

**Town of Cumberland  
Planning Board Meeting  
Council Chambers of the Town Offices  
Tuesday, February 20, 2001  
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, Tom Powers, Stephen Sloan, Terry Turner, Beth Howe,  
Joseph Taylor

Absent: Martha Porch

Staff: Carla Nixon, Assistant Town Manager, Pam Bosarge, Clerk

Mr. Hunt explained the televising of the meeting, and stated any public comments would need to be made at the microphone.

**C. Minutes of Prior Meeting**

Ms. Howe moved to approve the minutes of January 16, 2001 with amendments.

Mr. Powers seconded.

VOTE: Unanimous

Mr. Hunt requested the minutes of the Planning Board Workshop (January 30, 2001) be forwarded to the Town Council.

**D. Consent Calendar** – There were no consent calendar items.

**E. Administrative Matters**

1. The Board was informed that a legal decision had been rendered in the status of the private road and driveway for the Storey Dog Day Care. It was determined that the private way and driveway were in conformance with zoning at the time of installation.

2. Review of Smart Growth Areas – The State Planning Office has developed maps showing the Town designated smart growth areas. The Planning Board is asked to review them for accuracy and conformance with the Comprehensive Plan.

Mr. Hunt stated this matter was discussed at the Planning Board workshop on January 30, 2001. Mr. Hunt stated the Board concluded that the proposed development areas shown on the State's map were, most likely, not an accurate predictor of where anticipated

future growth would occur. The consensus was that no response should be made until the future course of growth management legislation was ascertained.

1. Food Carts – The Town Council has forwarded a request to allow food carts on Chebeague Island. This is both a licensing and a land use issue.

Mr. Hunt presented background information as follows: The Town Council received a letter from Mr. Jonathan KomLosy requesting approval to operate a food cart on Chebeague Island. Mr. KomLosy would like to operate a moveable cart throughout the summer both on private property as well as public property (Stone Wharf, West End) and during 4<sup>th</sup> of July celebrations.

Currently the Town of Cumberland does not allow food carts.

In order to operate a food cart, there would be several steps necessary involving both the Planning Board and the Town Council. These have been confirmed with the town attorney, Ken Cole.

On Private Property:

1. Add as an allowable use in the zone in which it would be operated.
2. Develop a “Peddlers on Private Property” ordinance as part of the zoning ordinance, which regulates permits, location, parking, utilities, cart design, etc.
3. Revise the Cumberland Victualers Licensing Ordinance as necessary.
4. Applicant to obtain State permits.

On Public Property (roads, wharves etc.):

1. Town to determine appropriate public locations/add as an allowable use in zoning.
2. Adopt a “Public Peddler’s Ordinance” per above
3. Revise the Cumberland Victulers Licensing Ordinance as necessary.
4. Applicant to obtain State permits.

### **PLANNING BOARD REQUEST**

Prior to proceeding, the Planning Board is asked to provide direction. The Planning Board may wish to consider the following questions:

1. Does the Planning Board wish to allow push carts on Chebeague Island?
2. If yes, does the Planning Board wish to allow push carts on public property, private property or both?
3. Does the Planning Board wish to allow push carts on the mainland? Are there locations, which would be appropriate? Are they on private or public property?

Ms. Howe stated the Chebeague Long Range Committee has considered the use of food carts on the Island. She asked that the request be referred to the Long-Range Committee on Chebeague for further consideration. She has received copies of Portland and Freeport’s Ordinances regulating food carts.

Mr. Hunt stated the Island portion would be referred to the Chebeague Long Range Committee for an opinion.

Mr. Hunt asked if the Committee was looking favorably on the use of food carts.

Ms. Howe stated yes, there are some logical locations such as the Casco Bay Line Warf. She stated Portland does not allocate specific locations for the carts, but Freeport does.

Mr. Powers recommended tabling the request for the Island until the Chebeague Long Range Committee has a recommendation. There have been no requests for food carts on the mainland.

Mr. Taylor asked if these would require other licensing.

Ms. Howe stated they would require State Department of Health and a Victulers license. And the operator would be required to carry liability insurance.

Mr. Sloan asked if there was a definition for a food cart; and were there any booster clubs interested in food carts at Twin Brooks.

Ms. Howe stated Freeport has dimensions and specifics in their Ordinance.

Mr. Hunt stated Twin Brooks may be an area of interest, trash and waste disposal would be areas of concern. The level of use for various events such as cross country skiing, running, t-ball, soccer, would all have the same sort of refreshment. The Planning Board would require a Site Plan Review with minimal review. If the Island feels this would be a valuable service, he would be in favor.

Mr. Turner asked if there was any history of requests for food carts.

Ms. Nixon, Assistant Town Manager stated Councilor Storey had voiced an interest in having a cart at Twin Brook.

Mr. Jeff Porter, Town Councilor stated Mr. Vail had approached the Council about the Lion's Club having a booth at Twin Brook and Val Halla and the Council referred the request to the Planning Board. Currently ice cream trucks, which drive through neighborhoods, are not regulated.

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

Ms. Banu KomLosy, of 74 South Road read a letter from her son Jonathan KomLosy, who is interested in operating a food cart on the island. Mr. KomLosy's letter stated appreciation for the Planning Board to entertain his request. He stated there are very few restaurant establishments on Chebeague, there is nothing available at Chandler's Warf, a food cart would provide a valuable service. A food cart would provide waste receptacles, have hot water and sinks and meet all of the Town requirements. A food cart would be

suitable in size for a 15-year-old to push or pull. Food carts would provide waste receptacles.

Mr. Powers moved to table the request for food carts pending further recommendation (within 60 days) from the Chebeague Long Range committee.

Ms. Howe seconded.

VOTE: Unanimous

Mr. Sloan and Mr. Turner agreed if a booster organization was interested in having a food cart, they would hate to see a sports season lost.

## **F. Hearings and Presentations**

**1. Public Hearing** – Subdivision Revision – School House Subdivision – to create (1), two-acre parcel from Lot # 1 (16.98 acres) of the subdivision. Tax Assessor Map I06, Lot 32, Dan Kidd, owner.

Mr. Hunt presented background information as follows: The Planning Board is asked to review a minor, one-lot subdivision.

**September 18, 1990:** The Planning Board approved the four lot School House Road Subdivision located on Chebeague Island. As part of the Plan approval, note #17 states: *No further subdivision of lots 1-3 shall be accomplished without approval by the Town of Cumberland Planning Board.*

**February 12, 2000:** The applicant returns to the Planning Board to create a two acre Lot 1A from the then existing 16.98 acres Lot 1. The Planning Board approves this revision to the subdivision plan. The revised plan is signed by the Planning Board for recording in the Cumberland County Registry of Deeds.

**Section 4.3 D 2 of the Subdivision Ordinance:** *Approval of any subdivision plan not filed within 90 days after Final Plan approval shall become null and void.* Mr. Kidd did not file the signed plan within the 90-day period following February 12, 2000.

**January 16, 2001:** Mr. Kidd met with the Planning Board to ask if there were any additions or corrections requested for his plan. He has resubmitted his application for revision.

Plan: Subdivision a 2 acre lot (Lot 1 A) from Lot 1, which is 16.98 acres.  
Zone: Island Residential  
Water: Well  
Sewer: Septic  
Wetlands: Identified on plan/building lot outlined

No additional review of this project was undertaken. Attached are the following:

1. Minutes of February 12, 2000 where this plan revision was approved.

2. Report submitted to Planning Board in February 2000 (dated September 18, 1990).
3. Minutes of the September 18, 1990 Planning Board meeting.

## RECOMMENDATION

It is recommended that the plan be re-approved with the same conditions imposed in February 2000. Specifically:

1. All fees must be paid before the mylars are signed.
2. That one original and one copy of the mylar be submitted for signing by the Board, the original to be recorded at the Cumberland County Registry of Deeds, the copy to be retained by the Town, and that 10 paper copies be submitted to the Town with the book and page number written on it.
3. That the conditions of approval of the 9/18/90 still stand.
4. That a note be added to plan stating the existence of public use trails across the parcel, with open and adverse use. (This has been completed)

Mr. Hunt asked for comments from the public. There were no public comments. The public portion of the meeting was closed.

Ms. Howe moved to re-approve the School House Subdivision revision to create (1) two-acre parcel from Lot # 1 (16.98 acres), with the standard and additional conditions of approval.

1. All fees must be paid before mylars are signed.
2. That one original and one copy of the mylar be submitted for signing by the Board, the original to be recorded at the Cumberland County Registry of Deeds, the copy to be retained by the Town, and that 10 paper copies be submitted to the Town with the book and page number written on it.
3. That the conditions of the approval of 9/18/90 still stand.
4. That a note be added to the plan stating the existence of public use trails across the parcel, with open and adverse use.

Mr. Powers seconded.

VOTE: Unanimous

**2. Public Hearing** – Preliminary Review – minor 1-lot subdivision at Treleven Way (off Blanchard Road) Tax Assessor Map U12, Lots 11 & 11A, Scott R. Verrill, owner.

Mr. Hunt stated Treleven way has been before the Board before. It is described as a (1) one-lot subdivision. Which is not technically accurate. There is one parcel of land that will be divided into a third lot. A subdivision is created when a single parcel of land is divided in such a way as to create 3 or more lots. A single parcel of land was initially divided into 2 lots, with a further division of a large lot into three lots. There are also two lots on Blanchard Road in front of this subdivision which were acquired by separate deed

and not subject to subdivision review. One of the issues to be considered is whether there is sufficient land to allow subdivision according to net residential acreage as defined in the Cumberland Zoning Ordinance. This is a matter, which has been before the Board several times; one that Mr. Hunt has a conflict and he turned the balance of the agenda item over to Mr. Powers Vice-Chair.

Mr. Powers stated there have been a number of memoranda that have been provided to the Board. Some of which are just being distributed. Most recent from the Cumberland Fire Chief, Daniel Small, and an additional letter from Natalie Burns, and a letter from the Dept. of Army Engineers dated June 21, 2000 addressed to Donna Larson, Town Planner addressing wetlands. A map of the wetland impact of the Treleaven subdivision, which was a part of the Army Corp of Engineers review. In addition there is a memorandum provided by Patricia Harrington, Consultant to the Town. A copy of a letter addressed to Susan Chase from Thomas Greer, Consulting Engineers, and a memorandum from the Board Appeals from Adam Ogden dated September 2000 regarding the roadwork in Treleaven and a submitted plan. Fundamentally as outlined in the memorandum provided by Patricia Harrington, this subdivision has been before the Planning Board several times with a significant history. Mr. Powers reviewed the historical information as follows:

**January 27, 2000**, The Town of Cumberland approved a Private Way Plan. After that time, the investment group filed an application for a five-lot subdivision.

**February 12, 2000**, the Planning Board reviewed the sketch plan. The consensus of the Board was to qualify the project as a major subdivision and to prefer a traditional plan. There was no quorum.

**May 16, 2000**, the Planning Board reviewed the plan for completeness. The Board unanimously approved a motion, which found the application complete with the following items to be submitted: a new wetlands delineation to be completed, a community impact statement per Section 7.4 of the Subdivision Ordinance, and soil testing for herbicides and pesticides.

**May 31, 2000**, the Planning Board conducted a site walk on the property.

**June 20, 2000**, the Planning Board conducted preliminary review. The Board voted unanimously to table the review pending an independent mapping of the wetlands. The Board agreed with the proposed sidewalks and lot layout.

**July 18, 2000**, the review was tabled at the request of the applicant.

**August 22, 2000**, the Planning Board voted to accept the wetland mapping of Jennifer West of 17,032 sq. ft., dated 5/1/00 on the 6/29/00 plan of Pinkham Greer and to add the approximately 6,000 sq. ft. of filled wetland area for the total wetland determination, and that Jennifer West revisit the site to verify the location of flags and to re-delineate the wetland boundaries using a ground survey. Or the applicant can, at his own expense,

survey and flag all wetland filled. This calculation would be used to determine the net residential density.

**September 14, 2000**, the Board of Appeals approves the lot size reduction for the backlots.

After that time, a series of lot divisions have or will occur which have or will be considered to be in accordance with applicable State subdivision laws. Wasabi Investment Group conveyed all property to an individual "Verrill". Verrill conveyed a portion to the spouse, "Chase". Verrill conveyed a four-acre lot to an unrelated person "Lalumiere". Lalumiere donated a two-acre portion to a spouse. Lalumiere will convey the second two-acre parcel to another person.

In order to by-pass subdivision approval, the "Chase" lot must be retained for a period of 5 years prior to sale. In order to sell it prior to that time, subdivision approval is required; therefore the current application is before the Planning Board.

**January 1, 2001**, Susan Chase submits application for a one-lot subdivision.

**January 16, 2001**, Planning Board tables subdivision review pending legal opinion regarding review.

Mr. Powers stated the historical information is a concise but accurate representation of the history of this particular subdivision. Most recently the Board requested a legal opinion on the status of the subdivision. There is a two-page letter from Natalie Burns, Town Attorney, and a second letter dated February 16, 2001. Ms. Burns, Town Attorney was present at the Planning Board meeting.

Ms. Burns, Town Attorney stated the issue before the Board this evening is whether the wetland area in the original parcel of land that was filled has to be deducted from the net residential acreage calculations. As the Board knows for subdivision and zoning purposes the Board has to determine how much land is available for development. The land that is available for development is divided by the minimum lot size for the district. In this case the minimum lot size is two acres. The question of whether the filled land is counted is very important. Without the filled land there is not enough land to create a third lot at this time. The Board needs to focus on what the quality of the filled land is at this time. The definition section of the zoning ordinance, specifically Section .85 states the land types that must be deducted out besides roads and parking areas are land areas, which are physically not available for development purposes. In particular this would fall within the .85.3 section – Other areas, which are difficult to develop in their natural state because of topography, drainage or subsoil conditions. Specific conditions include but are not limited to: (i) Slopes in excess of 20% sustained for 30,000 square feet or more, (ii) wetlands as defined in the Federal Manual for identifying and Delineating Jurisdictional Wetlands dated 1/10/89.... The issue before the Board is what is the quality of the lands that were filled. Are they available for development purposes? In order to determine that the Board has to look at the type of soils as they now exist, type of

vegetation and topography of the area. In Ms. Burns letter she stated if the Board does not feel it has enough information they could require a wetlands expert be hired to provide a report to the Board.

Mr. Turner asked if the delineated wetlands were 6,000-sq. ft. then the developable land would be 5.97 acres, just under the required amount.

Ms. Burns agreed that Mr. Palmer of Gorrill-Palmer engineers came up with the 5.97 acres.

Mr. Powers stated when the subdivision was first submitted to the Board there was a perceived deficit of acreage. The developer stated they were going to acquire 1,000 feet from an abutter. The additional land was not acquired, the developer was aware at the beginning of the subdivision review that there was a perception of not enough land.

Mr. Turner asked if the synopsis from Ms. Burns included the recommendations of her letter dated February 16.

Ms. Burns stated yes.

Mr. Powers stated several Board members had been present at the site walk and were familiar with the site.

Mr. Taylor stated he is an abutter on the backside on Lawn Ave.

Mr. Powers asked Mr. Taylor if he could be objective to the project.

Mr. Taylor stated he could be objective. The Board agreed Mr. Taylor would not need to excuse himself.

Ms. Howe stated that in the history presented by Ms. Harrington, it was noted that on August 22, the Board voted to accept the wetland mapping of Jennifer West of 17,032-sq. ft. and to add the approximately 6,000-sq. ft. of filled wetland area. The Board decided to include the filled area as part of the total wetland area. She felt that the Board should stay with the decision of August 22, 2000.

Mr. Powers stated that Mr. Palmer, the Town Engineer was at the meeting and available for questions.

Mr. Sloan asked about the information from the DEP, which was not included in Ms. Burn's letter dated February 15, 2001.

Mr. Palmer stated the information was received directly from the DEP.

Mr. Turner stated the Board had previously determined the filled wetland area counted. He asked if the Board had to make a positive finding on the amount of net residential acreage.

Mr. Powers asked if the applicant could obtain a lot size variance.

Mr. Turner stated the amount of land is under 3/100<sup>th</sup> of an acre in an area designed to encourage growth. Is there a way to state that there is enough acreage?

Ms. Howe asked if the Board of Adjustment and Appeals could grant a lot size variance.

Ms. Burns stated no, the Board of Appeals would have to grant a variance, there is no provision for a waiver of the required lot size.

Mr. Turner asked if the Board could determine there was enough acreage.

Ms. Burns, Town Attorney stated yes, since DEP has granted permits for filling wetlands.

Mr. Taylor asked about the engineering issues of the fire hydrants, would there be one line with one meter for five houses. He stated homeowners have the right to expect everything to work, with amenities and services and a water system that would be adequate.

Mr. Powers stated Chief Small is present to answer any questions.

Chief Dan Small stated the history of the project was to initially have one hydrant at Wasabi and Treleaven. When the roadway was put in the original water main was not installed. There will not be an 8" line installed, so the next acceptable thing would be to have a hydrant on that side of Blanchard Road.

Mr. Taylor asked if there would be a 1" line or 8" line, or a private domestic 1" line.

Ms. Chase stated an individual 1" line.

Mr. Turner stated he would like to consider the net residential density issue and the fire protection issue separately.

Ms. Howe stated she was sympathetic to the developer, but felt the Board decision made in August should stand.

Mr. Sloan asked about the flow number and the location of a hydrant.

Chief Small stated the applicant doesn't want to install any hydrants. Ideally a hydrant at the entrance of the subdivision and one midway would be optimum. A minimum requirement would be a hydrant at the Blanchard Road and Treleaven Way intersection.

This would allow Blanchard Road to remain open during a fire. Chief Small also stated there was plenty of volume.

Ms. Chase, applicant reviewed the previous scenarios of the wetland delineations. Stating that in working with Dawn Hallowell from D.E.P. 7,200 sq. ft. of wetlands were delineated, not all were filled some were disturbed. She also stated she had talked with Chief Small regarding the need for a hydrant. She understood the issue was not the distance but the fact that the hoses would need to cross Blanchard Road. There are ramps that would allow a 5" fire hose to be encased to allow cars and the largest fire apparatus to cross.

Chief Small stated ramps are not an option, the bare minimum required would be a fire hydrant at the intersection of Blanchard Road and Treleaven Way.

Mr. Powers asked Ms. Chase if she would be willing to outfit the fire department with these ramps.

Ms. Chase stated she would be willing to work with Chief Small for fundraising.

Mr. Powers asked if the 50' buffer would extend along the Hilton property, and the eastern side of the property.

Ms. Chase stated yes, the buffer is not shown on the plan.

Ms. Chase stated the road was built to the private way standards of Section 206 of the Ordinance.

Mr. Turner asked about the turnaround.

Mr. Verrill stated in August and September the private way plan was amended to make the turnaround larger. The Code Enforcement Officer approved the amended private way plan.

Mr. Sloan agreed the decision of August 22, 2000 should be used to determine net residential acreage.

Mr. Powers asked if the easement shown on the plan would extend to the Hilton property?

Ms. Chase stated yes.

Mr. Powers asked if any sidewalks were proposed.

Ms. Chase stated no. They have received input from property owners and they do not want sidewalks.

Mr. Verrill stated there have been three soils evaluations; and the worse case scenario shows an error of .03 acres. The delineation was inaccurate due to snow. At the site walk there was an intermittent stream determined to be a wetland. The Army Corp of Engineers did find more wetlands 12-sq. ft. Which were filled to replace a faulty septic system, there were not any distinguishing types of wetlands. This is an area in which the Comprehensive Plan encourages development.

Mr. Al Palmer of Gorrill Palmer Engineers gave a brief history of the project. Gorrill-Palmer has spot checked the net residential density calculations as previously submitted for the original subdivision (plan dated 6/29/00) and while they are accurate for the information shown on the plans, his office is concerned with respect to several of the underlying assumptions. The wetland area used in the calculations is based upon the current wetlands shown on the plans, which results in allowable 3.05 dwelling units. Based upon information contained within the Normandeau Associates reports and the ACOE letter it is apparent that some wetland alteration has occurred on site. The following presents the area of the wetland complex southwest of the existing house.

Plan	Area of Wetland
Squaw Bay, 2-1-00	21,424 s.f.
Pinkham & Greer, 5-1-00	10,736 s.f.
Pinkham & Greer, 6-29-00	17,023 s.f.

The Notice of Decision dated August 22, 2000 indicates that the Planning Board had accepted the wetlands noted on the 6/20/00 plan and that the applicant was to recalculate the net residential density. The applicant has not submitted revised calculations to his knowledge. The applicant has submitted to the Town a copy of a permit from the MDEP granting after the fact approval for 5,000 s.f. of impact for the garage and driveway, and an additional 2,400 s.f. of impact for the construction of a foundation drain. The Applicant did not submit to the Town a copy of the plan that accompanied the permit application to the MDEP. Mr. Gorrill's office contacted the MDEP to obtain a copy of the permit application plan, which is attached to his memorandum. While the wetlands shown on the permit application plan do not match the wetlands shown on the 6/29/00 plans, it appears that the total area of wetland on site prior to any disturbance was approximately 23,200 s.f.

Recalculation of the net residential density based upon this revised wetland area would result in a net acreage of 260,180 s.f. or 5.97 acres. Based upon the 2 acres per lot required in this zone, the applicant would have only had sufficient area to support 2 lots if this project had proceeded in the normal fashion under Subdivision review. The Applicant has created 2 lots (Lalumiere – 15902/1 and Lalumiere –15980/10) and therefore we would question whether a 3<sup>rd</sup> lot should be permitted if the underlying net residential density calculations would not appear to support such a conclusion.

Mr. Turner asked if the Board could determine whether to count the 6,000-sq. ft. of filled wetlands.

Mr. Palmer stated he had never seen a subdivision use filled wetlands to determine the net residential acreage.

**Mr. Powers opened the public portion of the meeting.**

Mr. Pat Gallagher, of 31 Blanchard Road asked about the code for the location of new hydrants.

Chief Small stated according to the Fire Code flow guidelines.

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

Mr. Turner stated they had discussed the wetlands many times, the third delineation gives a base line of 5.97 acres. Mr. Palmer stated there could be a 5% margin of error that would meet the required 6 acres. Wetland delineation is an imperfect science, the Board has walked the site, it is an appropriate location for development, and he felt a 1% margin of error was acceptable.

Ms. Nixon, Assistant Town Manager stated she was looking at this application as a new subdivision. And did the Board have the jurisdiction to consider the legally filled wetlands. There was a conference call with Ms. Burns the results of which are stated in the February 16, 2001 letter. The Board has the option to not figure the filled wetlands. The wetlands were not filled with blatant negligence but to renovate an existing house.

Mr. Sloan agreed with Mr. Turner a + - 1% margin of error was acceptable.

Mr. Powers stated in August the Board agreed with the wetland mapping of Ms. West plus 6,000-sq. ft. of filled wetland, and there was not adequate acreage. The Board would be departing from its prior determination. At that point in time the Applicant withdrew the subdivision application and went to the Board of Adjustment and Appeals.

Mr. Turner asked if it were possible in the findings of fact to determine there was enough acreage.

Ms. Burns stated yes, without details.

Mr. Taylor stated that there was nominally enough acreage for 3 two-acre lots, in an area determined to be an appropriate location for development.

Mr. Turner moved to grant preliminary minor subdivision approval for a 1-lot subdivision at Treleaven Way (off Blanchard Road) Tax Assessor Map U12, Lots 11 & 11A. The Board determined there was adequate net residential acreage, and the outstanding items stated in Mr. Palmer's review of February 12, 2001 are to be addressed at the final review. The recommendations by Fire Chief Small regarding fire protection are to be done.

Mr. Sloan seconded.

VOTE: 3 in favor (Sloan, Turner, Taylor)

**3. Public Hearing** – Sketch Plan and Application Completeness – Major 18 lot subdivision – Heritage Farms, Blanchard Road Ext. 68.5 acres, Tax Assessor Map R07, Lots 93A, 93B, 93C and a portion of Lot 93. RR2 zoning, Chase Custom Homes, applicant, Northeast Civil Solutions, Inc. representative.

Mr. Powers presented background information as follows: Based upon the previous plans submitted in the fall (clustered) and the current plan (dispersed), the Planning Board is asked to:

- 1) Consider this a sketch plan review for the proposed subdivision. Planning Board is asked to determine if this plan meets the requirements of Section 406.8 Standards for Requiring Dispersed Residential Development.
- 2) If the above standards are met, the Planning Board is asked to determine if the application is complete.

## **BACKGROUND**

**September 6, 2000:** The Planning Board conducted a site walk with Chase Custom Homes & Finance, Inc. on the property of the proposed development. At that time, Chase was tentatively proposing the development of 24 luxury condominium units *clustered* off three separate roadways.

**October 10, 2000:** The applicant met with the Planning Board for a pre-application meeting to discuss density calculations and road access. Under the then proposed plan, it was determined that 16 units would be allowed. The Board also expressed interest in a through street, rather than the proposed three dead-end clusters. No formal action was taken.

**February 2001:** The applicant has returned with an 18 lot *dispersed* subdivision and requested review in accordance with the Town of Cumberland Zoning Ordinance. Section 4.4 of the ordinance requires a Sketch Plan showing two of the three types of subdivisions—*clustered, dispersed or traditional*. The Planning Board is to then provide direction of which type of development is most appropriate for the site based on natural features of the land, adjacent properties etc. Section 406.8 requires the Planning Board to determine if standards for requiring Dispersed Residential Development have been met.

## **PROPOSED PROJECT:**

Zoning: RR 2  
Lots: 18 Lots ranging in size from 1.39 to 5.2 acres  
Setbacks: Building envelopes provided on plans, which meet standards of:  
Front: 50 feet Rear: 75 feet Side: 30 feet with  
combined width of at least 75'  
Frontage: 100 feet of frontage required. Lots meet this standard.

Buffering:	A “common open space” strip separates the development from the adjacent properties.
Open Space:	Common open space is proposed surrounding the entire development. 20.7 acres of open space are provided. Future ownership of the open space has not been articulated.
Sidewalks:	None proposed
Roadway:	One new roadway connecting Blanchard Road and Stonegate Drive will serve the development. The road, Heritage Lane, will have a 50’ right of way with two 10’ travel lanes with 4’ shoulders. No information has been provided as to whether this will be a private or public road.
Lighting Plan:	Unknown
Electrical Utilities:	Unknown
Sewage:	Individual septic systems proposed. Soil testing conducted by Al Frick.
Water:	Individual wells proposed. Wells Unlimited letter dated February 6, 2001 stated that they have not had problems with water in the area.
Fire Protection:	Homes to have sprinklers.

**DEPARTMENT HEAD REVIEWS:**

Barbara McPheters: comments not available at this time.

Adam Ogden: comments not available at this time.

Consulting Engineer, Al Palmer: comments not available at this time.

Chief Bolduc: The name “Heritage” cannot be used in the title or road name because it is already assigned within the Town. The developer must propose a new name.

Chief Small: comments attached, sprinklers okay.

Chief Charron: anticipates increased traffic and requests radar. Developer/builder should be aware of increase in construction site burglaries and thefts and use some type of alarm system to protect materials.

**PLAN REVIEW**

The plans have been forwarded to department heads and a consulting engineer for review. Many comments have not yet been received. The Planning Board may wish to consider the following at this preliminary time:

1. Dispersed Development—does this plan meet the standards?
2. Sidewalks—none are proposed.
3. Open Space—ownership and management must be articulated (no-cut zones).
4. Traffic Report—one is referenced in the cover letter but not provided.

5. Street Lighting—location and lighting detail should be required.
6. Electric Utilities—location and requirement that they be underground.
7. Landscaping—none proposed.
8. Street or other Signage—will there be any proposed?
9. Name change required per Chris Bolduc.

Other comments to await engineering and department head reviews.

Mr. Hunt explained the Planning Board would review submitted material and determine if the application was complete. A date for a public hearing will be set. The practice of the Board has been to allow the public opportunity to make comments.

Ms. Nixon referred to the application checklist stating outstanding items include: (20.) Street names – need to change, (23) Sidewalks – outstanding (28) Street lighting – outstanding, (29) Street signs – outstanding, (37) Location and Size of Proposed Utilities and Easements – outstanding (39) Proposed Restrictive Covenants – outstanding, (41) Traffic Study – outstanding

Mr. Jim Fisher, of Northeast Civil Solutions reviewed the project as follows: At the original site walk the developer was proposing a clustered development with an existing spur off from Stonewall Drive. The current proposal is for a dispersed subdivision, with 30% kept in open space the Ordinance requires 25%. There will be 18 lots instead of 16. There are two existing lots of record, which would be added to the new 16 lots. They are proposing a public roadway to be completed in sections. It would take six years to develop the subdivision with the current Growth Management Ordinance. The lots on the riverside have been kept smaller and there will be no cut zones on the lots. The loop road minimizes wetland impact; a DEP project site location will be filed. A traffic report was not included in the submission as it was not ready. All houses will have sprinkler systems for fire protection. There is no lighting proposed within the subdivision. The proposed roadway will be 20' with no sidewalks or free walks. Stonewall Drive does not have any sidewalks and the developer would like to maintain the same character of this subdivision. There will be an access way to walking trails. Mr. Fisher stated he would like direction from the town regarding access to the open space. Would the Town want rights deeded to Town or specific rights to the residents of the subdivision? The proposed landscaping will be to keep it as natural as possible. Al Frick has done a high intensity study and test sites, all septic systems will be located as far from wells as possible. If it is required well drilling envelopes can be shown on the plans. The developer is requesting one waiver to allow a 1 to 50 scale. The Ordinance requires a 1-40 scale. There will be 60' wide easements for stormwater management. These will be created in perpetuity before the lots are sold.

Mr. Turner asked about the stormwater calculations and increases.

Mr. Al Palmer, Gorrill Palmer Associates stated the report is not proposing detention due to the proximity of the river, he concurs with the recommendations. Culvert and ditch design will need to be reviewed.

Mr. Powers asked about restrictive covenants to prevent the potential for clear cutting.

Mr. Fisher stated there would be restrictive covenants.

Mr. Powers also asked if the residents of Stonegate Estates and Heritage Farm would have access to both open spaces.

Mr. Fisher stated he would need to seek legal advice.

Mr. Taylor asked about the water supply, and stated wells in ledge are less susceptible to contamination.

Mr. Fisher stated the well driller would be the same as was used for the wells in Stonegate Estates.

Mr. Taylor stated wells in ledge are less susceptible to contamination.

Mr. Turner asked if there were any streetlights in Stonegate.

Mr. Chase, owner stated no.

Mr. Sloan asked about sidewalks.

Mr. Fisher stated they are proposing a 20' travel way, with no sidewalks.

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

Mr. Tom Terison, of Orchard Road stated he had owned Terison's apple orchard since 1950. He had three concerns.

1. Fire and rescue traffic.
2. That the traffic increases on Blanchard Road, Blanchard Road Extension and Orchard Road will be properly addressed.
3. There may be groundwater issues and potential problems with wells and septic systems.

Mr. Hunt stated these issues would be addressed in the technical review.

Melanie Bovine of the Cumberland Riding Club asked about existing trails for riding, and would people other than residents in the subdivision be allowed to use the open space. She also voiced concerns regarding the close proximity to the riding club, which has horse shows with loud speakers.

Mr. Hunt stated the criteria for a dispersed subdivision have been satisfied and it would be appropriate for the Board to find the application complete.

The Board stated sidewalks; street lighting, open space and trails would be covered in the technical review. The Board would consider incremental development of the roads understanding the hardship on developers for development with the Growth Management Ordinance.

Mr. Powers moved to find the application for a major 18 lot dispersed subdivision – Heritage Farms, Blanchard Road Ext. 68.5 acres, Tax Assessor Map Ro7 Lots 93A, 93B, 93C and a portion of Lot 93 to be complete.

Mr. Turner seconded.

VOTE: Unanimous

Mr. Hunt asked about the status of a new town planner.

Ms. Nixon stated the Town had re-advertised in January and received eight new applications. They have interviewed one candidate.

Mr. Hunt stated the Board would like to see Design Standards for Route One on the March agenda.

Adjourn 10:15 p.m.

A TRUE COPY ATTEST:

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Philip Hunt, Board Chair

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Pam Bosarge, Clerk to Board