

Planning Board Meeting - Minutes
Tuesday, October 17, 2006
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: Tom Powers, Chair; Bill Ward, Vice-Chair, Bill Richards, Chris Neagle

Absent: Beth Howe, Bob Couillard, Mark Robinson

Staff: Carla Nixon, Town Planner, Debbie Flanigan, Board Clerk

C. Approval of Minutes of September 19, 2006

The minutes of the September meeting were not ready for approval at this meeting.

D. Consent Calendar / Deminimus Change Approvals:

PUT INFO HERE

E. Hearings and Presentations:

1. Public Hearing: Minor Site Plan Review: City Brew Drive-thru Coffee Kiosk at Gray Road;
Tax Assessor Map U19, Lot 11 in the Highway Commercial (HC) district; Holding Ground Properties, LLC; Applicant; Ron Copp, Sr., Owner.

Ms. Nixon presented background information as follows: The applicant is Janet Acker of 14 Ocean St., South Portland, Me. She and her husband Barry Acker are the sole owners of Holding Ground Properties, LLC dba City Brew Coffee. The applicant is proposing to build a coffee kiosk on the corner of Route 100 and Blackstrap Roads at Gray Road, Tax Map U19, Lot 11 in the Highway Commercial (HC zone). The .45 acre parcel will be leased from Ron Copp, Sr. and Ron Copp, Jr. The kiosk is self-contained, meaning that no on-site water or septic is required. Electricity will be underground to the building. The hours of operation will be 6:30 a.m. to 6:00 p.m. There will be no indoor seating, but in seasonable weather, there will be a few outdoor tables, there will be 2-3 employees hired, but only 1-2 will be working at any one point. There are 5 parking spaces shown.

The applicant has provided a copy of the MDOT Entrance Permit granting access 130' west of the intersection on Blackstrap Rd. The other entrance will be via the existing opening at the Veterinary building.

The Town Planner reviewed the project history and explained that the project appears ready for approval. The two outstanding issues of kiosk design and restroom facilities have been resolved.

MINUTES HERE

II. PROJECT HISTORY: August 8, 2006: Minor Site Plan Review. Tabled pending submission of a site plan addressing the comments of the Town's peer review engineer.

III. DEPARTMENT HEAD REVIEWS: Bill Longley, CEO:
Based on my discussions with the State Wastewater Division if there is not facilities on site there would not be a permit required. I have also talked with Anita Anderson from the Division of Restaurant Licensing and she stated that the State would be issuing a 1 year conditional license (after they receive an acceptable application). This type of use does not really fit into the current definitions of restaurant or portable units. I think any arrangement of use of neighbor's facilities would be acceptable.

IV. TOWN ENGINEER'S REVIEW: Tom Saucier, SYTDesign 10-5-06:

Per your request we have reviewed the revised plans, generally dated 9/22/06, and documentation submitted in support of a Site Plan approval for the subject project.

1) The traffic report submitted indicates that the development will generate 89 trip ends during the am peak hour; 45 cars entering, 44 cars exiting. The report further states that there will be little or no stacking at the drive through window, that the queues for eastbound Blackstrap Road will not extend beyond the site driveway, and generally concludes that the traffic generated by the site can be accommodated by the existing roadway network.

2) Our August 8, 2006 comments have been addressed by the current submission.

Based upon the above, it appears the plans are in general conformance with the technical requirements of the Cumberland Ordinances.

V. REQUESTED WAIVERS: None

**Town of Cumberland
Section 206 – Site Plan Checklist**

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	YES
	4. location map showing location of project	YES
	5. boundaries of all contiguous property under control of owner	YES
	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	N/A
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	N/A
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	N/A
12.	location of nearest fire hydrant or water supply for fire protection	YES

SECTION 206.7.4 Proposed Development Activity
REQUIRED FOR MAJOR AND MINOR SITE PLANS

1.	estimated demand for water & sewage disposal/location/dimensions, etc	YES
2.	surface water drainage and impact assessment on downstream properties	YES
3.	handling solid waste, haz & special waste/including screening on-site	YES
4.	driveway, parking & loading areas, location/dimension & materials along with changes in traffic flow onto or off site	YES
5.	landscape plan	YES
6.	location, dimension and ground floor elevation of buildings	YES
7.	signs/location and method of securing	YES
8.	location and type of exterior lighting	YES
9.	location of all utilities including fire protection systems	YES
10.	general description of proposed use or activity	YES

11.	traffic/peak hour and daily traffic generated by project	YES
12.	stormwater calculations/erosion & sedimentation control plan, etc.	YES

VI. 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 natural capability of the site to support development is limited due to its size and the lack of public water and sewer. The proposed use is self-contained which makes it a viable use for the lot. The site is currently graveled with no landscaping. The proposed landscaping plan calls for grass and shrubs which will improve the erosion situation and the overall appearance of the parcel.

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.

A traffic impact study dated September, 2006, was conducted by Gorrill Palmer Consulting Engineers. The findings in the report indicate that the traffic generated by the site can be accommodated by the existing roadway network. The traffic study also shows that the sight lines for the existing and proposed driveways exceed MDOT requirements. It also found that the queue lengths are not anticipated to extend beyond the proposed site driveways. Tom Saucier has reviewed and approved these findings.

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 distance from the signalized intersection of Gray and Blackstrap to the Blackstrap entrance is 130'. There is a special condition in the MDOT entrance permit which allows for this reduction.

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

Based on the findings of the traffic study and the MDOT Entrance Permit dated 6/21/06, the proposed accessways meet the standards.

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 has 5 parking spaces which will be primarily for the employees. The location of the parking spaces will not impede internal circulation. The area of the proposed parking area is flat and un-vegetated. There is adequate space for the storage of snow and for delivery of supplies.

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 for 5 vehicles meets all of the above requirements.

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.

This is a drive-through business so the bulk of the customers will stay inside their vehicles. There is a sidewalk that runs along the front and side of the property.

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 Town Engineer has reviewed the stormwater calculations submitted by Gorrill Palmer and found them to be in conformance with the ordinance requirements. The overall stormwater runoff will decrease from the pre-development to the post-development condition and no discharge to the adjacent right-of-way drainage system is proposed.

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 applicant has submitted an erosion and sedimentation control plan prepared by Lawrence Bastion, P.E.. This plan has been reviewed and approved by Tom Saucier, the Town's 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.

Water will be brought onsite via an FDA approved storage tank in the support vehicles. The applicant has submitted a letter dated 3-22-06 from Lee Reynolds the owner of 14 Ocean St., South Portland, to fill the tank at that location.

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.

As is common for drive through kiosks, there are no restrooms inside. The applicant has received written permission to utilize the adjacent businesses for this purpose as the owners of those businesses also own the land being leased for this business. There is a letter dated 3-23-06 from the South Portland Waste Water Treatment Plant giving permission to dump gray water at that location.

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 will be run underground to the building and metered.

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.

Based on the nature of the business, there will be no impact on groundwater.

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.

No chemical or other possible pollutants will be used or created 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 submitted a letter dated 9/29/06 from Keybank stating that the applicant has sufficient funds in a checking account for this venture.

The applicant has utilized Gorrill Palmer Consulting Engineers for the preparation of the site plan and the traffic study.

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 an open, graveled lot with no evident 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 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.

Lighting for the sign will back lit with LED, low wattage bulbs. Exterior lighting will be on only during hours of operation.

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 area will be landscaped and there will be no mechanical equipment, service or storage areas (beyond the small dumpster) that require screening. There is an existing stand of trees to the rear of the site.

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 only noise will be from the vehicles, entering, exiting and idling on the site. There are no residences abutting the property.

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.

No hazardous materials will be used or disposed of on-site. A small (2 yard) screened dumpster will be located near the rear parking area with regular pick-up service.

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.

An attractive landscaping plan prepared by Gawron Turgeon Architects is included the application. It shows a substantial mix of trees, shrubs and flowering plants that will improve the appearance of the site from its current condition and effectively buffer the parking, structure and driveways.

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 plan shows only five parking spaces, three of which are at the rear of the site. A generous landscaping plan has been submitted. A sidewalk runs along the front and side of the lot.

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.

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.

VII. CONDITIONS OF APPROVAL

1. That all fees be paid prior to the issuance of a building permit.
2. That the applicant switch the approved structure with a new, more traditional New England style if and when the unit becomes available.
3. That the recommendations of Gorrill Palmer that all plantings which will be located within the right of way not exceed three feet in height and be maintained at or below that height, and that signage not interfere with the sight lines, be complied with.
4. That a stop sign at the exit to Blackstrap Rd. be added to the plan.
5. That a statement of construction costs be submitted prior to the pre-construction meeting. That this preconstruction meeting be held prior to the start of construction.

2. **Public Hearing: Recommendation to the Town Council on a proposed Contract Zoning Agreement for development of a four-unit multiplex condominium building at a parcel of land located on Main Street;** Tax Assessor Map U13A, Lot 12A in the Medium Density Residential (MDR) district; Jim Guidi, Applicant; Cottage Farm Road, LLC, Owner.

3. Public Hearing: cut and paste agenda item

Mr. Guidi, Applicant stated he had been working with the Town Council to develop affordable condominiums for seniors. He has had neighborhood meetings and dropped the number of proposed condos from six to four. Mr. Guidi stated he currently has the land under contract from Cottage Farm Road, LLC. The project will be a 62+ elderly project. Two of the units will be designated as affordable using the MSA Portland HUD requirements. There will be two structures that will face Main Street; one is a cape-style building with a breezeway and attached barn, the residence will have an 8' pitch roof and the barn a 12' pitch. There will be a detached 4-car garage.

I. REQUEST/OVERVIEW:

The applicant and owner is Cottage Farm Development, LLC. There is a purchase and sales agreement on the property. The representative is W. Scott Decker, P.E., of STYDesign Engineering. The property is located on Main St., Tax Assessor map U13, Lot 12A in the Medium Density Residential District. The applicant has a contract zoning agreement with the Town Council to develop 4 senior housing condominiums on the .6 acre site. The contract zoning agreement provides a density bonus of 3 units, and reduced setbacks. Two of the four units will be

classified as affordable. The site is currently open lawn with mature trees in the rear of the lot. The development will utilize public water and sewer.

II. HISTORY:

- Sketch Plan Review:
- Contract Zoning Public Hearing/Recommendation to the Town Council
- September 19, 2006: Planning Board review. Tabled.

III. DESCRIPTION:

Parcel size: .6 acres

Net Residential Density: contract zone

Number of units: 4

Zoning: MDR

Development Type: mutiplex

Min. Lot Size: contract zone

Lot frontage: 246' is provided. (150' required)

Setbacks: see chart below

Water and Sewer: Public

Open Space: Lot coverage is 50%. No public open space.

Utilities: Underground electric, telephone and cable from Main Street.

Road: No road. There is an 18 ' wide driveway entrance that widens to 22'

Waivers: None requested; but see checklist below.

Outside Agency Reviews/Approval:

- Cumberland County Soil and Water Conservation Service: Waiver Granted.

- Driveway Opening Permit (MDOT): On File
- Sewer User Permits (Town): On File

IV. DEPARTMENT HEAD REVIEWS:

Adam Ogden, Public Works Director: No further comments

William Longley, CEO: No further comments.

Rescue Chief Bolduc: No comments.

Police Chief Charron: No comments

1) **Fire Chief Small:** No further comments.

V. CUMBERLAND LANDS AND CONSERVATION COMMISSION: No comments.

VI. PLANNER'S COMMENTS:

1. Need letter from CMP.

VII. TOWN ENGINEER REVIEW: Al Palmer, Gorrill Palmer Consulting Engineers:

Based on our review of the Applicant's revised package, dated September 22, 2006, our prior comments have been satisfactorily addressed.

VIII. Ralph Oulten: Sewer Peer Review Engineer: 10/3/06

I have reviewed a revised site plan C-102 revision F, dated 9/27/06, for the Cottage Farm Condominiums. The revised sewer connections shown for the four unit condominium project are acceptable and should be approved.

**COMPLETION CHECKLIST
BASED ON APPENDIX C
MINOR SUBDIVISION SUBMISSION REQUIREMENTS**

	YES/NO	NOTES/COMMENTS
15 copies of plans	yes	
Scale 1"=40'	1"=20'	
Proposed name of town & subdivision	yes	
Date of submission, north	yes	

point, graphic map scale		
Names & address of record owner and subdivider	yes	
Names of adjoining property owners	yes	
Names of existing/proposed streets, easements & bldg. lines	yes	
Boundaries & designations of zoning districts, parks, public spaces	yes	
Field survey with bearings and distances certified by LLS. Monuments shown.	yes	
Dimensions & areas of each proposed lot	yes	
Location, dimension, bearing of every lot line.	yes	
Survey to an accuracy of 1' to 5,000'.	yes	
2' contours	yes	
Surface drainage patterns, channels and watershed areas.	yes	
Soils report w/boundaries superimposed on the plan	yes	
Plan submitted to CCSWCS	Waiver granted	
On-site public sewer and water shown horiz and vert (Hydro-geol study?)	yes	
Surface drainage plan or stormwater mgmt plan	yes	
Electrical facilities	yes	
Covenants or deed restrictions	yes	

IX. 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 project will be on public water and sewer. A medium intensity soils survey was submitted. The Town Engineer has reviewed and approved the plans.

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 applicant will utilize public water. A letter from PWD is on file indicating approval to connect.

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 applicant will utilize public water. A letter from PWD is on file indicating approval to connect.

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;

An erosion and sedimentation control plan was prepared by SYTDesign Engineering. It was reviewed and approved by the Town Engineer.

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 four units are age restricted and are not expected to generate a significant amount of traffic. The drive and parking are configured such that drivers will not back onto Main Street and there is adequate site distance for both directions so no unsafe condition will be created.

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

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

The project will be served by the municipal sewerage system. The applicant has purchased the four sewer user permits required. A letter from Bill Shane dated 10/12/06 is on file.

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 Town's current municipal waste hauler will collect the solid waste curbside.

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 location of the open lot is within an existing residential area. There are no evident historic or wildlife resources on 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 have been reviewed and approved by the Town's peer review engineer and sewer review engineer.

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;

There is a letter dated 12/6/05 on file from TD Banknorth stating the the bank considers James Guidi to have the experience and financial capability to successfully complete the proposed project. There are minimal public improvements for this project, and a letter of credit or bond will be required prior to the start of construction.

Technical capacity is evidenced by the use of professional land surveyors, soils evaluators, and engineers.

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;

This project is not located within the watershed of a lake or great pond.

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;

Because of the residential nature of this project, combined with the fact that the project will be on public water and sewer, there will be no adverse impact on 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;

The proposed project is located in Zone C (area of minimal flooding) on the FEMA Flood map.

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

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

A stormwater management plan was prepared by SYTDesign Engineering and reviewed and approved by the Town 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.

There are no wetlands on 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]

There are no rivers, streams or brooks on or abutting the site.

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

X. 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.

XI. RECOMMENDED CONDITIONS OF APPROVAL:

1. That all fees be paid as required.
2. That a performance guarantee, acceptable to the Town, be submitted prior to the pre-construction conference.
3. That a preconstruction conference be held prior to the start of construction.

F. Administrative Matters -

Mr. _____ moved to adjourn at 7:40 p.m.
Mr. _____ seconded.

VOTE: Unanimous

G. Adjournment: 9:15 p.m.

A TRUE COPY ATTEST:

Thomas E. Powers, Board Chair

Debbie Flanigan, Board Clerk