

CUMBERLAND PLANNING BOARD MEETING MINUTES
December 19, 2023

A. Call to Order: Chair Bingham called the meeting to order at 7:00 pm and noted that Planning Board members Ann Sawchuck and Lorraine Rardin are ill and not present.

B. Roll Call: Present: Peter Bingham - Chair, Paul Auclair, Bridget Perry, Joshua Saunders, George Turner, Carla Nixon - Town Planner & Christina Silberman - Admin. Asst. **Absent:** Lorraine Rardin - Vice Chair & Ann Sawchuck.

C. Approval of the Minutes of the October 17, 2023, meeting: Mr. Saunders moved to approve the minutes of the October 17, 2023, meeting as written, seconded by Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

D. Staff Site Plan Approvals:

1. Minor Staff Site Plan Review: Application from Jordan McDuffie, 35 Wander Way, Tax Assessor Map R03, Lot 13, to add a mobile chicken coop and hay storage structure to be relocated each year as part of a soil conservation plan.

Ms. Nixon reported that an application from Wander Restaurant on Route 9 to put up a mobile chicken coop and hay storage structure was approved under staff review. Ms. Nixon noted that when the Town reviews agricultural projects, the applicants are not charged a fee as suggested in the Comprehensive Plan.

E. Minor Change Approvals:

1. Field Change Approval: Yarmouth Veterinary Clinic Site Plan at 5 Environmental Dr., Tax Assessor Map R01, Lot 11-4, for updates to grading and clearing around the site perimeter that do not fundamentally change the site design.

Ms. Nixon explained that a field change is for something that happens in the field that is minor in nature, such as a change in grade, which was not anticipated when designed. The design Engineer provides the change information it is forwarded to the Town Engineer for review and, if found acceptable, the change is allowed to go forward.

F. Hearings and Presentations:

1. Public Hearing: Amendment to an approved minor subdivision, Longwoods Meadow Subdivision, located in the Rural Residential 1 (RR1) Zoning District, to discontinue 169 feet of the right-of-way at the end Sunset Ridge and enlarge the size of lot 1, 24 Sunset Ridge, Tax Assessor Map R03, Lot 15B by .1 acres and enlarge the size of lot 3, 23 Sunset Ridge, Tax Assessor Map R03, Lot 15D by .09 acres. **Applicants/Owners:** Jessica Estes and Peter Horch, 24 Sunset Ridge. **Representative:** Esther K. Bizier, P.E., Main-Land Development Consultants, Inc.

Chair Bingham introduced the item.

Ms. Nixon said this is an amendment to an approved subdivision for a lot line change. The reason for the change request is that the house to the South would like to put up a garage

but the setback would not allow for the garage to fit. By discontinuing the road (paper street), the lot line would then go to the middle of the area where the road is proposed.

Esther Bizier, Main-Land Development, said they are looking to discontinue the end of the right of way. They propose to end the right of way where the road ends now. Ms. Bizier said there is a turnaround space and both of the lots will still have adequate frontage on Sunset Ridge Rd. and will be conforming. The lot owners looking to make the change got permission from the other lot owners in the subdivision. The subdivision has three lots total with some common land. Letters from the other lot owners were included in the application packet provided.

Mr. Auclair referred to a statement in the packet that it is “unlikely” the road would ever have to be extended and noted use of the word “unlikely” suggests it’s possible. Mr. Auclair asked in what scenario would the road be extended. Ms. Bizier replied that typically, the reason the right of way extends to the back property line is to allow for future development. Ms. Bizier explained that here, the rear property line of the subdivision is on the CMP corridor and, to her knowledge, nobody would be developing there.

Chair Bingham referred to a recent Town Council discussion about the need for the Planning Board to require road connections. Ms. Nixon explained that a subdivision road was proposed for acceptance as a Town road and a member of the Town Council asked why the road did not connect to an adjoining subdivision. The Town has required road connections in subdivisions previously. Ms. Nixon outlined how the roads for the Orchard Road and Blanchard Oaks Subdivisions, subject of the Council’s discussion, are laid out and said it didn’t make sense to have these roads connect. Chair Bingham remarked that the Board is being asked to eliminate a connection tonight. Ms. Nixon said she agrees with Ms. Bizier that the likelihood of this subdivision road connecting to something in the future is very slim. Chair Bingham asked if there has ever been a situation where a project has gone across a power line to get to another subdivision. Ms. Nixon replied that she does not recall anything and added there have been proposals but it is very difficult to do for legal issues.

Chair Bingham opened the public hearing.

Braden Beard, 23 Sunset Ridge, said he is a neighboring owner and feels this is a logical thing to do Mr. Beard added that the CMP right of way is very rugged ground and he does not imagine anyone needing access to it.

Chair Bingham closed the public hearing.

There is one waiver request on the scale of the plan. Mr. Saunders moved that due to the unique nature of the request and the project, the Board waive the requirement that the scale of the plan be one inch equals forty feet, seconded by Mr. Turner and **VOTED, 5 yeas, unanimous - motion carries.**

Ms. Saunders asked if the findings of fact differ from the original and Ms. Nixon said no. Mr. Saunders moved to waive the reading of the findings of fact, seconded Mr. Auclair and **VOTED, 5 yeas, unanimous - motion carries.**

Findings of Fact - Chapter 250 Subdivision of Land: 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 proposed change complies with the above standard. Based on the information provided, the Board finds that the standards of this section have been met.

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

The proposed change complies with the above standard. Based on the information provided, The Board finds that the standards of this section have been met.

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

The proposed change complies with the above standard. Based on the information provided, the Board finds the standards of this section have been met.

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

The proposed change complies with the above standard. Based on the information provided, the Board finds that 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 proposed change complies with the above standard. Based on the information provided, and with the proposed condition of approval, the Board finds that 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 proposed change complies with the above standard. Based on the information provided, the Board finds that the standards of this section have been met.

7. **Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the, if municipal services are to be utilized;

The proposed change complies with the above standard. Based on the information provided, the Board finds that the standards of this section have been met.

8. **Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

The proposed change complies with the above standard. The Board finds that 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 Planner. The Board finds that 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;

Financial Capacity: N/A

Technical capacity is evidenced by the use of professional technical consultants as outlined in the application packet.

The Board finds that the standards of this section have been met.

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water;

The subdivision is not situated in any of the areas listed above. Based on the information provided, the Board finds that the standards of this section have been met.

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

The proposed change complies with the above standard. Based on the information provided, the Board finds that the standards of this section have been met.

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

The development is not located within a 100-year flood plain as shown on the applicable FEMA Flood Insurance Rate Map. Based on the information provided, the Board finds that the standards of this section have been met.

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

There are no changes to the stormwater plan. Based on the information provided, the Board finds that 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 proposed change complies with the above standard. Based on the information provided, the Board finds that 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 streams identified on the site. Based on the information provided, the Board finds that the standards of this section have been met.

Design and Performance Standards

(1) Route 1 Design Standards. N/A

(2) Route 1 Design Standards. N/A

(3) Town Center District Design and Performance Standards. N/A

(4) Village Mixed Use Performance Standards. N/A

Mr. Auclair referred to a proposed condition of approval and Ms. Nixon said this is a new condition of approval that a copy of the recorded plan be provided.

Mr. Saunders moved to adopt the findings of fact as written, seconded by Ms. Perry and **VOTED, 5 years, unanimous - motion carries.**

Mr. Saunders moved to approve amendment to an approved subdivision, Longwoods Meadow Subdivision, located in the Rural Residential 1 (RR1) Zoning District, to discontinue 169 feet of the right-of-way at the end Sunset Ridge and enlarge the size of lot 1, 24 Sunset Ridge, Tax Assessor Map R03, Lot 15B by .1 acres and enlarge the size of lot 3, 23 Sunset Ridge, Tax Assessor Map R03, Lot 15D by .09 acres subject to the expiration of approval, the standard condition of approval and one proposed condition of approval, seconded by Ms. Perry and **VOTED, 5 years, unanimous - motion carries.**

Expiration of Approval: Construction of the improvements covered by any site plan approval must be substantially commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced within 12 months of the date upon which approval was granted, the approval shall be null and void. If construction has not been substantially completed within 24 months of the date upon which approval was granted or within a time period as specified by the Planning Board, the approval shall be null and void. The applicant may request an extension of the period. Such request must be made in writing and must be made to the Planning Board. The Planning Board may grant up to two one-year extensions to the period 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 by the applicant. Any variation from the plans, proposals and supporting documents, except de minimis 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.

Condition of Approval:

1. A copy of the recorded plan will be provided to the Town within 90 days of Planning Board approval.

G. Administrative Matters/New Business: Ms. Nixon stated that the affordable housing project recently approved off of Route 1 for the Szanton C. was subject to Maine State Housing financing. The Developer informed the Town that the application process has changed drastically and they have withdrawn the project and will not go forward with it.

Ms. Nixon said the Foley Gym project planned at the top of Skyview Dr. will be a substantial size gym and this will come next month for site plan review.

Ms. Nixon noted that the Rusty Lantern convenience store and financial institution out on Route 100 is going forward and is slated for the January meeting.

Ms. Nixon reported that the Chase subdivision proposed in the former Pike Pit is going forward as far as she knows. The Town is waiting to execute an agreement to extend the public water line if the subdivision project goes forward. There are concerns by residents with the density of the project and the fact that it would be located over an aquifer. The developer is having a hydrogeologist report done to submit with the application when/if the project comes forward. Chair Bingham said it would be helpful to have the Town Peer Review Engineer present during the meeting for this item.

Ms. Nixon referred to a proposal to relocate the ballfields and the development of three affordable housing structures and said that the Town Council voted to send this to referendum. There will be public workshops to review this proposal.

H. Adjournment: Mr. Auclair moved to adjourn the meeting at 7:20 pm, seconded by Ms. Perry and **VOTED, 5 yeas, unanimous – motion carries.**

A TRUE COPY ATTEST:

Peter Bingham, Planning Board Chair

Christina Silberman, Administrative Asst.