

**Draft Findings of Fact
Spruce Meadows Subdivision
Major Subdivision Plan Final Review
Review Date: December 8, 2015**

Project Name: Spruce Meadows Subdivision
Case Number: 15-027
Tax Map: Map 13, Lot(s) 34, 66-78
Zoning District: Mixed Use 5 (MU5) Zoning District and the Telecommunications Zone 2 (TCZ2) Overlay
Applicant: Moore Properties, Inc. c/o William (Bill) Moore
228 Old Portland Road
Brunswick, Maine 04011
207-725-1388
Authorized Representative: Curtis Y. Neufeld, P.E.
Sitelines, PA
8 Cumberland Street
Brunswick, ME 04011
207-725-1200 xt. 18

Staff reviewed the application and has made a determination of completeness.

PROJECT SUMMARY

Staff review is based on the Major Development Plan Application for the Spruce Meadows Subdivision prepared by Sitelines, P.A. and dated November 17, 2015 with a most recent submittal date of December 4, 2015. The application includes a set of plans prepared by Sitelines, P.A. as listed below:

- Sheet 1 entitled “Cover Sheet” dated September 15, 2015 with a most recent revision date of November 16, 2015
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- Sheet 5 entitled “Plan & Profile STA 11+00 to 22+50 Grading, Drainage & EC Plan” dated September 15, 2015 with a most recent revision date of November 16, 2015
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- Sheet 8 entitled “Stormwater Details” dated March 16, 2009 with a most recent revision date of November 16, 2015

The parcel received Planning Board approval in June of 2009 for a subdivision known as “Brunswick Commerce Center” consisting of four (4) residential lots and fourteen (14) commercial/industrial lots on a 2,230 linear foot loop road currently named Commerce Drive and now proposed to be named, Kennedy

Drive. The previously approved road is completely roughed-in with base and subbase gravels and is paved for the first 700 linear feet.

The proposed residential Spruce Meadows Subdivision consists of thirty three (33) lots and one (1) abutting parcel. Proposed Lot 22, so-called, contains 2.44 acres of open space. The abutting parcel to the north of the proposed residential subdivision contains 36.18 acres of proposed open space and walking trails. The proposed subdivision will be developed in three phases. From Old Portland Road (west), the first phase would provide access to lots 1-7 and lots 30-33. The second phase would see the road completed to access lots 8-13 and lots 25-29. The third phase would complete the proposed loop road for access to lots 14-24 and a second access way to Old Portland Road (east). The original parcel is in the Mixed Use 5 (MU5) Zoning District and the Telecommunications Zone 2 Overlay (Lot 5).

The proposed development will be serviced by private drinking water and private wastewater disposal systems. The application packet, including a project narrative is attached.

The Sketch Plan for the Spruce Meadows Subdivision was approved by the Planning Board on July 15, 2015 without conditions.

The following waivers have been requested by the applicant:

1. Section 412.2.B.8 – Profiles and cross-sections and curve radii of existing streets. *No changes to existing streets are proposed. The previously approved private road will be maintained by the developer and subsequently by the Homeowner’s Association. Pursuant to Section 410.1.B, staff recommends approval of this waiver.*
2. Section 412.2.B.17 – Location of all existing trees over 10 inches in diameter, and locations of tree stands. *All trees at the location of the proposed residential access road were removed during the construction of the existing subdivision access road, Kennedy Drive. Those trees to be removed for future residential lot development will be determined by lot owners with the exception of forested “no-cut” buffers that are to be deed restricted upon the sale of each lot. Pursuant to Section 410.1.B, staff recommends approval of this waiver.*
3. Section 412.2.C.6 Stormwater Management Program (aka Stormwater Management Plan). *The proposed stormwater management plan and computations will be reviewed by the Maine Department of Environmental Protection (MDEP) as part of the required Site Location of Development Permit application review. Pursuant to Section 410.1.C staff recommends approval of this waiver.*

Review Standards from Section 411 of the Town of Brunswick Zoning Ordinance

411.1 Ordinance Provisions

The property is located in the Mixed Use 5 (MU5) Zoning District and the Telecommunications Zone 2 (TCZ2) Overlay District. The proposed open space residential subdivision meets dimensional, density and lot configuration requirements. The proposed development complies with all applicable standards for the Mixed Use 5 (MU5) Zoning District and the Telecommunications Zone 2 (TCZ2) Overlay District (original Lot 5). Pursuant to the open space development standards, Section 308, the applicant must conserve at least 50% of the 76.1 acre parcel (38.05 acres). The applicant has included a draft Declaration of Restrictive Covenants and Easements for the Spruce Meadows Subdivision that includes provisions for conservation. *The Board finds that the provisions of Section 411.1 are satisfied provided at least 50% of the 76.1 acre parcel is conserved in perpetuity.*

411.2 Preservation of Natural Features

The parcel of land proposed to be subdivided is not located in the mapped Natural Resources Protection Zone (NRPZ) as defined at Section 211. However, the parcel contains natural features as defined in Section 501.1 of the Zoning Ordinance, specifically, freshwater wetlands and streams. Accordingly, the applicant proposes to dedicate 38.62 acres of total open space land to the Homeowner's Association. The proposed open space is comprised primarily of selectively cut forested uplands with areas of freshwater wetlands and streams. The site does not contain steep slopes and embankments as defined in Section 503. *The Board finds that the provisions of Section 411.2 are satisfied.*

411.3 Surface Waters, Wetlands and Marine Resources

Activity associated with the completion of the roughed-in Kennedy Drive will not result in any new disturbances to existing natural features or protected natural resources, including rare, threatened and endangered wildlife habitat and rare natural communities. Further, the proposed subdivision is not within a mapped flood hazard area or an area containing steep slopes. Freshwater wetlands and streams are depicted on the plans as mapped by Albert Frick Associates, Inc. The streams shown on the plan and associated freshwater wetlands are protected within 75 feet under the standards of the Natural Resources Protection Zone (NRPZ) at Section 211. All proposed activities, including the construction of the walking trails, will take place outside of the protected 75-foot setback. *The Board finds that the provisions of Section 411.3 are satisfied.*

411.4 Flood Hazard Areas

Based on the Flood Insurance Rate Map, community panel # 230042 0010 B, effective date, January 3, 1986, the project site including an unnamed stream is located within Zone C, described as areas of minimal flooding and outside the regulatory 100-year flood zone. The development activity does not occur within a FEMA flood hazard area and therefore minimizes any risk of flooding. *The Board finds that the provisions of Section 411.4 are satisfied.*

411.5 Stormwater Management

The applicant submitted stormwater management plan prepared by Sitelines, P.A. The existing stormwater management design for Kennedy Drive includes a combination of infiltration trenches and basins, an underdrained grass filter, and ditch turnout buffers. A portion of the roadway and a majority of the residential lots will be directed to meadow buffers adjacent to a road or buffers downgradient of a single-family residential lot. The proposed activity and associated stormwater management plan requires Maine Department of Environmental Protection (DEP) approval with a Site Location of Development Law (Site Law) permit pursuant to 38 M.R.S. Section 483-A. *The Board finds that the provisions of Section 411.5 are satisfied conditioned upon the applicant revising the Final Subdivision Plan with any changes required by the DEP to the stormwater management plan for the Site Law permit prior to the sale of a lot.*

411.6 Groundwater

The proposed subdivision is not located within an Aquifer Protection Overlay Zone as delineated on the Town's Zoning Map. Individual lots will be served by private drinking water wells and private septic systems. A minimum of two passing test pits were observed on each proposed lot by a licensed site evaluator. Further, the proposed stormwater treatment system is designed to avoid adverse impacts to groundwater from the development. The Board finds that the proposed subdivision will not alone or in conjunction with existing activities adversely affect the quality or quantity of groundwater. *The Board finds that the provisions of Section 411.6 are satisfied upon the applicant revising the Final Subdivision Plan with any changes required by the DEP to the stormwater management plan for the Site Law permit prior to the sale of a lot.*

411.7 Erosion and Sedimentation Control

An Erosion and Sedimentation Control Plan (“E&S Control Plan”) for the construction and long term operation of Kennedy Drive is provided. The E&S Control Plan includes steps to be followed during construction of the site as well as recommendations for maintenance as a part of the ongoing upkeep of the site. The proposed development will not cause unreasonable soil erosion or reduction in the land’s capacity to hold water so that a dangerous or unhealthy situation results. *The Board finds that the provisions of Section 411.7 are satisfied.*

411.8 Sewage Disposal

The project will be served by individual subsurface wastewater disposal systems. The applicant enclosed a copy of the Soil Narrative Report, soil profiles, and a High-Intensity Soils Map and Subsurface Wastewater Disposal Plan from Albert Frick Associates, Inc. As required, the applicant depicted the required two passing test pits for each lot. Further investigations may be required to design a specific wastewater disposal system on the lots in accordance with the Maine Subsurface Wastewater Disposal Rules and the Maine State Plumbing Code. The test pit locations are shown on the site plans. *The Board finds that the provisions of Section 411.8 are satisfied.*

411.9 Water Supply

The project will be served by individual drinking water wells. The applicant showed the location of the septic systems and drinking water wells to ensure the required distances were met. *The Board finds that the provisions of Section 411.9 are satisfied.*

411.10 Aesthetic, Cultural and Natural Values

A letter from the Maine Historic Preservation Commission dated January 15, 2009 recognized that the subject parcel may contain one or more prehistoric archeological sites. Subsequently, a Phase 1 archeology survey was completed by Dr. Leslie Shaw, a professor in the Department of Sociology and Anthropology at Bowdoin College, who is a DEP approved archaeologist. The survey findings indicated no further archeological investigation was warranted. The proposed residential subdivision is a permitted use and will not have any undue adverse effect on the scenic or natural beauty of the area, historic sites, or significant wildlife habitat identified by the Maine Department of Environmental Protection and Inland Fisheries & Wildlife or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. *The Board finds that the provisions of Section 411.10 are satisfied.*

411.11 Community Impact

The proposed project will be located on Old Portland Road in the Mixed Use 5 (MU5) Zoning District. The applicant performed a community facilities impact analysis in accordance with Section 509. Based on the applicant’s analysis, the proposed project is not likely to result in an unreasonable impact to community facilities. *The Board finds that the provisions of Section 411.11 are satisfied.*

411.12 Traffic

The previously approved Kennedy Drive is an approximately 2,230 linear foot loop road which is proposed for the Town of Brunswick to accept upon completion. Approximately 700 linear feet of the road is complete. The proposed subdivision plan has been reviewed by the Town Engineer/Public Works Director who indicated that the proposed development will not create or further contribute to unsafe traffic conditions. Further, the Town Engineer/Public Works Director has indicated willingness to accept responsibility for the completed road should the Town Council accept the road as intended provided granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan will need to detail to our satisfaction the location of all such monuments. Additionally, an escrow account equal to 2% of the total roadway construction value, including all utilities is required for inspection of the stormwater system. Funds from the escrow account

will be used for fund an engineering consultant to be hired by the Town Engineer. The consultant will oversee the project construction and report all findings, tests, and recommendations to the Town Engineer. If additional inspection funds are needed the Town Engineer will advise the developer in writing with an explanation. If any escrowed funds are not used for the construction administration the unused balance must be returned to the developer. A pre-construction meeting with Public Works staff, the consultant and the roadway contractor is required prior to the start of any road construction. The applicant must contact Public Works when a contractor has been selected and arrange for a pre-construction meeting at least one week prior to the start of construction. A digitized electronic drawing file of the complete final approved plans, in an approved format, must be furnished to Public Works Department prior to the start of any construction. As per the current Zoning Ordinance requirements, the final plan shall be submitted referenced to and in the Maine State Plane Coordinate system. An "as-built" or set of record drawings shall be submitted in a form acceptable to the Public Works Department upon completion of the project. Based on the depths of the lot, and size of the anticipated buildings, off-street parking averages four (4) spaces per lot. The applicant received revised entrance permits #9168, and #9438 (aka curb cut) for the two entrances of Kennedy Drive onto the Old Portland Road from the Maine Department of Transportation (MDOT) on September 18, 2015.

The proposed subdivision road has been reviewed by the Deputy Fire Chief who indicated that lot owners must be made aware, in writing by the development, that their lots are located in a rural fire protection district with limited water supply and will likely result in lengthy emergency response times and increased insurance rates. A note advising homeowners must be included on the deed in addition to the written notification. *The Board finds that the provisions of Section 411.12 are satisfied with the following conditions:*

- *installation of granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan details the location of all such monuments to the satisfaction of the Town Engineer;*
- *upon the establishment of an escrow account equal to 2% of the total roadway construction value, including all utilities, for inspection of the road and related storm drainage system to the satisfaction of the Town Engineer;*
- *provided a pre-construction meeting with the Public Works Department occurs one week prior to construction;*
- *provided a digitized electronic drawing file of the complete final approved plans, in an approved format, is furnished to the Public Works Department prior to the start of any construction;*
- *provided an "as-built" or set of record drawings is submitted in a form acceptable to the Public Works Department upon completion of the project; and*
- *provided future lot owners are made aware, in writing by the developer, that their lots are located in a rural fire protection district with limited water supply which will likely result in lengthy emergency response times and increased insurance rates. A note advising lot owners must be included on the deed in addition to the written notification.*

411.13 Pedestrian and Bicycle Access and Safety

The proposed development will accommodate bicyclists and addresses pedestrian access, safety and circulation both within the site and to points outside the site. *The Board finds that the provisions of Section 411.13 are satisfied.*

411.14 Development Patterns

The proposed residential subdivision will be an open space development. Therefore, the lot requirements have been reduced to accommodate the proposed conserved open space in accordance with Section 308. Phase 1 and 2 lot owners will have internal access to Kennedy Drive as a dead-end road until the

completion of Phase 3 which results in a loop road with two (2) entrances to the Old Portland Road. A public walking trail is proposed as part of the subdivision development that will be comprised of two sections: Loop A, and Loop B, so-called. Loop A is proposed to be completed prior to the development of the Phase 2 portion of the subdivision. Loop B is proposed to be completed prior to the development of the Phase 3 portion of the subdivision. The neighborhood is residential in a rural setting with large areas of undeveloped land surrounding it. *The Board finds that the provisions of Section 411.14 are satisfied.*

411.15 Architectural Compatibility

The developer intends to sell the lots as undeveloped land for single-family home construction. While the architecture of the homes will be determined by individual lot owners it is anticipated that the residential structures will be compatible with the surroundings in terms of size, scale, mass and design. *The Board finds that the provisions of Section 411.15 are satisfied.*

411.16 Municipal Solid Waste Disposal

The Solid Waste Impact Fee for each of the new housing units was calculated by the applicant to be \$258.56 per ton for each of the new housing units for a total of \$8,273.92. The applicant requests that the Solid Waste Impact Fee be prorated by phase as follows: Phase 1 with 11 new units at \$2,844.16; Phase 2 with 11 units at \$2,844.16; and Phase 3 with 10 new units at \$2,585.60. *The Board finds that the provisions of Section 411.16 are satisfied conditional upon the payment of the Solid Waste Impact Fees prior to the issuance of the first building permit for each phase.*

411.17 Recreation Needs

The anticipated demographic for the future homeowners is families of average size including adults and children. On November 18, 2015, the Recreation Commission reviewed and took favorable action on the proposed subdivision in determining compliance with Section 519 standards with specific attention to the proposed open space and public trail system. As requested by the Recreation Commission, the Town of Brunswick staff shall inspect the proposed trail Loop A at the conclusion of Phase 1 of the residential subdivision development and in the event that trail Loop A has not been constructed, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2 of the development. The same methodology would then apply to trail Loop B and Phase 3 of the development. *The Board finds that the provisions of Section 411.17 are satisfied conditional upon the inspection of trail Loop A at the conclusion of Phase 1 of the residential subdivision development by representative staff from the Town of Brunswick. In the event that trail Loop A has not been constructed to staff satisfaction, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2. The same methodology would then apply to trail Loop B and Phase 3 of the residential subdivision development.*

411.18 Access for Persons with Disabilities

The application states that units can be modified for accessibility at the discretion of the homeowner. Further, all grades and slopes will be accessible to those with disabilities. *The Board finds that the provisions of Section 411.18 are satisfied*

411.19 Financial Capacity and Maintenance

The estimated site costs are approximately \$795,000 to develop the infrastructure for construction of the entire subdivision roadway and stormwater management system. A performance guarantee in an amount determined by the Director of Public Works for the construction of Kennedy Drive is required to be provided prior to the start of construction of the roadway and/or the issuance of the first building permit for lots accessing Kennedy Drive. Approximately one third of the proposed construction is complete. The Town of Brunswick holds approximately \$100,000 in escrow for the completion of the roadway. The

remaining work will be finance through the sale of the lots. The estimated costs remaining for Phase 2 and Phase 3 of the road are \$87,000 and \$85,000, respectively.

The applicant proposes to establish walking trails in the open space parcel to be maintained by the Homeowner's Association in accordance with the Declaration of Restrictive Covenants and Restrictions. Evidence of the developer's financial capacity to establish walking trails has been satisfactorily provided as part of this application. *The Board finds that the provisions of Section 411.19 are satisfied conditioned upon a performance guarantee provided for the completion of Kennedy Drive in an amount determined by the Director of Public Works. Further, that a final copy of the Declaration of Restrictive Covenants and Easements is provided and accepted by the Directors of Planning and Development and Parks and Recreation prior to the issuance of the first building permit.*

411.20 Noise and Dust

Best Management Practices (BMPs) as outlined in the Maine Erosion and Sediment Control BMPs, published by the DEP will be utilized to control dust during construction. Noise will be limited through the compliance of the site contractor with the standard hours of construction per Section 524.1 of the Zoning Ordinance. Upon construction completion, there are no anticipated impacts with regard to noise or dust. *The Board finds that the provisions of Section 411.20 are satisfied.*

411.21 Right, Title and Interest

Moore Properties, LLC, a Maine Limited Liability Corporation in Good Standing in the State of Maine, owns the subject properties with sufficient right, title and interest to subdivide the land. *The Board finds that the provisions of Section 411.21 are satisfied.*

411.22 Payment of Application Fees

The applicant has paid all applicable development review application fees. *The Board finds that the provisions of Section 411.22 are satisfied.*

FINAL MOTIONS
SPRUCE MEADOWS SUBDIVISION
MAJOR SUBDIVISION PLAN FINAL REVIEW
CASE#: 15-027

Motion 1: That the major final subdivision plan development review application is deemed complete.

Motion 2: That the Board waives the following requirements:

1. Section 412.2.B.8 – Profiles and cross-sections and curve radii of existing streets.
2. Section 412.2.B.17 – Location of all existing trees over 10 inches in diameter, and locations of tree stands.
3. Section 412.2.C.6 Stormwater Management Plan.

Motion 3: That the Final Subdivision Plan is approved with the following conditions:

1. That the Board’s review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. That prior to the sale of a lot, evidence is provided in the form of a final and recorded Declaration of Restrictive Covenants and Easements dedicating the open space in perpetuity and establishing an on-going open space and trail system maintenance program as accepted by the Directors of Planning and Development, and Parks and Recreation.
3. That prior to the sale of a lot, any changes required by the DEP to the stormwater management plan for the Site Law permit are incorporated on the final subdivision plan as needed.
4. That prior to the sale of a lot, the Site Law Permit is approved by Maine DEP.
5. That prior to the sale of a lot, lot owners shall be made aware, in writing by the developer, that their lots are located in a rural fire protection district with limited water supply which will likely result in lengthy emergency response times and increased insurance rates. A note advising homeowners shall be included on the deed in addition to the written notification.
6. That prior to the issuance of the first building permit for each phase, Solid Waste Impact Fees shall be paid as follows: are satisfied conditional upon the payment of the Solid Waste Impact Fees prior to the issuance of a building permit for each phase as follows:
 - Phase 1 - 11 new units at \$2,844.16
 - Phase 2 - 11 units at \$2,844.16
 - Phase 3 - 10 new units at \$2,585.60.

7. That at the conclusion of Phase 1, an inspection shall be completed by Town staff. In the event that trail Loop A has not been constructed to staff satisfaction, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2. The same methodology shall apply to trail Loop B and Phase 3.
8. That prior to the sale of the first lot in each Phase, a performance guarantee shall be provided for the completion of Kennedy Drive, in accordance with the approved phasing plan in an amount per phase as determined by the Director of Public Works.
9. That prior to the sale of the first lot, granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan details the location of all such monuments shall be installed to the satisfaction of the Town Engineer
10. That prior to the start of construction of Kennedy Drive, an escrow account equal to 2% of the total roadway construction value, including all utilities shall be established for inspection of the road and related storm drainage system to the satisfaction of the Town Engineer.
11. That one week prior to construction, a pre-construction meeting with the Public Works Department shall occur.
11. That prior to the start of construction, a digitized electronic drawing file of the complete final approved plans, in an approved format, shall be furnished to the Public Works Department.
12. That upon completion of Kennedy Drive, an "as-built" or set of record drawings shall be submitted in a form acceptable to the Public Works Department.

* *All Subdivisions for which Final Plan approval has been granted, and any conditions that have been imposed by the Planning Board for the subdivision or final plan shall be filed in the Cumberland County Registry of Deeds by the applicant. If the applicant fails to record the subdivision plan after Development Plan approval by the Planning Board, the approval may expire. No building permits associated with a subdivision shall be issued unless evidence of all recording requirements is provided by the applicant to the Codes Enforcement Officer.*

If applicable, subdivision approvals by the Planning Board shall expire at the end of five years after the date of Final Plan approval unless all infrastructure work associated with the development is completed (Section 407.4.C of the Brunswick Zoning Ordinance).

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411.3 Surface Waters, Wetlands and Marine Resources

Activity associated with the completion of the roughed-in Kennedy Drive will not result in any new disturbances to existing natural features or protected natural resources, including rare, threatened and endangered wildlife habitat and rare natural communities. Further, the proposed subdivision is not within a mapped flood hazard area or an area containing steep slopes. Freshwater wetlands and streams are depicted on the plans as mapped by Albert Frick Associates, Inc. The streams shown on the plan and associated freshwater wetlands are protected within 75 feet under the standards of the Natural Resources Protection Zone (NRPZ) at Section 211. All proposed activities, including the construction of the walking trails, will take place outside of the protected 75-foot setback. *The Board finds that the provisions of Section 411.3 are satisfied.*

411.4 Flood Hazard Areas

Based on the Flood Insurance Rate Map, community panel # 230042 0010 B, effective date, January 3, 1986, the project site including an unnamed stream is located within Zone C, described as areas of minimal flooding and outside the regulatory 100-year flood zone. The development activity does not occur within a FEMA flood hazard area and therefore minimizes any risk of flooding. *The Board finds that the provisions of Section 411.4 are satisfied.*

411.5 Stormwater Management

The applicant submitted stormwater management plan prepared by Sitelines, P.A. The existing stormwater management design for Kennedy Drive includes a combination of infiltration trenches and basins, an underdrained grass filter, and ditch turnout buffers. A portion of the roadway and a majority of the residential lots will be directed to meadow buffers adjacent to a road or buffers downgradient of a single-family residential lot. The proposed activity and associated stormwater management plan requires Maine Department of Environmental Protection (DEP) approval with a Site Location of Development Law (Site Law) permit pursuant to 38 M.R.S. Section 483-A. *The Board finds that the provisions of Section 411.5 are satisfied conditioned upon the applicant revising the Final Subdivision Plan with any changes required by the DEP to the stormwater management plan for the Site Law permit prior to the sale of a lot.*

411.6 Groundwater

The proposed subdivision is not located within an Aquifer Protection Overlay Zone as delineated on the Town's Zoning Map. Individual lots will be served by private drinking water wells and private septic systems. A minimum of two passing test pits were observed on each proposed lot by a licensed site evaluator. Further, the proposed stormwater treatment system is designed to avoid adverse impacts to groundwater from the development. The Board finds that the proposed subdivision will not alone or in conjunction with existing activities adversely affect the quality or quantity of groundwater. *The Board finds that the provisions of Section 411.6 are satisfied upon the applicant revising the Final Subdivision Plan with any changes required by the DEP to the stormwater management plan for the Site Law permit prior to the sale of a lot.*

411.7 Erosion and Sedimentation Control

An Erosion and Sedimentation Control Plan (“E&S Control Plan”) for the construction and long term operation of Kennedy Drive is provided. The E&S Control Plan includes steps to be followed during construction of the site as well as recommendations for maintenance as a part of the ongoing upkeep of the site. The proposed development will not cause unreasonable soil erosion or reduction in the land’s capacity to hold water so that a dangerous or unhealthy situation results. *The Board finds that the provisions of Section 411.7 are satisfied.*

411.8 Sewage Disposal

The project will be served by individual subsurface wastewater disposal systems. The applicant enclosed a copy of the Soil Narrative Report, soil profiles, and a High-Intensity Soils Map and Subsurface Wastewater Disposal Plan from Albert Frick Associates, Inc. As required, the applicant depicted the required two passing test pits for each lot. Further investigations may be required to design a specific wastewater disposal system on the lots in accordance with the Maine Subsurface Wastewater Disposal Rules and the Maine State Plumbing Code. The test pit locations are shown on the site plans. *The Board finds that the provisions of Section 411.8 are satisfied.*

411.9 Water Supply

The project will be served by individual drinking water wells. The applicant showed the location of the septic systems and drinking water wells to ensure the required distances were met. *The Board finds that the provisions of Section 411.9 are satisfied.*

411.10 Aesthetic, Cultural and Natural Values

A letter from the Maine Historic Preservation Commission dated January 15, 2009 recognized that the subject parcel may contain one or more prehistoric archeological sites. Subsequently, a Phase 1 archeology survey was completed by Dr. Leslie Shaw, a professor in the Department of Sociology and Anthropology at Bowdoin College, who is a DEP approved archaeologist. The survey findings indicated no further archeological investigation was warranted. The proposed residential subdivision is a permitted use and will not have any undue adverse effect on the scenic or natural beauty of the area, historic sites, or significant wildlife habitat identified by the Maine Department of Environmental Protection and Inland Fisheries & Wildlife or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. *The Board finds that the provisions of Section 411.10 are satisfied.*

411.11 Community Impact

The proposed project will be located on Old Portland Road in the Mixed Use 5 (MU5) Zoning District. The applicant performed a community facilities impact analysis in accordance with Section 509. Based on the applicant’s analysis, the proposed project is not likely to result in an unreasonable impact to community facilities. *The Board finds that the provisions of Section 411.11 are satisfied.*

411.12 Traffic

The previously approved Kennedy Drive is an approximately 2,230 linear foot loop road which is proposed for the Town of Brunswick to accept upon completion. Approximately 700 linear feet of the road is complete. The proposed subdivision plan has been reviewed by the Town Engineer/Public Works Director who indicated that the proposed development will not create or further contribute to unsafe traffic conditions. Further, the Town Engineer/Public Works Director has indicated willingness to accept responsibility for the completed road should the Town Council accept the road as intended provided granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan will need to detail to our satisfaction the location of all such monuments. Additionally, an escrow account equal to 2% of the total roadway construction value, including all utilities is required for inspection of the stormwater system. Funds from the escrow account

will be used to fund an engineering consultant to be hired by the Town Engineer. The consultant will oversee the project construction and report all findings, tests, and recommendations to the Town Engineer. If additional inspection funds are needed the Town Engineer will advise the developer in writing with an explanation. If any escrowed funds are not used for the construction administration the unused balance must be returned to the developer. A pre-construction meeting with Public Works staff, the consultant and the roadway contractor is required prior to the start of any road construction. The applicant must contact Public Works when a contractor has been selected and arrange for a pre-construction meeting at least one week prior to the start of construction. A digitized electronic drawing file of the complete final approved plans, in an approved format, must be furnished to Public Works Department prior to the start of any construction. As per the current Zoning Ordinance requirements, the final plan shall be submitted referenced to and in the Maine State Plane Coordinate system. An "as-built" or set of record drawings shall be submitted in a form acceptable to the Public Works Department upon completion of the project. Based on the depths of the lot, and size of the anticipated buildings, off-street parking averages four (4) spaces per lot. The applicant received revised entrance permits #9168, and #9438 (aka curb cut) for the two entrances of Kennedy Drive onto the Old Portland Road from the Maine Department of Transportation (MDOT) on September 18, 2015.

The proposed subdivision road has been reviewed by the Deputy Fire Chief who indicated that lot owners must be made aware, in writing by the development, that their lots are located in a rural fire protection district with limited water supply and will likely result in lengthy emergency response times and increased insurance rates. A note advising homeowners must be included on the deed in addition to the written notification. *The Board finds that the provisions of Section 411.12 are satisfied with the upon the following conditions:*

- *installation of granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan details the location of all such monuments to the satisfaction of the Town Engineer;*
- *upon the establishment of an escrow account equal to 2% of the total roadway construction value, including all utilities, is established for inspection of the road and related storm drainage system stormwater system to the satisfaction of the Town Engineer;*
- *provided provided a pre-construction meeting with the Public Works Department occurs one week prior to construction;*
- *provided a digitized electronic drawing file of the complete final approved plans, in an approved format, must be is furnished to the Public Works Department prior to the start of any construction;*
- *provided an "as-built" or set of record drawings shall be is submitted in a form acceptable to the Public Works Department upon completion of the project; and*
- *provided future lot owners are made aware, in writing by the developer, that their lots are located in a rural fire protection district with limited water supply and which will likely result in lengthy emergency response times and increased insurance rates. A note advising lot owners shall must be included on the deed in addition to the written notification.*

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411.13 Pedestrian and Bicycle Access and Safety

The proposed development will accommodate bicyclists and addresses pedestrian access, safety and circulation both within the site and to points outside the site. *The Board finds that the provisions of Section 411.13 are satisfied.*

411.14 Development Patterns

The proposed residential subdivision will be an open space development. Therefore, the lot requirements have been reduced to accommodate the proposed conserved open space in accordance with Section 308. Phase 1 and 2 lot owners will have internal access to Kennedy Drive as a dead-end road until the

completion of Phase 3 which results in a loop road with two (2) entrances to the Old Portland Road. A public walking trail is proposed as part of the subdivision development that will be comprised of two sections: Loop A, and Loop B, so-called. Loop A is proposed to be completed prior to the development of the Phase 2 portion of the subdivision. Loop B is proposed to be completed prior to the development of the Phase 3 portion of the subdivision. The neighborhood is residential in a rural setting with large areas of undeveloped land surrounding it. *The Board finds that the provisions of Section 411.14 are satisfied.*

411.15 Architectural Compatibility

The developer intends to sell the lots as undeveloped land for single-family home construction. While the architecture of the homes will be determined by individual lot owners it is anticipated that the residential structures will be compatible with the surroundings in terms of size, scale, mass and design. *The Board finds that the provisions of Section 411.15 are satisfied.*

411.16 Municipal Solid Waste Disposal

The Solid Waste Impact Fee for each of the new housing units was calculated by the applicant to be \$258.56 per ton for each of the new housing units for a total of \$8,273.92. The applicant requests that the Solid Waste Impact Fee be prorated by phase as follows: Phase 1 with 11 new units at \$2,844.16; Phase 2 with 11 units at \$2,844.16; and Phase 3 with 10 new units at \$2,585.60. *The Board finds that the provisions of Section 411.16 are satisfied conditional upon the payment of the Solid Waste Impact Fees prior to the issuance of the first building permit for each phase.*

411.17 Recreation Needs

The anticipated demographic for the future homeowners is families of average size including adults and children. On November 18, 2015, the Recreation Commission reviewed and took favorable action on the proposed subdivision in determining compliance with Section 519 standards with specific attention to the proposed open space and public trail system. As requested by the Recreation Commission, the Town of Brunswick staff shall inspect the proposed trail Loop A at the conclusion of Phase 1 of the residential subdivision development and in the event that trail Loop A has not been constructed, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2 of the development. The same methodology would then apply to trail Loop B and Phase 3 of the development. *The Board finds that the provisions of Section 411.17 are satisfied conditional upon the inspection of trail Loop A at the conclusion of Phase 1 of the residential subdivision development by representative staff from the Town of Brunswick. In the event that trail Loop A has not been constructed to staff satisfaction, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2. The same methodology would then apply to trail Loop B and Phase 3 of the residential subdivision development.*

411.18 Access for Persons with Disabilities

The application states that units can be modified for accessibility at the discretion of the homeowner. Further, all grades and slopes will be accessible to those with disabilities. *The Board finds that the provisions of Section 411.18 are satisfied*

411.19 Financial Capacity and Maintenance

The estimated site costs are approximately \$795,000 to develop the infrastructure for construction of the entire subdivision roadway and stormwater management system. A performance guarantee in an amount determined by the Director of Public Works for the construction of Kennedy Drive is required to be provided prior to the start of construction of the roadway and/or the issuance of the first building permit for lots accessing Kennedy Drive. Approximately one third of the proposed construction is complete. The Town of Brunswick holds approximately \$100,000 in escrow for the completion of the roadway. The

remaining work will be finance through the sale of the lots. The estimated costs remaining for Phase 2 and Phase 3 of the road are \$87,000 and \$85,000, respectively.

The applicant proposes to establish walking trails in the open space parcel to be maintained by the Homeowner's Association in accordance with the Declaration of Restrictive Covenants and Restrictions. Evidence of the developer's financial capacity to establish walking trails has been satisfactorily provided as part of this application. *The Board finds that the provisions of Section 411.19 are satisfied conditioned upon a performance guarantee provided for the completion of Kennedy Drive in an amount determined by the Director of Public Works. Further, that a final copy of the Declaration of Restrictive Covenants and Easements is provided and accepted by the Directors of Planning and Development and Parks and Recreation prior to the issuance of the first building permit.*

411.20 Noise and Dust

Best Management Practices (BMPs) as outlined in the Maine Erosion and Sediment Control BMPs, published by the DEP will be utilized to control dust during construction. Noise will be limited through the compliance of the site contractor with the standard hours of construction per Section 524.1 of the Zoning Ordinance. Upon construction completion, there are no anticipated impacts with regard to noise or dust. *The Board finds that the provisions of Section 411.20 are satisfied.*

411.21 Right, Title and Interest

Moore Properties, LLC, a Maine Limited Liability Corporation in Good Standing in the State of Maine, owns the subject properties with sufficient right, title and interest to subdivide the land. *The Board finds that the provisions of Section 411.21 are satisfied.*

411.22 Payment of Application Fees

The applicant has paid all applicable development review application fees. *The Board finds that the provisions of Section 411.22 are satisfied.*

**FINAL MOTIONS
SPRUCE MEADOWS SUBDIVISION
MAJOR SUBDIVISION PLAN FINAL REVIEW
CASE#: 15-027**

Motion 1: That the major final subdivision plan development review application is deemed complete.

Motion 2: That the Board waives the following requirements:

1. Section 412.2.B.8 – Profiles and cross-sections and curve radii of existing streets.
2. Section 412.2.B.17 – Location of all existing trees over 10 inches in diameter, and locations of tree stands.
3. Section 412.2.C.6 Stormwater Management Plan.

Motion 3: That the Final Subdivision Plan is approved with the following conditions:

1. That the Board’s review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. That prior to the sale of a lot, evidence is provided in the form of a final and recorded Declaration of Restrictive Covenants and Easements dedicating the open space in perpetuity and establishing an on-going open space and trail system maintenance program as accepted by the Directors of Planning and Development, and Parks and Recreation.
3. That prior to the sale of a lot, any changes required by the DEP to the stormwater management plan for the Site Law permit are incorporated on the final subdivision plan as needed.
4. That prior to the sale of a lot, the Site Law Permit is approved by Maine DEP.
5. That prior to the sale of a lot, lot owners ~~are~~ shall be made aware, in writing by the developer, that their lots are located in a rural fire protection district with limited water supply ~~and which~~ will likely result in lengthy emergency response times and increased insurance rates. A note advising homeowners shall be included on the deed in addition to the written notification.
6. -That prior to the issuance if the first building permit for each phase, Solid Waste Impact Fees shall be paid as follows: are satisfied conditional upon the payment of the Solid Waste Impact Fees prior to the issuance of a building permit for each phase as follows:

Phase 1 - 11 new units at \$2,844.16

Phase 2 - 11 units at \$2,844.16

Phase 3 - 10 new units at \$2,585.60.

7. That at the conclusion of Phase 1, an inspection shall be completed by Town staff. In the event that trail Loop A has not been constructed to staff satisfaction, the developer will have the option to complete the loop or pay the prorated recreation impact fee before the issuance of building permits for Phase 2. The same methodology shall apply to trail Loop B and Phase 3.
8. That prior to the sale of the first lot in each Phase, a performance guarantee ~~is shall be~~ provided for the ~~—~~completion of Kennedy Drive, in accordance with the approved phasing plan in an amount per phase as determined by the Director of Public Works.
9. That ~~prior to the sale of the first lot,~~ granite monuments or an approved equal at all points of curvature or horizontal changes in the road right-of-way alignment and the final plan details the location of all such monuments shall be installed to the satisfaction of the Town Engineer
10. ~~That prior to the start of construction of Kennedy Drive, as well as~~ an escrow account equal to 2% of the total roadway construction value, including all utilities ~~shall be~~ established for inspection of the ~~road and related stormwater system~~ ~~storm drainage system~~ to the satisfaction of the Town Engineer.;
11. ~~That one week prior to construction, provided~~ a pre-construction meeting with the Public Works Department ~~shall~~ occur ~~one week prior to construction.~~;
11. That ~~prior to the start of construction~~ ~~upon completion of Kennedy Drive,~~ a digitized electronic drawing file of the complete final approved plans, in an approved format, shall be ~~-~~furnished to the Public Works Department ~~prior to the start of any construction.~~;
12. That upon completion of Kennedy Drive, an "as-built" or set of record drawings shall be submitted in a form acceptable to the Public Works Department ~~upon completion of the project.~~

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- * *All Subdivisions for which Final Plan approval has been granted, and any conditions that have been imposed by the Planning Board for the subdivision or final plan shall be filed in the Cumberland County Registry of Deeds by the applicant. If the applicant fails to record the subdivision plan after Development Plan approval by the Planning Board, the approval may expire. No building permits associated with a subdivision shall be issued unless evidence of all recording requirements is provided by the applicant to the Codes Enforcement Officer.*

If applicable, subdivision approvals by the Planning Board shall expire at the end of five years after the date of Final Plan approval unless all infrastructure work associated with the development is completed (Section 407.4.C of the Brunswick Zoning Ordinance).