



P L A N N I N G D E P A R T M E N T
T O W N O F C U M B E R L A N D , M A I N E

Dear Applicant:

It is the sincere goal of the Town of Cumberland Planning Department to assist applicants in obtaining all necessary permits and approvals for their projects. This department processes all applications for subdivisions (the creation of more than 3 lots or units) and site plans (any non-residential construction).

Subdivisions are classified as either minor (4 lots/units or less) or major (more than 4 lots/units). By ordinance, the Town's Code Enforcement Officer makes the determination on whether a project requires subdivision review and if so, classifies the project as minor or major. There is a checklist for required submission materials for both types of subdivisions.

Site Plan Approval is required for any non-residential construction. Depending on the size of the project, review and approval can be done either by town staff or by the Planning Board.

The Cumberland Planning Board meets once a month on the third Tuesday of the month at 7:00 p.m. in the Town Council Chambers at Town Hall. The meetings are televised on Channel 2 and replayed throughout the month.

Please note that the application deadline for those projects that require Planning Board approval is 21 days prior to the next scheduled Planning Board meeting. Incomplete applications will not be brought to the Board until all required information is submitted.

For larger projects, the Town requires that plans be reviewed by a peer review engineer selected by the Town. The fees for this review are paid by the applicant. An initial review fee is collected at the time of application and any additional fees must be paid by the applicant prior to the issuance of a building permit.

If you have any questions, please do not hesitate to call me at 829-2206 or email me at cnixon@cumberlandmaine.com. Pam Bosarge is the Department's administrative assistant and can also assist you in this process.

Sincerely,

Carla Nixon
Cumberland Planning Director

Site Plan Application Form

APPLICANT INFORMATION

Applicant's Name: _____
Applicant's Mailing Address: _____
Phone: Home: _____ Work: _____ Cell: _____
Email Address: _____ Fax #: _____
Interest in Property: Own: _____ Lease: _____ Lease Agreement: _____ Purchase & Sale _____
Interest in Abutting Property (if any): _____

PROJECT INFORMATION

Name of Project: _____
Address of Project: _____
Tax Map # _____ Lot # _____ Deed Book #: _____ Deed Page #: _____
Zoning District: _____ Overlay District (if any) _____ Size of Parcel: _____

Existing Buildings on Site: Yes: _____ No: _____ To be removed? Yes: _____ No: _____

Is the parcel in an approved or proposed subdivision? If so, provide name of subdivision: _____

Is Board of Appeals Approval Required? (Required if proposed use is a special exception)

Yes: _____ No: _____

Check all outside agency approvals required for this project:

Wetlands: MDEP Tier 1 _____ Tier 2 _____ Army Corp of Engineers: _____

Stormwater: MDEP General Construction _____

Traffic: MDOT Traffic Movement _____ MDOT Entrance Permit: _____

Other outside agency approvals required (list): _____

CLASSIFICATION OF PROJECT

Major Site Plan _____ Minor Site Plan _____ Staff Review Minor Site Plan: _____

You must review the plan with the town planner or code enforcement officer to receive correct classification prior to submission of application.

Application Fees per Town's Fee Ordinance: _____

Application Fee: _____

Advertising and Abutter Notice Fee: _____

Staff Review Fee: _____

Outside Review Fee: _____

TOTAL FEES: _____

This application form along with the fee payment, submission checklist and all other supporting materials must be submitted to the Town Planner at least 21 days prior to the Planning Board meeting at which it will be considered.

The undersigned, being the applicant, owner or legally authorized representative, states that all information contained in this application is true and correct to the best of his/her knowledge and hereby does submit the information for review by the Town and in accordance with applicable ordinances, statutes and regulation of the Town, State and Federal governments:

Signature of Applicant/Owner/Representative

Date

SITE PLAN SUBMISSION CHECKLISTS

FOR ALL PROJECTS:

Submission Requirement	Provide Location in Application Packet (e.g., plan sheet number, binder section, narrative)	If requesting a waiver, indicate below:
<i>Example: Erosion Control</i>	<i>Plan Sheet E-1</i>	
General Information:		
Completed Site Plan Application Form		
Names and addresses of all consultants		
Narrative describing existing conditions and the proposed project		
Evidence of right, title or interest (deed, option, etc.)		
Names and Addresses of all property owners within 200 feet		
Boundaries of all contiguous property under control of owner		
Tax map and lot numbers		
Area of the parcel		
FEMA Floodplain designation & map #		
Zoning classification		
Evidence of technical and financial capability to carry out the project		
Boundary survey		
List of waiver requests on separate sheet with reason for request.		
Proposed solid waste disposal plan		
Existing Conditions Plan showing:		
Name, registration number and seal of person who prepared plan		
North arrow, date, scale, legend		
Area of the parcel		
Setbacks and building envelope		
Utilities, including sewer & water, culverts & drains, on-site sewage		
Location of any septic systems		
Location, names, widths of existing		

public or private streets ROW's		
Location, dimension of ground floor elevation of all existing buildings		
Location, dimension of existing driveways, parking, loading, walkways		
Location of intersecting roads & driveways within 200 feet of the site		
Wetland areas		
Natural and historic features such as water bodies, stands of trees, streams, graveyards, stone walls, floodplains		
Direction of existing surface water drainage across the site & off site		
Location, front view, dimensions and lighting of existing signs		
Location and dimensions of existing easements & copies of documents		
Location of nearest fire hydrant or water supply for fire protection		
Proposed Development Site Plan showing:		
Name of development		
Date		
North arrow		
Scale		
Legend		
Landscape plan		
Stormwater management		
Wetland delineation		
Current & proposed stands of trees		
Erosion control plan		
Landscape plan		
Lighting/photometric plan		
Location and dimensions of all proposed buildings		
Location and size of utilities, including sewer, water, culverts and drains		
Location and dimension of proposed on-site septic system; test pit locations and nitrate plumes		
Location of wells on subject property and within 200' of the site		
Location, names and widths of existing and proposed streets and		

ROW's		
Location and dimensions of all accessways and loading and unloading facilities		
Location and dimension of all existing and proposed pedestrian ways		
Location, dimension and # of spaces of proposed parking areas, including handicapped spaces		
Total floor area and ground coverage of each proposed building and structure		
Proposed sign location and sign lighting		
Proposed lighting location and details		
Covenants and deed restrictions proposed		
Snow storage location		
Solid waste storage location and fencing/buffering		
Location of all fire protection		
Location of all temporary & permanent monuments		
Street plans and profiles		

ADDITIONAL REQUIREMENTS FOR MAJOR SITE PLAN PROJECTS:

Submission Requirement	Provide Location in Application Packet (e.g., plan sheet number, binder section, narrative)	If requesting a waiver, indicate below:
High intensity soils survey		
Hydro geologic evaluation		
Traffic Study		
Market Study		
Location of proposed recreation areas (parks, playgrounds, other public areas)		
Location and type of outdoor furniture and features such as benches, fountains.		

SITE PLAN REVIEW ORDINANCE

TOWN OF CUMBERLAND

[Amended 2/25/02, effective 3/19/02, Amended, effective 10/22/07, Amended, effective: 7/12/2010]

SECTION 1: TITLE, PURPOSE, AUTHORITY

- .1 **Title:** This ordinance shall be known and cited as the “Site Plan Ordinance” of the Town of Cumberland, Maine.
- .2 **Purpose:** The site plan review provisions are intended to *protect* public health and safety, *promote* the general welfare of the community, and *conserve* the environment by assuring that all non-residential development is designed and constructed in a manner which assures that adequate provisions are made for traffic, utilities, storm water, erosion and sedimentation, wildlife habitat and fisheries, historic and archaeological resources. Site plan review will also serve to minimize any adverse impacts on neighboring properties and to ensure that new developments will fit in harmoniously to the fabric of the community.
- .3 **Review and Approval Authority:** The Town Planner is authorized to review and approve projects classified as Staff Review. The Planning Board is authorized to review all other projects.

SECTION 2: NOTIFICATION PROCEDURES

The Planning Department will mail notices to all property owners within 200’ of the property under consideration. The notice will be mailed at least 14 days prior to the meeting at which the proposed project is reviewed.

The agendas of Planning Board meetings and Staff Review meetings shall be published by the Planning Department in a local newspaper at least seven (7) days before the date of the meeting.

SECTION 3: CLASSIFICATION OF PROJECTS

There are three levels of site plan review: 1) Staff Review; 2) Minor Site Plan Review; and 3) Major Site Plan Review. The Town Planner shall classify each project to determine the level of review required based on the applicability standards set forth in this section. Staff Review is for smaller projects, while larger projects (classified as “Minor” and “Major”) are reviewed by the Planning Board. The Town Planner is authorized to review and act on site plans classified as Staff Review, however, the Town Planner may refer a Staff Review project to the Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources.

Type of Activity	Staff Review Required	Minor Site Plan Review Required	Major Site Plan Review Required
The construction of a new structure (other than single family and duplex) that contains:	Less than 3001 sq. ft.	Between 3001 sq. ft. and 7,000 sq. ft.	More than 7,000 sq. ft.
The expansion of a non-residential building or structure, including accessory buildings, that increases the total floor area by:	Less than 1,001 sq. ft.	Between 1001 and 2,000 sq. ft.	More than 2,000 sq. ft.
The construction of an impervious surface such as a support pad or paved or gravel parking area:	Less than 2,001 sq. ft.	Between 2,001 and 4,000 sq. ft.	More than 4,000 sq. ft.
The conversion of existing buildings or structures from one use to another, without enlargement of gross floor area or parking.	X		
The expansion of an approved use that does not increase the intensity of on or off-site impacts.	X		
Site preparation activities including clearing, grubbing, grading, the construction or reconstruction of driveways and entrances, including the installation of driveway culverts.	X		

SECTION 4: STAFF REVIEW DEVELOPMENT PROCEDURE

- .1 The applicant shall provide nine (9) copies of a complete application packet.
- .2 The Town Planner shall determine if the application requires Board of Adjustment and Appeals Review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing the process as described below.
- .3 A copy of the application shall be provided by the Planning Department to the following members of the Staff Review Committee: the Public Services Director, Police Chief, Fire/EMS Chief, Code Enforcement Officer, Economic Development Director, Town Manager and Chair of the Planning Board. Comments shall be made on the application in writing, to the Town Planner within 7 working days of the date of the application.

- .4 The Town shall mail a notice, within three (3) working days of the application submission, to all property owners within 200 feet of the site under review. *NOTE: The term “working days” shall mean days in which the Cumberland Town Office is open.*
- .5 Within fifteen (15) working days following the submission of the completed application, the Town Planner shall review all submitted comments from the staff review committee and residents, and in writing, approve, approve conditionally, or deny the application in accordance with the provisions of the site plan review ordinance. The written decision of the Town Planner shall be mailed to the applicant and property owners within 200 feet of the site within three (3) working days of the decision. A copy of the decision shall also be provided to the Chair of the Planning Board, Town Manager and other members of the Staff Review Committee.
- .6 Appeals: Within 15 working days of the decision by the Town Planner, the applicant or property owner(s) within 200’ feet of the site may appeal the Town Planner’s decision to the Planning Board. The appellant in such case shall pay a fee as established by order of the Town Council. The appeal shall be in writing and shall list the specific provision(s) of the site plan ordinance upon which the appeal is based. Site plan decisions of the Planning Board are appealed to the Cumberland County Superior Court.

SECTION 5: MAJOR SITE PLAN REVIEW DEVELOPMENT PROCEDURE

The Planning Board shall use the following procedures in reviewing applications for major site plan review.

.1 Pre- application

- .1 Prior to submitting a formal application, the applicant or his/her representative may request a pre application conference with the Planning Board. The purpose of the pre application conference is to:
 - .1 Allow the Board to understand the nature of the proposed use and the issues involved in the proposal, and
 - .2 Allow the Board to understand the location, size, natural resources and general characteristics of the proposed site, and
 - .3 Allow the applicant to understand the development review process and required submissions, and
 - .4 Discuss the need for any waivers from the submission requirements,
 - .5 Identify issues that need to be addressed in future submissions, and
 - .4 Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre application review, and such review shall not cause the plan or any related application to be a pending application or proceeding under Title 1 M.R.S.A., Section 302. No decisions on the substance of the plan shall be made at the pre application conference.

.2 Site Walk

The Board may schedule a site walk if deemed necessary. A written notice for such site inspections shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site inspection. Notice shall also be sent by first class mail to all property owners of record within two hundred (200) feet of the parcel on which the proposed development is located

There are no formal submission requirements for a pre application conference. However, the applicant should be prepared to discuss the following with the Board.

- .1 The proposed site, including its location, size, and general characteristics,
- .2 The nature of the proposed use and potential development,

3. Site Inventory and Analysis

- .1 Applicants with projects classified as major developments must submit a site inventory and analysis for Planning Board review. This review must be completed prior to the preparation and submission of a site plan review application and supporting documentation. The Board shall review the site inventory and analysis with the applicant and shall authorize the submission of the formal application when the site analysis is complete. The site inventory and analysis must be submitted to the Planner.
- .2 Upon receipt of a site inventory and analysis, the Planner shall give a dated receipt to the applicant. Within thirty (30) days of the receipt of a site inventory and analysis submission for a major development, the Planner shall review the material and determine whether or not the submission is complete. If the submission is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional material required to make the submission complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. When the submission is determined to be complete, the applicant shall be notified in writing of this finding and the item placed on the agenda for informal review by the Board.

- .3 The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. A written notice for such site inspections shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to the site inspection. Notice shall also be sent by first class mail to all property owners of record within two hundred (200) feet of the parcel on which the proposed development is located.
- .4 Within forty-five (45) days of the finding that the site inventory and analysis submission is complete; the Board shall complete its review of the submission and notify the applicant in writing of its findings.

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used and developed. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application. The Board shall also act on any requests for waivers.

SECTION 6: MAJOR AND MINOR SITE PLAN NOTIFICATION PROCEDURE

- .1 Public Notice Procedure
 - .1 Upon receipt of a formal site plan review application, the Planner shall give a dated receipt to the applicant.
 - .2 Within thirty (30) days of the receipt of a formal development review application, the Town Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete, and shall advise the applicant that the application will not be reviewed until the additional information is submitted. Failure to submit the additional information within six months shall be deemed an abandonment of the application.
 - .3 The notification requirements of subsection (4) below shall be met and the item placed on the agenda for substantive review within thirty (30) days of this finding

- .4 A notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven (7) days prior to the hearing.
- .5 The Town Planning Department shall mail a written notice of the date, time, and place of the public hearing at which the application will be considered to the applicant and to all property owners within 200' of the parcel on which the proposed development is located.
- .6 Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.

.2 Public Hearing Procedure

- .1 The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this ordinance or other municipal ordinances.
- .2 The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and for the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

.3 Procedures for Final Action on an Application

- .1 The Planning Board shall take final action on said application within thirty (30) days of the public hearing. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this ordinance.

- .2 In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, performance standards, and other requirements of this Ordinance.
- .3 The Board shall notify the applicant, of the action of the Board, including the findings of fact and any conditions of approval.

SECTION 7: MINOR SITE PLAN REVIEW DEVELOPMENT PROCEDURE

- .1 Projects classified as minor developments shall go through a simplified review process. Applicants shall **not** be required to submit a site inventory and analysis and may proceed directly to preparing and submitting a site plan review application including the development plan and supporting documentation meeting the submission requirements. This material must be submitted to the Town Planner. The Planning Board shall have the authority to waive any review standards if it finds they are inapplicable to a minor site plan application.
- .2 *With the exception of the Site Inventory and Analysis step and the reduced submission requirements, the process for Minor Site Plan Review is the same as that of Major Site Plan Review.*

SECTION 8: APPROVAL STANDARDS AND CRITERIA FOR ALL SITE PLANS

The following criteria shall be used in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. 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.

.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. For health care, residential care, extended care and similar facilities, which generate less than one hundred (100) vehicle trips per day, where the applicant can conclusively demonstrate that life safety is or could be at risk due to the lack of adequate access for emergency vehicles, and only after all other site design alternatives have been exhausted, the Planning Board may at its discretion, with appropriate input from the Town's Public Safety Chiefs and the Town's Public Services

director, approve a second separate driveway. [Amended, effective 4/22/02]

- 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.

.3 Accessway Location and Spacing

Accessways must meet the following standards:

- .1 Private entrance / exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- .2 Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

.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.

.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.
- .5 The Planning Board may waive or modify requirements in Section 417 (Parking and Loading) of the Zoning Ordinance when it finds that the proposed development will not require the number of spaces established in that Section based upon the specific use or conditions of the site. [Amended, effective 9/8/2008, Adopted 9/8/2008.]

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.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.

.19 Noise

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

.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.

.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.

.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.

.23 Fire Protection

The site design must comply with the Fire Protection Ordinance. The Fire Chief shall issue the applicant a “Certificate of Compliance” once the applicant has met the design requirements of the Town’s Fire Protection Ordinance.

.24 Aquifer Protection (if applicable)

If the site is located within the Town Aquifer Protection Area a positive finding by the Board that the proposed plan will not adversely affect the aquifer, is required.

.25 Route 100 Design Standards (if applicable)

All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making determination of consistency, the Planning Board may utilize peer review analysis provided by qualified design professionals.

.26 Route 1 Design Guidelines (if applicable)

All development in the Office Commercial North and Office Commercial South districts is encouraged to be consistent with the Route 1 Design Guidelines.

SECTION 9: PERFORMANCE GUARANTEES

- .1 **Performance Guarantee** - The Planning Board may require the posting of a performance guarantee in such amount and form as specified in subsection .1 below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

- .1 Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Attorney.
 - .1 Letter of Credit: The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
 - .2 Escrow Account: The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.
 - .3 Security Bond: The applicant may obtain a security bond from a surety bonding company authorized to do business in the State.
- .2 Upon substantial completion of all required improvements, the developer must notify the Town Planner of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

SECTION 10: 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.

SECTION 11: SUBMISSION OF AS-BUILT PLANS

Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of improvements as actually constructed on the site. These "as built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

SECTION 12: MINOR CHANGES TO APPROVED PLANS

Minor changes in approved plans necessary to address field conditions may be approved by the Planner provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal.

SECTION 13: APPEAL OF PLANNING BOARD ACTIONS

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

SECTION 14: FEES

.1 Application Fee

Any application for any type of site plan review must be accompanied by an application fee set by order of the Town Council. This fee is to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs. The fee shall not be refundable.

.2 Site Inventory and Analysis Fees – Major Site Plans Only

All site plan applications for major developments are subject to Site Inventory and Analysis review. Prior to submitting a site inventory and analysis for a major development, the applicant must pay a processing fee in an amount as set by order of the Town Council. The fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs.

.3 Technical Review Fee

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, in the account after the payment by Town of all costs and services related to the review, provided, however, that where the cost of technical reviews exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the issuance of any building permit the amount by which the technical reviews exceed the amount of monies in the escrow account.

SECTION 15: WAIVER AND MODIFICATIONS OF THESE REGULATIONS

15.1 Hardship

Where the Planning Board finds that an unnecessary hardship may result from strict compliance with these standards, or where there are special circumstances of a particular plan which the Board finds make a particular standard inapplicable, it may waive these standards; provided that such waiver will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, Subdivision Ordinance or the Zoning Ordinance and that such waiver will not endanger public safety. An unnecessary hardship shall be defined as a substantial burden on the applicant which affects his or her ability to achieve a reasonable economic return on said project. Special circumstances shall relate to the unique circumstances of the property, such as its proximity to similar public improvements or the adequacy of connecting facilities.

15.2 Conditions

In granting waivers and modifications, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards so waived or modified.

15.3 Appeals

Appeals from the decisions of the Board shall be to the Superior Court.

SECTION 16 CONFLICT WITH OTHER ORDINANCES OR REGULATIONS

Where a provision of this ordinance appears to be in conflict with any provision of any other ordinance, rule, regulation, restriction, or statute, that provision which imposes the greater restriction and/or provides for the lesser density of land use shall have precedence.

SECTION 17 SEPARABILITY AND EFFECTIVE DATE

17.1 The invalidity of any provision of these standards shall not invalidate any other part.

17.2 The effective date of these regulations is
