

**Planning Board Meeting - Minutes
Tuesday, September 19, 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, Board Chair, Bill Ward, Vice-Chair, Beth Howe, Bob Couillard, Mark Robinson, Bill Richards, Chris Neagle

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

C. Approval of Minutes of August 15, 2006

Ms. Howe moved to approve the minutes of August 15, 2006 with minor technical corrections.

Mr. Ward seconded.

VOTE: Unanimous

D. Consent Calendar / De minimus Change Approvals:

There were no consent calendar items

E. Hearings and Presentations

1. Public Hearing: Final Plan Review: Foxes Gore a major 17-lot subdivision, Tax Assessor Map R07, Lot 59, Rural Residential 2 (RR2) district: Goose Pond Development, LLC, Owner and Applicant, John Riordan, P.E. SGC Engineering, LLC, Representative.

Ms. Nixon presented background information as follows: The applicant is the MPG Management Group, LLC. The owner is Goose Pond Development. John Riordan, P.E. of SGC Engineering is the engineer for the project; Mark Girard of SGC Engineering is the representative. The 45.68 parcel is located on Goose Pond Road, Tax Assessor Map R07, Lot 59 in the Rural Residential 2 (RR2) zoning district.

This review is for final plan approval of a 17-lot clustered major subdivision. The lots will range in size from 1.4 acres to 3.0 acres. Approximately 13 acres or 29% of the 46-acre parcel will remain as open space. Approximately 9-acres of this open space will be improved by the developer as a playing field suitable for active and passive recreation and a gravel parking area. This land will be conveyed to the Town of Cumberland prior to the pre-construction conference.

This site is an un-restored gravel pit. There is restoration work that will be required to develop this property for its intended use. This work includes the re-grading and stabilization of the parcel, and the removal of buried waste tires. This property is an abandoned gravel pit, which will be an improvement to the area as a residential subdivision. In June 2005 the property underwent a lengthy DEP review; and has received approval. There are no outstanding issues and conditions of approval have been prepared.

Mr. Mark Girard, representative and Owner of the property stated they are proud to take an abandoned gravel pit and transform it into a terrific addition to the community with open space and a ball field.

Mr. John Riordin, P.E., representative summarized the few changes since the last submittal as follows:

- Outside Agency approvals have been received:
MDEP SLODA
MDEP Stormwater
NRPA
Cumberland County Soil and Water Conservation Service
MDIF and Maine Dept. of Conservation
- Gorrill – Palmer Engineering conducted a traffic study that confirmed the intersection of Goose Pond Road and Blackstrap Road will be satisfactory at the build-out of the project.
- Lot # 16 ground water well has been tested and there is no detectable contamination.
- A test pit was dug on the lot for a recreational field showing permeability of the soils and ground water levels.
- Peer review comments from the peer review engineer and public works director have been addressed.

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

Mr. Neagle stated this was a great project and asked for clarification on the proposed Town lot.

Mr. Girard stated they are proposing to convey 9-acres to the Town, and there will be a 13.24 open space lot that will be owned by a Homeowners' Association.

Mr. Robinson stated at the last review the Board had asked that Mr. John Sevee of Sevee and Maher present results from the Lot 16 well drilled to bedrock.

Mr. Sevee stated the groundwater volatile organic compound (VOC) analysis was received from Lot # 16. The testing data documents the absence of VOCs at the well location. Therefore, relative to VOCs, the water is potable. It is recommended that wells on the east end of the subdivision, that is Lots 7,8,9,15, and 17, be sampled after the subdivision is approved and the wells are drilled on the lots. They would recommend that any future VOC analyses be required to follow U.S. EPA Method 524.1 and the results submitted to the Town of Cumberland Planning Office and Code Enforcement Officer prior to occupancy.

Mr. Robinson thanked Mr. Sevee for his report.

Mr. Richards thanked the applicant for their professionalism and responsiveness to review requests for this difficult property.

Ms. Howe agreed the applicant had done a great job it was unusual to see a complicated application go so smoothly. Ms. Howe asked about a future connection to Old Colony Estates. Ms. Howe suggested that owners have notification of the possibility of the future connection; as they might prefer to live on a dead end road.

Mr. Girard stated they cannot affirmatively make this connection happen; their right-of-way extends to the property line.

Mr. Neagle asked if the road was proposed to be public or private.

Mr. Girard stated they will offer the road to the Town at build out.

Mr. Couillard stated this was a nice plan and thanked the developer for maintaining the trails.

Mr. Ward echoed the commendations, of a great project.

Mr. Powers agreed with the Board members; however, he stated he would prefer to see sidewalks with a separation, paved freewalks are not as safe.

The Board reviewed the proposed conditions of approval 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 DEP Division of Waste Management has reviewed and approved the stormwater management plan. A soils analysis was conducted by Albert Frick and Sweet Associates and reviewed by the DEP Division of Environmental Assessment of the Bureau of Land and Water Quality which found that the soils will support the proposed subsurface waste disposal systems.

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 has submitted an assessment of groundwater supplies prepared by a certified geologist and well driller. These assessments were reviewed and approved by the DEP Division of Environmental Assessment, and John Sevee, P.E., C.G.

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 subdivision will not use a municipal 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;

An erosion and sedimentation control plan was prepared by SGC Engineering and reviewed and approved by the Town Engineer, the DEP's Division of Watershed Management, and 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;

A Traffic Impact Study was prepared by Peter Hedrich, PE, PTOE of Gorrill Palmer Consulting Engineers. The study states that the 17 lot subdivision will generate 13 trip ends in the AM peak hour and 17 in the PM peak hour. This level of traffic generation does not require a permit from MDOT and it is reported that the levels of service at the intersections of Goose Pond Road and Blackstrap Road and the site access with Goose Pond Road will operate at satisfactory levels of service.

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 applicant submitted a soils survey map and report and a geotechnical report based on the soils found at the project site. These reports were prepared by a certified soils scientist and a registered professional engineer and reviewed by staff from the Division of Environmental Assessment of the BLWQ and the Town Engineer. Passing test pits have been identified on each lot within the subdivision.

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 applicant will need to provide evidence of a contract with a private waste hauler or grant a public easement to the Town so that curbside trash and recycling can be provided. This will be done as a condition of approval.

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 site of the project is currently undeveloped fields and woodland. The site was previously used as a sand and gravel pit. There are numerous hillocks of sand which present an odd appearance to the landscape. There are also a number of buried waste tires on the site as well as trash bottles and other debris which will be removed. The grading and landscaping of the site will improve the appearance of the area. There is a letter on file from MDIFW stating that there are no known essential or significant wildlife habitats, nor any documented occurrences of rare, threatened or endangered species at or adjacent to this property. There is also a letter on file from the Department of Conservation stating that there are no rare botanical features in the project area.

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 project plans have been reviewed and approved by the following: MDEP, MDOT, MDIFW, Maine Department of Conservation, Cumberland County Soils and Water Conservation Commission, the Town Engineer, a consulting hydrologist, and the Town department heads.

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 Camden National Bank stating that they are aware that the developers will require a loan of approximately \$760,000 and that based on several past successful loan relationships with the developers, they look forward to participating in the financing of this project. A commitment letter has been received; and a bond or irrevocable letter of credit in an amount agreed to by the Town Engineer shall be provided prior to the preconstruction conference.

Technical capacity is evidenced by the use of professional land surveyors, soils evaluators, engineers, attorneys, and hydro-geological consultants.

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;

According to the DEP Order, the 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;

A portion of the site is located over a mapped sand and gravel aquifer. Wastewater will be disposed of via onsite subsurface wastewater disposal systems on each lot. Stormwater runoff from the access road will be treated by infiltration. The DEP has found that proposed project will not have an unreasonable adverse effect on groundwater quality or quantity.

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 not located within the 100 year floodway of any river or stream.

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 SGC Engineering and reviewed and approved by the DEP and the Town Engineer. The applicant is proposing to utilize a stormwater management system consisting of grassed swales and an infiltration basin. The DEP review found that the post-development peak flow from the site will not exceed the pre-development peak flow from the site.

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.

The applicant has received a DEP NRPA Tier 1 Wetland Alteration permit to fill approximately 12,073 sq. ft. of freshwater wetland to construct the subdivision access road and a 12' driveway to the parking area for the recreation field. The DEP has found that the applicant has avoided and minimized wetland impacts to the greatest extent practicable.

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 the site.

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

Ms. Howe moved to approve the findings of fact.

Mr. Neagle seconded.

VOTE: Unanimous

Mr. Neagle moved to grant Final Plan Approval with the standard and six proposed conditions of approval for a major 17-lot subdivision, Foxes Gore, Tax Assessor Map R07, Lot 59 in the Rural Residential 2 (RR2) district; Goose Pond Development, LLC, Owner and Applicant, John Riordan, P.E. SGC Engineering, LLC, 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 pre-construction conference.
2. That a performance guarantee, acceptable to the Town, be submitted prior to the pre-construction conference.
3. The 9.32 acre dedicated open space parcel will be improved by the developer as a playing field suitable for active and passive recreation, and a gravel parking area. The developer will be responsible for including the cost of this work in the performance guarantee, constructing the field and parking area as shown on the plans, and then offering it to the Town Council for acceptance.

4. The applicant shall comply with all requirements of the DEP Order issued 8/30/06.
 5. The applicant will need to provide evidence of a contract with a private waste hauler, or grant a public easement to the Town so that curbside trash pickup and recycling can be provided. This will be done prior to the preconstruction conference.
 6. The wells on the east end of the subdivision, that is Lots 7, 8, 9, 15, and 17, be sampled after the subdivision is approved and the wells drilled on these lots. We would recommend that in any future VOC analyses be required to follow U.S. EPA Method 524.1 and the results submitted to the Town of Cumberland Planning Office and Code Enforcement Officer prior to issuance of an occupancy permit.
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2. Public Hearing: Preliminary Plan Review - Cottage Farm Condominiums a 4-lot minor subdivision with 62+ age restricted condominiums at Main Street; Tax Assessor Map U13A, Lot 12A in the Medium Density Residential District (MDR); Cottage Farm Development, LLC, Applicant; Scott Decker, P.E., of SYTDesign Consultants, Representative, Cottage Farm Road, LLC, Owner.

Ms. Nixon presented background information as follows: 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 SYTDesign 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. The site is currently open lawn with mature trees in the rear of the lot. The development will extend public water and sewer to the site.

This hearing is for preliminary plan review.

HISTORY:

Sketch Plan Review:

Contract Zoning Public Hearing/Recommendation to the Town Council:

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?
 Driveway Opening Permit (MDOT)
 Sewer User Permits (Town)

DEPARTMENT HEAD REVIEWS:

Adam Ogden, Public Works Director: Comments in email exchange with Ralph Oulton, below.

William Longley, CEO: Does the contract zone allow for a driveway closer than 15' (i.e., "turn-a-round area?")

Rescue Chief Bolduc: No comments.

Police Chief Charron: No comments

Fire Chief Small: After reviewing this proposal I have the following comments. These comments are made in consideration of the inherent hazards of a multi-unit occupancy, the age of the occupants, and traffic hazards and congestion:

1. 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 in the garage that can be silenced with the push of one button from this location. The strobe or other visual alarm signaling devices shall remain active when the system is silenced. The alarm system shall identify the exact location of each individual initiation device with plain text at the fire alarm panel. Monitoring and maintenance of the system shall be identified in the Homeowner's Association Document.
2. The building shall be equipped with a hinged key box approved by the fire department. The key box shall be located on the garage and shall be electronically connected to the fire alarm system to show a trouble signal whenever the box is in the open position. Keys to each individual unit shall be required to be in the box.

3. 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.
4. Any 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.
Mr. Decker stated the applicant is proposing underground propane tanks.
5. A fire protection sprinkler system shall be installed and 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. The detached garage shall be exempt from this requirement.
Ms. Nixon stated these are small adjoining units which will be occupied by seniors and voiced concern of a burner being left on, and agreed with sprinklers.

Mr. Decker stated the applicant has stated the units are in close proximity to the Central Fire Station; but he will do whatever the Chief requests.
6. Access to the building shall be adequate enough to accommodate fire department vehicles.

Cumberland Lands & Conservation Committee: No comments.

Mr. Scott Decker, P.E. of SYTDesign Consultants, representative reviewed the proposed plan. Mr. Decker stated the trees will be cleared to the property line. A landscaping plan will be submitted for buffering. Mr. Decker stated the project meets sight distance, and stated they will request a waiver from Cumberland County Soil and Water District, the project will comply with erosion control standards, and a review from the CCSW would be more review than required. Mr. Decker stated they are looking for comments from the Board.

Ms. Nixon reviewed the Planner's comments:

1. Date of plan is 12/1/05; plan has changed since that date, yet no revision date is shown.
2. Waivers and submission to CCSWCS?
3. Sewer connection / design needs further work.
Mr. Decker stated the design and installation will comply with Mr. Oulton and Mr. Ogden's requirements. The sewer will tie into the existing sewer connection at Main Street.
4. Sewer permits needed from Town.
Mr. Decker stated Mr. Shane, Superintendent of Sewers has stated the units are available and will be transferred when purchased by Mr. Guidi.
5. Need letters from CMP.
6. Fire protection plan needs to be added as notes to the plan.
8. Why is Purchase and Sale Included? Deed is also included, so has property transferred?
9. Setbacks: These need clarification, Mr. Longley Code Enforcement Officer has stated the turn-around is closer than 15' from the side setback and this is not addressed in the contract zone.

	Front	Rear	Side	Combined Side	Driveway
Ordinance Requirements:	35	50	20	50	15
Contract Zone Requirements:	30	35	Silent for condo; 10' for garage	silent	silent
Planning Board Recommendation:	30	35	--	--	none
Plan:	28.6 <i>Plan is 30'</i>	48.4 (in narrative box, but 37' shown on plan)	36.5	74.8	0

Ms. Nixon stated the Engineer comments are not difficult, and will be ready for approval at final submission.

Ms. Nixon stated the Town Council has set a public hearing date for the first meeting in October to refer back to the Planning Board for the 17th of October. Natalie Burns, Town Attorney has agreed that the Planning Board can review for final approval with a condition for the side setback.

Mr. Ward recommended the Town engineer review the encroachment and paved parking area.

Mr. Powers asked about elevations.

Mr. Decker reviewed the elevations and stated the siding is proposed to be vinyl clapboards with architectural asphalt shingles.

Mr. Richards suggested Chem-plank, which is concrete base siding; and is less flammable than vinyl siding.

The public portion of the meeting was opened.

Mr. Mackey, of 6 Cottage Farms Road; stated he was in favor of the proposed tree buffering plan.

Mr. Neagle moved to grant the following two waiver requests:

1. Plan scale 1" = 40' scale is waived to 1" = 20'
2. Review by Cumberland County Soil and Water Conservation

Mr. Robinson seconded.

VOTE: Unanimous

Mr. Neagle moved to table preliminary review and in the event that the Council considers a modification to the side setback it is the Planning Board's position that the description as indicated on the plan is suitable.

Mr. Robinson seconded.

VOTE: Unanimous

F. Administrative Matters: Signing of Mylar for Foxes Gore subdivision.

G. Adjournment:

Mr. Neagle moved to adjourn. Mr. Robinson seconded.

VOTE: Unanimous

Adjournment: 8:10 p.m.

A TRUE COPY ATTEST:

Thomas C. Powers, Board Chair

Pam Bosarge, Board Clerk