.*  
**Based on the information provided the standards of this section have been met.**
3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;  
*The proposed subdivision will utilize a public water supply. The other phases of the development are connected to the water line. A letter dated 8/30/04 from the Portland Water District indicates that the project will not cause an unreasonable burden on the existing water supply.*  
**Based on the information provided the standards of this section have been met.**
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

*The Applicant has provided a detailed Erosion and Sedimentation Control Plan that has been reviewed and approved by the Town's peer review engineer. The plan has been submitted to the Cumberland County Soil and Water Conservation Commission, but approval has not yet been granted.*

**Based on the information provided the standards of this section have not been met.**

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

*The Applicant provided traffic counts which were questioned by the Town Engineer. A letter dated 10/18/04 from William Bray, P.E., provided further information which satisfied the Town Engineer.*

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

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

*The subdivision will utilize public sewer. A letter has been received from the Falmouth Superintendent of sewers stating there is adequate capacity.*

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

6. 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;

*A letter from Regional Waste Systems is required indicating capacity to serve. Also a contract between the developer and RWS is required for the period of time until the homeowners association takes over this responsibility. The homeowners' documents should reflect this as well.*

**Based on the information provided the standards of this section have not yet been met.**

7. 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;

*The Applicant has provided a letter from the Maine Historic Preservation Commission dated 8/24/04 indicating there will be no effect upon historic properties. The Applicant has also submitted a letter dated 8/30/04 from the MDIF&W stating that there are no unusual wildlife or other natural values specific to the site.*

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

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

*The plans are being reviewed by staff and the peer review engineers, Al Palmer and Ralph Oulton. There remain some items that need to be addressed for final approval, but the submissions to date are satisfactory for preliminary approval.*

**Based on the information provided the standards of this section have not been met.**

Mr. Neagle asked about the waiver request for the esplanade width. He asked the opinion of the Town's peer reviewer on the request.

Ms. Nixon stated it was discussed at the meeting; it is a curbed section so there is not the concern of the gravel washing away. It is a narrow esplanade; the alternative is to not have an esplanade. The Engineer does not have a problem with the request because of the design.

Mr. Neagle stated the Ordinance allows the Board to waive submission requirements, but he was not aware that the Ordinance allows the Board the authority to waive design standards.

Ms. Nixon stated the Board does grant waivers for the road design standards. Ms. Nixon stated the Board does have the right to waive items in subdivision ordinance. The Board does not have the authority to waive items in the zoning ordinance.

Mr. Neagle read Section 8.4.D.2 which states ...separated from the paved portion of the road by a grassy esplanade within a minimum width of 4 feet). Section 8.4.D.1 states, sidewalk construction shall comply with Section 608 of the Maine Department of Transportation Standard Specifications.

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;  
*Technical capacity has been evidenced by the use of professional engineers, soils scientists, surveyors. Financial capacity has not yet been provided.*  
**Based on the information provided the standards of this section have not 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;  
*Wetland areas have been mapped on the plans and construction will avoid these locations. The Applicant has submitted the plans to MDEP for a NRPA Tier 2 permit.*  
**Based on the information provided the standards of this section have not been met.**
  
12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;  
*The proposed subdivision will utilize public sewer. Environmental impacts are being assessed by MDEP.*  
**Based on the information provided the standards of this section have not 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;  
*Based on a review of the FEMA Maps, no portion of the site is located in flood zone.*  
**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;  
*The applicant has provided a "Stormwater Management Report" that has been reviewed by the Town's peer review engineer. There are several outstanding issues which will be addressed for final review.*  
**Based on the information provided the standards of this section have not been met.**
15. Freshwater wetlands. All potential freshwater wetlands, as defined in 30-A M.R.S.A. §4401 (2-A), within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.  
*Freshwater wetlands on the site were delineated. A MDEP Tier 2 permit amendment has been requested for a disturbance of 1,716 sq. ft. of wetlands.*  
**Based on the information provided the standards of this section have not been met.**
16. River, stream or brook.. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any map submitted as a part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9. [Amended; Effective. 11/27/89]  
*No streams have been mapped but reference is made to one in the DEP Tier 2 application, though formal designation by DEP has not been made. Regardless, the plans show the required 75' setback from the area.*  
**Based on the information provided the standards of this section have been met.**

***SECTION 300 – AQUIFER PROTECTION (if applicable)***

*The use is NOT located in the Aquifer Protection district.*

Mr. Hunt stated there are a number of open issues; the application is not ready for Preliminary approval.

Mr. Lee Alan of Northeast Civil Solutions, representing LSH Holdings, and John Moody, stated the plan has been revised to meet the required Ordinance and BOCA (Building Code) requirements. The plan includes 6-triplex units to allow for more than 30-foot building separation. The roads are not intended to be public. The plan has visitor parking spaces centrally located throughout the development. The developer is looking into alternatives to allow a connection to the trail, with a boardwalk system which would not impact the wetlands.

Mr. Neagle asked about the waiver of the esplanade width.

Mr. Lee stated the purpose of the waiver to is maintain continuity between Phases I – III and Phase IV. Phases I – III were designed with a 1 ½ foot esplanade.

Mr. Neagle stated he is not in favor of waivers, and stated the Ordinance only allowed waivers in the presence of a hardship.

Mr. Hunt asked Ms. Nixon for the basis on esplanade construction.

Ms. Nixon stated there is not an illustration showing a typical section of an esplanade.

Mr. Hunt stated in Section 608 sidewalk construction must comply with D.O.T. standards.

Ms. Nixon reviewed Section 8.4 D.2 Freewalk: A freewalk shall be 4-feet wide, shall consist of 2-inch thick asphalt with an 8-inch gravel subsurface and shall be separated from the paved portion of the road by a grassy esplanade with a minimum width of 4-feet.

Mr. Hunt asked if it was freewalk proposed, and the separation is 1 ½ feet instead of 4-feet.

Mr. Neagle stated it appeared that the units could be moved, to comply with the Ordinance. He would not be able to support the waiver. He asked if the Board would hear from the DEP on the trail before final approval.

Mr. Hunt stated design and construction standards in Section 8.2.2 Rural design – The Planning Board shall require the provision of a byway under the rural design standards, which for purposes of this subparagraph A.2. shall include only a freewalk or paved shoulder; provided however, that under the waiver standard set forth in Section 1.5 of this ordinance, a paved shoulder may be substituted for a freewalk, or the requirement of a byway may be waived altogether. Mr. Hunt stated the Board has the option to totally eliminate any esplanade and have the pedestrian byway be simply a shoulder with no separation at all. If there were a compromise between 4' and 1.5 feet it would be allowed. Section 8.4.D describes the type of byways that can be allowed.

Mr. Neagle stated a waiver requires that there is an unnecessary hardship.

Mr. Jim Fisher, of Northeast Civil Solutions, the applicant can put the sidewalk up against the curbing, or have a stripped walkway. The applicant is looking to keep continuity with Phases I-III. They are willing to put an esplanade, but it is not required with a curbed roadway. It will be easier to repair utilities in an esplanade than tearing up pavement. This is a clustered development for an age-restricted community.

Mr. Hunt asked Ms. Nixon to clarify the standards of Section 608 of the Maine Department of Transportation Standard Specifications.

**Mr. Hunt opened the public portion of the meeting.  
There were no public comments.**

Ms. Howe asked about Item # 21 of Mr. Palmer's comments, regarding contours of the land. The first project had issues regarding use of backyards.

Mr. Allen stated each backyard would have minimum 15' depths. There will be either patios or decks.

Ms. Howe asked why Goose Ledge Road couldn't be placed closer to Route One.

Mr. Allen stated the intent is to maintain a tree line buffer.

Mr. Turner asked about drainage issues in the backyards.

Mr. Allen stated that has been corrected.

Mr. Ward asked about the Fire Department's requirement for key lock boxes. He asked if Mr. Palmer's comments have been satisfied.



Ms. Nixon stated yes, for some, the rest will be completed for final review.

**Public comments:**

Mr. Lou Zambello, of 21 Mackworth Lane stated the reason people have chosen to live at Rockwood is to avoid maintenance of backyards. He is very happy at Rockwood and feels it meets the needs of the residents.

Mr. Powers moved to adopt the findings of fact as proposed recognizing that certain standards have not been met.

Ms. Howe seconded. VOTE: Unanimous

Mr. Powers moved to table preliminary approval pending completion of the outstanding items.

Ms. Howe seconded. VOTE: Unanimous

The Board will schedule a Public Hearing for Preliminary and Final approval for the December 21, 2004 meeting.

**3. Application Completeness – Major 8-lot subdivision, Apple Grove Estates, 36 Orchard Road, Tax Assessor Map R08, Lot 63, Rural Residential 2 (RR2) district; Orchard Hill Estates, LLC, applicant: Thomas Terison, owner, Thomas Greer, P.E., Pinkham Greer Consulting Engineers, representative.**

Ms. Nixon presented background information as follows:

**REQUEST & OVERVIEW:**

The applicant is Orchard Hill Estates, LLC. The owner is Thomas Terison. There is an option to purchase in place. The applicant is represented by Thomas Greer, P.E., Pinkham Greer Consulting Engineers. The request is for major subdivision review and approval of an 8 lot traditional subdivision at 36 Orchard Road. The property is shown on Tax Assessor's Map R08, Lot 63. The parcel is 20.78 acres in size and is in the RR-2 zone. The site is an active apple orchard. There are no structures on the site.

Tonight, the Board is asked to determine if the application is complete and schedule a public hearing for the next meeting in December. The Board may also consider the requested waivers and decide if a site walk is needed.

**HISTORY:**     October 19, 2004:     Sketch plan review.

**PROJECT DESCRIPTION:**

- Zoning:                 RR2 (Rural residential 2)
- Subdivision Style:    Traditional
- Min. Lot Size:         2 ac. (87,120 sf) Traditional
- Lot frontage:         200' traditional
- Setbacks:             Front = 50', Rear = 75', Side 30' (combined = 75').

- Roadway No road; 4 shared driveways
- Sidewalk: None proposed
- Water: Private wells on each lot.
- Sewer: Individual private septic systems.
- Aquifer Protection? Yes
- Utilities: The applicant is proposing underground utilities (telephone, cable & electric)
- Lighting: No street lighting.
- Trails: None shown
- Min. Open Space:

Traditional subdivision: 10% of gross lot area = 90,528 sq.ft.

Open space provided: ? acres

? walking trails for residents? Public access permitted?

- Net Residential Acreage:
- 905,288 sq.ft. gross site area (20.78 acres)
  - 0 for wetlands (2,550 sq. ft. to be filled)
  - 0 for ROW or easement
  - 135,793.2 sq. ft. for roads and parking (15% of gross)
  - 0 acres of steep slopes/areas difficult to develop

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= 769,494.9 (17.6 acres)
- Max. # of Lots: The maximum number of lots is calculated by dividing the net residential density (769,494.9) by the minimum lot size of the underlying zone (2 ac.) which yields a maximum of 8.83 lots.

*8 lots are proposed.*

- Outside Agency Approvals Required:
  - MDEP Stormwater permit
  - CCSWCD Approval of Erosion Control Plan

**REQUESTED WAIVERS:**

Stormwater Peak Flow Runoff

**PLANNER'S COMMENTS:**

Pesticides Results Reviewed by State Toxicologist  
 Four shared driveways acceptable?  
 No open space  
 No trails

**PEER REVIEW ENGINEER'S COMMENTS:**

Per your request, we have undertaken a review of the preliminary plans submitted for the subject project, received in our office on October 28, 2004.

Our review was for completeness only, and included drawings C-1, C-2, C-3, dated October 26, 2004, and the application materials provided.

Based upon our review, we offer the following comments for your and the Planning Board's consideration;

- 1) We did not see any reference in the application to fire protection provisions.
- 2) The engineer indicates in their cover letter that they are asking the Planning Board to consider a waiver of the "peak flow" stormwater runoff requirements of the ordinance. The letter indicates the justification for this is that there is no road construction and that a 100-foot no-cut buffer along the back of the property will mitigate stormwater runoff impacts. The plans indicate that this "no-cut buffer" can be mowed up to 3 times per year. We do not agree that a 100-foot buffer will mitigate impacts of increased stormwater runoff rates from a development site.

We do believe, however, that developments of the nature proposed generally tend to have a minimal impact on the rates of stormwater runoff from the site. The applicant indicated that they have undertaken an analysis of the stormwater runoff, but no analysis was submitted with the information we received. (Item B.13 of preliminary plan submission requirements requires the submission of such an analysis) If calculations are submitted which demonstrate a minimal increase, and assumptions utilized in the analysis are included in the development restrictions, we could likely support a waiver of detention requirements for this project.

Shouldn't easements be provided for the common drives where they straddle property lines? Item B.9. of the preliminary plan submission requirements indicates all easements should be shown on the plans.

Note 19 on the preliminary subdivision plan makes reference to MDEP approvals and the Site Location of Development Act. Is this development subject to DEP review?

What is the source of the topography?

Those were the completeness issues we noted. We ask that the applicant include in the next submission:

A stormwater runoff analysis

Sight distances at the most northerly and southerly driveways

It appears some ditching along Orchard Road may be necessary to improve drainage and allow the proper installation of driveway culverts. We will further review this issue with a future site walk.

DEPARTMENT HEAD REVIEWS:

Fire Chief Small: There is no indication of what fire protection measures will be engineered into this project. Fire protection intentions must be identified prior to fire department project approval.

Police Chief Charron:  
 Rescue Chief Bolduc:  
 Bill Longley, CEO:  
 Adam Ogden, Public Works Director:

VIII. Cumberland Town and Lands Conservation Commission - Jennifer West, Co-Chair—  
*Awaiting written comments.*

CHECKLIST - COMPLETION CHECKLIST  
 BASED ON APPENDIX D  
 MAJOR SUBDIVISION SUBMISSION REQUIREMENTS  
 Orchard Ridge

LOCATION MAP	YES/NO	NOTES/COMMENTS
Scale 1"=1000'	yes	
Shows area 1000' from Property lines	No, only 200' to the north	
All existing subdivisions	yes	
Apx. track lines of adj.parcels-abutting	yes	
Apx. track lines across street	yes	
Location of existing/proposed streets, easements & bldg. lines	yes	
Names of existing/proposed streets, easements & bldg. lines	yes	
Boundaries & designations of zoning districts, parks, public spaces	yes	
Outline of proposed subd. w/ street system	yes	
Future probable st. system of remaining portion of tract	N/A	
Preliminary Plan		
15 copies	yes	
1"=100' for general plan	yes	
1"=40' for required improvements	yes	
Proposed subd. name & name of municipality	yes	
Name & address of record owner, subdivider, and designer of preliminary plan	yes	
Date of plan submission, true north & graphic scale	yes	

# of acres w/in subd. & net residential acreage calcs.	yes	
Location of property lines	yes	
Existing easements	yes	
Buildings	yes	
Watercourses		
Other essential existing features	yes	
Names of adj. subdivisions	yes	
Names of owners of record of adjacent acreage	yes	
Space & setback of district	yes	
Any zoning districts boundaries affecting subd.	yes	
Location & size of existing or proposed sewers, water mains, culverts, hydrants and drains on property	N/A	
Connections w/existing sewer or water systems	N/A	
Private water supply shown	yes	
Private septic shown	yes	Test pits shown-need 100' well separation shown
Hydro-geologic study (option for Board)	yes (Sweet Associates)	
Test pit locations	yes	
Well locations	Well exclusion zones shown	
Signature & lic. # of site evaluator	yes	
Existing streets: location, name(s), widths w/in and abutting	yes	
Proposed streets: location, name(s), widths w/in and abutting	N/A	
The above for any highways, easements, bldg. lines, alleys, parks, other open spaces w/in & abutting	N/A	
Grades & street profiles of all streets, sidewalks or other public ways proposed	N/A	
2' contour lines	yes	
High intensity soil survey by cert. soil scientist	yes	
Soil boundaries & names superimposed on plot plan	Not on plot plan	
Deed reference & map of survey of tract boundary by reg. land surveyor tied to	yes	

established reference points		
Deed restrictions, if any, described	none	
Surface drainage or stormwater mgmt plan w/profiles & cross sections by a P.E. showing prelim. design and conveyences	Waiver Request	
Proposed lot lines w/ dimensions and suggested bldg. locations.	yes	
Location of temp. markers in field	yes	
All parcels proposed to be dedicated to public use and conditions of such.	None- N/A	
Location of all natural features or site elements to be preserved	Trees to be saved not depicted.	
Survey stamped by P.E.	yes	
Soil surveys w/# of soil scientist	yes	
Septics plan w/ # of prof. site evaluator	yes	
Geological evals w/ reg. geologists number	yes	
Architect w/ seal	N/A	

Ms. Nixon stated the application is substantially complete.

Mr. Alan Burnell, representative of Pinkham Greer Consulting Engineers reviewed the proposed 9-lot subdivision plan. He stated lots 1 – 8 will have shared driveways. Common driveway easements will be provided; maintenance of the driveways will be addressed in the homeowners' agreement. Fire protection will be discussed with the Fire Chief. The applicant is requesting a surface drainage or stormwater plan waiver. The current culvert under Orchard Road is undersized. A new properly sized culvert and ditching of Orchard Road will correct the situation. This will eliminate the need for a detention pond. The proposed subdivision will not be clustered to eliminate infrastructure.

Mr. Powers asked why a waiver was requested to replace the culvert.

Mr. Burnell stated for the peak run-off pre and post development to be the same they would need to build a detention pond.

Ms. Howe asked if the 3.82-acre buffer was open space.

Mr. Burnell stated the 75' buffer could specify no cut.

Mr. Tom Terison asked about open space.

Mr. Hunt stated the Planning Board may require a developer to dedicate easements no less than ten feet wide of areas of subdivisions shown on the greenbelt map. There is also a provision that depending on size and location of the proposed subdivision the Board may require the developer to provide up to 10% of the total land area for recreation. It is desirable that these areas be at least 5-acres in size and easily accessible from all lots. There are provisions in the Ordinance regarding open space.

Mr. Neagle asked about trails and if any of the existing Lot 9 abutted the pipeline.

Mr. Terison stated yes.

Mr. Neagle stated easements and trails from the pipeline to the property should be shown on the plan.

Mr. Terison asked if Mr. Neagle understood there were public trails on his property.

Mr. Neagle stated he did not mean to suggest there were any deeded rights or public trails on the property. He meant trails occasionally used by the public.

Mr. Neagle asked about the watercourse after the new culvert was installed.

Mr. Burnell stated the watercourse would remain the same, and no one would be flooded down stream.

Mr. Turner asked about fire protection.

Mr. Burnell stated the subdivision could have a dry hydrant, fire pond, or the houses could have sprinkler systems. He will be discussing fire protection with the Fire Chief.

Mr. Turner moved to find the application for a minor 9-lot subdivision, Apple Grove Estates, at 36 Orchard Road complete and schedule a public hearing for the December 21, 2004.

Ms. Howe seconded.

VOTE: 6 in favor (Howe, Turner, Hunt, Powers, Couillard, Ward)  
1 opposed (Neagle)

The Board scheduled a tentative site walk date of December 4, 2004.

**5. Application Completeness – Major 27-lot residential subdivision and eight acres of commercial property that will be developed Cumberland Foreside Village, Tax Assessor Map R01 Lot 11, US 101, Cumberland Foreside, ME. Representative; Peter Kennedy, owner.**

**6) Application Completeness – Minor 3-lot subdivision – Amanda’s Way, Tax Assessor Map U10, Lot 1A, Cumberland Foreside, ME. Representative; Peter Kennedy, owner.**

**7. Public Hearing – Recommendation to the Town Council on proposed Capital Improvements Plan.**

Ms. Nixon presented background information as follows: The Department Heads met recently and prioritized the proposals. The Board is now asked to review these proposals for conformance with the Comprehensive Plan and overall planning objectives for the Town. A recommendation to the Town Council is required.

Ms. Howe asked if the Capital Improvement Plan was a 6-year plan.

Ms. Nixon stated a five-year rolling plan; the concept is to put things on the radar screen for long range planning.

Ms. Howe asked about funding.

Ms. Nixon stated she was not sure of the dollar amount.

Mr. Ward stated it might be helpful to have Mr. Shane (Town Manager) present at the beginning of the process for information. He would like to hear from the Manager how the Planning Board fits in the process.

Ms. Howe stated for any Town that is serious about controlling and shaping growth, it is essential to have a Capital Improvement Plan.

Mr. Powers moved to table the item and invite Mr. Shane to meet with the Planning Board.

Adjournment: 9:40 p.m.

A TRUE COPY ATTEST:



Philip C. Hunt, Board Chair



Pam Bosarge, Board Clerk



## Planning Board Meeting

Tuesday, December 21, 2004  
Cumberland Town Hall  
290 Tuttle Road, Cumberland, Maine  
7:00 PM

### A. Call To Order

The meeting was called to order at 7:00 p.m.

### B. Roll Call

Present: Phil Hunt, Chair, Tom Powers, Vice-Chair, Terry Turner, Beth Howe, Bill Ward, Chris Neagle, Bob Couillard

Staff: Carla Nixon, Town Planner, Pam Bosarge, Board Clerk

### C. Minutes of Prior Meetings

Ms. Howe moved to approve the minutes of the November 16, 2004 meeting with technical corrections.

Mr. Powers seconded.

VOTE: Unanimous

### D. Consent Calendar / Deminimus Change Approvals:

There were no Consent Calendar Items.

### E. Hearings and Presentations

1. **Sketch Plan Review – Minor 4-lot subdivision – Roy Hill Road, Chebeague Island,** Tax Assessor Map I03, Lot 130A, Tom Fernandez, applicant; Jeffrey Perry, Sebago Technics, representative.

Mr. Hunt was recused; a member of his firm had represented the applicant.

Mr. Perry of Sebago Technics stated he had presented a sketch plan at the August 2004 meeting. Mr. Perry reviewed the proposed four-lot subdivision. The existing residence and access off of Roy Hill Road will be Lot # 1. The remaining three lots will be accessed from a proposed private way. Each lot will meet the minimum space and bulk standards of the underlying zone. The four lots comprising 8.7+- acres will be located in the easterly portion of the 15.4-acre parcel. The applicant will be conveying the remaining 6.7+- acres to the southerly abutter (Bisharat). The conveyance comprises all of the parcel's wetlands as well as some upland area. The applicant is proposing a 750' foot private road, preliminary soils testing shows passing soils. The applicant looks forward to being back to the Board in the spring.

Mr. Neagle asked about the road abutting current property owners' land.

Mr. Powers asked about a buffering plan for the new road.

Mr. Perry stated the road is proposed to have a 50' right-of-way, but could be changed 60 feet.

Mr. Turner asked if they were proposing a paved private road.

Ms. Nixon stated the subdivision ordinance requires roads be built according to the standards of Table 8.2 of the subdivision ordinance. Mr. Cochran the developer of Wellstone Drive requested a waiver of the paving standards and the Board was not amenable to that request.

Mr. Powers stated a sketch plan is not a public hearing, but the practice of the Board is to entertain public comments. He asked if there were any public comments.

Mr. Michael Porter, of 27 Soule Road stated he was concerned with the significant old trail that runs through the property. Mr. Porter presented a drawing with trails of the Island.

Mr. Neagle asked if the trail that ran through the Fernandez property was still utilized.

Mr. Porter stated yes, and he was hopeful the landowner would be able to accommodate the people on the Island and establish an alternate trail, or allow continued use of the existing trail.

Mr. Powers asked if there was an organization or formal group that utilized the trail.

Mr. Porter stated there is no formal group.

Ms. Nixon stated she received a telephone call from Mr. Maxon stating that he was the owner of the property on the plan marked unknown. Mr. Maxon also clarified that Mark and Anita Holtzman own the parcel marked as being owned by Janine Palmer. Ms. Nixon asked about the Net Residential Acreage.

Mr. Perry stated at the August meeting that the parcel could support 7-lots.

Mr. Powers stated the Net Residential Acreage might be different with 6.7-acres conveyed to the abutter (Bisharats).

The Board took no action.

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**2. Public Hearing – Application Completeness and Minor Site Plan Review –  
Lucinda’s Day Spa; Cumberland Business Park, Tax Assessor Map R02D, portion of Lot 1,  
Scott Decker, SYTDesign, representative, Guidi Flash Holdings, LLC, owner.**

Mr. Hunt stated that Lucinda’s was tabled at the last meeting to allow the applicant to determine if access from Route One would be acceptable or if the Ordinance would require an entrance from Powell Road. The Board will first determine application completeness. If the application is complete the Board will proceed with Minor Site Plan Review. The Board conducted a site walk on December 11, 2004. At the site walk residents shared features of the property; a Cumberland Police officer gave his perspective on the intersection of Powell Road and Route One; and the developer’s traffic engineer was present.

Ms. Nixon presented background information as follows: The applicants are Lucinda Malbon and Robert Tgettis of 307 Beech Ridge Road, Scarborough, Maine. The Applicants have a purchase and sale agreement on Lot # 1 of the Cumberland Business Park, Tax Map R02D in the Office Commercial zone on Route One. This purchase and sale agreement expires on January 30, 2005.

The owner of the property is Guidi Flash Holdings, LLC. Scott Decker of SYTDesign prepared the site plan. He will be representing the applicant. Ronald Carpentier conducted the 1995 boundary survey. The parcel is 2.7 acres in size.

The application received Board of Adjustment and Appeals Special Exception approval on 10/21/04. This approval was required for the proposed use of providing personal services.

Ms. Malbon would like to expand her day spa business currently located in Scarborough. This would be a second location for her day spa. She anticipates employing approximately 16 people: 12 technicians and 4 support staff. The hours of operation would be from 8:00 a.m. to 9 p.m., Monday-Saturday.

Access to the site is proposed to be from Route 1. An MDOT Entrance Permit has been received.

The parcel will be serviced by underground telephone, electric and cable via a CMP pole near the driveway entrance.

Tonight the Planning Board will determine if the application is complete and then consider the plan for approval. Ann Archino-Howe, of SYTDesign Consultants, and Charlotte Maloney of Gawron Turgeon Architects, are representing the applicant tonight.

#### PLANNER'S COMMENTS/QUESTIONS:

1. Landscaping Plan: Charlotte Maloney is revising the plan to include some berming and additional evergreen trees along the Route One and Powell Road frontage. This could be listed as a condition of approval subject to the Planner's review and approval.

#### DEPARTMENT HEAD COMMENTS:

Dan Small, Fire Chief:

*NOTE: THESE HAVE BEEN ADDED AS NOTES TO THE PLAN.*

The building shall be equipped with a fire alarm system that is monitored by an approved fire alarm company. (The system shall 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 building shall be equipped with a key box approved by the fire department. The key box shall be electronically connected to the fire alarm system to show a trouble signal whenever the box is in the open position.

The building shall meet the requirements of the National Fire Protection Association Life Safety Code. These requirements cannot be determined until a complete set of building drawings are reviewed. For this type of building the requirements typically address, but may not be limited to: building exiting, emergency lighting and fire extinguishers.

Any above ground fuel storage shall meet the appropriate standard of the National Fire Protection Association. Attention to building and property line set back requirements should be included as part of the site plan review.

Fire Protection requirements have not been identified within this application. However, there are fire hydrants within the immediate area of this project, which should satisfy the fire protection needs outlined in the Town's Ordinance.

On November 1, 2004, the Fire Chief met with Ms. Wendi Holden from Gawron Turgeon Architects. The architectural firm is considering the installation of a fire sprinkler system to minimize an "institutional" interior image of the building that is required due to firewalls and the like required by the fire and building code. Should a fire sprinkler system be installed, it shall meet the requirements of the National Fire Protection Association. The fire department connection shall be equipped with a 4" locking coupling that is located in an area that is approved by the fire department. The sprinkler system shall send a water flow signal to the fire alarm panel whenever water is moving throughout the system.

Access to the building shall be adequate enough to accommodate fire department apparatus.

AL PALMER, PEER REVIEW ENGINEER, GORRIL PALMER:

The Applicant has addressed all of our comments. From a civil engineering standpoint, it appears that:

- The submitted plans, narratives and other information appear to conform to standard engineering practice.
- The submitted plans, narratives and other information appear to comply with the requirements of the Town of Cumberland Zoning Ordinance

RALPH OULTON, MACTEC ENGINEERING, SEWER PEER REVIEW:

The information on wastewater flows provided by SYTDesign were reviewed and agreed upon based on my email of December 3, 2004. Assuming that the developer has obtained the needed 5 sewer user units from Jim Guidi, the project is ready to be connected to the sewer.

Mr. Chris Neagle stated Ms. Nixon is one of the best planners he has worked with, and apologized if he offended her at the last meeting.

Mr. Turner asked if the Town's peer reviewer had reviewed the traffic report of Mr. Murphy.

Ms. Nixon stated Mr. Palmer of Gorrill Palmer Consulting Engineers reviewed the plan. The Department of Transportation issued a permit, the Department of Transportation (D.O.T.) is qualified to determine safety, and felt the entrance from Route One was appropriate.

Mr. Neagle asked if the standards of Section 206.8.2.5 were met.

Ms. Nixon stated a letter from Jack Murphy; the applicant's traffic engineer was presented at the site walk.

**Mr. Hunt opened the public portion of the meeting for additional comments on access.**

Ms. Jennifer Richard, of 32 Powell Road stated she had driven through Yarmouth and there are twenty-three entrances in a ½ mile stretch of Route One. Ms. Richard stated Powell Road is a residential road and Route One is better suited to handle commercial entrances.

Ms. Amy Visentin, of 14 Powell Road agreed with Ms. Richard's comments and feels the safer access would be Route One.

Mr. Hunt stated the Section 206.8.2.5 of the Ordinance states.. *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.* The Ordinance requires the Board to give preference to the less traveled road unless the applicant can demonstrate that the more heavily traveled road can provide greater safety to the public. This is a difficult issue, as the presumption is that the less traveled road would have preference. The residential street is a modest connector road between Route One and Route 88 and evidence has been provided to show that Powell Road intersects Route One at an odd angle.

Mr. Ward stated he was in favor of the Route One entrance.

Mr. Powers stated this is a difficult matter. He truly believes a feeder road is less likely to create an accident situation. Traffic on Route One is traveling faster and an accident would have more severity. Mr. Powers stated the Department of Transportation and traffic engineer have provided information that Route One is a safe choice for the access. He would agree with the experts and the residents and who have testified that Route One is a satisfactory access.

Mr. Turner agreed with Mr. Powers that the entrance to Powell Road was skewed. The site walk didn't resolve his concerns; D.O.T. issued an entrance permit for Route One, and the Town's peer review engineer didn't confirm the safety of the Route One entrance.

Ms. Howe stated she is not in favor of more curb cuts on Route One, however, the D.O.T. issued an entrance permit, and the shoulder would allow cars to go around a northbound turning vehicle. It was visible from the site walk that if two cars were turning onto Powell Road the turning again into an entrance to Lucinda's would be difficult.

Mr. Couillard agreed that Powell Road traffic could be backed up; Route One has good sight distance, he is in favor of the Route One entrance.

Mr. Neagle stated the site walk convinced him there is less potential for traffic on Powell Road.

Mr. Hunt stated he agreed with Mr. Powers that both roads have faults. The number of curb cuts on Route One are modest, there are only two additional curb cuts authorized in the original Cumberland Business Park subdivision approval. The applicant has provided evidence that Route One is safe.

The Board conducted a straw pole on whether Route One was an acceptable access.  
5 in favor (Couillard, Hunt, Powers, Ward, Howe)  
2 opposed (Neagle, Turner)

The Board continued with the Site Plan Review

Ms. Nixon stated the landscaping plan is not yet finalized. Ms. Charlotte Maloney from Gawron Turgeon Architects is present to represent the applicant.

Ms. Maloney reviewed the landscaping plan. There will be 10' pines, 3' tall burning bushes, spruce, and berms, where possible.

Mr. Neagle stated the applicant had done a good job addressing the Route One guidelines.

Mr. Couillard asked about the trees in the parking lot islands.

Ms. Maloney stated the Donald Wyman Crab trees will be approximately 6' to 8' tall at planting and will grow to 20', and under planted with Junipers.

Ms. Howe asked what type of spruce trees.

Ms. Maloney stated Colorado Spruce.

Ms. Howe moved to find the application for Minor Site Plan Review for Lucinda's Day Spa complete.

Mr. Powers seconded.

VOTE: Unanimous

Mr. Ward complimented the applicant on the drawings, there is a substantial gully which will be enhanced with the addition of a berm.

Mr. Neagle asked if the plans would be revised to show the added berm.

Ms. Nixon stated yes.

**The public portion of the meeting was opened. There were no public comments.**

Ms. Howe moved to approve the findings of fact as presented for Minor Site Plan Review for Lucinda's Day Spa at the Cumberland Business Park, Tax Assessor Map R02D, portion of Lot 1.

Mr. Ward seconded.

VOTE: 6 in favor (Howe, Couillard,  
Neagle, Hunt, Powers, Ward)  
1 opposed (Turner)

### **Findings of Fact**

Note: Section 206.7.6 states that the Planning Board may waive any of the submission requirements based upon a written request by the applicant. A waiver may be granted only if the Board finds that the information is not required to determine compliance with the standards and criteria.

#### **Sec. 206.8 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.

##### **.1 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 building site is generally flat and there are no environmentally sensitive areas. An erosion and sedimentation control plan was reviewed and approved by the Town Engineer.**

*The Board finds the standards of this section have been met.*

.2 Traffic Access and Parking

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

- .1 Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- .2 Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- .3 The grade of any proposed drive or street must be not more than +3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- .4 The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service D, or better, following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- .5 Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
- .6 Where it is necessary to safeguard against hazards to traffic and pedestrians and/ or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

- .7 Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- .8 The following criteria must be used to limit the number of driveways serving a proposed project:
  - a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
  - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

**The proposed access is from Route One. An MDOT Entrance Permit has been received. In the granting of this permit, MDOT looks at the safety of the proposed entrance. There is very good sight distance in each direction. The Board has conducted a site walk to look at the two possible entrance locations: Route One and Powell Rd. The Powell Road location has some drawbacks due to the skewed intersection with Route One. There is a letter from the Applicant's traffic engineer, John Murphy, stating that the Route One entrance is the safer location. The abutters have also provided testimony to this and have pointed out that there are a number of pedestrians who walk along Powell Road. The Board has found by a 5 to 2 vote with Mr. Neagle and Mr. Turner dissenting that the proposed access on Route One is superior to the proposed access from the Powell Road and is therefore appropriate notwithstanding that the Powell Road is a less traveled way.**

***The Board finds the standards of this section have been met.***

**.3 Accessway Location and Spacing**

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

**The Town's peer review engineer has reviewed the plan and finds this section to be in conformance with the ordinance.**

***The Board finds the standards of this section have been met.***



#### .4 Internal Vehicular Circulation

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

- .1 Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.
- .2 Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- .3 The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- .4 All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

**The parking lot layout allows for anticipated number of staff and patrons and the consideration of overlapping appointment times. The location of the parking areas will not impede internal circulation. There is a clear lane for delivery vehicles to a side building entrance.**

*The Board finds the standards of this section have been met.*

#### .5 Parking Layout and Design

Off street parking must conform to the following standards:

- .1 Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- .2 All parking spaces, access drives, and impervious surfaces must be located at least fifteen (15) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within fifteen (15) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

.3 Parking stalls and aisle layout must conform to the following standards.

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

- .4 In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- .5 Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- .6 Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

**The proposed parking plan has been reviewed by the Town Engineer. It is in conformance with the Ordinance and will meet the anticipated needs of the business.**

*The Board finds the standards of this section have been met.*

.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 existing sidewalks on or off-site for connection. The customers' will be exiting their vehicles and walking the short distance to the building.**

*The Board finds the standards of this section have been met.*

.7 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.

- .1 To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- .2 Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- .3 The applicant must demonstrate that on - and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he / she will be responsible for whatever improvements are needed to provide the required increase in capacity and / or mitigation.
- .4 All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- .5 The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- .6 The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- .7 The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

**The direction of post development stormwater runoff will not change from the assumptions made in the stormwater management plan that was approved by the Cumberland Planning Board and the Maine Department of Environmental Protection in 1995. Runoff will flow from the site either overland or via the Route one drainage ditch to the stream that flows across Route One and southerly along the easterly property line to and across Route 88 to discharge into Broad Cove.**

***The Board finds the standards of this section have been met.***

.8 Erosion Control

- .1 All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and / or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.
- .2 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

**An erosion and sedimentation control plan has been reviewed and approved by the Town Engineer.**

***The Board finds the standards of this section have been met.***

.9 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.

**There is a letter dated November 16, 2004 from the Portland Water District indicating capacity to serve.**

***The Board finds the standards of this section have been met.***

.10 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.

**There is a letter dated November 16, 2004 from the Portland Water District indicating capacity to serve. Sewer user permits will be provided by Mr. Guidi upon closing.**

***The Board finds the standards of this section have been met.***

.11 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.

**The building will be serviced by underground utilities, above ground telephone and electric lines from a CMP pole off the southeastern corner of the structure. CMP and Time Warner Cable have provided letters indicating capacity to serve.**

*The Board finds the standards of this section have been met.*

.12 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.

**No hazardous materials will be used or stored on site. The project will utilize public water and sewer.**

*The Board finds the standards of this section have been met.*

.13 Water Quality Protection

All aspects of the project must be designed so that:

- .1 No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxious, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- .2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

**Waste will be stored on site in a dumpster to be emptied on a regular basis.**

**No hazardous materials will be located, stored or discharged on site.**

*The Board finds the standards of this section have been met.*

.14 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.

**The Applicant has utilized the services of SYTDesign, Inc. to prepare the application and site plan. Financial capacity is evidenced by a letter dated September 10, 2004 from Peoples Bank indicating a commitment to lend for the land and improvements.**

*The Board finds the standards of this section have been met.*

.15 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.

**During the subdivision review for Cumberland Business Park, a letter was provided from the Maine Historic Preservation Commission stating that there are no properties in the project area of historic, architectural, or archaeological significance. A copy of this letter, dated January 18, 1995 is on file with this application.**

*The Board finds the standards of this section have been met.*

.16 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 parcel is located in Zone C – Area of minimal flooding – on FEMA Flood Map 230162 0016 C.**

*The Board finds the standards of this section have been met.*

.17 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.

**A site photometric plan prepared by Anthony Mancini, Inc. was submitted and reviewed by the Town Engineer. The lighting plan meets the requirements of the Ordinance.**

*The Board finds the standards of this section have been met.*

.18 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.

**A landscaping plan designed by Gawron Turgeon Architects was submitted and reviewed by the Town Engineer and Planner. The plan is designed to buffer the parking area since the existing vegetation will mostly be removed during construction. This plan is still being worked on by the Planner and Landscape Architect, but is close to being finalized.**

**The dumpster will be screened by a stockade fence. It will be placed in a low visibility location on the site. The LPG tank will be underground. There is no external mechanical equipment, service or storage area.**

***With the proposed condition of approval, the Board finds the standards of this section have been met.***

.19 Noise

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

**The type of use proposed for the site is not expected to generate any noise that would be audible to neighboring properties. There will be vehicles entering and exiting throughout the day, but they will be on an intermittent basis.**

***The Board finds the standards of this section have been met.***

.20 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.

**Waste will be stored on site in a dumpster to be emptied on a regular basis. No hazardous materials will be located, stored or discharged on site.**

***The Board finds the standards of this section have been met.***

.21 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 designed by Gawron Turgeon Architects was submitted and reviewed by the Town Engineer and Planner. The plan is designed to buffer the parking area since the existing vegetation will mostly be removed during construction. This plan is still being worked on by the Planner and Landscape Architect, but is close to being finalized.**

*With the proposed condition of approval, the Board finds the standards of this section have been met.*

.22 Building and Parking Placement

- .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 with 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.
- .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.

**Several attempts were made to locate the building on the site in such a way as to provide side and rear parking, however due to site constraints (including a 75' front buffer along Route One, and a 65' rear buffer), the parking placement is primarily in front of the building. The visual effect of this is being moderated by substantial plantings and the installation of a raised berm, where possible.**

*The Board finds the standards of this section have been met.*

206.9 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.

Ms. Howe moved to grant approval for Minor Site Plan with the standard and proposed conditions of approval to Lucinda's Day Spa; Cumberland Business Park, Tax Assessor Map R02D, portion of Lot 1, Scott Decker, SYTDesign, representative, Guidi Flash Holdings, LLC, owner.

Mr. Powers seconded.

VOTE: 5 in favor (Howe, Couillard,  
Hunt, Powers, Ward)  
2 opposed (Turner, Neagle)

#### **Standard Conditions of Approval**

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

#### **Proposed Conditions of Approval**

1. That all fees be paid prior to the issuance of a building permit.
2. That a revised landscaping plan be reviewed and approved by the Town Planner prior to the issuance of a building permit and Mylar being released for recording.

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**3. Public Hearing – Preliminary and Final Plan Review – Major Subdivision – Rockwood Senior Housing, Phase IV- 44 units of senior housing, Tax Assessor Map R02D, Lot 1B, lots 9 & 10 and Map R02D, Lot 1C of the Cumberland Business Park; LSH Holdings, c/o Pioneer Capital Corp., owners, LSH Holdings, c/o John Moody, applicant; Jim Fisher, P.E., Northeast Civil Solutions, representative.**

Mr. Hunt stated at the last meeting there were some missing items for preliminary approval, and asked if those items been submitted.

Ms. Nixon stated the application is in order for preliminary approval.

Ms. Nixon presented background information as follows:

The applicant and owner is LSH Holdings. Lee Allen of Northeast Civil Solutions represents the applicant. The proposed project involves the construction of 44 age-restricted condominiums on 18.4 acres. The site is composed of Lots, 6, 7, 9-11 and a portion of Lot 1 on Assessor's Map R02-D and Lot P/ 1. The property is adjacent to the first three phases of Rockwood located at the end of Thomas Drive, and is directly bordered by Rockwood Phase 3, Lots 5 and 8 of the Cumberland Business Park and Route 1 and Thomas Drive. Multi-plex, age-restricted housing is a permitted use in the Northern OC (Office Commercial) zone. Tonight the Planning Board will review the plan for preliminary and final approval.

#### **HISTORY:**

May 18, 2004: Sketch Plan Review: The Planning Board conducted a Sketch Plan Review.  
September 21, 2004: Application Completeness tabled.

November 16, 2004: Application found complete. Preliminary approval tabled. Board to schedule a Public Hearing for Preliminary and Final Approval in December.

**DESCRIPTION:**

Zoning District:	OC (Office Commercial)
Parcel size:	18.4 acres
Net Residential acreage:	11.7 acres (50 units allowed; 44 proposed)
Number of units:	44 units within 19 buildings. 13 duplex structures; 6 tri-plex.
Development Design:	Clustered subdivision design.
Min. Lot Size:	10,000 s.f.
Occupancy:	Age-restricted to persons 55 years of age or older.
Setbacks:	Front = 25', Rear = 65', Side 20' 30' setback around each building.
Access:	From Thomas Drive as a private way, with a proposed emergency access and utility corridor onto Route 1.
Water and Sewer:	Portland Water District.
Open Space:	5.94 acres (aprx. 1/3 of parcel)
Utilities:	Public water and sewer from the Portland Water District. Underground electric, telephone and cable service.
Street Lighting:	Same type as in other phases.
Road:	Three curbed roads: Goose Ledges Road, Torry Pines Drive and Broken Cove Lane. Closed drainage system with two detention ponds. 14' travel lanes; 28' road width.
Sidewalks:	Paved 4' sidewalk with 1.5' grass esplanade.
Trails:	Existing trail to the southeast of the parcel. A future trail connection has been shown on the subdivision plan pending DEP approval.
Waivers:	1.) For a 1" = 40' scale for required improvements to 1" = 50' 2.) For a medium-high intensity soil survey in lieu of a high intensity survey.

Granted on 11/16/04.

Outside Agency Approvals:

DEP Stormwater (**Outstanding**)

DEP General Construction.

DEP Tier 2 NRPA (**Amendment**) (1,716 sq.ft. impact for Phase 4, combined with other phases totals 19,994 sq. ft. wetlands impact) (**Outstanding**)

**PLANNING DIRECTOR'S COMMENTS:** Ms. Nixon stated the applicant has been told verbally by the DEP that the approval should be received within two weeks. The Peer Review Engineer's comments have been satisfied and he is comfortable with the Board granting final approval.

- **Outstanding permits**
- **Al Palmer's comments**
- **Ralph Oulton's comments**

**DEPARTMENT HEAD REVIEWS:**

**Bill Longley, Code Enforcement Officer:** No comments.

**Adam Ogden, Public Works Director:** No comments.

**Dan Small, Fire Chief:**

An outside flashing light, that is interconnected with the smoke detectors, should be located in an area easily visible from the driveway of each unit.

The location and style of street numbers shall be approved by the fire department.

Residential key boxes, approved by the fire department, are recommended at each residence.

A padlock, approved by the Fire Department, shall be purchased by the developer to be installed on the emergency access gate. The lock shall be keyed identically as the residential key boxes that are in the entire project.

**Joe Charron, Police Chief:** Security gate for construction.

**Chris Bolduc, Rescue Chief:** No comments.

**PEER REVIEWS:**

**Al Palmer, Gorrill Palmer Consulting Engineers, December 16, 2004**

The Applicant and their Engineer have incorporated significant updates to the plans to address our prior comments. At this time, the remaining comments would have an effect on the ultimate construction, but would likely not have any effect on the configuration or layout of the project. Therefore, if acceptable to the Planning Board, it would appear that the comments presented below could be addressed by the Applicant as a Condition of Approval prior to the start of construction. For ease of review, we have continued our numbering of comments from prior reviews. Comments, which have been satisfactorily addressed no longer, appear.

The Applicant has noted that revised Homeowner Documents have been submitted to the Town Attorney for review. Our office assumes the Town Attorney will review these documents to ensure that the Homeowners are responsible for any surface restoration (pavement, loam/seed, etc) that may be required as a result of sewer maintenance/repair conducted by the Town.

The Sedimentation Basin calculations should be revised to conform to the MDEP BMP Methodology relative to retention time based on the up gradient watershed.

The roadway slope at 75' from the intersection of Goose Ledge Road and Broken Cove Lane has been revised so that the slope does not exceed the 3% standard in ordinance. However, the roadway slope within 75' from the intersection of Goose Ledge Road and Torry Pine Road should be revised to reduce the slope to no greater than 3% within 75' of the intersection, as measured from the edge of pavement from Torry Pine Road.

The Existing Conditions Plan needs to be stamped/signed by a PLS.

A note has been added to the Existing Conditions Plan referencing the wetland delineation and its source. The delineation is based upon work conducted by SYTDesign in 1995, with a soils review by Normandeau. It is our experience that standard engineering practice would indicate that delineation from 1995 would be field verified due to the time that has passed. Prior to construction, our office would recommend that a letter be obtained from Normandeau Associates indicating that they have field verified the wetland limits (not just the soils).

The headwall detail for the storm drain outfalls has not been added to Drawing 17 at this time.

The Applicant needs to submit a letter from the Portland Water District indicating that the water main alignment and design is acceptable and ready for construction.

Utility services have been added to the plans as requested. Prior to construction, the Applicant should verify service locations and check for conflicts with other utilities.

Our office requested that the sight distances for all new intersections be shown on the Plans. The Applicant's Engineer has indicated that they were of the opinion that this is not necessary due to the anticipated low speeds within the development. Our office reiterates our prior comment that sight distances should be verified and shown on the plans for all internal intersections. The interior roadways all need to meet the Town of Cumberland Subdivision Standards, which includes everything from roadway width, curvature limits, gravel depths and sight distances. The Applicant submitted information regarding Financial Capacity. Included with that was a budget of \$750,000 for site construction. No information was submitted to substantiate the \$750,000. While this information is suitable for the Planning Process, it is noted that a detailed opinion of site construction costs will be required from the Applicant prior to the start of construction to establish the Letter of Credit.

#### **Ralph Oulton, MACTEC Engineering, December 15, 2004 Review**

Sheet 1. Index

OK.

#### Sheet 4. Grading and Drainage Plan

Complete the grading for the gravel access road at Station 12+50. The culvert under this roadway is too short for grading from the road surface to the existing ditch line.

In the invert chart change the downstream invert of the run from CB-5 to CB-6 from 110.88 to 111.88.

In the invert chart the inverts shown for the run between CB-19 and CB-20 are at the same elevation as the sanitary sewer that this pipeline crosses.

#### Sheet 5. Site Utility Plan

Show the size of the proposed water main on this drawing.

Add the proposed invert into the existing sewer manhole at US Route 1 of 82.34.

Adjust the length of the 18" ADS-N12 culvert under the emergency access road.

#### Sheet 10. Sewer Plan & Profile Broken Cove Lane

SMH-1 shall be moved East at least 14' to pick up the house sewer service from units #1 and 3 without having to cross the water services to these units. There is supposed to be at least 10' of separation between the building sewer and water service pipes. Generally house service

connections are installed perpendicular to the front of the house and the sanitary sewer. This is also shown on the typical house "Y" connection detail, as drawn on sheet 18.  
The invert of the 12" storm drain @ STA 106+30 should be 111.94 as it crosses the sanitary sewer and not 111.62 as shown.

Sheet 11. Sewer Plan & Profile Broken Cove Lane

The 18" culvert shown running under the emergency access road @ Station 111+20 is too short for proper grading.

The invert of this proposed 18" culvert should be 85.7 as it crosses the proposed sanitary sewer pipeline and not 86.00 as shown @ STA 111+20.

Sheet 12. Sewer Plan & Profile

The proposed 8" diameter sanitary sewer between SMH-8 and SMH-9 hits the proposed 12" diameter storm drain between CB-19 and CB-20. This proposed sanitary sewer also conflicts with the proposed 8" diameter water main at STA 121+10. These conflicts can be eliminated if the proposed sanitary sewer is lowered 1.5 to 2 feet in depth.

Provide a Ripley Dam or clay waterstop from the bottom of the pipe bedding to 12" above the pipe crown @ STA 134+20.

Sheet 18. Sewer Details

Indicate the inside diameter of the proposed house connection pipelines.

Sheet 24. Landscape & Lighting Plan

OK

Mr. Neagle asked about the trail.

Ms. Nixon stated the applicant is proposing to re-locate the trail along Thomas Drive.

Mr. Neagle asked if it were the intention to continue the trail across Thomas Drive.

Mr. Fisher stated the D.E.P said to put the trail where there would be no impact to the wetlands; there will be a full connection of trails from Phase I to Phase IV.

Mr. Neagle asked if the D.E.P. would allow a raised wooden trail across the wetlands.

Mr. Fisher stated typically that would be allowed if the wetland impact had not reached the Tier level.

Mr. Neagle asked for clarification on the dotted lines at Route One.

Ms. Nixon stated they represent an emergency exit/entrance with a locked gate.

Mr. Neagle asked about the letter of credit.

Ms. Nixon stated the letter of credit amount would be addressed as a condition of approval. The Applicant will develop a schedule of values for the infrastructure, which will be reviewed by the Peer Review Engineer and Public Works Director.

Mr. Neagle moved to approve the findings of fact as presented.

Mr. Ward seconded.

VOTE: Unanimous

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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;

**DEP Stormwater, General Construction and Tier 2 Wetlands permits have been applied for, but not yet received. The project will utilize public sewer. A medium-high intensity soil survey has been conducted and was reviewed and approved by the Town Engineer. The Town's peer reviewer is in agreement that the conditions have been met and are deferring to the official DEP permit.**

*Based on the information provided the standards of this section have not been met.*

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

**The proposed subdivision will utilize a public water supply. The other phases of the development are connected to the water line. A letter from the Portland Water District dated 8/30/04 has evidenced adequacy.**

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

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

**The proposed subdivision will utilize a public water supply. The other phases of the development are connected to the water line. A letter dated 8/30/04 from the Portland Water District indicates that the project will not cause an unreasonable burden on the existing water supply.**

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

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

**The Applicant has provided a detailed Erosion and Sedimentation Control Plan that has been reviewed and approved by the Town's peer review engineer and the Cumberland County Soil and Water Conservation Commission.**

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

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

The Applicant provided traffic counts which were questioned by the Town Engineer. A letter dated 10/18/04 from William Bray, P.E., provided further information, which satisfied the Town Engineer.

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

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized; **The subdivision will utilize public sewer. Sewer user units will be transferred upon closing from Mr. Guidi to the developer. A letter from the Falmouth Superintendent of Sewers, Robert Clark states that there is adequate capacity to serve the project.**

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

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

**The project will utilize a private trash hauler. A letter is on file from Pine Tree Waste indicating ability to serve.**

*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;

**The Applicant has provided a letter from the Maine Historic Preservation Commission dated 8/24/04 indicating there will be no effect upon historic properties. The Applicant has also submitted a letter dated 8/30/04 from the MDIF&W stating that there are no unusual wildlife or other natural values specific to the site.**

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

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

**The plans are being reviewed by staff and the peer review engineers, Al Palmer and Ralph Oulton. There remain some items that need to be addressed for final approval, but the submissions to date are satisfactory for preliminary approval and could be used as conditions of approval for final approval.**

*Based on the information provided the standards of this section have not been met.*

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

**Technical capacity has been evidenced by the use of professional engineers, soils scientists, surveyors. Financial capacity is evidenced by the Irrevocable Letter of Credit on file dated December 3, 2004 from Pioneer Private Capital.**

*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;

**Wetland areas have been mapped on the plans and construction will avoid these locations. The Applicant has submitted the plans to MDEP for a NRPA Tier 2 permit. Based on the information provided the standards of this section have not been met.**

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

**The proposed subdivision will utilize public sewer. Environmental impacts are being assessed by MDEP.**

**Based on the information provided the standards of this section have not 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;

**Based on a review of the FEMA Maps, no portion of the site is located in flood zone.**

*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;

**The Applicant has provided a "Stormwater Management Report" that has been reviewed by the Town's peer review engineer. The outstanding issues have been resolved.**

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

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

**Freshwater wetlands on the site were delineated. A MDEP Tier 2 permit has been requested for a disturbance of 1,716 sq.ft.**

*Based on the information provided the standards of this section have not been met.*

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

**No streams have been mapped but reference is made to one in the DEP Tier 2 application, though formal designation by DEP has not been made. Regardless, the plans show the required 75' setback from the area.**

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

**SECTION 300 – AQUIFER PROTECTION (if applicable)**

*The use is NOT located in the Aquifer Protection district.*



Mr. Neagle moved to grant final and preliminary approval with the standard and proposed conditions for Major Subdivision Rockwood Senior Housing, Phase IV – 44 units of senior housing, Tax Assessor Map Ro2D, Lot 1B and lots 9 & 10 and R02D, Lot 1C of the Cumberland Business Park; LSH Holdings, c/o Pioneer Capital Corp., owners, LSH Holdings, c/o John Moody, applicant; Jim Fisher, P.E., Northeast Civil Solutions, representative.

Mr. Powers seconded.

VOTE: Unanimous

**Waivers granted:** 1. 1" = 40' for required improvements to 1" = 50'  
2. High intensity soil survey by certified soil scientist.  
A medium-high intensity survey was submitted.

**Waivers Denied:** None

#### Standard Conditions of Approval

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

#### Recommended Conditions of Approval

1. That all fees be paid as required.
2. That the proposed homeowners documents be reviewed and approved by the Town Attorney prior to the preconstruction conference and release of the mylar.
3. That the amount of the submitted irrevocable letter of credit be reviewed and approved by the Public Works Director and Town Engineer.
4. That the DEP Stormwater and Tier 2 Wetlands permits be submitted prior to the pre-construction conference and release of the mylar.
5. That all the comments raised by Tom Saucier and Ralph Oulton are resolved prior to the preconstruction conference and release of mylar.

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**4. Public Hearing – Preliminary Plan Review – major 9-lot subdivision, Apple Grove Orchard Road, Tax Assessor Map R08, Lot 63, Rural Residential 2 (RR2) district;** Es s  
orc d H Estates, LLC, applicant; Thomas Terison, owner, Thomas Greer, Pinkham Greer Engineers, representative.

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**5. Application Completeness – Major 27-lot residential subdivision and eight acres of commercial property that will be developed – Cumberland Foreside Village, Tax Assessor Map R01, Lot 11, U.S. Route One; Stephen Mohr, Mohr & Seredin, representative; Peter Kennedy, owner.**

Ms. Nixon presented background information as follows:

The Applicant is Cumberland Foreside Village, LLC; Peter Kennedy owner; Thomas Greer, P.E., Pinkham and Greer prepared the plans. Mohr and Seredin are the landscape architects. The property is located on U.S. Route One, Map R-01, Lots 7, 8, 8A and a portion of lot 11. The application is for a 26-lot subdivision. 22 lots are to be for the construction of single-family homes (age restricted to 55+) and four lots are for commercial development. There is no development proposed at this time for the remaining portion of the parcel. The parcel has been

contract zoned to increase density and reduce setback and road design requirements. This review is for application completeness.

**HISTORY:**

- August 19, 2003 - Sketch Plan Review:
- September 16, 2003 – Sketch Plan Review
- September 9, 2003 - Site Walk
- October 21, 2003 - Application Completeness
- November 18, 2003 - Preliminary Review. Tabled by Board

*After the November 18, 2003 meeting, the Applicant withdrew the plan from review because road construction cost estimates came in higher than expected. The plans now under review have changed to lower the cost of road construction.*

**DESCRIPTION:**

Parcel size:	51.2 acres
Net Residential Density:	Contract Zone
Number of Lots:	22 Residential plus 4commercial.
Zoning:	OC with a Contract Zone overlay adopted 9/02
Development Type:	Clustered Residential/Contract Zone
Min. Lot Size:	10,000 sq. ft. (contract zoning agreement allows for up to 42 single family residential houses on individual house lots. Occupancy age-restricted to persons 55 years of age or older.
Lot frontage:	75' (as for clustered subdivision.)
Setbacks:	Front = 25', Rear = 20', Side 12' (with no less than 25' between foundations')
Water and Sewer:	Portland Water District.
Open Space:	No public open space proposed (there is 1.96 acres of open space to be owned and maintained by the homeowners association.)
Utilities:	Public water and sewer. Underground power, telephone and cable from Route One.
Street Lighting:	At road intersections.
Road:	A 1400-foot section to top of hill, a 400' section to cul de sac and a 200' stub to Falmouth line (stub to be considered as part of next development.) The maximum

permitted length of the road is 2000'. The road section will contain a 24 foot paved travel way with curbing; a 4' grass esplanade and 4' paved sidewalk.

- Sidewalks: 5' sidewalk with 4' grass esplanade on one side.
- Waivers: Clarify with developer: road standards waiver on Plan 1.1
- Outside Agency Approvals Required:
  - DEP Site Location of Development Permit; ME. NPDES
  - Maine Construction General Permit and NRPA Tier I
  - Wetlands Permit.

Mr. Stephen Mohr, of Mohr Seredin Architectural Landscaping reviewed the proposed project. He stated this summer the project was re-designed. The core of the site has smaller lots with the overall plan and road system without the center circle of green. Phase I consists of 22-lots. There is a proposed trail system for both the residential and commercial lots. To date the developer has not been successful in obtaining contract zoning for a residential blend of development in Falmouth. The Falmouth side has 28 commercial lots. The current proposal has 22-lots of age restricted units and conforms to the contract zone. The entrance drive has been shifted.

Ms. Nixon asked if the entrance would align with True Spring or Hawk's Ridge.

Mr. Mohr stated no, the design meets the M.D.O.T. regulations. The commercial lots 101 and 102 will share a driveway. The Applicant is requesting that the application be found complete to move forward with engineering.

Mr. Couillard asked about buffering between commercial and residential uses.

Mr. Mohr stated there is a 35' setback on the Falmouth side, and a 20' to 25' additional buffering on the Cumberland side.

Mr. Couillard asked if there was a tower planned for the site.

Mr. Mohr stated there is no tower proposed at this time. The contract zoning agreement allowed for a tower, but the wireless companies have found alternative locations.

Ms. Howe asked if the driveway would be across from the Hawk's Ridge Condominiums.

Mr. Mohr stated D.O.T. has stated there is not enough room.

Mr. Powers asked what would be built on the Falmouth side.

Mr. Mohr stated it could be light manufacturing; and would likely be mixed-use office buildings.

Mr. Hunt stated the issue for the Board is to determine if the application is complete.

Ms. Nixon reviewed the checklist stating that the application is complete.

**COMPLETION CHECKLIST  
 BASED ON APPENDIX D  
 MAJOR SUBDIVISION SUBMISSION REQUIREMENTS**

**Cumberland Foreside Village**

<b>LOCATION MAP</b>	<b>YES/NO</b>	<b>NOTES/COMMENTS</b>
Scale 1"=1000'	yes	
Shows area 1000' from Property lines	yes	
All existing subdivisions	yes	
Apx. track lines of adj. parcels-abutting	yes	
Apx. track lines across street	yes	
Location of existing/proposed streets, easements & bldg. lines	yes	
Names of existing/proposed streets, easements & bldg. lines	yes	
Boundaries & designations of zoning districts, parks, public spaces	yes	Falmouth – Business Professional
Outline of proposed subd. w/ street system	yes	
Future probable st. system of remaining portion of tract	no.	Done
<b>Preliminary Plan</b>		
15 copies	yes	
1"=100' for general plan	yes	
1"=40' for required improvements	yes	
Proposed subd. name & name of municipality	yes	
Name & address of record owner, subdivider, and designer of preliminary plan	yes	
Date of plan submission, true north & graphic scale	yes	
# of acres w/in subd. & net residential acreage calcs.	yes	
Location of property lines	yes	
Existing easements	yes	Rt. 1 R.O.W. states easement
Buildings	N/A	
Watercourses	yes	No Streams
Other essential existing features	yes	
Names of adj. subdivisions	yes	

Names of owners of record of adjacent acreage	yes	
Space & setback of district	yes	
Any zoning districts boundaries affecting subd.	no	Done
Location & size of existing or proposed sewers, water mains, culverts, hydrants and drains on property	yes	
Connections w/existing sewer or water systems	yes	
Private water supply shown	N/A	
Private septic shown	N/A	
Hydro-geologic study (option for Board)	no	
Test pit locations	N/A	
Well locations	N/A	
Signature & lic. # of site evaluator	N/A	
Existing streets: location, name(s), widths w/in and abutting	yes	
Proposed streets: location, name(s), widths w/in and abutting	yes	Ground survey not done
The above for any highways, easements, bldg. lines, alleys, parks, other open spaces w/in & abutting	yes	
Grades & street profiles of all streets, sidewalks or other public ways proposed	yes	
2' contour lines	yes	
High intensity soil survey by cert. soil scientist	yes	
Soil boundaries & names superimposed on plot plan	yes	
Deed reference & map of survey of tract boundary by reg. land surveyor tied to established reference points	yes	
Deed restrictions, if any, described	none	
Surface drainage or stormwater mgmt plan w/profiles & cross sections by a P.E. showing prelim. design and conveyences	yes	
Proposed lot lines w/ dimensions and suggested	yes	

bldg. locations.		
Location of temp. markers in field	yes	
All parcels proposed to be dedicated to public use and conditions of such.	None- N/A	
Location of all natural features or site elements to be preserved	yes	
Survey stamped by P.E.	yes	
Soil surveys w/# of soil scientist	yes	
Septics plan w/ # of prof. site evaluator	yes	
Geological evals w/ reg. geologists number	yes	
Architect w/ seal	N/A	

Mr. Powers moved to find the application complete for a major 27-lot residential subdivision and eight acres of commercial property that will be developed – Cumberland Foreside Village, Tax Assessor Map R01, Lot 11, U.S. Route One; Stephen Mohr, Mohr & Seredin, representative; Peter Kennedy, owner.

Mr. Turner seconded.

VOTE: Unanimous

Mr. Hunt stated the Board would not have another site walk on the project.

**6. Public Hearing – Orchard Ridge Subdivision – Re-Approval of Final Plan, Major 12-lot subdivision at 158 Orchard Road, Tax Assessor Map R08, Lot 44, 31-acres, RR2 district, Great Neck Builders, owner; Scott Decker, P.E., SYTDesign Consultants, representative.**

Ms. Nixon stated the Planning Board approval is good for 90-days and the Ordinance allows the applicant to come to the Board for an extension to meet the conditions of approval.

Mr. Neagle moved to re-approve the final approval for Orchard Ridge Subdivision, a major 12-lot subdivision at 158 Orchard Road, Tax Assessor Map R08, Lot 44 in the RR2 district. The re-approval is granted conditioned that the standard and recommended conditions of approval and the findings of fact of the September 21, 2004 approval still apply.

Mr. Powers seconded.

VOTE: Unanimous

**STANDARD CONDITIONS OF APPROVAL:**

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

**RECOMMENDED CONDITIONS OF APPROVAL:**

3. That all fees be paid as required prior to the plan being released for recording.
4. That a letter of credit or escrow be provided for the construction costs. The amount to be reviewed and approved by the Town Planner, Town Engineer and Public Works Director. This is to be done prior to the release of the plan for recording and the reconstruction conference. That funds for the clearing, limbing and marking trees for the trails be included in the Letter of Credit or Escrow.
5. That all required deeds necessary for the development to occur as planned must be submitted and approved by the Planning Director and Town Attorney prior to the Mylar being released for recording.
6. That all proposed required utility easements/deeds be submitted and approved by the Planning Director and Town Attorney prior to final release of the Letter of Credit.
7. That the comments in the peer review memo from Terry Snow, dated 9/13/04, regarding the Declaration of Covenants and Restrictions for the Homeowners Association be addressed and reviewed and approved by Mr. Snow prior to the Mylar being released for recording.
8. The future road extension area is created and dedicated for potential future use by the Town of Cumberland as a connection between the proposed street and adjoining properties or streets. This area will not be utilized for construction or drainage purposes, and no fill shall be placed without prior Town approval.
9. The additional notes and comments on the subdivision plan will be added to the subdivision plat plan for recording at the registry. The notes and comments will be reconciled to agree.

**PROPOSED FINDINGS OF FACT - Subdivision Ordinance, Section 1.1:**

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

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 parcel is not located in a 100-year floodplain. Richard Sweet has conducted a groundwater impact study, which concludes that the subdivision will not adversely impact the soils or streams.

The applicant has received approval from the Maine Department of Environmental Protection for a Stormwater Permit and a Natural Protection Act Tier 2 Permit.

**The standards of this section have been met.**

2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision;  
**The proposed subdivision will utilize private drilled wells. Information on adequacy has been provided by Richard Sweet.  
Based on the information provided, the standards of this section have been met.**

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

**The standards of this section do not apply.**

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;  
**Section 11 of the submission contains documentation that demonstrates adequate erosion control measures will be taken during construction. The plan has been reviewed and approved by the Cumberland County Soil and Water Conservation Commission. Letter dated 7/19/04 is on file.**

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

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;  
**A memo dated 5/21/04 from Eaton Traffic Engineering states that the level of trip generation from this 12-lot subdivision will not likely have any significant impact on the capacity or level of service of Orchard Road or any other roadway in the vicinity of the proposed subdivision.**

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

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services, if they are utilized;  
**A minimum of 2 passing soils test holes have been identified on each lot.  
Based on the information provided, the standards of this section have been met.**

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;  
**If the road is accepted by the Town, the Town's municipal waste hauler will be used.  
Based on the information provided, the standards of this section have 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;  
**A letter dated 4/22/04 from Department of Conservation states that there are no rare or botanical features documented specifically within the project area.  
A letter dated 5/27/04 from the Department of Inland Fisheries and Wildlife states that they have reviewed the site for fishery resource information and found that**



there are no known threatened/endangered fish species or habitat in the vicinity of the proposed project.

The homes will be out of site from Orchard Road. Significant open space is being preserved.

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

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

**The plan has been reviewed by town staff and the town engineer and found to be in compliance with all local ordinances and plans.**

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

10. Financial and technical capacity. The subdivision has adequate financial and technical capacity to meet the standards of this section;

**Technical capacity is evidenced by expert engineering, surveyors and soils evaluators.**

**Financial capacity is evidenced by a letter on file dated 6/22/04 from People's Heritage Bank indicating their commitment to lend.**

**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 DEP and Maine Department of Inland Fisheries and Wildlife have viewed the site and provided classification and requirements for the stream and wetland areas.**

**The plans state that there shall be no disturbance within the 75' setback from the stream.**

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

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

**A groundwater impact study was conducted by Sweet Associates. The Board asked for a peer review of the study. A letter dated 8/13/04 from Sevee and Maher Engineers states that they agree with the conclusion that there appears to be suitable locations on each of the twelve lots to site a well that will avoid the leachfield effluent groundwater plumes.**

**Based on the above, the Board finds that 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 located in Zone C- Areas 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 has been prepared by Scott Decker of SYTDesign. The Town Engineer has reviewed the plan and approved it. A stormwater permit from DEP has been received.**

**The standards of this section have been met.**

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

Wetlands, as delineated by Mark Hampton Associates, Inc., of Portland, Maine, are noted on the existing conditions plan and Drawings C-100, C-102, included in Section 19, Project Drawings. An NRPA Tier 1 Permit has been received from MDEP.

**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]

The DEP has walked the site and classified streams. Appropriate buffer areas have been shown on the plans. There are no structures or improvements within 100' of the stream.

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

***SECTION 300 – AQUIFER PROTECTION (if applicable)***

The use is located in the Aquifer Protection district. A positive finding by the Board is required.

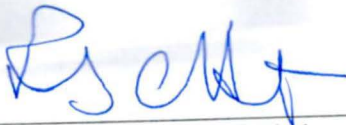
**The site is located in an Aquifer Protection Area. A nitrate study and a high intensity soils survey have been provided. Passing test pit locations have been identified.**

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

- F. **Administrative Matters** – The Board adjourned to a workshop to discuss Board Administrative Procedures.

- G. **Adjournment – 9:10 p.m.** The Board adjourned to a workshop.

A TRUE COPY ATTEST:



Philip C. Hunt, Board Chair



Pam Bosarge, Board Clerk