

**PLANNING BOARD MEETING MINUTES
TOWN OF CUMBERLAND
Cumberland Town Hall, 290 Tuttle Road, Cumberland, Maine 04021
Tuesday, June 21, 2016 - 7:00 p.m.**

A. Call to Order: The meeting was called to order at 7:00 p.m. Steve Moriarty introduced the new Planning Board Secretary, Christina Silberman. This is her first Planning Board meeting in her new capacity as the Administrative Assistant to the Planning and Code Enforcement Departments.

B. Roll Call:

Present: Steve Moriarty, Chair, Gerry Boivin, Vice-Chair, John Berrett, Jeff Davis, Teri Maloney-Kelly and Joshua Saunders

Absent: Peter Sherr

Staff: Carla Nixon, Town Planner, Christina Silberman, Administrative Assistant

C. Approval of Minutes:

Minutes of January 19, 2016 – John Berrett noted that on page 7, line 5 the sentence is unclear. Carla Nixon said she will go back and check the recording of the meeting and rephrase this. Joshua Saunders moved to approve the meeting minutes of January 19, 2016 subject to the one proposed change, seconded by Gerry Boivin and **VOTED: 5 yeas, 1 abstained (Teri Maloney-Kelly - absent) - motion carries..**

Minutes of February 15, 2016 – Mr. Boivin moved to approve the minutes of the February 16, 2016 meeting, seconded by Mr. Berrett and **VOTED: 5 yeas, 1 abstained (Jeff Davis - absent) - motion carries.**

Minutes of March 29, 2016 – Mr. Berrett pointed out that on page 1, item C the dates are wrong or incomplete. Joshua Saunders noted that the February meeting was on the 16th. Ms. Nixon noted the change. Joshua Saunders moved to approve the minutes of March 29, 2016 as amended, seconded by Mr. Boivin and **VOTED: 6 yeas - motion carries unanimously.**

Minutes of April 26, 2016 – Mr. Saunders noted that under approval of the minutes the February meeting was on the 16th. Mr. Berrett suggested that the language be revised to be similar to prior months. Ms. Nixon responded that we cannot revise this language unless it was actually stated during the meeting. Mr. Saunders moved to approve the minutes of April 26, 2016 as amended, seconded by Mr. Boivin and **VOTED: 5 yeas, 1 abstained (Jeff Davis - absent) - motion carries.**

Minutes of May 17, 2016. – Mr. Moriarty noted that Teri Maloney-Kelly is listed as being simultaneously present and absent. Ms. Maloney-Kelly stated that she was present. Jeff Davis added that he was also present. Mr. Berrett noted that under item C, approval of minutes, it should be spelled out consistent with the prior months to include the dates. Mr. Saunders moved to approve the minutes of May 17, 2016 as amended, seconded by Mr. Berrett and **VOTED: 5 yeas, 1 abstained (Gerry Boivin - absent) - motion carries.**

D. Staff Site Plan Approvals:

Replenova Farms Drying House - Ms. Nixon explained that this approval was for a seasonal tomato drying house which has been constructed as part of Replenova Farm. Replenova Farms is a wholesale cherry tomato growing company located on lease land from the Cianchette farm on Winn Road. Mr. Boivin thought that the Planning Board had already approved this. Ms. Nixon explained that the Planning Board approved the growing houses. She could have approved the growing houses, but because they were large structures in a prominent location, she sent it to the Planning Board. This request is for a new, seasonal structure. Ms. Nixon stated that it will be up from July to September.

Richards Accessory Dwelling Unit – Ms. Nixon said this is for an accessory dwelling unit located at 162 Fairwind Ln. It is owned by Cathy Richards. This is for a finished apartment above the garage that was constructed without prior formal approval for an ADU. Mr. Moriarty asked if there was any new construction. Ms. Nixon said no. Mr. Boivin asked if this was constructed with a permit. Ms. Nixon responded that it was constructed with a building permit but it was not being used as an accessory dwelling unit. It was used by the family. Ms. Richards is selling the house and in order for it to be marketed as a separate unit, she needs to get Staff Site Plan approval as an accessory dwelling unit. Mr. Berrett asked for the definition of accessory dwelling unit. Ms. Nixon explained that an accessory dwelling unit can be contained within the main house or it can be detached in a barn or garage. In this case, it is detached above a garage. It is limited to no more than 40% of the size of the original structure and it does not have to be used by family members. These used to be called “in-law apartments”. Mr. Moriarty shared the formal definition of accessory dwelling unit in the Zoning Ordinance.

E. Minor Change Approvals: None

F. Public Hearings:

1. Public Hearing: Amendment to Kerri Farm Subdivision- to add Note # 13 to Clarify Lot Setback Requirements- Kerri Drive, Tax Assessor Map R08, Lots 41A, 41B, 41C, 41D, 41E, 41F, and 41G. Kevin Sawyer, Applicant; Wayne Wood, Representative.

Ms. Nixon stated that this is essentially a housekeeping matter for this subdivision that was approved in 1994. When the original plan was drawn, it showed specific building envelopes for each lot. It seems that they did not catch that there is a combined setback which allows for one distance on one side and a slightly larger distance on the other side. For instance it would be 30' on one side and 35' on the other side. Through research, we have determined that the person that drew up the plan neglected to add the additional 5'. All of the envelopes are too small to fit the houses that have been built. In addition to helping Mr. Sawyer, who is selling his house when this was caught by the closing company, this amendment will help future residents as well.

Chairman Moriarty opened the Public Hearing. There were no comments from the public. **Chairman Moriarty closed the Public Hearing.**

Mr. Saunders moved to waive the reading of the proposed findings of fact based on the unique nature of this request that it has no impact on the prior findings of fact, seconded

by Ms. Maloney-Kelly and **VOTED: 6 yeas-motion carries unanimously.** Mr. Saunders moved to approve the amendment to the Kerry Farms Subdivision to add Note #13 as presented tonight to clarify lot setback requirements for the Kerri Farm Subdivision Tax Assessor Map R08, Lots 41A, 41B, 41C, 41D, 41E, 41F, and 41G subject to the standard conditions of approval, the limitations of approval, and the recommended conditions of approval seconded by Mr. Davis and **VOTED: 6 yeas-motion carries unanimously.**

Ms. Nixon noted that at the end of the meeting the Board will sign the mylar sheet that will need to be brought to the Registry and recorded and Mr. Sawyer or Mr. Wood can stop by the office in the morning to pick it up.

2. Mr. Moriarty reported that this item has been tabled. ~~Public Hearing: Amendment to Windsor Lane Subdivision to Extend Subdivision Road and Add 3 Lots – Tax Assessor Map R05A, Lots 3, 4B, 4D, 4E, 4F. Paul Bernard, Applicant; Stephen Bradstreet, P.E., Ransom Consulting, Representative.~~

3. Public Hearing: Site Plan Review: West Cumberland Retail and Multiplex Units. Route 100, Tax Assessor Map U 20, Lots 70A, 70E, 73, 74. Grun Development, LLC, Applicant; Al Palmer, P.E., Gorrill Palmer Engineers, Representative.

Mr. Moriarty explained that this involves a project that has been before the Board in part in the past back on February 16. First of all, the Board approved an overlay for multiplex housing in the Village Commercial Center Zone which lies at the heart of the Skillin Rd./Blackstrap Rd./Rte.100 intersection. Late last year the Board approved a manufacturing facility which is shown on the projection in the lower right corner. The Board first took this up in October, followed by a site walk in November and it then appeared on their agenda in December. At that time, there were other structures shown on the maps that were available but not precisely what we see tonight. The sketches then showed 2 commercial structures on the left corner of the property with several other additional commercial structures toward the rear but no dwellings or apartments. Those were for illustration purposes only and were not being presented for review or consideration. Nothing that the Board did had anything to do that would suggest approval on the Board's part of the entire master plan. The concept master plan was simply to show what uses could be made of the remaining acreage of the parcel. The Board only approved the manufacturing facility shown in the lower right hand corner. In the months since, the owner and the developer have come forward with the proposal shown on the screen tonight. It includes a single commercial (retail) building on the left hand side that overlaps and includes the current site of Allen's Farm. To the rear of the parcel are shown 5 new structures that would be apartments or condominiums. A key factor is that it is proposed that there would be access to these structures not through this property from Route 100, but via Tammy Ln., a private way, onto Skillin Rd. This item is shown on the agenda as an item for site plan review but it is unlikely that this will be approved tonight as the Board has not yet had a site walk. It would be appropriate to have a site walk which will likely be scheduled tonight. After the presentation and public hearing tonight, the Board will delay further consideration of the proposal until the Board has taken this step.

Ms. Nixon noted that Al Palmer will not be speaking on behalf of the applicant tonight and in his place is Christi Holmes P.E. Gorrill Palmer Consulting Engineers.

Christi Holmes introduced herself as a member of Gorrill Palmer and indicated that Jim Schmidt of Grun Development and Doug Reynolds of Gorrill Palmer are also present this evening. She pointed out the approved manufacturing facility on the projection. She stated that she is here to answer any questions and to receive comments from the Board and the public to take into consideration before the next meeting or possible site walk. She provided an update on the manufacturing facility that was approved in December. Subsequent to the approval they received the DEP Stormwater Permit and the DOT Entrance Permit. The project has gone out to bid for the site work and they are reviewing the bids at this time. The building design has progressed and the developer is obtaining final pricing on the building.

The developer anticipates closing on the residential property within the next 3 weeks. This is actually a combination of 3 lots. The applicant will finalize the financing with the USDA most likely in July and then the manufacturing facility will move forward. There are 3 lots currently, the Allen Farm property and 2 residential lots on Route 100 that are located just north of the intersection of Skillin and Blackstrap Roads. The project is a large area of about 9.8 acres and it includes Tammy Lane. The applicant proposes a 9,000 square foot proposed retail building at the front and the residential units out back. Access to the retail unit will be shared from Route 100 and from Tammy Lane to the residential units. Ms. Holmes said that they will continue access for the existing homes on Tammy Lane.

Shown on the projection are 3 different condo units. Condo Unit #1 is the manufacturing facility and the associated parking, Condo Unit #2 is the proposed retail unit and parking, and Condo Unit #3 is the multifamily units and drive. There is also a common area with a stormwater treatment pond and a shared access drive. There is a connecting sidewalk between the 2 commercial units and the applicant is thinking about connecting a sidewalk from the residential to the commercial units. Tenants have not been identified yet. There will be a shared access from Route 100 with one curb cut that was already approved with the manufacturing facility. There is potential for future interconnection with Skillins Greenhouse.

Ms. Holmes pointed out the proposed location of a covered dumpster and a subsurface propane tank for the retail unit. Water and underground power would come off Route 100. She showed the approximate location of the septic tank and wastewater disposal system. The lights will be about 16' tall with full cut off LED fixtures. Details were provided in the application. She showed a 5' landscaped strip along the building as required in the ordinance as well as interior landscaping in the parking lot. There will be trees and bushes along the front with a 25' wide easement as required by the Route 100 Guidelines. It is her understanding that design and construction of a walkway along Route 100 will be completed by the Town at a later date as they acquire more easements.

Each of the 5 proposed residential buildings will house 4 units for a total of 20 units. Each unit will have a garage, some will have 2 bays and some will have 1 bay. The applicant has talked with Portland Water District about having an 8" water main coming

in from Tammy Lane, with a fire hydrant and 2" services to each house. The applicant is also looking at underground electric for each building. Each building would have a subsurface propane tank and a 1,500 gallon septic tank with subsurface disposal fields. Tammy Lane would be improved. It is currently an 18' wide reclaimed surface road. Ms. Holmes said it is their understanding that the Town has or will approve new town standards for roads, and given the traffic on Tammy Lane it calls for widening and paving of the road. The applicant proposes widening Tammy Lane by 6' up at Skillin Road with a curb and then it would be widened to 26' at a point she showed on the projected map.

A traffic impact study was conducted and it is Gorrill Palmer's opinion that the proposed project will have a minimal impact on the surrounding roadway. The applicant plans to maintain as much buffer as possible to protect the neighbors along the Skillin Rd. side and upper Tammy Lane area. The applicant is looking at berming the area between the commercial and residential units and can add more trees along Tammy Lane to provide a buffer for other residences. The applicant is considering some lawn areas with swing sets, gazebos and a possible trail system around the property. The applicant is also considering adding a sidewalk which she pointed out on the map. Gorrill Palmer has received comments from the Town Engineer and they are revising the plans and preparing a response. It will not be an issue to satisfactorily address these comments.

They also received comments from Ms. Nixon and are working on those. She will touch on a few of the comments tonight. One is about the sight distance on Tammy Lane. It currently does not meet the Town minimum for sight distance. Skillin Road is relatively flat there and there are no vertical curves. Gorrill Palmer looked at the Town's right of way plans and it is within the right of way to cut back some vegetation and address the grade so Gorrill Palmer will be demonstrating a plan to show that the sight distance can be met. For open space the applicant will submit a plan that clearly shows that the 10% requirement will be met. More detailed building elevations will be provided. Ms. Holmes said that they appreciate all of the assistance they have gotten from staff to date.

Mr. Moriarty commented that it may be misleading to the layperson to refer to the 3 segments of the parcel as condo units. Condo unit #1 is not going to be a condominium as we typically use the term. This is the location and acreage associated with the manufacturing building, condo unit #2 is the retail units and condo unit #3 are the dwellings in the back. He asked if the dwelling units will be condos or apartments. Ms. Holmes said these are planned to be apartments. Mr. Moriarty asked if these will be market rate and Ms. Holmes responded that they will be market rate. Mr. Moriarty asked if they are 1 or 2 story. Ms. Holmes replied that 3 units are 2 stories and 1 unit is 1 story for each building.

Mr. Berrett asked how many individual establishments will be in the retail space. Ms. Holmes said there could be 2-3 depending on the tenants. Mr. Berrett asked why the placement of the retail space building on the site plan is closer to Route 100 than the manufacturing building. Ms. Holmes said that the front set back is why it is moved forward. The Planning Board made an exception to move the manufacturing building in excess of the front setback for visibility for drivers from Route 100. Mr. Moriarty asked if

the same could be done for the retail building. Ms. Holmes said yes, it could be moved back.

Ms. Nixon asked Ms. Holmes to review Ms. Nixon's comments so that we can know that some of these will not be on-going issues with the application.

Ms. Holmes said comment #1 was about the purchase and sale agreements and they have sent updated ones. Comment #2 was just a typo, 6 is the correct number but 3 was listed on the application. Comment #3 was about the sight distance requirement on Tammy Lane which she has discussed. Comment #4 was about dumpsters and there is a dumpster for the retail but not for the residential area. The plan for the trash is for it to either be picked up curbside by the Town hauler or by a private waste hauler to the residences. Ms. Nixon said that for 20 units a dumpster will be needed and she asked that the applicant show a proposed location for it and if it is not needed that will be fine but if you do then it will be approved as part of the site plan. Comment #5 is regarding the lighting for the residential unit and there is a new lighting plan. Comment #6 was about the trip generation, the traffic impact study was not clear on how many new trip ends will be generated by the back residential. The answer is that in the morning peak hour there will be 10 additional trip ends and in the evening there will be 12. Ms. Nixon asked Ms. Holmes to provide an overview of the traffic study. Ms. Holmes said that they conduct traffic counts and then with the additional traffic generated they determine the peak hours. From that, there are going to be 10 additional cars during that peak hour in the morning from what was already there. The traffic engineers then figure out the peak hour for the afternoon and there will be 12 additional cars. The other vehicles are traveling during other times.

Mr. Moriarty asked if there are double garages for each apartment. Ms. Holmes responded that each building will have two units with a double garage and 2 units with a single garage. Comment #7 was that the way the condo units are shown is confusing with a lot of setback lines and some labels are on the buildings and some are not but as she explained earlier there are 3 condo units. Ms. Nixon asked that she explain why it is being shown this way. Ms. Holmes said that they didn't want to break it up into lots because then each one needs its' own setback so they broke it up into condo units. This is also easier for financing where you can just focus on one area and there are shared areas that will benefit more than 1 condo unit that are referred to as common areas. Ms. Nixon asked how the associations will be set up for maintenance of the landscape and plowing. Ms. Holmes said she was not sure about this. Ms. Nixon said this is something that needs to be submitted as draft homeowners' association documents.

Mr. Boivin commented the sweeps coming out of some of the garages are tight. For instance the 4 unit at the bottom of the page seems that it would be very tight. Where would snow removal go? Ms. Holmes said they are trying to avoid pavement everywhere but they can work with Ms. Nixon on this. Ms. Nixon commented that they do show snow storage for the retail building but she does not see it for the apartments. Ms. Holmes said it will be along the one road and Ms. Nixon asked that it be shown on the next plan. Comment #8 is in regards to the open space and a clear plan will be provided. Comment #9 was about what safety precautions will be taken to avoid leakage of the septic tanks into the aquifer. The septic tanks will be designed by a

licensed site evaluator and installed in compliance with the Maine Subsurface Wastewater Disposal Rules and will be inspected by the Cumberland Code Enforcement Officer. Ms. Nixon said that this comment was due to this being a shared septic tanks so will be large tanks and her concern is that there may be a need for additional strength to the tank itself. She asked that Gorrill Palmer provide evidence that this large capacity septic system is not going to fail. Ms. Holmes clarified that each of the 5 buildings will have a 1,500 gallon septic tank. Ms. Holmes showed where each septic tank and leach field will be located. Mr. Moriarty asked for clarification if these are for each unit or each building. Ms. Holmes said it is for each building which consists of 4 apartments with a total of 7 bedrooms per building.

Ms. Nixon referenced a report by Mark Cenci indicating that the soils were fine, which was expected, and that each building will have a wastewater design flow of 660 gallons per day. Each building is sized for 1,500. Ms. Nixon said they will discuss this further with Al Palmer and Mark Cenci.

Comment #10 is for meeting the Central Maine Power Capacity to Serve letter. Mr. Boivin asked what the plan is for services. Condo #2 is retail so he doesn't imagine this will be a big deal. Ms. Holmes said for condo #2 Gorrill Palmer plans to go underground from Route 100 and for condo #3, the residential units, there is an existing utility pole on Tammy Lane and they propose a new utility pole then going underground from there with 2 transformers. This letter will be forwarded when they receive it.

Comment #11 is for the Portland Water District Capacity to Serve letter which they have received and will be provided. Comment #12 was in regards to the Maine Department of Inland Fisheries & Wildlife recommending a vernal pools study. They (IF&W) said that they have not conducted one in this area so they could not sign off on this. If the Town requires this the applicant will have to wait until April or May. Based on their evaluation of the site, there is no standing water there. Mr. Boivin asked if they had an environmental scientist come out and Ms. Holmes replied no, they haven't. If the Town would like this, they will put it on the agenda. Ms. Nixon suggested that the Board might like to have a wetlands analysis done. Mr. Boivin suggested an environmental scientist survey the sight. Ms. Holmes said they could do this.

Comment #13 was requesting more detailed building elevations and this will be submitted prior to the next meeting. Comment #14 was regarding financial capacity and this will be submitted prior to the next meeting. Comment #15 was in regards to a signage plan and detail sheet site and sign detail sheet. This may be submitted prior to the next meeting but is up to the developer. Ms. Nixon said they want to see the location of the signs but also would like information about directional signs, arrows and stop signs. Comment #16 is in regards to the Town Engineers comments and they will issue a statement in regards to those. Comment #17 is about the surface of Tammy Lane. It is currently reclaimed and they propose to pave it. Mr. Boivin asked if Tammy Lane is a private road. Ms. Nixon said Tammy Lane is a private road in respect that it is not owned or maintained by the Town. Most private ways are owned by all the properties that have access to it. In this case, the ownership of the road is associated with the lot that is being purchased so the developer is purchasing the land and also Tammy Lane. There would be rights of ways or easements granted. Tammy Lane

would remain private. There will have to be a road maintenance agreement. Ms. Nixon said that Tammy Lane will have to meet subdivision road standards.

Comment #18 is asking if the Board wants to schedule another site walk and they are willing to do this. Comment #19 is about the landscaping. They will update the landscaping and they show the existing buffers on the plan.

Chairman Moriarty said these 19 comments that were just gone through were put together by the Town Planner and were included in the materials provided to the Board. These are not exclusive and there may be additional items added. Mr. Saunders said that we talked about whether or not the retail building could be moved back and asked if this is something the Board is requesting. It appears that they would then have to move the proposed access. Mr. Berrett said that the reason he questioned it was for an appearance perspective and what would it look like from Route 100, not that he is interested in it being different. Mr. Boivin said he doesn't have an issue with the current location. There was general consensus from the Board that this is not an issue.

Chairman Moriarty opened the Public Hearing. Christina Grant, 10 Skillin Rd., asked what the buffer zone is that was talked about. Right now there is a fence right behind her property line that she thinks will come down. She wants to know where her back yard ends and how close will this other property be? The plan shows trees present but these have all been cut down and are no longer there. She asked if additional trees will be planted. Ms. Holmes responded that the trees shown are existing conditions when the aerial picture was taken. More trees can be added here. From the property line to the first building is 90'. She does not know how far Ms. Grant's house is from the property line. Mr. Moriarty clarified that Ms. Grant is saying that there are now no trees between her home and what would be the nearest apartment building. Mr. Moriarty would like to know to what extent this area would be reforested but he does not expect a response tonight. Ms. Nixon suggested that the Board sometimes likes to have the applicant have a discussion with the affected property owners to talk about different buffering options. Ultimately when the plan is ready for final approval, the Board would like to know that everyone that is most affected by the development is reasonable comfortable with what is being proposed for buffering.

Tammy Merrill of Tammy Ln. indicated her home on the map. She stated she grew up on Tammy Ln. and her mother also lives on Tammy Ln. asked if the Town would also conduct a traffic study. There is a very sharp corner on Skillin Rd. that all of the people on Tammy Ln. have a hard time with. Mr. Moriarty said they know about the sight distance issue there. Ms. Nixon said that typically the applicant's engineer prepare the plans and in the case of Gorrill Palmer, they are traffic engineers also. The Town sends the plans out to the Town's Peer Review Engineer and this fee is paid by the applicant. The Peer Review Engineer would then review everything that the applicant's engineer designed.

We have already received some comments from the Town's engineer. If there are further questions about the traffic study and sight distance the Town will arrange to have its engineer come to the site walk. If the Board wants another set of eyes to look at this, she can arrange for another consultant to do this.

Ms. Merrill said she is concerned with the widening of Tammy Lane. It seems pretty extreme for the neighbors that are already so close to the road. It seems the road would end up going into their fences. She questioned how many cars there would be and there would be a lot of headlights and traffic on this little road. Ms. Merrill asked how many garages there are. Ms. Holmes said counting the two car garages there are a total of 30 parking spaces. Ms. Merrill is worried about the road being widened to the point that it is on her mother's front lawn.

Mr. Moriarty asked Ms. Holmes if the widening would go all the way back to where Ms. Merrill lives. Ms. Holmes showed on the map where the widening would occur. Ms. Merrill said there will be a lot of headlights and she asked what kind of lighting the apartments will have. Ms. Holmes said the apartment lighting will be more residential looking lighting on poles. She does not know how tall they will be. Ms. Merrill asked where the dumpster would be, she would not want to be down wind of it. There is a pond that they swim in as well as two other ponds nearby that she is concerned with what effect this may have. If a trail system is put in then there will be a lot of people in and around their property. She asked if there will be rules about walking dogs or other animals. They have had a very private residential area for a long time and 20 units could add how many people? Plus all the people from the commercial properties as well.

Clayton Weed, Skillin Rd. - across from Tammy Ln., said that the Town should take a solid look at the traffic study. There is lot of traffic on Skillin Rd than is being recorded here. At this time of year, there is a lot of construction equipment going through, and adding 40 cars onto the road isn't going to happen. He would rather see access from Route 100 or another access point. There are a lot of other impacts. He suggests the Board conduct a site walk. These will be market rents and he would like to know who would be moving in there. Mr. Moriarty said it is his understanding that there will not be any subsidized housing. Jim Schmidt, said market rate means what the market charges for apartments. These will not be cheap apartments. They would range between \$1,500 and \$1,800 per month. They would not be subsidized. Mr. Weed said he doesn't think a 1,500 gallon septic tank is large enough. He is concerned with drainage runoff. The setbacks for the property lines need to be evaluated. He would like the developer to meet with the surrounding property owners. A 20 unit apartment building in that area does not make a lot of sense.

Jim & Estelle Farris, 14 Skillin Rd., live right on the corner of Tammy Ln. and Skillin Rd. Ms. Farris confirmed that a lot of the trees have been cut down. Ms. Farris asked if an updated aerial photo could be provided to show a true reflection of the berm. Ms. Farris thinks using Tammy Ln. is a really bad idea. It is already difficult to get in and out of Tammy Ln. Ms. Farris would like to see the access from Route 100. Ms. Holmes indicated that they are trying to keep the residential separate from the commercial. They plan to cut back the vegetation and change the grading in hopes to get the proper sight distance. Ms. Farris does not feel this will help seeing what is coming around the corner. There are large trucks that fly up and down the road and she is afraid something bad will happen.

Mr. Farris said the people that live on the other side of Tammy Ln. moved because they were worried about the traffic. It is insane to think about using this road. Mr. Farris said

from his bedroom to Tammy Ln. is about 12' now and he is concerned with the widening. He is all for development but realistically the traffic should all go to Route 100.

Ms. Farris said if they can't widen the road to the code and they are asking the Town to make an exception to the rule it will make it worse. Ms. Farris fears for people's safety turning in and out from Tammy Ln. It is already a really bad safety issue.

Mr. Farris said that he met with the former Town Engineer, Adam Ogden, when they widened Skillin Rd. While they were standing there, they were almost taken out 3 times. Ogden told him that the corner is 1 degree away from being illegal. This is an accident waiting to happen.

Ms. Farris asked why the Town would consider approving this. There is a five year waiver on taxes for this. Mr. Moriarty said he is not aware of this. Ms. Nixon said there are TIF districts in certain parts of Town but he does not know if this has been set up. Mr. Schmidt said the TIF district only applies to the commercial portion in the front. There is no waiver and it would be full tax rate on the residential piece.

Ms. Farris asked if there was a ban on digging. Ms. Nixon said if she is referring to cutting into the pavement she doesn't think this will apply. Ms. Holmes indicated that the water would come from the center of Skillin Rd. Mr. Reynolds of Gorrill Palmer said that Skillin Rd. is no longer a moratorium road because it has been more than 5 years since it was paved so access into the road is acceptable at this point.

Ms. Farris expressed concern with lighting. With all the trees that have been cut down they can already see the lights from Copp Motors and Allen Farm. She would like to see some exact information about how much lighting and what type of lighting there will be. She is concerned with the trash and if they will be smelling a dumpster. With curbside collection would it come out to Skillin Rd. Mr. Schmidt said their preference would be as it is a for a single family home with curbside collection at the end of each driveway. He doesn't see a need for a dumpster.

Mr. Saunders said that this would have to be a private service because it is a private road.

Mr. Schmidt said that he understood that street lighting is a town code and is governed by the town. Ms. Nixon responded that lighting is a subjective category. We say that you can't have any light trespass beyond the property line. One of her comments was that when you look at the lighting plan there is a little bit of light trespass occurring and she has asked them to look at this and modify it. The Planning Board has in the past, and can certainly again, reduce the amount of lighting that they normally might feel is appropriate based on the proximity of other houses. The town does not say you have to have x number of lights, the town says it has to be safe for the pedestrians and so forth. The Board and the Town Planner will work with the developer and the designer to minimize the lighting impact to a minimal amount.

Ms. Farris said she is also concerned with lights from headlights. They are on the corner and they are going to get all the lights. She asked what the ordinance is as far as where a development can be to an existing property. Mr. Moriarty explained that the Zoning Ordinance has setbacks. Ms. Nixon said that roads have a zero setback to a

property line. Mr. Moriarty said there would be no setback issue between the Farris's property line and the proposed development. Ms. Holmes said the setback requirement for the property line next to the Farris property is 25' and there proposal is for 29'.

Chris Lacount, 18 Skillin Rd., showed where he lives which is on the other corner of Tammy Ln. He asked how the road would be widened because it is all rock. Will you have to get onto his property to remove the rock. Ms. Holmes said it is her understanding that the Town owns a certain distance for a right of way in which they can remove vegetation and blast rock. He said this would affect his driveway and he would be concerned with getting to work. He would also be concerned about his 2 dogs. This project will affect many lives. He is worried about being rear ended if he is stopped for construction while they dig up Skillin Rd. Mr. Moriarty said the Board does not have answers about traffic control tonight. There would be flaggers and they would know that you have to be able to get in and out.

Kathy Allen Merrill, 17 Tammy Ln., said she has lived here since 1974. This used to be the Portland to Lewiston interurban trolley line. Her biggest issue is why did it suddenly go from an office building to housing. Mr. Schmidt responded that the distance from Route 100 to the office buildings makes them virtually invisible. There is still a traffic issue with those buildings coming out on Tammy Ln. would mean more traffic and not less. A single driveway on Gray Road would not handle the amount of traffic. Ms. Allen Merrill pointed out the location of her house. She said that she is concerned whether or not the trees would be cut down in the 50' right of way. She is concerned with runoff coming into her house, especially now that the road is currently 18" higher than her foundation. She is not in favor of this housing. It is too much traffic. The people at the end of Tammy Ln. only have 12" from their house on one side and 15" to the other side. She can't imagine 40 cars coming in and out of there. The corner is very dangerous. Where would the mailboxes go? Trash will be a problem also. She would like to know what a road association agreement would entail. Who will plow Tammy Ln. When they did a site walk in November they did not come down where the residential houses are proposed. Mr. Moriarty said there was no proposal for that area at that time. There is standing water there for 3-4 days when it rains hard. There would be a lot of ledge that would have to be blown up. She can't imagine how long this would take to build. Mr. Schmidt said they haven't mapped out the exact construction period but the units would go up pretty fast. There would be dug foundations. Ms. Allen Merrill is concerned about the pond and more drainage going there with people fertilizing their lawns. She wants to keep the pond safe for the fish and wildlife and for Skillins Greenhouse that has the right to draw water from there. Ms. Holmes responded that Town ordinance requires that they treat the quantity and quality of runoff and they have proposed a storm water pond with bio filtration which will collect all the runoff and treat it. Ms. Allen Merrill said she was looking forward to having offices there to provide jobs. This area was meant for commercial and she doesn't want to see residential here. She is against the proposal.

Chuck Lavigne, 25 Tammy Ln., asked if there was an exception made to allow for the apartment building or is it something that is allowed currently. Mr. Moriarty replied that it is consistent with the current overlay district for the Village Center Commercial District. Mr. Nixon added it allows for just multiplex, meaning more than 2 units. Mr. Lavigne

said he concurs with what has been said. He thinks Tammy Ln. would have to be widened even more. There is a lot of ledge there and the blasting could cause foundation cracks. The headlights from people driving out would all shine into his house. He would like to see the traffic directed to Route 100.

Gerald Croce, 20 Skillin Road, is concerned with the widening of Tammy Ln. and putting water in as this would involve blasting. His house sits on ledge. He said he thought to have a public water main it has to be city right of way. This is being proposed for a private road. He is not sure if they can do this. Ms. Holmes said that they would grant an easement to the Portland Water District to allow this. He would like to see the traffic go out to Route 100.

Linda Jensen, who lives ¼ mile down the road, said with a development that went in down by her house she has a problem with seeing the back sides of the houses. The proposed buffer where she lives was one tree per house. She thinks this is very ugly. She asked what the size of condo unit #3. Ms. Holmes said it is about 4 acres. Ms. Jensen questioned if the proposed buffer between the residential and commercial areas will really be there or if it is just there to look pretty. Ms. Holmes said that there isn't a requirement from the town for the buffer but they would like to provide it. The buffer is shown on the landscape plan so it must be provided if approved. Ms. Jensen said they will need to get another aerial shot of the property to show what buffer would be needed.

Debra Weed, 11 Skillin Rd., said she lives right across the street from Tammy Ln. and she runs a daycare. She said she sees trucks all day long going in and out of Tammy Ln. It is not a good area. It will become very congested and she is concerned about parents backing in and out of her property.

Mr. Schmidt said he doesn't understand why there is truck traffic on Tammy Ln. Ms. Weed asked why there are big trucks going in on Tammy Ln. Mr. Lavigne said this was for work he was having done at his home and his project is done. Ms. Weed said Skillin Rd. is very busy.

Ms. Allen Merrill asked where the school bus would stop to pick up the kids. There isn't a lot of wiggle room at the end of Tammy Ln.

Mr. Schmidt asked about the trees that were cut down. He asked if the other trees that are not on the Allen Farm property were cut down. Mr. Farris said that the seller twice tried to cut trees on his property. They were harvesting and he thinks it was by accident. When the leaves are down, he can see Allen Farm from his kitchen window. A lot of the trees were cut.

Mr. Lavigne said there is a discrepancy on the map and a section shown of the map as part of the parcel is not part of the parcel and is owned by Tammy Merrill.

Mr. Farris said he thinks most of the people here are in favor of progress but the issues expressed tonight with using Tammy Ln. show that the access should be through Route 100.

Ms. Farris asked what the process will be going forward. Mr. Moriarty said tonight they are conducting Site Plan Review in accordance with one of Cumberland's ordinances, the Site Plan Review Ordinance. Often the town begins discussion of a project of this

type with a sketch plan review which is less formal and does not require notice to abutters. Site Plan Review can take place over the course of several meetings and for something of this magnitude, almost never just one. This is the first time as a group that we have had a chance to look at what is on the screen before you tonight and to review the supporting materials that were provided in support of the application. The next step will probably be a site walk when we will come out one evening and walk through the property. This is open to the public.

Ms. Farris asked how they find out about these things. Mr. Moriarty said this will probably be scheduled tonight. Ms. Nixon said notices are sent when a site walk is scheduled. If you did not get a notice, please call in the morning to be added to the list. These are also advertised in the Portland Press Herald and are posted on the town website. There is a newsletter that comes out every week called the *Cumberland Crier* that you can sign up for on our website that lists all meetings and lots of information about what is happening in town. People can call Ms. Nixon or her assistant, Christina Silberman, any time with questions also.

Mr. Moriarty said the site walk will probably take place within the next two weeks. The Planning Board meets on the third Tuesday of each month. He cannot say now if this item will be on the July agenda or not.

Ms. Farris asked how something like this would be approved. Mr. Moriarty said everything they do is in public. When something is being considered for approval there would be a public hearing for people to express their opinions. Approval is given by a vote of the Planning Board. Mr. Saunders added that it is not up to the Planning Board to decide whether they want a project or not but rather to decide whether it is allowed by the ordinance. Mr. Moriarty said any land owner has the right to propose a subdivision of land to the Planning Board.

Ms. Farris said that with the amount of exceptions that she has seen in the Town of Cumberland with existing ordinances then someone is making a decision if it is something the Town wants. Mr. Moriarty said that the Town Council, a separate body elected by the voters, has the authority to enact and amend ordinances and they do so periodically. The Planning Board does not have the authority to enact or amend an ordinance. The Board has the authority to provide a recommendation to the Town Council. The Town Council is not bound by the Planning Board's recommendation. The Town Council is the ultimate governing power. Zoning Ordinance changes can go to referendum by petition if enough people sign a petition. The Planning Board decides whether or not a proposal complies with the ordinances. The Board can discuss certain changes that are mutually acceptable with a developer that could make it easier for the Board to consider an application.

Mr. Schmidt said that he hopes they have not gotten off to a bad start. They are trying very hard to minimize the impact of the entire development. As Ms. Holmes explained what is being done to prevent any effects to the pond and that the water is treated appropriately. He was not aware that the bordering trees are gone. They will certainly address this in the landscape plan. They are not trying to create a negative development of any kind. They are trying to create something that fits in with the best housing in Cumberland. They have worked long and hard to make sure the appearance

of the buildings fit architecturally and that the buildings themselves will have the best living conditions that they can for people that live there. The lighting issues will be addressed to the extent that the ordinance will permit.

Ms. Merrill asked Mr. Schmidt if he lives in West Cumberland and he replied that he lives in Cumberland. Mr. Moriarty asked the purpose of the question and Ms. Merrill replied that Mr. Schmidt said he realize how much traffic there was on Skillin Rd. Ms. Merrill asked if there is another apartment complex in Cumberland. Mr. Moriarty replied that there are senior apartments below the Middle School. Mr. Davis said there are apartments beyond the Board Barn on Route 100. Ms. Nixon said the former Drowne Rd. School has senior apartments. Mr. Moriarty said there is also a proposal for a fairly significant apartment development on Route 1 in Cumberland Foreside Village which is also a mixed commercial and residential property. There are some condos on Main St. for senior housing. Ms. Merrill asked if there are any apartments that are off a private way and Ms. Nixon responded that Emerald Green is, which is near the Board Barn.

Ms. Allen Merrill commented that the apartments will be 2 stories high and people on the 2nd story will be looking down at Copp Motors at a beat up car. Mr. Moriarty said this will be a marketing issue for Mr. Schmidt and not necessarily an approval issue. She asked if Copp Motors would be required to spend a lot of money to put of fencing and Mr. Moriarty said no.

Ms. Jensen pointed to the area that was previously noted was not part of the parcel and said to make sure that when this is area is removed that they have enough acreage.

Chairman Moriarty closed the Public Hearing at 9:31 pm and said the Board will take a 5 minute break.

Chairman Moriarty reconvened the meeting at 9:37 pm. He explained that usually when the Board conducts a site plan review and concludes a public hearing the Board will then discuss the project. He remarked that we heard a lot of comments tonight, have a lot to absorb and have not discussed the project in 6 months. The next step is to do a site walk. The Board's time may be better served to set a date for the site walk rather than get into the details of what was presented tonight. He then asked if anyone on the Board wants to respond or discuss anything and no one did. Mr. Moriarty asked to schedule a site walk. A site walk was scheduled for Thursday, June 30th at 6:00 pm. The Board will meet at Allen Farm.

Ms. Holmes asked what the Board would like staked out for the site walk. Mr. Moriarty asked that they stake the corners of the retail building and the corners of one of the apartment buildings and the width of the entry road. He suggested they also have sight line improvement information on Skillin Rd. available. Mr. Saunders suggested marking the areas that will be widened on Tammy Ln. Mr. Boivin asked that they answer whether the triangular section pointed out on the map tonight is part of the parcel. The Board will pass along anything else the wish to see to Ms. Nixon to follow up on. Mr. Moriarty said a new aerial photo would be good also.

Mr. Saunders moved to table the Site Plan Review for West Cumberland Retail and Multiplex Units. Route 100, Tax Assessor Map U 20, Lots 70A, 70E, 73, & 74, seconded by Mr. Boivin, and **VOTED: 6 yeas-motion carries unanimously.**

4. Stormwater Awareness Presentation by Laura Neleski, Public Services Dept. Admin. Assistant.

Laura Neleski introduced herself as Christopher Bolduc's assistant and that she is the Stormwater Coordinator for the Town. Ms. Neleski gave a PowerPoint presentation about the Stormwater Permit for the Town. The basic regulatory framework for our Stormwater Permit starts with the Federal Clean Water Act then it filters down through the NPDES program and the Maine DEP issues the actual permit. Regulated municipalities have to have a permit in order to control our stormwater and ensure that we are not contributing to pollution. Stormwater is anything that rains, hits the ground and runs over the ground. Our Stormwater Audit has been conducted and we came through with flying colors. The preliminary response from DEP was very good. Cumberland is one of 14 communities required to have a permit in Southern Maine due to our population density based on the last census. Many areas in Town are not included in the urbanized area that is more strictly regulated.

G. Administrative Matters: None

H. Adjournment: Ms. Maloney Kelly moved to adjourn the meeting at 9:45 p.m., seconded by Mr. Boivin, **VOTED 6 yeas-motion carries unanimously.**

A TRUE COPY ATTEST:

Stephen Moriarty, Board Chair

Christina Silberman, Administrative Asst.